

ALTSEAN

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BURMA BRIEFING BURMA'S NATIONAL CONVENTION: ILLEGITIMATE, UNREPRESENTATIVE & OPPRESSIVE

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ILLEGITIMATE, UNREPRESENTATIVE & OPPRESSIVE

- **The National Convention (NC) is inherently illegitimate. It was first devised as a strategy to avoid convening the Parliament after the 1990 election, the last expression of the will of Burma's people. It is being utilized as a means to transform the regime's military dictatorship from *de facto government* to *de jure government* through constitutional reform.² This is a case of an illegitimate regime devising an illegitimate process to gain legitimacy.**
- **The NC has dragged on for more than a decade. The NC first met in 1993, with the objective of "laying down the basic principles for the drafting of a firm and stable Constitution".³ Nobody knows who will draft the constitution itself, or how it will be drafted.**
- **The NC's clearly stated objective is to ensure a "leadership role" for the military in a future democratic Burma. The junta wants to perpetuate a centralist and authoritarian state, while ethnic nationality groups, political parties and civil society organizations have agreed upon a decentralized, democratic and federal Union of Burma.**
- **The NC, scheduled to convene on 17 February 2005, continues to lack legitimacy and credibility. Nine political parties that won a total of 91% of parliamentary seats in 1990 and key ceasefire groups have been excluded from the NC. The regime still refuses to conform to minimal democratic standards. The majority of delegates are handpicked supporters of the regime. Some of the NC participants are known drug traffickers and members of the notorious USDA.**
- **The NC violates human rights. The repressive procedures and undemocratic representation that plagued the National Convention in the 1990s have intensified. In 2004 the NC delegates were confined at a military-controlled location, with restricted contact with the outside world. Anyone criticizing the NC process can be sentenced to 20 years imprisonment.**
- **The SPDC is not genuine about reforms. Daw Aung San Suu Kyi remains in detention, along with over 1,300 political prisoners. Military offensives and human rights abuses are still being carried out against ethnic nationality groups. Recently, the regime officially extended the detentions of Aung San Suu Kyi and her deputy, U Tin Oo.**
- **The arrest of several Shan leaders in the days prior to the NC, as well as recent military attacks on ethnic communities, raise concern that the NC process will only perpetuate the denial of people's rights, including that of ethnic nationalities.**
- **The international community does not support to the current National Convention. The United Nations General Assembly (UNGA), the UN Commission on Human Rights (UNCHR), the Inter-Parliamentary Union (IPU) and other international organizations have over the past decade consistently called for the implementation of the 1990 election results and criticised the NC. The European Union imposed further sanctions on Burma in October 2004 partly due to the regime's failure to ensure an inclusive NC**
- **Burma's broad democratic forces, including political parties, ethnic nationality groups, and civil society organizations have elaborated viable alternatives to the regime's roadmap. They have very recently agreed on Basic Principles such as self-determination for ethnic nationalities, minority rights and gender equality, as the foundation for a constitution of a federal Union of Burma.**

² Lian H. Sakhong (16-17 Sep 04) A Struggle For Self-Determination In Burma: Ethnic Nationalities Perspective

³ Seminar on Understanding Myanmar (27-28 Jan 04) Myanmar Roadmap to Democracy: The Way Forward

⁵ General Thura Shwe Mann and Lt Gen Soe Win (24 Oct 04) Complete Explanation on the Developments in the country

2005 UPDATE: NO CHANGES IN SIGHT

Recent developments in Burma have further undermined the credibility of the National Convention, due to reconvene on 17 February 2005. Scepticism regarding the future of the roadmap ran high as the regime embarked on a series of purges in September 2004, leading to the ouster of Prime Minister and Intelligence Chief Gen Khin Nyunt on 19 October 2004. Ethnic groups in particular were concerned that the upper hand gained by the hardline military faction would threaten ceasefire agreements.

The regime immediately attempted to project a façade of stability and continuity. On 22 October 2004 Gen Thura Shwe Mann and Lt Gen Soe Win announced that the junta “fully intended to follow through on its commitments to the National Convention” and assured ethnic nationalities that there would be no change in national policy towards ceasefire groups.⁵ At the end of November, just prior to the ASEAN Summit in Vientiane, the junta’s Foreign Minister Nyan Win announced that the National Convention would reconvene on 17 February 2005.⁶

However, the stated commitments of the regime have been quickly betrayed by their own actions. Renewed military offensives and a crackdown on the ethnic leadership spanning December - early February show that the regime prefers to progress its agenda through force and coercion instead of dialogue and negotiation. The hoped-for space for political negotiation and representation within the NC has rapidly shrunk, as a result.

Tightening Control of Ceasefire Groups

Despite reassuring claims made by the regime after the Khin Nyunt ouster, ceasefire groups have witnessed a military build-up and an increase in hostilities in ethnic areas of Eastern Burma. Heightened tensions between the SPDC and the United Wa State Army (UWSA) have been reported in December and January.⁷ The SPDC reportedly built new army bases close to Kachin Independence Army (KIA) areas, and the SPDC has also intensified surveillance on the New Mon State Party.⁸ The regime’s behavior illustrates that it will not hesitate to coerce ceasefire groups into endorsing the SPDC’s agenda at the National Convention.

The SPDC also violated its verbal ceasefire with the KNU by attacking a Karen village close to a KNU military camp during Karen New Year celebrations in January.⁹ SPDC launched a series of offensives against the Karenni National Progressive Party (KNPP) in an attempt to seize the KNPP base camp at Nyamu Hill near Thailand’s Mae Hong Son Province in the same period.¹⁰

National Convention Process Unchanged

The 2005 National Convention remains undemocratic and unrepresentative. On 1 February 2005 the SPDC announced it had sent invitations to the same delegates who attended the 2004 NC session. Further, the regime announced that the National League for Democracy, the Shan Nationalities League for Democracy and the Shan State Kokang Democratic Party would not be invited to the National Convention.

The regime’s tactic remains the same: Marginalize the NLD by keeping Daw Aung San Suu Kyi under house arrest, and coerce the ethnic ceasefire groups into accepting their constitution-drafting agenda.

⁶ BP (27 Nov 04) Democratization to Continue

⁷ SHAN (6 Jan 05) Wa reinforces Border Command

⁸ DVB (7 Oct 04) Burma army pressurising ceasefire groups; Kao Wao (30 Sep 04) New Mon State Party Closely Monitored

⁹ Irrawaddy (11 Jan 05) Burmese troops attack Karen National Union military camp

¹⁰ BBC Monitor (7 Jan 05) Burmese military reportedly attack Karenni base

Crackdown on Shan Leaders Ahead Of National Convention

Ten days ahead of the National Convention, the SPDC embarked on a crackdown against different Shan ceasefire groups and political parties. So far at least ten Shan leaders have been arrested.¹¹ Among them is Hkun Htoon Oo, Chairman of the Shan Nationalities League for Democracy (SNLD), a party that won the second largest number of seats (23) in the 1990 election.

This is part of an intimidation campaign to ensure the ethnic nationalities' compliance with the junta's constitution-drafting agenda. The people arrested are leaders of groups that have in the past criticized the National Convention for its undemocratic objectives and procedures.

Discontent Brewing Amongst Ceasefire Groups

Discontent is brewing among ceasefire groups. On 29 January 2005 the New Mon State Party (NMSP) announced it would downgrade its delegation to the NC, because it is not happy with the constitution-drafting process. The NMSP however decided not to boycott the NC, as it did not want to create friction with the SDPC or with other ceasefire groups.¹²

The participation of some ceasefire groups to the National Convention is now in doubt since the recent crackdown on Shan leaders. "It is very clear. If they are not releasing him within these days, we will not resume the attendance [to the National Convention]," said Col Gaifah, vice-chairman of Shan State National Army (SSNA), referring to his detained leader Gen Hso Ten.¹³

CRPP Rejects National Convention

The Committee Representing the Peoples' Parliament (CRPP) took the bold stand on 12 February, Burma's Union Day, and rejected the regime's National Convention. The CRPP, an 18-member committee mandated to represent the Parliament until it is convened, stated that the constitution that would result from the National Convention "could not be expected to guarantee democracy, human rights, and public well being according to the will of the people".

The CRPP, as the legitimate body representing the people of Burma, called on the political parties, the democratic forces and the ethnic organizations to "strive for democracy, human rights, security for the lives of the people and self determination for the nationalities in every possible ways and means by applying all the forces available".¹⁴

¹¹ SHAN (10 Feb 05) Shan leaders take state-financed holiday; DVB (12 Feb 05) At least 7 opposition leaders arrested in Burma

¹² DVB (29 Jan 05) NMSP to attend Burma junta's "National Convention"

¹³ DVB (12 Feb 05) Detention of leader will affect SPDC's convention, warns Shan leader

¹⁴ NCGUB (12 Feb 05) 58th Anniversary Union Day Statement of the Committee Representing the People's Parliament Elected from the Multi-party Democracy Election in 1990

CONCLUSION

Recent developments, including fresh arrests and military offensives by the SPDC have demolished hopes that the NC process could be a means of positive political transformation for Burma.

Evidence suggests that the regime cynically proclaimed the NC as a vital step towards democratization while using it as a delay tactic. The NC allows the SPDC, particularly Sr Gen Than Shwe, to entrench its power base, ostensibly under the umbrella of military allocation of seats, ministerial posts and another unitary state constitution, a model that has failed to meet the legitimate demands of Burma's political community. Ultimately, what Burma requires is a constitution that prescribes a model of government that reflects the diverse ethnic and political community that comprises the modern geographical state of Burma.

RECOMMENDATIONS

- **In view of recent developments, it is time for UN member states, especially those from South, Southeast and East Asia, to seriously consider withdrawing support for the National Convention. The NC has failed to abide by the mutually complementary recommendations of the UNGA, the UNCHR as well as the NLD and ethnic political parties to ensure minimum democratic conditions.**
- **The international community, including regional actors should call for a suspension of the National Convention process until the achievement of necessary conditions conducive to active and meaningful participation in the nation: Political parties should be allowed to operate freely, all political prisoners released, and military hostilities must be halted. It is necessary that the SPDC unilaterally declares (and observes) a nationwide ceasefire.**
- **All fundamental freedoms must be guaranteed within any constitution drafting process itself, and the 'Six Objectives' and the '104 Principles' discarded.**
- **In the absence of any steps taken by the SPDC to transform the National Convention into a democratic and transparent process, ASEAN members must disqualify Burma from its scheduled chairmanship of the regional grouping in 2006.**

BACKGROUND INFORMATION

AN EXCUSE NOT TO CONVENE PARLIAMENT

On 27 May 1990 the National League for Democracy (NLD), led by Daw Aung San Suu Kyi, won 81% of parliamentary seats in a free and fair election. According to the regime's own election law, the 485 elected candidates won the mandate to represent the people of Burma in the People's Parliament (known in Burmese as the *Pyithu Hluttaw*).¹⁹

The junta, then known as the State Law and Order Restoration Council (SLORC), was stunned by the unexpected electoral results, and refused to convene Parliament.²⁰ In a complete betrayal of its own laws, SLORC claimed that the responsibility of the elected representatives was first of all to draw the constitution of the "future democratic State", before the Parliament could be convened.²¹ The regime then announced the creation of a "National Convention", a constitution-drafting forum.

The National Convention's assignment however is not to draft a new constitution *per se*, but to draft "principles" that will then be used to draft the constitution. This subtle but important distinction was first mentioned on 24 April 1992, when the SLORC announced the convening of the National Convention: "The [SLORC] will convene the National Convention within six months in order to lay down the basic principles for the drafting of a firm and stable Constitution [...]."²² National Convention Convening Chairman Maj Gen Myo Nyunt clarified this in his NC opening speech on 9 January 1993: "The basic principles which are arrived at, at this National Convention are to be utilized as guidelines in drawing up the State Constitution."²³ The regime has not provided any explanation as to how the constitution itself would be drafted.

ENTRENCHING MILITARY RULE

The Military Junta Does Not Want Democracy

The generals seek what they call "disciplined democracy", a euphemism for continued military rule.²⁴ The National Convention process, from its inception, provides ample and clear illustrations of this, despite the regime's pledge to create a "genuine multiparty democracy system".

Six "Objectives"

On 2 October 1992, three (3) months before the National Convention first convened, the regime, imposed six (6) objectives to "guide" the drafting of constitutional principles. Below are the six (6) objectives as officially stated by the SLORC/SPDC:

¹⁹ Burma Lawyers' Council (May 1999) Legal Issues On Burma Journal No. 3: Convening The People's Assembly: A Legal Analysis

²⁰ From 1988 to 1997 the military junta was known as the State Law and Order Restoration Council (SLORC), and since 1997 as the State Peace and Development Council (SPDC)

²¹ SLORC (27 July 90) Declaration No. 1/90

²² SLORC (24 Apr 92) Declaration No. 11/92: Convening of the National Convention

²³ Burma Press Summary Volume VII No 1 (Jan 93) (Available online: www.burmalibrary.org)

²⁴ NCGUB Statement (7 May 04) The National Convention

²⁷ SLORC (2 Oct 92) Order No. 13/92: Formation of the Convening Commission for the National Convention

1. non-disintegration of the Union,
2. non-disintegration of national solidarity,
3. perpetuation of sovereignty
4. flourishing of a genuine multiparty democracy [sic] system,
5. development of eternal principles of justice, liberty and equality in the State,
6. for the *Tatmadaw* (Army) to be able to participate in the national political leadership role of the State.²⁷

Although the first five (5) objectives primarily involve nation-building and goodwill intentions of peace, justice and democracy, the sixth principle guarantees a dominant role for the military, the *Tatmadaw*, in any future Burmese government.²⁸ The regime did not consult with any group in drafting these objectives, and has consistently refused to discuss, amend, or repeal any of them, despite strong criticism from pro-democracy political parties, ethnic groups, and the international community. The regime has also repeatedly stated that all constitutional proposals made at the NC should reflect these six objectives.

The first task of the National Convention, in the first months of 1993, was to draft “chapter headings” for the new constitution. Delegates to the NC would then draft “principles” that would guide the drafting of each chapter of the future constitution. In April 1993 SLORC announced that agreement on the chapter headings had been reached.³⁰

Chapter Headings

1. State fundamental principles
2. State Structure
3. Head of State
4. Legislature
5. Executive
6. Judiciary
7. Tatmadaw
8. Citizens and their fundamental rights and duties
9. Election
10. Political parties
11. Provisions on state of emergency
12. Amendment of the Constitution
13. State flag, State seal, national anthem and the capital
14. Transitory provisions and
15. General provisions³¹

Once the fifteen (15) chapter headings of the future constitution were set, the NC moved on to discuss the principles that would eventually guide the drafting of the first chapter, the “State Fundamental Principles”.

104 “Principles”

Nine months into the NC the regime imposed its own version of the “principles” to serve as the basis for the drafting of the “State Fundamental Principles”, overriding all submissions by other delegates.

The “Principles laid down to serve as bases in prescribing State Fundamental Principles” number 104, and are most commonly known as the “104 Fundamental Principles”, the “104 Basic Principles”, or simply the “104 Principles”.

²⁸ New Light of Myanmar (18 May 04) Regulations are prescribed in the interest of the national races and the delegates

³⁰ Burma Press Summary Volume VII No 4 (April 93) Available online: www.burmalibrary.org

³¹ Seminar on Understanding Myanmar (27-28 Jan 04) Myanmar Roadmap to Democracy: The Way Forward

These “104 Principles” forms the “skeleton” of all other Principles guiding the drafting of a new constitution. They provide general indications as to how the military intends to keep a firm hand on political power.

The “104 Principles” dictate the allocation of positions in the legislature and the executive branch of government to the Burma Army (*Tatmadaw*, in Burmese). They allow the military to take over state power in a “state of emergency” under circumstances that could “cause disintegration of the Union, disintegration of national solidarity and loss of national sovereignty, due to takeover of sovereign State power or attempts therefore by wrongful forcible means such as insurgency or violence”. They allow the *Tatmadaw* to independently administer all its affairs, without parliamentary oversight. Essentially, the “104 Principles” secure the political power of the Defence Services Commander-in-Chief without accountability to the people through the Parliament.³² Elected representatives and political parties opposed such principles early in the National Convention.³³

From 1994 to 1996 the NC then set out to draft all the “Detailed Basic Principles” for the chapters on Head of State and State Structure, and some “Detailed Basic Principles” for the chapters on the Legislature, the Executive, and the Judiciary. .³⁴

These “Detailed Basic Principles” are in fact so detailed that they leave very little leeway to the future constitution drafters.³⁵ They elucidate the six (6) objectives and one hundred and four (104) basic principles to detail precisely how the military intends to keep a hold on power. For example:

- In a notable attempt to exclude Daw Aung San Suu Kyi from holding the position of President, the President “shall be a person who has been residing continuously in the country for at least 20 years”, with “political administrative, **military** and economic experience”,³⁶ and whose spouse, children, and spouses of children are not a citizen of a foreign country.
- The positions of minister of defence, security/home affairs and border affairs shall be occupied by members of the military.³⁷
- Twenty-five (25) per cent of parliamentary seats must be allocated to the military in both houses of the national legislature.³⁹

The National Convention was unexpectedly suspended in 1996 “for various reasons”, according to the junta.⁴⁰ A few months before the 86-member NLD delegation had been expelled by the regime because the party criticized the NC process’ lack of transparency and democracy. In the ensuing years, the regime consistently assured the UN and ASEAN that work was continuing on the constitution-drafting process.

³² Seminar on Understanding Myanmar (27-28 Jan 04) Myanmar Roadmap to Democracy: The Way Forward

³³ ICHRDD and International League for Human Rights (2 Apr 96) The National Convention in Burma (Myanmar): An Impediment to the Restoration of Democracy

³⁴ David Arnott (undated) Burma/Myanmar: How to read the generals’ “roadmap”

³⁵ ICHRDD and International League for Human Rights (2 Apr 96) The National Convention in Burma (Myanmar): An Impediment to the Restoration of Democracy

³⁶ New Light of Myanmar (10 April 94) The Detailed Basic Principles for the Chapter ‘The State’, ‘The State Structure’ and ‘The Head of State’ to be included in the State Constitution as laid down by the National Convention Plenary session held on 9 April 1994

³⁷ Detailed Basic Principles of the Formation of the Executive (available online: www.burmalibrary.org)

³⁹ The Detailed Basic Principles for formation of the legislature to be included in the state constitution as laid down by the National Convention plenary session held from 28 to 30 March 1996 (available online: www.burmalibrary.org)

⁴⁰ New Light of Myanmar (1 Feb 05) Press conference on National Convention, relief works for victims of Tsunami, subversive acts committed by internal and external destructive elements

FIRST STEP IN A ROADMAP TO DEMOCRACY?

On 30 August 2003, the now-deposed Gen Khin Nyunt, former Intelligence Chief and Prime Minister, announced a seven-step roadmap to democracy. The plan was an attempt to counter the international pressure resulting from the military-sponsored “Depayin Massacre”, the assassination attempt on and arrest of Daw Aung San Suu Kyi on 30 May 2003. The roadmap was designed to delay the delivery of genuine political and economic reforms, avoid convening the People’s Parliament, and to prolong the detention of Daw Aung San Suu Kyi and other democracy leaders.

The first step of the roadmap is to reconvene the National Convention, the first step of a constitution-drafting process that has been dragging as an excuse to avoid convening Parliament.

The SPDC’s 7-Point Roadmap to Democracy, in their own words

1. Reconvening of the National Convention that has been adjourned since 1996;
2. After the successful holding of the National Convention, step by step implementation of the process necessary for the emergence of a genuine and disciplined democratic state;
3. Drafting of a new constitution in accordance with basic principles and detailed basic principles laid down by the National Convention;
4. Adoption of the constitution through national referendum;
5. Holding of free and fair elections for Pyithu Hluttaws (Legislative bodies) according to the new constitution;
6. Convening of Hluttaws attended by Hluttaw members in accordance with the new constitution;
7. Building a modern, developed and democratic nation by the state leaders elected by the Hluttaw; and the government and other central organs formed by the Hluttaw.⁵⁴

Fundamentally Flawed

The roadmap lacks a clear timeframe. The regime has refused to commit to a timetable or engage with efforts to progress the roadmap, such as the “Bangkok Process”.

Continuation of a Previous Failure

The 1993-1996 NC was widely criticized. According to UN Special Rapporteur Sergio Pinheiro, the NC “violated the human rights of its participants and lacked “procedural” democracy”⁵⁵. In 2004 the SPDC reimposed the six (6) objectives, the one hundred and four (104) principles and a similar

⁵⁴ Seminar on Understanding Myanmar (27-28 Jan 04) Myanmar Roadmap to Democracy: The Way Forward

⁵⁵ UNCHR, 60th Session (5 Jan 04) Situation of human rights in Myanmar: Report submitted by the Special Rapporteur, Paulo Sergio Pinheiro [E/CN.4/2004/33]

oppressive and undemocratic NC Procedural Code as the basis of the new round of constitutional talks.⁵⁶

No End in Sight

From 17 May 2004 to 9 July 2004 the National Convention delegates discussed principles related to the Legislature, the Executive and the Judiciary – chapters 4, 5 and 6 of the Constitution. During a press conference on 1 February 2005, the regime announced that the new National Convention session starting 17 February would first adopt principles related to the power-sharing structure in the Legislature, and then further discuss matters related to the Executive and the Judiciary.⁵⁷ It has now been more than twelve (12) years since the National Convention first convened, and still less half of the chapters of the future constitution have been examined. This is probably the world's longest constitution-drafting process, and there is no clear end in sight.⁵⁸

Who Will Draft the Constitution?

The regime has refused to provide details as to how the roadmap's subsequent steps would be implemented. The crucial question of who will draft the constitution, the third step of the roadmap, remains unanswered. The regime recently hinted that "experts", perhaps the SPDC itself or a committee appointed by the National Convention, would draft the constitution. This constitutes a serious warning to the pro-democracy movement and the international community, who must pressure the regime to ensure that the actual constitution is drafted in a transparent and democratic manner.⁵⁹

1990 Election Results Must Be Upheld

The fifth step of the roadmap, holding of "free and fair" elections, contradicts not the just will of Burmese voters but also the will of the UN General Assembly, which since 1991, has consistently called for the implementation of the results of the 1990 election. The generals' eagerness to suppress and ignore the results of the general election that they themselves held in 1990 expose the hypocrisy of their stated commitment to the concept of "free and fair" elections. Fresh elections cannot be credible until an arrangement is made to acknowledge the results of 1990 first.

Democratic Forces Reject the Roadmap

The elected MPs, ethnic political parties, non-ceasefire groups such as the KNU and the Burmese pro-democracy movement in exile have all rejected the roadmap imposed by the SPDC.⁶⁰ Burma's political parties and ethnic groups have proposed credible, democratic, and transparent alternatives to the junta's roadmap.

NOT REPRESENTATIVE OF BURMA'S PEOPLE

Following the 1990 election the junta clearly stated "the representatives elected by the people are those who have the responsibility to draw up the constitution of the future democratic State".⁶¹ The regime reiterated this commitment when it announced in April 1992 the convening of the National Convention: "...in respect of the convening of the National Convention, [SLORC will] meet and co-

⁵⁶ Seminar on Understanding Myanmar (27-28 Jan 04) Myanmar Roadmap to Democracy: The Way Forward

⁵⁷ Xinhua (1 Feb 05) Myanmar national convention to approve power sharing principles

⁵⁸ Irrawaddy (25 May 04) Poisoning the Future

⁵⁹ International Crisis Group (26 Apr 04) Myanmar: Sanctions, Engagement Or Another Way Forward?; David Arnott (29 Apr 04) Burma's National Convention: The Detailed Basic Principles

⁶⁰ CRPP (16 Sep 03) Statement of the CRPP with regard to the SPDC's Prime Minister's road map for Burma's future; NCUB & NCGUB (22 Oct 03) NewsDesk; Irrawaddy (14 May 04) Ethnic Parties Boycott National Convention; Irrawaddy (6 Sep 03) Ethnic Agendas: The PM's Road Map To Nowhere

⁶¹ SLORC (27 July 1990) Declaration No. 1/90

ordinate, within two months, with the leaders of the Hluttaw Representatives of political parties existing lawfully and individual Hluttaw Representatives”⁶²

Despite this commitment, the regime sidestepped the mandate it conferred to the elected parliamentarians, relegating them permanently to a minority role in the NC.⁶³ In the same Order 13/92 through which SLORC imposed the “six (6) objectives” to the NC, the regime announced that the elected MPs would form only one (1) of eight (8) categories of delegates to the NC.⁶⁴

The first phase of the Convention comprised only ninety-nine (99) elected MPs, or 14 per cent of the seven hundred and two (702) delegates.⁶⁵

Worse Than the 1993 Convention

In a bid to further marginalize the elected representatives in the 2004 NC session, the regime increased the number of invited delegates, while reducing the number of invited MPs. The regime was particularly eager to demonstrate that the NC was inclusive of “national races”, increasing their representation to 59 per cent of the total number of participants (633 of 1088 invited delegates). Here is a breakdown of the number of delegates invited for each category:⁶⁶

(a) Delegates from (7) political parties:	29
(b) Delegates of representatives-elect:	15
(c) Delegates of national races:	633
(d) Delegates of peasants:	93
(e) Delegates of workers:	48
(f) Delegates of intellectuals and intelligentsia:	56
(g) Delegates of State service personnel:	109
(h) Delegates from 17 armed groups of national races which have returned to the legal fold and other groups	105
TOTAL	1088

The SPDC declared its NC representative because 1,076 of 1,088 invited delegate, or 98.9 per cent, attended the convention.⁶⁷ This interpretation is flawed in several ways:

Political parties boycott the NC. The National League for Democracy and eight ethnic-based political parties, which in total won ninety-one (91) per cent of parliamentary seats in the 1990 election, boycotted the NC. The political actors most representative of the will of the Burmese population abstained from the NC because of the regime’s refusal to conform to even minimalist democratic standards.⁶⁸

⁶² SLORC (24 Apr 92) Declaration No. 11/92: Convening of the National Convention

⁶³ SLORC (2 Oct 1992) Order No. 13/92: Formation of the Convening Commission for the National Convention

⁶⁴ The delegate categories are: Representatives of political parties; Representatives elected at the election; Representatives of national races; Representatives of peasants; Representatives of workers; Representatives of intelligentsia and technocrats; Representatives of State service personnel; and Other persons who should be invited.

⁶⁵ Irrawaddy (online) Chronology: The National Convention

⁶⁶ Myanmar Information Committee (27 May 04) "The National Convention In Myanmar— The Facts"; New Light of Myanmar (18 May 04) National Convention reconvenes in Nyaunghnapin Camp in Hmawby Township

⁶⁷ AP (24 May 04) Myanmar junta tells U.S. to stop lecturing it about democracy, cites Iraq chaos

⁶⁸ The National League for Democracy (NLD) won 392 of 485 parliamentary seats (82 per cent) in the 1990 election. The eight other political parties are part of the United Nationalities Alliance (UNA). Here is the list of UNA member parties, with the number of seats won indicated in brackets: Arakan League for Democracy (11), Chin National League for Democracy (3), Kachin State National Congress for Democracy (3), Karen National Congress

The official figure of invited delegates does not include the 44 members of the National League for Democracy (NLD), Shan Nationalities League for Democracy (SNLD) and Shan State Kokang Democratic Party (SSKDP), who were also invited but who boycotted the NC a few days before it began on 17 May 2004.

Out of the fifteen (15) elected MPs who attended in 2004, eleven (11) were independent MPs, six (6) of them previously expelled from the NLD.⁶⁹

The seven invited political parties won a total of 15 parliamentary seats in 1990, a meagre 3 per cent of the 485 seats. Ten (10) of these seats belong to the National Unity Party (NUP), the party officially backed by the SLORC in the election. Delegates of political parties are not representative of the majority of Burma's people.⁷⁰

The largest armed opposition group, the Karen National Union (KNU), also opposes the National Convention. On 19 May 2004 the KNU criticised ceasefire groups attending the NC, stating “the idea that [political] reform can be made by taking part in the convention is totally impossible [...] It is just an attempt to legitimise the military dictatorship”.⁷¹

Thugs and Drug Lords at the NC

“National races” actually USDA members. The 633 delegates of the “national races” category are members of the Union Solidarity and Development Association (USDA). The USDA is a puppet civilian organization created by the junta to coerce civilian support for the regime, and intimidate the pro-democracy movement.⁷² The USDA carried out the 30 May 2003 Depayin Massacre, where Daw Aung San Suu Kyi's convoy was brutally attacked, and hundreds injured and killed.⁷³

Drug Lords at the NC. Maha Ja, leader of the Homein Region Welfare and Development Group and renowned Wa drug lord, participated in the 2004 National Convention.⁷⁴ On 31 January 2005 the Thai government issued a warrant against Maha Ja for the production and trafficking of narcotics to Thailand.⁷⁵ It is not known whether or not Maha Ja is still planning to attend the 2005 NC. The United Wa State Army (UWSA), recently described by the US Justice Department as a “powerful criminal syndicate and worldwide narcotics trafficking organization” is also attending the NC.⁷⁶

THE REGIME'S DESPERATION

The SPDC has made every effort possible to control all aspects of the NC. Its bizarre rules, control mechanisms and suppression of public discussion illustrate the regime's desperation to prove that their long-term political agenda has support.

for Democracy, Kayah State all Nationalities League for Democracy (2), Mon National Democratic Front (5), Shan Nationalities League for Democracy (23), Zomi National Congress (2)

⁶⁹ NCGUB (3 Jun 04) An Update on the National Convention in Burma

⁷⁰ The invited political parties are (with number of seats won in the 1990 election in parenthesis): Kokang Democracy and Unity Party (0), National Unity Party (10), Union Kyain Nationals League (0), Union Pa-O Nationals League (3), Myo (Kahmee) National Unity Group (1), Lahu National Development Party (1), Wa National Development Party (0) source: Zin Linn (2 Jun 04) Burma: A National Convention in the Absence of Representatives-elect.

⁷¹ Irrawaddy (19 May 04) KNU Criticizes Ceasefire Groups for Attending NC

⁷² DVB (5 Feb 05) Burma junta invites delegates to attend convention; Narinjara (11 Feb 05) SPDC picked USDA members represent Arakan State at National Convention

⁷³ For an outline of the 30 May 2003 events, and the role of USDA, please consult Altsean-Burma (Nov 04) Burma Briefing: Issues and Concerns Volume 1

⁷⁴ DVB (3 Feb 05) Burmese drug baron wanted by Thai authority; New Light of Myanmar (18 May 04) National Convention reconvenes in Nyaungnabin Camp in Hmawby Township

⁷⁵ Nation (2 Feb 05) Warrants issued for warlords

⁷⁶ U.S. Department of Justice (24 Jan 05) Press Release: Eight High-Ranking Leaders Of Southeast Asia's Largest Narcotics Trafficking Organization Indicted By A Federal Grand Jury In Brooklyn, New York. Note: The SPDC refers to the UWSA as the “Shan State (North) Special Region-2” in its list of ceasefire groups attending the NC.

The SPDC, in its own perverse way, has worked hard to shore up the credibility of the NC so that it can be offered up as an alternative to the release of Daw Aung San Suu Kyi, who still commands overwhelming popular support amongst diverse communities in the country.. As outlined above, the regime hopes the National Convention will appease the international community, thus paving the way for more aid, dismantling of sanctions, broader support for the 7-point roadmap, and tacit acceptance of continuing restrictions on Daw Aung San Suu Kyi and her colleagues. By refusing to commit to a timeframe, the regime also has the option of delaying the possibility of reforms for as long as possible.

NC Structure

Four main organs closely supervise the NC. SPDC officials or its close allies staff all these coordinating bodies. Their procedures leave no room for democratic debate among delegates on crucial matters regarding the structure of the state.

- The NC Convening Commission has control over convention mechanisms and is chaired by SPDC Sec 1 Lt Gen Thein Sein.
- The NC Convening Work Committee proposes and approves constitutional principles. It is headed by the junta's Chief Judge U Aung Toe.
- The NC Convention Management Committee, chaired by Auditor-General Maj-Gen Lun Maung, is responsible for logistical and administrative affairs.⁷⁷
- The Panel of Chairmen, composed of forty-five (45) SPDC handpicked members, controls the agenda and procedural code for delegates.⁷⁸

SLORC Order 5/96: Freedom of Expression Criminalized

Sr Gen Than Shwe signed and issued Order 5/96 shortly after the National Convention adjourned in 1996. This order prevents anyone from criticising the NC and drafting a constitution outside the NC.⁷⁹

Punishment for violating Order 5/96 includes a maximum jail term of twenty (20) years and the outlawing of connected organisations. This law criminalises freedom of expression, prohibiting “inciting, demonstrating, delivering speeches, making oral or written statements and disseminating (sic) in order to undermine the stability of the State.”⁸⁰

In 1994, even before this law was passed, NLD MP Dr Aung Khin Sint was condemned to twenty (20) years imprisonment for distributing leaflets critical of the Convention.⁸¹ Ten years later, on the 20 February 2004, the SPDC condemned six (6) students to prison terms ranging from seven (7) to seventeen (17) years for the exact same “crime”.⁸²

1,076 Handpicked Political Prisoners

While the NC sessions from 1993 to 1996 were held in Rangoon, the 2004 session was held in a specially constructed camp in Nyaung Hna Pin, a village located forty-five (45) km north of Rangoon and surrounded by military bases.⁸³ “Delegates are virtually under house arrest”, revealed UN Special Rapporteur Sergio Pinheiro at a press conference on 1 June 2004. They are strictly confined to the

⁷⁷ New Light of Myanmar (5 Feb 05) Preparatory work being carried out sector-wise NC Convening Commission, Work Committee, Management Committee meet

⁷⁸ Irrawaddy (10 May 04) What to Expect From the National Convention

⁷⁹ Irrawaddy (10 May 04) What to Expect From the National Convention

⁸⁰ SLORC (7 Jun96) Law No. 5/96

⁸¹ Irrawaddy (online) Chronology: The National Convention. Note: Dr Aung Khin Sint was forced to resign as an NC delegate and was released in July 2001.

⁸² Irrawaddy (23 Feb 04) Students sentenced

⁸³ Asian Tribune (2 Jun 04) Burma: A National Convention in the Absence of Representatives-elect.

compound and not allowed to discuss proceedings with non-delegates.⁸⁴ The 2005 NC session will also be held at Nyaung Hna Pin.

Bizarre Regulations

Delegates were told “to put on suitable clothes, to avoid having bath at a unreasonable time and eat junk food and are advised to go hospital even they catch cold”.⁸⁵ These regulations were devised to limit opportunities for delegates to leave the Convention. Ceasefire group representatives who wanted to consult with their organisations on the first weekend after the talks started were refused permission to exit.⁸⁶ The regime granted the first weekend leave to only sixty-five (65) per cent of delegates three (3) weeks into the convention.⁸⁷ Delegates were required to sign an agreement prohibiting them from speaking to the media before being issued passes to leave the convention for a weekend.⁸⁸

The regime’s desperation is further shown by its willingness to provide every facility and luxury possible to keep delegates on the premises.

“TV, Karaoke, newspapers, movies, stage show, gymnasium, and a golf course is being provided for the health and recreation of the delegates. A hospital complete with specialists, modern medicines and medical equipment is being opened in the camp while restaurants, beauty parlour, barber shop, optical shop and grocery shop are being opened for the delegates.”⁸⁹

Strict Script Supervision

In accordance with the NC Procedural Code, every speech must be approved in advance by the Panel of Chairmen, and the delegates may only read the then edited version of their proposal.⁹⁰ Delegates are forced to keep all information regarding the NC secret until officially released by the NC Convening Work Committee.⁹¹

Media Gagged, Blindfolded, Deaf

Only local media controlled by the SPDC were allowed to cover the NC, foreign journalists being systematically refused visas.⁹² Even local journalists were prohibited from bringing tape recorders, computers, mobile phones and cameras to the opening of the convention.⁹³ Footage of the convention was released without sound, giving no clue as to what exactly was happening.⁹⁴

Divide-and-Rule: Joint Proposal Refused

Divide-and-rule tactics have been used by the junta to pit individual delegations against each other, and distract them from their work during the convention.

The constitutional talks that lasted nearly two (2) months focused on the division of legislative power between the national and constituent States.⁹⁵

⁸⁴ Nation (2 June 04) Envoy: Assembly a ‘mass house arrest’

⁸⁵ New Light of Myanmar (18 May 04) Regulations are prescribed in the interest of the national races and the delegates

⁸⁶ SHAN (22 May 04) Junta scraps ceasefire groups’ demands

⁸⁷ AFP (4 Jun 04) 700 delegates leave controversial Myanmar convention on weekend break

⁸⁸ DVB (21 Jun 04) Burma Junta tightening control on convention delegates

⁸⁹ New Light of Myanmar (18 May 04) Regulations are prescribed in the interest of the national races and the delegates

⁹⁰ SHAN (13 April 04) Opposition hemmed in

⁹¹ SHAN (13 Apr 04) Opposition hemmed in

⁹² RSF (13 May 04) Military junta shuts door on free coverage of National Convention

⁹³ Irrawaddy (19 may 04) Constitution-drafting from the concentration camp

⁹⁴ Nation (2 Jun 04) Envoy: Assembly a ‘mass house arrest’

⁹⁵ DVB (26 Jul 04) Officials neglected 7 proposals forward by KIO

Before the NC adjourned, thirteen (13) ceasefire groups submitted a joint proposal that challenged the SPDC's agenda for a strongly centralised state. The proposal called for each constituent state to retain most legislative authority and the right to maintain independent armed forces.⁹⁶ The thirteen (13) delegations that jointly submitted the proposal were individually pressured to submit separate proposals.⁹⁷ After an additional two (2) day meeting with the NC Convening Work Committee Chairman U Aung Toe, it was reported that the delegates gave in to the pressure and agreed to modify their proposal.⁹⁸ However this issue remains unresolved. It is expected that the SPDC will attempt to break the consensus among ceasefire groups by negotiating bilaterally, as they have done to reach the ceasefire agreements.

ALTERNATIVES TO THE NATIONAL CONVENTION

Political parties and ethnic nationality groups of Burma have made constructive suggestions to establish the integrity of the National Convention. The NLD, ethnic-based political parties, ceasefire groups and armed opposition groups have showed a encouraging degree of convergence on what would constitute a genuine process of national reconciliation. The SPDC has consistently refused to take into account the views of key stakeholders, instead pushing its own undemocratic agenda.

The NLD's decision to boycott the National Convention was taken in response to the regime's refusal to agree with five (5) minimal conditions:

1. The "six (6) objectives" should be regarded as suggestions to be considered in the drafting of the constitution.
2. The "one hundred and four (104) principles" should be regarded as suggestions to be considered for the drafting of the constitution, not as binding principles.
3. All political parties, including the NLD, should be able to choose their own representatives freely
4. All NLD offices sealed since 30 May 2003 must be reopened and party signboards restored where they have been forcibly removed.
5. U Tin U, Vice-Chairman of the NLD and NLD General Secretary Daw Aung San Suu Kyi must be released from detention.⁹⁹

Eight (8) ethnic-based political parties that now collaborate under the banner of the United Nationalities Alliance (UNA) supported the NLD's decision, and boycotted the National Convention for similar reasons. "This convention is bound by conditions which mean that it can not solve the country's problems," explained Hkun Htoon Oo, Chairman of the Shan Nationalities League for Democracy (SNLD) and a leader member of the UNA .¹⁰⁰

Ceasefire Groups Also Want Democratic Process

On 11 May 2004 six (6) ceasefire groups jointly released a seven-point statement calling for democratic changes to the NC, asserting:

1. They need the right to revise the 6th objective of the convention which is not in accordance with the democratic system and not in keeping with the people's wishes.
2. They need the right to revise the principles that do not conform to democratic principles in the stated 104 basic principles of the convention.

⁹⁶ Irrawaddy (9 July 04) National Convention Adjourned

⁹⁷ SHAN (26 Jun 04) Junta plays dirty game, claims convention delegate

⁹⁸ SHAN (7 Jul 04) Convention chair begs his way to "victory"

⁹⁹ NLD (14 May 04) Statement by the National League for Democracy. Note: U Tin U is also spelt "U Tin Oo";The junta had agreed with the 3rd condition, but not with the others.

¹⁰⁰ Irrawaddy (14 May 04) Ethnic Parties Boycott National Convention

3. For the benefit of the Union, participants should have the right to seek advice and consult any person or association on any relevant issue during the period of the convention.
4. Delegates must have the right to freely consult their respective associations and seek their views during the period of the convention.
5. Elected representatives of the people in the 1990 elections must be permitted to attend the convention.
6. Delegates from “Cease-fire groups” must be genuine. Cease-fire agreements with other groups should be entered into as soon as possible so that their delegates may attend the convention.
7. Law 5/96 dated the 7th June 1996 was intended to protect the 1993- 1996 National Convention. It is no longer relevant and should be abolished.¹⁰¹

The NC Convening Work Committee responded a week later that their demands could not be addressed.¹⁰²

Ethnic nationalities support suggestions of ceasefire groups. On 14 May the Ethnic Nationalities Council (ENC), the most representative voice of Burma’s non-Burman ethnic groups, issued a statement supporting the ceasefire groups’ suggestions. The ENC emphasized the need to revise the procedural rules of the National Convention, as well as the “6th objective” and the “104 Basic Principles”, and repeal Law 5/96.¹⁰³ The United Wa State Army (UWSA), one of the regime’s closest allied ethnic group at the time, also lent its support to the ceasefire groups’ statement.¹⁰⁴

NCGUB supports NLD, SNLD, and demands of ethnic ceasefire groups. The National Coalition Government of the Union of Burma (NCGUB) released a statement supporting the boycott of the Convention by the NLD and ethnic nationality parties, as well as the demands of ethnic ceasefire groups. “The sole responsibility for failing to bring about national reconciliation [...] lies squarely on the shoulders of the generals who have also reneged on the promise to the international community to release Daw Aung San Suu Kyi and U Tin Oo and to make their convention an equitable and fair process”.¹⁰⁵

Ethnic Groups Draft an Alternative Roadmap

The ethnic nationalities of Burma have elaborated viable alternatives to the regime’s roadmap for a process of national reconciliation and transition to democracy. In February 2004 the Ethnic Nationalities Solidarity and Cooperation Committee (ENSCC), a working committee of the ENC, categorically rejected the SPDC’s roadmap, as it “would not lead to democratization and establishment of a federal union but only sustain a military dictatorship in the country.”¹⁰⁶ Instead, the ENSCC released its own seven-point roadmap to democracy, entitled “Rebuilding the Union of Burma”, consisting of the following points:

1. To hold, at the earliest date, the tripartite dialogue, as called for by the UN resolutions annually since 1994;

¹⁰¹ Statement of six cease-fire groups to the military regime (11 May 04) (unofficial translation by NCGUB). Note: The statement was signed by the Kachin Independence Organization (KIO), the New Mon State Party (NMSP), the Shan State National Army (SSNA), the Shan State Army (SSA), the Palaung State Liberation Organization (PSLO), and the Kayan New Land Party (KNLP)

¹⁰² SHAN (22 May 04) Junta scraps ceasefire groups’ demands

¹⁰³ Lian H. Sakhong (16-17 Sep 04) A Struggle For Self-Determination In Burma: Ethnic Nationalities Perspective

¹⁰⁴ SHAN (14 May 04) Ceasefire groups position supported by Wa

¹⁰⁵ NCGUB (14 May 04) Don’t Give Credence to the Generals’ Convention

¹⁰⁶ SHAN (4 Feb 04) Third force presents revised roadmap. Note: The ENSCC was formed in August 2001 to coordinate the work of the political parties under the leadership of United Nationalities League for Democracy (UNLD), armed groups that are members of National Democratic Front (NDF) such as the Karen National Union (KNU), armed groups not part of NDF such as the Karenni National Progressive Party (KNPP) and the Shan State Army (SSA-South), and ceasefire groups.

2. To form an interim government comprising of representatives, proportionally, of the SPDC, the NLD and other political parties, victorious in the 1990 elections, and the ethnic nationalities, based on the agreement arrived at the tripartite dialogue;
3. The interim government is to convene a legitimate “National Convention”;
4. To form various commissions, with approval of the National Convention, to draft constitutions of the Federal Union and the constituent States;
5. To hold national referendum for adoption of the Federal Constitution and to hold referendum in various constituent States for adoption of respective State Constitutions;
6. To hold elections at national level and state level for the formation of Federal government and State governments in various States in accordance with the newly adopted Federal and respective State Constitutions;
7. Subsequent to the elections, the Federal and State parliaments (legislatures) are to be convened and the respective election-winning parties are to form the Federal and various State governments;¹⁰⁷

The pro-democracy movement outside Burma warmly welcomed the ethnic nationalities’ call for tripartite dialogue as the first step towards national reconciliation, democracy and federalism in Burma. The National Coalition Government of the Union of Burma (NCGUB), the National Council of the Union of Burma (NCUB) and US Campaign for Burma (USCB) stated that the ethnic nationalities’ 7-point roadmap is perfectly in line with the position of the ethnic and democracy movement outside Burma.¹⁰⁸

Eight (8) New Basic Principles from Democracy Movement

Pro-democracy forces from Burma seek an alternative constitution-drafting process that is credible, transparent, and inclusive. On 9 to 12 February 2005 a group of 106 individuals broadly representing the pro-democracy movement met at the Thai-Burma border to ratify and endorse eight (8) Basic Principles:

1. **Sovereign Power:** The sovereign power of the Union shall derive from the people
2. **Equality:** Every nationality in the Union shall enjoy equal political and ethnical rights
3. **Self-determination:** Every nationality shall fully enjoy the right to self-determination in political, economic, social, and cultural affairs.
4. **Federal Principles:** The Union shall be established with states which fully enjoy the right to self-determination, and the Union Assembly shall be a bicameral legislature consisting of a Chamber of Nationalities (Upper House) and Chamber of Deputy (Lower House).
5. **Minority Rights:** All rights of National Minorities who reside in the member states of the Union shall be fully guaranteed by the Constitution.
6. **Principles of Democracy, Human Rights and Gender Equality:** Discrimination based on religious belief, ethnicity, or gender shall not be permitted and fundamental human rights and democratic rights shall be protected and guaranteed by law.
7. **Secular State:** The Union shall be a secular state

¹⁰⁷ SHAN (4 Feb 04) Third force presents revised roadmap

¹⁰⁸ NCGUB (9 Feb 04) Ethnic Leaders Lauded for 'Common Approach' Toward Democracy, Federalism and US Campaign for Burma (7 Feb 04) US Campaign for Burma Recognizes Burma's Ethnic Nationalities' Rejection of Regime's Roadmap

8. Multi-party Democracy System: The Federal Union shall practice a multi-party democracy system

These form the basis for a future constitution of the Federal Union of Burma that reflects the core aspirations of Burma's ethnic nationalities, political parties, and civil society organizations. The signatories were elected MPs, leaders from political organizations, women organizations, youth organizations, and civil society institutions from Burma.

The delegates also agreed to include the following objectives when drafting a future federal constitution:

1. Civilian Supremacy: The Union Defense Services shall be subordinate to and subject to the control of civilian authority.
2. Conditions that permit the establishment of new states within the Union
3. a) Protection of the environment
b) Promotion of the welfare of women and children and safeguarding of their interest through special measures

INTERNATIONAL RESPONSES

Exclusion of the International Community

The regime has refused to allow either UN Special Envoy Razali Ismail or UN Special Rapporteur Sergio Pinheiro to visit Burma since March 2004.¹⁰⁹ Many foreign missions in Rangoon sought to send observers to the National Convention in May 2004, but were declined.¹¹⁰ The flexibility and apparent willingness of the international community to acknowledge the NC were met with exclusion, even of friendly nations, by the regime.

ASEAN: The Failure of Unconditional Engagement

The junta betrays its closest allies. The junta's refusal to participate in a second round of the Thai Government initiated Bangkok Process in late April 2004 came as a loss of face for Thailand and the apologists of the regime.

The Bangkok Process, an international forum to discuss the junta's democracy roadmap and serve as a pressure buffer, first met on 15 December 2003 and was attended by the SPDC on the condition that it would not face criticism. Although no country overtly critical of the regime was allowed to attend¹¹¹, and the participants appeared satisfied with the lack of specific information or timeframe on the roadmap, the regime backed out of further meetings. The divided SPDC leadership, unable to meet the minimal demand of the international community to release Daw Aung San Suu Kyi, claimed it needed time to prepare for the NC.¹¹²

Despite the failure of the Bangkok Process and the broken promises of the regime, ASEAN countries had initially decided to endorse the Burmese junta's National Convention and praise it as a "sign of progress"¹¹⁵. However the regime's recent decision to keep Daw Aung San Suu Kyi under house arrest

¹⁰⁹ AP (18 May 04) U.N. envoy condemns Suu Kyi detention; seeks Indian, Chinese help to deal with Myanmar and Financial Times (2 June 04) Burma reform talks 'surreal' says UN envoy

¹¹⁰ Altsean-Burma (Jun 04) Confidential interviews

¹¹¹ AFP (8 Dec 03) Myanmar to attend international forum on democracy "roadmap": Thailand

¹¹² AFP (23 Apr 04) Myanmar backs out of international talks on reform plans

¹¹⁵ Reuters (1 Jul 04) EU skeptical over Myanmar poll promise on Suu Kyi

¹¹⁹ AFP (19 May 04) Indonesia expresses concern over Myanmar constitutional talks

for another year blatantly illustrates the failure of ASEAN's engagement policy. The ASEAN community is now divided as how to deal with the rogues of Rangoon, with more and more voices calling for a review of Burma's membership in the regional grouping.

Indonesia had initially expressed concern that the NC was "falling short of an expectation widely shared by the international community."¹¹⁹ President Megawati Sukarnoputri undermined this statement when she praised the junta as a promoter of democracy during the opening of the ASEAN Ministerial Meeting, in Jakarta on 30 June 2004.¹²⁰

However following the announcement of Daw Aung Suu Kyi's extended detention, Foreign Minister Hassan Wirayuda swiftly criticized the regime in December 2004, saying "We want concrete progress between now and the summit in Kuala Lumpur next year, so we can evaluate whether it is worthy or not for Myanmar to be the host of ASEAN Summit."¹²¹

Malaysia is now visibly more irritated at lack of progress in Burma's transition to democracy. Following the ASEAN Summit in November 2004, Foreign Minister Syed Hamid Albar admitted Burma was a "source of difficulty" for ASEAN. He said the Burmese generals "have to look at their road map so that it has got credibility and it is believed by the international community that they are going to proceed as they have promised." "It should include finally the release of Aung San Suu Kyi," he emphasized.¹²⁴

ASEAN Parliamentarians say NC lacks legitimacy. In November 2004 Members of Parliament and Senators from seven ASEAN countries formed an Inter-Parliamentary Caucus on Myanmar. The Caucus criticized the SPDC's National Convention, saying it "lacks legitimacy in the absence of democratic standards and without the participation of 9 political parties representing 91% of parliamentary seats."¹²⁵

Thailand, one of the junta's closest regional allies, was disappointed at the start of the NC by the junta's decision to hold the convention despite the NLD boycott and the detention of Daw Aung San Suu Kyi.¹²⁶ PM Thaksin Shinawatra nevertheless outraged the international community in December 2004 when he declared Daw Aung San Suu Kyi's detention "reasonable". Expressing total confidence in the generals who made him lose face earlier in the year, he declared, "Myanmar's leaders said that whenever Aung San Suu Kyi is released some trouble has happened. They need time to arrange everything and finish some meetings [implicitly referring to the National Convention]."¹²⁷

UN Consensus

The UN General Assembly and the UN Commission on Human Rights, reflecting international consensus, have consistently condemned the regime's failure to implement the 1990 election results by Burma's military regime.

- In 1992, noting with particular concern the lack of progress "in giving effect to the political will of the people of Myanmar", the Commission on Human Rights decided to nominate a Special Rapporteur to establish contact with the military and the people of Burma, and monitor the

¹²⁰ AFP (30 Jun 04) Indonesia's Megawati signals soft line on Myanmar at ASEAN ministers meeting

¹²¹ Kyodo (9 Dec 04) ASEAN may reconsider Myanmar's hosting of 2006 Summit.

¹²⁴ AFP (6 Dec 04) Malaysia rejects US threat to boycott ASEAN

¹²⁵ Statement Of The Workshop Of Asean Parliamentarians On The Myanmar Issue (26-28 Nov 04) Kuala Lumpur

¹²⁶ AFP (17 May 04) Thailand dismayed over Myanmar convention without opposition role

¹²⁷ AFP (9 Dec 04) Myanmar leader gives no date for release of Aung San Suu Kyi: Thai PM

¹³⁰ UNCHR, 52nd Session (3 Mar 92) Situation of human rights in Myanmar [RES.1992.58]

situation of human rights in Burma and the progress in the transfer of power to a civilian government.¹³⁰

- In 2004 the current Special Rapporteur Pinheiro was still affirming that no political transition could work under the current conditions, with a total lack of political freedom inside the country. “It will not work on the moon. It will not work on Mars...(the) NC for the time being lacks national and international credibility”.¹³¹
- Since 1992 the UNGA has unanimously adopted annual resolutions expressing grave concern for failure to implement the 1990 election results.¹³² Since 1993 the UNGA also noted with concern the exclusion of most elected representatives from the National Convention, and the objective to guarantee the armed forces’ dominant role in politics.¹³³
- The UN Secretary General Kofi Annan “cautiously welcomed” the announcement of the regime’s roadmap in August 2003, and “acknowledged the potential role” of the National Convention as part of this process.
- However following the May-July 2004 NC session Kofi Annan stated that the process “did not adhere to the recommendations made by successive resolutions of the General Assembly”. He added, “unless and until the views of the National League for Democracy (NLD) and other political parties are sought and considered, the National Convention and the road map process will be incomplete, lacking in credibility and, therefore, unable to gain the full support of the international community, including the countries of the region.”¹³⁶

¹³¹ AFP (1 Jun 04) UN rights envoy dismisses Myanmar convention as a failure

¹³² UNGA, 47th Session (18 Dec 92) Situation in Myanmar [A/RES/47/144]

¹³³ UNGA, 48th Session (20 Dec 93) Situation of human rights in Myanmar [A/RES/48/150]

¹³⁶ UNSG, Press Release (17 Aug 04) On Myanmar, Secretary-General Calls For Immediate Release Of Daw Aung San Suu Kyi, Engagement In ‘Substantive Dialogue’ With NLD, Other Political Parties [SG/SM/9448]

Western Condemnation

Western governments have unanimously condemned the SPDC for its failure to release political prisoners and include all key groups in the constitutional talks.

- On 25 October 2004 the EU imposed new sanctions against Burma's military regime, partly in response to the military regime's "failure to allow a genuine and open National Convention", and its failure to release political prisoners.¹⁴⁶
- The US government said the NC lacked legitimacy because of its failure to include "all democratic representatives and all ethnic groups".¹⁴⁷ President Bush affirmed that "this process (National Convention) cannot reflect the aspirations of the Burmese people", as he renewed the US sanctions on Burma on 8 July 2004.¹⁴⁸
- British Foreign Office Minister Mike O'Brien expressed Britain's full support for the demands of the NLD in seeking participation in the NC, and affirmed the convention lacked any credibility.¹⁴⁹
- Australia: "Aung San Suu Kyi's release is a prerequisite for national reconciliation."¹⁵⁰
- Canada called on the SPDC to ensure the NC would include Daw Aung San Suu Kyi, and be "inclusive and transparent".¹⁵¹

¹⁴⁶ European Union (25 Oct 04) Council Common Position 2004/730/CFSP of 25 October 2004 on additional restrictive measures against Burma/Myanmar and amending Common Position 2004/423/CFSP

¹⁴⁷ US State Dept (21 May 04) Press Statement: Burma – the National Convention

¹⁴⁸ White House (8 Jul 04) Statement by the Press Secretary

¹⁴⁹ M2 Presswire (17 May 04) Mike O'Brien urges Burma's military regime to reconsider requests by the National League for Democracy

¹⁵⁰ AP (31 May 04) Australia Calls for Suu Kyi's Release

¹⁵¹ AFP (10 May 04) May 10, Canada calls on Myanmar to ensure "inclusive" national convention