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## Independent Mon News Agency: Prospects for Burma's New Constitution – Ashley South

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In February the SPDC military government announced that a referendum will be held this May, to endorse a new constitution. Following the referendum (presumably, if the regime is successful in engineering a 'yes' vote) elections are scheduled for 2010.

The government-controlled constitution-drafting process of 1993-2007 did not involve significant participation from elected representatives (the NLD, and 67 ethnic nationality MPs-elect, including five from the MNDF). Although several ceasefire groups (especially the NMSP and KIO) attempted to include federal principles in the constitution, their efforts were frustrated by the government. Under the new charter – which has not yet been made public – the Burma Army would control 25% of the seats in parliament, as well as the key portfolios of defence, home affairs and border affairs. The military would also retain institutional autonomy, and control the police and paramilitary organizations. Therefore the new constitution is widely perceived as deeply flawed.

The basic territorial division of the country into seven ethnic States and seven predominantly (but not exclusively) Burman-populated Divisions would be retained in the new constitution, with the creation of new semi-autonomous, sub-provincial administrations for six ethnic nationality groups (five in Shan State). The new constitutional arrangements would provide for legislatures, with very limited powers, at the state level, while at the central level there would be a lower 'house of the people' (Pyithu Hluttaw) elected by popular vote, and an upper house (Amyotha Hluttaw), containing equal numbers of representatives from each of the Divisions and States.

It is worth asking whether this new structure, despite its obvious faults, might allow for a slightly more open expression of political views. For example, it may be that the new legislative assemblies will find some freedom to debate important issues. The creation of ethnic State legislatures may allow for the participation of local political and civil society organizations, in at least some sectors of public life, as well as providing a forum to argue for greater allocation of resources to ethnic nationality-populated areas.

According to this view, any constitution is better than continued direct rule by the military. Although the space available to ethnic nationality and other parties under the new constitution is likely to be very limited, it will at least allow them to participate in above-ground politics, from 'within the legal fold'.

Regarding the referendum – calls to boycott the process, or vote 'No', are understandable. However, the referendum seems to represent a 'win-win' situation for the military government: if the constitution is rejected, presumably this will mean many more years of military rule, while the generals take their time before presenting new proposals.

Regarding any future election – whatever its deficiencies, this will probably confer at least a degree of legitimacy upon those elected. Ethnic nationality politicians and communities are therefore likely to be faced with a dilemma, regarding whether and how to participate in elections organized by the SPDC.

It will be interesting to observe whether – given the choice – ethnic nationality communities will choose to support all-Burma parties (such as the NLD), or to endorse specifically ethno-nationalist groups. Historically, elites representing some ethnic groups, such as the Mon, have successfully competed in elections in Burma (e.g. in the 1950s and in 1990), while others, such as the Karen, have not. Will the ceasefire groups be prepared to risk testing their electoral popularity? Despite several positive developments since the ceasefires (such as the re-emergence of civil society networks, which I have written about in detail elsewhere), the continuation of human and civil-political rights abuses have led many to criticise these agreements. Such complaints have weakened the standing of most ceasefire groups, at least in some sectors of the community.

This is a common phenomenon in post-conflict situations: leaders and organisations which are prepared to make political compromises often find their position undermined by 'hard-line' critics.

One of the most important and interesting questions, thirteen years after the ceasefire, is what the future holds for the NMSP. The party still retains most of the characteristics, and opposition-oriented political culture, of an insurgent organization. Will the NMSP be able to re-invent itself as a dynamic political party (and rival to the partly-dormant MNDF) – or will it continue to guard the frontiers of the ceasefire zone, while exercising a declining influence over the wider Mon population?

While it may be argued that Burma's armed ethnic groups have little to gain from participating in future elections, something is perhaps better than nothing. A continuation of the present armed stand-off mostly benefits the military government, at a time when the regime is undergoing a generational change, and seems to be establishing the ground rules for politics in Burma over the coming decade.

Ashley South is an independent writer and consultant on humanitarian and political issues in Burma and South-East Asia. This article is derived from his forthcoming book, 'Ethnic Politics in Burma: States of Conflict' (Routledge 2008).

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- [October 2016](#) (266)
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- [August 2016](#) (322)
- [July 2016](#) (293)
- [June 2016](#) (373)

- [May 2016](#) (270)
- [April 2016](#) (205)
- [March 2016](#) (719)
- [February 2016](#) (445)
- [January 2016](#) (472)
- [December 2015](#) (149)
- [November 2015](#) (252)
- [October 2015](#) (515)
- [September 2015](#) (648)
- [August 2015](#) (561)
- [July 2015](#) (305)
- [June 2015](#) (403)
- [May 2015](#) (355)
- [April 2015](#) (473)
- [March 2015](#) (223)
- [February 2015](#) (321)
- [January 2015](#) (264)
- [December 2014](#) (216)
- [November 2014](#) (252)
- [October 2014](#) (272)
- [September 2014](#) (223)
- [August 2014](#) (207)
- [July 2014](#) (202)
- [June 2014](#) (110)
- [May 2014](#) (145)
- [April 2014](#) (196)
- [March 2014](#) (127)
- [February 2014](#) (162)
- [January 2014](#) (63)
- [December 2013](#) (61)
- [November 2013](#) (150)
- [October 2013](#) (129)
- [September 2013](#) (134)
- [August 2013](#) (189)
- [July 2013](#) (51)
- [June 2013](#) (33)
- [May 2013](#) (186)
- [April 2013](#) (276)
- [March 2013](#) (228)
- [February 2013](#) (232)
- [January 2013](#) (317)
- [December 2012](#) (156)
- [November 2012](#) (259)
- [October 2012](#) (235)
- [September 2012](#) (266)
- [August 2012](#) (273)
- [July 2012](#) (172)
- [June 2012](#) (176)
- [May 2012](#) (225)
- [April 2012](#) (297)
- [March 2012](#) (213)
- [February 2012](#) (148)
- [January 2012](#) (285)
- [December 2011](#) (158)
- [November 2011](#) (168)
- [October 2011](#) (268)
- [September 2011](#) (269)
- [August 2011](#) (305)

- [July 2011](#) (271)
- [June 2011](#) (232)
- [May 2011](#) (229)
- [April 2011](#) (213)
- [March 2011](#) (264)
- [February 2011](#) (209)
- [January 2011](#) (237)
- [December 2010](#) (190)
- [November 2010](#) (283)
- [October 2010](#) (260)
- [September 2010](#) (246)
- [August 2010](#) (273)
- [July 2010](#) (234)
- [June 2010](#) (272)
- [May 2010](#) (238)
- [April 2010](#) (224)
- [March 2010](#) (244)
- [February 2010](#) (225)
- [January 2010](#) (201)
- [December 2009](#) (186)
- [November 2009](#) (184)
- [October 2009](#) (230)
- [September 2009](#) (257)
- [August 2009](#) (276)
- [July 2009](#) (256)
- [June 2009](#) (261)
- [May 2009](#) (285)
- [April 2009](#) (239)
- [March 2009](#) (266)
- [February 2009](#) (280)
- [January 2009](#) (297)
- [December 2008](#) (203)
- [November 2008](#) (261)
- [October 2008](#) (320)
- [September 2008](#) (324)
- [August 2008](#) (302)
- [July 2008](#) (342)
- [June 2008](#) (345)
- [May 2008](#) (473)
- [April 2008](#) (325)
- [March 2008](#) (390)
- [February 2008](#) (386)
- [January 2008](#) (396)
- [December 2007](#) (301)
- [November 2007](#) (426)
- [October 2007](#) (570)
- [September 2007](#) (531)
- [August 2007](#) (384)
- [July 2007](#) (276)
- [June 2007](#) (296)
- [May 2007](#) (248)
- [April 2007](#) (199)
- [March 2007](#) (211)
- [February 2007](#) (217)
- [January 2007](#) (212)
- [December 2006](#) (139)
- [November 2006](#) (207)
- [October 2006](#) (262)

- [September 2006](#) (205)
- [August 2006](#) (250)
- [July 2006](#) (251)
- [June 2006](#) (279)
- [May 2006](#) (264)
- [April 2006](#) (231)
- [March 2006](#) (253)
- [February 2006](#) (203)
- [January 2006](#) (237)
- [December 2005](#) (178)
- [November 2005](#) (216)
- [October 2005](#) (207)
- [September 2005](#) (223)
- [August 2005](#) (223)
- [July 2005](#) (218)
- [June 2005](#) (243)
- [May 2005](#) (237)
- [April 2005](#) (227)
- [March 2005](#) (252)
- [February 2005](#) (186)
- [January 2005](#) (193)
- [December 2004](#) (170)
- [November 2004](#) (203)
- [October 2004](#) (222)
- [September 2004](#) (201)
- [August 2004](#) (206)
- [July 2004](#) (158)