

MYANMAR GENERAL ELECTION(2020) AND ROHINGYA CRISIS: A DARK ROAD TO DEMOCRACY

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ABSTRACT

The Myanmar people have witnessed the second consecutive election in the process of democratization in November 2020. The democratic journey started in 2015. After the end of the first tenure of the elected government, it was observed that the elected government was not able to accomplish a proper civilian form of governance due to the influence of military power that is guaranteed in the constitutional amendment since 2008. As a result, the civilian government, without the support of the military could not make any significant contribution to resolve the longstanding ethnic problem. The military has again taken over the power by dismissing the winners of the 2020 elections on the pretext of wide scale electoral rigging. At the same time, the Rohingyas, one of the most vulnerable ethnic groups in the world are still living in the neighboring Bangladesh without any hope to be repatriated. In the election of 2015 and 2020, a significant number of people of different ethnic group including the Rohingyas were excluded from exercising their voting rights. The NLD government though secured their second consecutive victory in the General Election, followed the same strategy as like the Myanmar military-junta regarding the Rohingya issue and the constant international pressure to repatriate the Rohingyas to the country of origin was neglected. The position adopted by NLD leader Suu Kyi before the International Court of Justice (ICJ) to defend the atrocities done by the military against the Rohingyas project the unwillingness to find an amicable way to settle the current problem. Focusing on the Rohingya crisis, this paper will examine tough road ahead for democracy in Myanmar.

Keywords: Democracy, Military, National League for Democracy (NLD), Rakhine, Rohingya.

INTRODUCTION

On 1 February 2021, three months after the second consecutive election in the process of democratization, the military seized the control. In Myanmar, the general election that was held on 8 November 2020, marks the second consecutive victory for the National League for Democracy (NLD) to form the government after fifty years of military rule. The recent coup has been backed

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by the opposition parties, who were demanding a rerun of the vote, claiming widespread fraud (BBC, Feb 2021). Immediately after the coup, the President of the country, Aung San Suu Kyi, the NLD chief along with a significant number of newly elected MPs have been arrested and the new junta government has announced to provide further free and fair election in one year time. However, the election, according to the international observers and media, was not considered as free and fair as around 1.5 million Rohingya Muslim voters were not allowed to exercise their voting rights. It is also argued that to retain the support of the 'Bamar' ethnic community (the majority among the population), NLD leader Aung San Suu Kyi deliberately bypassed the issue in collaboration with the military, who had committed atrocious genocide against the Rohingya community in the Rakhine state in August 2017. The democratic transition of Myanmar thus is an alibi for both the military and the ruling party of the NLD as a strategy to exonerate over the popular perception against Rohingya community. It is also obvious that after a case filed by Gambia against Myanmar in the International Court of Justice (ICJ), the advocacy of Suu Kyi for the military enjoyed widespread popularity among the 'Bamar' majority, that instigate both NLD and the military-backed Union Solidarity and Development Party (USDP) to take measures to keep Rohingyas away from their voting rights (Tanbirul, 2020).

It is sometimes argued that the military junta of Myanmar under the pressure of international community decided to establish a civilian form of government, which can be interpreted in different manners. According to many scholars, the transition toward democracy was driven by some reformist actors within the military who took over the government in 2011 (Pedersen, M.B. 2014). There is discourse about the division within the military in respect of the soft liners and hardliners led by General Thein Sein and General Than Shwe. The reformists could successfully rid over the hardliners to establish a fragile democratic condition to project a visible involvement of political parties and civil society in the statecrafts to convince the international community that the government is willing to ensure peaceful coexistence (Lall, M. 2016). Considering these aspects, according to many scholars, in the 2000s, despite international sanctions and pressure, the military rule, was stable and resilient and there was no massive protest from the public against them (James, H. 2006, p. 164). The democratic transition of Myanmar thus, cannot be seen from the view of class or civil society struggle. The military junta had successfully disintegrated the earlier struggle of this kind in 1989. In this context, the class struggle has very nominal role in the mobilization for establishing democracy (Smith, M. 1991). Though during 2000s, the military government routinely had confronted resistance from pro-democratic movement like student protest, civil society, Buddhist organizations and ethnic groups, none of the mentioned group could pose remarkable challenge to the survival of the regime (Mullen, M. 2016). The everyday scenario was like the protestors were rather under threat by the military regime and significant number of them were imprisoned for long time including the NLD leader Suu Kyi. However, as a matter of intention of military regime to transform into a democratic process, though under their influence, was no doubt to secure their positive image. The transition discourse by the USDP emphasized to initiate negotiations with the existing ethnic group to bring the armed conflict to an end. The conflicting groups were urged by President Thein Sein to the negotiation for ceasefire and formed Union Peace Work Committee (UPWC). Following the UPWC, Myanmar Peace Center (MPC) was established with the support of the fund of the European Union. Different kinds of interim arrangements

were established in the conflict prone areas to provide humanitarian support to build trust between the conflicting groups and the government. Though, various disputes within the ethnic communities were settled by negotiations, the Muslim Rohingyas in the Rakhine state remained outside of such process, as they were regarded as the stateless person according to the Citizenship Act of 1982 (Arraiza, J. M. 2017). Two consecutive national elections merely reflect the motivation of the Myanmar authority that in spite of continued international pressures, they are not eager to mainstream this ethnic minority group for the sake of majority 'Bamar' and Buddhist community.

TRANSITION FROM MILITARIZATION TO DEMOCRACY (2010-2020) & ROHINGYAS

Myanmar is known as one of the most ethnically diverse society in Asian region. The ethnic 'Bamar' and the people of Buddhist background used to dominate the highest levels of institutions of the post-colonial Myanmar. A census was held in 2014, but the result is yet to be known about the actual number of population belonging to different ethnic groups. It is estimated that two third of population belong to 'Bamar' and out of total population, 90 percent are of Buddhist religion. After the election of 2010, alongside with the Buddhist community, the participation from the Christian community also grew, but the representation from the Muslim community remained absent among both NLD and USDP elected Member of Parliament (MP), rather it reflects the dominance of Buddhist MPs. Even in the election that was held in November 2015, the diversity of religion was not ensured, rather the majority of the Rohingya people, who reside in Rakhine state was disenfranchised and could not compete in the election and exercise their voting rights. The Election Commission of Myanmar, showing pretence of the 1982 Act of the statelessness of Rohingyas, rejected the Rohingya candidatures from taking part. Interestingly, some Muslim MPs, who won in the 2010 election for the military junta failed to ensure their candidature as well. In the history of the NLD candidacy, it was found that, no one from Islamic faith since 1960, was supported by them. The representation of NLD MPs from the Buddhist community in the 2015 election was 88.3 percent (Egreteau, R. 2017, pp. 21-22).

After six decades of military regime, Myanmar underwent a democratic process, when a nominally civilian government took over the power in 2011. Global attention on Myanmar started shifting toward a different perspective when for the first time a bicameral parliament was formed in January 2011 after the General election was held in November 2010. The election that was conducted by the State Peace and Development Council (SPDC) was later dismantled through the positioning of a semi-civilian government under the former SPDC leader Thein Sein. The major reason of global attention on Myanmar is that since the year 1948, after the independence of Myanmar, the country was under the military leadership, and now was in a position to move forward toward pluralism and accepting political opposition in the statecrafts (Egreteau, R., & Robinne, F. eds.. 2015, p.1). The transition, followed by the election was however partial, as the government under the leadership of Thein Sein and the newly formed USDP had roots in the military and the whole process was made through a flawed election by the SPDC. The foremost significant characteristics in the new government were that the influence of military was protected as it was based on the constitution made by the military junta who was directly governing in 2008. The main attraction for the international

community to be attracted on the transformation of Myanmar to democratization was the decision of the new government for the process of democratic opening, political freedom and initiating for establishing parliamentary politics from grassroots to central level as broader initiatives of peace building throughout the country (Stokke, K., & Aung, S. M. 2019, p. 2). The decision of the government to function as per the Constitution of 2008 gave birth to issues of critical concerns like whether the democratic openness is really under the process or not, which was further fuelled by the rejection of the government by bringing changes in the Constitution, which could fetch authentic democratic environment (Bünthe, M. 2017). Though the USDP government frustrated the nation as well as the international community to initiate a true democratic start-up, it provided a basis for multiparty political background for the general election of 2015 and afterwards, which was the first since 1990. The election of 2015 was open for the international observers to oversee and according to them it was though free but not fair keeping in account the faulty process of election, where a number of constituencies were not appropriately gone through franchisement and various ethnic group, especially the Muslim Rohingya community were not allowed to exercise their voting rights. The notable part of the election was the National League for Democracy led by Aung San Suu Kye got landslide victory, equally big defeat for the military sponsored USDP and some other ethnic parties got marginal participation in the parliament (Ardeth Maung Thawngmung, 2016, p.133).

In contrast to the election result of 1990, the election held in 2015 ensured a peaceful transfer of power to the newly elected NLD, though the party chief Suu Kyi was not allowed to act as the head of the government as per the constitution of 2008. However for the first time in six decades, the NLD formed the government, where Suu Kyi decided to act as the State Counselor, instead of being President. Though the military sponsored USDP was defeated, the influence of military in the statecrafts still remained, the same was guaranteed in the constitution. The only hope for the new government was the implementation of democratic transformation, which could eventually lead to the broader democratization.

DEMOCRATIC GOVERNMENT AND MILITARY ADMINISTRATION

Though there are 135 ethnic groups in Myanmar and many of them are in conflict with the government for different demands, the issue of undermining the rights of the Muslim Rohingya community is the center of all international concern, as they have been tortured by the military for many years (Cline, L. E. 2009). The transition from militarization to democratic process thus, inspired the international community to have hope to witness the settlement of the issue. (Ganesan, N., & Hlaing, K. Y. eds. 2007). In this circumstance, Barack Obama became the first American President ever to pay visit in Myanmar in 2012. In a speech at the Yangon University, Obama stressed the importance to continue the democratic efforts and proper reforms. He also advised the authority of Myanmar to carefully handle the issue of ongoing ethnic dissensus in the country, especially mentioned the delicate reference to the military violence over the Muslim minority and questioned about the legal status of the Rohingya as they have been asserted stateless by the military government (*The Conversation*, 2020).

Though there was pressure, hope and appeal from the international community to resolve the ethnic conflict of the Rakhaine state and settle the security measures of the Rohingya, it

was not visible by both the military and the NLD to discuss this issue on priority basis. Rather, it was foremost important for the military regime to bring NLD and its leader Aung San Suu Kyi to the transition process and secure their position. The NLD also considered the issue from their political motivation, to get power. Hence, President Thein Sein met Suu Kyi and ensured her to bring necessary amendment to enable her and her party to participate in the future election (Bünthe, M. 2017). It was also necessary to manage her to make the process authentic to all other political parties. Suu Kyi, considering the overall situation, preferred to accept the proposal. This meant reversing her previous decision of boycotting the election of 2010 to participate in the 2012 by-election and she thereby accepted the Constitution of 2008. Suu Kyi's shift from non-cooperation stand to participation under the electoral process led by the USDP encouraged the United Nationalities Alliance (UNA), a group of ethnic parties, who had also participated in the 1990 election and boycotted the election of 2010 (Egreteau, R., 2016). After the inception of democratic process led by Suu Kyi's party in 2016, the challenge of nation building was uncovered. The constitutional, institutional and political reform process is not so easy to achieve as the obstacles are deeply rooted in the military junta, who had the power provisioned by the constitution to prevent the NLD government to bring any change. Thus, it was not an easy task for the NLD government to achieve durable peace through negotiation with different ethnic groups. Hence the military, along with different ethnic groups, started ethnic cleansing of Rohingya community in northern Rakhine state (Sadan, M. ed., 2016).

The genocide that happened on the Rohingya Muslim community in August, 2017 was in a way endorsed by the NLD government, as the leader Aung San Suu Kyi emerged as a defender of the brutal activities done by the military. In 2019, she appeared before the International Court of Justice in the trial of *Gambia vs Myanmar*, defended the military mentioning the genocide against Rohingya as merely 'internal armed conflict'. Suu Kyi's position designates her willingness to continue support to the military in return to get back to the state power, as she knows that at the given circumstance, she cannot secure power, and even if remaining in power, she cannot proceed without the military (*The Conversation*, 2020).

The areas, where the NLD government required cooperation from the military administration was to discontinue the activities of different armed groups, who have been fighting against government forces for the last six decades. These different groups have different nationalist and political aspirations, which have the ability to field their forces and rule the areas under their control as sovereign state by imposing taxes. There are some other small groups involved in attaining individual interest by engaging in illicit activities like arms and drug peddling. The USDP government, since 2010, have been able to renew and conclude ceasefire agreement on the bilateral basis with fourteen conflicting groups, of which eight groups have signed agreement to come to ceasefire till October of the same year. Some other groups, though did not join in the negotiation process with the government, agreed to continue political dialogue on the basis of commitment by the government to ensure their future participation in the nation building process and to some extent, providing more autonomy to them (Joliffe, Kim 2014). However, no initiative was taken from the military to settle the ongoing conflict in the Rakhine and military sponsored violence against Rohingya community.

MILITARY LEGACY IN DEMOCRATIC GOVERNMENT

The election of 2020 was expected to be held in freer, fair and peaceful manner. The exclusion of Muslim minority Rohingya community, who have been long denied their voting rights, have questioned the outcome. The military crackdown in 2017 resulted in some 750,000 Muslim Rohingya fleeing to neighboring Bangladesh. It was not criticized by any of the political parties, rather Suu Kyi's statement in the ICJ treating this issue as 'internal armed conflict' has fueled the military to remain in their position. Even during the election campaign, though the Rohingyas were not considered for their voting right, they played an important element to gain increase in vote. The military backed USDP blamed the NLD for promoting Rohingyas. It was evident in the election that alongside the NLD and USDP all other major political parties used the anti-Rohingya rhetoric to win the election signifies the long suppression by the military over the Muslim Rohingya community. The military thus, has secured their position from being blamed alone from international community and internally.

Since 1990, after the first national participatory election in Myanmar was held on 8 November 2015, the opposition NLD led by Suu Kyi, got a landslide victory in the bicameral legislature. The legislature of Myanmar consists of Lower House of People's Assembly and the Upper House of National Assembly comprise of 440 and 224 seats respectively, of which 25 percent is reserved for the military officials under the current constitution. The result of 2015 election was just reverse of the election of 2010, where the NLD was not allowed to participate in the election. After successful negotiation with Thein Sein, in late 2010, Suu Kyi was released from the house arrest and she along with her party contested in the mid-term election of 2012 and secured forty three out of forty four seats. However, the NLD's participation in 2012 mid-term election eased the way for them to contest in the 2015 General election in a competitive manner, where the quest for rigging the election by the military like in the year 2010 was not possible due to strong monitoring process by international observers and media. At the same time, the military regime intended to draw national and international attention that they are ready for power sharing with the civilian government. Besides, the most important aspect of military influence, even after the severe defeat in 2015 election is their reserve seat in both Houses of the Parliament. The NLD after the victory of 2015 election started mobilizing their supporters at the grassroots level through providing various financial and organizational supports, which was possible under their government (Ardeth Maung Thawngmung 2016, p.132). The taking over of power by the NLD, though widened the possibility to expand grassroots activities, did not change the state policy on Rohingya issue.

Though after the landslide winning in the 2015 election, the NLD formed the government, the military still remained the most important factor in the major decision making process of the statecraft. The government policy had to be maintained as per the Constitution of the military -made Constitution of 2008. According to that Constitution, the leader of NLD Suu Kyi cannot compete for the post of President because of having a special bar that if children or spouse or children's spouse bears foreign citizenship, they are not permitted for the highest position. This clause was deliberately inserted in the Constitution to keep Suu Kyi away from this position considering she married a British citizen. The most important aspect of military power even after their defeat in the election is their control of twenty

five percent seats in the legislature. This becomes a barrier for the winning party to bring necessary amendment in the constitution, which requires more than seventy five percent votes in the national legislature.

In addition, according to the constitution, three of the key ministerial positions are nominated by the Commander-in-Chief (Army Chief). These are; defense, home affairs and border area affairs. The Commander-in-Chief is also the supreme commander of all armed forces including police, paramilitary and civil defense forces. The military is also given the duty of safeguarding the constitution and its basic principles, preserving state sovereignty and national solidarity. At the same time, they play leadership role in the political affairs. The Commander-in-Chief is also head of the eleven member committee of the National Defense Security Council, routinely meet and discuss and decide about political and security affairs. The President, if needed to declare state of emergency is required to discuss with the Commander-in-Chief, Deputy Commander, Ministers of Home and Defense Affairs, who are nominated by the military (Seth, Andrew. 2015). The role of the military thus, means that the civilian government in Myanmar was merely an instrumental government in a sense to legalize the activities done by the military government and for the sake of policy implementation, they needed to take them into contingency, without which the intervention by the military might interrupt the day to day functioning of the government. In this regard, the safeguarding issue for the NLD to continue suppression on the Rohingya community was the Constitution of 2008 prepared by the military regime, which cannot be changed alone by the civilian government, as 75 percent support of the elected representatives are required. At the same time, it seems the countrywide negative impression on the Muslim minority Rohingyas ignore enormous pressure from the international community. Amid anti-Muslim rhetoric, Than Htay, the USDP leader mentioned that his party will not accept any international claim of suppression of the Rohingyas (Tanbirul, 2020). Thus, according to many international commentators, the election that was held in November 2020 was less free and fair than the election of 2015, as it clearly undermined the voting rights of the Rohingyas and neglected the issue to bring them back from the state of refugee. Following the international demand, the NLD after forming government in 2015 failed to address the report provided by the Advisory Commission led by former Secretary General of the United Nations Kofi Annan to grant ID card to the Rohingyas to enable them to have the citizenship. The government, according to the Citizenship Act of 1982 ignored the recommendation of the commission.

POSITION OF THE MYANMAR GOVERNMENT IN LIGHT OF ICJ VERDICT

The ‘Rohingya’, who are the largest among the Muslim in Rakhine are being suppressed and oppressed by the Myanmar military for many decades. The first influx, due to the persecution by the military happened in 1978 towards Bangladesh, when some 250,000 Rohingyas took shelter, who were later settled through bilateral negotiation in 1980. However, in 1991-92, around 250,000 more Rohingyas fled to Bangladesh after further persecution, who was later repatriated, except around 30,000. The latest influx that occurred after 25 August 2017 caused by severe crackdown of Myanmar military caused further exodus to Bangladesh and some 750,000 took shelter. The present influx of Rohingyas has been internationally recognized as ‘genocide’ committed against this ethnic minority.

Despite international pressure, the government of Myanmar did not show their interest to take them back. The African nation, Gambia filed a case before the ICJ against Myanmar, where the government of Myanmar rejected the claim of genocide and mentioned the issue as 'internal armed conflict'. In her application dated 11 November 2019, Gambia sought ruling against Myanmar for violating the 1948 Genocide Convention. After intense hearing, the 17-member judges of the ICJ were convinced of the charges brought by Gambia and ordered the Myanmar authority to stop genocide. The court further ordered the Myanmar authority to report back in four months alongwith report on the action taken by the government as per the ruling. During the hearing of the case, the de-facto leader of Myanmar Suu Kyi along with her Foreign Minister defended the position of the army claiming that it was triggered by the attacks that Rohingya militant took against the army check post. The foreign Minister of Myanmar claimed that according to various inquiry commission reports, no genocide had been made against the Rohingya community. Both of them blamed the human rights groups for interfering in the internal affairs of Myanmar. It should be mentioned that the presence of Suu Kyi was not mandatory before the ICJ; rather she chose to attend and defend the army that there was no murder, rape or any other deliberate torture against Rohingya. The situation is interpreted in a way that as she does not have the control on the powerful army, by attending she intended to destroy the firewall to work together to extend path for her party in the government (BBC, Jan 2020).

There should not be any doubt about the step taken by the ICJ, which was welcomed by international community. At the same time, the International Criminal Court (ICC) is also investigating the crimes done by the military against the Rohingyas. Though Myanmar is not a party of the ICC, there is argument that ICC has jurisdiction over the military of Myanmar because of the crime of 'forced deportation' to its neighboring Bangladesh. The major problem to make Myanmar obliged to abide by the ruling is that both ICJ and ICC have no mandate to enforce their judgment. In the case of violation of the ICJ verdict, action can only be taken by the decision of the UN Security Council. So far as the major ally, China always voted in favor of Myanmar in the UNSC and urge for broader accountability. In case of accusation of violation of the court's decision it cannot be expected to have unanimous support from the UNSC (Angshuman, 2020).

RECOMMENDATION

It is noticed that the Myanmar election of 2020 was merely a repetition of the election held in 2015. The election process alone cannot solve the current Rohingya crisis; rather greater international intervention is required. International community should come forward for the nation building process of Myanmar, as it is observed that there are still several remaining ethnic conflicts and Rohingya issue itself remain as an independent issue to be resolved with utmost care.

From the above mentioned discussion, it is obvious that settling the citizenship issue is the foremost thing to resolve the crisis and to make the election as inclusive. Apart from the internal effort, strong international pressure is required on Myanmar to stop ethnic cleansing and to abide by the ruling of the ICJ. As it is also obvious that international mechanisms to resolve the Rohingya crisis has not worked out, in this circumstance, major parties/states

should sit together with the intention to have a viable solution.

Though the dialogue between the USDP and the NLD after the election of 2010 was expected to enable a fair road to democracy, the democratic government after the election of 2015 has failed to flourish democracy. The root cause is known. It is failure of ensuring a participatory election inclusive of all ethnic and religious group. The democratic transition cannot be the way to get international attention. In this regard the country should be put under pressure to exercise true democracy.

The recent coup in Myanmar shows that the Rohingya crisis has its origin and development within the military and thus, the civilian government on the military lap has failed to provide an amicable solution. Hence, it is the urgent need to return the power to the civilian government. the main solution of all problem, including the Rohingya crisis lie in this.

CONCLUSION

Internationally, Myanmar projects itself as a divided nation instead of a complete nation state and the recent coup has made this belief stronger. After its independence of 1948, though having internal resources, it could not project itself due to remaining ethnic clashes, from which the military has capitalized their source of power. When it was expected that the election of 2020 should be free and fair compared with the election of 2015, the Myanmar civilian government opted for the election as preferred by the military, which was also supported by all the contesting parties, excluding the Rohingyas. Though there are political differences between the two major parties the NLD and the USDP; they have similar stand on Rohingya issue for their vested interest. It is obvious that the international community has raised their strong voice against the oppression on Rohingya community, they seldom talk about the right of their citizenship. The repatriation of the Rohingyas from Bangladesh may cause further persecution that may endanger the road to democracy without granting them the right of citizenship. At the same time, the interim ruling given by the ICJ should be honored by all big states, especially by the permanent members of the UNSC, so that in case of further violation, effective international pressure can be made upon Myanmar.

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