

# ISA S Insights

No. 62 – Date: 8 May 2009

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## **The Malaise in Myanmar: What is to be done?**

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### **Introduction**

A question that the international community is currently grappling with is how to handle the situation and the powers that be in Myanmar. The regime, headed by the 75-year-old General Than Shwe, continues to control the destiny of the nation and rules it with an iron fist, unresponsive to calls for change, both from within and outside the country. Indeed, the country has been run by the military junta for more than four decades, dating back to when General Ne Win staged a coup in 1962 (Myanmar, then known as Burma, had obtained independence from the British in 1948), suspended the Constitution, banned the opposition and introduced “the Burmese way to socialism”. Power was exercised by the State Law and Order Council (SLORC) which put down massive public demonstrations in 1987 and 1988. And in the following year in 1989, the SLORC changed the name of the country to Myanmar, declaring that it was more in consonance with Burmese history and culture. The United States and many Western countries refused to recognise this change of nomenclature and continued to call it Burma, though at the United Nations took it on the new name.

The elections held in May 1990 were won by the National League for Democracy (NLD) of Aung San Suu Kyi, daughter of the revered leader of Burmese independence, Aung San. However, the SLORC rejected the results and continued with the incarceration of Aung San Suu Kyi who was already then under house arrest. International attention was focused on Myanmar with the award of the Nobel Peace Prize to her in 1991 but the regime remained unmoved. From then, off and on, to date, she remains in confinement.

In September 2007, a convention which had been meeting intermittently since 1993 without the participation of the opposition parties, issued a draft Constitution, largely retaining the control of the military. The authorities described it as an advance on the ‘Road Map’ to democracy which is to be completely achieved by 2010. Large segments of the populace remained unconvinced, as evidenced by the uprising of the monks in 2007 which was severely crushed. Meanwhile, in another rather controversial move, the government changed the capital in 2005 from the historical Yangon to a totally new site, Naypyidaw – it was more central, and importantly to the authorities, more secure.

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## **Cyclone Nargis**

On 3 May 2008, Myanmar was hit by the devastating Cyclone Nargis. It ravaged the Irrawaddy Delta and Yangon, killed over 22,500 people and rendered over a million homeless. The government did not obviously possess the wherewithal to tackle a disaster of this magnitude. At the same time, it was chary of readily accepting international assistance, apprehending that it would provide the global community with a 'toe-hold' in the country, eventually facilitating its interference in the country's 'internal affairs'. In fact, in the face of the destructions, it went ahead with holding a referendum on the Constitution on 10 May 2008. While the government argued that the referendum underscored its commitment to democratic transition, many, especially in the West, saw this as utter callousness in the face of a tragedy. Initially, the government dragged its feet on giving visas to foreign relief workers, even to senior United Nations (UN) officials. However, it relented under external pressure, particularly from the UN as well as, it is reported, from friends in the Association of Southeast Asian Nations (ASEAN) and China. A tripartite mechanism was set up involving the government, the UN and ASEAN to settle questions of visas and importation of relief materials. However, two international appeals, one for US\$477 million last year, and another for US\$691 million for reconstruction over next three years have elicited limited global response despite the huge initial interest, partly because such aid is no longer seen as a tool that can effect desired changes and partly because of fears that the amounts may end up bolstering the military.

## **The Responsibility to Protect**

This poor response evident today contrasts the early strident reactions that followed the dithering of Myanmar to welcome outside relief. In less than a week following the cyclone, on 10 May 2009, the French Foreign Minister, Bernard Kouchner, declared, "We are seeing at the UN whether we can implement the 'Responsibility to Protect' (R2P), given that food, boats and relief teams are there, and obtain a UN resolution which authorises the delivery of aid and imposes this on the Burmese government." In saying what he did, Kouchner was invoking a principle adopted at the World Summit of Leaders in its 'Outcome Document' in 2005, reflected under its Paragraphs 138 and 139.

Simply put, the 'R2P' states that governments have a 'responsibility to protect' civilians from genocide, war crimes, crimes against humanity and ethnic cleansing. When a government is unable or unwilling to protect its civilians from these crimes, the 'responsibility to protect' falls upon the international community to encourage and help the state to exercise the responsibility. If the state manifestly fails to protect civilians, the international community can act, first with peaceful measures, using economic, political and legal tools, and that failing, with collective use of force through the UN Security Council under Chapter VII of the Charter, only as a last resort. Indeed, the responsibility of the international community also involves capacity-building in potentially vulnerable states so that the situations do not occur in the first place.

By nailing the colours of aid-giving to the mast of 'R2P', Kouchner appeared to have touched a hornet's nest. Already many Non-Aligned Movement countries viewed the principle as a ploy to effect changes of undesirable regimes. The French posture alarmed them further and they required calming. Secondly, if Myanmar was already recalcitrant, threats were likely to drive it deeper into its shell and render it even more non-cooperative. Thirdly, it was not certain that the regime had committed any of the four listed 'crimes', its perceived

indifference to the humanitarian crisis notwithstanding. Finally, who was to bell the cat and who was to make the 'intervention' and that too in the backyard of India and China? Understandably, reactions to Kouchner were strong and negative.

### **Debate on the Principle**

In the UN Security Council itself, the proposal countenanced an immediate rebuttal from veto-wielding China whose Ambassador rejected the idea of any involvement of the UN Security Council at all. He said, "The current issue in Myanmar is a natural disaster. It's not an issue for the Security Council. It might be a good issue for other forums of the UN." Prior to the Council meeting, the Indonesian Representative, whose country is an ASEAN member of the UN Security Council echoed the Chinese sentiments. He remarked, "The last thing we would want is to give a political spin to the technical realities and the situation on the ground." In fact, France's European ally, the United Kingdom, took a similar position when its envoy clarified on 8 May 2008 that the 'R2P' "relates to acts of genocide, war crimes, crimes against humanity and so forth, rather than government responses to natural disasters." The UN Secretariat held similar positions. Under Secretary General for Humanitarian Affairs, John Holmes, explained, "I am not sure invading them would be a very sensible option at this particular moment. I am not sure it will be helpful to the people we want to help." The nail on the coffin of the proposal was driven by none other than the UN Secretary General Ban Ki-moon's Special Adviser for the 'R2P', Edward Luck, who told the British Broadcasting Corporation, "Linking the 'R2P' to the situation in Burma is a misapplication of the doctrine."

However, even if Kuchner's ideas were put to paid by intergovernmental reflections based on legal and pragmatic grounds, he did succeed in signalling the urgent requirement to bring synergies together and send a strong message to the Myanmar authorities that their actions, and also on situations the lack of them, were seriously noted. Observers have discerned thereafter certain changes in the behaviour pattern of Myanmar authorities. The head of the UN body orchestrating the aid effort, Richard Horsey, said, "I think the cyclone has broken down some of the suspicion. The government has understood the difference between humanitarian aid and politics." The Director of "Save the Children Fund' in Myanmar, Andrew Kirkwood, remarked, "We have not faced any significant restriction in the Delta over the past 11 months." In fact, he said, "When the Cyclone Bijli threatened to strike Myanmar in April 2009, the government took the initiative to establish contacts with aid agencies as an advance precaution, something that would have never happened a year ago." Thus, it appears that pressures applied gently often works in the case of Myanmar. However, the million dollar question remains – how much and when?

### **The Rohingyas**

For instance, the use of 'gentle pressure' does not seem apply to Myanmar in its treatment of its minorities such as the Rohingyas, a Muslim group which claims that it has been persecuted for generations and this persecution has intensified in present times. The Myanmar authorities reportedly do not recognise the Rohingyas as citizens. In 1991, some 250,000 of such refugees fled from Myanmar's northern Rakhine state by foot and boat to Bangladesh and had to be settled in camps for years, as the hosts and international organisations negotiated their 'willful return' to their country of origin. Bangladesh was in no position itself to accord shelter to such numbers of refugees and eventually persuaded Myanmar to take all but 20,500 of them back. As the Foreign Advisor (Foreign Minister) of

Bangladesh, I took up the matter of the return of the balance with my Myanmar counterpart, U Nyan Win, on several occasions in 2007 and 2008. However, the problem is that the refugees are unwilling to return till the situation at home improves socially, economically and politically. Some in small numbers have been accepted by countries such as Canada and many have gone to the Middle East. The Rohingyas have also been fleeing to other countries such as Thailand, sometimes in horrifically crowded and unsafe boats, and there were some recent controversies on the treatment meted out to them by the Thai police. Indonesia, a predominantly Muslim nation, is reportedly considering settling some of them. Thailand's Foreign Minister, Kasit Pirobya, had said that the Rohingya issue would feature in the ASEAN Summit, which Myanmar was to have attended. However, the meeting was postponed due to political disturbances in Thailand.

### **Imposition of Sanctions**

A greater focus of the world is obviously the millions who remain in Myanmar. The Western view has been that nothing short of the strictest sanctions will persuade the authorities in Myanmar to change. In this, the United States has led the way. No American investment in Myanmar is permitted. Since 27 August 2003, the United States Treasury has banned the import of almost all goods from Myanmar, including gifts and souvenirs. Then, in September 2007, the United States Administration announced sanctions against 14 senior officials of Myanmar, including the head of government, Senior General Than Shwe, and his deputy, General Maung Aye, freezing their assets and prohibiting any American citizen from conducting business with them. The European Union has had sanctions in place since 2006 and these include travel ban, freezing the assets of Myanmar leaders and their relatives, and an embargo on arms exports to the country. Earlier, it had hinted easing the sanctions if there was democratic progress. However, recently, the European Union extended them by another year. Any UN sanction, of course, is resolutely opposed by China, which has stated, "Any move by the UN Security Council should be prudent and responsible, and conducive to the mediation efforts of the Secretary General". In the Chinese assessment, sanctions would not be a prudent and responsible move.

### **What is to be done?**

Much hope now hinges on mediation efforts, which are being conducted by the UN Secretary General's Special Envoy to Myanmar, Ibrahim Gambari, a former Nigerian diplomat and Foreign Minister. Gambari has visited Myanmar seven times now, mostly without much breakthrough. However, he has indicated his determination to continue. His latest trip was in January-February this year in the course of which he met, apart from Myanmar officials, Aung San Suu Kyi. She did not meet him on an earlier occasion on the grounds that it would yield no fruitful results. Gambari has offered a plan to Myanmar approved by Ki-moon. It involves a two-year programme (January 2009 to January 2011) aimed at reviving the economy and involving an amount of US\$400 million to US\$500 million per year (a total of US\$1 billion through the plan period), provided, and this is a big proviso, the Myanmar government is willing to accord guarantees on democracy and human rights in the country.

The next move on the part of the UN may need to be a visit by the Secretary General himself. Sufficient prior ground work will need to be done for this, for a failure would have disastrous implications both for the people of Myanmar and the international community. Already Aung San Suu Kyi has requested, as a 'pre-condition' to such visit, 'the release of all political prisoners', something that cannot be easily obtained from the Myanmar authorities.

ASEAN, of which Myanmar is a member, and which has recently adopted a Human Rights Charter, can help by bringing to bear some positive influence, and monitoring the ‘steps to democracy’, including holding elections. Already leaders such as President Gloria Macapagal Arroyo of Philippines have displayed an ardent desire to do so. Singapore maintains good relations with Myanmar leaders and it can be useful in this regard. Last year, pressure applied on Myanmar at the Shangri-La Dialogue in Singapore, chaired by Singapore’s Defence Minister Teo Chee Hean, is said to have helped soften Myanmar’s posture with regard to the aftermath of Cyclone Nargis.

Non-ASEAN regional actors such as India and Bangladesh, who sit in the ASEAN Regional Forum, can and should help as their interests are inextricably tied up with positive developments in Myanmar as well. Another platform to engage Myanmar could be the newly-formed Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation, or BIMSTEC, of which it is also a member, along with Bhutan, Nepal, Sri Lanka and Thailand.

Myanmar is an applicant for membership of the South Asian Association for Regional Cooperation. It is already an Observer as of last year. Progress along the democratic path would facilitate its membership. Myanmar, therefore, straddles all major regional groupings in this part of the globe. These groupings would have a common interest in achieving the desired changes in Myanmar.

Bilaterally, India should wield considerable influence on Myanmar which has remained unused at least for the purpose of democratisation, perhaps for fear of creating another unhappy neighbour.

China, of course, will be a key player in the Myanmar equation. It cannot forever bear the Myanmar Cross. In the UN Security Council, China has not condemned Myanmar. However, in September 2007, China agreed, for the first time, to a UN Security Council resolution expressing concern at the violent crackdown against the monks and urged the country’s rulers to accept the UN envoy. Later, Chinese Foreign Minister, Yang Jiechi, publicly supported the Secretary General’s efforts.

## **Conclusion**

The answer to curing the malaise in Myanmar, thus, lies perhaps not so much in force as in peer pressure and persuasion. Professor Ralph Pettman of the Melbourne University had underscored nearly three decades ago that Burma exemplified, even at that time, a society which survived by ‘opting out of the international system.’ He said ‘it adapts and adjusts but does not *kowtow* to its big neighbour(s)’. Thant Myint-U, the grandson of the former Burmese Secretary General of the UN, U Thant, and an analyst and a historian, has, in his study of that country entitled “The River of Lost Footsteps”, powerfully argued that change will not come in Myanmar through sanctions and attempts at isolating it but it may come through trade, tourism and engagement. He warns though that, “Much more than any part of Burmese society, the Army will weather another forty years of isolation just fine.” He may just be right.

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