Military Delegates in Myanmar’s Legislature: What Do They Do? What Will They (Continue To) Do?

By Renaud Egreteau*

EXECUTIVE SUMMARY

- The Myanmar armed forces (or Tatmadaw) controversially occupy a quarter of all parliamentary seats in Myanmar’s new legislative bodies. It has made it clear that it construes its role in parliament as that of a guardian of the spirit of the 2008 Constitution, and a quiescent moderator of current and upcoming legislative debates.

- In that respect, military appointees in parliament have so far behaved in the first “post-junta” legislature as common backbenchers tasked to perform only a few specific legislative duties. They do not pursue active law-making, but rather a detailed scrutiny of legislations and motions prepared either by the executive branch or the elected bloc of the legislature.

- The military representatives have identified a set of constitutional clauses that are deemed unalterable. However, they have shown that the military was not totally opposed to modification of the constitution. They have indeed formulated a few amendment proposals themselves.
• There is no indication that the Tatmadaw will renounce its legislative prerogatives any time soon, in particular if the post-2015 political scene proves highly fragmented and volatile. Then the military delegates in parliament may intervene more directly, work to counter legislations formulated by incoming parliaments (dominated by parties hostile to the military), or even act as an obstructive force to a future executive branch that may attempt to dismantle the military’s preserved domains.

* Renaud Egretéau is Visiting Fellow at ISEAS, and Research Associate with the Centre for International Research (CERI) in Paris, France. Email: egreteau_renaud@iseas.edu.sg.
INTRODUCTION

The secondment of military officers to Myanmar’s parliamentary bodies (or hluttaw) is a controversial feature of the country’s new political system. The legislative intervention of the Myanmar armed forces (or Tatmadaw) is enshrined in the 2008 Constitution. The latter allows for the appointment of “not more than” 110 representatives of the defence services in the lower house of the Union parliament (article 109b) and 56 delegates in the upper house (article 141b).

As for each of the fourteen provincial legislative assemblies, the number of military appointees cannot exceed a third of the number of elected representatives there – also mathematically a quarter of each assembly (article 161d). All Tatmadaw parliamentary delegates are appointed by the Commander-in-Chief of the armed forces. Unlike their civilian colleagues who are elected for a five-year term, they can be substituted at will during the term. This exceptional legislative instrument for the armed forces – a relatively rare arrangement found only in China and in a few African countries, as well as in Thailand until 2000 and in Indonesia before 2004 – has long been denounced by transnational democracy lobbies and Western politicians. It is also strongly criticized by most domestic opposition parties, beginning with Aung San Suu Kyi’s National League for Democracy (NLD). The presence of non-elected representatives in all legislative bodies, it is argued, is a formidable obstruction to transparent policymaking and democratization.

Drawing on recent fieldwork carried out in Naypyitaw and Yangon, this paper re-examines the role of the parliamentary representatives of the Tatmadaw. It first sheds some light on the sociological profile of the Union-level military MPs appointed in 2012. It then assesses the legislative behaviour of the military bloc in the first “post-junta” parliament, which is scheduled to end in January 2016. It argues that, besides a potential role as constitutional veto players – not exercised yet – military legislators have so far been quiescent backbenchers. Though increasingly engaged in parliamentary debates, yet rather reactive, if not reluctant, “law-makers”. However, despite repeated official statements that the presence of the military in parliament is merely “transitory”, there is little indication that the Tatmadaw will withdraw its parliamentary bloc any time soon, especially if the post-2015 electoral and political situation proves increasingly volatile.

WHO ARE THEY?

On January 20, 2011, Senior General Than Shwe seconded 388 military officers to the new legislative branch of the country – 166 in the Union parliament and 222 to the seven state and seven regional assemblies. Among them, there were very few high ranking officers: only three army colonels in the lower house (Pyithu Hluttaw) and two in the upper house (Amyotha Hluttaw). Likewise, only one colonel was appointed as head of the military bloc of each of the fourteen provincial parliaments. All other military appointees were of lower rank. However in April 2012, the new Commander-in-Chief, Vice-Senior General Min Aung Hlaing, substituted 59 of these low-ranking officers in both chambers of the Union

1 Except for the parliament of the Kayah State regional assembly, in which the highest-ranking officer was an army brigadier-general who was then appointed Chief Minister of this state.
parliament with higher-ranking senior officers, including eight brigadier generals. With this move, the new leaders of the Tatmadaw apparently wished to reaffirm that the military, as an institution, could now play a meaningful and sophisticated role in the re-merging legislative affairs of the country.²

Soon after the significant revamp of the military parliamentary contingent a fascinating document that contained the mini-biographies of all 166 Union-level military appointees (as well as the 492 other civilian parliamentarians who had been elected in the 2010 general election and the (April 2012) by-elections was unveiled. The way this document was compiled and its veracity still remain unclear. It is plagued with inconsistencies.³ Yet, despite its flaws, it is the sole source of information enabling one to study the basic sociological profiles of the pioneering military officers seconded to Myanmar’s new parliaments (at least at the time when the data were collected in 2012).

An in-depth examination of these bio-sketches⁴ shows that the 166 military legislators who were appointed at the end of the third parliamentary session (which ended in May 2012) were exclusively male officers.⁵ The military delegates were also much younger than their civilian colleagues. On average they were in their mid-forties, while their elected colleagues were in their late fifties. Furthermore, the army representatives appear to possess a relatively more educated profile. All were graduates of local educational institutions. The most senior officers have also undergone relatively long careers in the military’s command and staff positions and had attended advanced institutions such as the National Defence College (NDC). On the other hand, the 166 army representatives were a less ethnically and religiously diverse group than their elected counterparts: 88 per cent of them were ethnic Bamar,⁶ while none was drawn from the country’s religious minorities.⁷ All were Buddhists.

The image of responsible officers devoted to public affairs, occupying a public office for the good of the nation, has become a key element in the rhetoric of Myanmar’s upper military circles.⁸ The Tatmadaw leadership claims that, in the post-junta era, active officers ought to be ready to devote a few years of their soldiering career to non-combat and administrative functions, including legislative roles. Interestingly, military MPs do not retire or resign from their position though. They are seconded to legislative bodies for the duration of each plenary

---
² Not only the enhancement of the military group in parliament brought more coherence and discipline to the latter, now under the aegis of high-ranking officers that could act as parliamentary “whips”, but it also possibly came as a countermove to the entry in parliament of Aung San Suu Kyi and forty other NLD legislators right after the 1April 2012 by-elections.
³ The English translation of it, riddled with typos and inaccuracies, was published in June 2013: *The Parliaments of Myanmar* (Yangon: MCM, 2013).
⁵ Two female – two lieutenant colonels – were appointed only in January 2014. There is also one female army officer among the 31 military MPs sitting in Yangon’s regional parliament. Author’s interview with the Speaker of Yangon’s regional assembly, Yangon, March 2015.
⁶ Against 63 per cent of the elected civilian bloc (310 elected MPs out of 492 were reported as ethnic Bamar in 2012); see *The Parliaments of Myanmar* (Yangon: MCM, 2013).
⁷ *Ibid.*. 52 elected MPs were declared as Christian, and 3 as Muslim in both houses of the Union parliament.
⁸ Interview, Deputy Minister of Defence, Naypyitaw, February 2015.
or emergency parliamentary session, and are expected to return to their units once their legislative work is accomplished. They therefore keep their military salary only – unlike civilian MPs who are paid a monthly allowance. However, they are allowed the same daily stipend as civilian MPs when the parliament is in session. Being seconded to the parliament also seemingly does not prevent or retard internal army promotion. For instance, Brigadier-General Thet Tun Aung was a colonel when he was appointed to the Union parliament in April 2012; he was recently promoted whilst still a parliamentary representative of the army.

**POTENTIAL VETO PLAYERS**

According to the 2008 Constitution, a majority of more than 75 per cent of all Union-level legislators in a joint session of both houses (chapter XII) is needed to pass any constitutional amendment. This has been the contentious issue since a first parliamentary committee tasked to compile amendment proposals was formed under the aegis of ThuraUShwe Mann, Speaker of the lower house, in July 2013. With a quarter of the seats reserved in both houses, the Tatmadaw basically has veto power. The fact that the military seats have continuously been filled since 2011 – unlike civilian seats – stresses how significant the issue remains for the top brass of the military. Furthermore, as of April 2015, with 25-odd civilian seats remaining vacant in both houses of the Union legislature (no replacement for deceased legislators or those appointed to Union executive positions and unelected seats due to cancellation of elections in several constituencies), the armed forces now mathematically control almost 26 per cent of the total number of parliamentarians at the Union level.

Yet, four years after the first parliamentary session convened in January 2011, no motion for constitutional amendment has been tabled. Military MPs have been key members assigned to the successive parliamentary committees tasked to scrutinize the constitutional review process since 2013. Article 20(f) of the Constitution anoints the Tatmadaw as “guardian” of the supreme law of the country. But that does not imply that the army should systematically oppose all potential alteration of the constitutional text, though. An indication that the Tatmadaw has not been adamantly opposed to a basic constitutional reform per se is the fact that its own parliamentary representatives proposed themselves a series of amendments in the first report unveiled by the review committee in January 2014.

---

9 Interview with a military legislator in the upper house, Naypyitaw, February 2015.
10 Which will increase threefold, from 300,000 kyats to 1 million at the start of the 2015-16 fiscal year: The Myanmar Times, MPs ignore president on pay rises, January 26, 2015.
11 Which will also increase twofold to reach 20,000 kyats in the upcoming fiscal year. Regional Tatmadaw MPs also receive this daily allowance.
12 Interview with author, Naypyitaw, February 2015.
13 Discussion with a member of the Hluttaw Rights Committee, Pyithu Hluttaw, Naypyitaw, February 2015.
14 As of April 2015.
15 Interview with three legislators of the first 108-member constitutional review committee, Naypyitaw, January 2014.
Prominent among the few constitutional modifications promoted by the Tatmadaw stands the expansion of the role of the National Defense and Security Council, an 11-member group chaired by the Union president. The body of the constitutional text is therefore not considered strictly inalterable by the military leadership on a few selective issues, such as the article 59(f) that bars Myanmar citizens from presidential nomination if they have foreign relatives, or the amendment procedure itself (article 436), has the military group stated it would oppose any substantial change. In November 2014 for instance, a spokesman for the Tatmadaw, Colonel Htay Naing, publicly declared that the army was resolutely against a swift revision of these articles.

The constitutional veto of the Tatmadaw can thus be construed as a means to guard against any undesired interventions from both the civilian opposition (the NLD or various ethnic parties) and the dominant party, the Union Solidarity and Development Party (USDP). The latter could indeed ultimately prove far less sympathetic to the rejuvenated military leadership than many observers have believed. In fact, in 2013 the Speaker of the upper house, ex-general U Khin Aung Myint, justified the presence of the military in parliament by the army’s legitimate wish to avoid “the dictatorship of any one single party”, whichever the latter may be. After being the staunch “guardian” of the state institutions, the Tatmadaw may seek to assert itself as a “moderator” of legislative debates in upcoming legislatures (post-2015 election and beyond), in particular if these legislatures become highly contentious arenas.

QUIESCENT BACKBENCHERS

The military appointees have not, since the inaugural session held in 2011, appeared to favour systematic obstructionist tactics. Obstruction is an active parliamentary policy routinely used by opposition or minority groups, including in mature democracies. If military appointees retain a critical right to oppose most alterations to the 2008 Constitution, they cannot however impose a veto on any other basic legislative procedures, in which just a simple majority is needed. This was, for instance, observed during the move to impeach the Constitutional Tribunal, which was initiated by the upper house in August 2012, which was supported by civilian legislators from both the USDP and the NLD who objected to a decision of the tribunal. But all military appointees opposed the bill drafted by elected MPs. The same scenario was played out in the lower house a week later, with all elected MPs also voting in favour of an impeachment, and 101 military delegates opposing it.

Since 2011, military appointees have not performed very differently in parliament from any other “backbencher MP” in other mature legislative systems around the world. As Donald Searing once stated, the position of “backbencher” entails very few duties or responsibilities that must be done while sitting in parliament, and many others that might be done, if the

---

16 Among the eleven members of the NDSC, five are active duty officers: The Irrawaddy, *Military MPs object to constitutional change*, November 17, 2014.
18 Interview with author, Naypyitaw, August 2013.
legislator proves willing to perform them. Backbenchers thus basically follow the lead of their respective whip (or frontbench MPs) in assembly, whilst seldom taking bold initiatives unless they have personal ambitions.

After a few initial parliamentary sessions during which they had been much criticized for passive behaviour, including by the two speakers of the lower and upper houses of the Union parliament, military legislators have enhanced their participation in legislative debates since 2012. They are members of most of the 40-odd parliamentary committees in both chambers of the Union parliament. There, they have engaged in increasingly constructive discussions with their civilian colleagues, as revealed in recent interviews with elected MPs from different backgrounds and parties. They make the position of the armed forces known on each matter debated. They ask questions and clarifications in a way that is, not surprisingly, in line with action expected of officers tasked to work on a careful “public relations” exercise and to develop a responsible public image. In July 2014, in the midst of a renewed wave of communal violence in the Rakhine State, an army major in the upper house urged the Union government to create jobs, bring electricity and provide higher education opportunities to the region. His candid, yet well-calculated, intervention made the front page of the state-owned daily newspapers.

Military appointees thus seem to play their role in parliament by the letter, taking great care to check whether each draft or motion prepared respects the constitutional text or, more importantly, is in line with the “three main national causes” that have embodied the Tatmadaw’s primary political objectives since 1989. They have also defended their own role and presence in parliament, opposing for instance a draft purported to ease the procedure to recall a military appointee from office. The most senior officers have routinely brushed off criticism from opposition MPs, especially when the latter have publicly exposed army misconduct in their own constituencies.

But the military bloc has not always bluntly denied accusations targeting the Tatmadaw. As recent interviews with elected representatives have shown, military MPs have sometimes acted as valued intermediaries between the military and the country’s civilian politicians, who might otherwise have no access to the Tatmadaw hierarchy. The more subtle and discreet the elected MPs have proved in their contacts with their military colleagues, the more successful they have appeared in passing on messages to the Tatmadaw. One may, it is argued, still highlight the misdeeds and local abuses of army officers, demonstrate land-

---

22 Interview, military MP, member of the International Relations Committee of the upper house, Naypyitaw, February 2015.
24 They are: (1) Non-disintegration of the Union, (2) Non-disintegration of national solidarity, and (3) perpetuation of sovereignty. Most publications released in Myanmar today still mention them in their front pages.
26 Interview with an elected legislator from a remote constituency in the northern Kachin State, Naypyitaw, March 2015.
grabbing by the armed forces and “get something done”, only if this is presented in a more discreet and quiet manner than through the media or while the parliament is in public session. Getting access to the most senior military appointee in both houses of the Union parliament has proved, indeed, to be an increasingly successful way of highlighting difficulties, it is claimed. That does not mean, though, that the Tatmadaw has opened its doors to the outside. The corps of active-duty senior officers remains an isolated elite in Myanmar. USDP legislators have proved only a bit more successful in developing regular interactions with their active duty colleagues.27 As a retired lieutenant colonel from the infantry lamented, secrecy remains the norm, and that the less contact Tatmadaw senior officers have with civilians – including retired officers – the better it seems.28

Lastly, it is also worth noting that military delegates do not always vote as a bloc.29 Unquestionably, each time a drafted bill appeared to have interfered with the army’s own corporatist interests, or more generally with the sacrosanct “three national causes”, the military representatives have shown that they could speak with one voice. Orders come from above, they comply. However, on a number of occasions, their superiors seem to have granted them greater leeway to vote as they wish – but even for that they receive the order to do so. This was noticeable mostly on non-strategic issues or matters that could enhance the public image of the military, at the Union and provincial level alike.30 This is, again, very much in line with the image of the responsible, poised and sophisticated officer, well informed about the problems of his country, and able to respond on his own initiative, that the Tatmadaw determinedly wants to project.31

RELUCTANT LAWMAKERS

Only a handful of draft bills has been submitted by military parliamentary representatives since 2011 – and most were prepared in the earlier parliamentary sessions. Proposals dealing with military affairs and security matters have so far been formulated entirely by the executive branch, in particular the army-controlled ministries of Defence and Home Affairs, but not by military MPs.32 In fact, neither the upper house nor the lower house of the Union parliament has activated the Defence and Security parliamentary committees that can be crafted by their respective speakers and where strategic and security issues are meant to be discussed (articles 115b and 147b of the Constitution). Indeed, the Constitution clearly

---

27 It is indeed only sometimes (not always) an advantage if one comes from the military and is a retired army officer; interview with a USDP legislator, and former lieutenant colonel in the Tatmadaw, Yangon, February 2015.
28 Interview with several retired army, navy and air force officers now sitting in parliament, Naypyitaw, February-March 2015.
29 Interview with author, Naypyitaw, July 2014.
31 For instance, a regional legislator from a constituency in Yangon underscored that from time to time, on rather trivial issues such as the licensing of trishaws, the 31 military MPs of Yangon’s parliament do not vote as a bloc; interview with author, Yangon, May 2013.
32 Interview, Deputy Defence Minister, Naypyitaw, February 2015.
33 Interview with a brigadier general appointed to the upper house, Naypyitaw, February 2015.
stipulates that the formation of a Defence and Security Committee is not compulsory.

Among the very rare draft bills elaborated by military MPs, some appear quite trivial compared to the usual national security issues with which the Tatmadaw has long been preoccupied. They have however, reflected the military’s deep-seated nationalism. In September 2011, Major Soe Hein Naung submitted in the lower house a proposal urging the government to “supervise the orthography of Myanmar language in local media.”34 Two weeks later, Colonel Htay Naing submitted another draft to “use the word Myanmar in works of writing, compiling and publishing with the aim of promoting the national prestige (...) and prohibit use of the word in unsuitable place and usage, including use of the word as a brand.”35 Both proposals were supported by the civilians MPs, including those from opposition parties such as the National Democratic Force (NDF).

Thus far, the level of the Tatmadaw’s legislative involvement has remained very low. Far from proving an active “lawmaking” force in parliament, the military appointees may just be under instruction to fulfil their traditional “tutelary” function, as protector of the 2008 Constitution (article 20f). They might not move beyond this basic function in the near future, unless the parliamentary landscape changes dramatically after the 2015 election and the situation becomes increasingly volatile, if not messy. The military delegates in parliament may then intervene more openly, and become directly involved in the preparation of new laws that may better suit the armed forces, as a praetorian and interventionist institution. They may also work to counter legislations formulated in future parliaments dominated by political parties openly hostile to the military’s role in civilian and legislative affairs. They may even act as an obstructive force to a future executive branch that attempts to dismantle the army’s preserved political and economic domains. Then only might they change their legislative behaviour and strategy and become stalwart lawmakers, especially at the Union level. This will also depend on the authority, charisma and power that the future commanders-in-chief of the Tatmadaw will possess.

CONCLUSION

The army thus seems determined to remain a legislative actor; it obviously perceives its presence in parliament to be in its core interests in the post-transition (from military rule) context. Military representatives in parliament have hardly become significant “lawmakers”, though. They are in parliament to be heard and to listen, but, at least for now, not to take bold initiatives or to lead the law-making process. Discourses on military withdrawal from politics have nevertheless become increasingly common, and open. Even U Thein Sein and the military commander-in-chief Senior General Min Aung Hlaing, have both acknowledged the transitory aspect of this military presence. For example, in an interview with the New York Times in 2012, President Thein Sein cited the example of Indonesia where the armed forces gradually reduced the number of reserved seats in parliament during the 1990s, finally

withdrawing completely in 2004. In a more recent interview, Min Aung Hlaing confirmed that the Tatmadaw was in parliament to “give advice”, but not to “make decisions”.

Yet, given the fact that over the past six decades the “guardianship” role of the Tatmadaw has become an end in itself, and that its current leadership still does not seem to have transcended this ideal, there is no indication that the military will renounce its legislative (and policymaking) prerogatives any time soon. This might prove too risky a venture for the military, an institution that has long distrusted civilians and that may be anxious about encountering a highly volatile, fragmented political situation after the general elections scheduled for the end of 2015. Prospects for even an incremental withdrawal of the Myanmar military from parliament, and more broadly from the country’s political affairs, are therefore bleak.

---
