

PERSPECTIVE

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The Tatmadaw in the Hluttaw

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EXECUTIVE SUMMARY

- Myanmar's armed forces, the Tatmadaw, has assumed a political role since its inception as the Burma Independence Army (BIA) as part of the independence struggle in the Second World War. The notion that the armed forces have the "duty" to defend the country's independence and sovereignty has been ingrained in the military's collective psyche since then.
- The 2008 Constitution provides for the military to hold 25% of parliamentary seats and highlights the Tatmadaw's persistence in maintaining a "vital role" in national political leadership.
- In the two parliaments under the Union Solidarity Development Party (USDP) and National League for Democracy (NLD) administrations, the military members of parliament have consistently opposed all processes or proposals that they saw as contravening the provisions of the 2008 Constitution.
- There have been much speculation on the role of the Tatmadaw in Myanmar's future political life. The Tatmadaw has undertaken to step back from politics and return to the barracks when there are peace, stability, and development in the country. Until such a time, political parties will need to view Tatmadaw as a colleague in state-building.

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The views expressed in this article are his personal views.

This article has been updated to reflect factual amendments provided by Professor Maung Aung Myoe, Graduate School of International Relations, International University of Japan.

INTRODUCTION

The role of Myanmar's military Members of Parliament (MPs), in dealing with the issues and challenges of creating legislation can be described as a struggle. This may sound paradoxical, as the widespread perception is that military MPs constitute a strong force to reckon with in parliament. However, based on the author's personal experience as a military MP, the shoe can also be on the other foot.

This paper attempts to explain the role of the military in Myanmar's political life from the perspective of its participation in the Hluttaw, Myanmar's parliament. A brief historical background of the armed forces in Myanmar's politics is necessary for this, as it may help explain the internalized attitudes of military personnel as well as civilian perceptions of the military's role in politics. These attitudes and perceptions have influenced or underpinned some "clashes" in the Hluttaw, and this paper discusses some examples. The question of whether Myanmar's military seeks a greater role in the country's politics may thus be considered in the context of whether it can be a partner or a colleague in state-building, especially for ensuring security of the state.

A BRIEF HISTORY OF THE TATMADAW IN MYANMAR'S POLITICS

The involvement of the armed forces of Myanmar (Tatmadaw) in the country's politics can be traced back to the early years of the Second World War when then-Burma was still a British colony. The Tatmadaw's formation had a political purpose. In December 1941, the Thirty Comrades led by General Aung San formed the Burma Independence Army (BIA) to realize their independence aspirations by military means. During the Japanese occupation, the BIA renamed itself first as the Burma Defence Army (BDA), and then as the Burma National Army (BNA). The BNA led the uprising against Japanese occupation in March 1945. The Anti-Fascist Organization (AFO) formed in 1944, and the Burma Communist Party, were also part of the resistance movement. The BNA was renamed Patriotic Burmese Forces in July 1945. After the end of the Second World War, the Anti-Fascist People's Freedom League (AFPFL), established in 1946, took up where the AFO left off, continuing the political movement for independence. The Patriotic Burmese Forces were disarmed, and their personnel formed the basis of the post-war Burma Army. Since then, defending the country's independence and sovereignty has been the national mission of the Tatmadaw. I hold the view that because of its origins as the BIA, the armed forces have internalized that mission as its obligation, and as such, it was in this context that the Tatmadaw accepted the AFPFL government's request to form a Caretaker Government in 1958, to restore political stability and hold elections.

The coup of 2 March 1962 was also effected in that same context, in response to the parliamentary crisis over the federal principle debate. The Tatmadaw formed a Revolutionary Council,¹ then announced the "Burmese Way to Socialism" in April 1962. A political party, the Burma Socialist Programme Party (BSPP) was formed in July 1963. The Tatmadaw had a significant role in the BSPP², which had the aim to reform political and economic governance under the Burmese Way to Socialism. But this failed, causing democracy protests in 1988. The Tatmadaw again took power, citing reasons of restoring law and order, and also promising to hold free and fair elections. The State Law and Order Restoration Council

(SLORC), the military government after 1988, did hold general elections in 1990 in which the NLD won the majority of the votes. But the SLORC drew criticism from the international community when the 1990 elections results were justified as an election to form an assembly to draft a new constitution. The SLORC then changed its name in November 1997 to State Peace and Development Council, to emphasize the shift in priority to development. Then, the Seven-Step Roadmap to Democracy, announced in 2003, became a reference point, internally and externally, as a schedule for the transition to democracy in Myanmar. The roadmap ended with the dissolution of the SPDC on 30 March 2011 after the USDP government was sworn in. The 2008 Constitution and the November 2010 elections were all part of the roadmap process.

TATMADAW IN THE HLUTTAW

The 2008 Constitution's Article 74(a) and (b) provides for the formation of the Pyithu Hluttaw with 330 elected representatives from townships, and 110 military personnel nominated by the Commander-in-Chief.³ The Amyotha Hluttaw, in turn, is formed with 168 civilian members (12 elected representatives from each of the 14 States/Regions in Myanmar), and 56 military personnel nominated by the Commander-in-Chief.⁴ The 25% Tatmadaw representation in the Hluttaw translates to 166 (out of 660) MPs in the combined houses. The 25% representation is also found in each of the State/Region legislatures.

USDP Administration (2011-2016)

During the USDP Administration, the 25% military representation in the Hluttaw started off with a majority of young and junior officers (in both service and rank). Over the years, more experienced senior officers gradually supplanted them. The stated aim was to be more effective in the tabling of proposals, and in discussions.

The Pyithu Hluttaw in the USDP years had three colonels, 50 majors, 39 officiating majors, and 18 captains as the military representatives.⁵ The Amyotha Hluttaw had two colonels, 35 majors, and 19 officiating majors.⁶ Initially, these Tatmadaw MPs did not participate in parliamentary committee discussions. However, following Order 1/2013 of 9 September 2013, they started attending the various parliamentary committees as observers, and took part in some discussions, but maintained a non-voting role.⁷

The Commander-in-Chief has reiterated in several media interviews that the military MPs are required to defend national interests and the 2008 Constitution in all discussions.⁸ They are also required to be non-partisan. However, some 50% of the USDP MPs were former Tatmadaw officers.⁹ These USDP MPs were very active in their responses to the submission and discussion of bills related to the executive's powers and functions. This desire by the USDP MPs to show that they (the legislature) could act as a check-and-balance against the government led to strained relations between the Tatmadaw MPs and a majority of the USDP MPs (which also included 'civilianised' USDP MPs).

Three tension points illustrate the nature of these strained relations.

On 6 November 2012, U Win Ko (member of the Union Election Commission) submitted the MP Recall bill.¹⁰ Under the 2008 Constitution, the Union Election Commission (UEC) could deal with the removal of elected MPs if 1 percent of the constituents signed a petition requesting for the MP's removal. The bill essentially sought for the UEC's responsibility to be confirmed as legislation. Debate on this issue was paused while the bill was referred to the constitutional review committee. The UEC brought it up again on 28 August 2013, as, at that time, four MPs were facing removal petitions from their constituents. The matter dragged on till 20 August 2015, when 15 MPs called for a vote whether to proceed or not. There were 264 votes in support of proceeding, 235 against, and 12 neutral votes. A heated debate between military MPs began, followed by another between USDP members and the military MPs.¹¹

The second instance was when the Hluttaw debated amending the Constitutional Tribunal Law in January 2013. Military MPs took part in the discussions,¹² arguing against the amendment. The proposal to amend this law came about after the parliament had moved to impeach members of the Constitutional Tribunal in 2012. While the USDP and NLD MPs were united around the impeachment motion, the military MPs supported President Thein Sein's opposition of it.

When the Constitutional Tribunal members resigned, necessitating the appointment of a new Tribunal, Hluttaw discussed an amendment to the law, particularly on who appoints the Tribunal members and to whom the Tribunal chair should report. Essentially, Hluttaw wished to have the authority to question the Tribunal's decisions, and also have more say over the appointment of the Tribunal Chair. Again, the legislature wanted to show the executive that it was not a rubber-stamp body.

The military MPs pointed out, however, that in the 2008 Constitution, Sections 321 and 327¹³ stated that the Union President holds the authority to appoint the Chair and members of the Constitutional Tribunal. Amending the Constitutional Tribunal law could thus infringe on these provisions, argued the military MPs. The Deputy Attorney-General presented the same argument. When the bill was put to the vote, results showed 200 votes in favour of not amending the law, 368 in favour of amending it, and 26 were neutral. The Pyidaungsu Hluttaw (Union Parliament, comprising both houses) passed the bill, with the majority of supporting votes coming from the USDP MPs.¹⁴

The third instance was regarding the Bill for Amending the 2008 Constitution. Discussions on amending the Constitution's Section 436 (a) was discussed by 37 MPs on 23, 24, and 25 June 2015. Sixty-two MPs took up discussions on 30 June, 1, 2, 7, and 8 July 2015 on amending Section 436 (b). These sections pertain to the required number of votes by MPs in each house, and in the combined parliament, to amend the constitution. Under Section 436, over 50% being in agreement among all serving eligible voters in each house, and a combined vote of 75% at the Union level (both houses) must be obtained to discuss amendments to the constitution. For the NLD, then the main opposition party, amending the Constitution's 59(f) which restricted Daw Aung San Suu Kyi from standing for president, was a priority. In a parliament where the USDP dominated, both the 50% and 75% vote requirements presented an obstacle. There were not enough votes (388 to amend Section 436,

and 371 to amend Article 59(f) to sustain the proposed amendments.¹⁵ The military MPs did not participate in the voting, maintaining that this was not a matter of state.¹⁶ However, the Speaker of the House, Thura U Shwe Mann, a retired general, supported the constitutional amendment and put pressure on the military MPs to do the same.

NLD Administration (2016-present)

Now, under the NLD-led administration, more senior military MPs can be found in the Hluttaw. At the time of writing, Pyithu Hluttaw counts two major generals, six brigadiers, seven colonels, 39 lieutenant-colonels, 53 majors and three officiating majors.¹⁷ In the Amyotha Hluttaw, there is a general, six brigadiers, four colonels, ten lieutenant colonels, 34 majors, and one officiating major.¹⁸ The majority of the junior officers serving as military MPs are from the Tatmadaw's medical and engineering corps, while the senior officers are from the Army, and in some cases from the reserve list.¹⁹

The majority of members of parliamentary committees is now made up of NLD MPs, with one military MP, one USDP MP and one ethnic representative in some committees.²⁰ In the committee setting, the NLD MPs can now dominate the discussions and the voting very conveniently as the NLD won a super-majority of parliamentary seats in the November 2015 elections. Even so, there are tensions. Some of the NLD MPs do not seem able to accept that the military MPs can partner civilian MPs on shared concerns. On matters of state security and defense, the military MPs continue to lead discussions. There have been some arguments between military and civilian MPs in the amending of laws regarding the national budget and on security issues.²¹ In short, in today's Hluttaw, there are friendly discussions at the committee level but the NLD can always leverage on its super-majority status in voting, as about 57% of both houses are comprised of NLD MPs.

In this scenario, disagreements between the NLD and military MPs are to be expected. In the author's own experience (up to when I ceased duties as a military MP), three instances illustrate some of these disagreements.

On 5 April 2016, the Pyithu Hluttaw discussed a bill proposing the State Counsellor position for Daw Aung San Suu Kyi. The duties of this proposed office bridged both the executive and legislative bodies. When the MPs were asked to express agreement or opposition to the bill, all military MPs stood to express 1) their disagreement,²² and 2) their position on the unconstitutionality of the proposal. Even so, the bill was passed on 6 April 2016.

Pyithu Hluttaw saw another instance on 8 September 2016. The military MPs objected to the Bill on Protecting the Privacy and Security of Citizens. General Aung Soe (Deputy Minister for Home Affairs) supported the military MPs' arguments in view of the potential threat to national security. However, the bill was approved with 208 supporting votes, 185 objections and 4 neutrals.²³

A third instance occurred on 24 August 2016, also at the Pyithu Hluttaw, in the debate on repealing the 1950 Emergency Provisions Act.²⁴ The military MPs position was to amend the Act and not scrap it, and to assess the state's security condition compared to international events before amending the Act. In the end, a legal expert from the NLD MPs pushed for a vote. The Act was repealed, with 261 assenting, 123 objections and 5 neutrals.

FUTURE OF TATMADAW IN MYANMAR POLITICS

Under Chapter 4 of the present Constitution, the military is involved in all legislative bodies.²⁵ Based on the Tatmadaw's position to uphold the 2008 Constitution without partisan bias, the military MPs have objected to or opposed submissions or motions that do not conform with or are beyond the prescription of the Constitution in Parliament sessions since 2011. The Commander-in-Chief has clarified the role of Tatmadaw in the country's political affairs as "We can only act within that constitutional duty."²⁶ The future of the Tatmadaw's role in Myanmar's politics will thus follow the broad advice outlined by the Commander-in-Chief²⁷:

- Continue to carry out our mission in accordance with the law (i.e. Constitution).
- Constructive engagements in Hluttaw; majority decision will prevail.
- When armed conflicts have ended, and there is peace and security in the country, and maturity in democracy, the Tatmadaw will shoulder its proper respective duties (i.e. retreat from politics).

Military MPs are also required to uphold the Three National Causes (non-disintegration of the union; non-disintegration of national solidarity; and perpetuation of sovereignty), as a national political duty. As such, they hold the belief that they are carrying out their national (political) duty in their parliamentary role, and not taking an opposition role,²⁸ even though there may be differing attitudes in discussions or debates. The ultimate decision-making authority is still the Hluttaw.²⁹

Thus, the Hluttaw is where the military and civilian MPs can try to find some common ground in undertaking their respective political duties. Building up the trust deficit between civil and military also requires some assurance to laying a foundation of transparency among political colleagues.³⁰ The building of trust is thus a two-way street, and needs a changing of mind-sets on both sides, and requires for relations to improve as time progresses. This is important if the Tatmadaw is to eventually leave politics.³¹

Reducing the political role of Tatmadaw also depends on the "improvements in the ongoing process in the country".³² The Commander-in-Chief of the Myanmar Armed Forces has shared his view that the history of the country could not be separated from the history of the Tatmadaw, and that the work being done to protect the country and the interests of the people may be understood by some but not by all.³³

The sticky issues will continue to be the NLD's interest to amend the 2008 Constitution, including section 436, and any attempts that may be interpreted as pushing the Tatmadaw away by force.

Constructive civil-military relations, especially in peace and national reconciliation, are thus important for Myanmar's future. Experts have posited that good civil-military relations can strengthen development, but some Myanmar-watchers have described the current state of civil-military relations in Myanmar as one where different factions support different spheres of influence. Whatever the case, if cooperation is the most important process to improve

civil-military relations, peace, and national reconciliation, then the role of the Tatmadaw as a colleague in state-building bears further consideration.

For the near future, at least the next decade, Myanmar's political life will continue to see the Tatmadaw in the Hluttaw.

¹ A Tatmadaw Researcher, *A Concise History of Myanmar and the Tatmadaw's Role (1948-1988)* Volume I, Guardian Pressed, January 1991. p.45.

² The BSPP had a "Tatmadaw Party Committee" and a "Tatmadaw Party Organising Committee" under the overall committee structure.

³ 2008 Constitution of Myanmar, Chapter 4, Legislature, Pyithu Hluttaw, Article 109, p.39.

⁴ Ibid, Amyotha Hluttaw, Article 141, p.52.

⁵ Kyaе Mone (The Mirror Daily) Newspaper, "Order of the names of Military MPs", 21 January 2011, p.7.

⁶ Ibid. p.8. However, Renaud Egreteau has noted in his report "Parliamentary Development in Myanmar" published by the Asia Foundation in 2017, that "after the 2012 by-elections and the entrance into Parliament of the NLD, the Tatmadaw beefed up its parliamentary team with the appointment of four brigadier generals in each chamber and fourteen colonels. In 2016, there were three major generals, eleven brigadier generals, and ten colonels." <https://asiafoundation.org/wp-content/uploads/2017/05/Parliamentary-Development-in-Myanmar.pdf>

⁷ The Hluttaw Right Committee notes in Pyithu Hluttaw, September 2013.

⁸ Interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing and excerpts from the interviews with foreign news agencies, Myawady publication, September 2015.p.175.

⁹History of Phythu Hluttaw, 31.1.2011 to 30.1.2016, Hluttaw publication, p.15.

¹⁰ First Session of the Pyithu Hluttaw, fifth meeting, ninth day (5/9) meeting notes, 6 November 2012. <https://www.pyithuhluttaw.gov.mm/?q=meeting/>

¹¹ First session of the Pyidaungsu Hluttaw, 12th meeting, 8th day (12/8) meeting notes, 20 August 2015.

¹²First session of the Pyidaungsu Hluttaw, sixth meeting, second day (6/2) meeting notes, 14 January 2013. https://pyidaungsu.hluttaw.mm/uploads/pdf/iWgHDm_2_day_meeting_14-1-2013.pdf

¹³2008 Constitution of Myanmar, Chapter 6 Judiciary, article 321,327, pp.142-144.

¹⁴First Session of the Pyidaungsu Hluttaw, sixth meeting second day (6/2) meeting notes, 14 January 2013. https://pyidaungsu.hluttaw.mm/uploads/pdf/iWgHDm_2_day_meeting_14-1-2013.pdf

¹⁵ First Session of the Pyidaungsu Hluttaw, 12th meeting, 69th day (12/69) meeting notes, 8 July 2015. <https://pyidaungsu.hluttaw.mm/first-meeting-records>

¹⁶ First session of the Pyidaungsu Hluttaw, 12th meeting, 64th day (12/64) meeting notes, 25 June 2015. <https://pyidaungsu.hluttaw.mm/first-meeting-records>

¹⁷Kyemon (The Mirror Daily) Newspaper, "Order of the names of Military MPs", 19 January 2016, p.8.

¹⁸Ibid. p.8.

¹⁹ As of 26 January 2017, nine colonels continued to serve in Hluttaw from the reserve list, as reported in the military's newspaper Myawady, "Changed the Military MPs", 27 January 2017, p.4. http://www.free4readers.com/issue_detail.php?id=9282

²⁰History of Phythu Hluttaw, 31.1.2011 to 30.1.2016, Hluttaw publication, p.57.

²¹ Bill Committee meeting notes, Phythu Hluttaw, 2 August 2016.

²²Myawady Newspaper, "Discussion the State Counselor Bill in Pyidaungsu Hluttaw", 6 April 2016, p.11. http://www.free4readers.com/issue_detail.php?id=6692

²³ Second Session of the Pyithu Hluttaw, second meeting twenty ninth day (2/29) meeting notes, 8 September 2016 <https://www.pyithuhluttaw.gov.mm/?q=meeting/>

²⁴ Second Pyithu 2/19 meeting notes, 24 August 2016. Website > <https://www.pyithuhluttaw.gov.mm/?q=meeting/>

²⁵ See Renaud Egretreau, “Retired Military Officers in Myanmar’s Parliament: an Emerging Legislative Force? ISEAS Trends, no.17, 2015, p.23.

²⁶ Interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing and excerpts from the interviews with foreign news agencies, Myawady publication, September 2015.p.16.

²⁷ Ibid.

²⁸ Interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing and Excerpts from the interviews with foreign news agencies, Myawady news journal September 2015 edition, p.5.

²⁹ Channel News Asia interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing as reported in the Myawady news journal February 2015 edition, p.16.

³⁰ Nay Zin Latt, Civil & Military Relation and other Articles, Satku Chyo Chyo Press, February 2012.p.120.

³¹ Interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing and Excerpts from the interviews with foreign news agencies, Myawady news journal September 2015 edition.pp.19 and 30.

³² Ibid.p.30.

³³ Channel News Asia’s January 2015 interview with Commander in Chief of Defense Services Senior General Min Aung Hlaing and CNA news agency, posted on the Myawady YouTube channel <https://www.youtube.com/watch?v=lQyN0OR8N5s>

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