

The Myanmar s Road Map to the consolidation of military authoritarianism

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*« The Government of Myanmar has started preparation for the reconvening of the National Convention that has been adjourned since 1996. Reviving the National Convention is the first step under the seven-point road map for national reconciliation and democratic transition present by the new Prime-Minister, General Khin Nyunt, on 30 August 2003. The other elements of the road map are : 1) step-by-step implementation of the process necessary for the emergence of “a genuine and disciplined democratic system”;(ii) the drafting of a new constitution;(iii) its adoption through a national referendum;(iv) the holding of free and fair elections;(v) the convening of elected bodies;(vi) the building of a “modern, developed and democratic nation” by the State leaders elected and the government organs formed by the legislative body “.*² As I informed the Commission on Human Rights in March 2004, when I “noted that these steps represented very general and broads objectives, with no specific time frames”

Four years later I continued to lament in the HRC *“For a democracy to be sustainable it has to be inclusive and representative of the views of all the people in Myanmar. No referendum or elections can be fair, no political transition to democracy can be effective, without the release of*

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² Situation of Human Rights in Myanmar, 5 January 2004, presented on 26 March 2004



political prisoners, the authorization for all political parties to operate and the protection of the basic civil and political freedoms, all inexistent in Myanmar.” This was the mantra I have chanted during eight years all over the world.

1. The road map: a transition to where?

We are meeting more than five years after the announcement of the seven step road map. What I will do in this very brief communication is to compare what were the perceptions of the international community and mine at the moment of those events (I will not analyze, for obvious reasons, the missions of my good friends ambassador Razali and professor Gambari, with whom I always had good cooperation) to see what lessons we can draw from the evolution of the seven step road map in terms of democratization, the expectations of the international community , the opportunities lost and the way forward, if there is any. There is a risk that this exercise will be a very personal interpretation, but I cannot do otherwise at this moment.

I must confess that since the announcement of the seven- step road map in 2003 I was extremely skeptical about it and my reports of the period revealed my state of mind in a veiled form so that I would not throw out the baby with the bath water so soon . The formula that I decided to use was that the seven-step road map could be a vehicle for a democratic transition, at least until the coup against Khin Nyunt. I did not want to contradict the international community and the UN that continued considering that the road- map had some value to accomplish something positive in the country. But in doing that we attributed something to the road map that it could not deliver: the transition to a civilian democratic constitutionalism.



Even when I was presenting my last report in March to the Human Rights Council, HRC, I made an effort to acknowledge that the *“Political changes are being announced to take place in Myanmar, including the future adoption of a new constitution that will redefine the political structures of the country. Whether these changes will be positive depends, among others, on the ease of an inclusive political transition of the opposition political parties and various ethnic groups in those political changes in accordance with international human rights standards and principles.* “But none of this happened before the referendum or afterwards, as we will see.

Now I am more convinced that the road map was not a transition process like those that had happened in Southern Europe in the 1970s, in South America in the 1980s and in Eastern Europe and Southern Asia in the 1990s. Perhaps in the first phase of the road map, let’s say until the exit of Khin Nyunt, there was the expectation (this has never been clearly stated by the Prime Minister but I inferred it from my eight meetings with him and other interlocutors did the same) that before the referendum there would be a period of liberalization, with the eventual recognition of some very basic freedoms. If Khin Nyunt had the intention of promoting these moves, after the Depayin incident, when NLD militants were hunted down by elements linked to the government and when DASSK was almost killed, and afterwards detained, it became evident that any political opening would no longer be possible .

In the second phase of the road map, now under general Than Shwe, perhaps it was equivocal and misleading for the international community to continue having such expectations. The demonstration of this impossibility was in front of our eyes with a National Convention without any legitimacy, all delegates being handpicked by the government (in a press conference in the Press Club in Bangkok I made a joke about the fact that the almost 2000 delegates were not allowed to leave the compound where they were meeting and I called that a mass house arrest Khin Nyunt did not at all like this *boutade*...) .Despite this, it was



believed that the continuation, even limited and precarious, of the implementation of the road map, could create some possibilities of including the political forces that have not participated in the National Convention. There was also an expectation that the referendum would require some opening to broaden some degree of political participation so that such a step would be recognized as legitimate. But there was not a single, tiny sign of liberalization before the referendum. *Niente, nada.*

Despite all the wishful thinking deposited in the road map, we cannot blame the military for deceiving us: they had been very consistent in their discourse from the launching of the seven-step road map in 2003 to my visit in November 2008. The path they defined was even more crystal clear from the moment Tan Shwe concentrated power in his hands. When I met in November 2007 with the minister in charge of the constitutional process he told me very clearly:

“Those who did not take part in the National Convention will have the right to express their attitudes and to freely cast votes at the referendum the fourth step” meaning that those groups will not have any say in the drafting of the Constitution. When I heard that, it became clear to me that the military government never intended, as several interlocutors in the international community hoped, to promote any inclusiveness in the political process.

2. The Constitution and the authoritarian consolidation process

More evidence on the un-democratic transition the SPDC envisaged has been offered by the military government when we read and understood that constitutional charter as being no more than a ploy to entrench 46 years of army rule, giving the military commander-in-chief the right to suspend the constitution at will. The constitutional referendum is supposed to be followed by a general election in 2010, but the charter allows the military to retain wide powers and effectively exclude from the political process and prevent Aung San Suu Kyi and former political



prisoners from holding public office for the simple reason that they are former prisoners. One of the provisions retains 25 percent of parliamentary seats for the military. In a nutshell, the new constitution is designed to perpetuate military rule. **We are not witnessing a political transition process but a process of consolidation of authoritarian military rule:** let's call a spade a spade, by the way a very appropriate expression for a military regime.

If someone wants to continue to believe (as some people believe in trolls, fairies and gnomes) that a real political transition process is taking place in Myanmar, this would be almost offensive to people who struggled for democracy in countries in Asia such as the Philippines and Indonesia or Thailand or in many countries in Latin America, like my own country Brazil, that passed through a transition process to democracy. As I have told the military several times, you cannot have a political transition if you hold almost 2,000 political prisoners and if you continue the crackdown after the repression at the end of last year. Four months after the violent crackdown on peaceful demonstrators, political and human rights activists continue to be arrested, detained and sentenced to prison terms under the security laws of Myanmar.³

Instead of stopping the detentions after my visit to Burma, they have intensified them. Severe restrictions on the freedom of movement, expression, association and assembly continue to be reported. Particularly, most worrisome were the allegations of cases of arrest and harassment of individuals accused of communicating information to the foreign media or to

³ The United Nations Special Rapporteur on the situation of human rights in Myanmar expresses dismay over the continued arrests, detentions and charges against political and human rights activists 04 February 2008



organizations outside the country. One recent example of such, has been the reported arrest of three civilians for allegedly not voicing support in favor of the referendum, who were later released on bail. Last February, the government continued detaining people and repressing people who are trying to do some campaigning for a 'no' in the referendum. The Unlawful Associations Act of 1908 as amended, prohibiting unauthorized outdoor “assemblies” of more than five persons, is reportedly enforced selectively. All appeals from Myanmar's main opposition party urging that there be international observers of the referendum were of no avail.

At that time I received numerous accounts of political activists, human rights defenders and journalists being searched and detained for reasons including possession of copies of my previous report to the Council. I was appalled that official reports commissioned by the HRC to the Special Rapporteur have been used as criminal evidence by the Government of Myanmar against human rights defenders and democracy activists. This is a local tradition: the poet Win Tin, 75 years old, has been in detention for 18 years accused of disseminating a UN report.

3. The referendum : a sham

How can you believe in a referendum when you repress those that are intending to say 'no'? I found this completely surreal. How can you have a referendum without any of the basic freedoms? Without international observers to validate the referendum, it has been just a ritual without real content. If someone continues intending to build up on the referendum, the fact that the very organization of the referendum was held during the cyclone Nargis (except in a few areas considered more affected) was a complete disrespect for the victims and a clear indication that the government was more interested in an empty ritual than in the real expression of the will of the people. Following the referendum, the authorities announced results



of the referendum that remind us of the elections in Soviet Russia. It has been stated that 99 percent of the 22.5 million eligible voters (we don't know how the lists of voters were established or if any control of the counting has taken place) appeared at polling stations and it was announced that 92.4 % had voted yes on the new charter. There is not a more diplomatic word to characterize this exercise than calling it a sham, as Human Right Watch correctly concluded.

4. Systematic non compliance with recommendations

If we leave the specific arena of political rights and consider for a moment human rights violations, the attitude of the Burmese government is the same, that is, of non compliance with recommendations or resolution of any UN body. After the crackdown, the military junta had cooperated, on a surface level, with my fact-finding mission, and had subsequently done absolutely nothing to rectify the flagrant human rights violations that are consistently perpetrated under its regime :arbitrary detentions, subhuman prison conditions, disappearances, forced labor, child soldiers, sexual crimes committed by soldiers from the military regime.

Despite all worlds' attention to the so-called saffron revolution that received a cover of *The Economist* and front pages of *The New York Times* and *Le Monde*, the military government in Burma has not implemented a single recommendation of the Special Rapporteur or the Human Rights Council. The promises that the Government of Myanmar makes to that Council have simply not been translated into actions .The two resolutions of the HRC, the one that preceded my returning to Burma, presented at the 5th Special Session of the HRC, using very strong language, was adopted unanimously, and the second approved after the presentation of my mission report, was also very strong and again adopted by consensus. Following my visit to Myanmar in November last year, I informed the HRC of my preliminary findings regarding the human rights implications of the violent crackdown on the peaceful demonstrators in September



2007. After seriously considering a number of testimonies, reports and other materials, I concluded that at least 31 people had been killed, that between 3,000 and 4,000 people had been arrested in September and October 2007 and that at least 74 cases of disappearances required serious investigation as well. After the end of my mission, I have routinely continued receiving information regarding arrests and detentions of human rights activists and individuals in connection with the peaceful demonstrations. In total, I have recorded information concerning 718 individuals who were arrested in connection with the demonstrations and who still reportedly remain arrested. This figure includes 93 individuals confirmed by the authorities during my visit.

Not a single a member of the HRC or any observer country, with the exception of Burma, has criticized the report I presented; on the contrary, countries in every regional group lavishly praised the accuracy of the report. But Myanmar has not complied with any request of the resolution. In my final remarks in the session , somewhat frustrated, I said that I could live with the disregard for my recommendations, but that I thought the HRC needed to consider a price for countries to pay when there is full non- compliance with a resolution from the members of the Council, if the Council intends to be relevant.

The military junta has devoted a similar benign neglect to the chair statement of the Un Security Council that proposed unanimously a sort of alternative road map:

- 1) Personal engagement of the Secretary-General
- 2) Early release of all political prisoners
- 3) To enter in a inclusive process of national reconciliation with Aung San Suu Kyi and ethnic groups



- 4) The need for commitments followed by action
- 5) Ongoing engagement by the international community

4. Where we are now?

Where we are now? Looking backward, I sometimes have the sensation that the international community, the UN and I, have lost an opportunity with the opening by general Khin Nyunt to cooperation with the international community; just remember that he invited Amnesty International to visit the country and had personal discussions with them. The access that was assured for the special rapporteur cannot be imagined today: I met every prisoner I asked to see upon arrival at the facilities; I visited all the institutions I asked to visit. The minor incident I had in Insein is not representative of the kind of cooperation I received and it is more revealing about the ongoing conflict between the intelligence service and the army.

Having lived 21 years under a military dictatorship, and having tried in the last twenty years to follow political transitions in many continents, I recognize that it is extremely difficult to assess without hesitation what is the juncture or leadership favorable to moving ahead a transition that deserves to be supported.

If you allow me an exception to my rule of not commenting on the work of my colleagues, I tend to think that the pressing appeals by ambassador Razali, the former envoy of the UN SG, to concerned countries to give something more substantial to general Khin Nyunt – that by the way I had not understood at that moment – were the right approach to follow. I'm not saying that



this could have saved the prime –minister but perhaps it could have helped to provoke another development different from the coup of Tan Shwe.

My limitation in coming on board with the appeals of Razali, I must confess to you, is that the mandates of special rapporteurs have *in se* a contradiction, because at the same time that we need to go public on human rights violations, on the other hand we need to build some engagement with the government that can open some level of compliance with human rights standards. In any case, it is very risky to pretend to be an *apprenti sorcier* to help political transitions.

I am referring to this because after the fall of Khin Nyunt, even if the junta had kept the road map, the international community and I were not supposed to condone a road map that we knew from the start would not bring democracy to the country. The model of **disciplined democracy** that the generals continue to preach is not democracy but the continuation of a dictatorship under a disguise.

5. Que faire ?

Que faire ? What can be done ? As I no longer have any responsibility on Myanmar because the mandate has passed to my Argentinean colleague, Tomas Quintana Ojea (who had the good fortune to be invited to visit Burma immediately after his appointment) and since I am not speaking anymore on behalf the UN, I can exercise some level of irresponsibility and speak my mind.

For eight years I never criticized economic sanctions against the junta, because that is a political decision in the realm of the states and as I was not an advisor to governments, I limited



myself to sharing my impressions about the impact of the sanctions on the majority of the population. I have never proposed the alleviation of sanctions without any positive move on the part of the military. Today I need to say that it is extremely difficult to negotiate and at the same time threaten or increase sanctions, as happened during the revolt last year. On the other extremity, it is very problematic in such a conflictive environment to intend to exercise the responsibility of protecting or providing humanitarian aid with the collaboration of the very same government that is the target for sanctions.

I dare say that the international community has lost two golden opportunities : during and after the saffron revolution and after the cyclone. In the first case, the military government was so weakened and on the defensive that they decided after four years, in that very volatile conjuncture ,to allow the rapporteur to return to the country. It does not matter if it was not really an independent fact finding mission.

At that moment, there was a large coalition , including the important neighbors, whose members were openly critical of the dealings of the military with the unrest. Instead of combining the initiative at the HRC with quiet diplomatic contacts, it was decided by some countries to increase the economic sanctions. Nothing was achieved.

Another opportunity would have been the humanitarian aid for the victims of the cyclone Nargis . It was most unlikely that the military junta, not exempt from paranoia, would accept with open arms the extremely generous humanitarian aid provided by foreign military carriers . No doubt the speed and dimension of the aid was impressive and had been in proportion to the disaster. But again, the diplomatic contacts were too much in the open and it is very difficult , as you all know better than I, to negotiate in the limelight with statements to CNN and the BBC or Al Jazeera after each meeting; it is not an easy task. Happily the situation was mended by the



bold decision of the Secretary-General to visit the country, a very risky decision because nobody could tell what would be the reaction of the generals. Please do not forget that at the end of the previous year the UN had to live with the de facto expulsion of the UN resident representative, my friend Charles Petrie, a good colleague and extremely skilled international civil servant.

6. Lessons learned

Finally, I will not dare to make alternative proposals here, for the simple reason that I do not have them . Perhaps in the discussion I will be able to come with some ideas with your cooperation. I will limit myself to some observations as lessons that I have learned.

- One of the problems that curtailed much of the progress that we could have achieved was a cacophony among the concerned states. In this context, I would like to note that the establishment by the Secretary-General of a ‘Group of Friends’ on Myanmar (perhaps just a bit too large) is an important effort by the international community to continue echoing its voice for immediate actions in the improvement of the human rights situation for the people of Myanmar.
- One cannot impose sanctions without maintaining an active quiet diplomacy. It is necessary to find avenues of cooperation where different areas of the government are prepared to engage(HIV AIDS, tuberculosis, malaria, the fight against drugs, education).
- Humanitarian aid cannot be held hostage to politics. The Burmese population has the right to be protected as any other population in other autocracies or non-democracies in the region that receive much larger international aid.



- Myanmar is aware that many consolidated democracies in the world have cozy relationships with autocrats and they do not understand why this cannot be the case with them.
- Nothing can be achieved without a real partnership with the neighbors of Myanmar and the members of ASEAN, not just delegating roles for them, but working hand in hand. At the regional level, efforts must continue in order to implement the commitment to establish an ASEAN human rights body as stated in article 14 of the ASEAN Charter signed by the Heads of State (including Myanmar) in Singapore in November last year.
- There is a vibrant but somewhat silent civil society , for instance in social assistance, striving with their own tactics , waiting to be supported.
- Please do abandon the myth that all the government officials and military will vanish after a real democratic transition: if you know any country in the world where this has happened , please let me know.
- Finally, let s not lose the need to take into account the best interest of the victims.

Thank you.

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