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THE *TATMADAW* LEGACY AND BEYOND: ON THE RISKS FOR THE DEMOCRATISATION PROCESS IN MYANMAR

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Introduction: Why Myanmar?

The ongoing democratisation process in Myanmar represents one of the most relevant 'stress tests' for the democratic transition theory. This theory, in fact, considers stateness as a prerequisite for democracy; and, as a consequence, concentrates mainly on the mode of progression of the state from dictatorship to representative government: 'Democracy is a form of governance of a modern state. It follows that without a state, no modern democracy is possible . . . Without a sovereign state, there can be no secure democracy'.¹ The traditional state-centric perspective – based on an uncritical reception of the Weberian assumption of the state as holder of the monopoly of the legitimate use of force – prevented social science scholars from fully grasping the great transformations in the political domain, notably after the end of the Cold War.

The attractiveness of the nation-state idea was that it allowed us to clearly define the boundary between the *internal space* of legitimacy occupied by a sovereign authority and the *external space* occupied by other states. Wars ensue when these borders are crossed, while peace intervenes to re-establish order, redesigning the hierarchies of power or restoring the previous status quo. To tackle the growing proliferation of

¹ Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996), pp. 17 and 19. See also Guillermo O'Donnell and Philippe C. Schmitter, *Transition from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press, 1986); and Sujian Guo and Gary A. Stradiotto, *Democratic Transitions: Modes and Outcomes* (London: Routledge, 2014).

violent non-state actors that generate a much more fluid territoriality and, with it, a relentless proliferation of *contended spaces* and *no-man's land*, both among states and within them, the lexicon of political science was enriched by expressions such as 'failed state' and 'rogue state'. In this perspective, as in a zero-sum game, the greater the pervasiveness of non-state armed groups (NSAGs) within a state, the lower the state presence and consequently the greater its degree of failure. The fact remains that this kind of approach does not give us better understanding about what really happens on the territory, nor does it allow us to observe the specific dynamics between the state and NSAGs involved each time.

We assume, on the contrary, that sovereignty is no longer organised exclusively on a state-by-state basis; it ceases to be an absolute prerogative of the state and becomes a shared and divided resource within specific regions (sometimes transborder) or even in the suburbs of a megalopolis. In fact, competing NSAGs – that are 'political' if and when they prove to be capable of effectively competing for the monopoly of coercion in a certain territory, however limited – increasingly tend to operate like a 'company' within a cluster, developing systemic relationships with other 'companies' operating in its settlement zone. Continuing with this analogy, it is easy to ascertain how, within a specific geographical area, different clusters of sovereignty may be forced to cohabit, and sometimes conflict. In terms of the physical, military control of a particular territory, the traditional state often becomes just one of many clusters laying claim to a portion of the coercive power exercised by all of the violent actors present in a given area (and the state may not even represent the most successful of these contenders).²

Moreover, we can assume that both the collapse of the Communist regimes with the subsequent end of the Cold War in 1989 and the advent of globalisation processes further concurred to improving this worldwide clustering of sovereignties. In fact, 1989

² For further information on clusters of sovereignty, see Fabio Armao, 'Criminal clusters: state and organised crime in a globalised world', *The European Review of Organised Crime*, Vol. 1, No. 1 (2014), pp. 122–36. In an analogous way, Diane E. Davis adopts, with particular reference to developing countries, the concept of fragmented sovereignty, conceived as 'the existence of "multiple, localised, and relatively autonomous cores of power"', rather than an "all-compassing structural and centralised modality of control", a more standard form of sovereignty associated with the modern nation-state': Diane E. Davis, 'Irregular armed forces, shifting patterns of commitment, and fragmented sovereignty in the developing world', *Theory and Society*, Vol. 39, No. 3–4 (2010), pp. 397–413, p. 400, footnote 2.

marked a real cleavage point with the past. From a political point of view, the fall of the Communist regimes and the end of the Cold War dramatically redesigned international system geographies, allowing democracy to become the most widespread form of government in the world. From an economic point of view, the fall of the Berlin Wall marked the triumph of capitalism, now finally free to expand throughout the ex-Soviet bloc, until then governed by state economies, and even extending into China. This undertaking obscures all the former, yet telling, achievements of capitalism down through the centuries. This major transformation also led to a retreat of the state, increasingly eager to reduce the burdens of welfare and to privatise public sectors (including institutions holding the monopoly relative to the legitimate use of force).³ It also fostered an increase in civil conflicts and an unprecedented proliferation of NSAGs (organised crime groups, terrorists, gangs and mercenaries), in addition to a constant growth in social inequalities, both within individual countries and on the global level. More importantly, however, 1989 produced a rescaling of authorities, bringing cities back to the centre of the political universe.⁴ These mutations produced an intensification of the globalisation processes, and this had the effect of a ‘deepening enmeshment of the local and global in so far as local events may come to have profound global consequences and global events can have serious local consequences’.⁵

In brief, all these structural changes may be summarised in the following hypothesis:

- 1 The contemporary world is experimenting with ‘a wide-ranging recalibration of scalar hierarchies and interscalar relations across the state apparatus as a whole, simultaneously on supranational, national, regional *and* urban scales’.⁶
- 2 Sovereignty ceases to be an absolute and indivisible prerogative of the state and instead becomes a resource to be apportioned, and occasionally divided, within specific (conceivably even cross-border) regions or in the suburban fringes:

³ Susan Strange, *Casino Capitalism* (Oxford: Blackwell, 1986).

⁴ Saskia Sassen, *A Sociology of Globalisation* (New York: W.W. Norton, 2007).

⁵ David Held and Anthony McGrew, *Globalisation/Anti-globalisation: Beyond the Great Divide* (Cambridge: Polity Press, 2007), p. 3.

⁶ Neil Brenner, *New State Spaces: Urban Governance and the Rescaling of Statehood* (Oxford: Oxford University Press, 2004), pp. 3–4.

‘effective sovereignty is not necessarily predicated on and defined by the strict and fixed territorial boundaries of individual states’.⁷

- 3 In the globalised world, ‘citizens become less connected to national states as a source of political support or social and economic claim-making, and more tied to alternative “imagined communities” of loyalties built either on essentialist identities like ethnicity, race or religion or on spatially circumscribed allegiances and networks of social and economic production and reproduction’.⁸

Myanmar best epitomises these hypotheses: first, because of its geographical position and layout. The country is wedged between India and China, two superpowers in demographic terms and increasingly in terms of development; to the east, Myanmar borders Laos and Thailand – and shares with them the area known as the Golden Triangle, famous for the production of opium poppies. The contours of the territory appear to have been carved by a careful landscaper: mountainous regions and dense forests surround a flat central zone along the banks of River Irrawaddy and this was the perfect location for the development of the Yangon–Naypyitaw–Mandalay urban route. Second, Myanmar represents the apotheosis of sovereignty clusters. The political system is expected to amalgamate a universe of more than 135 ethnic groups, separated into seven ‘divisions’ with a majority of Barmars, in addition to seven states created on the basis of the main non-Bamar ethnic groups. As has been observed, this collection of states and state-like authorities ‘sometimes creates ambiguity that leaves people, business, and the international community profoundly bewildered’; however, more importantly ‘this ambiguity also generates opportunities for personal advancement and creation of wealth for some, though much of the population is left with limited strategies for survival or progress’.⁹

To better understand the ongoing democratisation process in Myanmar we cannot ignore these peculiarities; in other words, we cannot omit the stateness problem – and

⁷ John Agnew, *Globalisation and Sovereignty* (Lanham: Rowman & Littlefield, 2009), p. 438. See also Wendy Brown, *Walled States, Waning Sovereignty* (New York: Zone Books, 2010).

⁸ Diane E. Davis, ‘Non-state armed actors, new imagined communities, and shifting patterns of sovereignty and insecurity in the modern world’, *Contemporary Security Policy*, Vol. 30, No. 2 (2009), pp. 221–45, p. 226.

⁹ Mary P. Callahan, *Political Authority in Burma’s Ethnic Minority States: Devolution, Occupation, and Coexistence* (Washington, DC: East–West Center Washington, 2007), p. 1.

this is exactly why the Myanmar case-study may prove to be so relevant and even enrich the discourse on democratic transition. State capacity to enforce political decisions, and to implement a democratic transition, is not only related to the role played by the military government – to this day the most debated topic with regard to Myanmar. The *tatmadaw* legacy is just one of the risk factors that could lead to the failure of the democratic transition. Given the peculiarities of Myanmar stateness, there appear to be three main risk factors for the ongoing process of democratisation; they are correlated to each other and actually mutually reinforce: (1) the (in)ability to neutralise the autonomous centres of power, in particular those equipped with means of coercion, and return them to a shared political sphere; (2) the (in)ability to integrate different intragroup networks in the shared political sphere; (3) the (in)ability to eliminate or at least reduce the social inequalities, detaching them from the shared political sphere.¹⁰

The Proliferation of Conflicting Communities (Imagined and Bureaucratised)

In reference to the first risk factor, or rather the need to reduce the autonomous centres of power active on the territory to implement the democratisation process, the first problem refers to the *tatmadaw*. According to Charles Tilly, the military elite have formed and still constitute a strong centre of autonomous power, within the state and not external to it. In the case of Myanmar, the army is still capable of inhibiting any real process of democratisation in the country, and consequently, it is as dangerous as the numerous centres of autonomous power external to the state governance – namely, the ethnic groups involved in guerrilla warfare and the warlords who manage the production and illegal trafficking of opium.

In actual fact, in the years following independence in 1948, the military were the main actors in the state-building process. In the 1950s, they tackled the crisis resulting from the presence of divisions of Guomindang¹¹ on its territory. The failed offensive launched by the Guomindang in Yunnan in an attempt to subvert or change the outcome of the Communist revolution in China drove these divisions to settle in some regions of the Shan state and mutate into occupying forces. In the space of just a few years, these

¹⁰ These risk factors were extracted from Charles Tilly's *Democracy* (Cambridge: Cambridge University Press, 2007) and I have adapted them to the specific context.

¹¹ The nationalist Chinese troops were financed, trained and armed by the USA.

had formed a government and applied the powerful tool of taxation; however, they amassed their wealth from the production and the smuggling of opium. The need to contain the threat posed by the Guomindang legitimated the army's decision to reorganise and strengthen, at the cost of the civil institutions. The same happened following the crisis resulting from the popular protests in 1988 in the main cities of Myanmar:

In both of these cases, a reorganisation of the military led to new forms of state building and rebuilding, with the military – and not a political party, bureaucracy, or civilian organisation – at the helm . . . In both of these instances, the Tatmadaw eliminated other contenders for power and resources.¹²

In other words, Myanmar is undoubtedly one of the most successful cases of a praetorian state (and undeniably the one that has lasted the longest).¹³ Following the coup of 1962, when General Ne Win promoted the 'Burmese Way to Socialism', the civil bureaucratic elite was replaced by military officers, so that the military command structure finally permeated the entire decision-making process.¹⁴ And after the collapse of the Burma Socialist Programme Party, the 'self-coup' of 18 September 1988 catapulted the country in a more militaristic direction, with the hardline factions

¹² Mary P. Callahan, 'Burma: soldiers as state builders', in Muthiah Alagappa (ed.), *Coercion and Governance. The Declining Political Role of the Military in Asia* (Stanford: Stanford University Press, 2001), pp. 413–29, p. 414.

¹³ Praetorianism was an extremely successful concept in the 1960s–70s, when the political scientists found themselves obliged to explain the frequency with which the military – in different areas such as Latin America and Southeast Asia – intervened in politics and assumed a front-line role in the management of the government. For further information, see Samuel E. Finer, *The Man on Horseback: The Role of the Military in Politics* (Harmondsworth: Penguin Books, 1975); Eric A. Nordlinger, *Soldiers in Politics: Military Coups and Governments* (London: Prentice Hall, 1977); and Amos Perlmutter, *The Military and Politics in Modern Times: On Professionals, Praetorians, and Revolutionary Soldiers* (New Haven: Yale University Press, 1977).

¹⁴ See David I. Steinberg, *Burma/Myanmar: What Everyone Needs to Know* (Oxford: Oxford University Press, 2010), p. 65 and ff. See also Michael A. Aung-Thwin and Maitrii Aung-Thwin, *A History of Myanmar since Ancient Times: Traditions and Transformations* (London: Reaktion Books, 2012).

triumphing over the more moderate views.¹⁵ The popular protests forced the regime to adopt a slow pace of reforms; however, they lacked any strategic thinking:

In the place of ideology, the SLORC/SPDC has utilised what could be called ‘sustained delay’, whereby military control remains always temporary, always on the eve of transfer of the state to civilian control, and continually vigilant about so-called technical problems in the drafting of the Constitution, requiring more committee meetings and more preliminary decision-making . . . The democracy issue has thus been ‘lost in committee’ and has been so for nearly two decades.¹⁶

Finally, the approval of the new constitution in 2008 reiterated the power held by the armed forces, and even after the significant transformations introduced by President Thein Sein in 2011, the *tatmadaw* continues to condition the country’s politics, thanks to the work of the former officials who moved into politics or those in the top positions of the country’s civil service, or the serving officials appointed to the executive. However, the problem is not just hoping that ‘in the foreseeable future the Tatmadaw will move further down the scale of praetorianism in order to prepare for full disengagement from politics’.¹⁷ The democratisation process cannot be based exclusively on the ability to contain and, if possible, exclude the military from the political arena. On the contrary, it should be based on the real expansion of political participation and universal access to the economic resources (obviously not supported by cronyism) – operations that would continue to be prevented by the *tatmadaw* despite it no longer having any formal role in the government and the institutions (this will be examined in greater detail in the next two sections).

However, in Myanmar today, the real expansion of political participation must deal with the ongoing presence of other autonomous centres of power equipped with means

¹⁵ Nicholas Farrelly, ‘Discipline without democracy: military dominance in post-colonial Burma’, *Australian Journal of International Affairs*, Vol. 67, No. 3 (2013), pp. 312–26.

¹⁶ Michael W. Charney, *A History of Modern Burma* (Cambridge: Cambridge University Press, 2009), p. 205. It is worth remembering that the SLORC (State Law and Order Restoration Council) changed its name to SPDC (State Peace and Development Council) on November 1997, after another internal purge.

¹⁷ Renaud Egretéau, ‘The continuing political salience of the military in post-SPDC Myanmar’, in Nick Cheesman, Nicholas Farrelly and Trevor Wilson (eds), *Debating Democratisation in Myanmar* (Singapore: ISEAS Publications, 2014), pp. 259–84, p. 278.

of coercion. We have already mentioned groups involved in drug trafficking – remembering the role of the Guomindang. They should be joined by the ex-regional commanders of the *tatmadaw* who have transformed themselves into warlords involved in illegal trafficking of various natures: for example, opium and natural resources (gemstones, jade and precious wood, commodities that are abundantly available in Myanmar). This is a sort of paradox effect of Burmese praetorianism: in some phases of its development, considerable autonomy was transferred to its peripheral institutions, if and when this proved to be effective in reducing the costs of state building. Particularly in the 1990s,

the junta delegated the day-to-day responsibilities for state rebuilding throughout the countryside to its regional commanders. [They] were given de facto authority over all political and economic affairs in their area of operation . . . And they have expanded their surveillance and crowd control capabilities. Along the way, these regional commanders have amassed enormous wealth and power.¹⁸

In the case of Myanmar, finally, another side of the democratisation process can be identified in the violent conflicts – guerrilla warfare to all intents and purposes, with some dating back centuries – for the self-determination of the country's numerous non-Burman communities. The ceasefire negotiations, which commenced in 1989 and continue to the present day, involved 15 main groups and an additional 17 groups not always recognised by the government.¹⁹ Consequently, the negotiation of the successive ceasefire agreements was an important phase and proved to be instrumental in Myanmar's democratisation process. Yet the truce could be groundless if the actors involved in the ceasefire do not join forces to work within their reference populations towards the social construction of a new imagined community that can transcend any local ethnic affiliations.

The emphasis must be on the word 'transcend' and not on the idea of denial, because a democracy can embrace all of the diversities, as long as the process employs

¹⁸ Callahan, 'Burma: soldiers as state builders', pp. 413–29, p. 425. Indeed, this is probably no longer the case, because in these last years the military leadership has replaced some of the regional commanders, to curb their autonomy and to regain control of the entire apparatus.

¹⁹ Ashley South, *Ethnic Politics in Burma: States of Conflict* (London: Routledge, 2009), pp. 122–7.

principles of inclusion and applies equal dignity to the groups it represents, instead of separating and compartmentalising the territories.²⁰ In other words, the problem is not so much the existence of a multitude of different ethnic groups; apart from anything else, their presence is an undeniable historic and anthropological fact, and an element of extraordinary cultural wealth. The problem lies with the purely political choice of defining any ethnic affiliation as an element of separation of its group from the other 'enemy' aggregates. The country's new imagined community including people from all credences, however, could not draw on the rhetoric of national unity, as happened in so many other examples of state-building processes. National unity, in fact, was for decades the main topic used by the *tatmadaw* to justify its dictatorship.²¹

The Persistence of Competing Neopatrimonial Networks

The second risk factor that should be taken into consideration is the (in)ability to integrate different intragroup networks in the shared political sphere. This refers to the interpersonal networks that have consolidated in Myanmar over recent years and are based on the criteria of privatistic or even personalistic affiliations rather than a sense of belonging to the same political community and striving to satisfy the collective interests. As mentioned at the start of this article, the three factors that we are analysing are correlated and tend to mutually reinforce. In brief, therefore, we suggest that the more people can identify with specific autonomous centres of power (and specific imagined communities), the more they will trust them with the management of the

²⁰ A strategy that has already been adopted by the individual states and by the international community and that has failed on several occasions. It is worth remembering on the one hand, for example, Israel and the construction of the wall in the West Bank territories; and on the other, the ethnic division of the territories of Yugoslavia ratified by the Dayton Agreement. For further information on Israel see Idith Zertal and Eldar Akiva's book, *Lords of Land: The War over Israel's Settlements in the Occupied Territories, 1967–2007* (New York: Nation Books, 2007); and Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso, 2007). For further information on the situation of Yugoslavia see Sumantra Bose's *Bosnia after Dayton: Nationalist Partition and International Intervention* (Oxford: Oxford University Press, 2002).

²¹ A final element to be contained is the flare-up of the religion-based intercommunal violence between Buddhists and Muslims, with the most dramatic episodes recorded in June and October of 2012 in the state of Rakhine: Katherine G. Southwick, 'Myanmar's democratic transition: peril or promise for the stateless Rohingya?', *Tilburg Law Review*, Vol. 19 (2014), pp. 261–75.

available political resources. We have already spoken about coercion, but here we should emphasise the fact that the proliferation of the autonomous centres of power, often in conflict with each other, also led to the fragmentation of the *authorities*, each one fairly successful when claiming specific foundations of legitimacy. The lack of a unitary state means that, depending on the territory of residence, there are a number of different actors who can manage the political resources or, better, the accumulation of benefits and sanctions that influence the participation of individuals in political life:

The central state in Burma is dominant in some functional and territorial arenas, but its regulatory authority is neither uniform, coherent, unified, nor unchallenged. Moreover, given the transition in parts of the ethnic states from open, hostile, and dangerous conflicts to indefinite and sometimes tense truces, these networks undergo constant change and adaptation.²²

The ability to govern in Myanmar is a variable that should be measured periodically depending on the specific territory examined. It is at a local level that we observe the attribution of the powers of sanction (coercion), the redistribution of the tangible and transferable resources (capital), and the non-tangible resources that allow groups to be structured on the basis of mutual consideration for the individuals involved (commitment). The bodies for intermediation are also local and these serve to create a relationship between the individual and the institution. The construction of a democracy, on the other hand, demands that local networks dissolve or integrate to form a new, single, political set-up that would allow the individual to interact directly with the state – renewing (or rejecting) trust in the political representatives at regular intervals through elections with votes cast in absolute freedom.

An authoritarian state would be expected to proceed rapidly along the road of growing centralisation of power, from both an institutional and geographical point of view. The construction from zero of the new city – Naypyitaw – in the heart of the country, should have symbolised the completion of the state-building process. In reality, this (extremely expensive) operation served to augment the illusion that the country had achieved a national identity. On the contrary, in Myanmar, the decades of praetorianism contributed to consolidating the complex networks of political patronage. And the proliferation of autonomous non-state centres of power, equipped with means of

²² Callahan, *Political Authority in Burma's Ethnic Minority States*, p. 6.

coercion and in a position to control significant economic resources, further strengthened these networks, and often created new alternatives to those generated by the *tatmadaw* that occasionally extended beyond the borders.

All of this led to the structural organisation or definition of the relationships between the political sphere and the economic universe, according to rules typical of neopatrimonial systems. On the one hand, the state – identified, above all by ethnic minorities, with Burma ethnicity – was not immune to the conflict between its elite members, and this served to accentuate a feeling of uncertainty and insecurity of the population, increasing cronyism and the overt political corruption. Control of the media and judicial power also encouraged a non-transparent use of the struggle against corruption that the neopatrimonial system had generated, highlighting public opinion's (totally justified) doubts that 'corruption was a useful shorthand in removing figures whom it is no longer convenient to maintain close to the seat of power'.²³ On the other hand, the states with non-Bamar ethnicity produced their own networks that occasionally extended beyond the borders, driven by the informal or criminal economies. In both cases, the leaders developed a tendency to behave as chieftains, as though they were the real owners of their kingdom, eliminating any distinction between the position of office and the person appointed to the position, between the public environment and the private interests.

Two forms of patrimonialism have been identified in Southeast Asia: depending on whether the power relationship between the bureaucratic elite and the social forces sees the former dominating the latter, or vice versa, a patrimonial administrative state or a patrimonial oligarchic state will be created. In the first case, the people who enjoy greater advantages from the patrimonial system can be identified within the state itself; in the second, the people who enjoy greater benefit are positioned external to the state.²⁴ In Myanmar, the proliferation of autonomous centres of power equipped with means of coercion almost infinitely reproduces this largely administrative type of patrimonial

²³ Helen James, 'Resources, rent-seeking, and reform in Thailand and Myanmar (Burma): the economics–politics nexus', *Asian Survey*, Vol. 50, No. 2 (2010), pp. 426–48, p. 442.

²⁴ Paul D. Hutchcroft, *Booty Capitalism: The Politics of Banking in the Philippines* (Ithaca: Cornell University Press, 1998).

arrangement, given that the people who enjoy greater benefit are the members of the centres themselves.

Again, the example of the *tatmadaw* is the most obvious, first of all because, despite the abandonment of socialist policies and the encouragement of the private sector from 1990 onwards, the country's economy continues to be military-controlled through the two most important conglomerates: the Union of Myanmar Economic Holdings Limited (UMEH) and the Myanmar Economic Cooperation (MEC). These two conglomerates control the development of essential sectors such as building construction, tourism, transport, gemstone and jade extraction and agriculture.²⁵ UMEH is supposed to provide for the welfare of the public as a whole and not just active and retired military personnel and should contribute to the development of the country's economy, yet most members of its board of directors have been active duty officers. Besides that, most major foreign investments have been channelled through UMEH, which had set up 50 joint ventures with foreign firms by 1999. The MEC is a similarly enormous enterprise, but its prerogative is its exemption from the State-owned Enterprise Law of 1989, which means that it can operate freely, and in any business it chooses.²⁶

In that same period, the junta embraced a more liberal and transnational economic approach, trying to modernise the country (as well as its military apparatus): it deliberately entered China's sphere of influence and, later, reinforced diplomatic and commercial partnerships with India (until then a fierce opponent of Myanmar), with Russia, and to a lesser extent with Japan and South Korea.²⁷ It is also worth remembering that by November 1988, the junta had promulgated a new foreign investment law, with foreign investors attracted by the opportunity to invest in a country where labour forces were forcibly controlled. Yet the *tatmadaw*'s monopoly ensures that

²⁵ Marco Bunte, *Burma's Transition to 'Disciplined Democracy': Abdication or Institutionalisation of Military Rule?* (Hamburg: GIGA German Institute of Global and Area Studies, 2011), p. 16.

²⁶ Win Min, 'Burmese military government: crony capitalism in uniform', in Daniel Métraux and Khin Oo (eds), *Burma's Modern Tragedy* (Lewiston, NY: Edwin Mellen Press, 2004).

²⁷ Renaud Egret, and Larry Jagan, *Back to the Old Habits: Isolationism or the Self-Preservation of Burma's Military Regime* (Bangkok: IRASEC Institut de Recherche sur l'Asie du Sud-Est Contemporaine, 2008), p. 18 and ff.

laws and regulations are complex or unclear and have been applied in inconsistent and non-transparent ways. Permits required for many exports and imports can be difficult and costly to obtain. These obstacles have been used as an opportunity for rent-seeking and as a means of patronage.²⁸

In July 1997 Myanmar joined ASEAN (the Association of South-East Asian Nations), precisely when the Asian financial crisis was starting; the USA began to impose sanctions, reinforced in 2008 – with the result that by the late 2000s foreign investments were already declining.

All these events, in fact, reinforce the *tatmadaw*'s neopatrimonial system, intended to benefit some of the exponents of the social elite whose support is essential even in the praetorian regimes, as well as the members of its ranks. The successive reforms of the *tatmadaw* pave the way for a massive expansion of the armed forces and are accompanied by the creation of an 'exclusive social order' based on privileges reserved to the active and retired military personnel: from guaranteed healthcare in hospitals and clinics, to guaranteed access to the most prestigious schools and universities.²⁹

If we widen our horizons to include the seven states of the main non-Bamar ethnicities, the arrangement of the neopatrimonial networks becomes more complicated. On the one hand, it is essential to consider the relationships that those in government created with the population, in view of the specific coercion–capital–commitment combination available to them – and external to the metaphor, the presence or absence of guerrilla warfare groups, the availability of natural resources and the degree of ideological mobilisation of the population. On the other hand, we cannot ignore the relationships that these local networks were obliged to create with the central government and with the *tatmadaw*. In an extremely efficacious manner, Mary Callahan

²⁸ The report continues with the observation that 'under the military government, a small number of entrepreneurs had privileged access to business opportunities. Though typically referred to as cronies, it was perhaps more accurate to regard them as proxies of the military regime. They received privileges because they were useful to it, not because they wielded any particular influence over it. Together, these fifteen to twenty individuals controlled a major part of the national economy' @ International Crisis Group (ICG), 'Myanmar: the politics of economic reform', *Asia Report*, No. 231 (2012), p. 3 and p. 9; available at <http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/231-myanmar-the-politics-of-economic-reform.pdf>.

²⁹ Callahan, 'Burma: soldiers as state builders', pp. 413–29.

identified three models of relationship between the central government and local actors (frequently non-state actors) that developed progressively from 1988 onwards: the near-devolution of power to the local leaders (former leaders of the guerrilla warfare, the traditional leaders and the businessmen); the military occupation powers assigned directly to the *tatmadaw* and the other government bodies; the coexistence of the central government and local leaders, made possible by the ceasefire agreement signed and the presence of strategic actors such as the representatives of international organisations and NGOs (non-governmental organisations). The conclusion drawn from the analysis of the diverse territorial contexts was that

in the ethnically-demarcated states of Burma, strategic networks of actors have emerged that exercise varying degrees of political control over people, resources, territory, and borders. In most of these states . . . to date no uniform or monolithic form of political control has monopolised state–society relations. Peace and security have yet to materialise, and the political authority rests in the hands of what seems to outside observers to be a bewildering array of government agencies, warlords, military and paramilitary units, gangsters, foreign firms and syndicates, religious groups, and nongovernmental organisations.³⁰

Crystallising of Social Inequalities

The third and final risk factor in the process of democratisation in Myanmar refers to the (in)ability to eliminate or at least reduce the social inequalities, detaching them from the shared political sphere. On this subject, it would be naïve to believe that the spread of democracy guarantees a reduction in inequality. On the contrary, it has been shown that in recent decades globalisation processes actually lead to an increase in inequalities, and above all in the more consolidated democracies.³¹ If we then take a look at the longer period

not only is the overall inequality between world citizens greater in the early 21st century than it was more than a century and a half ago, but its composition has entirely changed; from being an inequality determined in equal measures by

³⁰ Callahan, *Political Authority in Burma's Ethnic Minority States*, p. 48.

³¹ Eugenio Somaini, *Geografia della democrazia* (Bologna: Il Mulino, 2009), Chapter 10.

class and location, it has become preponderantly an inequality determined by location only.³²

What really matters in a process of democratisation is, first, whether and under what conditions the ‘natural’ differences between the individuals are crystallised in everyday categorical inequalities (based on class, gender, ethnicity, religion, etc.); and second, if and under which conditions these categorical inequalities are translated and consolidated within the political sphere (as the diversity of rights and obligations).³³ In reference to Myanmar, the new constitution approved in 2008 may be a good starting point for proceeding with this analysis.

The international media stigmatised the fact that this constitution was devised specifically to prevent the winner of the Nobel Peace Prize, Aung San Suu Kyi, leader of the main opposition party, the National League for Democracy, to stand for election as the country’s president. A clause was included that would prevent anyone with a foreign spouse or children with foreign citizenship to stand for election; and her children are British (Art. 59f). However, more generally, the real problem was that the *tatmadaw* was ensuring it had the power to prevent any amendment to the constitution:

Myanmar’s constitution . . . among other provisions ensures that the *Tatmadaw* retains 25 per cent of seats in the *Hluttaw*, in practical terms giving it a constitutional veto . . . This includes a veto on whether the constitution should be amended to remove this veto power. Changing the constitution to remove the *Tatmadaw*’s 25 per cent allocation, its exclusive appointment of one of the two vice presidents or any other of a number of restrictive clauses requires 75 per cent of the *Hluttaw*’s vote. Blocking constitutional changes opposed by the *Tatmadaw* bloc in the *Hluttaw* would require the support of just one other *Hluttaw* member.³⁴

In other words, the constitution crystallised inequality between civilians and the military, by giving the latter a political role (and an exclusive number of constituencies),

³² Branko Milanovic, ‘Global inequality: from class to location, from proletarians to migrants’, *Global Policy*, Vol. 3, No. 2 (2012), pp. 125–34, p. 127.

³³ For example, as in the case of the Apartheid regime in South Africa. See Tilly, *Democracy*, Chapter 5.

³⁴ Damien Kingsbury, ‘Political transition in Myanmar: prospects and problems’, *Asian Politics & Policy*, Vol. 6, No. 3 (2014), pp. 351–73, p. 356.

a situation that is difficult to reconcile with a democratic regime; and, above all, recognising their exclusive power to determine a potential self-exclusion from the parliamentary arena.

A second problem focuses on the relationship between the centre and the peripheries, namely the Barmars and the non-Bamar ethnicities. In actual fact, the constitution did not establish any form of federalism and regional independence, but assigned the power to form the regional governments to the president; by assigning the power to choose the ministers for all of the other states of non-Bamar ethnicity to a Bamar leader, the legitimacy and the prestige of the regional parliament was decimated.³⁵ The facts that the new constitution clearly and explicitly did not recognise equal importance of the different ethnicities and that the requests submitted by the ethnic groups and their parties to adopt a federal system fell on deaf ears jeopardised the peace process initiated with the ceasefire. Being excluded from the national politics augmented the feeling of mistrust in many leaders of the ethnic groups who are still convinced that the *tatmadaw* is implementing the consolidated strategy of ‘divide and rule’, rather than ‘tackle and resolve’ the humanitarian dramas affecting the ethnic minorities. We must consider that

after decades of conflict, there are currently an estimated 650,000 internally displaced persons (IDPs) in Burma’s ethnic borderlands, as well as over 130,000 refugees (mostly Karens) and as many as two million migrants, many of them unregistered, in Thailand. But at the very moment of ceasefires when displaced persons are hoping to return home, ethnic leaders fear that new obstacles are being put in their way that will prevent political solutions and the rebuilding of damaged communities.³⁶

The drama of the displaced persons has been aggravated further by a third problem that has affected ethnic communities in particular, increasing their perception of being discriminated against. The problem refers to the newly introduced land laws. The constitution approved in 2008 contains several norms that govern private property

³⁵ Thomas Kean, ‘Myanmar’s parliament. From scorn to significance’, in Cheesman et al., *Debating Democratisation in Myanmar*, pp. 44–74.

³⁶ Transnational Institute, ‘Burma’s ethnic challenge: from aspirations to solutions’, *Burma Policy Briefing*, No. 12 (2013); available at http://www.tni.org/sites/www.tni.org/files/download/bpb_12_def.pdf, pp. 10–11.

rights, exploitation of land and other natural resources; the norms govern inheritance and ratify the principles of non-discrimination on the basis of income and education. At the same time, nevertheless, the constitution states that the Union is ‘the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere’ (Art. 37a). In a context in which the *tatmadaw* continues to have the control and ownership of considerable amounts of natural resources³⁷ and, vice versa, the vast majority of the population, particularly in the rural areas, does not have sufficient credit to purchase or maintain possession of their land, the constitution was not sufficient to prevent the diffusion of land-grabbing episodes – a phenomenon that was facilitated by the rapid growth in foreign investments in the sectors of mining, agriculture, oil and gas.³⁸ It should be pointed out that if these practices of land-grabbing were possible because of shortcomings in the new legislation, they place themselves in open conflict with the consolidated tradition of informal and customary land uses characterised by relative freedom regarding access to land and a fairly equal land distribution. Finally, the problem of a right to land intersects once again with the ethnic dimension of the state organisation:

The new ceasefires have been facilitating land grabbing by state and non-state elites alike in conflict-affected areas where large development projects in resource-rich ethnic regions have already taken place. Many ethnic organisations oppose large-scale economic projects in their territories until

³⁷ The control of natural resources is joined by the rationalisation of the administrative and fiscal system – also extremely important factors in the analysis of the degree of sedimentation of the inequalities in the political sphere – which proceeds extremely slowly. From this point of view, the two main problems are the persistent lack of transparency in the criteria used to allocate the budgets between the various ministerial departments (not to mention the survival of the secret ‘special funds’ destined for military expenditure and the pharaonic projects for the construction of the new capital city Naypyitaw) and, once again, the limited decentralisation of the administrative and fiscal authorities to the sub-national authorities. See Anders Engvall and Soe Nandar Linn, ‘Myanmar economic update. Macro-economy, fiscal reform, and development options’, in Cheesman et al., *Debating Democratisation in Myanmar*, pp. 159–79.

³⁸ Tamas Wells and Kyaw Thu Aung, ‘Village networks, land law, and Myanmar’s democratisation’, in Cheesman et al., *Debating Democratisation in Myanmar*, pp. 75–91.

inclusive political agreements are reached. Others reject these projects outright.³⁹

The fourth and last problem is the analysis of the persistence (or lack) of the categorical inequalities in Myanmar, specifically gender inequalities. On a daily basis, women in Myanmar continue to be faced with discrimination and violence, despite accounting for more than half of the country's population and having crucial social, economic and political roles in the country's development.⁴⁰ Women face greater difficulties, for example, regarding access to land possession or representation in the judicial bodies and the decision-making processes – 'currently only 4 per cent of Myanmar's state and Regional Parliament representatives are women, while local governments include just 3 per cent'. Moreover, 'Myanmar's ethnic minority women, in particular, are excluded from such processes due to conflict, discrimination, cultural and language barriers, among others'.⁴¹ Faced with this situation, the constitution approved in 2008 contains only two clauses regarding the protection of women's rights, namely: 'Women shall be entitled to the same rights and salaries as that received by men in respect of similar work' (Art. 350); and 'Mothers, children and expectant women shall enjoy equal rights as prescribed by law' (Art. 351). However, the successive article states that:

The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. *However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.* (Art. 352. Italics added)

³⁹ Transnational Institute, 'The challenge of democratic and inclusive land policymaking in Myanmar', (Amsterdam, 2015); available at http://www.tni.org/sites/www.tni.org/files/download/the_challenge_of_democratic_and_inclusive_land_policymaking_in_myanmar.pdf, p. 33.

⁴⁰ Ma Khin Mar Mar Kyi, 'Engendering development in Myanmar: women's struggle for *San, Si, Sa*', in Cheesman et al. (eds), *Debating Democratisation in Myanmar*, pp. 305–27.

⁴¹ Transnational Institute, 'Linking women and land in Myanmar. Recognising gender in the National Land Use Policy' (Amsterdam, 2015); available at http://www.tni.org/sites/www.tni.org/files/download/tni-nlup-gender_0.pdf, pp. 6–7.

Conclusion: Building Social Spheres of Democracy

We began this paper with the assumption that Myanmar represents a ‘stress test’ for the democratic transition theory, mainly because of the stateness problem, or the fact that more than any other country Myanmar is a territory partitioned among a multitude of (conflicting) sovereignty clusters. A more detailed summary of the three main risk factors for the ongoing process of democratisation follows:

- 1 The (in)ability to neutralise the autonomous centres of power: on one side, the *tatmadaw* is still perfectly capable of inhibiting any real process of democratisation in the country; on the other, we see the persistence of conflicting imagined communities such as the ethnic (guerrilla) groups.
- 2 The (in)ability to integrate different intragroup networks in the shared political sphere: decades of praetorianism contributed to the consolidation of complex neopatrimonial networks with both political and economic patronage, involving the *tatmadaw* as well as the different ethnicities, intertwining the centre of the state with its different peripheries.
- 3 The (in)ability to eliminate or at least reduce social inequalities, detaching them from the shared political sphere: the new constitution finally crystallised inequality between civilians and the military, did not establish any form of federalism and regional independence, did not integrate rural areas (increasing the feeling of discrimination in ethnic communities), nor even deal with the problem of gender inequalities.

This means that Myanmar is facing the democratic transition with the resolution of the problem of stateness still to be finalised, and is lacking an imagined community capable of including people from every credence, having precluded the possibility of drawing on the rhetoric of national unity as has happened in so many other examples of state-making processes.

The analysis of the risk factors that may affect the process of democratisation in Myanmar reinforces the opinion of those people who believe that the basic problem with all the reforms initiated to date is that they are still founded on a top-down approach, with a predominant role remaining under the control of the elite (starting with the *tatmadaw*) and a more marginal role reserved for the local authorities.⁴² But that’s

⁴² Renaud Egretteau, ‘Burma/Myanmar’, *Political Insight*, Vol. 3, No. 2 (2012), pp. 30–33.

not all. The persistence of such strong institutional restrictions – in terms of the survival of the autonomous centres of power equipped with means of coercion, of the neopatrimonial networks for the management of the resources, and of the social inequalities – points to the fact that the prospects for greater democratisation in the political sphere can only be entrusted to a preliminary democratisation of the civil society.

In Myanmar, in other words, a real democratic transition has to be grounded on the civil society, and may progress only through the social construction of a new imagined community identified on the basis of the belief in *democracy as a procedure*, as the non-violent resolution of the conflicts – regardless of the ethnic or religious affiliation of the individuals involved. The democratisation process must adapt to the human territoriality of the diverse communities involved on occasion and to the peculiarity of the urban or rural geographical areas in which the communities involved live. Within such a bottom-up approach, any sudden and radical changes must be excluded. In actual fact, democratisation may succeed only if defined as a gradual educational process that prioritises the needs of the individual citizens as opposed to the institutions, irrespective of whether they are local or national.

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