

As Burma heads further into an election year, the possible role of the detained pro-democracy leader Aung San Kyi is coming in for close scrutiny.

When the Burmese military government said it would hold a general election in 2010, many Burmese strongly suspected that the junta would find an excuse to keep pro-democracy leader Aung San Suu Kyi in detention—perhaps until after polling had taken place.

Their worst fears were confirmed when John Yettaw, an American citizen, swam across Inya Lake to the democracy icon's home, handing Burma's ruling State Peace and Development Council (SPDC) the perfect opportunity. A weird criminal trial of Suu Kyi ensued—obviously politically motivated—and the Burmese heaped blame on Yettaw for the events that unfolded later.

In the end, the Burmese government succeeded in placing Suu Kyi back under house arrest with an 18-month suspended prison sentence. Mission accomplished!

Despite the disappointment, the events did not come as a surprise for the Burmese. For the past two decades, Suu Kyi has been a constant thorn in the junta's side.

The generals have grappled with a major dilemma about how to handle the charismatic and highly principled daughter of the country's revered independence hero. They wanted to reorder Burma's political structure in a way that assures military power while providing a semblance of civilian rule. But Suu Kyi stood in their way.

The 2010 general election is the final episode in the SPDC's political transformation plan, and the generals will in no way allow anyone or anything to disrupt it. There are many seemingly insurmountable obstacles on the road to an election this year, but the continued incarceration of Suu Kyi essentially removes one of them.

The Yettaw court case ended in August 2009. Whether calculated mathematically or judged by political considerations, it is not hard to conclude that if Suu Kyi is required to serve out her full sentence of 18 months she will not be free until January or February 2011—perhaps a few months after the 2010 election. It was a plan superbly hatched and perfectly executed.

Towards the end of January, however, the news agency Reuters carried an unconfirmed report quoting Minister of Home Affairs Maj-Gen Maung Oo telling a meeting in central Burma that Suu Kyi would be freed by this November.

Judging by the release of the National League for Democracy's Vice-Chairman, Tin Oo, on completion of his house arrest sentence, it is probable that Suu Kyi will be released as Maung Oo promised. But this coincides with another rumor predicting that the election will take place on the astrologically correct date October 10, 2010 or 10-10-10.

These rumors are significant. They can be considered a hint of what the SPDC has in mind for Suu Kyi.

The SPDC will need to free her as soon as possible because her release is the key to ending international sanctions and the country's isolation. The next government will need to work efficiently to tackle the huge problems facing the country and it cannot afford to be bogged down by undue international pressure.

I still hope that the unfolding events later this year may prove wrong for those like me, who are skeptical on the prospects for her pre-election freedom. I doubt it, however. I cannot believe the generals will release her before the election, and it is unlikely that any amount of protests and pressure either from within or outside the country would be able to change that.

Not only is her release before the election improbable, but so also is her potential candidacy in the election.

In the 1990 election, Suu Kyi was unable to register her candidacy, which was rejected on the grounds that she was married to a foreigner. She was also under house arrest at the time.

The 1990 election was held in the absence of a constitution. This time around, Suu Kyi is not even constitutionally eligible. The 2008 constitution has several provisions that critics say were

particularly designed to serve as obstacles to her potential candidacy in any poll.

At first glance, the charter appears to make the political system—and the potential to hold office—open to anyone. The constitution's Article 369, Chapter 8, stipulates “Subject to this Constitution and relevant laws, every citizen has the right to elect and right to be elected to the Pyithu Hluttaw, the Amyotha Hluttaw, and the Region or State Hluttaw.”

Yet this ominous and conflicting condition—“Subject to this Constitution and relevant laws”—actually encompasses a wide range of provisions that would criminalize the democracy icon, and also prevent many dissidents from contesting the elections.

Specifically, Article 121 of the constitution, under the section “Disqualification for the Pyithu Hluttaw Representatives,” has five sub-sections, of which sub-sections a, b and e would apply to many dissidents, including Suu Kyi.

Sub-section (a) disqualifies “a person serving prison term, having been convicted by the Court concerned for having committed the offence.” As predicted earlier, Suu Kyi will still be under detention at the time of an election, rendering her ineligible to stand, even if she tries to register her candidacy.

Sub-section (b) deals with members of parliament who were disqualified from the (previous) Hluttaw and sub-section (e) is about elected candidates who owe allegiance to a foreign government, are subject to or a citizen of a foreign government.

Unlike in 1990, Suu Kyi is no longer married to a foreigner so her candidacy cannot be rejected on this basis. But these three sweeping categorizations disqualify her and all political prisoners, most notably the leaders of the 88 Student Generation group such as Min Ko Naing and Ko Ko Gyi as well as candidates elected in 1990 but who who have been disqualified for one reason or another over the past 20 years.

In the final analysis, however, politics is the art of possible. And in Burma, everything finally depends on Snr-Gen Than Shwe. If he can cut a deal with Suu Kyi regarding her role under the

new polity or if he no longer sees her as a threat, she could be released.

Last November, Min Lwin, a high-ranking official in Burma's Foreign Ministry, told the news agency AP in Manila: "There is a plan to release her soon ... so she can organize her party."

Even if this daring pronouncement comes true, Suu Kyi's candidacy in the 2010 election would be very doubtful—but I hope I am wrong.