The 2008 constitution is a tightly constructed document designed to provide “disciplined democracy” to Burma, which means continued military dominance.

For decades, politics in Burma has been in crisis and the eventual outcome is often violence and oppression. Subjected to extreme poverty, armed conflicts and natural disaster, the people, like it or not, approved a new constitution in 2008.

The average Burmese citizen probably expects life to be less oppressive under a new civilian government. However, there is no escaping the fact that Burma’s third constitution was designed by the junta to institutionalize its role in politics.

Born with the nation’s independence struggle and believing its role to safeguard the country from disintegration—a conventional excuse by military leaders to claim legitimacy—the Burmese military has constructed a legal fortress in the new constitution, which it calls its “national political leadership role of the State.”

This is the heart of the military-designed constitution and exemplifies its distrust of civilian politicians, and the role of the public in forming a consensus in society.

In democratic theory, if a single party wins a majority of seats in parliament, a country can enjoy stability and development with the support of the majority of the population. It can also avoid a coalition form of government that can often create instability in politics.

But Burma’s constitution is different, and it is constructed to avoid the dominance of a single civilian party, which could provide a viable opposition to the military rulers.

Soldiers and the Making of Laws

Therefore, the constitution was built around a theory of “disciplined democracy” with 25 percent

of the bicameral parliament comprised of military representatives—a maneuver that is intended to avoid another 1990-style election in which the opposition party won a landslide victory.

The military is guarantied 110 out of 440 seats in the *Pyithu Hluttaw* (People's Parliament) and 56 out of 224 seats in the *Amyotha Hluttaw* (Nationalities Parliament). Also, military officials will hold the same share in state and region *Hluttaws* as well as the leading bodies of self-administrative areas. Section 121/j bans all civil service personnel from contesting in the *Hluttaw* elections.

Even though it has only 25 percent representation in parliament, the military becomes the dominate block in the legislative process, because to approve or reject a constitutional amendment or legislative bill requires the approval of more than 75 percent of parliament.

In this scenario, there a single political party, even if it had 100 percent unanimity, can not pass its proposed legislation without the approval of the military representatives in parliament. Thus, political parties are forced to seek a coalition or compromise with the military.

However, the constitution stipulates that the military doesn't need the approval of parliament for legislation related specifically to defense and security affairs. Section 20/b stipulates that "the Defense Services has the right to independently administer and adjudicate all affairs of the armed forces."

Moreover, *Hluttaw* committees, commissions and bodies for defense and security affairs must be comprised of a majority of military-appointed representatives, according to Section 115 and 147.

Soldiers and Ruling a Nation

The 2008 constitution stipulates that the president is elected by a Presidential Electoral College, as stated in Clause 60.

The Electoral College is formed into three groups—one each from the *Pyithu* and *Amyotha Hluttaw*, and a third entity of appointed representatives of the military drawn from both *Hluttaws*. The groups will elect three presidential candidates and the military will nominate one candidate.

Like the NLD's landslide victory in the 1990 election, a political party could win the majority of 330 seats in *Pyithu Hluttaw*. But it can't expect their candidate to be elected president and form a government because one of the criteria for the president, as stated in Clause 59/d, is that the president has to be "well acquainted" with military affairs, which limits the chances of a non-military approved candidate being elected but does not make it impossible.

Therefore, the president's power has been limited in the affairs of defense and security. Without seeking the consent of the president, the commander-in-chief of the military can independently appoint and operate three ministries: Defense, Home Affairs and Border Affairs.

Some constitutional observers may argue that this is a fair sharing of power between the military and a civilian government. But the constitution also offers absolute powers to the military that go against any normal democratic-based constitution.

National Defense and Security Council: A Supreme Power

The most powerful body created by the constitution is the National Defense and Security Council (NDSC). The body is composed of 11 members with the military granted six positions, ensuring that all the important affairs of state brought to the NDSC will be under the effective control of the military.

The NDSC's four major tasks are: first, the president has to "appoint the commander-in-chief of Defense Services with the [NDSC's] proposal and approval" as stated in Section 342;

Second, if declaring a state of emergency nationwide, the president must transfer "legislative, executive and judiciary powers to the commander-in-chief," as stated in Section 417 and 418;

third, the commander-in-chief can rule the country a maximum of two years under the state of emergency, and after the period, the NDSC will exercise the three powers under the name of the president, as stated in Section 421, 427 and 431; fourth, Section 429 stipulates that the NDSC will hold the general election in accord with the provisions of the constitution within six months from the day of withdrawing the state of emergency.

In spite of the above-mentioned constitutional rights, the military generals further cemented their power with one more important clause in Section 20/f: “The Defense Services is mainly responsible for safeguarding the Constitution.”

Translation: at any time, Burma can return to total military rule if the generals believe there is a threat to the constitution.

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