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[Inter Press Service: Cracks in constitution divide Myanmar - Marwaan Macan-Markar](#)

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Myanmar's military regime is under fire for the language in a new constitution to be approved at a national referendum on May 10. The full text of the charter was made public only a month ahead of the plebiscite.

Articles that have aroused anger deal with attempts by the junta to legitimize its role as the supreme political authority in the troubled country. Such clauses make the constitution's promise of a new democratic landscape meaningless, say critics.

Article No 445 tops the list of concerns for the Burma Lawyers' Council (BLC) and groups like the US-based Global Justice Center (GJC). "No legal action shall be taken against those (either individuals or groups who are members of SLORC and SPDC) who officially carried out their duties according to their responsibilities," states this article.

The SLORC (State Law and Order Restoration Council) and the SPDC (State Peace and Development Council) are the official names the governing arm of the regime has been known by since military leaders staged a power-grabbing coup in 1988. The regime that it overthrew was itself military-based and had come to power following a 1962 coup.

"That clause is to provide immunity to the junta for all the human rights violations it has committed since 1988," says Aung Htoo, general secretary of the BLC. "The new constitution will be meaningless if the perpetrators of violence can enjoy immunity after it is approved. What is the difference for the people, who are the victims? Nothing."

It also undermines the hope of Myanmar transforming from a dictatorship to a democracy, he explained in an interview. "A constitution for a post-conflict society has to give justice and genuine national reconciliation a priority. That is what happened in South Africa. But the new constitution offers little to move Burma [Myanmar] away from its current conflicts."

On Monday, the BLC and GJC issued a statement denouncing the military regime for trying to evade "criminal prosecution" through the constitution. "There is ample evidence that the military regime has committed war crimes, crimes against humanity and potentially even genocide through forced relocations, torture, rape, enforced disappearance and extermination," they said.

Leaders of the Myanmar's ethnic communities are perturbed that the junta's much-vaunted promise to create regional assemblies through the constitution amounts to essentially toothless legislative bodies. The new charter is set to create 14 assemblies in areas that are home to the major ethnic groups, marking the first offer of political space to the non-Burmese minorities since the country gained independence from the British in 1948.

"The regional assemblies will be under the junta, which has the power to appoint a fourth of the members and the chief minister for the region," says David Taw, joint general secretary of the Ethnic Nationalities Council (ENC), an umbrella body for the seven major ethnic groups. "Most of the people would like to choose their own chief minister through a ballot."

The space for economic activity to meet the needs of the ethnic communities is also restrained, Taw added in an interview. "The local people will not be able to pursue their economic activity freely. It is a setback to our hope of achieving a federal system of government."

The unresolved question of genuine political representation for Myanmar's ethnic communities has dogged the country since independence, resulting in bloody separatist conflicts that have lasted over six decades. "The attempt to adopt a constitution to lengthen the military dictatorship will [create] more problems," the ENC declared in a recent statement. "It will also lengthen the 60-year-long civil war caused by breaching the self-determination rights of the ethnic nationalities."

The current constitution has been 15 years in the making. Some say the delay was created by the junta to stall the country's democratic parties, led by detained Aung San Suu Kyi, in claiming a stake in running the country. The junta refused to recognize the outcome of a parliamentary election in 1990, which Suu Kyi's National League for Democracy (NLD) won in a landslide. Instead, the military created a national convention soon after to draft a new constitution.

The current charter is Myanmar's third, following the 1947 document, which was drafted by the country's resistance fighters

ahead of independence from British colonialism, and the 1974 document, which was shaped by the military dictator at the time, General Ne Win.

The second constitution, which established a one-party state to promote a socialist agenda, was torn up in 1988 by the current military regime. Consequently, the SLORC and SPDC governed without constitutional authority and were seen as lacking political legitimacy by a domestic and a growing international constituency.

The only advance the new constitution has made over the 1974 document is its promise to create a multi-party democracy. But the prospect of such inclusive features has been undermined by the junta's move to limit the drafting of the charter to military-appointed delegates and its harsh restrictions on public discussion of the document.

"The military has made sure that any amendments to the constitution introduced by political parties in the future will be harder to be approved," says Aung Naing Oo, an independent Myanmar political analyst living in exile in Thailand. "The conflict in the country will go on without the prospect of change and improvement."

The likelihood of the constitution adding to the political fires already burning in Myanmar arises from the deep divisions that plague the country. "Burma is a different country today than it was in 1974. When the constitution was passed then, we were not so divided," Aung Naing Oo added. "Now it is different, and now the entire world is also watching."

The junta, for its part, appears confident that it has drafted the best constitution for Myanmar. "Approving the constitution is the responsibility of all citizens in the country. All who support our national interests must vote in favor," declared the page-one headline of a state-run newspaper on the week the referendum campaign was officially launched.

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