



Another Piece of the Democratic Puzzle

Reform of the Administrative Structure of Myanmar Essential

INTRODUCTION

Under the leadership of Daw Aung San Suu Kyi and the mantra of ‘change’, the National League for Democracy (NLD) won an overwhelming victory in Myanmar’s 2015 general elections. This display of popular support for the NLD shows that people of Myanmar are fully invested in progressing towards a true democratic transition. A huge challenge for the NLD-led Government, however, is the process of dismantling the enormous influence of the Myanmar Army over the country’s governance structure and institutions including the day-to-day administration of the country that runs right down to village level through the ubiquitous, General Administration Department (GAD). As such, this briefing paper provides an overview of the GAD, along with an analysis into why wresting control of the administrative body from the Myanmar Army is essential for the future of the country.

Despite the much-lauded political reforms and the narrative of democratic transition, the Myanmar Army still enjoys firmly entrenched political, economic and administrative power. Most notably, the 2008 Constitution guarantees serving military personnel 25% representation in the country’s national parliament as well as subnational, region and state parliaments.¹ As amending the constitution requires over 75% support from parliament, the military has a de-facto veto that prohibits any attempt to counter their power through constitutional change. Further, the 2008 Constitution provides the military with control over key ministries, including Defence, Home Affairs (MoHA), and Border Affairs.

¹ Constitution of the Republic of the Union of Myanmar (2008).



Police vans bring detained student prisoners from the district prison to the courthouse

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One of the most pervasive elements of military influence comes in the form of the GAD. Organized under the umbrella of the MoHA, the GAD centralizes administration and governance of the country. It has significant power over the subnational, state and region parliaments, district and township level bodies, and also plays a major role in administration of the village tract level.² As the MoHA falls under the leadership of a military-appointed Minister, the GAD is ultimately accountable to the Myanmar Army.³

The Myanmar Army's unelected control over the GAD falls outside the responsibility that is typical for a military operating under a truly democratic government. The wide-sweeping administrative functions of the GAD, which affect the country at every level of governance, must be placed under civilian control if the NLD is to further its democratic transition.

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What is the General Administration Department?

The GAD was first established in 1972 under the General Ne Win regime and its current configuration came into effect after the military coup in 1988, after which the military-led State Law and Order Restoration Council (SLORC) engaged in a massive reform of Myanmar's administrative systems.⁴ Following the trend of centralized administration under Ne Win's military regime, after 1988 the GAD sought to provide administrative leadership through "Law and Order Restoration Councils," enacted at every level of government and typically led by members of the military.⁵ According to the GAD, the four core objectives of the institution involve maintaining the rule of law and community peace and tranquility, along with regional development and serving the public interest.⁶


² Hamish Nixon, Cindy Joelene, Kyi Pyar Chit Saw, Thet Aung Lynn, and Matthew Arnold, "State and Region Governments in Myanmar," *The Asia Foundation and Myanmar Development Resource Institute - Centre for Economic and Social Development*, September 2013. <https://asiafoundation.org/resources/pdfs/State-andRegionGovernmentsinMyanmarCESDTAF.PDF> (accessed 13 December, 2016).

³ Ibid.

⁴ Kyi Pyar Chit Saw and Matthew Arnold. "Administering the State in Myanmar; An Overview of the General Administration Department," *The Asia Foundation and Myanmar Development Resource Institute - Centre for Economic and Social Development*, October, 2014. <https://asiafoundation.org/resources/pdfs/GADEnglish.pdf> (accessed 13 December, 2016).

⁵ Nixon et al, "State and Region Governments."

⁶ GAD Objective and Motto, GAD, <http://www.gad.gov.mm/en/objective-and-motto> (accessed 6 January, 2017)



Army soldiers carry weapons as they walk to the earthquake struck area in Tarlay, Myanmar March 28, 2011.

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The GAD is also heavily involved in matters pertaining to a state or regional government's financial management and revenue collection

Through its public administration functions, the GAD supports government security initiatives and acts as a conduit for government surveillance and intelligence on local or regional population movements, security incidents and other relevant data.⁷ As a single department, the GAD serves as a direct link between the government and subnational governments, along with assuming direct control over the “basic units” of Myanmar’s administrative structure – townships and districts.⁸

In the GAD’s traditional role, seven centralized divisions at the Union level direct the administrative functions of Myanmar’s districts and townships, while providing supervision across over 16,700 administrative offices at the village tract and ward level. Chief among these functions are land administration, tax collection, rural development, and the formation and registration of organizations and associations.⁹

The GAD also provides administrative backing for the chief minister of the state/region governments, along with support for the state/region parliament.¹⁰ Given the dependence of the state/region parliaments and the chief ministers on the GAD for administrative needs, the GAD is

⁷ Chit Saw and Arnold, “Administering the State in Myanmar.”

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

able to provide influence and oversight on such responsibilities as state/region economic policy and the direction of draft legislation.¹¹ The GAD is also heavily involved in matters pertaining to a state or regional government's financial management and revenue collection.

Finally, the GAD maintains a presence in the intermediary between state/region governments and the township level – that of district administration. The primary role of the GAD here is facilitating communication and synchronization between the state/region governments and the township level.¹² The GAD is also responsible for administrative functions for the capital, Naypyidaw.

A Push for Reform

The GAD maintains a powerful and thoroughly sweeping presence through Myanmar's civil service at every level of administration and governance. The fact that the GAD is accountable only to the Myanmar Army – and not parliament or the people of the country – is problematic in the context of democratic transition. For instance, at the state/region level, the highest-ranking position of the GAD office, despite technically acting under the central government appointed Chief Minister, on a practical level still maintains significant authority and autonomy over the operations of this level of government.¹³ Furthermore, administrators at the district and township level are all GAD officers.¹⁴ Elected

administrators can only be found at the village tract or ward level, though the GAD is able to exert influence in the formation of a Supervisory Board for these local elections. This is stipulated in the 2012 Ward or Village Administration Law as GAD-appointed Township Administrators organize the selection of the Supervisory Board.¹⁵ Civil society organizations in Myanmar have been advocating to amend this legislation, pushing for more local and democratic governance.¹⁶

One of the most immediate victims of this rigid accountability to the military is ethnic equality and self-determination, which are critical to a sustainable and lasting end to Myanmar's protracted armed conflicts.¹⁷ The centralization of power under the GAD in the hands of the military is not conducive to increasing political participation and dialogue among the country's diverse ethnic nationalities. Federalism, and greater power sharing among ethnic nationalities, particularly at the state/region and township level, is long sought after by ethnic political parties, EAOs, and ethnic civil society in the context of the peace process.¹⁸ Thus, reform

**Gen. Ko Ko, has been accused
of committing war crimes
and crimes against humanity
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¹¹ Ibid.

¹² Ibid.

¹³ Nixon et al, "State and Region Governments."

¹⁴ Ibid.

¹⁵ The Ward or Village Tract Administration Law, Chapter IV. Available at <http://www.altsean.org/Docs/Laws/Ward%20or%20Village-tract%20Administration%20Law.pdf> (accessed 13 December, 2016).

¹⁶ Sanay Lin, "Coalition Targets 'Undemocratic' Laws on Local Governance," *The Irrawaddy*, 9 December, 2014. <http://www.irrawaddy.com/news/burma/coalition-targets-undemocratic-laws-local-governance.html> (Accessed 3 January, 2016)

¹⁷ "Elections for Ethnic Equality? A Snapshot of Ethnic Perspectives on the 2015 Elections," *Burma Partnership*, 9 October, 2015.

<http://www.burmapartnership.org/2015/10/elections-for-ethnic-equality-a-snapshot-of-ethnic-perspectives-on-the-2015-elections/> (accessed 13 December, 2016)

¹⁸ Vikram Nehru, "Myanmar's Military Keeps Firm Grip on Democratic Transition," *International Crisis Group*, 2 June, 2015. <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmar-s-peace-process-getting-political-dialogue> (accessed 13 December, 2016)..

and decentralization of the GAD, including local level, democratic participation in local governance and administration must be part of peace talks.

The Myanmar Army's monopoly over the country's day-to-day administration is especially troubling given its role in proliferating armed conflict. Currently, the Myanmar Army is engaged in aggressive military operations throughout Kachin State, Shan State, and Rakhine State, and has frequently committed gross violations of human rights during conflict.¹⁹ Worse still, the former Minister of Home Affairs – and therefore the highest-ranking officer over the GAD – Lt. Gen. Ko Ko, has been accused of committing war crimes and crimes against humanity in Karen State.²⁰ Allegations from Human Rights Watch that give evidence to suggest that the GAD serves as a tool for “local-level surveillance” is further proof that the Myanmar Army is more concerned with control and subjugation rather than the best interests of the local communities.²¹

In August 2016, the MoHA announced that it would begin discussions regarding the relinquishing of control over the GAD,²² just one week before Daw Aung San Suu Kyi's visit to the US and remaining economic sanctions were lifted, including those that targeted individual military personnel complicit in human rights abuses.²³ Less than a month later, the MoHA retracted this statement and no subsequent talk of reforming the GAD has



Military officers attend talks between the government, army, and representatives of ethnic armed groups over a cease fire to end insurgencies in this Jan. 12 photo in Naypyitaw, Myanmar. Copyright: Reuters File Photo

occurred since.²⁴

Despite the overwhelming need for reform of the GAD, little action has been taken since the NLD assumed power in April 2016. Daw Aung San Suu Kyi and the NLD-led government have an obligation to create a truly democratic, federal union that is based on the rule of law and the principles of the Panglong Agreement. The Myanmar Army's overarching control over the GAD runs counter this goal. The structure of the GAD needs to be reviewed by the Parliament and amended by law to be in accordance with democratic norms under civilian control. Initiating robust reform, including placing the GAD under civilian control, and decentralizing and democratizing local level governance over administration in line with the principles of federalism, will be a key benchmark that Myanmar's democratic transition is on the right track.

¹⁹ “Amnesty accuses Myanmar military of ‘crimes against humanity,’” *BBC*, 19 December, 2016. <http://www.bbc.com/news/world-asia-38362275> (accessed 16 January, 2017)

²⁰ “Legal Memorandum: War Crimes and Crimes Against Humanity in Eastern Myanmar,” *International Human Rights Clinic at Harvard Law School*, November 2014. <http://hrp.law.harvard.edu/wp-content/uploads/2014/11/2014.11.05-IHRC-Legal-Memorandum.pdf> (accessed 6 January, 2017).

²¹ David Scott Mathieson, “Burma's Military Milestone,” *Human Rights Watch*, 30 March, 2015, <https://www.hrw.org/news/2015/03/30/burmas-military-milestone> (accessed 6 January, 2017).

²² Lun Min Mang, “Home Affairs Ministry invites civilian control over departments,” *The Myanmar Times*, 30 August, 2016.

<http://www.mmtimes.com/index.php/national-news/22213-home-affairs-ministry-invites-civilian-control-over-departments.html> (accessed 13 December, 2016).

²³ “Obama to Aung San Suu Kyi: US to Lift Myanmar Sanctions,” *Al-Jazeera*, 15 September, 2016. <http://www.aljazeera.com/news/2016/09/myanmar-aung-san-suu-kyi-meet-barack-obama-160914141415214.html> (accessed 13 December, 2016).

²⁴ Mratt Kyaw Thu, “Home Affairs Ministry walks back civil service ‘reforms,’” *Frontier Myanmar*, 13 October, 2016. <http://frontiermyanmar.net/en/home-affairs-ministry-walks-back-civil-service-reforms> (accessed 13 December, 2016).

RECOMMENDATIONS:

- Amend the 2008 Constitution to remove military leadership over the Ministry of Home Affairs;
 - Reform the GAD and place under civilian control in accordance with democratic norms and decentralize in line with a federal structure of governance, thus giving historically marginalized ethnic communities autonomy in their own communities;
 - Amend the Ward or Village Tract Administration Law to decentralize governance and guarantee that Township and District Level Administrators are elected through a local-level democratic process to ensure community-led democratic participation.
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