

What is the military trying to do following the coup d'état?

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On February 1, 2021, a coup d'état took place, wherein the Myanmar military known as *Tatmadaw* overthrew the democratically elected government of the National League for Democracy (NLD). At the time that this article was written ([February 14](#)), two weeks after the coup, large-scale protests were being held in cities across the country, and the situation is highly unstable. The reasons for the coup are still unclear. Various [analyses](#) have been made, but I will not touch on the issue directly (see also Toshihiro Kudo's [discussion](#) in this special issue). In this article, I would like to look back at the sequence of events following the coup, focusing on the movements of the military factions, and present a tentative interpretation of what the military is trying to do.

Justifying the Coup and Emphasizing Compliance with the Constitution

Before dawn on February 1, the day on which the third *Pyidaungsu Hluttaw* (Assembly of the Union) was due to sit for the first time, the military detained more than 100 people, including State Counselor Aung San Suu Kyi (below referred to as Suu Kyi), President Win Myint, government ministers, heads of local governments, and opposition activists. Immediately after this, Vice President Myint Swe, now under the title of “acting President,” [convened the National Defense and Security Council](#)ⁱ and issued a state of emergency with a one-year deadline, transferring the executive, legislative, and judicial

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branches to Min Aung Hlaing, Commander-in-Chief of Defense Services.

The military, led by Min Aung Hlaing, claims that this sequence of events is legal (and therefore not a coup) in accordance with the Constitution, and stresses its compliance with the Constitution and the law in every aspect following its usurpation of power. The military's stance in this regard is noteworthy, given that the 1962 and 1988 coups implemented by the military abolished or suspended the existing Constitution. Although the military's claims are unreasonable, it is possible to trace their rationale as follows. (1) When the military investigated the electoral roll for the November 2020 general election, there was a possibility of incomplete or fraudulent entries relating to more than 10 million votes; (2) The military made various appeals to the relevant authorities to resolve this issue and requested postponement of the new session of parliament; (3) Suu Kyi's attempt to convene a new parliament and establish a new government, despite these issues, constitutes grounds for calling a state of emergency in that it amounts to "acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means" (Article 417 of the Constitution); (4) Therefore, the military had no option but to declare a state of emergency based on the Constitution and take over the responsibility of managing state affairs.

There are many problematic aspects to this line of argument. For example, with regard to the first point, while it may be true that there were issues with the electoral process to a certain extent, it is doubtful that the number of invalid or fraudulent votes would be as high as 10 million. The legitimacy of the election results was acknowledged by domestic and foreign election monitoring organizations and accepted by the majority of the population. Regarding the third point, even if election fraud had taken place, it is doubtful that this alone would meet the requirements for a state of emergency. The phrase "wrongful forcible means" (*adhamma nyi* in Burmese) in Article 417 of the Constitution appears to be primarily and specifically intended to refer to means involving direct force such as insurgencies and riots. Furthermore, the fourth point is the aspect of the military's actions that appears the most difficult to legally justify. According to the procedures stipulated in Articles 417 and 418 of the Constitution, after the president has coordinated with the National Defense and Security Council, the president should declare a state of emergency and delegate the three powers to the Commander-in-Chief of Defense Services. The subject of the sentence is unambiguously the president. However, in the situation we are currently discussing, the military detained the president and other key figures at its own discretion prior to implementing the procedure detailed in this provision.

The military has thus far given no clear explanation regarding the last point, but

immediately after the coup, it cited the basic national principles of Article 6 of the Constitution. This Article states that the state's "consistent objectives" are to maintain the unity of the state and its people, allow a genuine and disciplined multi-party democratic system to flourish, and enable the military to play a national political leadership role. A broad interpretation of this Article may lead to an understanding that when the government or parliament is in such a state of dysfunction as to allow "wrongful means," the military is responsible for taking the "national political leadership role," even if it must act independently to do so. However, an interpretation of the Constitution that enables the military to arbitrarily determine what is "wrongful" (*adhamma*) and assume full control would undermine the legitimacy and validity of the Constitution.

Perhaps the military does not see any contradiction in asserting its constitutional compliance on one hand and its moral responsibility to lead politics on the otherⁱⁱ. However, the more the military emphasizes compliance with the Constitution, the more it appears to fall into the dilemma of undermining the legitimacy of the Constitution itself. The current 2008 Constitution was itself written based on the Roadmap to Democracy prepared by the previous military junta (1988–2011), and it incorporates a number of mechanisms that enable the military to remain involved in national affairs even after the transition of power. The NLD, led by Suu Kyi, initially refused to recognize the Constitution but provisionally accepted it during Thein Sein's administration (2011–2016) and chose to participate in politics within the framework of the 2008 Constitution. Over the last five years after the NLD came to power, Myanmar's politics have developed on the basis of a highly fragile relationship of trust between Min Aung Hlaing (with other key figures in the military) and Suu Kyi (with the NLD), which was tied to the Constitution. In this way, the coup can be considered the result of a total breakdown in this relationship of trust. Now that the military has played the wildcard of a "legal" coup, the 2008 Constitution will possibly no longer serve as a starting point for resuming dialogue between the two sides.

Re-running the General Election

It is perhaps unsurprising that the military, having carried out a coup on the basis of allegations of electoral fraud in the previous year, established a primary goal of re-running the general election after it had seized power. The military stated that it would "hold a free and fair general election after all efforts in accordance with the provisions on the

state of emergency have been completed and transfer the responsibility for managing national affairs to the party that wins the election.” The Constitution stipulates that a state of emergency can be extended by up to one year and that a general election must be held within six months after a state of emergency is lifted. Nevertheless, it is unclear what sort of time schedule the military envisioned for its exit strategy when it implemented the coup. Did it intend to lift the state of emergency and hold a general election within the first year? Or did it intend to extend the state of emergency to the maximum and hold the election within two and a half years? Or perhaps it envisioned a completely different scenario. In any case, as protests become ever more widespread following the coup, future developments are increasingly uncertain.

What is clear from the actions of the military so far is the intention to eliminate Suu Kyi and the NLD. After the coup, the security authorities raided NLD offices across the country. On February 3, the authorities indicted Suu Kyi and Win Myint, who had been placed in detention, and justified extending their detention until February 15. Suu Kyi is accused of violating the Import and Export Law for illegally importing and using portable communication devices; Win Myint is accused of violating anti-coronavirus measures. Both of these are minor offenses that are not in proportion to the scale of the overall situation in progress. Others who were detained have been gradually released, but starting February 7, when it became evident that street protests were becoming more widespread, members of the NLD administration and key party figures began to be detained again.

As a first step toward re-running the general election, the military had formed a new Election Commission as early as February 2. Thein Soe, who was elected Chairman of the Election Commission, had served in the same role during the 2010 general election. The 2010 general election, which was held under the former military junta, was the first general election to be held based on the 2008 Constitution. That election was neither free nor fair due to various underhand tactics employed by the military junta, and influential political parties such as the NLD boycotted it. Consequently, the military-backed Union Solidarity and Development Party (USDP) won, which led to the inauguration of the Thein Sein administration the following year. If we return to the present, when Min Aung Hlaing announces that a general election will be held in the near future, it is highly likely that he is envisioning that it will be modeled on the 2010 general election.

Constructing a Junta

While establishing a general election as a future goal, the military will also emphasize on addressing various issues during the current state of emergency. The main issues are implementing measures to deal with the coronavirus, reviving an economy damaged by the epidemic and finding a resolution to the civil war, which is a long-standing point of concern. On the proviso of working to address these issues, Min Aung Hlaing announced a string of appointments to key positions at state institutions following the coup.

He started by appointing government “ministers” to fill the gaps left when the NLD administration’s ministers were detained on February 1 (Table 1). This act can be considered the realization of the *fait accompli* that was the dismissal of the NLD ministers (the dismissal of deputy ministers was officially announced after the coup, but when the state of emergency was declared, no statement was made regarding whether ministers would be automatically dismissed on this basis). There are many familiar faces among the “ministers” appointed by the military, many of whom are either former ministers of the USDP administration who have been summoned back or parliamentary undersecretaries of the NLD administration who have been promoted. These appointments appear to prioritize those with work experience to facilitate the smooth operation of government.

Some of the most eye-catching ministerial appointments are cases where active military personnel have been newly appointed to a post. The Constitution stipulates that active military personnel are to be appointed as the Minister of Home Affairs, Minister of Defense, and Minister of Border Affairs. However, in this recent spate of appointments, military personnel have also been appointed as the Minister of Union Government Office and Minister of Transport and Communications. The Minister of Union Government Office is Lieutenant General Soe Htut, who is also the Minister of Home Affairs, and the only minister who has remained in government from the NLD administration. This is significant because the General Administration Department, which is an important department that has jurisdiction over local governments, was formerly under the umbrella of the military-controlled Ministry of Home Affairs. However, the NLD administration newly established the Ministry of Union Government Office and transferred the General Administration Department to that ministry, which was governed by civilian ministers. Therefore, the appointment of Lieutenant General Soe Htut as the “Minister of Union Government Office” means that the reforms to local government promoted by the NLD administration are being rolled back. In addition, Admiral Tin Aung San, who was the

Commander-in-Chief of the Navy, took office as the “Minister of Transport and Communications” without retiring from his military position. This is possibly an attempt to strengthen the military’s intervention in administration related to telecommunications. Since the coup, the Ministry of Transport and Communications has indeed made repeated demands to network providers to restrict user access to social media channels and data networks. There have also been [reports](#) that cyber-security bills that would require network providers to provide personal user information to the military are being created.

Table 1: Appointments of government “ministers” by the military junta

No.	Position	Name	Date of Appointment	History
1	Minister of Foreign Affairs	U Wunna Maung Lwin	1 February	Minister of Foreign Affairs under the USDP administration; former military personnel.
2	Minister of Home Affairs & Minister of Union Government Office	Lt.-Gen. Soe Htut	1 February	Continues as Minister of Home Affairs, newly appointed as Minister of Union Government Office. Active military personnel (Lieutenant General).
3	Minister of Defense	General Mya Tun Oo	1 February	Active military personnel (General), previously Joint Chief of Staff.
4	Minister of Border Affairs	Lt.-Gen. Tun Tun Naung	1 February	Active military personnel (Lieutenant General), previously Head of First Bureau of Special Operations.
5	Minister of Planning, Finance and Industry	U Win Shein	1 February	Minister of Finance under the USDP administration; Chairman of the Myanmar Investment Commission; former military personnel.
6	Minister of Investment and Foreign Economic Relations	U Aung Naing Oo	1 February	Promoted from Permanent Secretary of the Ministry; former military personnel.
7	Minister of International Cooperation	U Ko Ko Hlaing	1 February	Chief Political Advisor to the President under the USDP administration; former military personnel.
8	Minister of Information	U Chit Naing	1 February	Worked at the Ministry of Information under the military junta; former military personnel.
9	Minister of Religious Affairs and Culture	U Ko Ko	1 February	No further details.
10	Minister of Labor, Immigration and Population	U Myint Kyaing	1 February	Promoted from Permanent Secretary of the Ministry.
11	Minister of Health and Sports	Dr. Thet Khaing Win	1 February	Promoted from Permanent Secretary of the Ministry.
12	Minister of Natural Resources and Environmental Conservation	U Khin Maung Yee	2 February	Promoted from Permanent Secretary of the Ministry.
13	Minister of Construction	U Shwe Lay	2 February	Promoted from Permanent Secretary of the Ministry.
14	Minister of Agriculture, Livestock and Irrigation	U Tin Htut Oo	3 February	Director General of Department of Agricultural Planning under the military junta; Chairman of the National Economic and Social Advisory Council under the USDP administration.
15	Minister of Transport and Communications	Admiral Tin Aung San	3 February	Active military personnel (Admiral), previously Commander-in-Chief of the Myanmar Navy.
16	Minister of Commerce	Dr. Pwint San	3 February	Vice Minister of Commerce under the USDP administration.
17	Minister of Ethnic Affairs	U Saw Tun Aung Myint	3 February	Leader of the Kayin People’s Party.
18	Minister of Social Welfare, Relief and Resettlement	Dr. Thet Thet Khine	4 February	Leader of the People’s Pioneer Party.
19	Minister of Hotels and Tourism	U Maung Maung Ohn	7 February	No further details.
20	Minister of Electricity and Energy	U Aung Than Oo	8 February	Vice Minister of Electricity and Energy under the USDP administration.

Note: The numbers indicate the order in which the appointments were announced. Of the ministerial posts that existed during the National League for Democracy administration, only the appointment of the Minister of Education has not yet been confirmed (as of February 13).

Sources: Created based the official website of the Commander-in-Chief of Defense Services and various media reports.

While appointing “ministers” to oversee the operations of each ministry, Commander-in-Chief Min Aung Hlaing also established the State Administration Council (SAC) as the chief governing body (Table 2). Sixteen members were appointed on February 2 and 3, of whom eight are military personnel and eight are civilians. The SAC, according to

their particular legal interpretation, should control all aspects of the executive, legislative, and judicial branches of government and therefore be not only above the cabinet but also able to enact laws. In local government, administrative councils are organized at each level of administrative division (states, districts, townships, etc.) and form the framework for governance by the new military junta. Creating an organization (generally named as some sort of “Council”; e.g., the Union Revolutionary Council of 1962, or the State Peace and Development Council of 1988) in initiating a military junta following a coup can be seen as a common practice of the *Tatmadaw*. In the past, this chief governing body always consisted only of high-ranking military officers. However, this time, it is different in that half of the members are civilians. The civilian members include two politicians who were formerly members of the NLD but broke away after participating in the 2010 general election and six members from ethnic minorities. Min Aung Hlaing stated in a [message](#) to citizens on February 8 that the military administration was “different from the regimes when the military took on responsibility [for managing state affairs] in 1962 and 1988.” The appointments to the SAC, which include civilians and appear to be made with a mind toward diversity, comprise part of the military’s strategy in persuading citizens and onlookers that it is different from previous military juntas. However, the extent to which the civilian members of the Council will be able to participate in the policymaking process remains doubtful.

Table 2: Members of the State Administration Council

No.	Position	Name	Date of Appointment	Position/History
1	Chairman	Senior General Min Aung Hlaing	2 February	Commander-in-Chief of Defense Services.*
2	Vice-Chairman	Vice-Senior General Soe Win	2 February	Deputy Commander-in-Chief of Defense Services and Commander-in-Chief of the Myanmar Army.*
3	Member	General Mya Tun Oo	2 February	Active military personnel (General), previously Joint Chief of Staff.*
4	Member	Admiral Tin Aung San	2 February	Commander-in-Chief of the Myanmar Navy; appointed (without retiring from the military) as Minister of Transport and Communications on February 3.*
5	Member	General Maung Maung Kyaw	2 February	Commander-in-Chief of the Myanmar Air Force.*
6	Member	Lt.-Gen. Moe Myint Tun	2 February	Head of Second Bureau of Special Operations.*
7	Member	Phadoh Mahn Nyein Maung	2 February	Leader of the Kayin People's Party; former executive of the Karen National Union (resigned 2020).
8	Member	U Thein Nyunt	2 February	Leader of the New National Democratic Party; former member of the National League for Democracy (NLD); former member of the House of Representatives (2011–2016).
9	Member	U Khin Maung Swe	2 February	Leader of the National Democratic Force; former member of NLD.
10	Secretary	Lt.-Gen. Aung Lin Dway	2 February	Secretary of the Peace Talks Committee.*
11	Joint Secretary	Lt.-Gen. Ye Win Oo	2 February	Secretary of the Peace Preservation Department.*
12	Member	Daw Aye Nu Sein	3 February	Spokesperson for the Arakan National Party.
13	Member	Jeng Phang Naw Taung	3 February	Member of the Kachin ethnic group? No further details.
14	Member	U Mounq Har	3 February	Member of the Chin ethnic group; former manager of the Myanmar Economic Bank (retired).
15	Member	U Sai Lone Saing	3 February	Member of the Union Solidarity and Development Party; Speaker of the Shan State Council (2011–2020).
16	Member	Saw Daniel	3 February	Deputy Leader of the Kayah State Democratic Party; dismissed from the party on February 4.

Note: Those marked with an asterisk are military personnel.

Sources: The same as Table 1.

Efforts toward Ceasefires and Peace

Under circumstances that will make it difficult to achieve short-term dramatic results in controlling the pandemic and reviving the economy, there is a sense in which the military is hoping that progress toward a ceasefire and peace will contribute to the justification of the military junta. Right after the general election in November last year, the military organized a Peace Talks Committee comprising five high-ranking military officers, demonstrating that it was willing to actively engage with the issue of a ceasefire and peace. Immediately after the coup, the military issued a “[Statement on Ceasefire and Eternal Peace](#),” and the committee was expanded to seven members. The appointment of six ethnic minority figures to the SAC can also be understood as an appeal to ethnic

minorities. However, the civil war in Myanmar has spanned over half a century and is highly complex in its structure; it is therefore naturally impossible to resolve all the issues in a single leap. Additionally, given that the civil war played a fundamental role in justifying the political involvement of the armed forces, it is unclear how sincerely the military wishes to achieve “eternal peace.” Perhaps the military intends to focus on the conflict in Rakhine State, which has been the biggest problem in recent years, and attempt to make some progress there.

Before moving on, I would like to briefly summarize the situation with regard to the civil war over the last 10 years. There are approximately 20 major ethnic armed organizations (EAOs) in the country, each with its own financial resources, administrative structures, and militias. The strongest of these groups form highly autonomous quasi-state territories. During the previous military junta, the *Tatmadaw* negotiated one-on-one with each militia group and signed ceasefire agreements with several of them, but switched to a policy of seeking a simultaneous ceasefire with all such groups during the Thein Sein administration. Although the Nationwide Ceasefire Agreement (NCA) was signed in October 2015 toward the end of that administration, the EAOs that ultimately signed the agreement were limited to eight organizations predominantly based in the eastern area near the Thai border, while particularly powerful organizations based in the northern and northeastern regions near the Chinese border did not sign the agreement.

The Suu Kyi administration followed the policy of the previous administration and promoted political dialogue with the signatory EAOs and sought to draw in new signatories from EAOs that had previously not participated in the agreement. However, none of these efforts yielded productive results, partly because of lack of coordination with the *Tatmadaw*. Two powerful signatory groups, the Karen National Union (KNU) and the Restoration Council of Shan State (RCSS), have since temporarily suspended their participation in the peace process. Conflict with some non-signatory EAOs continued, notably with the Arakan Army (AA), which stepped up its activities in Rakhine State. As a result, the conflict between the *Tatmadaw* and the AA in Rakhine and Chin States intensified at the end of 2018. In March 2020, the NLD government designated the AA as a terrorist group, and subsequently, the military has consistently excluded areas of AA activity when declaring a unilateral ceasefire on a nationwide scale.

However, looking at the most recent movements from around the end of 2020, it seems that the *Tatmadaw* seek a ceasefire with the AA even as tension with signatory EAOs such as the KNU has increased. In Kayin State, the KNU has been frustrated for several years by the fact that the *Tatmadaw* have been constructing roads within KNU-controlled areas.

After December 1, 2020, when the KNU issued a statement denouncing the *Tatmadaw*, the tension escalated and led to several armed clashes. Further, the *Tatmadaw* increased its presence in the region in the same month to place pressure on the [Kayin State Border Guard Force](#) (BGF), whose illegal development projects within their stronghold areas have increasingly drawn attention from domestic and international observersⁱⁱⁱ. This further increased opposition from the KNU. Following the coup, signatory EAOs such as the KNU and RCSS were among the first to issue statements criticizing the military takeover of the government, while EAOs who had not signed the NCA remained silent, adopting a wait-and-see approach. The new military junta has appointed Phadoh Mahn Nyein Maung, an ex-member of the KNU's central executive committee, to the SAC. However, the KNU retains its critical stance toward the new military junta, explaining that Nyein Maung had already left the KNU in July 2020 to run for the general election that year for the Kayin People's Party and that, therefore, his entry into the council was not related to the KNU.

At the same time, the conflict with the AA in Rakhine State has been gaining [momentum toward a ceasefire](#) since the end of the year. This shift was triggered when the November general elections were not held in several constituencies in the northern part of the state because of the civil war. The decision to cancel the elections led to increased civil unrest, as these constituencies comprise a large section of the votes for the local Arakan National Party (ANP) and the NLD was unlikely to win seats there. In late 2020, with mediation from Japan, the *Tatmadaw* and the AA came to a de facto ceasefire to hold supplementary elections in these constituencies as soon as possible. However, the situation reached an impasse as the Suu Kyi administration was reluctant to hold supplementary elections immediately.

Under these circumstances, when the military instigated the coup, ANP spokesperson Aye Nu Sein was appointed as a member of the SAC. As a party, the ANP approved Aye Nu Sein's entry into the council and announced that it will cooperate with the new military junta due to its dissatisfaction with the NLD administration. The new military junta sought to win over the people of Rakhine in various other ways. First, in contrast to the increasing level of control over communication networks nationwide, on February 2, mobile data connections were restored in Rakhine State for the first time in about a year and a half, after having been cut off during the conflict. More than 20,000 prisoners were released by the military for Union Day on February 12, including prominent Rakhine politician Aye Maung (former leader of the ANP, now leader of the Arakan Front Party) who received a long-term sentence for treason. Future developments appear likely in this

regard, such as the conclusion of a bilateral ceasefire agreement with the AA and an announcement that elections will be held throughout Rakhine State in the next general election. However, despite these measures, there has also been strong opposition to the coup in Rakhine, and the ANP is drawing criticism for announcing its cooperation with the military junta.

Suppression of Protests

While the military is pushing to justify the coup and render the new military junta a *fait accompli*, many citizens are expressing their opposition openly. Initial expressions of dissent were restrained, comprising people banging pots and pans at home and elsewhere. However, by the first weekend following the coup, mass protests were spreading throughout the streets. The Civil Disobedience Movement, which began with medical workers, also led to a widespread boycott throughout the public sector. The military applied Article 144 of the Penal Code in various areas, stepping up its suppression of protest by imposing a ban on gatherings of five or more people in public places and a ban on going out at night (8 pm to 4 am). The military also dispersed protests by firing rubber bullets at protesters (some of them are reported to have been [live rounds](#)) and using water cannons and has been seeking to quash the Civil Disobedience Movement by carrying out night-time arrests of public sector workers in their homes for failing to carry out their official duties.

The world is watching, and Suu Kyi's detention on suspicion of violating the Export and Import Law will expire on February 15. The future is ever more uncertain, and it will be extremely difficult to find a compromise between the military and protesting citizens. Nonetheless, the people have justice on their side. ■

Notes

ⁱ The Constitution stipulates that the Defense and Security Council comprise 11 members: the President and two Vice Presidents, the Minister for Foreign Affairs, the Minister of Home Affairs, the Minister of Defense, the Minister of Border Affairs, the Speakers of both houses of the Assembly of the Union, and the Commander-in-Chief and Deputy Commander of the Defense Services. The ministerial posts of home affairs, defense, and border affairs are always filled by active military personnel; one of the Vice Presidents is selected by a group of military members in both houses of parliament. Therefore, the majority of the National Defense and Security Council comprise military personnel or close associates thereof. The National Defense and Security Council held on February 1

was convened by “acting President” Myint Swe (a Vice President with a military background, selected by military personnel under the NLD administration). All six members other than Myint Swe were active military personnel (comprising the Commander-in-Chief and Deputy Commander of the Defense Services; the Ministers of Home Affairs, Defense, and Border Affairs; and a Lieutenant General whose details are unknown).

ⁱⁱ Refer to [an analysis by Nick Cheesman](#), a Myanmar researcher at Australian National University. Cheesman identifies an attitude toward ethics that is essentially grounded in following rules but allows some individuals (those who think of themselves as having a moral responsibility to make people obey the law) to deviate from the law to make ordinary people obey the law in anomic moments (as determined by the former individuals). Cheesman refers to this attitude as “post-legalism” and identifies it both as the logic underlying the justification of the military coup as well as a characteristic of Myanmar politics more broadly in recent years.

ⁱⁱⁱ The BGF was previously an insurgent EAO but was incorporated into the *Tatmadaw* following a ceasefire with the latter at the end of the previous military junta. The BGF remains under the command of the *Tatmadaw* but operates with a certain degree of autonomy.

Corrected on August 18, 2021