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On 29th May, in response to a question from the Irrawaddy's Representative, the Permanent Secretary of the Defence Ministry, Brigadier General Aung Kyaw dropped a bomb shell that the Tatmadaw (the Army) is ready to obey if President U Win Myint orders a stop to the ongoing military operations in Kachin State in line with the law.

The catch phrase is perhaps "in line with the law." The Brig. General declared that the Kachins do not want to relinquish power they gained from bearing arms and that peace can be achieved only through the path of the National Cease fire Agreement. Thus he made it clear to all those including the civilian leadership that the Army's operations against Kachins will continue until they sign the Government-sponsored cease fire agreement!

There is a precedent of the President asking the Army to cease fire operations. This was in 2011 when former President U Thein Sein ordered the Army to halt attacks on the Kachins. As a result, fighting ceased, though gradually and that brought the Kachins to the negotiating table. The Generals were said to have complained that the Kachin had expanded their bases during the peace talks and that the attacks resumed. The cease fire should have taken care to prevent and monitor precisely such developments and this was not done.

The issue now is whether in a hypothetical case if President U Win Myint orders a cease-fire now in Kachin area - Will the Army obey?

President Thein Sein was an ex General and was third in the military hierarchy before he assumed the Presidentship. His words carried weight. Will the civilian leadership carry the same weight when the political role of the Army is heavily entrenched in the 2008 Constitution? Doubtful.

In an editorial, the Irrawady has posed a very sensitive question whether the President is truly above the Commander in Chief. The answer

to this question has been offered by Irrawaddy itself quoting many political observers that “there are two lions sharing a cave.” Implicit in the statement is that both are equal no matter what the law says.

The 2008 Constitution gives full rights to the Defence Services to administer its affairs independently and safe guard the three principles- namely non-disintegration of the Union, non-disintegration of national solidarity and the perpetuation of sovereignty. The Constitution also upholds the principles of safeguarding non disintegration of the Union and the perpetuation of sovereignty and therefore the issue is -will the Army follow the Constitution as perceived by them or the orders of the President? Doubtful again!

The power structure in the Constitution of 2008 is such that it is heavily loaded in favour of the Army. This is known to the civilian leadership and one can understand the frustration of Suu Kyi.

It may be recalled in taking over the Government, her priorities were ethnic reconciliation, constitutional reforms and economic empowerment in that order. With no progress in ethnic reconciliation and the Panglong Conference getting postponed indefinitely and with no possibility of constitutional reforms in the near future, the civil government had taken the right decision to focus more on economic progress that was doable.

The constraints of the civilian leadership are well known and yet one comes across frequent articles in the media criticising the leaders for being defensive and not taking a confrontationist posture vis- vis the Army. One article has even gone to the extent of describing the situation as one of “impotence” of NLD leadership!

For example, the Defence Council has not met since its formation despite many challenges the government had been facing on issues relating to the insurgency. The meeting is to be called by the President and for obvious reasons he has not chosen to discuss the peace process or the recent offensive on the Kachins by the Army through the Council is the ultimate decision making body.

Recently, a High level meeting of key National Defence and Security Council members including the President, Army Chief and State Counselor took place on June 4 to discuss the latest developments in Rakhine State. One of the issues was the acceptance of the Government on including an international member in the new Commission of Enquiry which will certainly be opposed by the Army. Though the meeting consisted of most of the Defence Council members, yet it was an informal one but not the Defence Council as such!

Out of 11 members including the President, five of them (majority) are from the Army (one Vice President, Army Chief, Dy. Army Chief, Border Affairs Minister, Home Affairs Minister and the Defence Minister) and what would happen will only be an endorsement of what the Army is doing in Kachin area or in Rakhine State. The President has therefore been wary of calling for the Defence Council Meeting which he alone can do.

In an earlier paper 6380 of 23rd May, I had discussed how the Peace Process is in ruins and who is responsible for this state of affairs? But what is seen now is that fighting is not restricted to Kachin area alone. There have been clashes between the Army and the KNLA. The Army's relationship has not been good either with the Chinese supported Wa group or the Mongla Group. How could one explain clashes with those who have signed the National Cease fire agreement or between those who had signed the agreement?

It is said that the Armed groups had an informal meeting with the military and government representatives in Naypyitaw on May 18 for preliminary talks. The groups came away from the meeting with the impression that the military was still determined to defeat them in the battle and had no interest in accommodating them in a federal system.

The seven party alliance which holds the bulk of the armed insurgents and who have the active support of China is seen to be proposing a different narrative for the cease fire process and not the Government sponsored-Army supported National Cease-fire Agreement thus throwing the entire peace process into a spin. A Cease-fire without pre conditions should be possible.

It is said that the Chinese officials held two closed door meetings with their Myanmar counterparts in Yangon on May 29 and 30. It is not clear what the Chinese had advised but surely a cease-fire without preconditions and without a commitment of either for or against the National Cease-fire Agreement is workable.

To conclude:

* The Army's dominance is well entrenched in the 2008 Constitution and the Civil Leadership has many constraints in dealing with security issues like the developments in Rakhine State or in the raging clashes between the insurgents and the Army on the northern and eastern border.

* The media is not being helpful in discussing such sensitive issues and egging on the civilian leadership to confront the Army.

* Luckily the Civil Government is now led by a capable President who has hands on experience in administration and is not likely to make any such hurried move. This is good for the long term interest of the country and democracy itself.

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