

Bi-Weekly
ISP INSIGHT EMAIL

ISP ကပြင်ရပ်ဝန်း

No. 20, August 4, 2023

Prolonged SAC's Rule

This week's ISP Insight Email No. 20 focuses on the **State Administration Council's (SAC) extension of its own term in office** creating a complex Catch-22 situation with the **SAC's aspiration for fresh elections**. **Prison terms for President Win Myint and Aung San Suu Kyi were partially pardoned**, yet the extent of the goodwill derived from this move remains minimal. This ISP Insight Email also discusses **the development of the 'ASEAN Minus' strategy** in dealing with the Myanmar junta. The bulletin also discusses **the possible emerging trend of new military offensives** expected after the extension of the junta's term and also briefly introduces Andrew Ong's new book on Wa, **'Stalemate: Autonomy and Insurgency on the China-Myanmar Border.'**



Photo: SAC's Ministry of Information

Henry Van Thio, who previously served as second vice-president under the National League for Democracy government, seen attending his first National Defence and Security Council (NDSC) meeting held by State Administration Council (SAC)

Key takeaways

Prolonged SAC's rule

Pardoned without freedom

The 'ASEAN Minus' approach

Trends to be watched

Risk of intensifying military operations along with the extension of SAC's term

What ISP is reading?

"Stalemate: Autonomy and Insurgency on the China-Myanmar Border"

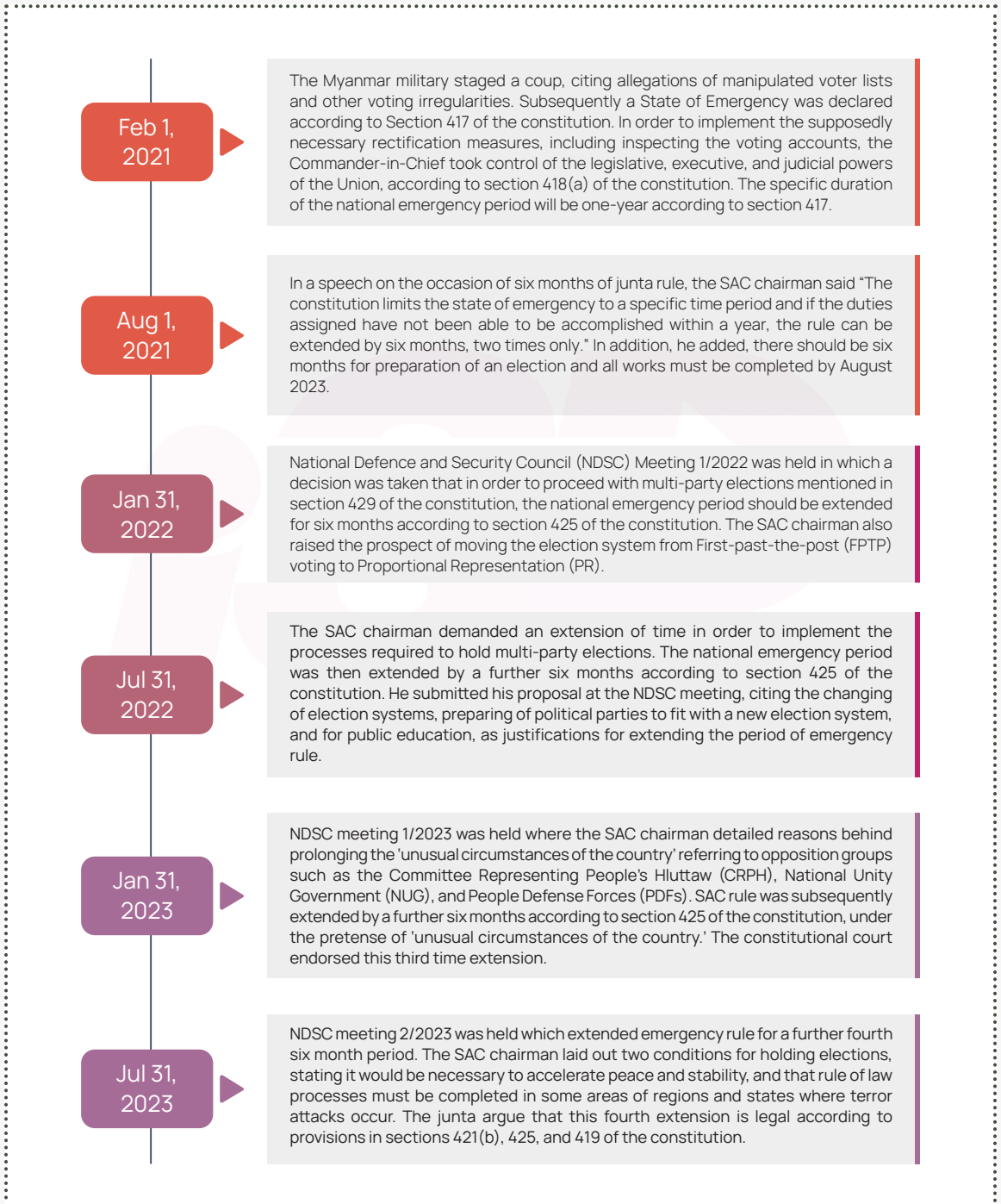
Key takeaways

1. Prolonged SAC's rule

The SAC held a National Defence and Security Council (NDSC) meeting on July 31 during which it extended its term in government by an additional six months citing the 'unusual circumstances of the country' as justification. The SAC's rationale behind this extension of the state of the emergency period was grounded in Section 42(b) and 425 of the constitution. Both sections pertain to the formal submission to extend the state of emergency, where Section 42(b) stipulates 'reasons why (the Commander-in-Chief) has not yet been able to accomplish the duties assigned to him' and where Section 425 stipulates the reasons why the 'Commander-in-Chief of the Defence Services submits the extension.' However ordinarily both the sections permit only two extensions of the prescribed duration of the state of emergency for a term of six months for each extension. The SAC has now extended its terms in government under the state of emergency for four times.

This Insight Email is published on **August 9, 2023**, as a translation of the original Burmese language version that ISP-Myanmar sent out to the ISP Gabyin members on **August 4, 2023**.

■ SAC extensions of rule since the military coup (Up to July 31, 2023).



The SAC selectively targeted the 'conditional clause' of 'unusual circumstances of the country' and has creatively interpreted it to suit its extension needs. The SAC also claims that the constitutional court has endorsed this interpretation.

Even as the SAC extends its authority, it continues to uphold the promise of an eventual election. The SAC chairman in 2021 stated that the election process would be ready by August 2023. But this timeline has clearly not been met. In the present context, the chairman of the SAC has outlined two prerequisites for holding elections. The first condition involves conducting the election process outside conflict zones, while the second is that everyone in the nation has access to participate in the nationwide election. Both situations demand a 'peaceful and stable situation with full law' and 'correct voters lists.' Achieving correct voter lists though hinges on the successful completion of the national census, yet this process has again been delayed by incidents of physical violence and intimidation. The combination of the post-coup legitimacy crisis, a lack of widespread popular support, and the stated goal to hold fresh elections is seemingly a Catch-22 situation for the SAC. The SAC has also stated that the election will be held without delay, meanwhile it has also said 'the election must not be rushed and should be prepared systematically.' The SAC has still failed to state the exact date for fresh elections. Given this situation, the people of Myanmar can only realistically expect further extensions of SAC State of Emergency rule under the pretense of 'unusual circumstances of the country.' ■

2. Pardoned without freedom

Speculation had been circulating that after the consecration of the Maravijaya Buddha stupa, the SAC might provide amnesty to political prisoners, even extending to the possibility of Aung San Suu Kyi's full release or move to house arrest. There was also speculation on the formation of an interim government in order to conduct an election. This speculation intensified particularly in light of the unexpected meeting between Thailand's Foreign Minister Don Pramudwinai and Aung San Suu Kyi.

■ Prison sentences and amnesty grants recorded against Aung San Suu Kyi since the military coup (Up to August 1, 2023)

Indictments and Reason	No. of cases	Imprisonment	Date of ruling	Update situation
Penal Code Section 505(b) Incitement to commit an offense against the State or against the public peace	1	2 years	Dec 6, 2021	Pardoned 2 years imprisonment on Dec 6, 2021.
Section 25 of the Disaster Management Law	1	2 years	Dec 6, 2021	
	1			
Section 67 of the Communication Act Section 8 of the Export/Import Law Illegally importing and possessing walkie-talkies	1	4 years	Jan 10, 2022	On Aug 1, 2023, pardoned 6 years of remaining sentence
	1			
Section 55 of the Anti-corruption Law Taking a bribe from Phyto Min Thein	1	5 years	Apr 27, 2022	Her lawyer presented arguments in court against her conviction
Section 55 of the Anti-corruption Law In regards to Daw Khin Kyi Foundation (a) Procurement of 101 acres of land in Naypyitaw (b) Procurement of 29 acres of land in Naypyitaw (c) Building a building in Naypyitaw (d) Renting a plot of land for headquarters in Yangon.	1	3 years	Aug 15, 2022	Applied a special appeal
	1			
	1			
	1	3 years		
Penal Code Section 130(a) Abuse of Power in influencing elections	1	3 years	Sep 02, 2022	Her lawyer has presented arguments in court against her conviction. The court will make a final decision in September
Official Secrets Act Section 3.1. (c)	1	3 years	Sep 29, 2022	
Section 55 of the Anti-corruption Law Taking a bribe from Maung Weik	2	3 years	Oct 12, 2022	Applied a special appeal
Section 55 of the Anti-corruption Law Renting a helicopter and procurement for it.	5	7 years	Dec 30, 2022	

On August 1, the SAC granted partial clemency to President Win Myint and Aung San Suu Kyi. This gesture though only led to the reduction of their prison terms, falling short of ensuring their full release. For Aung San Suu Kyi, the SAC reduced her prison sentence by six years, leaving 27 years still remaining as she was originally sentenced to 33 years imprisonment. For Win Myint, the SAC reduced his 12-year sentence by four years. In contrast to the previous junta's approach, the SAC's leniency appears limited. In this recent amnesty, the SAC granted freedom to 7,749 prisoners, although only a handful political prisoners were included in this group.

The recent developments surrounding Aung San Suu Kyi have sparked a wave of anticipation within Myanmar's political landscape. Her significance remains undeniable, as she continues to command people's trust. In a previous analysis on ISP OnPoint No. 16, ISP-Myanmar discussed a forecast scenario of greater freedoms being extended to Aung San Suu Kyi. These included the prospect of Aung San Suu Kyi engaging in more interactions with international delegates, a potential return to house arrest, or even her regaining freedom in the near future. The exact trajectory remains uncertain, but there is still a sense of hope. From August 7 to 11, the Union Supreme Court is set to hear appeals, a notable event that includes six appeals submitted by Aung San Suu Kyi. This legal proceeding holds significant interest and could yet have far-reaching implications. ■

3. The 'ASEAN Minus' approach

The Five-Point Consensus was agreed upon among ASEAN countries in April 2021 in order to resolve the Myanmar conflict, but has so far encountered difficulties in implementation. Notably, U.N. special envoy to Myanmar, Mrs. Noeleen Heyzer recently finished her 18-month term, stepping down without achieving any discernible success. Acknowledging that ASEAN's leadership and centrality are pivotal in shaping the region, Western nations have largely left resolution of the Myanmar crisis in ASEAN hands. Initial hopes were pinned on the potential of 'ASEAN Plus' efforts, leveraging the collaboration of regional entities including special ▶



- ▶ envoys from China, Japan, and the United Nations. However, this approach has faced practical limitations and has not fully materialized. In response, certain ASEAN nations and China have leaned towards a strategy of 'neighborhood diplomacy' aimed at managing Myanmar's challenges within the regional context. This new trend of 'Asean Minus' is thus clearly developing **(See ISP Insight Email No. 17)**.

On July 26, 2023, as reported in AP, in a meeting with the Philippines President Ferdinand Marcos Jr., Malaysia Prime Minister Anwar Ibrahim suggested that 'Southeast Asian countries should be given some latitude to engage informally with Myanmar on an individual basis to help resolve a deepening crisis there.' He added 'neighboring countries should be given "some flexibility, room and space" to engage with Myanmar on an informal basis.' This approach concretely shows the position of 'ASEAN Minus' gaining traction, despite the fact that the regional group's formal policy is still for ASEAN unity and that any Southeast Asian nation's diplomatic efforts should support the centrality of ASEAN unity, be conducted in line with the Five-Point Consensus, and in coordination with the Chair of ▶

- ▶ ASEAN. The momentum behind this 'ASEAN Minus' trend has been particularly noticeable following the independent visit of Thailand's Foreign Minister Don Pramudwinai to Myanmar.

While the 'ASEAN Plus' approach has the potential to harness the collective strength of the regional bloc, the concept of 'ASEAN Minus' could yield divergent outcomes. Under an 'ASEAN Minus' approach, individual countries could be motivated by their own interests and thus could potentially exhibit less cooperative power to pressure Myanmar towards reform. 'ASEAN Minus' could also result in a 'negative peace', merely a situation absent of fighting, but lacking any substantive peace, justice, or resolution of the Myanmar conflict **(See ISP Insight Email No. 16)**. ■

Quotes of the week

“The era of global warming has ended; the era of global boiling has arrived.”

Antonio Guterres (U.N. Secretary-General)
July 26, 2023.

“There is a question on whether we would change after Daw Aung San Suu Kyi is released. We will absolutely not change. We will follow the aspiration of the people. She also respects the will of the people”.

Mahn Win Khaing Than, NUG's Prime Minister
Excerpted from NUG-NUCC Joint meeting speech on July 31, 2023.

“It must be taken with care that voting for democracy in the election could conceivably be voting for authoritarians and terrorists”

Senior General Min Aung Hlaing

Excerpted from National Defence and Security Council meeting (2/2023) on July 31, 2023.

Trends to be watched

Risk of intensifying military operations along with the extension of SAC's term

The military junta extended its rule for another six months on July 31, 2023. One of the reasons for the extension of its rule was ostensibly in order to hold a general election. Along this pretense, SAC chairman Min Aung Hlaing stated that it is necessary to accelerate peace and stability measures, and that rule of law processes must be completed in some areas of regions and states where terror attacks still occur. When the SAC put forward its justification for the previous extension on February 1, 2023, a similar sentiment was given and at least 40 townships subsequently had martial law imposed upon them. Following the July 31 extension, it can be assumed that more townships could now have stricter rules imposed upon them.

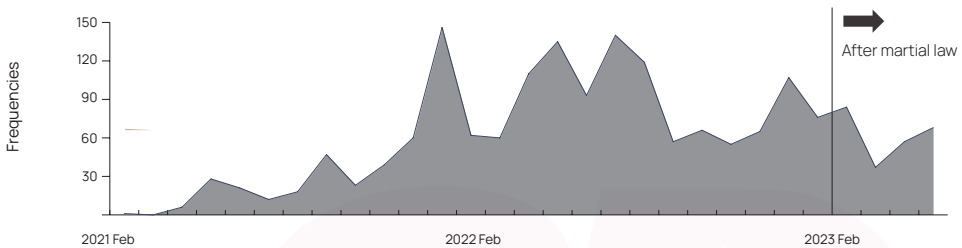
As a result of the extension of SAC rule, ISP-Myanmar would also expect an increase in military offensives against opposition forces, orchestrated in different areas. International Institute for Strategic Studies (IISS) published a conflict updated in its Myanmar Conflict Map as 'Junta tactics shift in ►

■ The situation of 40 Townships under Martial Law

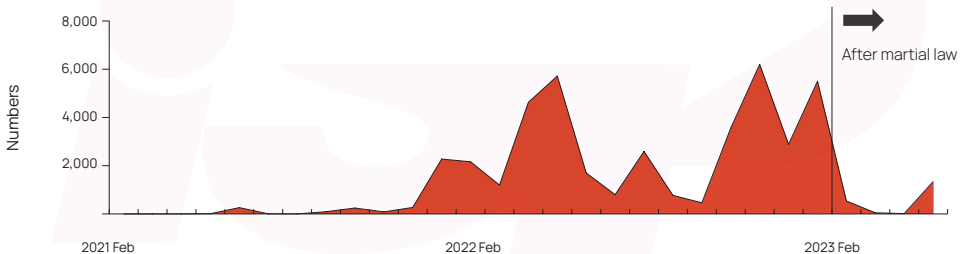
(February 2021 - June 30, 2023)

The figure display clashes, homes and buildings razed, air attacks, and internally displaced persons (IDPs) in two years periods, specifically focusing on the 40 townships that have been subjected to martial law since February 2023. Upon the imposition of martial law, the occurrences of clashes and property destruction declined from March to May, although there was a notable increase in aerial attacks targeting the opposition. However, the number of clashes and acts of arson escalated again in June.

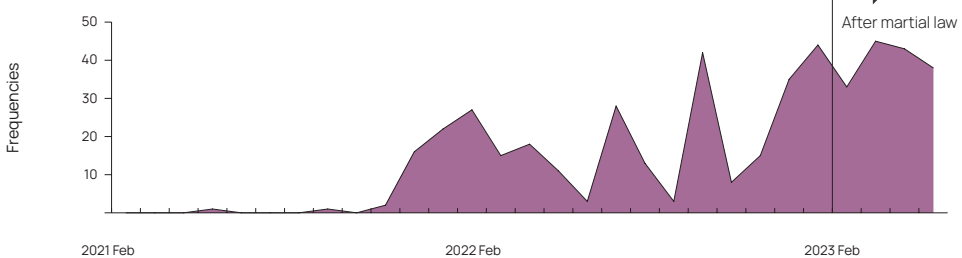
■ Clashes



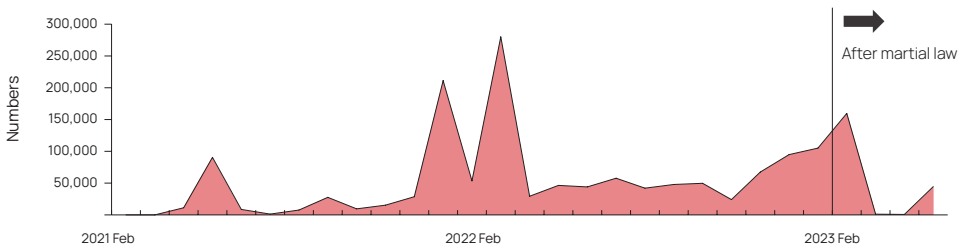
■ Homes and Building Burnt and Destroyed



■ Airstrikes



■ IDPs



- ▶ Myanmar's war-torn Dry Zone' on July 5, 2023 where it argued that faced with the rise of newly formed armed organizations that the junta's tactics have now shifted. The New York Times reiterated this point on July 31, 2023, in a special feature article 'The Country That Bombs Its Own People' working from IISS data.

Analyses conducted by both the New York Times and IISS reveal a discernible trend in the tactics employed by the junta since the onset of 2023. The junta's actions have exhibited an increasing selectivity in target identification, accompanied by an escalated level of violence during their raids and assaults. These attacks are mainly conducted by the Myanmar military and its proxy Pyu Saw Htee forces. From December 2022 to July 2023, IISS observed a decline in building burnings, however this decline has been inversely accompanied by a noticeable rise in atrocities targeting PDF armed forces. According to IISS, on 13 July SAC Chairman Min Aung Hlaing announced a plan to intensify efforts to quell armed resistance. The New York Times also reported that 'altogether, 2023 has had a monthly average of 30 airstrikes, the highest for any year of the conflict so far, based on data from the Armed Conflict Location & Event Data Project (ACLED).

Based on data compiled by ISP-Myanmar in accordance with ISP-Myanmar's system for documenting information in armed conflicts, a comprehensive overview of events in the conflict can be discerned. Specifically, the 40 townships under martial law in the period from February to June 2023 demonstrated a declining trend in armed clashes and the torching of houses and buildings. Notably though the number of air strikes has been rising significantly. It is worth noting though that the incidence of house burnings again increased after late June. As the SAC has now extended its rule for another six months, there could be more intense fighting and military operations. ■

What ISP is reading?

Ong, Andrew. (2023). *Stalemate: Autonomy and Insurgency on the China-Myanmar Border*. Cornell University Press. 276 pages.

A book recently released on the Wa ethnicity and the United Wa State Army has attracted praise from many famous contemporary authors on Myanmar including Bertil Lintner. There are still few writings on Wa, as few researchers are working on the subject. The area of Wa State is situated on the China-Myanmar border and is semi-independently ruled through its own leadership with a force of 20,000 to 30,000 well-equipped soldiers. The Wa forces have agreed ceasefires with successive Myanmar governments for more than three decades, using this long-standing truce to pursue the economic and social development of the area. However in the past, many Wa ethnic leaders have been accused of engaging in the illicit drug trade.

The author Andrew Ong's approach to this study has some unique characteristics. Wa State is a difficult region to access for researchers and writers, but as Ong was a World Food Program (WFP) aid worker, he had a long working history in the Wa area and his anthropological approach is subsequently rather different from other authors and journalists. He studied the aspirations of ordinary Wa people, Wa leaders, and their political culture and external relations. He navigates the complexities of border politics, intersecting geopolitics and geo-economics, culminating in his book titled 'Stalemate: Autonomy and Insurgency on the China-Myanmar Border.'

In the realm of contemporary books on Wa ethnic group and its political landscape, we can find two books, namely, Magnus Fiskesjö (2021)'s 'Stories From an Ancient Land: Perspective on Wa History and Culture' and Bertil Lintner (2021)'s 'The Wa of Myanmar and China's Quest for Global Dominance'. Additionally there are some short papers produced by the USIP and a few other institutions.

"This book deliberately disappoints readers searching for details about the ►

- ▶ narcotics trade or weapons and even details about political factionalism or the who's who of business conglomerates that investigative journalism tries to uncover," Ong forewarns, as his approach is mixed with anthropological analysis. He presents readers with the perspective of the highlanders, showcasing how residents of the Wa State perceive the world. He also highlights the Wa's distinctive governance concepts, which diverge from international norms. He also challenges readers to reconsider their understanding of order and stability.

Given that the Wa ethnic force holds a prominent role as a leader of the Northern Alliance (FPNCC) and serves as a significant stakeholder in Myanmar's peace process, Ong's book offers valuable insights into understanding both the Wa people and their leadership. ■

ISP Publication

In the last week, ISP Data Matters No. 48 and No. 49 have been issued. Download free PDFs on ISP Gabyin community.



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