

## **The Role of Tatmadaw in Myanmar Politics (2011-2020)**

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### **Abstract**

In Myanmar, the political influence of Tatmadaw produced from the struggle for independence. Since then, the Tatmadaw has involved as the most important leading actor in Myanmar political affairs. The Tatmadaw has governed the country either directly or indirectly for half a century. After 2011, the role of Tatmadaw has legitimately participated in Myanmar politics by practicing the 2008 Constitution. The 2008 Constitution has been protecting the core interests of Tatmadaw and granting the Tatmadaw's central role in national political affairs. This paper analyzes the Tatmadaw's leading role in Myanmar politics during 2011-2020 and how the Tatmadaw participates in Myanmar politics as a main actor under the civilian government since 2011.

**Key Words:** politics, Tatmadaw, 2008 Constitution

### **Introduction**

Myanmar gained its independence on January 4, 1948 from British Empire. At that time, the Tatmadaw played an important role in the struggle of independence. After independence, the Anti-Fascist Peoples Freedom League (AFPFL) government was formed and U Nu became the first Prime Minister of Myanmar. However, the AFPFL government under Prime Minister U Nu could not be able to continue the unity of the country. The country was facing many domestic problems, insurgency issues, corruption and the government could not solve the mismanagement policies of the country. Besides, there was a split within AFPFL and a growing instability in the parliamentary system in 1958. In order to settle the situation, Prime Minister U Nu invited the Tatmadaw to maintain the country. Under these circumstances, in order to restore the stability of the country and to maintain the rule of law, Prime Minister U Nu temporarily transferred power to the Tatmadaw headed by General Ne Win on 28 October 1958. And then, the Tatmadaw formed Caretaker Government with 14 members under the leadership of General Ne Win and promised to restore the rule of law and convene a free and fair general election.

The Caretaker Government held elections on 6 February 1960 in which the Clean AFPFL party headed by U Nu won and formed the civilian government. However, Prime Minister U Nu did not solve the internal problems again. In addition, the country faced the threat of national integration because U Nu promulgated Buddhism as a national religion by amending the Constitution. As a result, there was appeared unpleasing attitude among the ethnic nationalities. Under the circumstances, the clean AFPFL government could not restore the situation of the

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country. The country was challenged political instability, declining economy, growing ethnic conflicts and insurgency problems under the AFPFL government. Consequently, on 2 March 1962, the Tatmadaw headed by General Ne Win took over the power of the country and overthrew the Clean AFPFL government. As a result, 1962 military coup led to the beginning of direct military rule in Myanmar and General Ne Win formed the Revolutionary Council with 16 members on 2 March 1962.

The Revolutionary Council formed Burma Socialist Programme Party (BSPP). The BSPP government reshaped Myanmar into one-party state. The BSPP government also brought all aspects of governance including economy under its control. On 25 September 1971, the BSPP government formed the Election Commission with 97 members to draft a new Constitution. It announced that election would be held according to the new Constitution and also promised that the power would be transferred to the elected civilian government after the election. In 1971, the BSPP was transformed into a mass party at the First Party Congress. In 1974, the general election was held and the Revolutionary Council was dissolved. In January 1978, second national election was held, but it did not change the national leadership and its policies. In March 1988, a new wave of student protests broke out in Yangon. The demonstration started in Yangon and spread to other cities and towns. It became broadened and participated in professional classes and Buddhist monks.<sup>1</sup> This situation paved the way to takeover power of the country on 18 September 1988. Under the leadership of the General Saw Maung, the State Law and Order Restoration Council (SLORC) was established with 19 members. Later, the SLORC government held the multi-party general elections in May 1990 in which the National League for Democracy (NLD) won landslide victory throughout the country.

In 1990 election, the NLD party won landslide victory but did not transfer power to NLD party why there was no Constitution in Myanmar. The SLORC government stated that they would not transfer power until a new Constitution had been drafted and continued to hold power. On 15 November 1997, the SLORC government was reorganized as the State Peace and Development Council (SPDC) headed by Senior General Than Shwe.<sup>2</sup> In 2003, the SPDC government outlined a road map with seven points in order to implement democratic country. And then, the SPDC government reconvened the National Convention in 2004 and a new Constitution was ratified on 29 May 2008.<sup>3</sup> On 8 November 2010, the SPDC government held multi-party general elections in accordance with the 2008 Constitution.

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<sup>1</sup>KonsamShakila Devi. (2014), Myanmar under the Military Rule 1962-1988, International Research Journal of Social Science Vol.3,India, 47-8.

<sup>2</sup>The New Light of Myanmar, V, 213. (1997), Myanmar: Ministry of Information.

<sup>3</sup>The New Light of Myanmar, X VI, 42. (2008), Myanmar: Ministry of Information.

On 30 March 2011, the SPDC government transferred power to the civilian government headed by President U Thein Sein. In this new system, some members of Tatmadaw's leadership transitioned themselves from being the forefront power holder to firmly maintain influence over political decisions. The country transformed from direct military dominance to institutionalized control in many key governmental structures. In this paper, the author will focus on the ten year of time limit between 2011 and 2020 in Myanmar. The main research question of this study is how Tatmadaw has involved in Myanmar politics since 2011 and why the 2008 Constitution regarded as the main mother law of Tatmadaw. The main objective of this paper is to analyze the Tatmadaw's leading role in Myanmar politics and to study the Myanmar's political situation during 2011-2020.

### **Road to Constitutional Government**

In 2003, the SPDC government publicly announced political roadmap to disciplined democracy. Prime Minister, General Khin Nyunt announced a new time table to implement systematic political program for nation building. On 30 August 2003, Prime Minister, General Khin Nyunt declared a seven-point path to discipline-flourishing democracy under the leadership of the Senior General Than Shwe. The purpose of the political road map was to develop a modern and developed democracy in the future of the country in line with the historical background of the country, the customs and traditions of the people and the prevailing political economic and social conditions. The roadmap included these points as the following:

- (1) To reconvene the National Convention
- (2) To implement the emergence of a genuine and disciplined democratic system
- (3) To draft a new Constitution in accordance with basic principles and detailed basic principles lay down by the National Convention
- (4) To adopt a Constitution through national referendum
- (5) To hold free and fair elections
- (6) To convene Hluttaws in accordance with the new Constitution
- (7) To build a modern, developed and democratic nation.<sup>4</sup>

As a result of political road map, Myanmar transformed from rule by the military government to the democratic civilian government.

On February 9 2008, the SPDC government announced to hold a national referendum about the draft Constitution. On 10 May 2008, the national referendum was held and on 8 November 2010, the multi-party general elections was held successfully in Myanmar. The SPDC government transferred power to the winner party headed by President U Thein Sein. The 2008

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<sup>4</sup> The New Light of Myanmar, XI, 137. (2003), Myanmar: Ministry of Information.

Constitution enshrines military control.<sup>5</sup> Although it formally established a multiparty democracy with elections for national and regional Hluttaws, the military has maintained a dominant role in Myanmar politics.

### **Tatmadaw's Leading Role in Myanmar Politics since 2011**

The Tatmadaw regarded the 2008 Constitution as the main or mother law of Myanmar, protecting the Tatmadaw's core interests and maintaining its central role in national affairs. It is clear that the Tatmadaw will be continuing to play a leading role in Myanmar politics. In addition, the Tatmadaw is constitutionally protected as a separate and autonomous entity. In the 2008 Constitution, the basic principles of the Union (Section 6(f)) enable the Defence Services to be able to participate in the national political leadership role of the State.<sup>6</sup> The Union shall enable the Defence Services to participate in the national political leadership. According to Section 17(b), the President appoints the Minister for Defence, Minister for Home Affairs and Minister for Border Affairs, nominated by the Commander-in-Chief (C-in-C).<sup>7</sup> It means that the Tatmadaw controls the police, security services and much of the justice system together with the Ministry for Home Affairs. If the Tatmadaw continuously influences over Ministry of Border Affairs, it will penetrate deeply into ethnic states, on the peripheries of the country which is one of the most critical factors in achieving peace and stability in Myanmar.<sup>8</sup> It can be said that the Tatmadaw holds most of the key ministerial posts at all levels through nomination by the C-in-C and these ministers cannot be removed without the permission of the C-in-C.

Section 20(b) provides that the Tatmadaw has the right to independently administer and adjudicate all affairs of the armed forces. The affairs of the armed forces include safeguarding the Non-disintegration of the Union, the Non-disintegration of National Solidarity and the Perpetuation of Sovereignty.<sup>9</sup> According to Section 20(b), the civilian government shall have no power over the Tatmadaw within its domain. Section 20 (d) provides that the Defence Services has the right to administer for participation of the entire people in Union Security and Defence.<sup>10</sup> Section 20(e) further assigns the Tatmadaw's primary responsibility for the Three Main Causes of

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<sup>5</sup> Marco Bünthe.(2014), Institutionalising Military Rule in Burma/Myanmar: External and Internal Factors. GIGA Institute of Asia Studies,12.

<sup>6</sup> Section 6, Constitution of the Republic of the Union of Myanmar (2008), 2008, 3.

<sup>7</sup> Section 17, Constitution of the Republic of the Union of Myanmar (2008), 2008, 5.

<sup>8</sup> Andrew Selth.(2015), The Armed Forces and Democratic Transition in Myanmar. Independent Strategic Analysis of Australia's Global Interest, 3. [http://futuredirections.org.au/wp-content/uploads/2015/12/The\\_ArmedForces\\_And\\_Democratic\\_Transition\\_In\\_Myanmar.pdf](http://futuredirections.org.au/wp-content/uploads/2015/12/The_ArmedForces_And_Democratic_Transition_In_Myanmar.pdf).

<sup>9</sup> Section 20, Constitution of the Republic of the Union of Myanmar (2008), 2008, 6.

<sup>10</sup> Section 20, Constitution of the Republic of the Union of Myanmar (2008), [2008], 6.

the Union.<sup>11</sup> According to the Section 20(e), Tatmadaw can halt to disintegration the Union. Section 20(b) and (e) of the 2008 Constitution bestowed Tatmadaw to protect disintegration of the Union and the Tatmadaw regarded itself as the defender of the disintegration of the Union. Therefore, the Tatmadaw has long cast itself as the only thing that can keep the country in accordance with Section 20(b) and (e).

Moreover, the civilian government has no control over the military's operations. Section 20(f) assigns the Tatmadaw primary responsibility for safeguarding the Constitution. The Tatmadaw has the final authority to determine how to protect. The independent power of the Tatmadaw over ordinary citizens includes the power to impose military discipline on the entire population. Section 20(f) states the Tatmadaw is principle responsible to safeguard the Constitution. It means that the Tatmadaw holds a constitutional influential power because it can block any potential amendments, which would need a super majority of more than 75 percent to get approval of the Pyidaungsu Hluttaw.<sup>12</sup> Thus, the Tatmadaw surely intends to pay great attention to the constitutionality of all legislation proposed by the successive government.

According to Section 40(c), the C-in-C of Tatmadaw can act at his own discretion: if there arises a state of emergency that could cause disintegration of the Union, disintegration of national solidarity and loss of sovereign power or attempts, the C-in-C of Tatmadaw has the right to takeover and exercise State sovereign power in accord with the provisions of the 2008 Constitution.<sup>13</sup> The Constitution grants the Tatmadaw a constitutional right to takeover the executive power of the government if it should regard the unity, solidarity or sovereignty of the country as being under threat. In this situation, the government does not have the power to control the Tatmadaw. Fundamental State Principles in Chapter I of the Constitution set out six principal objectives of the State. These includes Three Main National Causes, flourishing a genuine, disciplined multi-party democratic system, enhancing the eternal principles of justice, liberty and equality in the State and enabling the Tatmadaw to be able to participate in the national political leadership role of the State.<sup>14</sup> It can be seen that the 2008 Constitution favours the Tatmadaw as the leading role in Myanmar politics.

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<sup>11</sup> David C. William. Analysis of the 2008 SPDC Constitution for Burma: The Power of the Burmese Military Under the 2008 SPDC Constitution, <http://www.burma-partnership.org/wp-content/uploads/2010/04/David-Williams-Briefer-on-power-of-Burmes-military-under-the-2008-constitution1.pdf>, 1.

<sup>12</sup> Section 20, Constitution of the Republic of the Union of Myanmar (2008), 2008, 6.

<sup>13</sup> Section 40, Constitution of the Republic of the Union of Myanmar (2008), 2008, 11.

<sup>14</sup> Marte Nilsen & Stein Tonnesson. (2012) Can Myanmar's 2008 Constitution be made to satisfy Ethnic Aspirations?. PRIO Policy Brief 11, [http://file.prio.no/Publication\\_files/Prio/Nilsen-T%C3%B8nnesson-Myanmars-2008-Constitution-PRIO-Policy-Brief-11-2012.pdf](http://file.prio.no/Publication_files/Prio/Nilsen-T%C3%B8nnesson-Myanmars-2008-Constitution-PRIO-Policy-Brief-11-2012.pdf).

Section 232(b) (i) describes that the Union government composed of the President, the two Vice-Presidents, and Ministers who are appointed and can be dismissed by the President. However, his discretion is limited with regard to Ministers responsible for Defence, Home affairs, and Border affairs as they were appointed by the nomination of the C-in-C from the Tatmadaw. As to the removal of one of these Tatmadaw Ministers, the President has to co-ordinate with the C-in-C. The military's control over Home Affairs is especially significant because it gives the Tatmadaw broad power over the lives of ordinary citizens in their daily lives.<sup>15</sup> According to Section 232(b) (ii), the C-in-C shall nominate candidates for the positions of Ministers of Defence, Home Affairs and Border Affairs. Furthermore, if there is a risk that the Union or national solidarity may be disintegrated, or that national sovereignty may be lost, the Tatmadaw have a constitutional right to rule by decree. Section 232(b) (ii) states the President shall obtain a list of suitable Defence Services personnel nominated by the C-in-C of the Defence Services for Ministries of Defence, Home Affairs and Border affairs.<sup>16</sup> According to this Section, the Tatmadaw has crucial powers in matters of defence and security.

According to Section 232(c), the military's control over Home Affairs as well as Defence and Border Affairs constitute a military fiefdom, not part of the civilian government in any meaningful sense. According to Section 232(d), the Pyidaungsu Hluttaw may reject those persons only if they do not meet the qualifications of the Union Minister, such as age and residence. In addition, according to Section 232(j), these three ministers continue to serve in the military, so they are under orders from the C-in-C, not from the President. In other words, the C-in-C administers Ministry of Home Affairs, free from interference by the civilian government.<sup>17</sup> According to the 2008 Constitution, this section gives the C-in-C's power more than the President regarding these three ministries. To sum up, there is a large amount of power in the hand of the C-in-C.

According to the 2008 Constitution, the National Defence and Security Council (NDSC) was formed with 11 members. They are: (1)The President, (2) Vice-President (I), (3) Vice-President (II), (4) Speaker of Pyithu Hluttaw, (5) Speaker of Amoyothar Hluttaw, (6) Commander-in-Chief of

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<sup>15</sup> MarteNilsen& Stein Tonnesson. (2012) Can Myanmar's 2008 Constitution be made to satisfy Ethnic Aspirations?. PRIO Policy Brief II,2-3, [http://file.prio.no/Publication\\_files/Prio/Nilsen-T%C3%B8nnesson-Myanmars-2008-Constitution-PRIO-Policy-Brief-11-2012.pdf](http://file.prio.no/Publication_files/Prio/Nilsen-T%C3%B8nnesson-Myanmars-2008-Constitution-PRIO-Policy-Brief-11-2012.pdf).

<sup>16</sup> Anne Barker.(2015),Myanmar Election: Why can't Aung San Su Kyi be president and Why is the country in leadership limbo? , 2, <http://www.abc.net.au/news/2015-11-10/myanmar-election-explained/6928542>.

<sup>17</sup> David C. Williams, Analysis of the 2008 SPDC Constitution for Burma: The Power of the Burmese Military Under the 2008 SPDC Constitution, Centre for Constitutional Democracy, 2, [http://www. Burmapartner.org/wp-content/uploads/2010/04/David-Williams-Briefer-on-power-of-Burmes-military-under-the-2008-constitution1.pdf](http://www.Burmapartner.org/wp-content/uploads/2010/04/David-Williams-Briefer-on-power-of-Burmes-military-under-the-2008-constitution1.pdf)

Defence Services, (7) Deputy Commander-in-Chief of Defence Services, (8) Minister for Defence, (9) Minister for Foreign Affairs, (10) Minister for Home Affairs and (11) Minister for Border Affairs. The NDSC has powers to impose martial law, disband Hlutaws and rule directly, but only if the President declares a state of emergency.<sup>18</sup> In such a state of emergency, distribution of powers is to be suspended and executive, legislative and judicial powers shall all be concentrated in the hands of the C-in-C. Under Chapter XI of the Constitution, Section 431 states that in such an emergency, the NDSC shall exercise the sovereign power in the name of the President.<sup>19</sup> It can be said that the Tatmadaw has legal channel to re-impose direct military rule according to the 2008 Constitution. In addition, the Tatmadaw can be able to dominate the NDSC than Hluttaws or government. Thus, in Chapter XI, the Constitution provides the Tatmadaw for the declaration of a state of emergency in which it would assume all powers of government.

According to Section 109 and 141, 25 percent of Tatmadaw's representatives are appointed in both the Pyithu Hluttaw and Amyothar Hluttaw. It requires more than a three-fourths majority in the Pyidaungsu Hluttaw to amend the Constitution. Thus, the 25 percent of representatives of Tatmadaw appointees have the power to block any constitutional amendment. According to Section 109 and 141, the Tatmadaw representatives, selected by the C-in-C, are to represent 25 percent of the members of both chambers of Pyidaungsu Hluttaw and one-third of the membership of the state and regional Hluttaws under the Section 161. Section 109(b) states the 440-seat Pyithu Hluttaw be comprised of not more than 330 elected members, and not more than 110 Pyithu Hluttaw representatives who are the defence services personnel. Section 141 states the 224-seat Amyotha Hluttaw include 56 Defence Services personnel nominated by the C-in-C of Tatmadaw. One out of four seats in the Hluttaw automatically belongs to the Tatmadaw representatives, it will be impossible to amend the Constitution without the support of Tatmadaw.<sup>20</sup> The 2008 Constitution is deeply loaded in favour of the Tatmadaw giving a national political role with 25 percent of the seats reserved in the Pyidaungsu Hluttaw. In sum, the military government intended to be controlled a process of change in order to prevent chaos and preserve national unity. And also, it intended the Tatmadaw to dominate in the future by the legislative process effectively to constitutional amendments.

According to Section 436, the Tatmadaw occupied one-quarter of the seats in both Hluttaws and one-third of the seats in the state and regional Hluttaws. In order to amend the Constitution, it is needed to get more than 75 percent of the vote in Hluttaws. In order to pass an

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<sup>18</sup> Vikram Nehru.(2015), Myanmar's Military Keeps Firm Grip on Democratic Transition, [http://carnegieendowment.org/2015/06/02/myanmar-s-military-keeps-firm-grip-on-democratic-transiti\\_on-pub-60288](http://carnegieendowment.org/2015/06/02/myanmar-s-military-keeps-firm-grip-on-democratic-transiti_on-pub-60288).

<sup>19</sup> Tin MaungMaung Than, "Myanmar Security Outlook and the Myanmar Defence Services", 102.

<sup>20</sup> Bart Gaens, Political Change in Myanmar: Filtering the Murky Waters of Disciplined Democracy [2013], 11.

amendment bill, an approval rate exceeding 75 percent is needed. This point gives the Tatmadaw constitutional influential power over any proposed amendments. Therefore, the Tatmadaw's 25 percent presence of Hluttaw has effective power over any proposed changes. Section 436 requires 75 percent of the legislature to approve an amendment to the Constitution.<sup>21</sup> In addition, for the most important sections of the Constitution, including all the stipulations mentioned above that entrench the Tatmadaw's power, a nationwide referendum needs to be held requiring the votes of more than half of those who are eligible to vote. To ensure political participation and respect for the Constitution, changes will need to be made with the amendment. Myanmar's 2008 Constitution contains several provisions ensure that the reins of power remain firmly in the hands of the Tatmadaw. It can be seen that the 2008 Constitution is the main law to protect the Tamadaw's role in national political affairs. Actually, the influence of the Tatmadaw upon the 2008 Constitution is not only a democratic problem but also a major obstacle to the political integration of ethnic nationalities.

Chapter VII of the Constitution describes the crucial role of the Tatmadaw. The Tatmadaw has the right to administer independently all affairs concerning all armed forces. The Tatmadaw has the authority to administer the participation of the entire people in the security and defence of the country with the approval of the NDSC. To safeguard the three pillars of the Union and Constitution, the responsibility and accountability of the Tatmadaw is also the very essential point.<sup>22</sup> Most of the powers are vested in the hand of C-in-C and provides a bright insight into the role of the Tatmadaw in the political and security system of Myanmar. Briefly, the Tatmadaw is an essential and permanent part of the machinery of the Union.

On 23 February 2019, the Tatmadaw's spokesmen made a press conference with external and internal media. In this conference, Major General Than Soe said that the Tatmadaw would not allow changes to 48 basic principles of the 2008 Constitution. He also said that the Tatmadaw would withdraw from politics only when no armed groups are active in the country. And also, he said that the Tatmadaw would continue to participate in the ongoing exercise to amend the Constitution but would object to any deviation from the path of the Union based on democracy and federalism, which can destroy peace and damage the checks and balances among three pillars of the country. The another Tatmadaw's spokesman, Major General Tun Tun Nyi said that the Tatmadaw would always stand on the side of national interests without any bias to any political party. On other matters, Major General Soe Naing Oo said that the Tatmadaw would try to encourage the ethnic armed groups to sign the NCA by 2020 and they would not be imposed to

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<sup>21</sup> Section 436, Constitution of the Republic of the Union of Myanmar (2008), 173-174.

<sup>22</sup> YashGhai. (2015), The 2008 Myanmar Constitution: Analysis and Assessment, University of Hong Kong, 26-7.



immediately disarm, demobilize and reintegrate upon signing the truce.<sup>23</sup> According to the C-in-C of the Tatmadaw, Senior General Min Aung Hlaing, the Tatmadaw's role in Myanmar politics is to guard and protect democratic practices in compliance with the 2008 Constitution. It can be said that the Tatmadaw maintain its leading role in Myanmar politics in accordance with the 2008 Constitution and the Tatmadaw regards itself as the defender of the Union.

### Conclusion

Since the 1940s, the Tatmadaw has been involved in national political affairs. The political role of the Tatmadaw is ensured not only by a constitutionally mandated set of ministerial appointments but also by the 25 percent allowance of Hluttaw seats for the Tatmadaw representatives in the national and regional Hluttaws. The establishment of the new political architecture has been designed primarily to ensure the institutional interests of the Tatmadaw. The Tatmadaw in many respects made attempts to do as the critical political actor in a system of multi-polarity and it remains the strongest political institution.

The Tatmadaw's leadership has always seen itself as the defender of national unity. The Tatmadaw's withdrawal from the apex of power in March 2011 does not signal a full retreat from politics. The military government's transition ensured a return to civilian rule without relinquishing de facto military control of the government. The 2008 Constitution allocates 25 percent of all Hluttaw seats to the Tatmadaw. Similarly, key security ministries, such as the Ministry of Home Affairs and Ministry of Border Affairs are firmly control by the Tatmadaw. Any constitutional amendments require the backing of more than 25 percent members of Hluttaw in which any changes need the support of the Tatmadaw. Most amendments are needed an approval of the C-in-C and his Tatmadaw's representatives. The Tatmadaw remains the arbiter of power in the country and it dominates all important state institutions. During Myanmar transition to disciplined democracy, it has succeeded in designing a new political system and institutionalized its leading role in Myanmar politics.

Under the 2008 Constitution, the Tatmadaw is automatically allocated a quarter of all Hluttaw seats. Therefore, the Tatmadaw imagines itself as caretaker of the country's political process. In addition, according to the 2008 Constitution, the Tatmadaw remains as the most powerful actor in Myanmar. Only the Tamadaw can end its own role in Myanmar's politics, and its decision depends on the perception of the civilian political elite's ability to manage the future and protect the Tatmadaw as a national institution. Besides, there is needed mutual trust, mutual respect and mutual understanding among the Tatmadaw, any successive government and

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<sup>23</sup> Nanda, "Tatmadaw says 48 principles in 2008 Constitution Untouchable" [Myanmar Times, 25.February 2019], <https://www.mmmtimes.com/news/tatmadaw-says-48-principles-2008-constitution-untouchable.html>.

the citizens of the country in order to reduce gradually the role of Tatmadaw in national politics. The Tatmadaw will decide itself the time frame for a democratic transition without their performance. The future of the Tatmadaw in Myanmar's politics will be determined by how the Tatmadaw understands and trusts the intentions of the current and any future government. There is in the hands of the Tatmadaw to terminate its role in national politics.

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