

## **The 2015 parliamentary and 2016 presidential elections in Myanmar**

Free and fiercely contested parliamentary elections were held on 8 November 2015 in the Republic of the Union of Myanmar (also known as Burma). These were the first free general elections in over five decades. Parliamentary elections resulted in a landslide victory for the National League for Democracy (NLD), which received twice the number of votes of the incumbent, the Union Solidarity and Development Party (USDP). With 74% of the preferences, the NLD now controls 59% of the seats in the parliament once the 25% of the seats reserved to the military are taken into account.

The 15 March 2016 presidential election saw the victory of Htin Kyaw, a close ally of Aung San Suu Kyi, the NLD leader and long-standing democracy. The elections of a new parliament and of the president are part of a broader transition started by the military in 2011, when the junta unexpectedly handed over power to a formally civilian government. A special position of state counsellor was created for Daw Suu, who also serves as Foreign Minister, making her de facto prime minister.

The Republic of the Union of Myanmar (Burma), independent since 1948, has been ruled by the military, directly or indirectly, since 1962. After a short-lived experiment with democratic politics following independence (1948-1962), the armed forces (the 'Tatmadaw') have been the hegemonic player in the country's politics. In 1962 the Burma Socialist Program Party (BSPP) established one-party rule, with the strong backing of the army. The virtual collapse of the economy and a loss of legitimacy by the party led the Tatmadaw to intervene and establish a military regime in 1988. The junta handed over power to a nominally civilian government, mostly consisting of retired generals, in 2011<sup>1</sup>.

## **Electoral systems**

Whether Myanmar's regime can already be considered democratic is of course debatable. Time will tell if electoral democracy will be the first step towards a more comprehensive and substantial transition.

The Myanmar parliament, also known as the Assembly of the Union, is a bicameral legislature, including a 224-member House of Nationalities (Amyotha Hluttaw) and a 440-member House of Representatives (Pyithu Hluttaw). Mandates are for five years and members of parliament are chosen from single-member constituencies (with a first-past-the-post system, FPTP). According to the constitution introduced amidst huge controversies by the military in 2008, the country's form of government is presidential. The president serves a five-year mandate as both the head of state and formally the head of government. The president is elected by the Presidential Electoral College (PEC), not through popular vote. According to article 60c the presidential election proceeds as follows. The PEC (Pyindaungsu Hluttaw) consists of three colleges: elected representatives in the two houses (168 for the House of Nationalities and 330 for the House of Representatives), and the military representatives in both houses (110 and 56 respectively). Each chamber votes their nominees in a single-round plurality. Subsequently, the three groups meet and vote on the three in a single-round secret ballot vote. The candidate with most votes becomes president and the others become first and second vice-president.

**Legislative****campaign**

Elections are overseen by the United Electoral Commission (UEC), a body whose members (at least five) are nominated by the president. In theory, all individuals holding Myanmar citizenship are eligible to vote. Exceptions are members of religious orders (such as Buddhist monks) and - in a belated government move designed to appease nationalists - white-card holders, such as most members of the Rohingya ethnic community (about 700,000 people) mostly settled in Rakhine state, bordering Bangladesh. This deprived most members of the Rohingyas of political rights, causing considerable international criticism. Those seeking candidacy should have resided in the country for at least ten consecutive years and have parents that are also Myanmar citizens. Candidates for the House of Nationalities should be at least 30 years old, while candidates for the House of Representatives should be at least 25 years old. Parliamentary candidates are nominated by the political parties. According to the Political Party Registration Law introduced in 2010 parties need to have a minimum of 1,000 members, 15 executive members and should run in at least three constituencies. Registration period for political parties ended on 30 April 2015. Submission date for the list of candidates was mid-August 2015.

The campaign last 60 days, from 8 September to 6 November and proceeded without incidents and, in most cases, in a rather festive atmosphere, apart from a few trouble spots such as Rakhine state and some of the areas outside the writ of the central government (Wa state or areas in Kachin state). The truly national parties are two, the NLD and the USDP. All others were ethnic parties, concentrated in the main areas of settlement of the group they claimed to represent.

The campaign was dominated by one slogan, the NLD's 'time for change'. Little elaboration was made of any policy, whilst most citizens waited with trepidation for the historic moment. The other issues being debated were the record of the outgoing government, specifically the pace of reforms (voters had to decide whether to reward the unexpected pace of transition started in 2011 or remember the previous fifty years of repression) as well as the prospects for national reconciliation following the signature of a national ceasefire between the government and some ethnic organizations in October 2015. Although a sensitive issue, and despite the best attempts of many in the political arena and the monkhood to leave it out of the campaign, identity did feature during the elections, as some groups, organizations and party resorted to an ethnic and religious nationalist platform to stir up support. As tensions between certain groups are high, there were fears about disturbances and incidents, although both the campaign and the election passed smoothly.

Observers were many (16,000 locals and several from abroad, including 150 from the EU), and elections were widely considered to be free. As to fairness one of the key issue was the fact that 25% of the seats in the legislature are not contested and are filled with military appointees. The 75% super-majority required by art. 436 for constitutional change de facto leaves veto power to the armed forces.

A total of 6,189 candidates representing 92 parties contested seats, 1,772 for the lower house (House of Representatives, or Pyithu Hluttaw), 915 for upper house (House of Nationalities, or Amyotha Hluttaw)<sup>2</sup>. In the bi-cameral legislature 491 seats were contested and the rest appointed by the military. Originally 1,171 constituencies were designated, voting was cancelled in seven whole townships, representing 21 constituencies (ICG, 2015: 3). Out-of-country voting was also possible in countries home

to a Myanmar embassy. Competition was real, all main parties took part, and results were recognised by the authorities.

### **Legislative election results**

Historic elections were held on 8 November 2015. Of the about 32 million citizens eligible to vote, 21,951,803 (about 80%) eventually did so. The election returned a nine-party House of Nationalities and an eleven-party House of Representatives. 12,473,406 voted for the NLD, more than twice that expressed support for the USDP (6,180,040)<sup>3</sup>.

Elections resulted in a landslide victory of the National League for Democracy (NLD) led by Aung San Suu Kyi. Owing to the electoral system currently in vigour, this translated into 79% of seats, on paper. Once military's 25% factored in this becomes 59%, 60% in upper house, 59% in lower house (table 1). This is not the first time the NLD has won elections. It won the 1990 elections in a landslide, although the military refused to acknowledge the results. The party did not participate in the 2010 elections, although some ethnic parties did. The NLD won the 2012 by-elections, gaining 43 of the 44 seats it contested.

The USDP suffered a crushing defeat, gaining a mere 8% of the seats, receiving 28% of the preferences. Compared to 2010 it lost 118 seats in the House of Nationalities and 229 in the House of Representative. Ethnic parties fared less well than expected, as they overall lost 9 seats in the Amyotha Hluttaw and 8 in the Pyithu Hluttaw. The only exception were the Arakan National Party in Rakhine State and the Shan Leagues for Democracy in Shan State, which secured a combined 22 and 15 seats in the two houses combined (see below).

[Table 1 about here]

### **Legislative election analysis**

The election results lend themselves to several considerations. Widely expected was a victory of the opposition National League of Democracy. If a strong NLD performance in the elections was expected, its magnitude took many by surprise. This goes to the credit of both the leadership of its leader, Nobel Peace Prize Laureate and long-time opposition leader Daw Aung San Suu Kyi, and the party's capillary, well-organised and enthusiastic campaign across the country. The elections returned an overwhelmingly red (the NLD's 'colour') map of the country even in the States<sup>4</sup> the constituencies where ethnic groups are mostly concentrated. That the NLD, perceived by some inside and outside the country as a primarily ethnic Bamar party<sup>5</sup>, performed strongly everywhere bodes well for the party and its credentials as a truly national party, not just the vehicle of the ethnic majority. Such a victory can be attributed to a number of reasons, but fundamentally it had to do both with the clarity, even simplicity of the message ('time for change', The Irrawaddy, 2015a) and an intense and well organised campaign across the entire country. The extent of the victory was also aided by the first-past-the-post electoral system. A different system (proportional representation) would have certainly softened the victory and ensured greater representation to the other parties. It is also clear that in the weeks preceding the election the NLD's message of change had been underestimated.

Moreover, a vote for the NLD was, inevitably, also a protest vote against the ruling USDP government, despite the progress this had made in liberalising politics and the economy in just over four years. The humiliation for the UDSP is the result of both a harsh electoral system and the opportunity the population had to finally vote it out of power.

Another surprising result was the poor performance of ethnic parties. Not all parties were affected in the same guise. The Shan Leagues for Democracy and, most notably, the nationalist Arakan National Party (ARP) enjoyed strong support in the respective Shan and Rakhine States (Oh, 2016). This had to do with the fact that unlike in other states, there was no fragmentation of the ethnic vote around several smaller parties unable or unwilling to form a coalition. Tensions are especially high in the Rakhine State, in the south-west most corner of the country at the border with Bangladesh. Images of the refugees camps and accounts of sinking boats packed with Rohingya refugees in the Andaman Sea have sparked international outcry, while even a mention of the word ‘Rohingya’, let alone calling for an end to discrimination inside the country tantamounts to ‘political suicide’. Also, the nationalist agenda of organizations such as the Nationalist Association for the Protection of Race and Religion (MaBaTha) has not translated into electoral support. A growing number of monks is coming out with inclusive messages of inter-faith reconciliation (Walton, 2015).

Thus, it is debatable whether the poor performance of ethnic parties was the result of the limited appeal of nationalism in a country where relations between religious groups, especially between Buddhists and Muslims are especially tense and anti-Muslim sentiments are widespread. Plausibly, instead, this speaks to poor organizational tactics of the parties themselves. Although the NLD did not culpably field any Muslim candidate, the nationalist vote went as much to the ethnic parties as to the two main parties, the USDP and the NLD and, as Walton noted, a vote for the NLD is not incompatible with support for a nationalist agenda (2015).

In face of all this, outgoing President Thein Sein, Commander in Chief Min Aung Hlaing, and even former junta leader Than Shwe all acknowledged the results and pledged to

ensure a smooth transition and handover to the NLD (Mizzima 2015a and 2015b), which they did. This alone, in light of the country's recent history and the aftermath of the 1990 elections, is nothing short of astonishing.

### **Presidential election contenders and campaign**

According to article 59(f), eligible candidates must be citizens of at least 40 years of age who have lived in Myanmar for twenty years. The candidates' immediate family members (e.g. spouse and children) must also be citizens. Crucially, they should not hold foreign citizenship. Given the current constitutional constraints Daw Suu could not (and still cannot) run for president as her late husband was a British national and so are her children. This provision *ad personam* against Aung San Suu Kyi requires a lengthy process of constitutional revision which appeared technically and politically unfeasible prior to the elections. In light of this Daw Suu mentioned that regardless of the post she will occupy formally she would be 'above the president' (The Irrawaddy, 2015b). One interpretation of this statement at the time was that no matter would the president would be this would be a mere figurehead, a proxy answerable to the Lady, de facto curbing his/her authority. The identity of the actual contenders remained hidden until close to the actual election time. Former President Thein Sein had not explicitly ruled out the possibility of seeking a second term on a USDP ticket. Senior General General Min Aung Hlaing might retain a role behind the scenes without having to subject himself to a count in the electoral college; alternatively he could run in a 'ticket' with President Thein Sein where the current president might begin a second term and then step down, paving the road to a presidency of the Commander in Chief, who will be presumably retired by then. Former

house speaker Thura U Shwe Mann, until recently a clear front-runner in the competition, was unceremoniously removed from the position as USDP chair in a party internal coup in August 2015 because of his close ties to ‘the Lady’. However, he was unlikely to meet the favours of his own party where he is now sidelined.

The new parliament convened in February and in March procedures for electing a new president started. For months speculation was rife as to who would run for the NLD on behalf of Daw Suu – most of the NLD leadership is unknowing and ageing - and who the army would nominate. Former president and then incumbent President Thein Sein did not rule the possibility of seeking a second term until very close to election time. Former house speaker Thura U Shwe Mann, until recently a clear front-runner in the competition, was unceremoniously removed from the position as USDP chair in a party internal coup in August 2015 because of his close ties to the Daw Suu. Eventually the NLD nominated a close aide of Aung San Suu Kyi, Htin Kyaw, a seventy-year old long-serving member of the NLD and close ally of Daw Suu. The NLD also nominated Henry Van Thio, a less known candidate. Myint Swe, a controversial retired general, was the armed forces’ nominee. Htin Kyaw and Myint Swe are ethnic Bamars, whereas Van Thio is an ethnic Chin. Two candidates were Buddhist (Htin Kyaw and Myint Swe) and one Christian (Henry Van Thio). Given the electoral procedure there was no need for a campaign.

### **Presidential election results and analysis**

Htin Kyaw received 360 votes out of 652, and was elected president on 15 March. Myint Swe and Henry Van Thio obtained 213 and 79 votes respectively. Htin Kyaw is the first civilian to hold the post in over 56 years. Myint Swe and Van Thio, became vice-president 1 and vice-president 2, respectively. On commenting his own election Htin Kyaw

commented: ‘This is sister Aung San Suu Kyi’s victory’, leaving few doubts as to who would be in charge from then onwards (Mizzima, 2016). On 30 March the president took office and nominated the government. This, as expected, included the three appointees from the military (technically, the National Security and Defense Council), namely the ministers of home affairs, border affairs, and defense and a majority of individuals affiliated to the NLD (eight), while also including two USDP members (who later resigned), seven independents, and one member from the Mon National Party. Most of the attention revolved around which posts Aung San Suu Kyi would assume. Apart from being nominated foreign minister and minister of the president’s office, Daw Suu initially took the posts of minister of education and minister for electric power and energy, which she swiftly relinquished in early April as the cumulation of positions had raised eyebrows. Crucially, she was also nominated state counsellor, a newly-created position de facto equivalent to that of a prime minister. While this move was to some extent expected, the lack of debate and speed with which this was pushed through in the parliament left the opposition disgruntled.

## **Outlook**

Parliamentary elections were fiercely contested. The first civilian in over fifty years was elected president. A new government led by the NLD but including members of other parties and independents was formed on 30 March. Such developments appeared simply inconceivable at the start of the decade.

And yet, it will soon be time to provide concrete policies and deliver on the promises. To do so, government will have to boost capacity. Key figures in the government, most

notably Aung San Suu Kyi, will have to delegate some tasks as the burden of workload and centralised decision-making will impede delivery and the efficient working of her administration.

No matter how important, elections are inevitably only one part of the story in Myanmar's transition from authoritarian rule. As important as issues of state capacity, economic reform and development are, it is difficult to think that the government will have any chance of succeeding without having made progress towards peace-building. A National Ceasefire Agreement (NCA) was signed by the previous government and the representatives of eight ethnic groups on 15 October 2015 (The Irrawaddy, 2015b). A new gathering of the government and ethnic groups took place in Panglong on 31 August 2016, raising expectations that some of the world's longest-running insurgencies would come to an end and state-building would really begin, almost sixty years after achieving independence.

Because of the way in which the political system is set up as a result of the 2008 constitution, an electoral defeat does not quite dismantle military interference. Apart from the 25% reserved seats in the parliament, no longer sufficient to block legislation but sufficient to give the military de facto veto power, the army still appoints three ministers (Home Affairs, Defence, Border Affairs), meaning the NLD does not control all levers of government. Much, therefore, will depend on the quality of relationship between Commander in Chief Ming Aung Hlaing and Aung San Suu Kyi and on the extent to which the armed forces can remain at least not openly hostile to the changes and can even see a way to benefit from them. Daw Suu's decision to avail Washington's lifting of all removing sanctions on the country during a September 2016 visit to the United States can be interpreted in this light.

Last but not least, another area in which the new government is hard-pressed to show signs of progress is that of promoting an inclusive citizenship, starting from addressing the plight of the Rohingya people. This will not be easy as despite the defeat of ethnic parties nationalism remains rampant and inter-communal tensions (especially between Buddhists and Muslims) give no sign to subdue. Yet much about the country's international image depends on how precisely that very thorny issue is tackled, since its reputation is – very simply - tarnished.

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<sup>1</sup> For some very useful background on Myanmar's history and politics see Holliday (2012).

<sup>2</sup> Regional and state elections also took place on the same day but they are not covered in this election note.

<sup>3</sup> See the website of the Union Election Commission (UEC), website available at: <http://uecmyanmar.org>

<sup>4</sup> Administratively the country is divided in seven regions and seven states. For a graphic display of election results see <http://www.mmmtimes.com/images/mte/2015/di180/amyotha-2015-complete-large.jpg> for the Amyotha Hluttaw and

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<http://www.mmtimes.com/images/mte/2015/di180/pyithu-2015-complete-large.jpg> for the Pyithu Hluttaw results.

<sup>5</sup> I use the terms Bamar and Burmese interchangeably to indicate the main ethnic group in the country, which accounts for about 69% of the population according to the 2014 census (Republic of the Union of Myanmar, The 2014 Myanmar Population and Housing Census, The Union Report, Census Report Volume 2, available at <https://drive.google.com/file/d/0B067GBtstE5TeUIIVjRjSjVzWlk/view>). Burmese also refers to the language.