

PERSPECTIVE

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Myanmar's Landmark Election: Unresolved Questions

By Kai Ostwald and Paul Schuler

EXECUTIVE SUMMARY

- Myanmar concluded historic elections on November 8th. These saw Aung San Suu Kyi's National League for Democracy (NLD) trounce the military-backed Union Solidarity and Development Party (USDP). The NLD won enough seats to secure a parliamentary majority, and thus nominally take control of the government.
- The country's controversial 2008 constitution reserves considerable power for the military, including guaranteeing the military control of three key ministries. In practice, these provisions insulate a portion of political power from electoral influence, which creates a *de facto* power sharing dynamic between the victorious NLD and the military.
- The NLD's strong performance resolves several open questions about the country's political landscape, demonstrating for example the limited electoral appeal of hardline Buddhist nationalism and the country's numerous ethnic minority parties.
- Numerous issues central to Myanmar's transition remain unresolved after the election. These ultimately stem from uncertainties around the nature of power sharing between the NLD and the military, as well as the precarious position of NLD leader Aung San Suu Kyi. While concrete answers will not materialize until later in 2016, we examine the issues closely and discuss potential consequences for political stability and continued reform.

*Kai Ostwald, formerly a visiting associate at ISEAS–Yusof Ishak Institute, is now at the University of British Columbia. Paul Schuler is at the University of Arizona.



INTRODUCTION

Seldom do events in Southeast Asia capture the attention of the world in the way that Myanmar's November 8th election did. Global headlines used terms like a 'new era' for the country and described the event as the rarest of political transitions – the peaceful transfer of power from an authoritarian military government to civilian rule. There is no question that the strong victory by the Aung San Suu Kyi-led National League for Democracy (NLD) marks a symbolically powerful moment and grants the NLD meaningful leverage to shape the future of the country. Yet the 2008 constitution also guarantees the military significant powers independent of election results. Given this, we argue that the election should be seen less as a contest for who rules the country, and more as a contest to establish the basic parameters of *power sharing* between the military and the NLD. The need to work with the military places the NLD in a precarious situation: it can move very cautiously and risk disappointing hopeful domestic and international audiences, or it can act decisively and risk antagonizing the nervous military and endangering hard-won democratic space.

While the election provides some important insights on politics in Myanmar, fundamental questions remain around the precise balance of power between the two political powers and the nature of their potential cooperation. The answers to these questions will determine how Myanmar's complex transition will proceed. This Perspective examines those questions for insights on what lies ahead for the country.

BROADER CONTEXT

Following definitions adopted by many political scientists, the election marks the end of over 50 years of *de facto* military rule that began when a 1962 military coup ended a decade-long post-independence democratic period. A violently suppressed popular uprising in 1988 led to new elections being called in 1990. These were contested by the newly formed NLD, led by Aung San Suu Kyi, daughter of the country's founding father. The landslide NLD victory was ignored by the military, which refused to concede power. Key NLD leaders were exiled or placed under house arrest.

Following the approval of a new constitution in 2008, the junta again called for elections in 2010. These were boycotted by the NLD. Despite lacking credibility, the election saw Myanmar's nominal return to civilian rule under the Union Solidarity and Development Party (USDP), comprised largely of retired military personnel. The election also ushered in a period of reforms towards what are frequently referred to as Myanmar's triple (political, economic, and peace) transitions. The most visible explanations for the reforms include a desire to move away from reliance on China, to get international sanctions lifted, or to reduce the risk of an abrupt, Arab Spring-like uprising, though all of these have been disputed.¹ Whatever their ultimate reason, they triggered a wave of foreign investment in the

¹ Lee Jones, "Explaining Myanmar's regime transition: the periphery is central", *Democratization*, 21(5): 780-802 (2014).

country as well as broader political and social reforms. These have continued—albeit at inconsistent rates—following a 2012 by-election.

2008 CONSTITUTION

By many accounts, the military did not significantly inhibit or manipulate voting during the November 8th election, despite having the capacity to do so. It has also given strong signals of its willingness to accept the electoral results.² This ostensibly progressive stance is due almost entirely to the 2008 constitution, which sets the institutional framework within which political competition in Myanmar occurs.³ Significantly, the constitution reserves a portion of political control for the military, insulating key areas of the state from democratic influence.

Several elements of this have been widely discussed, including the provision that bars Aung San Suu Kyi from becoming president. Significant as this is, other provisions impact the country's political balance more directly.

The constitution guarantees complete control over three key government departments—defense, internal affairs, and borders—to the military. In practice, this means that all decisions over personnel as well as over funding remain insulated from the elected parliament. The department of internal affairs is of special significance to Myanmar's reform process, since the entire bureaucratic apparatus of the state falls under its purview, thus granting the military essentially unchecked control over the policy implementation process.

The constitution also reserves 25% of seats in both the upper and lower houses of parliament for the military, while establishing the threshold for constitutional amendments at 75%. This grants the military a veto over any proposed constitutional changes and ensures their continued presence in politics. An attempt in summer 2015 to lower this threshold to 70% did not have the support of the military, bolstering the view that the military is interested only in partial liberalization (or to use their terminology, *disciplined democracy*).

The ultimate effect of the 2008 constitution is to guarantee the military essentially unchecked control over a significant portion of the state, and to insulate that control from electoral politics. Given this, the election is better conceived as one to determine who *shares* power with the military in the governing of the country, rather than one to determine who directly governs Myanmar.

² <http://www.bbc.com/news/world-asia-35019032>

³ <http://www.nytimes.com/2015/11/11/world/asia/myanmar-military-aung-san-suu-kyi-election.html>

CAMPAIGN AND EXPECTATIONS

The USDP campaign strategy had three core elements. First, it sought to capitalize on the popular post-2011 reforms, which have received significant public support and have led to generally favourable sentiments towards key USDP leaders. Second, the government initiated countless local development projects, hoping that investments would translate into electoral support. Third, the government sought to position itself as defenders of Buddhist nationalism, in part by aligning itself with hardline groups like the Ba Ma Tha and accusing the NLD of being pluralists who would allow foreign powers and non-Buddhist (particularly Islamic) influences to undermine the country's integrity and identity.

The NLD campaign centred almost exclusively around the personal appeal of Aung San Suu Kyi, who openly stated that she would exercise strong control over her party. The party portrayed the election as a referendum on the USDP and the military, and appealed to voters to entrust Aung San Suu Kyi with continuing reforms. While a party manifesto was released, the substantive message reached relatively few voters and was wholly overshadowed by the personal appeal of the party's matriarch.

In total, ninety-one parties contested the election, with over two-thirds of those representing ethnic minority groups. The relatively strong performance of the ethnic parties in the 2010 election, together with the claim that the NLD represented predominantly the interests of the majority ethnic Bamar (twelve of fifteen NLD central executive committee members are ethnic Bamar) led to the expectation that many of Myanmar's ethnic minority voters (who comprise roughly one-third of the electorate) would vote for parties that represented their ethnic interests, rather than the larger USDP and NLD parties.

Few doubted prior to the election that the NLD would perform strongly. Given the 25% seat reservation for the military, the NLD needed to win roughly two-thirds of contested seats in order to secure a parliamentary majority. The feasibility of this hinged on the appeal of the USDP's Buddhist nationalist strategy, as well as on the ability of ethnic parties (who were strongly courted by the USDP) to capture seats.

WHAT THE ELECTION RESOLVED

The election provided clear insights on several questions. First, the NLD proved that after more than 20 years, it was still able to defeat the military-backed party in a head-to-head showdown. Headlines following the election spoke of a "red wash" landslide victory for the NLD. When the vote tallying had been concluded, 78% of contested seats went to the NLD, which delivered a strong parliamentary majority of 58% of seats.⁴ The USDP fared poorly, securing fewer than 10% of the NLD's seat totals in the upper house and just under 12% in the lower house. The ethnic parties similarly secured fewer than expected seats, with only the main Shan and Arakan parties gaining a visible parliamentary presence.

⁴ <http://www.mmtimes.com/index.php/national-news/17791-the-fighting-peacock-spreads-its-tail-final-results-graphics.html>

	Lower house seats	Lower house percent	Upper house seats	Upper house percent
NLD	255	58%	135	60%
Military	110	25%	56	25%
USDP	30	7%	12	5%
Arakan National Party	12	3%	10	4%
Shan Nationalities LD	12	3%	3	1%
Other ethnic	12	3%	5	2%

Second, Buddhist nationalism proved ineffective as a vote-winning strategy. This is noteworthy, given the immense respect that hardline groups like the Ba Ma Tha command in areas of the country.⁵ The lack of electoral efficacy, however, does not diminish the broader political impact of Buddhist nationalism, as demonstrated by the NLD's silence on the Rohingya and their decision not to nominate any Muslim candidates. The willingness of hardline monks to mobilize against perceived threats to Buddhism significantly constrains the manoeuvring space of Aung San Suu Kyi on these issues, which in turn will disappoint many international observers. Third, with the NLD winning nearly 70% of seats in ethnic minority areas, ethnic parties had dramatically less appeal than anticipated.⁶

WHAT THE ELECTION DIDN'T RESOLVE

The election left many key questions about the future of Myanmar politics unresolved. While much of the discussion has focused on who will become president, other open questions have a far more dramatic effect on the trajectory of Myanmar's reform process. In addition, the election raises a series of interesting questions for our broader understanding of politics.

First, and most fundamentally, why did the NLD win by such a wide margin? Did voters vote for the NLD or against the military? While it is possible that voters supported the NLD out of dissatisfaction with decades of corrupt, inefficient, abusive rule by the military, it is also possible that voters could not pass up the chance to vote for Aung Sang Suu Kyi. This

⁵ <http://www.bbc.com/news/world-asia-34463455>

⁶ <http://asiapacific.anu.edu.au/newmandala/2015/11/27/a-silent-minority/>

question is important for what happens next. If voters simply supported the NLD out of affection for Aung Sang Suu Kyi—for which there is some evidence—what does that mean once she no longer leads the party? Alternatively, if they voted for the NLD out of dissatisfaction with the military's performance, what will happen if the NLD proves incapable of improving the economy? Will they view their former autocrats in a more favourable light, as some voters in Indonesia's most recent election did? In either case, for the NLD to sustain its gains in the face of economic struggles or Aung Sang Suu Kyi's eventual departure, it will likely need to develop an identifiable platform and manage expectations.

Second, in the near term, will the power sharing arrangement between the military and the NLD prove to be sustainable? The NLD, whether fairly or not, will be judged on its ability to manage a government that it does not fully control. This means that the NLD will have to work with the military, which puts Aung San Suu Kyi and the NLD in a highly precarious position. The landslide victory brings with it massive expectations for change, both from domestic and international audiences. Yet Aung San Suu Kyi, as a pragmatist and political realist, will recognize that she faces considerable constraints in her decision making, most notably in that she does not have the capacity to push through reforms that encroach too severely on the military's interests.

As such, two scenarios are possible. One is that the NLD, conscious of its need to work with the military, will be cautious in reforming in deference to the military. For this strategy to succeed, the NLD will need to temper the expectations of a country that expects momentous changes in line with the momentous election. Failure to do this risks it losing support in future elections. In just one example, will citizens abide by the military's continued domination of several key economic sectors? A less likely possibility is that the NLD will respond to public dissatisfaction and attempt to engage in rapid reforms or mobilize support to reform the constitution. This high-risk approach carries the danger of panicking the military and triggering a coup. As neighbouring Thailand demonstrates, perpetual political instability is a real possibility when a military's interests are disregarded and institutional safeguards to prevent interference are weak.

Third, will the NLD be able to reform the country's notoriously ineffective bureaucratic structures to improve day-to-day governance and service delivery? This will prove challenging because formal control of the bureaucracy belongs to the military, via its constitutionally guaranteed control of the ministry of interior. With nearly 80% of senior bureaucrats coming from military backgrounds, working through indirect channels will likewise be difficult. Aside from potentially inhibiting the implementation of policy, a corrupt and inefficient bureaucracy is a major vulnerability for the NLD, given that for most citizens it is the primary day-to-day interface with the government.

Fourth, will Aung San Suu Kyi manage the transition from being the symbolic face of opposition against military rule to being the political leader of a precarious coalition? Her former role seldom required the type of compromise that carried a risk of alienating supporters. She now faces the perfect storm of high expectations but limited formal power;

her necessarily pragmatic decisions will rarely convince all. Moreover, the NLD’s party structure is fragmented and is comprised more of loyalists than technocrats, so effective support from those quarters will be limited.

As a final question, now that Myanmar has held a free and fair election where the ruling party has lost, should we call it a democracy? While in some senses this is an “academic” question, semantics matter for policy makers, particularly those advocating for greater engagement with Myanmar. Critics such as Human Rights Watch criticized President Obama’s initial overtures to Myanmar as premature due to its continuing repression of political prisoners.⁷ Certainly, being able to call Myanmar a democracy would help alleviate these concerns. While many contend that democracy is a matter of degree, others support an ‘either-or’ distinction that privileges an alternation in power.⁸ Using the latter definition, the 2015 election constitutes a transition. Certainly, as the discussion above indicates, many non-democratic elements remain as part of the 2008 constitution. Perhaps the best metric of Myanmar’s democratic credentials would be a modified version of Huntington’s “two-turnover” test.⁹ Perhaps we can only confidently say Myanmar is democratic if the NLD manages to survive a full term in office and compete in another free and fair election. The many open questions around Myanmar’s political landscape warrant healthy scepticism, but we remain hopeful that enthusiasm generated through the election will indeed mark the beginning of a new era.

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⁷ <https://www.hrw.org/news/2014/07/28/letter-president-barack-obama-re-united-states-policy-towards-burma>

⁸ Adam Przeworski, Michael Alvarez, Jose Cheibub, Fernando Limongi, *Democracy and Development: Political Institution and Well-Being in the World*, Cambridge: Cambridge University Press (2000).

⁹ Samuel Huntington, “Democracy’s Third Wave”, *Journal of Democracy*, 2(2): 12-34 (1991).