

The Myanmar Elections: Results and Implications

Crisis Group Asia Briefing N°147
Yangon/Brussels, 9 December 2015

I. Overview

The 8 November elections were a major waypoint in Myanmar's transition from authoritarian rule. Holding a peaceful, orderly vote in a context of little experience of electoral democracy, deep political fissures and ongoing armed conflict in several areas was a major achievement for all political actors, the election commission and the country as a whole. The victorious National League for Democracy (NLD) needs to use the four-month transitional period before it takes power at the end of March 2016 wisely, identifying key appointees early so that they have as much time as possible to prepare for the substantial challenges ahead.

Its landslide victory, with almost 80 per cent of the elected seats, means Nobel Peace Prize laureate Aung San Suu Kyi's party will have an outright majority in both legislative chambers, even after the 25 per cent of unelected seats held by the armed forces is taken into account. This will give it control of law-making and the power to choose the president – a position that the constitution bars Suu Kyi from taking herself. The incumbent Union Solidarity and Development Party (USDP) suffered a crushing defeat, as did most parties representing minority ethnic groups.

The vote represents a huge popular mandate for Aung San Suu Kyi and comes with equally high expectations that she and the NLD will deliver the needed political and economic changes. It will not be easy to meet those expectations. First, Suu Kyi will have to build a constructive working relationship with Commander-in-Chief Min Aung Hlaing. The military retains considerable executive power, with control of the defence, home affairs and border affairs ministries. Success in everything from the peace process to police reform and further political liberalisation will depend on the cooperation of the armed forces. With longstanding mutual suspicions, that relationship could easily get off to a bad start, particularly if Suu Kyi chooses a proxy president without the credibility and stature required for the top job, as she has suggested she would.

Beyond this, the NLD will want to demonstrate that it can meet the expectations of the people by bringing tangible changes to their lives. It can tap into enormous domestic and international goodwill and support, but its limited experience of government, a shallow pool of skilled technocrats and the difficulty of reforming key institutions all constrain how much can be achieved quickly. This is particularly important given that the party has done very little policy development work to date.

It also may prove difficult for the new administration to focus on producing positive changes, given the range of problems the country faces, any of which have the

potential to spawn crises. Serious armed clashes continue in Shan and Kachin states, threatening to undermine a fragile peace process. There are signs of macro-economic turbulence, with weak policy tools available to mitigate it. And the situation in Rakhine state, where most Muslim Rohingya were disenfranchised, is intractable and potentially volatile; any moves the NLD government makes on this issue will come under particular nationalist scrutiny.

There will also be international relations challenges. Suu Kyi and the NLD will need deft diplomatic skills to steer Myanmar's continuing re-engagement with the West, while maintaining good relations with a more assertive China concerned that its interests are being harmed. They will have to be particularly adroit, given perceptions that they have an inherent pro-Western bias. Western countries must do their part to help make this rebalancing succeed. They have an important role to play in supporting positive change in Myanmar but need to be cognizant of domestic and regional sensitivities involved.

II. Conduct of the Elections

The elections were generally carried off very well.¹ The campaign period itself was almost entirely peaceful, bar some isolated incidents.² The main issues election observers identified were the democratic deficits in the constitutional framework and some serious problems with inclusivity, given the disenfranchisement of approximately half a million Rohingya Muslims and the non-transparent cancellation of polling in some ethnic areas on security grounds.³ Political parties and observers also expressed some concerns about the mixing of religion and politics, which is prohibited by law – in particular, vocal claims by the Buddhist nationalist MaBaTha group that the NLD would not “protect Buddhism”.⁴ In addition, in part due to the political climate, no major party fielded a single Muslim candidate.⁵

¹ For Crisis Group reporting on Myanmar since the present government took power in 2011, see Asia Briefings N°s 146, *Myanmar's Peace Process: A Nationwide Ceasefire Remains Elusive*, 16 September 2015; 144, *Counting the Costs: Myanmar's Problematic Census*, 15 May 2014; 143, *Myanmar's Military: Back to the Barracks?*, 22 April 2014; 142, *Not a Rubber Stamp: Myanmar's Legislature in a Time of Transition*, 13 December 2013; 140, *A Tentative Peace in Myanmar's Kachin Conflict*, 12 June 2013; 136, *Reform in Myanmar: One Year On*, 11 April 2012; and 127, *Myanmar: Major Reform Underway*, 22 September 2011; also Reports N°s 266, *Myanmar's Electoral Landscape*, 28 April 2015; 261, *Myanmar: The Politics of Rakhine State*, 22 October 2014; 251, *The Dark Side of Transition: Violence Against Muslims in Myanmar*, 1 October 2013; 238, *Myanmar: Storm Clouds on the Horizon*, 12 November 2012; 231, *Myanmar: The Politics of Economic Reform*, 27 July 2012; and 214, *Myanmar: A New Peace Initiative*, 30 November 2011.

² The most serious was a machete attack on an NLD candidate in Yangon on 29 October. The alleged perpetrators were arrested by police, and an investigation is underway. There are no strong indications that the attack had an electoral motivation, and the candidate won the seat.

³ For a detailed analysis of the constitutional and legal framework for the elections and the administrative procedures, see Crisis Group Report, *Myanmar's Electoral Landscape*, op. cit.

⁴ “MaBaTha justifies religion in politics”, *Myanmar Times*, 5 October 2015.

⁵ Only about 28 of the 6,000 registered candidates were Muslims, though Muslims are at least 4 per cent of the total population, probably more. These include the Rohingya in Rakhine state, as well as many other Muslim communities across the country. Census data on religion have not yet been released due to their political and electoral sensitivity. A number of political parties representing Rohingya or other Muslim communities are registered and submitted candidates, though the elec-

Some 41,000 polling stations opened on election day, nearly all on time. Initial statements from observation missions were generally very positive on conduct of the polling. They reported that voting was overwhelmingly peaceful and free from major problems. It proceeded in an orderly manner, and secrecy of the vote was maintained. There was also a high degree of transparency: some 12,000 domestic and 1,000 international accredited observers and thousands of party agents observed polling across the country, with unrestricted access, including to polling stations inside military compounds. Counting of votes at polling stations was also conducted well. It was not possible to observe advance voting by the military, however, and in general the advance voting process did not have the same level of transparency as the main vote.⁶

Eligible voters being left off the voter roll had been widely reported as a major problem in the lead-up to the polls, in part due to the complexity of digitising error-laden paper records for the first time. By election day, however, the extent of this problem appeared relatively minor. According to election observation missions, only a small percentage of polling stations was affected, and of those that were, the number of people unable to vote was limited.⁷

III. Results

By the evening of 8 November, informal reports from party agents and candidates, based on tallies from individual polling stations, already indicated an NLD landslide. This was not confirmed officially for several days, as the election commission released the results for the 1,150 seats in batches, mainly from 9 to 15 November; a final group from the remote Himalayan foothills was declared only on 20 November.⁸ The results confirmed a landslide win for the NLD, not only in central regions, but also in many ethnic minority states.

A. *The National Legislature*

In the bicameral national legislature, the NLD won 79 per cent of the elected seats, giving it an outright majority of 59 per cent – 60 per cent in the upper house, 59 per cent in the lower house – once the military's 25 per cent bloc of unelected seats is included.⁹ This was much better than most observers, and the party itself, had ex-

tion commission rejected many, mostly for alleged failure to meet citizenship requirements, which provide parents must have been citizens at the time of a candidate's birth.

⁶ Crisis Group observation of voting and counting at several polling stations in Yangon and interviews, international observers, Yangon, November 2015. "Carter Center Election Observation Mission Preliminary Statement", Yangon, 10 November 2015; "European Union Election Observation Mission Preliminary Statement", Yangon, 10 November 2015; and "Preliminary Report on Election Day", People's Alliance for Credible Elections, Yangon 9 November 2015.

⁷ Ibid.

⁸ 491 seats were decided for the national legislature, and 659 for the state and region assemblies. Originally, 1,171 constituencies were designated, but voting was cancelled in seven whole townships (and parts of many others), representing 21 constituencies. One result for an upper house constituency was changed on 23 November, with the seat being taken away from the USDP and awarded to the Ta-Aung (Palaung) National Party (TPNP), correcting a tallying error. Shan State Election Sub-Commission announcement No. 164/2015, 23 November 2015.

⁹ For a detailed breakdown of results, see Appendix B below.

pected.¹⁰ The incumbent USDP has been reduced to 8 per cent of elected seats (6 per cent of the total national legislature) – exactly the number of seats the NLD had following the 2012 by-elections.¹¹ In the deeply-flawed 2010 polls that the NLD boycotted, the USDP had obtained its own 79 per cent landslide of elected seats.

Parties representing ethnic minorities fared particularly poorly. In 2010, even though the election was not fair, they managed collectively to secure 15 per cent of the elected seats (similar to what they had achieved in 1990). This time, they won only 11 per cent of seats in the national legislature (9 per cent once the military bloc is included). Only two ethnic parties achieved some success – the Arakan National Party with 22 seats in Rakhine state, and the Shan Nationalities League for Democracy with fifteen seats; the rest won just a few seats, or none at all. No Karen or Kayah parties won anything, and the Mon and Kachin parties have a single representative each.

The other national parties were also eliminated. Apart from the National Unity Party, originally set up as a vehicle for the pre-1988 socialist regime, which secured a single seat in the remote northern reaches of Kachin state, neither of the other non-ethnic parties that won mandates in 2010 had any success.¹² The Buddhist ultra-nationalist National Development Party, which fielded the fourth-largest number of candidates, failed to win a seat, as did the Myanmar Farmers Development Party, which also adopted a nationalist line.

B. State and Region Assemblies

A similar picture emerged in the fourteen local assemblies – in the seven Burman-majority regions and the seven ethnic states.¹³ The NLD won three quarters of all elected seats in these assemblies, including 95 per cent in the regions and 45 per cent in the states. This gives it large majorities in each of the seven region assemblies and majorities in four of the seven state assemblies.¹⁴ No party holds a majority in the other three state assemblies.¹⁵ The marginalisation of ethnic minority parties is even more striking in these legislatures. A local party won only three seats in the Mon state assembly, two in Chin state, one in Kayah state and none in Kayah state.

These decentralised structures were intended to give a degree of autonomy, albeit limited, to ethnic communities. A grievance underlying the armed conflict is that domination of these areas by successive central governments and regimes did not allow them a say in their own affairs. However, most of these state assemblies are now controlled by a national party that ethnic leaders view, rightly or wrongly, as representing the interests of the majority Burman ethnic group.

¹⁰ See “Myanmar’s NLD confident of winning majority of seats in November elections”, *Channel News Asia*, 28 October 2015.

¹¹ The NLD won 41 of 43 seats in the 2012 national legislature by-elections, the same as the USDP won in the 2015 general elections. (The NLD gained two additional seats after 2012 from representatives who crossed the floor.)

¹² That is, the Democratic Party (Myanmar) and the National Democratic Force.

¹³ For complete results, see Appendix C below.

¹⁴ In one of these, Chin state, the NLD has exactly 50 per cent of seats, just short of a majority. The choice of speaker – who under section 181 of the constitution does not vote in the first instance but holds a casting vote in case of a tie – will therefore be important.

¹⁵ In Kachin state, the NLD has a near-majority, 49 per cent, as does the Arakan National Party in Rakhine state.

IV. Impact of the Results

The election produced a seismic shift in the division of political power, creating a clear winner – the NLD – but also important and powerful losers. How both react in the coming weeks and months will have a major impact on Myanmar's future.

A. *Marginalisation of the Old Elite*

The most obvious loser is the old political elite, both the USDP as a party and the individuals involved. It has been reduced to a fraction of what it won in the flawed 2010 elections that the NLD boycotted: 41 seats, 8 per cent of the legislature.¹⁶ This is a major political shift and a humiliation for the USDP. Though it is the second-largest party, it will have only minor influence in legislative affairs. Many prominent individuals who were on its ticket suffered embarrassing defeats, though some moved to what they felt were safe seats. Those who lost include Shwe Mann, the high-profile outgoing speaker and third-ranking member of the previous military regime; Htay Oo, acting head of the party; Wai Lwin, the ex-defence minister; and numerous other recently-retired ministers. Chief peace negotiator Aung Min, a member of the central executive but running as an independent, also lost.¹⁷

The most prominent USDP candidate to win a seat was Hla Htay Win, a recently-retired four-star general and joint chief of staff.¹⁸ He will be joined in the lower house by former Navy Chief Thet Swe, outgoing Vice Presidents Nyan Tun and Sai Mauk Kham, former Minister Thein Swe and retired three-star General Thaung Aye. In the upper house, outgoing Speaker Khin Aung Myint retained his seat, and will be joined by minister in the president's office Soe Thane.¹⁹ These heavyweights will lead two very small USDP caucuses.

The expectations going into the election were rather different. Although an opinion survey the USDP commissioned had flagged the possibility of a catastrophic loss, many party leaders expected they could avoid that outcome.²⁰ Internal predictions were that the USDP could come close to winning one third of the lower house elected seats and could achieve a majority together with the military bloc and some small ethnic parties.²¹

It appears that the USDP and many others underestimated Aung San Suu Kyi's broad appeal, her message of change and how strongly people wanted to remove the military-elite coterie that has run the country for decades. The USDP believed a combination of high-powered and influential candidates, incumbent advantage, in-

¹⁶ See Crisis Group Asia Briefing N°118, *Myanmar's Post Election Landscape*, 7 March 2011.

¹⁷ He was running as an independent because former party chair Shwe Mann had declined to put him in a safe seat in Kayah state. Shwe Mann was subsequently deposed as chair, but too late in the election timetable to change the candidate list, prompting Aung Min and fellow minister in the president's office Soe Thane to run as independents.

¹⁸ For discussion of ex-military winners and losers, see Renaud Egretteau, "The (few) generals that don't exit in Myanmar", *The Diplomat*, 20 November 2015.

¹⁹ A member of the USDP's central executive who also ran as independent. See fn. 17 above.

²⁰ Crisis Group interview, member of USDP Central Executive Committee, Naypyitaw, October 2015. Party leaders also made such comments to the media. The leaked results and interpretation of the opinion survey, on file with Crisis Group, predicted that the party might only secure sixteen seats in the lower house; in the end, they won 30.

²¹ Internal USDP documents, on file with Crisis Group. A team working for the ousted chair, Shwe Mann, prepared them. It is unclear how widely they were circulated within the party.

creasing popular disaffection with the NLD (in particular over its perceived lack of nationalist credentials) and the significant reforms the government has delivered would translate into votes.²² This certainly happened: the party took a respectable 28 per cent of the popular vote, compared with the NLD's 57 per cent.²³ However, the first-past-the-post electoral system amplified NLD popularity and skewed the results further in its favour; it won double the votes of the USDP but ended up with almost ten times the number of seats. Something very similar happened in 1990 and the 2012 by-elections.²⁴ Had a proportional representation system been introduced, the USDP would thus have fared much better, but for reasons still not fully clear, that reform was not prioritised.

The USDP and its candidates have generally been magnanimous in defeat. The result was so emphatic that most appear not to see any utility in a challenge. Indeed, for some architects of this transition, including President Thein Sein, his senior ministerial advisers and Speaker Shwe Mann – as well as chairman of the election commission Tin Aye – a peaceful, credible election won resoundingly by the opposition and followed by an orderly transfer of power burnishes their reformist credentials and enhances their legacy. While there may be those who could be tempted to use electoral dispute mechanisms to overturn individual results, they are mostly not in positions of power in the party hierarchy and are unlikely to receive significant support. A major effort to change the outcome appears unlikely.²⁵ Indeed, the first result to be amended went against the USDP; it lost a seat in the upper house when a tallying error was corrected.²⁶

B. Reaction of the Military

The USDP is a clear loser, but the military is a winner, because the outcome furthers its medium- and long-term objectives. These include balancing China's influence by developing strategic relations with the U.S. and re-engaging with Western militaries; ensuring that the national economy can support powerful, well-equipped armed forces; and restoring its domestic reputation.²⁷

This does not mean the military has no concerns about the result. It is sceptical of the NLD's ability to govern and worries that Aung San Suu Kyi is too close to the West, particularly the UK – the former colonial power.²⁸ It would have preferred a

²² Crisis Group interviews, government ministers and advisers in Naypyitaw and Yangon over the course of 2015.

²³ Crisis Group analysis of voting data released by the election commission on 2 December.

²⁴ In 1990, the establishment National Unity Party won 21 per cent of the popular vote but only 2 per cent of the seats; the NLD won 60 per cent of the vote and 81 per cent of the seats. In 2012, the USDP won 27 per cent of the vote and 2 per cent of the seats, against the NLD's 66 per cent of the vote and 96 per cent of the seats.

²⁵ USDP acting chair Htay Oo initially told journalists that some 100 unsuccessful USDP candidates would lodge complaints. Subsequently, he stated that there would not be many complaints, and "I don't think we should contest results where we lost. But it would be good to avoid mistakes in the next election". See "Defeated USDP candidates intend to file complaints to UEC", *Myanmar Times*, 18 November 2015; and "President expected to meet NLD leader next month", *Myanmar Times*, 19 November 2015.

²⁶ See fn. 8 above.

²⁷ For detailed discussion, see Crisis Group Briefing, *Myanmar's Military*, op. cit.

²⁸ Commander-in-Chief Min Aung Hlaing advised his troops to vote for candidates who were "well acquainted with politics, economics, governance and military" affairs and "free from foreign influence". "Top brass told to vote with military in mind", *Democratic Voice of Burma*, 21 October 2015.

less emphatic result and more success for the retired top brass who ran on a USDP ticket and mostly lost. But it has already ensured that its political influence and autonomy are enshrined in the constitution, and it has a veto over changes to that document. The system has been set up so that the military does not need any allied party's support in the legislature to protect its prerogatives.

Thus, though the military may have been surprised at the outcome, its interests have not been negatively affected. Indeed, assuming that there is an orderly transfer of power – and all signs are that there will be²⁹ – the NLD landslide will give the military considerable credibility for having engineered a peaceful transition that put the opposition in power, allowing a free election to proceed and not having attempted to influence or undermine the outcome. This will accelerate the country's re-engagement with the West and the military's standing.

The main thing that could jeopardise this would be a confrontational relationship with the NLD administration. If this were serious and seen as holding back further reform, the military would likely be blamed, internationally and domestically. Thus, although the military may be confident that it has steered a peaceful transfer of power while retaining its political influence, it has an interest in ensuring a constructive relationship with Suu Kyi and the NLD. Whether this can transcend the long history of distrust will depend on both sides' foresight. The first-ever one-on-one meeting between Suu Kyi and Min Aung Hlaing, held on 2 December, appeared constructive. While no details have been released, the body language and tone seemed positive.³⁰

C. *Challenges for Ethnic Politics*

Probably the biggest surprise were the losses of ethnic minority parties, including in the upper house, known as the "chamber of nationalities" because it provides equal representation to the seven states and seven regions regardless of population. Ethnic parties were also marginalised in their own state assemblies (see Section III above).

Part of the reason is due to a proliferation of ethnic parties. In 2010, 24 ethnic parties contested, compared with 55 in 2015, including several seeking to represent the same minority group. This may have led to some voters turning away from ethnic parties. But actual vote splitting was not the main factor. In most ethnic state constituencies where it won, the NLD received more votes than ethnic parties combined. Ethnic parties would only have won a handful more seats in the national legislature if there had been no split vote.³¹ Many ethnic communities thus voted heavily for the NLD rather than their local party. There were likely a number of factors behind this. The party's simple (some would say simplistic) message of "change" resonated across the country. Also, the NLD was the most obvious recipient of the protest vote against the USDP and the decades of military rule that it still symbolised. Indeed, the comparatively good showing of ethnic parties in 2010, when the NLD boycotted,

²⁹ Min Aung Hlaing has given repeated assurances before and after the polls that the results would be respected. See, for example, "Burma's top general: 'I am prepared to talk and answer and discuss' with Aung San Suu Kyi's government", *The Washington Post*, 23 November 2015. He posted a full Burmese-language video of this interview to YouTube and an English-language transcript to his Facebook page.

³⁰ For example, Min Aung Hlaing greeted Suu Kyi as her car pulled up and waved her off at the end of the meeting. Given Myanmar's focus on hierarchy and protocol, these were important signals, as was the fact that it was a "four-eyes" meeting – without aides or deputies present – giving the potential for frank discussions of sensitive topics.

³¹ Crisis Group analysis of voting data released by the election commission on 2 December.

may have been more a protest against the USDP than a vote explicitly in favour of those parties.

This will have a major impact on ethnic politics. Notwithstanding that many in ethnic areas voted for the NLD, many leaders and members of these communities perceive it as a party of the Burman majority that does not understand the grievances or aspirations of ethnic people. There is thus much concern at the prospect of the NLD dominating not only both houses of the national legislature, but also most of the ethnic state assemblies. Indeed, if the chief ministers of the states are mostly or entirely NLD representatives under the authority of the central party leadership – which is likely – ethnic leaders are bound to question whether decentralisation can deliver on the promise that communities will have greater control over the decisions affecting their lives.

How this will play out in the peace process remains to be seen, but here too the scale of its victory could be a liability.³² Though there may be less suspicion about NLD intentions among some armed groups and more willingness to engage with a government at the beginning of its term, there are also concerns that the party does not really understand the grievances underlying the conflict or discussions in the peace process, from which it has kept its distance. Several founding leaders were previously senior members of the military regime, including Vice Chairman Tin Oo, commander-in-chief in the 1970s.

There are also divergent concerns about potential NLD-military relations. On the one hand, there is worry an NLD administration would not have influence over the military, so might not be able to implement commitments – a concern also expressed in relation to the current administration. On the other hand, there is worry that if an NLD administration, with its domestic and international legitimacy, were able to reach an understanding with the military, it would create a formidable Burman united front that would be very tough to negotiate with.³³

D. *The Buddhist Nationalist Vote*

During the campaign, there were repeated efforts to use Buddhist nationalist narratives for party-political ends. This was particularly focused around the four “protection of race and religion” laws championed by the hardline Buddhist Association for the Protection of Race and Religion (MaBaTha).³⁴ These laws were enacted in May and August 2015 with USDP support, and MaBaTha used celebration rallies across the country in September to criticise those who had not supported them, including sometimes explicitly the NLD. A senior monk went so far as to call the party, though it had no Muslim candidates, a “political party supported and backed by Islamists”.³⁵ This led the NLD to file complaints of misuse of religion for electoral purposes, which is prohibited by law.³⁶

³² For discussion of the peace process and the concerns and motivations of armed groups about it, see Crisis Group Briefing, *Myanmar's Peace Process*, op. cit.

³³ Crisis Group interviews, armed group leaders and advisers, October and November 2015.

³⁴ That is, the Population Control Law (May 2015) and the Buddhist Women's Special Marriage Law, the Monogamy Law and the Religious Conversion Law (all August 2015).

³⁵ “MaBaTha: NLD is the Party of ‘Islamists’”, *The Irrawaddy*, 21 September 2015.

³⁶ Several such complaints were filed, relating to comments made at a MaBaTha rally in Ayeyarwady region and pamphlets distributed urging people not to vote NLD. Crisis Group interview, individual working with the election commission, Yangon, October 2015.

Given the pre-existing climate of anti-Muslim sentiment and the common perception that the NLD was soft on the issue, many observers had expected an impact on its results, particularly in rural areas of the heartland such as Ayeyarwady region. On the surface, this does not appear to have happened. The NLD's proportion of the popular vote was similar to that achieved in 1990, when this issue was not present.³⁷ The NLD scored an almost clean sweep of seats across the central regions, and candidates and parties on a Buddhist nationalist platform failed to win any – including the National Development Party, Myanmar Farmers Development Party and National Democratic Force, as well as several independents from the MaBaTha-linked Myanmar Nationalist Network.³⁸ It lost only in a few places that have been the locus for anti-Muslim violence, for example Meiktila and Thazi townships.³⁹

However, it is premature to conclude that MaBaTha is significantly diminished as a religious or political force. It remains committed to its broader agenda, which was never simply about elections. All indications are that it will continue to pursue it vigorously, including controversial objectives such as enshrining Buddhism as the state religion and suffrage for monks.⁴⁰ The results were also not necessarily a good indication of nationalist sentiment. As a prominent scholar of Myanmar Buddhism noted, voting for the NLD is not inconsistent with Buddhist nationalist sentiments.⁴¹ The party's success cannot be seen as an explicit vote against MaBaTha; indeed, the USDP's relatively strong 28 per cent of the popular vote may have been partly due to its strong nationalist credentials. What seems clear is that the attempt by some MaBaTha monks to influence the results was unsuccessful, and many saw their direct attacks on the popular NLD as a step too far.

V. What Comes Next

A. A Lengthy Lame Duck Period

The constitution provides an extended timetable for the transfer of power. Both the legislative and executive terms are fixed at exactly five years, with election dates determined by these term deadlines rather than vice-versa. This has some unusual consequences. The old legislature's term expires only on 31 January 2016, at which point the new elected representatives will take their seats.⁴² Until that date, the old legislature continues to have law-making authority; a "lame duck" session began sitting the week after the elections, on 16 November, and is resuming its consideration of more than 45 bills that were pending prior to the vote.⁴³

³⁷ In 1990, the NLD won 60 per cent of the popular vote, compared with 57 per cent this time.

³⁸ "Nationalist candidates fight for votes without party backing", *Myanmar Times*, 27 October 2015.

³⁹ For analysis of the violence in these areas, see Crisis Group Report, *The Dark Side of Transition*, op. cit.

⁴⁰ Crisis Group interview, Myanmar researcher specialising in religious nationalism, Yangon, November 2015.

⁴¹ Matthew J. Walton, "The post-election future of Buddhist nationalism in Myanmar", *East Asia Forum*, 19 November 2015.

⁴² Sections 119 and 151 of the 2008 constitution.

⁴³ "Parliament resumes, priority to be given to passing important bills", *Global New Light of Myanmar*, 17 November 2015, p. 1.

When the NLD-dominated legislature is sworn in at the end of January, the two chambers will first select their speakers – with the NLD’s majority giving it control of the process. The next order of business will be the presidential election. The process occurs in two stages.

First, each of the three groups that make up the electoral college (the elected representatives in the lower house; the elected representatives in the upper house; and the military representatives in both houses) chooses a presidential candidate. The upper house and lower house each selects its candidate in a single-round plurality vote among all nominees. There is no requirement that presidential candidates be members of the legislature – a legislator may nominate anyone who meets the constitutional requirements of age, citizenship and so on, provided that the person agrees to be nominated, at least one other representative seconds the nomination, and the nominee passes a credentials check conducted by the speaker and deputy speaker of the chamber in question. For the selection of the candidate of the military representatives, the election is “under the guidance” of the commander-in-chief, with no specific procedure laid down.

Once the groups have each chosen a candidate, a further credentials check is jointly conducted by representatives of all three. Then the three groups meet together as a single presidential electoral college and vote on the three candidates in a single-round secret ballot. The candidate with the most votes becomes president, and the candidates in second and third place become vice president 1 and vice president 2, respectively. Given that the NLD has an outright majority, it will determine who becomes president, provided that its representatives vote as a bloc.

The process is likely to take one to two weeks, so the president should have been elected by mid-February. The president-elect then has several weeks to select a cabinet, which requires confirmation by the legislature.⁴⁴ However, the legislature has very little discretion in this regard, being able to reject persons only if they demonstrably fail to meet the required constitutional qualifications. The ministers for the key security portfolios of defence, home affairs and border affairs are serving military officers nominated by the commander-in-chief, with the same limited legislative confirmation process. The president and his or her team take over once the current administration’s five-year term ends on 30 March 2016.

B. *An Uncomfortable Cohabitation?*

The old administration and the election victors thus have a period of several months that they will have to navigate carefully. The political focus is now very much on Aung San Suu Kyi and the NLD and the signals they are sending about their intentions, but sovereign power remains with the current leaders. Complications or tensions could easily arise. For this reason, on 10 November Aung San Suu Kyi wrote separately to the president, commander-in-chief and lower house speaker requesting meetings to discuss the transition. She met with Speaker Shwe Mann on 19 November, and both the president and commander-in-chief met her separately on 2 December; no details of these discussions were released.

⁴⁴ The president has authority not only to select ministers and deputy ministers, but also to designate ministries, with the proviso that the defence, home affairs, border affairs and foreign affairs ministries are constitutionally required.

The long transition gives the NLD an important opportunity to prepare for the day when it will take over legislative and, through the president it appoints, executive responsibilities. It has had more than 40 representatives in the legislature since the 2012 by-elections, including Aung San Suu Kyi herself and other senior party members, who thus have gained good experience of legislative procedures and functioning. But it has little experience in the executive and limited technical capacity, so that running of government will involve a steep learning curve. The party has done little policy development work to date. In opposition, it was able to be selective about the issues in which it became involved; in government, it will not have that luxury. The earlier it can identify the individuals to be appointed to key positions, the more time they will have to prepare.

Hanging over this transitional period is the critical question of who will be president. Aung San Suu Kyi is barred by the constitution, since she has children and a child-in-law with foreign (UK) citizenship.⁴⁵ She has indicated publicly that the person she selects as president “will have no authority” and that she will be “above the president” and “will make all the political decisions”.⁴⁶

It is far from clear how such an arrangement can work in practice. Pressed on the practicalities, Suu Kyi stated that at summits with other heads of state, she would attend “and the president can sit beside me”.⁴⁷ The president has wide-ranging constitutional powers, however, and there is no obvious way for Suu Kyi and the NLD to impose their will. If she wants to control the president, Suu Kyi will have to choose someone willing to be a figurehead and whom she trusts completely to follow her orders.

The appointment of such a proxy president may not sit well with the military, which has long opposed the possibility of Suu Kyi being president – hence its continued rejection of changes to the constitution that would allow this. It is unlikely to be happy about her circumventing the constitution and running the country from behind the scenes.⁴⁸ These concerns would only be heightened if she chooses a president without the stature and credibility required to fulfil effectively the functions of the office, which include chairing the National Defence and Security Council and the Financial Commission.

C. Challenges for the Incoming Administration

The new NLD administration will face many challenges. Most significantly, it will not control all levers of power. Among the cabinet members to be nominated by the commander-in-chief is the powerful home affairs minister, who like the defence and border affairs ministers, will be a serving military officer, so under the military chain of command though also reporting to the cabinet and president. The home ministry includes the police service, prison system and powerful “general administration

⁴⁵ Section 59(f) requires that a president’s or vice president’s parents, spouse, children and children-in-law not be foreign citizens or owe allegiance to a foreign power.

⁴⁶ Channel News Asia interview with Aung San Suu Kyi, 10 November 2015. See also, “Appointed president will take instructions from me if NLD wins: Suu Kyi”, Channel News Asia, 10 November 2015.

⁴⁷ Interview with Aung San Suu Kyi, reported in “Aung San Suu Kyi: ‘I’m going to be the one who is managing the government’”, *The Washington Post*, 19 November 2015.

⁴⁸ See, for example, *The Washington Post* interview with Commander-in-Chief Min Aung Hlaing, op. cit.

department”, which is the backbone of local administration throughout the country. It will be very difficult for the new government to run Myanmar, or indeed lead the peace process, without the military’s cooperation.

Given that the commander-in-chief looks almost certain to remain in his post for at least another year,⁴⁹ the quality of the relationship between Aung San Suu Kyi and Senior General Min Aung Hlaing is probably the key determinant of the success the new administration will have in implementing its agenda. It is important that they get off to a good start in the transitional period.

Once executive power is transferred at the end of March, the full weight of the nation’s expectations will fall on Suu Kyi and the NLD. Having campaigned on a platform of change, they will be under pressure to deliver some tangible progress within the first 100 days, so as to demonstrate how different they are from the current government. This will not be easy. Many of the obvious stroke-of-the-pen reforms have already been done; what remains is the hard slog of implementation and institutional reform. The Thein Sein government has found this very difficult, and there is no reason to think that the NLD will be any more adept at changing outdated practices and entrenched mindsets. It has provided no clear indications of its policy positions, beyond generalities.⁵⁰

This suggests that in addition to its medium-term priorities, which include reform of the judiciary and combatting corruption – critical areas but not ones where dramatic results are likely to come quickly – the NLD will need some early wins to show that it can deliver. It will be hard to produce tangible improvements in people’s livelihoods in the short term, but there are symbolic steps that could be taken, both economic and political, to engender confidence that the NLD is willing to tackle key issues and capable of achieving changes. Some obvious examples could include further moves to liberalise politics, such as decriminalising unauthorised demonstrations and pardoning people who have been imprisoned under this provision and other restrictive laws. On the economy, steps could be taken to roll out mobile banking solutions quickly as well as strengthen central bank independence.

Beyond this, the NLD will face a range of difficult issues that the current government has been grappling with: taking the reins of a complicated peace process at a critical moment, with ongoing clashes in Kachin and Shan states; trying to maintain macroeconomic stability in the face of several sources of turbulence, domestic and international; dealing with an intractable and volatile situation in Rakhine state; and curbing the powerful Buddhist nationalist lobby that may seek to test the new government’s resolve. Last but not least, Suu Kyi and the NLD will have to manage Myanmar’s relationship with China while continuing re-engagement with the West – something that Suu Kyi may find particularly challenging given the strong perception that she is pro-Western.

⁴⁹ Crisis Group interview, senior government adviser with knowledge of the matter, Naypyitaw, October 2015.

⁵⁰ The NLD released its “2015 election manifesto” shortly before the polls. It was a very general document, large parts of which were carried over from its 1990 manifesto. It was not widely distributed or referred to in the campaign, which was not run – by any party – on the basis of policy platforms. An NLD economic policy document prepared earlier in the year was only slightly more detailed and appeared tailored more toward foreign investors than domestic constituents.

VI. Conclusion

The election result was a powerful expression of desire for political change and a better life. It was also a huge vote of confidence in Aung San Suu Kyi and the NLD, for so long the symbols of resistance to military rule, to deliver those objectives. The responsibility for meeting expectations that now falls on their shoulders is daunting. With limited experience of the business of government and a need to find the required human resources quickly, the learning curve will be steep. The new government will benefit enormously from the domestic and international support and cooperation that it will be able to call on. At the same time, the election has not changed the fundamental challenges facing the nation, to which there are no easy solutions. If not handled deftly, it is possible that crisis management could take a lot of time away from efforts to deliver positive change.

Yangon/Brussels, 9 December 2015

Appendix A: Map of Myanmar



Appendix B: Election Results in the National Legislature

Party	Lower House	Upper House	TOTAL	% elected	% incl. mil
National League for Democracy (NLD)	255	135	390	79.4%	59.4%
Union Solidarity and Development Party (USDP)	30	11	41	8.4%	6.2%
Arakan National Party (ANP)	12	10	22	4.5%	3.3%
Shan Nationalities League for Democracy (SNLD)	12	3	15	3.1%	2.3%
Ta'ang (Palaung) National Party (TPNP)	3	2	5	1.0%	0.8%
Pao National Organization (PNO)	3	1	4	0.8%	0.6%
Zomi Congress for Democracy Party (ZCDP)	2	2	4	0.8%	0.6%
<i>Independent candidates</i>	<i>1</i>	<i>2</i>	3	<i>0.6%</i>	<i>0.5%</i>
Lisu National Development Party (LisuNDP)	2	0	2	0.4%	0.3%
Kachin State Development Party (KSDP)	1	0	1	0.2%	0.2%
Kokang Democracy and Unity Party (KDUP)	1	0	1	0.2%	0.2%
Mon National Party (MNP)	0	1	1	0.2%	0.2%
National Unity Party (NUP)	0	1	1	0.2%	0.2%
Wa Democratic Party (WDP)	1	0	1	0.2%	0.2%
	323	168	491	100.00%	74.73%
				Military:	25.27% ⁵¹

⁵¹ The military has one-quarter of all seats. The total is higher here, since polling was cancelled in seven seats in the lower house, leaving them empty. Percentages in the table are of the 491 seats contested, not the 498 constituencies designated.

Appendix C: Election Results in the State and Region Assemblies

	NLD	USDP	Ethnic	Military	TOTAL	Balance of power
State assemblies						
Chin	12	4	2	6	24	NLD virtual majority (50%)
Kachin	26	7	7	13	53	No majority: NLD 49%; mil 25%; USDP 13%, ethnic 13%
Kayah	11	4	0	5	20	NLD majority (55%)
Kayin	13	3	1	6	23	NLD majority (57%)
Mon	19	1	3	8	31	NLD majority (61%)
Rahkin	9	3	23 ⁵²	12	47	No majority: ANP 49%; mil 49%; NLD 19%; USDP 7%
Shan	23	33	47 ⁵³	39 ⁵⁴	142	No majority (USDP+military joint 51% majority) ⁵⁵
Region assemblies						
Ayeyarwady	51	3	0	18	72	NLD majority (71%)
Bago	55	2	0	19	76	NLD majority (72%)
Magway	51	0	0	17	68	NLD majority (75%)
Mandalay	48	8	0	19	76	NLD majority (63%). (One other seat: DPM.) ⁵⁶
Sagaing	69	5	2	25	101	NLD majority (68%)
Tanintharyi	21	0	0	7	28	NLD majority (75%)
Yangon	88	3	1	31	123	NLD majority (72%)
Total	496	76	86	225	884	

⁵² One of these seats was won by an independent who is expected to rejoin the ANP.

⁵³ One of these seats was won by an independent.

⁵⁴ The number of military representatives is calculated as a proportion of constituencies designated, not seats contested; since polling was cancelled in fourteen constituencies, the military has more than 25 per cent. In 2010, eight of these constituencies were never designated, which means that the number of military representatives in Shan state has increased since 2010.

⁵⁵ This assumes that USDP representatives would vote as a block and that their interests would align. Neither assumption is certain.

⁵⁶ That is, Democratic Party (Myanmar).