

September 2020

country report

KAS Myanmar

KONRAD
ADENAUER
STIFTUNG



Elections 2020 in Myanmar and the Possible Influence of Ethnic Parties

Dr. Thomas S. Knirsch, Annabelle Heugas

On November 8, 2020, despite the uncertainties of the COVID-19 pandemic, Myanmar will hold its third general elections since the political reforms started in 2010. 93 political parties with over 7,000 candidates will run for about 1,171 seats in both chambers of the Union Parliament and in the seven states and seven regional parliaments. More than 37 million citizens are eligible to vote in this year's parliamentary elections, 5 million of whom are first-time voters.

Ethnic parties getting ready

While the ruling National League for Democracy (NLD) and the military-backed opposition party, the Union Solidarity and Development Party (USDP), are the country's largest political parties, and will certainly remain so after the elections, the importance of the around 60 smaller ethnic parties for these upcoming elections should not be underestimated. Some political analysts even believe that neither the NLD nor the USDP will win enough seats to form a government. They argue that this could possibly open the door to a coalition government that could consist of alliances of different ethnic parties. The majority of commentators, however, believe that the NLD is again heading for undivided rule. They consider the idea of power-sharing unrealistic.

Whatever the prognosis, this country report will first give an overview of the constitutional framework governing the elections in Myanmar. It will then trace the development that enabled the country to move from authoritarian (military) rule to a parliamentary democracy with strong military influence. Finally, it will examine the importance of ethnic parties in the

upcoming elections as well as other factors, most notably the COVID-19 pandemic, that could influence the elections and their outcome.

Myanmar's constitution, electoral legislation, and the rocky road to democracy

The most important points of the constitution regarding the elections can be summarized as follows:

- › The Pyidaungsu Hluttaw, Myanmar's bicameral legislature at the Union level, is divided into the Amyotha Hluttaw (House of Nationalities/Upper House) with 224 seats and the Pyithu Hluttaw (House of Representatives/Lower House) with 440 seats.
- › There are subnational parliaments and governments in each of the seven states and seven regions (ethnic areas) of the country.
- › 25 % of the seats in all legislatures are reserved for the military, thus maintaining its influence and power in virtually all important issues.
- › The president is elected by an electoral college for a five-year term. He is responsible for appointing the cabinet, members of constitutional bodies, the Union Electoral Commission and for appointing Hluttaw representatives as Chief Ministers of the regions and states.
- › Despite the powers conferred on the president by the constitution as head of government, since 2015, the country's governance has been de facto in the hands of the State Counsellor, (a position introduced for Aung San Suu Kyi to counter the constitutional prohibition against Myanmar citizens with a foreign spouse or foreign children from running for the presidency).
- › Myanmar holds its general elections every five years, usually in November.

In addition to the 2008 constitution, elections since 2010 are guided by the Union Election Commission Law, the Political Party Registration Law and by-laws governing party registration, Pyidaungsu Hluttaw elections as well as regional and state elections. The proper conduct of the elections and the application of the electoral laws, regulations and directives are monitored by the Union Election Commission. The elections follow a majoritarian voting system (First-Past-The-Post).

Since independence in 1948, Myanmar has had four types of government systems: The Westminster-style democracy (1948-58, 1960-62), the first-generation military junta as well as the caretaker government and Burma's Socialist Program Party (1959-60, 1962-88), the second-generation junta (1988-2011), the quasi-civilian administration of General Thein Sein (2012-15), and finally the national reconciliation government of Aung San Suu Kyi (starting from 2015).

The first elections were held in 1947, in which the Anti-Fascist League for the Freedom of the People (AFPFL) won 173 of the 210 seats, running in over 50 constituencies with no opposing candidates. After the election, Aung San, the student leader who became a general and then a politician, was to become prime minister. After the assassination of Aung San and six other cabinet members on July 19, 1947, before taking office, U Nu became both prime minister of Myanmar and leader of the AFPFL.

Three more elections were held after 1948. In the 1951-52 elections, the AFPFL won 199 of the 250 seats. In the 1956 elections, the popularity of the AFPFL declined, this time winning 148 of the 250 seats. At the end of this ballot, U Nu temporarily withdrew to reform the parties and Ba Swe assumed the role of elected prime minister.

After a split in the AFPFL, the military finally took power in October 1958 to create stability under the interim government of Ne Win. Subsequent elections were held in 1960, which were seen less as a competition between the AFPFL factions and more as a referendum on the policies of the interim military government. U Nu won the elections with 158 of 250 seats and 57 % of the vote. Despite this success, General Ne Win launched a coup d'état on March 2, 1962, which marked the beginning of authoritarian rule in Myanmar for the next 26 years. Despite the cosmetic abolition of the State Law and Order Restoration Council (the "SLORC") in November 1997, which was henceforth to function as the State Peace and Development Council (the "SDPC"), Myanmar was ruled by a military junta from 1988 at the latest until 2010. During the rule of the SLORC, an election was held in May 1990 after the violent suppression of pro-democracy demonstrations by the NLD led by Aung San Suu Kyi. In this election, the NLD won a landslide victory with 80 % of the seats and 392 of the 492 available parliamentary seats.

Despite the NLD victory, the SLORC refused to recognize the NLD victory and to form a government until a new constitution was drafted. Following the enactment of the 2008 constitution, U Thein Sein of the USDP still won 80 percent of the seats in the 2010 elections. Independent bodies disputed the legitimacy of the election results. The NLD boycotted the election primarily because of electoral laws that prohibited political prisoners and thus its own members from participating in the elections.

In the last elections in 2015, the NLD won a landslide victory with 86 % of all eligible seats in the Pyidaungsu Hluttaw. Accepting this election result meant one thing above all else: It expressed the broad social consensus to end a military government or a military-backed government and begin an era of democracy in Myanmar. This striving for change was underscored by the high voter turnout of 70 %.

After the elections, Aung San Suu Kyi established a government of national reconciliation with a cabinet of 21 former civil servants and military generals. On April 6, 2016, Aung San Suu Kyi was officially given the role of Myanmar's State Counsellor. This position allows her to communicate directly with state regulators in accordance with the State Council Law and makes her accountable to Parliament.

The importance of ethnic parties and voters

The 135 recognized ethnic minorities and their long struggle for representativeness and autonomy is a continuous line of conflict in the political struggle in Myanmar. In addition to the dominant Bamar ethnic group (nearly 70 %), the other ethnic groups make up 30 % of the country's total population, thus forming a strong voter base. Historically, most of these ethnic minorities have lived in Myanmar's border areas, which have been little or only partially affected in the recent past by Bamar rule in the center of the country.

However, even during the negotiations for independence from British colonial rule in 1948, a large number of these ethnic groups were already advocating their autonomy and the strengthening of their rights. The negotiations culminated in the Panglong Agreement, which was signed in February 1947 by General Aung San together with the leaders of the Shan, Kachin and Chin in the village of the same name. It guaranteed the autonomy of the ethnic states with regard to their internal administration of the border areas. From the outset, however, the ethnic groups rejected the Bamar-Burmese and Buddhist-nationalist views of the central government in Rangoon. In 1962, the Bamar-led military regime finally took power and henceforth considered its role as the protector of the Burmese race (the Bamar) and Buddhist religion as well as the Union of Burma. Political parties were banned by the military regime, with the exception of the Burma Socialist Programme Party, which it supported. In the following years, a policy of political and cultural assimilation was enforced by force throughout the country. In response, more and more ethnic armed groups formed, a development that ultimately led to a conflict known as the longest civil war in the world (70 years and counting!).

To date, there are almost 20 of these groups in Myanmar, of which only 10 continue to talk directly with the government about the Panglong Agreement (renamed the 21st century Panglong Agreement in 2015). The last negotiations took place in mid-August 2020. During the military regime, peace talks between the army and the ethnic armies were either suspended or mostly unsuccessful, as the latter rejected the military's conditions for autonomy, such as submission to their command. However, the military regime had signed ceasefire agreements with a few ethnic armed groups. These agreements stipulated that the military would not interfere in business (raw materials, drug trafficking) in the ethnic areas, on condition that the ethnic leaders did not ally themselves with the NLD.

The 1988 democracy movement and the SLORC military government's lifting of the ban on political parties led to a strong (re)revival of the party landscape. The NLD and ethnic-based parties formed the United Nationalities League for Democracy. They worked closely together because they pursued the common goal of ending the military regime. However, some ethnic leaders were sceptical about whether the NLD would continue to place their concerns at the forefront of its work after a political transition.

Following the "Seven-Step Road Map to Democracy" of 2003, the Law on the Registration of Political Parties and other relevant laws were introduced. The military announced that general elections would be held in 2010. This time 37 parties were registered with the Electoral Commission, 22 of which represented ethnic minorities. However, the largest parties, the NLD, the Shan Nationalities League for Democracy and the Arakan League for Democracy boycotted the elections. Although the USDP won the elections, ethnic parties won a total of 15 % of the seats in the Pyidaungsu Hluttaw.

In the last elections in 2015, a total of 91 political parties participated in the elections, 59 of which were ethnic parties. The efforts of the ethnic parties in 2015 to position themselves with their own candidates in the constituencies ultimately only led to the splitting of votes and finally to heavy losses of votes and seats among these parties and the victory of the NLD. While ethnic parties won 15 % of the seats in the Union Parliament in the 2010 elections, this figure was only 11 % of all eligible seats after the 2015 parliamentary elections.

In order to not repeat these negative experiences in the 2020 elections, alliances and mergers of ethnic parties are already taking place in the run-up to the elections. Since the transition to a democratic government, however, Myanmar has not yet had a coalition government. Coalitions between parties before the 2015 elections were mostly unsuccessful, as they would have required the dissolution of old parties to form a new party. Coalitions between parties in Myanmar tend to take the form of larger alliances that share a common vision of federalism and respect for ethnic rights. They offer small ethnic parties the opportunity to participate in discussions on the peace process and other political issues. Joining an alliance also enables the parties to obtain support for party building and possible financial resources to support election campaigns.

These alliances are the Nationalities Brotherhood Federation (NBF), the United Nationalities Alliance (UNA), the Federal Democracy Alliance (FDA) and the United Political Parties Alliance (UPPA). The majority of ethnic parties are allied with the NBF or the UNA.

The UNA was founded in the wake of the 1988 democracy movement and is thus close to the NLD. The founders of the alliance were the Arakan League for Democracy, the Mon Democracy party, the Shan Nationalities League for Democracy and the Zomi Congress for Democracy. It consists of a total of 15 members. The UNA advocates a more balanced representation of ethnic minorities in government and a federal system based on an eight-member territorial division for Myanmar.

The NBF was founded after the 2010 elections. Among its 22 members are the Shan Nationalities Democratic Party, the Rakhine Nationalities Development Party and the Chin National Development Party. Although they also demand a federal state and ethnic minority rights, they are more closely associated with the USDP.

Potential momentum of newly forged ethnic alliances and the electoral system

After the 2015 elections, the greatest lesson that ethnic parties have learned from past elections appears to be the avoidance of vote splitting. In preparation for the elections in 2020, the following key alliances are likely to play an important role:

- › In the state of Chin, the Chin National Democratic Party (CNDP) and the Chin Progressive Party (CPP) merged in 2017, followed by the Chin National League for Democracy (CNLD) in 2018, choosing the name of CNLD for their new party.
- › In Kachin State, the discussion on party fusion included the participation of civil society organizations, religious leaders and members of ethnic armed organizations. Eventually, in 2018, the Kachin State Democratic Party (KSDP), the Kachin Democratic Party (KDP) and the Union and Democratic Party of Kachin States (UDPKS) merged to form the Kachin State People's Party (KSPP).
- › In Kayah State, the Kayah Unity Democracy Party (KUDP) and the All Nationals' Democracy Party (ANDP) merged in 2017 to form the Kayah State Democratic Party (KSDP).
- › In the state of Kayin, the Phalon-Sawaw Democratic Party (PSDP), the Kayin Democratic Party (KDP), the Kayin State Democracy and Development Party (KSDDP) and the Kayin National Democratic Party (KNDP) merged in 2018. They retained the name of the latter (KNDP).
- › In the state of Mon, the Mon National Party (MNP) merged with the All Mon Region Democracy Party (AMRDP) in 2018, but only after civil society organizations and Buddhist monks as well as members of an armed organization of the Mon had urged both parties to do so. The newly formed party was given the name Mon Unity Party (MUP).

For some ethnic leaders, the purpose of the five mergers was probably primarily to increase the ethnic parties' chances of forming a coalition government with the NLD or even to be represented in parliament. It should be noted, however, that the deputies of the Pyidaungsu Hluttaw elect the president only by a majority vote. Thus, the NLD does not need an overwhelming majority to elect an NLD candidate for the presidency, who in turn appoints an NLD-led cabinet and the chief ministers of state and regional governments from the NLD.

Rather, a change in the electoral system would probably have to be made to a proportional or mixed system in order to actually allow for the possibility of forming coalitions in government and parliament. What is needed in Myanmar would be the classic debate on the advantages and disadvantages of a majority voting system over a proportional system. Critics of the majority voting system point out that it favours large parties and disregards the vote of minorities. Proponents counter that it guarantees a stable government supported by the majority of voters. Proportional representation, on the other hand, is certainly a more representative and inclusive system, as it takes into account the votes of voters from smaller parties. However, the weakness of the system is that it can lead to a fragmented government. In a country consisting of 135 ethnic groups and marked by ethnic conflicts, one must therefore ask the not so easy question of whether a majority or proportional system, or even a hybrid form, can better support the country's democratization and peace process.

Other factors influencing the 2020 parliamentary elections

The impact that the COVID 19 pandemic will have on the upcoming elections should not be underestimated. After all, holding a fair and inclusive election in the midst of the pandemic is one of the toughest tests for a democratic transition. In view of the announcement by the Union Election Commission (UEC) that the planned elections will nevertheless be held in November, the smaller and ethnically based parties see themselves at a disadvantage compared to the larger parties such as the NLD or the USDP. It is expected that the pandemic-related restriction on an assembly of more than 30 people will have a greater impact on the campaigns of smaller and ethnically-based political parties. In the past, these parties mostly relied on traditional election campaign methods, but will now have to use online campaigns via social media to win support. After all, more than 50 percent of Myanmar now has a mobile phone connection and 34 percent has an Internet connection, although there is a great disparity between urban and rural areas. The 5 million first-time voters in particular will obtain most of their information about the elections through social media; their influence on the outcome of the elections is likely to be correspondingly high.

The pandemic can only be fought with the broad support of the military in Myanmar. Their political influence is currently being extended beyond constitutional rights. The formation of a COVID-19 Control and Emergency Response Committee, 50 % of which is made up of officials appointed by the military, should be mentioned here as an example. This committee decides on the distribution of resources to fight the pandemic both regionally and in terms of their scope, and includes the provision of test centres, hospitals, beds and quarantine measures if necessary.

To ensure the safe conduct of the elections, Myanmar's police force is currently engaged in recruiting and training an estimated 40,000 auxiliary police officers, while at the same time trying to enforce COVID-19 restrictions in the public. In view of the pandemic, many government agencies, which currently have to deal primarily with public health issues, may be barely able to coordinate election preparations at the same time. Civil society organizations, which play an important role in educating voters through public workshops and meetings, are similarly overburdened with COVID-19-related issues.

The NLD's performance over the past five years, including in COVID-19 crisis management, is likely to be a significant factor in voters' decision-making. It was not only Myanmar's voters, but also the international community that placed high expectations on the NLD-led government to continue to implement the economic and political reforms begun by the Thein Sein government (2010-2015). Despite much progress, for example in the areas of infrastructure and education, by no means all of the planned political and economic reforms could be fulfilled. The government's actions were influenced by a weak administration and a generally poor global economy, determined by high inflation and overshadowed by a "public relations nightmare" as a result of the Rohingya crisis. In addition, the NLD's efforts to bring about the promised constitutional change were stalled due to the military's veto power in the Union Parliament. This was primarily to the disappointment of ethnic voters, who had hoped that constitutional reform would give them more say and autonomy.

It is also difficult to estimate how the 5 million first-time voters will behave, some of whom have already called for abstention. For the younger generation in particular, images of the past and of resistance to the military regime are fading. Topics such as reconciliation, peace, economic development, personal development and freedom of expression are in the foreground. The two major parties, the NLD and the USDP, seem to exert only a weak

influence on the younger generation. However, the political alternatives capable of winning majorities are lacking, so it will be exciting to see whether the ethnic parties, for example, can gain support among this segment of the electorate.

Outlook

The majority of voters and international observers are convinced that the NLD will win a second term, as Aung San Suu Kyi continues to enjoy strong support in her own country. This strong support was ultimately fuelled by her appearance before the International Court of Justice in The Hague in December 2019 to defend her country, which is accused of the genocide of the Rohingya people. Thousands of people had gathered throughout the country during the hearing and carried banners saying "We stand by State Counsellor Daw Aung San Suu Kyi". Her risky decision to stand trial before an international jury in the name of Myanmar was considered even then by some analysts as a tactical campaign to counter the narrative of the military and some members of the Buddhist clergy - both of whom are major forces in Myanmar's politics and society - that the NLD was not nationalistic enough.

On July 23, 2020, the NLD presented its list of candidates for the 2020 elections. The following can be observed: a further increase (7 %) in the number of female candidates, the nomination of two Muslim candidates (both former political prisoners), and an increasing number of local ethnic candidates in ethnic areas. It remains to be seen whether this strategy will pay off, although the NLD already seemed to be working to win the support of ethnic voters with the establishment of an ethnic affairs committee in September 2019. This strategy could indeed serve to strengthen the NLD's footprint in the ethnic states, but it could also help to keep its options open vis-à-vis ethnic parties, should this be necessary after the elections.

It remains to be seen whether the NLD will be able to repeat its landslide success of the past. Regardless of this, the discussions and the real possibility of a coalition government show that Myanmar has matured further on its late and difficult path toward a multiparty democracy.

Konrad-Adenauer-Stiftung e. V.

Dr. Thomas S. Knirsch
Authorized Representative
Konrad-Adenauer-Stiftung Ltd.
Myanmar Representative Office
<https://www.kas.de/de/web/myanmar/home>

thomas.knirsch@kas.de



Der Text dieses Werkes ist lizenziert unter den Bedingungen von „Creative Commons Namensnennung-Weitergabe unter gleichen Bedingungen 4.0 international“, CCBY-SA 4.0 (abrufbar unter: <https://creativecommons.org/licenses/by-sa/4.0/legalcode.de>)

Bildrechte Titelfoto: KAS