

***Challenges of a Transitional Democracy in a Post-Election Myanmar:
Cooperation or Conflict?***

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Abstract

After winning overwhelmingly in Myanmar's November 2015 elections, the National League for Democracy (NLD) finally assumes power in April 2016. They will also be forming the bulk of the *Pyidaungsu Hluttaw* (or the Assembly of the Union) and helming many of the ministries and cabinet seats. This effectively gives the NLD a clear mandate to form the next government. At the helm of the NLD success has been Daw Aung San Suu Kyi, a political prisoner since 1988 until her release from house arrest in 2010. Nevertheless, Aung San Suu Kyi has since made known that she would be 'above the President'. However, will the aura of her power dimmed in the coming months if much needed reforms is not seen as forthcoming as before? This paper aims to analyse some of the challenges that this country will encounter in the coming months. What will the role of the *Tatmadaw* (Myanmar Armed Forces) be? Are we seeing a tacit approval by the military of the power and influence of Aung San Suu Kyi? Major powers and the international community are watching closely to the developments of this nascent democratic government in transition. How will this democratically elected government be able to demonstrate to the world that democracy is thriving? Will there be cooperation or will there be conflict?

Keywords: National League for Democracy; Aung San Suu Kyi; transitional democracy; military power

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Introduction

Ending what many Myanmar citizens have considered as a tumultuous era, the electoral win by the National League for Democracy (NLD) finally brought the country closer to a possible end to this turbulent chapter of Myanmar's authoritarian past. After being politically denied close to thirty years of what many considered should have been rightfully theirs, the people of Myanmar can now celebrate a historical moment in their lives. Winning overwhelmingly with 77.1% of the votes in Myanmar's November 2015 elections, the National League for Democracy (NLD) finally assumed power on April 1st, 2016. The landslide victory also gave them an almost unfettered mandate to form the bulk of the *Pyidaungsu Hluttaw* (or the Assembly of the Union), and thereby paving a way for most of its members to helm important ministerial portfolios and cabinet seats. This effectively gave the NLD a majority control in nominating and electing not only the President, but also the power of forming the next government. The biggest upset in this phase of democratic transition would have to be the military-affiliated Union Solidarity and Development Party (USDP), led by former President Thein Sein, and backed by the military, or *Tatmadaw*. At the helm of the NLD successes has been Daw Aung San Suu Kyi, a political prisoner since 1988 until her release from house arrest in 2010. However, under the Constitution, the military continues to dominate 25 per cent of the seats, thereby cementing their dominance in the new administration. Notwithstanding some reports of electoral fraud and the occasional irregularities, the country saw, and what most pundits have declared, as a largely free and fair election (Holmes, 2015).

Nevertheless, with such a large swing towards the NLD, its leader Aung San Suu Kyi, or "Daw Suu" as she has been respectfully addressed by in some circles, has since made known that she would be 'above the President' (Beech, 2015). This can be seen through her endorsement of several ministers in the incoming cabinet, not least her choice of the new civilian President, U Htin Kyaw. Constitutionally barred from becoming the country's presidency, Daw Suu had personally handpicked U Htin Kyaw to the post, and thereby making him the first civilian president in more than 50 years to take up the post. A relative unknown, but understandably a close confidante of Daw Suu, U Htin Kyaw has assumed the Presidency after winning the second round of votes (Lewis, 2016). Yet, there are many who expect the new President to simply act as a proxy to Aung San Suu Kyi in the new administration. Even before the new administration started on its healing process in this transitional democracy, there were already some concerns over the credentials of some of the elected ministers (Mahtani, 2016). While most of the cabinet ministers appointed to their post were scrutinised, there have been some whose qualifications have been questioned. There is this constant struggle, for any nascent state reeling from years of authoritarian dictatorship, to garner enough honest, reliable and experienced personnel into such high position to govern the country. Nevertheless, "as [this] is common [phenomenon] in any country transitioning to democracy, the list of Cabinet members was a mixed bag – some clearly qualified politicians and experts with deep knowledge in their ministry's areas combined with party loyalists with dubious qualifications" (Kurlantzick, 2016). Daw Suu, on the other hand, was initially appointed as the Minister of the President's Office, Foreign Affairs Minister; Minister for Electric Power and Energy; and Education Minister. Although she kept her first two posts, the post of Minister for Electric Power and Energy soon was given to Pyi Zin Tun, while Myo Thein Gyi assumed the role as the Education Minister. However,

Daw Suu was soon given the special advisory role of a ‘state counsellor’ (Wa Lone, 2016). The new administration has also since created the Ministry of the State Counsellor (Htoo Thant, 2016), ensuring that Daw Suu gets a team to work under her jurisdiction in the likelihood to push through certain reforms.

After years of incarceration under the military and under house arrest – as well as being the daughter of the country’s most revered leader, Bogyoke Aung San – that there is now a certain almost-mythical personification of Aung San Suu Kyi as the “goddess of democracy” (Kyaw Yin Hlaing, 2007, p. 360). She has been placed on such a high moral pedestal and the people in this country has generated an illusion of a great, almost divine, leader so much so that she can possibly do no wrong, thereby creating somewhat of a misplaced expectation (Steinberg, 2013, pp. 185 – 186). Walking along the streets of a post-election Myanmar, one wonders how much it will be able to achieve in the next 5 years though. So, will there be cooperation or will there be conflict between the newly minted civilian government under the NLD and the *Tatmadaw*? This paper argues that the military will continue to remain a significant force to be reckoned with and will likely to exert some influence on the new administration. This is because of how the military played an important role and has helped shaped the country over the years since independence. I will also argue that there will be more cooperation than conflict in this transitional democracy in a post-election Myanmar. This paper aims to also analyse some of the challenges that this country will encounter in the coming months. What will the role of the *Tatmadaw* (Myanmar Armed Forces) be? Are we seeing a tacit approval by the military of the power and influence of Daw Suu? Will the aura of ‘the Lady’s’ power dimmed in the coming months if much needed reforms are not seen as forthcoming as before? Major powers and the international community are watching closely to the developments of this nascent democratic government in transition. Last, but not least, how will the new government be addressing some of the challenges that the country will face in the coming months and years?

Challenges to the new government: Moving forward or consolidation of power

The question one might want to ask here is what kind of a democracy is Myanmar transiting into? How will the government be able to negotiate a compromise between the democratic forces in parliament and that of the existing military’s authoritarian rule? Will illegitimacy be an issue vis-à-vis how some cabinet portfolios have been created almost arbitrarily? After all, Daw Suu and the NLD had

...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 (“The Myanmar Elections”, p. 12).

This paper will now examine some of the challenges that the new NLD government will face in the coming years. Firstly, there is a need for constitutional amendments and reforms. The most controversial one is amending the clause on the Presidency. In

chapter 3, no 59(f) for the constitution, it stipulates that the president must be a person who “shall be himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country”. This, therefore, eliminates any glimmer of a hope for Aung San Suu Kyi to take up the post as the President. Even though the NLD-led parliament might want to wield its power to change this clause, the military still holds 25 per cent of the seats and getting more than two-thirds of the parliament votes would be almost near impossible. As it stands, the recent attempts by the NLD led administration to ram through the creation of a State Counsellor for Aung San Suu Kyi, has already garnered strong rebuke from the *Tatmadaw*, who has boycotted the voting process. Nonetheless, such attempts by the NLD government do not bode well for future collaboration and cooperation with the military. However, what we might see is a compromise between Daw Suu and the *Tatmadaw* to cooperate on other levels. One of the major changes is the streamlining of some of the ministries, resulting in a leaner and hopefully, more effective bureaucracy (Htet Khaung Linn, 2016). However, what is also important to note that while there have been some concerted efforts to consolidate some ministries, three key ministries – namely those of home affairs; border affairs and defence – are still under the control of the *Tatmadaw*. This clearly suggests that the NLD government – and Daw Suu – is showing some form of a compromise to the military who fears that any restructuring of some of these administration might further curb their powers and influence. Speaking to Kyi Pyar, Yangon Region Hluttaw Representative recently, she mentioned that there is still a lot of work to be done to convince the civil service that the new government is not going to make any major revisions to the structure of the administration. Unfortunately, many whom I have spoken to and interviewed have lamented that the civil service and bureaucracy are rather resistant to change because, after years under the military rule, inertia sets in.

Secondly, ethnic conflict has raged on for over half a century and continues to do so. Whilst the government under former President Thein Sein had made inroads in formulating ceasefires and peace amongst some ethnic groups, there is still much work to be done. At the moment, Aung San Suu Kyi is making an attempt to revive the Panglong Agreement set out by her father in the 1940s. Termed as the “21st century Panglong”, this conference will probably continue where the previous agreement left off, as well as taking into terms and conditions that the National Ceasefire Agreement had agreed with some groups in 2015. National reconciliation has been listed as one of the new administration’s top consideration. However, this process will remain one of the toughest challenges that the NLD government will face during the next five years of its rein (Lun Min Mang, 2015). Furthermore, there are some ethnic groups that continue to view that the NLD as one that is still very much dominated by the “Burmans” and view the party with much trepidation. Some ethnic groups continue to view that the Burmese as following through with their idea of “Burmanization”, whereby it is “a complex process of cultural contact between Burmans and Others, a socio-political strategy aiming to assimilate the country’s ethnic and religious minorities... [and] Burmanization is sometimes used by the majority to exert its dominance over non-Burman and non-Buddhist groups” (Berlie, 2008, p. 19). As it is, cracks are already appearing in the ethnic alliance with the NLD (Nyan Lynn Aung, 2016). All these factors makes any possible agreement ever more so untenable, if not tenuous.

Thirdly, foreign policy remains one of Myanmar's key interests, especially the continuing Myanmar-US ties and a recalibration of the Myanmar-China bilateral relationship over the years. Aung San Suu Kyi's role as the foreign minister is one that is not surprising and given her track record with the international community, it was only appropriate that she takes on that role. Nevertheless, it should be noted that, in the previous administration, "Myanmar's practice of alignment has for the most part been on of non-alignment... In substantive terms, the [Thein Sein] government's focus on strategic autonomy has been accompanied by efforts to diversify and balance the country's external relationships" (Haacke, 2016, p. 29). More importantly though, as scholars, such as Andrew Selth (2016), have also note that,

despite the advent of a democratically elected government, Myanmar's armed forces retain considerable influence. The generals would not support any change in foreign policy that could threaten Myanmar's unity, stability or sovereignty. They know that these three "national causes" are best served by firm but friendly relations with both regional neighbours and the great powers.

Although Aung San Suu Kyi retains close connection with the United States, she will also have to remain wary over the possible pitfalls of Myanmar's domestic policy being dictated by the US. Furthermore, over time, however, "thawing ties with Washington... has [and will] challenged Naypyidaw's long-standing strategic and economic partnership with Beijing, the country's largest investor" (Xu & Albert, 2016). The implications of better US-Myanmar ties would certainly mean that Myanmar would have a better bargaining chip against a growing belligerent China. Myanmar's reliance on China over the years was mainly due to the US sanctions and China has clearly taken advantage of that situation. China's interests in Myanmar's northern hemisphere, not least with the multi-million dollar Myitsone dam project, which was suspended during the tenure of President Thein Sein, will be watched by many. The Chinese has also been accused of aiding Kachin rebels, who have yet to signed a permanent ceasefire with government (Wee, 2015). That said, the Chinese have also been involved in any peace talks between rebel groups and the Myanmar government, but it is also important to note that "China's intervention is hardly altruistic but rather reflects multiple considerations of China's own national interests" (Yun Sun, 2013). There will be a need to re-balance the ties between Myanmar and China. Demonstrating the need to recalibrate the years of reliance and relationship on China, Daw Suu, as the foreign minister, had invited her Chinese counterpart instead of the United States (Loke, 2016). Some have observed that, "Myanmar has had a desire not to be overdependent on China or any other single foreign country... and gradually realised that it was crucial to get the help of the international community, especially from developed nations, for improving the country's infrastructure and in extracting its natural resources" (Kipgen, 2016, p. 120). As far as its foreign policy is concern, Myanmar will have to adopt constructive role and to have continual engagement with the international community. On the one hand, not only does she has to ensure that engagement with the United States – her biggest supporter – remains an important player in the country's development and future, on the other hand, she will need to also assure the people of Myanmar – not least the military – that the country is also not a pawn between the US and China. At the end of the day, there is little doubt that Daw Suu will change the country's foreign policy trajectory very much.

Fourthly, there is the issue pertaining to the country's commitment to human rights issues as well as the Rohingyas crisis. Although political prisoners were released during President Thein Sein's time shortly after the 2010 election, there are still many more who are locked up arbitrarily in prison. Shortly after the new NLD government was sworn in on April 1st, President U Htin Kyaw released up to 83 political prisoners as part of the new administration's effort of "national reconciliation and peace of mind" (Aung Hla Tun, 2016). As the state counsellor, Daw Suu has also articulated her intention to release more political prisoners albeit there has been no clear time line to implement her goals. In another instance, civil society groups and human rights activists have also raised issues over the draft amendment to the Peaceful Assembly Act, which the NLD government will be debating ("NGO welcomes Myanmar parliament efforts", 2016). Besides political prisoners, the international outrage had been over the human rights crimes committed against the stateless Rohingyas. In a recent comment, Daw Suu has advised her American counterpart in the US embassy to refrain from using the word "Rohingya" (Paddock, 2016). To the chagrin of many human rights activists, the very articulation of such an 'advice' from the Nobel Laureate herself seems rather uncharacteristic. The issue of the Rohingyas will figure quite prominently on the national agenda. Not only has there been – and continued to be – huge demand by the international community to solve this issue as quickly as possible, domestically, the newly elected NLD government will need to appeal to and appease its Arakanese population for patience and understanding. There needs to be a realisation that the "Rohingyas" is a very contested term and this group are still living under a very contested history. One would need to contextualise and understand that circumstances leading to this situation as a result of its disputed history. It would be important to, therefore, also recognise that

[t]oday the Muslims of Rakhine State deny their Bengali roots, saying that they are the descendants of the original Muslim population in the area and that the Rohingya are an unrecognised indigenous race of Myanmar... [but] the historical reality described above shows that the Muslims in the area lived in a single political constituency that was controlled by the British, and that the migration will have inevitably led to the mixing and united of Muslim communities in what was a diverse colonial society. This connection is therefore denied by the Rohingya for political purposes and has to be understood in the political context of post-colonial Burma where the Muslims in northern Rakhine neither had the option to unite with East Pakistan [now Bangladesh] at independence nor to create their own independent Muslim state (Lall, 2016, p. 198).

This matter is far more complex than what many human rights activists envision it to be. Citizenship, however, has always been a controversial issue for many Myanmar citizens, especially amongst the 135 recognised ethnic communities. Although a national registration department was set up in the 1960s to thoroughly examine citizenship applications and records,

the 1982 statute went beyond xenophobic policing actions. It removed the normative basis for some persons' claims to legal rights, on the pretext of protecting the rights of others... the statute has since denied or significantly delimited the rights of hundreds of thousands of people in Myanmar (Cheesman, 2015, p. 111).

This will invariably have an effect on any persons now waiting to claim their citizenship merely based on their birth-rights.

Fifth, another area that is of concern is the rising Buddhist extremism in the country. On the domestic front, there has been a growing religious divide that has dominated the socio-political landscape over the years and especially since the 2007 ‘Saffron Revolution’. In 2015, the Buddhist group, Ma Ba Tha (loosely translated to the Association for the Protection of Race and Religion), comprising of influential monks and abbots, managed to ensure that a bill protecting the sanctity of Buddhism is passed, which was formally signed into law (Hnin, 2015). There were four bills that have seen been implemented, namely: 1) Law on the Practice of Monogamy; 2) Buddhist Women Special Marriage Law; 3) Law concerning Religious Conversion; and 4) Law regarding Population Control and Health (<http://www.networkmyanmar.org>). Buddhism has been one the hallmarks of Myanmar society and for most of its citizens. The ‘Saffron Revolution’ was one of the examples of how influential the monks has on the social development of the country. The Buddhist *sangha* continues to prevail in areas where the military government has failed and continues to wield its influence, sometimes working as a conduit between the state and the people. Over the years, the power that rested in the Buddhist *sangha* has continued to grow to the extent that even the new administration would have some problems in trying to control the influence of some Buddhist extremists. Incidents of hate speech by groups such as the 969 Movement as well as radical monks such as Ashin Wirathu, who is also one of the leaders of Ma Ba Tha, has only exacerbated the growing religious tensions in the country (Wa Lone and Aung Kyaw Min, 2016). Nevertheless, many have been silent over such virulent attacks against the minority religions was because “because he [U Wirathu] gives voice to popular views, particularly about Rohingya Muslims, which they could not voice themselves for diplomatic reasons” (Soe Win Than and Ko Ko Aung, 2016). Ever since the NLD government took over power, there have been more reported cases of Buddhist elements in other parts of the country exerting its dominance over the other religious minorities. One such incident was in Kayin state where a prominent monk, Myaing Kyee Ngu Sayadaw, had built a stupa within the Saint Mark Anglican Church compound and moved on to erect another one near a mosque within a dominantly Muslim area. Despite repeated calls by the state government and the police to refrain from heightening religious sensitivities, the monk had continued unabated (Ye Mon and Aung Kyaw Min, 2016). These events mark the extent of the influence of the Buddhist *sangha*. However, more importantly, one needs to understand that,

[t]oday, Myanmar’s two most powerful institutions, the sangha and the military, are embroiled in a confrontation that unfolds in a variety of cultural locations. Each institution is structured in a way that allows it to mobilize its members in support of public causes and in the service of the nation... [so, while] The sangha is seen as embodying the moral authority (*oza*) that empowers a field of merit that the present government seeks to control... The military, however, controls arms that monks do not possess and embodies, in the Burmese cultural terms, coercive power (*ana*) (Schober, 2011, pp. 144 – 145).

Nevertheless, one must also understand that there are those within the Buddhist *sangha* in Myanmar that opposes these extremists view (Walton & Hayward, 2014, pp. 30 – 34).

Conclusion

The new government has a lot ahead of them. Not only would they need to find a balance between what they want and what they are constrained by, there is a need for them to ensure that any democratic transition would be gradual and, at the same time, beneficial for the state and its people. There are still many who fear that the military will wield its power if the current climate does not suit their liking. After all, there are still some who strongly believe that “Constitutional provisions [still] exist for a return to strict military rule... where the military could claim a national emergency that warrants their control and retention of power” (Steinberg, 2013, p. 215). Besides that, the growing Buddhist narratives in the country will be something that the new government will need to watch out for. Others would include a feasible and tenable solution to end the ethnic conflict in the country. These are numerous problems that this country needs to work together and resolve after more than 50 years of military rule and ruin. While much of these issues will continue to plague the country if a viable and feasible solution is not found soon, it would also be important to taper the people’s expectation and to rebuild trust between the state and society. After all, “the failure of successive governments in Rangoon to construct a political system and constitutional framework in which all the peoples of Burma could find an honoured home” (Carey, 1997, p. 17) has almost become a norm in the country. This is a huge challenge that will come to dominate the NLD-led government in the coming years – with or without the cooperation of the military in parliament. Nevertheless, given the whole host of problems that the country is bound to face in the coming years, there are no other possible solutions than to work closely with the *Tatmadaw*. There would be a need to strike a compromise that both the NLD and the military are able to agree on.

The completion of the 2008 Constitution saw the country making a concerted, albeit weak and flawed, attempt to transition from an authoritarian regime to a more democratic one. However, there are many ways to such development from authoritarian to democracy. Firstly, “the democratization process is characterized by the erosion of the authoritarian regime’s control over the political arena and the emergence of the opposition as a serious contender” (Casper & Taylor, 1996, p. 4). This is clearly demonstrated in the rise of the NLD, which had garnered much interest amongst the public. Although the NLD initially refused to partake in the 2010 election, Daw Suu, who was released shortly after, and her party did contest in the April 2012 by-elections. This was after much persuasion from President Thein Sein to convince her and the NLD to run in the by-election. As Gretchen Casper and Michelle Taylor (1996) suggested, the second process in which such a transition occurs is through the involvement of its citizens and the third way is one that is “dominated by elites, [while] the authoritarian regime... may try to constrain the transition phase, by setting the pace of change and calling for elections to influence the turnover of power” (p. 9). Myanmar’s 2010 election clearly demonstrated that.

Ultimately, what Myanmar really needs might not necessarily be what is best for the country in the long run. To diminish the role of the military so quickly will unnecessarily marginalise those who have always maintained an upper hand in political control and risk retaliation. Not doing so will demonstrate to the general public and citizens that nothing much has changed and thereby leading to an increase

level of distrust and disillusionment between the state and society. Scholars like Ian Holliday (2011) has also argued that in ensuring that there is some level of democratic transition, what the state would need is,

[b]roadly, the strategic choice lies between two alternatives. Incremental change can be undertaken to roll back authoritarianism and build up democracy. While this creates the potential for seamless, peaceful reform, it also promises to take a long time. Alternatively, radical change can be promoted to sweep away all trace of praetorian democracy and construct an entirely new political system. Although this holds out the welcome prospect of a polity untainted by military influence, it is also likely to generate considerable violence (p. 87).

In essence, one should be cautious of expecting great changes during this phase of Myanmar democratisation process.

There seems to be many in Myanmar who truly believes that Daw Suu is able to transform the country and bring the state out of the poverty cycle that it had suffered under the rule of the military. The role of Daw Suu as the state counsellor – a role that has been specially created for her – might be seen by some as being unconstitutional, but to many, there is a general belief that she is the one true leader that should be given the moral vindication that she deserves. One should be wary of this, but as some scholars would argue, “that if a person has moral and charismatic authority, her performance qualities will also manifest as authentic, real and true... [and] any social performance without charismatic authority cannot be sustainable” (Byar Bowh Si, 2011, p. 119). There is still a segment of society that does not support her rise to power wholeheartedly. There are some who view this tussle of power merely swinging from an illiberal pluralism to a liberal authoritarianism – however ‘soft’ the latter might seem to be. At least her claim to power is seen as more legitimate than that of the military or the USDP – or even any of her predecessors – by a long shot. Furthermore, it would be almost a mammoth task that needs to be undertaken in order to transform a nation that has, for so long, been under the rule of the military. Not only are there numerous systemic problems that persist on a day-to-day basis within the government bodies, there is also an immense need to re-build the trust between the society and the state. After all, the problem now is not so much the military, but whether this new government will be able to push through its election campaign manifesto. At the end of the day, Aung San Suu Kyi – and her National League for Democracy – would have to demonstrate that they are able to perform as effectively as possible given the power that they have been given.

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