

## 8 November 2020 – Back to Zero Point

### 1 Introduction

One day after the elections had taken place, a number of US newspapers reprinted a rather short text published by the Associated Press:

#### **Suu Kyi party set to win Myanmar elections**

Voters in Myanmar's biggest city, Yangon, turned up early Sunday in large numbers to vote in nationwide elections that are expected to return to power the party of Nobel Peace Prize laureate Aung San Suu Kyi. Suu Kyi's National League for Democracy party won the last elections in 2015 in a landslide, ending more than five decades of military-dictated rule in the country.

With Myanmar under threat from a coronavirus surge, mask wearing was mandatory in the lines at polling stations, and many voters also donned plastic face shields and gloves.<sup>1</sup>

The outcome of the voting were thus expected to be a repetition of what had happened five years before. A "return to power" was expected after the election victory of 2015. With regard to the election outcome, the prognosis was correct. The NLD repeated its landslide victory by winning even a few more seats. The assumption however that such a result would lead to maintaining political power was drastically revised on 1 February 2021, the day on which the elected parliament was to be convened to start the preparations for electing a new president.

On this day, the leadership of the armed force, the Tatmadaw, declared the "'State of Emergency' in accordance with the Constitution of the Republic of the Union" and transferred legislative, judicial and executive powers to the Commander-in-Chief of the Defence Services, Sr. Gen. Min Aung Hlaing for the period of one year.<sup>2</sup> The new junta termed itself the State Administrative Council (SAC). Before the declaration, a number of prominent politicians, among them President Win Myint and State Counsellor Aung San Suu Kyi were arrested.

A notification issued by the office of the head of the military reasoned that the election commission had "failed to address a large difference over the voting list". The elections commission would be re-constituted to correct the failure. Finally, "free and fair multiparty general election will be held, and then, the assigned duty of the State will be handed over to the winning party meeting norms and standards of democracy."<sup>3</sup>

In accordance with the assumption of the news agency's report that political power depended on the result of an election, the action of the military was generally named a "coup". This term was – and is – refuted by the SAC. Referring to article 417 of the constitution, it claims that the proclamation of the state of emergency happened in according with the constitution a claim repudiated by foreign legal experts.<sup>4</sup>

Shortly after the actions of the military, people protested against the measures taken by the SAC. This happened an a peaceful and creative street demonstrations and through a Civil Disobedience Movement (CDM) starting in tin boycotting the public health and educational system. After the protests were violently suppressed by y the security forces, parts of the mainly young protesters resorted to armed resistance. and formed People's Defence Forces (PDFs) Many elected MPs went underground or fled the country and later founded a number of o that claimed to be the legitimate bodies representing the will of the people. Few days after the annulment of the election results, a

1 *The News and Observer* (Raleigh, North Carolina) 9.11.2020: B6.

2 *Global New Light of Myanmar* 2.2.2021: 1.

3 *Global New Light of Myanmar* 2.2.2021: 2.

4 <https://verfassungsblog.de/myanmars-military-coup-detat-is-unconstitutional/> (accessed 15.5.2024).

Committee Representing Pyidaungsu Hluttaw (Union Parliament) was formed that later became the legitimate body legitimising the Union National Government (NUG) officially formed on 15 April 2021. The SAC and the NUG labelled each other to be a “terrorist organisation”. The long standing civil war in Myanmar has thus reached a new stage

At the time of writing this chapter (October 2024) it cannot be foreseen at what time general elections will be held in Myanmar again and in what constitutional context. On the backdrop however, it seems obvious that the role of the commission responsible for the electoral process played a crucial role in the sudden death of further conduction polls under the 2008 constitution.

On the backdrop of the dire aftermath of the 2020 elections, the following sections provide some detailed information about civil-military relations between 2015 and 2020 wifely labelled as a “period of transition to democracy”. In retrospect, it can be seen as a new attempt of establishing a “dyarchy” between a civilian government and a political agency deriving its influence from military power as in the 1920s.(2) followed by the disputed role of the election commission. That for the first time since 1956 had been appointed by a civilian government. (3) Next comes an overview about aspects of the election campaign. The impact of the COVID-19 pandemic will be outlined and some particular information about the campaign presented that highlight the way of putting the tool of multi-party elections into practice under the provisions of the 2008 constitution. (4) It follows an overview about the election results and some information about assessments given shortly after the polls (5). Next, the events between election day and the renewed takeover of full governmental power by the Tatmadaw will be covered (8). Finally, some presumptions of the reason for the action of the Tatmadaw leadership are presented.(7).

## 2 The Complex Civil-Military Relations 2015-2020

The elections of 2015 had complicated the civil-relations in Myanmar Before, a quasi-civilian government under Thein Sein, ex-general, chairman of the dominating USDP and president, cooperated with the soldier-parliamentarians appointed by ex-military supremo Than Shwe, After his retreat, the “military bloc” in parliament became the biggest opposition the NLD and was supervised by the new Commander-in-Chief Min Aung Hlaing. He could exchange the MPs from the military any time and did so after the 2012 by-elections (**see above p.**).

As a consequence, the influence of USDP as the civil wing of the military was drastically reduced and Min Aung Hlaing became somewhat of an opposition leader acting from outside the parliaments and thus the counterpart of Aung San Suu Kyi as in her double functions as leader of the NLD and state counsellor. She took the role as the *de facto* head of government in place of the president. As announced by her before the election, she stood “above the president” now. Min Aung Hlaing’s term of office was due to end in July 2021.<sup>5</sup> This fact reinforced rumours that he wanted to continue his career as a politician by one day taking over the position of Myanmar’s president. And thus stepping in the shoes of Aung San, Ne Win and Than Shwe. To achieve such an aim, he would however need the support of civil parliamentarians.<sup>6</sup> As a consequence, he would need the support of the civilian members of parliament.

The following sections will deal with a number of aspects related to the new situation. First comes some information about a rift in the USDP happening already in August 2015 and its context (2.1) followed by remarks on the attempts of the civilian lawmakers to reduce the influence of the

---

5 Myanmar’s usual retirement age for the state personal – including soldiers - was 60. until 2014 when it was changed to 65 for senior officers by an amendment of the Defence Service Act of 1959. The retirement age was completely scrapped in May 2021. (<https://www.bangkokpost.com/opinion/opinion/2031635/whats-next-for-myanmars-military-chief-after-65->; <https://www.irrawaddy.com/news/burma/myanmar-junta-scraps-retirement-age-for-its-leaders.html>; accessed 20-5-2024).

6 <https://www.nytimes.com/2017/11/26/world/asia/myanmar-rohingya-min-aung-hlaing.html> /accessed 2.10.2024).

Tatmadaw in state affairs .(2.2) Next come remarks highlighting aspects of cooperation between the two camps. (2.3)

### 2.1 The Ouster of Shwe Mann and Aung San Suu Kyi's Rise to the post of State Councillor

At 10 o'clock in the morning of 12 August 2015, three months before the second elections under the 2008 constitution, soldiers appeared at the gate of the headquarters of the USDP in Naypyidaw in connection with what called by a Burmese online newspaper a "putsch" whereas the state media did not inform about the incident at all. In course of the day, a spokesman of the party announced that Shwe Mann, the acting chairman of the party had been dismissed and replaced by his deputy. 16 other members of the party lost their functions as well.

The ex-general and number three in the hierarchy of last period of the SPDC had been the most prominent member of parliament elected in 2010 before Aung San Suu Kyi became an MP in 2012. He was elected Speaker of the House of Representatives in January 2011 and thus the face of Myanmar's approach to make the parliament an active participant in the country's politics under Thein Sein's presidency.<sup>7</sup>

Shwe Mann had been very active in pushing forward reforms including changes of the constitution among them the proposal that only an elected parliamentarian could become president. Thein Sein had already announced at that time that he would not be a candidate in the next elections and would not mind to change the constitution in a way that allowed Aung San Suu Kyi to become president..<sup>8</sup>



*Aung San Suu Kyi and Shwe Mann at a joint press conference (Source: Reuters)*

Shwe Mann was reported to have ambitions to become president himself with the assistance of Aung San Suu Kyi. It was reported that he met with her some 36 times, but no information was reached the public about the contents of the talks (Nanda 2020). At a meeting with the Speaker in March 2014, Aung San Suu Kyi proposed a joint meeting of the president, army chief Min Aung Hlaing, Shwe Mann and herself.<sup>9</sup> Such a meeting however did not take place.

The composition of this "quartet" – one female civilian bearer of the heritage of the founder of the Burmese army, the present head of the military and two ex-generals – illustrates the indissoluble interconnection of the civil and military sphere in Myanmar. It was widely argued that Shwe Mann tried to build up good relations with Aung San Suu Kyi for personal reasons. He openly said that he saw himself as a candidate for the presidency.<sup>10</sup>

According to a former spokesman of Thein Sein and head of the information ministry between 2014 and 2016, Shwe Mann's meetings with Aung San Suu Kyi and his appointing her as head of a number of commission created "a wedge between the president and Aung San Suu Kyi". (Ye Htut 2018: 54-55). Furthermore, instead of working for unity between the government, the legislature

7 Shwe Mann was termed "acting" chairman of the USDP because the constitution foreclosed the president to be engaged in party politics.. Until his election, Thein Sein had been USDP chairman. Before his election, Shwe Mann one of his deputies.

8 <https://www.rfa.org/english/news/myanmar/thein-sein-07192013184016.html> (accessed 2.10.2024).

9 <https://www.irrawaddy.com/elections/suu-kyi-shwe-mann-want-to-discuss-constitution-with-president-army-chief.html> (accessed 21.5.2024).

10 <https://asia.nikkei.com/Politics/Third-man-to-replace-Suu-Kyi> (accessed 22-5-2024)-

and the Tatmadaw, he “used the USDP as a tool in a tug of war between the Hluttaw and the executive.” (Ye Htut 2018: 224). According to the former information minister, this contributed to the election defeat of the USDP in the 2015 elections. According to another interpretation, the reason behind Shwe Mann’s removal from his post were his initiatives to reduce the influence of the military by changing the constitution. Former SPDC leader Than Shwe might have given the “green light” to remove Shwe Mann on the initiative of Min Aung Hlaing, his successor as head of the armed forces (Kuok 2015). In a press conference after the 2015 elections, he released a statement blaming his dismissal on his support for a set of constitutional reform proposals that would have ended the military’s veto on future constitutional change and rescinded a clause blocking Suu Kyi from contesting the presidency.<sup>11</sup>

### **Shwe Mann in his recollections ....**

The episode of Shwe Mann’s “purge” as leader of the party that had won the 2010 elections and its contexts illustrate some difficulties of transforming Myanmar into a democratic country in which a separation of power had been partially institutionalised. Shwe Mann as well as president Thein Sein and many other elected MPs and holders of posts in the government were nominally civilians who could not strip off their past life as soldiers. Whether they wanted it or not, they owed allegiance the Tatmadaw as an institution including its present and former leaders.

Than Shwe, long term head of the SPDC and architect of the transition to a “disciplined democracy” could have chosen Shwe Mann to lead the USDP and thus become the candidate for the presidency instead of Thein Sein. He however chose the latter as head of the executive so that the ambitious Shwe Mann had to take the post as the moderator of the *Pyithu Hluttaw*, the most important position in the legislature. The third branch of the classical triad however was not the judiciary but the Defence Services. Through the representation of soldiers in parliaments, and their majority of (ex-)military men in the crucial Defence and Security Council, the Tatmadaw as an institution was able to act as arbiter in cases of differences between the executive and the legislature. That however had been a co-player in the country’s political game since World War II. An independent judiciary remained still in its infancy over the decades.<sup>12</sup>

On this basis, the removal of Shwe Mann can be seen as a result of the introduction of some textbook-democratic reforms that resulted in undermining the unity of the USDP. The principle of check and balance did not work. The military had to intervene to prevent selfish actions of a soldier-turned politician,

On the other side, a contrasting development happened in the sector of civil society. Aung San Suu Kyi became the only important representative of an alternative to the military’s concept of democracy. Her picture dominated the NLD campaign. Different from 2012, her father’s picture was not so prominently shown together with her despite 2015 being the year of his 100th birthday. Furthermore, her supreme role was indicated by the many functions taken over by her after the election victory of the NLD in the 2015 elections. Besides her role as the general secretary of the NLD, she assumed three ministry posts – foreign affairs, president’s office, education and electricity and energy – in the first cabinet of president Htin Kyaw on 30 March 2016. The last two ministries

---

11 <https://www.frontiermyanmar.net/en/shwe-mann-hits-back-against-usdp-expulsion/> (accessed 22.5.2024).

12 This was shown by a dispute between parliament, president and the Constitutional Tribunal assigned to solve problems arising from different interpretation of the constitution that resulted in the resignation of all nine members of the judiciary body as a consequence of the decision of the Union Parliament to impeach the members of council. In a dispute between the president and the parliament on the question of the status of parliamentary committees, the tribunal had judged in favour of Thein Sein’s view. For details see <https://www.csis.org/analysis/myanmars-crisis-calls-constitutional-overhauling> (accessed 22.5.2024) and Ye Htut 2018: 153-142. The author highlights Shwe Mann’s role in the controversy.



were taken over by other persons one week later after the parliament had passed a new law creating a new “ministry” for her, the office of a State Counsellor. The objectives of the law were

- (a) To flourish multi-party democratic system; (b) To implement market economy system properly;
- (c) To establish a federal Union; (d) To ensure peace and development of the State.

The duties, powers and rights of the office were:

The Counsellor of the State a) shall give advice for the interests of the State and citizens, which is not contrary to the provisions of the Constitution; (b) shall be responsible to the Pyidaungsu Hluttaw in respect of the advice and performances; (c) may contact with the Government, Departments, Organizations, Associations and persons to accomplish the objectives of this Law; (d) has, ex-officio, the right to enjoy monthly emolument, allowances, insignia and rights.<sup>13</sup>

These provisions were tailor-made for Aung San Suu Kyi and the term of the office was linked to the term of the actual president. The office made her a de facto prime minister of the country and can be seen as a legal execution of her statement made before the elections that she would stand “above the president”.

The law that could not be vetoed infuriated the soldier-parliamentarians, the USDP and some other parties. It contributed to make Aung San Suu Kyi the single representative of Myanmar’s civilian politics in parliament. As head of the party that had won 57,9% of the votes in the 2015 elections enforced strict party discipline on its MPs. After the election victory of 2015, a western analyst wrote: “

The irony is that even at the best of times the NLD is far from a model of transparency or democratic management. The authoritarian instinct starts at the top with Aung San Suu Kyi’s iron grip on decision-making. (Farrelly 2016)

In contrast to this irony that made the structure of the party advocating for genuine democracy looked similar to the top-down structure of the military, on the side of the military another paradoxical trend emerged. High ranking soldiers had become civil politicians disregarded the party discipline of the USDP to promote their own political interests. The reaction of the leadership of the party that had been built up by the military was rather mild: Shwe Mann just lost his position as party leader. But kept his office as Speaker of the *Pyithu Hluttaw*.

## 2.2 Attempts to Reduce the Military’s Role in Parliamentary Politics

The NLD’s main pre-election slogan “Change” was conceived both inside and outside Myanmar as a call to reduce or even abolish the military’s role in the country’s politics in line with the first objective of the state councillor’s tasks to let the multi-party system “flourish”. In practice, amendments of the constitution were necessary to achieve such an aim. President Htin Kyaw in his short inaugural speech on 20 March 2016 stressed his responsibility “for the emergence of a constitution that is in accord with democratic norms suited to our country.”<sup>14</sup>

One of Aung San Suu Kyi’s legal advisers, Ko Ni, regarded as the a specialist on constitutional issues, who had drafted the State Counsellor Law, proposed introducing a bill on a referendum about drafting a new constitution. The bill could be passed with a simple majority, which the National League for Democracy could easily muster. The blocking minority of the soldier-parliamentarians could be circumvented this way.<sup>15</sup> No information exists about any attempt to propose such a bill.

13 [Pyidaungsu Hluttaw Law No. 26/2016 - State Counsellor of Myanmar \(Burmese\) - Myanmar Law Library \(myanmar-law-library.org\)](http://myanmar-law-library.org) (accessed 23.5.2024). Translation: Kaung Kin Ko.

14 <https://mcgkolkata.org/wp-content/uploads/2016/05/president-speech-english-version-30-3-2016.pdf> (accessed 25.5.2024).

15 <https://www.nytimes.com/2017/02/02/world/asia/myanmar-ko-ni-lawyer-constitution-military.html> (accessed 2.10.2024).

Ko Ni however was assassinated on 29 January 2017 at Yangon Airport by a gunman. He received a death sentence together with a former army officer who masterminded the coup together with three other former soldiers who acted out of “extreme patriotism”<sup>16</sup> Ko Ni was a Muslim.

The murder might have affected the results of further endeavours to reduce the role of the military in parliament.<sup>17</sup> The parliamentary process of amending the constitution started only in February 2019 with the creation of a Joint Parliamentary Committee for Constitutional Amendment comprising of 45 members from all parties (including soldiers). USDP and Tatmadaw members however regarded the existence of the committee a breach of the constitution. In July of that year, the Committee submitted more than 3 700 amendment proposals to the Union Parliament. USDP and the Tatmadaw MPs however submitted their proposals separately after heated debates in parliament about the question of the committee was set up in accordance with the constitution or not.<sup>18</sup>

The amendments proposed by the USDP/military MPs were voted down by the NLD majority. They included the proposals that chief ministers of States and Regions were to be by the respective parliaments instead of being appointed by the president; adding the criteria of Article 59 (f) – prohibiting persons the relatives of whom “owe allegiance to a foreign power” - to the candidates for posts of Union and State/Region chief ministers; giving more powers to the military dominated National Defence and Security Council (NDSC) as advising the president to dissolve parliament under certain circumstances.

The NLD majority in the committee submitted 114 proposals to parliament, the most important being a stepwise reduction of the number of parliamentary seats allocated to the military, i.e. 15% after the upcoming elections, 10% after 2025 and 5% by 2030. Furthermore, the removal of Article 59(f) was proposed and the replacement of a military member of the NDSC by the deputy speakers of the two nationwide chambers that might result in the loss of the majority of the military in the board..

Only four all submitted proposals finally were passed by parliament. All of them just amended the wording of some sections of the constitution, but did not result in any substantial constitutional changes

On the administrative level, the transfer of one department from the Home Ministry headed by an appointee of the Tatmadaw to another ministry attached to the president’s office in November 2019 was lauded by democracy activists and a step forward towards strengthening federalism.<sup>19</sup> The General Administration Department (GAD), regarded as the “bureaucratic backbone of the country”, had undergone a lot of changes in course of the history of the country (Kyi Phar Chit Saw and Walton 2008: 1-2). It was responsible to care for local governance in both rural and urban areas and deal with people’s day-to-day needs, from registering births and deaths to mediating disputes. The department had been traditionally supervised by the Home Ministry. Head of the new ministry was Min Thu, a former member of the Myanmar Air Force who later worked at a Myanmar airline. The move of the department was seen a step towards decentralising the country and shift more responsibilities to the 330 townships and the 17.000 wards and villages of the country.<sup>20</sup>

With regards to the elections, according to a decision taken by parliament, voting booths were removed from military bases..

---

16 <https://www.frontiermyanmar.net/en/death-sentence-for-two-killers-of-lawyer-u-ko-ni/> (accessed 3.10.2024).

17 The following information is taken from Hergas 2020.

18 A similar committee had set up under the previous USDP majority that however did not propose great changes.

19 <https://www.irrawaddy.com/news/govt-announces-transfer-military-controlled-dept-civilian-ministry.html> (accessed 3.10.2024).

20 <https://www.irrawaddy.com/news/govt-announces-transfer-military-controlled-dept-civilian-ministry.htmlhttps://eastasiaforum.org/2019/08/24/why-gad-reform-matters-to-myanmar/> (accessed 31.5.2024).

### 2.3 Aspects of an Uneasy Cooperation between the two Camps

Min Thu was by no means the only ex-Tamadaw member who was invited to join the new civil administration. The most prominent of them was Shwe Mann who was chosen by Aung San Suu Kyi to head the Legal Affairs and Special Cases Assessment Commission composed of parliamentarians and professionals even before the new parliament had been convened. He had lost his seat in parliament to a young NLD candidate. The commission was formed by him after he had been elected as Speaker of the House of Representatives in 2011 and was assigned to advise the parliament of “legal and special matters”. A number of other ex-military men joined the administration (Ktet Khaing Linn 2018). A prominent one was Htun Htun Oo, a former major, who was appointed Chief Justice by President Thein Sein and kept his post in the new administration after 2016. until the coup of February 2021.

A very different and ambitious kind of cooperation happened with regard to ending the decade-long civil war. End of April 2016, it was announced that a Union Peace Conference would take place within two months.

An important example is an attempt of the new government to reinforce the peace process that had started shortly before the 2015 elections with the signing of a National Ceasefire Agreement (NCA) between the government and eight ethnic armed organisations (EAOs).<sup>21</sup> Ten other groups did not sign the agreement. Aung San Suu Kyi made the ending of civil war a top priority of her government. Her attempt was to start an initiative aiming at an all-inclusive peace labelled the Union Peace Conference - 21st Century Panglong. The reference to the Panglong agreement of 1947 emphasised her determination to fulfil her father's legacy by reviving the spirit of the 1947 conference, celebrated as Union Day every year since then. According to the general perception of ethnic groups, the agreement between him as representative of “Burma proper” and leaders of three ethnic groups was betrayed by the Burmese government after the death of the national hero happening some months after the conference in Panglong.



*Group photo taken at the opening of the 4thUPC (Source Xinhua)*

Four meetings were held between August 2016 and August 2020 in which a great number of civil and military stakeholders participated. At the beginning, it was anticipated that the whole process would have been finished in 2019.<sup>22</sup>

The first meeting in which UN General Secretary Ban Ki-Moon participated, had raised high expectations, but since 2028 the conflicts between the central government and the ethnic groups had increased. The non-signatures of the National Ceasefire Agreement (NCA) did not participate in the 2020 conference because the government had not invited the Arakan Army (AA) founded in 2009 had been declared a “terrorist organisation” after its attacks against Tatmadaw troops in 2019.

In her opening speech, at the three day long conference on 19 August. Aung San Suu Kyi had called for an end of the concept “in which only ones with military might, armed forces, or armed power

21 The agreement was signed on 15 October 2015 and ratified by the Union Parliament on 8 December. One week later, the Union Peace Dialogue Joint Committee (UPDJG) established by the NCA issued a “Framework for Political Dialogue” (<https://www.peaceagreements.org/viewmasterdocument/1519>; accessed 4.10.2024) that gave details about the composition of the basic principles, the composition (700 persons from different societal sectors) and the topics to be discussed: Political, social, economic, security, land and environmental politics, general.

22 See chart on p. 51: at [https://www.bnionline.net/sites/bnionline.net/files/publication\\_docs/dm\\_peace\\_process\\_a\\_reference\\_guide\\_2016.pdf](https://www.bnionline.net/sites/bnionline.net/files/publication_docs/dm_peace_process_a_reference_guide_2016.pdf) (accessed 4.10.2024).

will succeed.” Min Aung Hlaing stressed that the EAOs “are opposing the Union and successive governments. [...] If one studies the history objectively, it can be seen that the Tatmadaw [...] is protecting the Union and successive governments.” A speaker for one of the armed groups claimed: “The truth is we have been demanding our rights through democratic means, but they didn’t resolve the problems and tried to persecute us by force.”<sup>23</sup>

It was not possible to harmonise the different “truths”. As Aung San Suu Kyi mentioned in her speech, trust between the different parties had not yet been built. Commentators argued that it could be seen as a success that the army had accepted the term “federalism” that earlier had been regarded as a term close to and secession the participants agreed to meet again after the elections.

One can say that the civil and the military “wings” of the government worked together in an uneasy way promoting their different interests of strengthening the civilian role in government by changing the constitution (Aung San Suu Kyi) and protecting the country against rebel groups. (Min Aung Naing). The EAOs claimed that the ceasefire agreement had not been kept by the Tatmadaw and their political initiatives had been ignored.

Foreign observers stated a “rift” between Aung Suu Kyi and Min Aung Hlaing. It was argued that both had not met personally since 2018 due to conflicting views on constitutional change.<sup>24</sup> With regard to the attempts to conclude more ceasefires, the whole process was called the “most labyrinthal in the world” (Smith and Goldert 2023; 128). Furthermore, the EAOs and the two “partners” being responsible for the Union as a while had different priorities:

[E]thnic armed organisations – both those party to the NCA and those outside the agreement – focused on the need for trust-building and substantive agreements first. In contrast, government and Tatmadaw (Sit-Tat) leaders insisted on resuming formal meetings or signing agreements before addressing concerns about trust, substance and the implementation of ceasefires. Meanwhile, despite the promise of Panglong-21, NLD leaders focused on electoral politics rather than the peace process as the instrument for reform once in office. (ibid.: 129)<sup>25</sup>

The Roothing crisis made headlines worldwide and resulted in a sharp decline of Aung San Suu Kyi’s reputation, particularly in Western countries. The first clashes between Buddhist and Muslims in Myanmar’s western Rakhine State happened in May 2012, shortly after the NLD’s elections victory in the by-election. The communal fighting happened after a Buddhist woman had been killed by Muslims. To a great extent, the following violent reactions of Buddhist Rakhine people was due to tensions in the region that went back to the end of the 19<sup>th</sup> century when the Burmese king conquered the kingdom of Arakan bordering the mainly Muslim province of Bengal being the eastern most province of the British Raj.<sup>26</sup>

Already before 2012, the tensions had resulted in the flight of a quarter million of Muslims living in Rakhine over the border between Myanmar and Bangladesh in 1982 and 1993 and their return after negotiations between the two governments. It was further largely disregarded that the Muslims living in Burma Myanmar near the border to Pakistan/Bangladesh were stateless since 1948 and became known as “Rohingya” only after the early 1950s. Such facts were mostly overlooked by the western media that concentrated on the role of “human rights icon” Aung San Suu Kyi who was questioned by her western supporters to speak out against the discrimination of the group.

The critique was renewed after it had been reported that the NLD did not field any Muslim candidate in the 2015 elections 2016 and 2017, the situation of the Rohingya worsened after a

23 <https://www.rfa.org/english/news/myanmar/peace-process-08192020202512.html> (accessed 3.10.2024).

24 <https://asia.nikkei.com/Politics/Myanmar-s-latest-peace-talks-expose-Suu-Kyi-rift-with-military> (accessed 3.10.2024),.

25 For an analysis of the “deadlocking factors” in Myanmar’s peace process see <https://library.fes.de/pdf-files/bueros/myanmar/15639.pdf> (accessed 25.5.2024).

26 For details of the historic roots of the triple conflict between Arakan, Burma and (Bengali) Muslims see Ware and Laoutides 2018.



Rohingya armed group had attacked some of its border posts and the security forces had severely hit back during the state counsellor's term of office. All in all, more than 700,000 Rohingya fled to Bangladesh. Aung San Suu Kyi had appointed a commission under former UN General Secretary Kofi Annan to submit a report after the first attacks. The second happened on the day on which the report was to be released. The following events made its recommendations null and void. Two years later, The Gambia on behalf of the 57 members of the Organisation of Islamic Cooperation (OIC) filed a charge against Myanmar before the International Court of Justice (ICJ) and alleged that the country failed to fulfil its obligations to prevent and punish acts of genocide committed against the Rohingya.

In her capacity as foreign minister, Aung San Suu Kyi flew to Den Hague in December 2019 to defend her country and argued that "an incomplete and misleading picture" had been placed before the court and her country would punish all criminal acts that might have been committed by the security forces.<sup>27</sup>

Aung San Suu Kyi's standpoint was supported by the majority of the people, including by many who were not ethnic Burmese. The "Muslims living in Rakhine were generally referred to as "Bengalis". Until then. To call them "Rohingya" was widely regarded as breaking a taboo.<sup>28</sup> One can therefore argue that Aung San Suu Kyi defended her people against the charges – and not- at least not first of all - the actions of the military in its actions against the small group of insurgents.



*The photo taken on 28 November 2019 near Hpa-an (Kayah State) depicts Aung San Suu Kyi with the three military ministers of the cabinet before a picture of the ICJ court.*

This was seen very differently outside the country. Some of the awards given to the former icon were withdrawn like the Sakharov Prize given to her in 1990 by the European Parliament. It was further argued that she defended the military actions in order to achieve her goal of becoming Myanmar's president. Nobel co-laureate Desmond Tutu wrote in an open letter:

It is incongruous for a symbol of righteousness to lead such a country, [...] If the political price of your ascension to the highest office in Myanmar is your silence, the price is surely too steep.<sup>29</sup>

Many other commentators shared this suspicion insinuating that Aung San Suu Kyi acted as a accomplice of the military. As a result, the German government cancelled its development aid to Myanmar that had been resumed after 2012 even before the coup of 1 February 2021.

#### 2.4 The Run-up to the Elections: The Union Election Commission and the Military

The new election commission was formed on 30 March 2015 by President Htin Kyaw on the day on which he was sworn in as president together with the two vice-presidents and 18 cabinet members. He had been elected by the Union Parliament 14 days before with the votes of the NLD majority in the two chambers. According to the *Global New Light of Myanmar's* issue of the following day, he president signed Order 2016/2 after having been sworn thus appointing U Hla Thein as chairman to

<sup>27</sup> <https://www.aljazeera.com/news/2019/12/11/aung-san-su-kyi-defends-myanmar-against-genocide-allegations> (accessed 27.5.2024).

<sup>28</sup> Personal experiences of the author in 2018.

<sup>29</sup> <https://www.theguardian.com/world/2017/sep/08/desmond-tutu-condemns-aung-san-su-kyi-price-of-your-silence-is-too-steep> (accessed 27.5.2024).



the post off Chairman of the Election Commission. This way, the importance of the commission was highlighted – Order 2016/1 informed about the appointment of the Chairman of the Constitutional Tribunal. Order 2016/6 gave the name of four other members of the Election Commission – and Notification No 2016/4 informed about the formation of the commission. According to article 398 of the constitution five members were the minimum number to be appointed.

The appointment of the commission was of special significance because it was the first time since 1956 that the next elections were to be supervised by a commission appointed by a civilian government. As complaints against the work of election commissions had been brought forward almost routinely before and after all general elections held since independence, it could be expected that the military would play a role in the political process leading to the 2020 elections. A basic charge had always been a bias of the body in favour of the party or organisation that had appointed the body organising and supervising elections. This time, the military as a political co-player and Min Aung Hlaing as an extra-parliamentarian supervisor of the largest opposition group to the NLD in parliament had a good chance to get involved in the pre-election dispute about the question of the 2020 polls would be held in a free and fair way. This option however seems to have not been taken account in the early days of the new civilian government.

The following two sections deal with the work of the election commission (2.4.1) and the involvement of the military leadership in the debates about the elections. (2.4.2)

#### 2.4.1 The Union Election Commission (UEC)

Hla Thein was appointed chairman of the UEC together with four more members on the president's first day in office. The Union Election Commission Law<sup>30</sup> of 2012 prescribed that the commission should comprise at least five members. More could be added later by a presidential order. In June 2017 two more members were appointed by Htin Kyaw and eight more by his successor Myint Swe after Htin Kyaw's resignation in 2018. All were sworn in at the Union Parliament some days later.<sup>31</sup> The commission thus finally comprised 15 members – as many as the previous commission. Each of them was assigned to one of the 15 main administrative units of the country – seven Regions and States respectively and the capital Naypyidaw.

The new chairman, aged 72 in 2016, had not been well-known before his appointment. He had taught geology at different universities in Upper Burma since 1980 and retired as the rector of Meiktila University in 2008. Since 2010, he had served as district election sub-commissioner in Meiktila. As a civilian without any military affiliation, he contrasted his predecessor Tin Aye, a former Tatmadaw lieutenant-general.<sup>32</sup>

Hla Thein differed from his predecessor in his way of communicating, too. Reportedly, he was rather shy and seldom talked to the public. Other members of the commission performed the public relations work of the commission. He concentrated on organisational work. The election law defined a great number of duties and powers of the commission among them

(d) determining and amending the constituencies<sup>33</sup>; (e) compiling, causing to compile, amending and causing to amend the voting rolls; [...] (f) postponing and cancelling the elections in constituencies in which free and fair election could not be held due to natural disaster or situation of regional security; (l) supervising, causing to supervise [...] guiding the political parties to carry out in accord with, the law.<sup>34</sup>

---

30 <https://burma.irrawaddy.com/wp-content/uploads/2015/08/Union-Election-Commission-Law-2012.pdf> (accessed 27.5.2024).

31 *Global New Light of Myanmar* 13.3.2019.

32 <https://www.frontiermyanmar.net/en/u-hla-thein-myanmars-divisive-election-chief/> (accessed 29.5.2024).

33 [UEC announces constituencies for 2020 General Election | Mizzima Myanmar News and Insight](#) (accessed 31.5.2024).

34 See footnote 19.

The constituencies were announced on 19 June, 2020. There were 330 constituencies for the *Pyithu Hluttaw*, 168 constituencies for the *Amyotha Hluttaw*, 644 constituencies for Region/State Hluttaw and 29 constituencies for ethnic minority seats in Region/State Hluttaw.<sup>35</sup> on 6 September – two days before campaigning was allowed to start – an announcement came out informing about “rights to conduct political rallies and campaigns,” and on 16 October the list of constituencies in which voting would not take place was made public.<sup>36</sup>

As usual, the work of the election commission was criticised, both inside and outside of Myanmar. Western organisation voiced concern about the disenfranchisement of the Rohingya, and other – mostly ethnic – people like displaced persons in civil-war affected areas and citizens working abroad, the de-registration of candidates and the cancellation of voting in regions affected by civil war that handicapped the chances of ethnic parties, particularly in Rakhine State. For such reasons, a human rights organisation in a pre-election reports called the elections “fundamentally flawed” (Human Rights Watch 2020).

Observers further criticised that no women were among the commission members and that only two of them were not Burmese Buddhists. The chairman of the commission was singled out for criticism. Another point of criticism was the threat of the UEC to prosecute campaigners calling for a boycott of the upcoming elections and the continuation of the requirement to submit manuscripts of planned campaign broadcasts on state-owned media to the UEC before broadcasting. The UEC was thus empowered to censor messages, including those that might defame the military or tarnish the image of the country.<sup>37</sup>

Furthermore, erroneous voter lists were deplored and the fact that the UEC had not published the total number of voters before election day (Carter Center 2020: 9). After a first list had been published in August/September, a corrected list came out in October after Aung San Suu Kyi had “instructed officials with primary responsibility for the election process to correct the lists, warning that failure to do so could deny many eligible voters their chance to cast ballots in the election.”<sup>38</sup>

The UEC requested the people to check the lists but election laws did not provide election observers or civil society organisations with the right to obtain and inspect a copy of the voter list. Political parties also stated that despite their requests, they were not provided with a complete copies (ANFREL: 62). One problem of the use of digital devices was the lack of internet access in many regions as well as the unequal access to mobile phones and computers.<sup>39</sup>



UEC flyer on checking voter lists (Source: MERIN)

35 (<https://www.mizzima.com/article/uec-announces-constituencies-2020-general-election> accessed 31.5.2024). The so called 29 “Ethnic Affairs Ministers” represented minorities in the 14 States and Regions where an ethnic community has a population equal to, or greater than, 0.1 percent of the national population of Myanmar. Based on provisional census results, which identified the total population of Myanmar as 51,486,253, the population required to elect an Ethnic Minister will be roughly 51,400 people. This rule however does not apply to ethnic minorities that are the majority within their state/region, or that live within a state/region where the ethnic group already has a self-administered district/zone (Article 161 (e) of the constitution). The elected “ministers” became members of the state and region parliaments.

36 <https://www.moi.gov.mm/moi:eng/news/1701> (accessed 31.5.2024).

37 <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-violations-ramp-up/> (assessed 2.6.2024).

38 <https://www.irrawaddy.com/opinion/analysis/myanmar-election-officials-scramble-correct-error-riddled-voter-lists.html> (assessed 2.6.2024).

39 It was reported that in 2019, only 59% of Myanmar citizens had a smartphone and internet access, while 15% had no access (<https://opendevelopmentmyanmar.net/topics/covid-19-and-the-2020-myanmar-election/>; accessed 2.6.2024).

It was further criticised that the principle of equal suffrage was undermined by unfair allocation of elected representatives, also known as malapportionment caused by the very unequal number of voters entitled to elect the same number of candidates. (ANFREL: 24).

A special dispute arose early during the discussion on wording the code of conduct to be followed by the parties and about the use of pictures of Aung San in the campaign. It caused the chairman of the commission to criticise some of the complaining parties (Thein Thar 2020).

With regard to the impact of the pandemic, the UEC had refused to consider calls for a postponement of the elections. In October, the chairman expressed his confidence that the pandemic would not result in a lower voter turnout than in 2015. This was in line with the attitude of the NLD. It however resulted in a lack of secrecy of the vote. Voters over 60 years were allowed to cast advanced votes at home to prevent transmission but the voting had to be done openly.<sup>40</sup>

#### 2.4.2 Min Aung Hlaing's Involvement

This rather complex and intricate pre-election scenario made Min Aung Hlaing, the successor of Than Shwe as armed forces chief, a counterpart as well as rival of the elected civilian president and the de facto leader of government, Aung San Suu Kyi. She dominated the processes of decision making in the civil wing of the new administration. Min Aung Hlaing on the other side could rely on the loyalty of the military's opposition in the 16 parliaments and of the military members of the government, the first vice-president and the holders of the three crucial ministries of home and border affairs and defence.

With regard to elections, this mix of co-operation and rivalry pertained to the work of the UEC that had been appointed by the civilian president with the consent of the party leader. Unavoidably therefore, Aung Min Hlaing became involved in the pre-election issues in manifold ways.

Already almost two years before the elections, a meeting of the top general with 32 representatives of "opposition parties" (to the NLD) took place on 24 March 2019 to discuss "national", not "political" matters according to the general. One topic had been the amendment of the constitution that had been on top of the NLD's political agenda. The group of parties had tried to meet the president and the chairman of the UEC. But they did not succeed because "the nation's leaders are usually very busy" as an NLD spokesman was quoted who added that the "involvement of the military in politics was inappropriate."<sup>41</sup> According to the notes published on Min Aung Hlaing's website, the meeting was just an informal exchange of views.<sup>42</sup>

More than one year later, the involvement of Min Aung Hlaing in the political pre-election process became quite obvious at another meeting held on 14 August 2020 when leaders of 34 political parties, more than one third of all registered, met with the military chief on the initiative of the USDP.<sup>43</sup> It was stated that the meeting was organised because of lack of trust in the UEC and the absence of any other institution that would investigate complaints. It was further argued that the National Defence and Security Council (NDSC) in which the military was well represented, should meet to discuss election issues. The council headed by the president had not met for a long time, it was argued. At the meeting, the military chief gave some advice to choose "good candidates" and not

---

40 <https://www.mmmtimes.com/news/myanmar-election-commission-dismisses-turnout-and-credibility-concerns.html> (accessed 25.4.2021). For another paper on the impact of COVID 19 see

41 <https://www.mmmtimes.com/news/parties-and-military-chief-meet-discuss-national-affairs.html> (accessed 25.4.2021).

42 <https://www.seniorgeneralminaunghlaing.com.mm/en/12514/senior-general-min-aung-hlaing-receives-chairpersons-vice-chairpersons-32-political-parties/> (accessed 5.10.2024). The report gives the names of the parties and their representatives attending the meeting.

43 For a list of participants, see <https://www.irrawaddy.com/elections/dozens-myanmar-political-parties-seek-assurances-military-chief-election-concerns.html> (accessed 25.4.2021).

do anything in a hasty way. Furthermore, he was reported to have said with regard to his stance of holding of free and fair elections:

There is nothing I won't dare to do. I am brave enough to do everything. Anything that could have a negative impact on the country, the people and the future of the military [is my concern]. I'm following everything.

A former Myanmar lawmaker and political analyst remarked on the initiative of the parties:

They didn't say it, but that's what they meant. Legally, the military does not have the final say on this issue [of electoral fairness]. So, what do they mean by 'seeking help' from the military? In short, it seems they are calling for a coup.<sup>44</sup>

With regard to the concrete work of the commission, the military had to accept some small reforms of the UEC regarding the voting of soldiers and the families to be performed outside the barracks. Furthermore, members of the NLD alleged that the instrument of advanced voting for soldiers and their families could be misused by the Tatmadaw leadership.<sup>45</sup>



*Meeting on August 14 (Office of the Commander-in-Chief)*

Shortly before the elections, on November 2, the office of the Commander-in-Chief published a long statement on the polls in which the UEC was openly criticised. After mentioning a number of alleged irregularities concerning advance voting and voter lists and referring to the necessity to abide by the constitutional provisions, it was stated:

Although the Union Election Commission is an independent body, it was formed by the President. As the commission is formed under Sub-section (A) of Section (398) of the Constitution, Sub-section (E) of Section (9) of the Union Government Law and Section (3) of the Union Election Commission Law, the Union Government is responsible for the commission and the commission reports to the former. Therefore, criticisms about the freeness and fairness of election is rather directed not at the commission but at the government. [...]The government has the complete responsibility for all the intentional and unintentional mistakes of the commission at its different levels.<sup>46</sup>

In retrospect, this statement can be seen a veiled threat of the head of the military to hold Aung San Suu Kyi's government accountable for any mistakes of the election commission.

Two days later, a spokesman of President Myint Swe in a press conference made a statement about an interview that Min Aung Hlaing had given the day before in which he had expresses similar views as in above quoted message. The spokesman was quoted as having said that Min Aung Hlaing's remarks in the interview "did not comply with the essence of the Constitution and the law". The newspaper article continued: "In reference to Article 26(a) of the Constitution which states that

<sup>44</sup> see previous footnote.

<sup>45</sup> <https://www.irrawaddy.com/elections/nld-questions-advance-voting-myanmars-military-kachin-state.html> (accessed 24.6.2021).

<sup>46</sup> <https://cincls.mm/node/9657?d=1> (accessed 25.4.2021).



civil servants, including the military and police, must be free from party politics."<sup>47</sup> The spokesman was further quoted thus:

The rule of the game is the 2008 constitution. Everything will roll out according to this game's rules. If not, the game will be destroyed. No one can say for sure what will happen, including us.<sup>48</sup>

The military chief one day later threatened the president with a possible impeachment if he should fail to uphold his constitutional responsibilities.<sup>49</sup>

The pre-election controversy was thus about different interpretations of the constitution that could hardly be harmonised.

### 3 Campaigning under COVID Conditions<sup>50</sup>

The first two case of COVID-19 were reported on 23 March 2020 by the health ministry after in 30 January the government had already formed a special committee to tackle the looming crisis that had originated in neighbouring China. On 11 April, the ministry of foreign affairs issued a declaration entitled "Myanmar leaves no one behind in its fight against COVID-19 in Rakhine State". It highlighted the measures taken to control the spread of the virus in Myanmar and focussed on parts of Rakhine and parts of the neighbouring Chin State where internet had been shut down due to the activities of the Arakan Army.<sup>51</sup> On 29 April a member of the Union Election Commission (UEC) informed the public that the forthcoming elections would be held in line with those of 2010 and 2015. After concern had been voiced with regard to the pandemic, another UEC member at a press conference urged the people to vote despite the threat posed by the virus "since the country was still in the early stage of its democratic transition." (Kipgen 2021: 2)

On 1 July, it was announced that the elections were to be held on 8 November. On the same day, the state newspaper announced that no new case of COVID-19 in Myanmar on 30 June and that the total figure remained at 299. On 8 September, the day on which the election campaign started officially, the newspaper stated that the day before 99 new cases were reported and the total figure had risen to 1,518. Ton first page of the newspaper, the public was informed about a video conference of Aung San Suu Kyi with frontline officials working at quarantine centre. It was part of a great public campaign of controlling the pandemic in which the State Counsellor played a central role: Her first election trip to her constituency Kawhmu was however cancelled because the health minister vetoed the trip after a house attendant and another man at her Yangon residence had been tested positive for COVID-19.<sup>52</sup>

With parties banned from going to places under stay-at-home orders in Yangon, the epicentre of COVID-19 in Myanmar, NLD supporters in the city showed their solidarity with the party by displaying its banner at their homes and shops, and on their vehicles in response to Daw Aung San Suu Kyi's call to do so on the first day of the election campaign.

On 15 September 2020, 24 parties, - all of them having participated in the meeting with Min Aung Hlaing in August – asked the UEC to postpone the elections date to December. Some 300 new cases

---

47 <https://www.irrawaddy.com/elections/nld-govt-slams-myanmars-military-attacking-election-body.html> This article c(accessed 25.4.2021). The respective article is worded "Civil Services personnel shall be free from party politics."

48 <https://www.myanmar-now.org/en/news/min-aung-hlaings-election-remarks-violate-law-says-presidents-office> (accessed 25.4.2021).

49 <https://www.irrawaddy.com/elections/amid-tense-relations-myanmar-military-warns-president-impeachment.html> (accessed 25.4.2021).

50 *The following section are based on a number of election reports among them day-by-day accounts from 23 August to 6 November written by San Yamnin Aung and published by the Irrawaddy,*

51 <https://www.embassyofmyanmar.be/2020/04/11/myanmar-leaves-no-one-behind-in-its-fight-against-covid-19-in-rakhine-state/> (accessed 25.4.2021).

52 <https://www.irrawaddy.com/news/burma/myanmars-suu-kyi-cancels-first-campaign-trip-health-minister-intervenes-covid-19-concerns.html> (accessed 5.10.2024),



had been reported by the state newspaper and the death toll had risen to 30.<sup>53</sup> An NLD speaker was quoted that the party had “no plan to ask the UEC to delay the election since we think we are in control of COVID-19 in the country at the moment.”<sup>54</sup> It was further argued that a postponement would create further problems “including a political crisis”. The constitution made a postponement of elections possible but did not provide regulations how to bridge a gap between the dissolution of the old parliament and the convention of a freshly elected one. As a foreign agency monitoring the elections noticed: “Given Myanmar’s long experience with military rule, most stakeholders were unsurprisingly intent on avoiding a potential constitutional crisis.” (ANFREL 2021: 45)

Since it was hard to convey the party messages to the voters not only in places where stay-at-home orders had been issued on Facebook and other social media played an important role in campaigning. The market social media leader published its effort to prevent hate speech and misinformation after the company had been accused to be one main medium contributing to anti-Rohingya campaigns.<sup>55</sup> With regard to candidates, the NLD fielded two Muslim candidates out of 1,106 fielded overall. All six Muslim candidates in Rakhine state were disqualified by district-level election sub-commissions.

With regard to the influence of social media on the election campaign, it was noted that hate speech and violence increased so that the 2020 elections could be regarded as less free and fair than those held in 2015. One organisation monitoring the election summarised:

However, because no efforts were made to seek a consensus among political parties, civil society, medical professionals, and other election stakeholders, the decision to push through despite the COVID-19 outbreak was widely depicted as political and most beneficial to the incumbent government, which no doubt affected the perception of legitimacy of the electoral process among the public. (ANFREL 2021: 45)

On the other side, the same organisation stated: “In hindsight, available data suggests that holding the elections did not contribute significantly to the spread of the virus, highlighting the steps taken by authorities to prevent such an outcome.” (ANFREL 2021: 413)

---

53 The numbers reported by the Irrawaddy one day later were 4,299, including 61 deaths. And a “rapid surge was noticed (<https://www.irrawaddy.com/election-2020/myanmars-nld-says-postponing-november-election-lead-chaos.html>); accessed 2.6.2024).

54 <https://apnews.com/general-news-061b7bd307ee790335eca6958a694029>

55 [How Is Preparing for Myanmar’s 2020 Election | Meta \(fb.com\)](https://www.facebook.com/meta); <https://techwireasia.com/11/2020/did--interfere-in-myanmars-elections/> . For a pilot analyses of the impact of social media done between December 2019 and January 2020 see <https://democracyreporting.s3.eu-central-1.amazonaws.com/images/27722020-06-Myanmar-Socialmediareport.pdf> .. A webinar on the role of media in the election confirmed the strong role of Facebook that is used by 45% of the population, but did not offer distinct forecasts on the impact except that small parties would be handicapped because of their limited financial and technical capacity (<https://www.iseas.edu.sg/media/event-highlights/webinar-on-media-and-the-2020-elections-in-myanmar/>); (all accessed 4.6.2024).



## Community Security

The problems that exist in Rakhine State were many; in 2016 the ARSA terrorist group started their armed conflicts; because of this there were so many challenges in Rakhine State; more challenges had to be confronted because ARSA initiated attacks on 4th January 2019; the people suffered greatly; innocent people were harmed because of these armed conflicts; we had to protect peace and stability to protect our people; community security is related to peace and tranquillity; health is also included in this matter; if we are to have concerns and anxieties with respect to health, we have concerns all the time because there was no security in the community; we have issued health rules and regulations and reminded repeatedly with respect to COVID-19.

*(Excerpt from State Counsellor Daw Aung San Suu Kyi's discussions with stakeholders for prevention, control and treatment of COVID-19 in Rakhine State on 28 August 2020)*

This assessment can be attributed to Aung San Suu Kyi's efforts to inform and admonish the people about how to fight the pandemic. The state media almost daily published news from the office of the State Counsellor. Already before the start of the election campaign, state newspapers published short statements of her together with her picture.

The above message published on 1 September 2020 in the *Global New Light of Myanmar* connects health problems caused by the virus in Rakhine State to attacks by the Rohingya rebels on Independence Day of that year. Other contributions were entitled: "The fruitful results would come out within one or two weeks - That is why what is important is to receive treatment at an early stage. - We value each individual citizen - Please build up your inner strength - The best and simplest way to control COVID-19 is social distancing." Many politicians, including the president and Aung San Suu Kyi, opened special Facebook accounts to propagate their views.

The state media kept the tradition of printing slogans highlighting the actual governmental priorities. The issue of elections was highlighted in each and every issue of the state newspapers by a variety of means. As with regard to the pandemic, a daily information about the elections was printed.

2020 MULTIPARTY DEMOCRACY GENERAL ELECTION

**Advance voting process for local voters outside their constituencies in 2020 General Election**

- Heads of trainings, schools, hospitals and jails are to contact the sub-election commissions to get documents of Form 15.
- They must return these documents to sub-commission of respective townships by 26 August 2020 after the documents are filled by the voters.
- Sub-election commission of respective townships must send ballot papers and envelopes for advance voting to the trainings, schools, hospitals and jails by 7 October 2020.
- Advance voting must be organized at trainings, schools, hospitals and jails on their appropriate day from 8 October 2020 to 21 October 2020.
- The envelopes containing ballot papers must be sent back to sub-election commission of respective townships by 4 pm on 8 November 2020.

2020

General Election

Sunday, 8 November 2020

23

DAYS

*Global New Light of Myanmar, 15.10.2024, p. 2*

Furthermore, a variety of slogans were regularly printed as "Elections are the root for development of democracy. - To shape the future with your vote, let's check the voters list. - Elections are the main pillars pillar for supporting democracy." In addition, readers were informed in each issue about an article in the election law prohibiting to vote more than once in any election for a Hluttaw constituency. persons found guilty should be punishable with imprisonment for a term not exceeding one year, or with fine not exceeding 100,000 Kyats) (ca. 74 US\$) or with both.

From 9 September on, the newspapers printed the text of the speeches given by party leaders on the state owned TV channel the day before. The public was further informed about the parties introducing their programs the next day. From the registered 93 parties, about 50 used the


opportunity to inform the public. The names of 18 of them indicate that they focussed on ethnic or regional issues.<sup>56</sup>

A comparison of the speeches shows that they exhibit both great heterogeneity and conformity. The former feature can be attributed to the great ethnic diversity and the absence of a well-structured party system that had already been noticed by Ba Khaing in the colonial period (**see above ....**). Instead personalities dominated the party landscape. The conformity was due to the rules prescribed by the UEC in July 2020 that were criticised as to “harken back to the days of pre-publication censorship under military rule”.<sup>57</sup> The list contained vague phrases known from slogans repeatedly propagated by the Tatmadaw before as not to “tarnish Non-disintegration of the Union; Non-disintegration of National Solidarity; Perpetuation of Sovereignty.”<sup>58</sup>


In a similar vague way, the speakers presented the party programs. Almost all emphasised the importance of democracy and federalism and the intention to improve the economic situation particularly of the farmers and workers. All ethnic speakers emphasised the intention to let the “national cultures” flourish. A specially creative example of such all-inclusive “political individualism” is the following text publishes on 13 September 2020:

United Democratic Party-UDP presents its policy, stance and work programmes

United Democratic Party-UDP Vice-Chairman U Kyaw Swar Htet Oo presented party's policy, stance and work programmes through radio and TV on 12 September.



<p>Rose - UDP</p> <p>Blossom of Rose - Uplifting of Life</p> <p>Uplifting of Life - Earning Basic Income</p> <p>What is Rose - UDP? - Better Life for All</p> <p>If you wish for a better life,</p> <p>You yourself must be UDP;</p> <p>Our nation - our administration;</p> <p>We own our sovereignty;</p>	<p>People hold people's power;</p> <p>People's country - people's administration;</p> <p>UDP will work for it.</p> <p>Give us five years.</p> <p>The development will be within five years.</p>
---	---



With regard to the few ethnic parties that had won a sizeable number of seats in previous elections in Shan and Rakhine State, carefully pointed to the dark sides of centralist” Burmanization” during the last decades. The speaker of the Arakan National Party referred to “70 years of suffering” and said: “We firmly believe the Rakhine people will vote for our party as the national duty on 8 November 2020 to resolve the challenges in Rakhine State and to preserve our integrity as Rakhine.”<sup>59</sup> The two spokespersons for the Shan National League for Democracy – male and females speaking in Burmese and Shan - referred to the historic Panglong Agreement of 1947 (**see above** and the Shan Federal Proposal (see above) and argued that the “Panglong pledges is the only answer to the problem of the country”. “Unfortunately,” it was claimed in accordance with the general assessment of ethnic political elders “the people who gained administrative power after the independence failed to turn the country into a federal Union.” Consequently, the constitution would have to be “reformed” in order to establish a “federal Union that grants equality” as a precondition of restoring peace. Concrete details were not given. They might have violated the guidelines prescribed by the UEC.

<sup>56</sup> It could not be ascertained why not more speeches were published in the state newspapers.

<sup>57</sup> <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-ramp-up/> /accessed 12.6.2024).

<sup>58</sup> Global New Light of Myanmar 24.7.2020: 4.

<sup>59</sup> Global New Light of Myanmar 25.9.2020: 10.

Both statements can be seen as a critique of the government's endeavour to solve the armed conflicts and a hidden threat to leave the Union that had caused the Tatmadaw's leadership to stage the coup of March 1962 (see above).



*Than Htay on TV, 15. 9.2020 (Source: Irrawaddy)*



*Aung San Suu Kyi on TV – 17.9.2020 (Source: Irrawaddy)*

The persons representing the two main nationwide contenders were as different as their parties' chances in the polls and their speeches. Than Htay was a former brigadier general who took over a ministerial post in 2003. In August 2015, he was appointed successor of Shwe Mann as the acting head of the USDP. Born 1954, he entered the Military Academy in Pyin Oo Lwin at the age of 17 and left it as a brigade general in 2010. Before, he had acted as a bodyguard for Ne Win for some time.<sup>60</sup> Like many other soldiers, he left the defence services before the 2010 elections and took over ministerial posts in the Thein Sein government. He was regarded as somebody who could be entrusted with special tasks due to his communicative skills. In his speech, he presented 15 points of the USDP's party program and continued:

In the multiparty system, it is natural that political parties, politicians and electoral candidates must gain respect and trust from the general public. But it is not sure whether they have a genuine wish

To implement the pledges practically. Within a few days, months or years, it will be apparent the general public. So, I want the voters to thoroughly ponder this precious, long-awaited is very important for the country and the citizens. I don't want to urge voters to elect me; I also don't want to urge voters to vote for my party. Voters are those who will make the decisions; those who will elect. Political parties and electoral candidates are those who will be decided; those who will be chosen.

This can be seen as an early admission of defeat in the elections as well as a soft critique of the belief in the wisdom of the multi-party system. He had won a seat in the 2010 election but lost in 2015 against an NLD candidate. Than Htay closed his speech by advising his listeners to "abstain from unhealthy habits" and to "practice meditation for a prolonged period."<sup>61</sup>

In stark contrast, the charismatic Aung San Suu Kyi sitting beside a picture depicting her within a crowd of people two days later asked her audience to vote for an NLD candidate in order to achieve the main goal of her party, implementing a "genuine" democracy.

60 Interview with Chit Oo Ko Ko, 17.6.2024. Chit Oo met him personally many times and provided some of the following information.

61 *Global New Light of Myanmar* 16.9.2020: 11..



Contesting in an election is an intrepid undertaking relying on the trust of the people. Because our elections do not meet democratic standards as people have the right to elect only 75 percent of the representatives in all parliaments and the remaining 25 percent are appointed by the commander-in-chief of the military... The NLD needs to overcome that 25 percent barrier to be able to form a government.”

She further talked at some lengths about the “many difficulties and troubles in our Rakhine State” and stated that “we have met with criticism and pressure, rather than understanding, sympathy and help.” To achieve the still missing “notable level of impact” in the world, the main resources of the country have to be mobilised. In this regard, more important than the natural resources are “a people well endowed with education, health and spiritual strength.” With the assistance of the people, the NLD aims at turning the country into a beautiful peaceful garden in which even “unpredictable cyclones, such as Covid-19” ensures the “least possible damage.”.



*NLD supporters before the NLD headquarter in Yangon on the eve of election day (Source. New York Times)*

At the end of her speech, she refers to the NLD flag calling it the “Banner of Victory” that was planted in the 2015 elections.” Now in 2020, I appeal to the people to give us, with their supporting votes, the responsibility to make firm our banner of victory.”<sup>62</sup>

Shwe Mann presented the program of his newly founded Union Betterment Party (UBP) on 4 October., The party was well funded and was reported to field more than 900 candidates. It was seen as an attempts the act as a “third force” between the democracy movement and the military.<sup>63</sup> He presented a number of general political principles and programmatic point and expressed the intention to form the next government: “The country and the people will benefit only when a government fulfils its obligations. Thus, a Government that can Change for Betterment needs to be elected in the 2020 elections.”<sup>64</sup>

On 16 October the UEC announced the list of constituencies in which elections would be held: It could expected that elections would take place in 315 of 330 constituencies for the *Pyithu Hluttaw*, 161 of 168 for the *Amyotha Hluttaw* and 628 of 660 for the 14 Region/State Parliaments, Furthermore, all 29 Ethnic Affairs Ministers would be elected.<sup>65</sup>

One day later, the United Democratic Party (UDP) – for its presentation on Radio and TV see above – was disbanded for breaching the Political Party Registration Law. Party leader Kyaw Min was found to have violated the election law by financing the party with money illegally transferred from

62 *Global New Light of Myanmar* 18.9.2020: 10.

63 <https://www.frontiermyanmar.net/en/serving-the-general-inside-the-union-betterment-party/> (acce3ssed 14.6.2024).

64 *Global New Light of Myanmar* 4.10.2020: 10.

65 According to the constitution of 2008, Ethnic Affairs Ministers will be elected in states and regions where an ethnic community has a population equal to, or greater than, 0.1 percent of the national population of Myanmar. The rule does not apply to ethnic minorities that are the majority within their state/region, or that live within a state/region where the ethnic group already has a self-administered district/zone.



China.<sup>66</sup> As a consequence, 1,129 candidates were deregistered – nearly 19% of the total number. Some of them were reported to have joined the USDP.

The party had contested the 2010 and 2015 elections without success. This time, the party had fielded the second largest number of candidates after the NLD – more than the USDP. On election day, there were an estimated 5,639 candidates representing 91 political parties and over 250 independent candidates.

As on previous occasions, the day before the polls was declared “Silent Day”. Campaign material had to be removed from the streets and social media were not any more allowed to spread news about the elections.

#### 4 Election Day, Results and Assessments

Throughout the country, election day appeared to proceed calmly, with no major irregularities reported. As in 2012 and 2015, supporters crowded before the NLD headquarters on Yangon’s Shwegondine Road in the evening to celebrate the expected victory.

On 10 November the state newspapers published the first 12 election results announced by the election commission. All seats in the three types of parliament went to NLD candidates. In the following days, the enmourments were continued and in 16 November the final results were made public. It showed that the NLD had won another landslide victory that was even a bit larger than in the previous election of 2015. The information was confined to the seats won and did not provide information about the total number of votes received by the parties.

---

66 For a newspaper report written shortly after the disbandment of the party see <https://www.irrawaddy.com/opinion/analysis/shady-boss-myanmars-udp-michael-kyaw-myint-just-fugitive.html> (accessed 13.6.2024).

Sr	Party Names/Individual	Pyithu Hluttaw	Amyotha Hluttaw	Region/State Hluttaw	Ethnic National	Total
1.	National League for Democracy	258	138	501	23	920
2.	Union Solidarity and Development Party	26	7	38	-	71
3.	Shan Nationalities League for Democracy	13	2	27	-	42
4.	Arakan National Party	4	4	7	-	15
5.	Ta-arng (Palaung) National Party	3	2	7	-	12
6.	Mon Unity Party	2	3	6	1	12
7.	Pa-O National Organization Party	3	1	7	-	11
8.	Kayah State Democratic Party	2	3	3	-	8
9.	Kachin State People's Party	1	-	3	-	4
10.	Arakan Front Party	1	-	2	-	3
11.	Wa National Party	1	-	2	-	3
12.	Lahu National Development Party	-	-	1	1	2
13.	Zomi Congress for Democracy Party	1	-	1	-	2
14.	Lisu National Development Party	-	-	1	1	2
15.	New Democracy Party (Kachin)	-	1	1	-	2
16.	Kayan National Party	-	-	-	1	1
17.	Kayin People's Party	-	-	1	-	1
18.	Shan Nationalities Democratic Party	-	-	1	-	1
19.	Chin National League for Democracy	-	-	1	-	1
20.	Individuals	-	-	2	2	4
	Total	315	161	612	29	1,117

Source: Global New Light of Myanmar 16.11.2020: 4

To counter vote splitting in the states traditionally dominated by non-Burmese ethnic groups, six new parties were founded through mergers. The main aim of streamlining the fragmented party-scene was to to have a chance to beat the NLD candidates by presenting a “united front” of supporting the respective ethnic interests..<sup>67</sup>

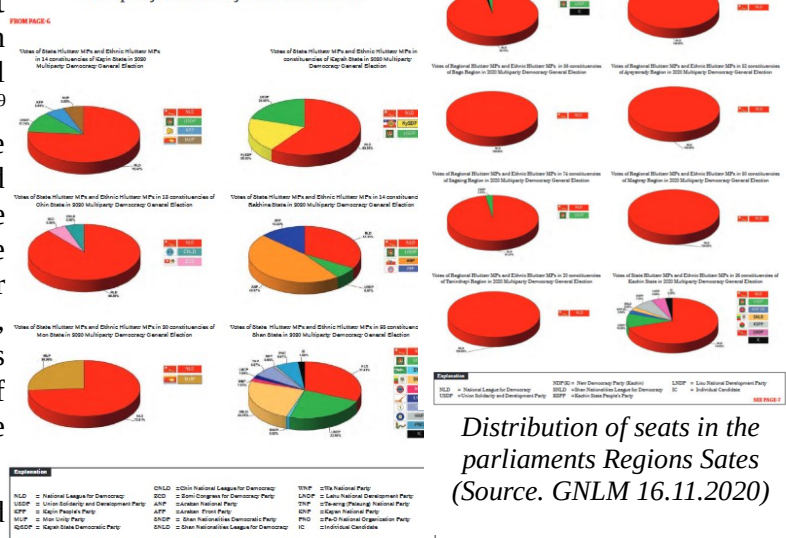
With regard to seats won, the results almost matched those of the previous elections. In each of the two houses forming the Union parliament, the party won three more seats than in the last elections and the USDP lost four. The mergers of ethnic parties had no effects and a number of new parties headed by prominent people who had fallen out with the NLD were not successful as well. In the state/region parliaments, the NLD won 82 % of all compared with 75 % in the 2015 General Election. The party held a majority of elected seats in 12 of the 14 state/region parliaments..<sup>68</sup>

The NLD won three seats more each in the two Union chambers, the USDP lost three and four. In the States and Regions, the NLD won 100 seats and the USDP lost 38 e.g. half of the seats won in 2015.

Since in 2020 the number of constituencies in which voting did not take place, the total ratio of seats won dropped from 10,2% to 6,2% of total contested seats in all 16 parliaments..<sup>69</sup> A graphic depiction of the relative strength in different regions displayed by the newspaper shows the overwhelming and almost complete victory of the party campaigning under the red Victory Banner. In all regions, the NLD won almost all seats contested, The party won a majority of votes in five “ethnic states” with the exception of Rakhine and Shan States.

Before the elections, ethnic parties had started to counter vote splitting that

Elected Region/State Hluttaw Representatives in 2020 Multiparty Democracy General Election



Distribution of seats in the parliaments Regions Sates (Source. GNLM 16.11.2020)

67 <https://www.mmmtimes.com/news/ethnic-parties-merge-attempt-win-2020-election.html> (accessed 26.4.2021).

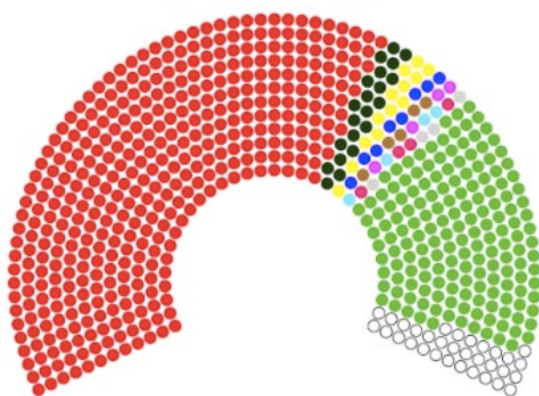
68 <https://asiafoundation.org/publication/2020-general-election-state-and-region-hluttaws/> (accessed 26.4.2021).

69 The elections for the Ethnic Affairs Minister are not provided

might prevent candidates of ethnic parties to win against a member fielded by the NLD and other parties campaigning throughout the country.<sup>70</sup> Such mergers however did not result in major changes in the composition hereof parliaments in favour of particular ethnic interests. .

This is partly due to the fact that the States are by no mean ethnically homogenous. In Kachin State, the ethnic Kachins do not form the majority of the population. Furthermore, tensions exist. On this background, the retest Shan party, the Shan Nationalities League for Democracy (SBLD) successfully fielded candidates in constituencies of the government's neighbouring state. On the other hand, both ethnic groups do not trust the Burmese majority, not even Aung San Suu Kyi. An analysis of the results in Kayin State shows that votes given to parties contesting the NLD were still split since in some constituencies Kayin and Mon parties fielded candidates. If they had decided to field only one candidate against the NLD contestant, the NLD candidate would not have won.<sup>71</sup> One main factor for voting for NLD candidates in all ethnic states might have been the strong anti-military stance (Huang 2022).

According to most inside and outside observers, the NLD victory could not be explained by the government's successful handling of central issues oft he country's long standing problems: national reconciliation, economics and even civil liberties. It was – again – no “normal” election but a ballot characterised by the “NLD vs. military dichotomy” with the role ascribed to the party leader as the country's “Mother Suu” made the crucial difference. The vote could be seen as a plebiscite against military (co-)rule and for the winning party's aim to reduce the military influence on politics by changing the 2008 constitution.



Source: Irrawaddy

The Burmese newspaper *Myanmar Times* saw the "dichotomy as the main reason for the marginalisation of other parties. The pre-election controversies between the two sides had motivated the people to cast their votes for Aung San Suu Kyi's party. The pandemic and the NLD leader's advice to be careful, but go to the polls nevertheless added by her overwhelming popularity were given as the main reasons (Liu and Chau 2020).

This graph showing the distribution of seats in the Union Parliament that was to elect the president and his two deputies illustrates the dominance of the NLD, the role of the Tatmadaw members (green coloured) as

the sole numerically strong opposition and the fragmentation of the other parties. - almost all of them except the USDP (black points) promoting ethnic interests. The polarisation on the national level is highlighted by the fact that only two of the around fifty parties foregrounding the interest of the Union won seats. The same had happened in 2015 – with the minor exception that the NUP. Replacing the BSPP since 1988, had got one seat in the Amyotha Hluttaw.

This binary distribution points to the main reasons of the NLD victory. According to most inside and outside observers it cannot be explained by a successful handling of the civil government in the central fields of national reconciliation, economics and even civil liberties but just to the „Mother Su“ factor strengthened by the “NLD vs. military dichotomy”. The vote could be seen as a plebiscite against military (co-)rule and in favour of the NLD's demand to reduce or even abolish military political participation change

With regard to the 49 ethnic parties participating, no great changes in comparison to 2015 happened as well except that the Arakan National Party got only two seats in the *Pyithu Hluttaw* due to the

70 For details see Knirsch and Heugas 2020.

71 <https://www.bnionline.net/en/news/analysis-election-results-karen-state> (accessed 2.4.2021).

many cancellations of voting in Rakhine State. In both elections, eleven ethnic parties won seats in the Union parliament. No independent won a seat here.

A study on electoral behaviours in the ethnic states concluded that the long civil war resulting in fights between the military and ethnic communities, made ethnic voters tend to place their hopes in the NLD. Further, ethnic parties “having a rebel heritage gave them credibility. “Al in all however, ethnic parties suffered from the “electoral bias” caused by the electoral. (Huang 2022: 217-219)

A Myanmar political scientist living in New York worded is commentary on “Myanmar Still Loves Aung San Suu Kyi, but Not for the Reasons You Think” in the *New York Times* two weeks after the elections in a rather ambiguous way:

Civil-military relations have been deteriorating. Ethnic conflicts are intensifying. International pressure over the Rohingya crisis continues. Socio-economic hardships have worsened with the coronavirus pandemic. The N.L.D.’s victory was a vote of confidence that it can do better, not an endorsement for more of the same.<sup>72</sup>

Without foreseeing the act of the military’s ignoring of the “vote of confidence”, the commentary may points ‘to a future of Myanmar in which the problems not solved by the NLD government between 2015 and 2020 might be addressed in a better way.

#### 4 Post-election Events

The actions of the military leadership of February 1 and the following massive people's protest rendered all further deliberation on the effects of the election results null and void. During the weeks between election day and the takeover of all governmental functions by the SAC the military-NLD dichotomy that had overshadowed the pre-election period continued. A number of tantalising statements were made that intensified over time in course of the narrowing of 1 February 2021, the day on which the Union parliament was to convene to elect a new president.

On election day, Min Aung Hlaing was quoted as having said after leaving the polling station:

I’ll have to accept the people’s wish and the results that come with it. There’s no denying it. We need to think about the public’s feelings and concerns and aim to console them. This is very important for me. To ease the pain of citizens and what they’re feeling. It’s a must.<sup>73</sup>

Two days after this restatement and before all election results had been released by the UEC, the USDP's chairman announced to challenge the results and to take legal actions. The National Democratic Front (NDF) having won no single seat claimed as well that the polls had not been free and fair. The party had split from the NLD before the elections of 2010 in a protest against the mother party’s election boycott (**see above**). The UEC dismissed the parties’ claims as “groundless allegations.”<sup>74</sup> One week later, the USDP had fielded over 600 complaints with the police and the UEC alleging that people had voted twice, voters had been under aged, impersonated others and sub-commissioners breached election laws<sup>75</sup> Furthermore, the involvement of the Tatmadaw was invoked to rerun the elections in “a free, unbiased and disciplined vote.”<sup>76</sup>

---

72 <https://www.nytimes.com/2020/11/23/opinion/myanmar-election.html> (accessed 2.4.2021)..

73 <https://www.myanmar-now.org/en/news/military-chief-min-aung-hlaing-vows-to-accept-election-results-after-public-spat-with> (accessed 3.7.2021).

74 <https://www.irrawaddy.com/elections/election-thrashing-myanmars-military-backed-opposition-casts-doubt-result.html>; <https://www.bloomberg.com/news/articles/2020-11-11/former-junta-party-seeks-fresh-vote-in-myanmar-poll-citing-fraud> (accessed 26.4.2021).

75 <https://www.irrawaddy.com/news/burma/myanmars-main-opposition-party-files-630-electoral-complaints.html> (accessed 26.4.2021).

76 <https://www.irrawaddy.com/opinion/analysis/myanmars-losing-party-keeps-pushing-claims-election-fraud-seeks-overturn-outcome.html>? (accessed 26.4.2021).

On 16 November, a military spokesman stated that there “was no coordination with the Tatmadaw” in this matter. End of the month however, it was reported “that the military is scrutinizing and reviewing the process in 218 townships where military personnel and their family members cast votes on Nov. 8.”<sup>77</sup> Ten days later the USDP “demanded a recount of the votes cast in the general election on Nov. 8.”<sup>78</sup>

On 30 November, the *Tatmadaw True News Information Team* informed the public via Facebook that the military would start a process of reviewing the election process. The military would scrutinize and review the process in 218 – from 330 - townships where military personnel and their family members had cast votes. The” President should supervise and control the functions of the UEC to [ensure they are] legal, righteous, just and fair”, as he had appointed the members of the commission. This announcement was rebutted by the biggest Myanmar based electoral monitoring group that the involvement of the military was against the existing laws and would challenge the democratic transition.<sup>79</sup> Although the UEC rejected to provide copies of election-related documents including voter lists, the military rechecked voter lists. On 23 December, the military announced that it had found 7.6 million irregularities in 314 townships in which one parliamentarian each had been elected for the *Pyithu Hluttaw*.<sup>80</sup>

In early January, more than 200 parliamentarians of the outgoing Union Parliament, among them almost all of the 166 soldiers appointed by Min Aung Hlaing to take the 25% of seats reserved for the military in the two chambers forming the Union Parliament, submitted a proposal to the speaker of the parliamentary body to convene a special session of parliament to discuss the issue before the convention of the new parliament on February 1. The speaker, a member of the NLD, refused and referred to the UEC as the concerned body dealing with the issue. The “Tatmadaw Information Team” issued a detailed statement on January 14 in which it was explained why the request of the lawmakers was in line with the constitution.<sup>81</sup> It was stated that according to the Tatmadaw’s interpretation of the constitution “if representatives demand the special session, the speaker has to call for it.”<sup>82</sup> On January 20, the military leadership “called on either the government, Union Election Commission (UEC) or outgoing parliamentarians to prove the November general election was free and fair so it can accept the results.” The statement said that the groups should “find a way to overcome the political dilemma in the interests of the state and the people”.<sup>83</sup>

The confrontation heated up during the last days before the first session of the newly elected parliaments on 1 February. At a press conference held on January 26, the speaker of the military gave an enigmatic answer when asked about the possibility of a coup. “We do not say the Tatmadaw will take power. We do not say it will not as well.”<sup>84</sup>

---

77 <https://www.irrawaddy.com/election-2020/myanmar-military-launches-review-election-proxy-party-cries-foul.html> (accessed 16.6.2024).

78 <https://asia.nikkei.com/Politics/Myanmar-election/Myanmar-military-linked-opposition-demands-election-recount> (accessed 16.6.2024).

79 <https://www.irrawaddy.com/elections/myanmar-military-launches-review-election-proxy-party-cries-foul.html> (accessed 26.4.2021). - The original text is not available because the team’s Facebook account was shut down after 1 February 2021.

80 <https://www.irrawaddy.com/specials/timeline-tracing-militarys-interference-in-myanmar-ele.html> (accessed 26.4.2021).

81 <https://www.irrawaddy.com/elections/myanmar-military-condemns-speakers-refusal-probe-election-fraud-claims.html> (accessed 26.4.2021).

82 The text of this and other statements of the Tatmadaw were published via Facebook and is not any more available on the net.

83 <https://www.irrawaddy.com/elections/myanmar-military-demands-proof-november-election-fair.html> (accessed 26.4.2021).

84 <https://www.frontiermyanmar.net/en/myanmar-army-raises-prospect-of-coup-after-voter-fraud-claims/> (accessed 4.7.2021).



According to a report of a Reuters journalist,<sup>85</sup> talks between representatives of Aung San Suu Kyi and Min Aung Hlaing took place at that time that might have lasted for some days. Two representatives of the army put forward their demands to check the alleged charges of fraud and – according to another source – to dismiss the UEC, recount all votes with the military’s assistance and to postpone convening the incoming Parliament.<sup>86</sup> On the advice of Aung San Suu Kyi, the demands were allegedly dismissed in a "rude and insolent" way as one of the sources from the military side was quoted.

On January 29, the government announced that the first session of the new parliament would be postponed for one day. On January 30, the military made a statement which reiterated that it would "respect the Constitution and act lawfully". This was interpreted as an attempt to ease the tensions.<sup>87</sup>

As a result, citizens in Myanmar as well as foreign observers were taken by surprise when the military took over full power in the early morning of 1 February.

## 5 A Clash of two Parallel Governments

The next day, the action of the military made headlines worldwide. On top of page 1 of the *Global New Light of Myanmar*, "Order Number (1/2021) of "pro-term President" Myint Swe (elected Vice-President of in 2016 as the candidate of the Tatmadaw) in which was stated under point 4:

As the Government and "UEC" both failed to address the causes, [of popery performing their duties] it is the Tatmadaw’s undeniable duty to exercise Article 417 of the "Supreme Law of the Myanmar" the Constitution of the Republic of the Union of Myanmar to declare "State of Emergency" in accordance with the Constitution of the Republic of the Union.<sup>88</sup>

The measure was limited to the period of one year.

It followed a report about a meeting of the National Defence and Security Council at which Min Aung Hlaing had given a lengthy speech. The council had not been convened by President Myint Swe during the whole legislative period. Now, only the members appointed by the military were present. The acting president handed over legislative, executive and judicial powers of the State to the Commander-in-Chief of Defence Services. Min Aung Hlaing explained in detail why a number of parties and the Tatmadaw had doubts about the freeness and fairness of the elections concentrating on the accuracy of the voter kists. UEC, government and parliament had refused to consider the concerns raised and to postpone the meeting of parliament and thus did not act according to the constitution. After Min Aung Hlaing’s speech, the Acting President. declared the state of emergency

Abroad, the reaction was mixed. In England, three newspapers offered different views on the news. *The Guardians* published a factual retro and mentioned the first public protests:

---

85 <https://www.reuters.com/article/us-myanmar-politics-reconstruction-insig-idUSKBN2A9225>  
<https://www.irrawaddy.com/news/burma/meeting-myanmar-govt-military-fails-resolve-crisis-election.html>  
(accessed 26.4.2021).

86 <https://www.irrawaddy.com/news/burma/meeting-myanmar-govt-military-fails-resolve-crisis-election.html>  
(accessed 26.4.2021).

87 <https://www.irrawaddy.com/news/burma/myanmar-military-will-respect-constitution-commander-chief-says.html>  
(accessed 26.4.2021).

88 *Global New Light of Myanmar* 2.2.2021: 1. : Article 417 reads: "If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after co-ordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency. In the said ordinance, it shall be stated that the area where the state of emergency in operation is the entire Nation and the specified duration is one year from the day of promulgation." - The action of the military was regarded as unconstitutional because it was not the president who declared the state of emergence- President Win Myint had been arrested.

In the evening, residents banged metal pots, a symbolic protest against the military, which previously ran Myanmar for some five decades. Some lit candles on their balconies. Growing civil disobedience campaign has also emerged among doctors, with health workers from dozens of hospitals across Myanmar stating they will not work under the military, starting from Wednesday day.<sup>89</sup>

In contrast, *The Independent* published a cartoon highlighting the West's recent disappointment with Aung San Suu Kyi as a reaction to her stance in the Rohingya issue. The editorial below the cartoon was headed "Myanmar's leader will find few sympathy in the west" and read:

As the old saying goes, those who try to ride a tiger end up inside it. So it is with Aung San Suu Kyi, de facto leader of Myanmar. Once a human rights hero, then an apparently willing collaborator with the army in the persecution of the mostly Muslim Rohingya community, now Ms Suu Kyi is under arrest.<sup>90</sup>



Source: *The Independent* 2.2.2020: 2

A comment in the *The Evening Standard* drew a comparison:

I see a clear parallels between the military coup in Myanmar and the storming of the Capitol last month. Both were a reaction in attempt to dispute the November elections on the basis of fraud. And involved armed men intending to capture senior government officials. Sadly, both happened in democratically unstable countries.<sup>91</sup>

The latter comment shows that the action of Myanmar's military is not singular, Performing politics by way of a dunlin which violent means are used cis by no means unique.<sup>92</sup> However, it is absolutely not obvious what might have motivated the Tatmadaw leaders to take such a drastic action. A Myanmar Ph.D. student words the problem this way: "The military had enough power under the 2008 constitution, so why would they need to seize power in a risky coup?"<sup>93</sup>

He as well as other observers points to a number of answers. The military leadership might have wanted to make an end with the flirtation with the liberal civilians corresponding to Shwe Mann's "purge" in 2015. Furthermore, Min Aung Hlaing's personal ambitions might have played a role. The author further mentions the overoptimistic view of the NLD and their supporters inside and outside with regard to the transition to a "genuine" democracy (Lian Bawi Thang 2023).

The following remarks are based on the assumption, that the coup of February 1 was related to a fight on the issue of legitimising the power to govern a country. Elections play a crucial role in legitimising power. The statement of the press agency quotes at the beginning of this chapter regarded the NLD's election victory as an evidence that Aung San Suu Kyi was legitimised to "return to power". This statement however overlooked the fact that the constitution of 2008 provided for some power sharing between an elected civilian government and the Defence Services. The constitutional arrangements resembled the concept of Diarchy implemented by the British in 1923 (see above ...) . At the power of the British was based ion their military strength, a state of

89 <https://www.theguardian.com/global-development/2021/feb/02/myanmar-coup-military-tightens-grip-amid-calls-for-suu-kyi-to-be-freed> (accessed 16.6.2024).

90 *The Independent* 2.2.2021: 2.

91 *The Evening Standard* 2.2.2021: A 311.

92 For some reflections on the "duels" happening in Myanmar and the United states see Zöllner 2021.

93 <https://www.eastwestcenter.org/news/east-west-wire/understanding-military-coup-myanmar-two-years-later> (accessed 5.10.2024).

affairs that did continue after implementing the new constitution of 1925. It was the Japanese army – assisted by their Burmese ally, the BIA, that paved the way to independence.

The disputes on the work of the UEC before and after the holding of the polls show that a main issue was about the power to decide if the elections would be conducted in a "free and fair" way. Since the constitution had been drafted by the military and the majority of parliamentarians elected on an NLD ticket aimed at changing the constitution by reducing the influence of the armed forces, this was of a matter of principle. No agency existed that could be called upon to make a decision that could be expected to be accepted by both sides. The reputation of the constitutional tribunal had been damaged from the beginning (**see above...**). The parallel of to a "weak democracy" in the west can be applied here as well since the members of the US High Court are said to pass judgements in line with the political stance of the president who appointed them.

What happened in Myanmar before the coup therefore can be regarded as a political struggle over the power to define what "legitimate power" is. In other words: the dispute was about the meaning of the often brought up "rule of law".

On this backdrop, it makes sense to argue that between end of March 2016, the date of President Htin Kyaw's election and 1 February, 2021, the military's declaration of the state of emergency, two parallel governments co-existed in Myanmar that had fundamental different opinions on the existing constitution. The disputes about the UEC can therefore be regarded as a kind of proxy-war between the elected and the non-elected "fractions" both in parliament only one track led to the election of the next government.

Such an analysis raises the question if the crash that resulted in a violent confrontation of two parallel government could have been avoided. Mary Callahan, an expert of the history of the Tatmadaw, gives some reasons of why the conflict of the leaders of the civil and military parts of the government might have escalated:

This crisis was probably inevitable given the cohabitation the 2008 Constitution imposes upon political and personal foes. [...] After then President Thein Sein presided over an election in 2015 and transferred power to the NLD, there were some initially cordial appearances of the Commander-in-Chief and the Lady. They share more than they differ. Both are moral, economic, religious and social conservatives. But they could not get past their common ambitions for supremacy to agree on a way forward that would allow ghosts of coups past to rest. (Callahan 2021)

Ingrid Jordt who has done extensive research on Buddhism in Burma and Myanmar, summarised her comment on the coup shortly after it had happened:

What we are seeing is not just a contest between authoritarianism and democracy, which it also is, but a contest between two distinct ideas of sovereignty, one based on the will of the people and the other based on the idea of karmic kingship. (Jordt 2021)

The concept of "karmic kingship" is based on the "law of *karma*" a central concept of Buddhist teaching.. This "law" can be summarised in an oversimplified way<sup>94</sup> by the maxim that all loving beings (animals included) get what they deserve – according to their good or bad deeds done in this life or in the previous existences. The benchmark is the moral code taught by the Buddha. The Burmese kings – and those in other Buddhist kingdoms – in theory were those who were assumed to have acquired the best *karma* – regardless of the social status what can be regarded as a "democratic" feature.<sup>95</sup>

The royal traditions of legitimising ruling the country did not disappear at independence. A Burmese scholar living in the USA in 1988, at the end of Ne Win's era, published a book on the "Burmese

---

94 For a detailed analysis see Spiro 1982: -

95 For an early claim of Buddhist closeness to democracy **see above p. .**

authoritarian values” in which he analysed the post independent Burmese political culture. The book has been often quoted until today (Maung Maung Gyi 1988). It can be shown that after 1988 the Myanmar military stepped in the shoes of the kings by building new pagodas and promoting Buddhism by various means (see above p. ). A special case in point is the building of a pagoda consecrated in 2002 that hosts a Buddha statue carved out of a huge marble bloc found in Upper Burma. A similar event had happened at the time of the still revered King Mindon (reigned 1853-1878), the second last king of the last Burmese dynasty. General Khin Nyunt, the first Secretary of the State Peace and Development Council (SPDC) gave a speech connecting the royal time with the present rulers:

[...] the ceremony to convey [the] Image is an auspicious occasion which can be met once during a span of over 100 years, and those who did meritorious deeds in their past existences can meet it; during the reign of King Mindon, the ceremony to convey [the] Image from Sakyintaung [name of the hill] was held; only after 136 years elapsed, the State Peace and Development Council has the chance to hold the conveying ceremony of [the] Image.<sup>96</sup>

Khin Nyunt here legitimatises the rule of the junta with its “meritorious deeds” the quality of which became obvious through the comparison with what was had happened during the reign of King Mindon who built a new capital and convened a Buddhist synod. The tradition of building marble Buddhas was continued after the SPDC had handed over power to a nominally civilian government. Min Aung Hlaing headed the team that organised the building of the world’s greatest marble Buddha in the new capital’s Buddha Park in cooperation with high-ranking monks.. The work continued after the coup and was finished in 2024. (Zöllner 2021: 124-130).



*Min Aung Hlaing and the Sitagu Sayadaw at a model of the Buddha Park, the site where the huge marble Buddha should be placed (Source: Global New Light of Myanmar)*

On this occasion a new banknote of 20,000 Kyat, doubling the highest denomination up to then, was issued in a very limited circulation, but denting the interrelation of the flourishing of Buddhist religion and the well-being of the people. On one side, a white elephant was depicted, a traditional symbol of the country’s prosperity. Both in Yangon and Naypyidaw some white elephants are exhibited. On the other side a new bridge crossing the Ayeyarwadi is shown as a symbol of the government’s endeavour to promote the country's infrastructure.

On the other side, Aung San Suu Kyi relates the Burmese understanding of democracy to a famous Buddhist text. In her essay “In Quest of Democracy”<sup>97</sup> written in 1989, she quotes the Aggañña Sutta as a text expounding the Buddhist Burmese understanding of “democracy”. The text<sup>98</sup> tells the story of the emergence of human society. Aung San Suu Kyi writes:

The Buddhist view of world history tells that when society fell from its original state of purity into moral and social chaos a king was elected to restore peace and justice. The ruler was known by three titles: Mahasammata, 'because he is named ruler by the unanimous consent of the people'; Khattiya; 'because he has dominion over agricultural land'; and Raja, 'because he wins the people to affection through observance of the dhamma (virtue, justice, the law). The agreement by which their first

<sup>96</sup> *New Light of Myanmar* 24.7.2024 (the whole text is quoted in Zöllner 2021b: 24-25)

<sup>97</sup> Aung San Suu Kyi 1995: 167-179 ([https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs3/In\\_Quest\\_of\\_Democracy-ocr.pdf](https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs3/In_Quest_of_Democracy-ocr.pdf); assessed 18.6.2024).

<sup>98</sup> For an English translation of the sutta see <https://www.urbandharma.org/pdf/AggannaSutta.pdf> (accessed 18.6.2024).



monarch undertakes to rule righteously in return for a portion of the rice crop represents the Buddhist version of government by social contract. (Aung San Suu Kyi 1995: 169-170)

The “social contract” was conducted between the ruler and the people as a whole. He was elected – or selected – unanimously and for lifetime, one can assume. This description conforms with the electoral behaviour in Burma/Myanmar that – reinforced by the first-past-the post electoral system – never resulted in a numerically strong opposition that might take over the government. Furthermore, in the long history of Burma/Myanmar, there are almost no examples of a swift transfer of power happening during the lifetime of a head of government. The only exceptions of this rule are the (ex-)generals Ne Win, Than Shwe and Thein Sein who resigned according to a constitution drafted under the supervision of Aung San, Ne Win and Than Shwe. It is further notable that Aung San Suu Kyi identifies “the law” with the dhamma, the supreme law taught by the Buddha that stands above all human laws that are subject to the Buddhist principle of impermanence (Pali: *anicca*).

According to such arguments, the two parallel versions of legitimising power were rooted in Buddhist traditions and collided due to the absence of a secular model providing checks to limit the “absolute” transfer of power

Another difference in power concept rooted in Burmese traditions is foregrounded in an essay of a young Burmese scholar (Aung Min Kyaw 2023). He refers to the difference between the concepts of *a-nar* and *aw-za* defined by the Myanmar Literature Commission thus:

The term AwwZa can be defined as the authority or the influential power. On the other hand, the term ArrNa can be interpreted as the power which can take control of the government, or the power given by the constitution. (Aung Min Kyaw 2023: 51)

The first term is associated with Aung San Suu Kyi and her party exercising influence on the people as their election victories shows whereas the second term refers to the Tatmadaw's authority as a body controlling the constitution drafted by it.<sup>99</sup> After the NLD's election victory of 2019, the two concepts were impersonated by Aung Sn Suu Kyi and Min Aung Hlaing. The formers' initiatives to amend the constitution can be seen as an attempt to gain more political power as expressed in the party's manifesto before the 2020 elections:

Tatmadaw must protect the state and the people as their main cause of duty. Tatmadaw shall become an institution that people trust and reliable. Tatmadaw must uphold the policies of the government elected by the people in accordance with the democratic norms. (Aung Kyaw Min 2023: 56)

Aung San Suu Kyi's influence on her supporters resulted in incidents in which he was mocked at public appearances and in the social media.

Not much is known about the personal relations of the two most powerful respective influential persons in post-2015 Myanmar. It seems that they only met from time to time at official meetings like the transfer of government from the USDP to the NLD and in connection with the peace conferences. It cannot be excluded that disrespect of Min Aung Hlaing's person in a society in which prestige and rank play a great role have contributed to the decision to stage the coup.

---

99 For a detailed elaboration of the two concepts see Houtman 1998: . Houtman connects the two concepts to two kinds of meditation parties. While *a-nar* is related to vipassana (insight) meditation as practised by NLD leaders, men of the military prefer *samatha* (concentration) preferred by military personnel.