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BURMA/MYANMAR POST-ELECTION OUTLOOK: TRIALS FOR TRIUMPH

Results announced on 13 November confirmed the overwhelming victory of the National League for Democracy (NLD) in the 8 November elections, which decided 75% of seats in Burma/Myanmar's National and Regional Parliaments. While the military will retain its allotted 25% of parliamentary seats, the NLD now holds an overall majority in the National Parliament, giving it the power to form Burma/Myanmar's next government and select a President.

As results are finalized, the next steps for both Aung San Suu Kyi's NLD and the country's ruling military will take shape, while a final session of the current Union Solidarity and Development Party (USDP) dominated National Parliament will convene on 16 November. While the NLD will now be able to form a government, Burma's military will retain its grip on power in key areas.

Results for parties with National Parliament seats, as of 13 November:¹

Political Party	National Assembly 168 seats to be elected (133 announced)	People's Assembly 323 seats to be elected (298 announced)	State/Regional Parliaments (522 announced)
National League for Democracy (NLD)	110 (65.5% of total seats)	238 (73.7% of total seats)	401
Union Solidarity and Development Party (USDP)	12 (7.1% of total seats)	28 (8.7% of total seats)	61
Arakan National Party	2	7	3
Independents	1	1	1
Kachin State Democracy Party	0	1	3
Kokang Democracy and Unity Party	0	1	1
Lisu National Development Party	0	1	1
Mon National Party	1	0	2
PaO National Organization	1	3	6
Shan Nationalities League for Democracy (SNLD)	3	12	26
Ta'ang (Palaung) National Party	1	3	7
Wa Democratic Party	0	1	2
Zomi Congress for Democracy	2	2	2

Presidential selection process

As results stand, the National League for Democracy (NLD) has won more than the minimum 329 National Parliament seats it needed to secure an overall majority and elect its choice for President.²

¹ Myanmar Now (13 Nov 15) Myanmar Elections Results - NLD wins majority; Myanmar Times, Election Live Blog (13 Nov 15) <http://www.mmtimes.com/index.php/election-2015/live-blog.html>

² As several seats will remain unfilled due to the EC's cancellation of voting in some constituencies, the NLD needed only 329 seats out of 491 elected seats to establish a majority over the National Parliament's 664 seats.

Burma/Myanmar elects a President and two Vice Presidents (VPs), who do not need to be elected MPs, through a Presidential Electoral College in early February 2016. The Electoral College is composed of the elected MPs from the People's Assembly and the National Assembly, and the 166 appointed military personnel from both assemblies. Each voting bloc nominates a VP, and the entire National Parliament then votes to elect a President from these three nominees, leaving the two runners-up as VPs. This design guarantees that someone chosen by the military occupies one of the top three executive posts; however, it also allows a party with a large enough majority in Parliament (a position now held by the NLD) to ensure its choice for the role of President. Article 59(f) of the 2008 Constitution still bars Aung San Suu Kyi from becoming President herself; nevertheless the NLD leader has said that she plans to have a leadership role above that of the NLD's chosen candidate.³

2008 Constitution preserves military power

Despite the military-backed Union Solidarity and Development Party (USDP)'s defeat in the 8 November elections, the Tatmadaw retains a significant amount of legislative and administrative power under Burma/Myanmar's 2008 military-drafted Constitution. Twenty-five per cent of the 664 seats in the National Parliament (25% in the People's Assembly and the National Assembly respectively) are reserved for military personnel nominated by Tatmadaw Commander-in-Chief Sr Gen Min Aung Hlaing.⁴ A constitutional amendment requires more than 75% of votes in the National Parliament – and for some provisions an additional 51% of votes in a nationwide referendum – which means unelected military appointees will still hold veto power in a National League for Democracy (NLD) majority legislature.⁵

Under the 2008 Constitution, the military also controls the Defense, Home, and Border Affairs Ministries and is able to appoint cabinet ministers for these departments.⁶ Political activists and dissidents could therefore remain subject to arbitrary arrest and detention by the military.⁷ The President then has the power to pardon and release political prisoners, possibly creating an endless circle of arrest and release until the oppressive laws used to arrest dissidents and activists are repealed or amended.⁸

Although the NLD does not need the approval from the military in their nomination of a president [see *Presidential selection process*], NLD central executive committee member Han Tha Myint told press that the party should seek to cooperate with the military as it would be hard to rule with three cabinet ministers at odds with the rest of the government.⁹ The military also retains its constitutional power to take control of the country at any time for unspecified reasons of “national security,” a looming threat to democratic governance.¹⁰

NLD calls for “national reconciliation” talks

On 11 November, after general election results announced by the Election Commission (EC) gave the National League for Democracy (NLD) a convincing lead, President Thein Sein congratulated Aung San Suu Kyi and the NLD on the party's success, and reiterated his commitment to uphold the results.¹¹ Shortly afterwards, Tatmadaw Commander-in-Chief Sr Gen Min Aung Hlaing issued similar

³ AP (07 Oct 15) Suu Kyi Says She Will Lead Gov't if Party Wins Myanmar Polls; Reuters (07 Oct 15) Suu Kyi says hopes to lead Myanmar despite constitutional ban

⁴ Reuters (11 Nov 15) Myanmar's Suu Kyi reaches out to military with big landslide in sight; AP (10 Nov 15) If Suu Kyi Takes Power In Myanmar, She Faces An Uphill Task

⁵ AP (10 Nov 15) If Suu Kyi Takes Power In Myanmar, She Faces An Uphill Task

⁶ Reuters (11 Nov 15) Myanmar's Suu Kyi reaches out to military with big landslide in sight

⁷ Mizzima (12 Nov 15) Election brings hope and sadness for Myanmar's political prisoners

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⁹ Reuters (11 Nov 15) Myanmar's Suu Kyi reaches out to military with big landslide in sight

¹⁰ AP (10 Nov 15) If Suu Kyi Takes Power In Myanmar, She Faces An Uphill Task

¹¹ AFP (12 Nov 15) Myanmar's president pledges peaceful transition; Myanmar Times (11 Nov 15) President congratulates NLD, promises peaceful power transfer

congratulations.¹² The NLD's victory has also been welcomed by ethnic armed groups, including the Restoration Council of Shan State (RCSS), Kachin Independence Organization (KIO), Karen National Union (KNU), and the Ta'ang National Liberation Army (TNLA), several of whom called on the party to prioritize a successful peace process and bring about national reconciliation.¹³

As a landslide victory for the NLD became more apparent, NLD leader Aung San Suu Kyi sent letters on 11 November to President Thein Sein, Tatmadaw Commander-in-Chief Sr Gen Min Aung Hlaing and National Parliament Speaker Shwe Mann, requesting talks "in the interest of national reconciliation," and a peaceful implementation of the will of the people as expressed in the election results.¹⁴ Presidential spokesperson Ye Htut later confirmed that the President would attend talks, as did a statement from the military regarding Sr Gen Min Aung Hlaing's participation, though only after the EC has finalized its announcement of results, which has been a halting process since initial delays on 9 November.¹⁵ Aung San Suu Kyi has previously expressed her willingness to work with the military, which will be a necessity as the previous Parliament reconvenes on 16 November, ahead of the NLD government's formation early next year.¹⁶

Final parliamentary session planned for sitting MPs

Before newly elected representatives assume their seats on 31 January 2016, the current National Parliament will sit for its 13th and final session on 16 November in Naypyidaw.¹⁷ This final session gives the current Union Solidarity and Development Party (USDP) dominated Parliament the opportunity to push through legislation, existing or new, before the new National League for Democracy (NLD) majority takes its place in February 2016.¹⁸ According to National Parliament Speaker Shwe Mann and others, 45-50 bills from the current Parliament remain under review by the relevant ministries and commissions.¹⁹

National League for Democracy (NLD) MP Min Thu has said that the first priority is discussion of a supplementary budget bill, which would enable the government to request additional or new funding for the current financial year (Section 20 (b) of the 2008 Constitution grants the Tatmadaw the authority to determine its own budget independently of Parliament²⁰). Other notable bills in line for discussion include: the Recalling an Assembly Representative Bill, Mining Law Amendment Bill, Union Government Amendment Bill, Immigration Bill, and the Banks and Financial Institutions Bill. The Recall Bill, last rejected by the Joint Bill Committee on 18 August,²¹ would introduce a mechanism for constituents to unseat their MPs, requiring investigation if a single person registers a complaint with the Election Commission about a military MP, and investigation of an elected MP if the Commission receives a petition signed by at least 1% of his or her constituency members [see *August 2015 Burma Bulletin*].²²

Also to be discussed are proposed amendments to the Suppression of Prostitution Law, the Criminal Code (which is frequently used to target political activists), the Code of Criminal Procedure, the Foreign Currency Management Law, and the Weapons Act. Most of these bills have been submitted at previous sessions but await approval.²³

¹² AFP (11 Nov 15) URGENT: Myanmar army chief says Suu Kyi party has poll majority; Myanmar Times (11 Nov 15) Myanmar military congratulates NLD for election win

¹³ Irrawaddy (12 Nov 15) Ethnic Armed Groups Call on Suu Kyi to Prioritize Peace

¹⁴ Irrawaddy (11 Nov 15) Suu Kyi Requests Meeting with President, Army Chief and Speaker; DVB (11 Nov 15) Suu Kyi calls for four-way talks;

¹⁵ Irrawaddy (11 Nov 15) Suu Kyi Requests Meeting with President, Army Chief and Speaker; Myanmar Now (11 Nov 15) Aung San Suu Kyi calls for reconciliation talks as power beckons

¹⁶ Irrawaddy (22 Sep 15) Suu Kyi: We Want to Work with the Military

¹⁷ GNLM (25 Oct 15) Parliamentary meetings to be resumed on 16 Nov

¹⁸ Burma Campaign UK (Oct 15) Burma's 2015 Elections and the 2008 Constitution

¹⁹ Myanmar Times (06 Nov 15) As election looms, outgoing MPs prepare for one final session

²⁰ Constitution of the Republic of the Union of Myanmar (2008); Irrawaddy (30 Mar 15) Burma's Military Milestone; Frontier Myanmar (27 Oct 15) Who's power to rule?

²¹ Irrawaddy (19 Aug 15) As Election Nears, Parliament to Take Up Impeachment Bill

²² Myanmar Times (23 Jun 14) Military rep proposes Recall Bill amendment

²³ Myanmar Times (06 Nov 15) As election looms, outgoing MPs prepare for one final session

Parliament will also be requested to formally approve the recently signed Nationwide Ceasefire Agreement [see *October 2015 Burma Bulletin*]. The Mining Law, which has been delayed in a years-old gridlock over whether the central government or state and divisional governments should hold power to issue mining permits, is one of several bills relating to the decentralization of governmental authority that will be discussed.²⁴

On 6 November it was reported that a brand new bill was to be considered, according to People's Assembly Bill Committee Secretary Saw Hla Tun; however, he has yet to disclose details about it and members of the Commission for Assessment of Legal Affairs and Special Issues – a primary coordinator on what bills will be considered – were also unaware of its content.²⁵

²⁴ Myanmar Times (06 Nov 15) As election looms, outgoing MPs prepare for one final session

²⁵ Myanmar Times (06 Nov 15) As election looms, outgoing MPs prepare for one final session