

Myanmar in 2020

Citizens Have Voted for the Democratic Transition to Continue, but Democracy Remains Far Ahead

ABSTRACT

The NLD was reelected in 2020 with more seats than it won in 2015. Myanmar's transition is not regressing, but many priorities remain before the state truly democratizes: conducting transparent trials of military officers who were involved in the killings of Rohingyas, solving the conflict between the Arakan Army and the Tatmadaw in Rakhine State, ensuring that enduring armed conflicts do not undermine citizens' ability to vote, making sure the National Ceasefire Agreement prevents the resurgence of old animosities, demilitarizing the constitution, and restraining the military's ability to sue opposition for defamation.

KEYWORDS: national elections, armed conflicts, conflict resolution, democratic transition, foreign policy

ELECTIONS

On November 8, 2020, Myanmar held its second democratic national elections since the beginning of its political transition. The National League for Democracy (NLD) won a majority of seats it contested in the bicameral national legislature (399 of 476), and more seats than in 2015 (390). Its campaign priorities included reforming the constitution, creating a federation, and conflict resolution with non-state armed groups. Most of its priorities were the same as in 2015. Although 87 parties competed in the elections,

MARIE-EVE RENY is a Hundred Talents Researcher in the Department of Sociology, Zhejiang University, Hangzhou, China. Her report is based on the *Irrawaddy's* coverage of events in Myanmar in 2020, and to a limited extent, that of *Frontier* and *Myanmar Times*. Email: <maricevereny@zju.edu.cn>.

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the NLD's main contender was the Union Solidarity and Development Party (USDP) at the national level and ethnic parties in some states where the NLD is less popular, especially Rakhine and Shan States. The USDP won 21 seats in the national legislature, a sharp drop from the 41 seats it won in 2015. It prioritized raising living standards and reforming the constitution. Ethnic parties prioritized a better representation of minorities and the creation of a federation. They won 42 seats, compared to 56 in 2015. This decline seems to result from the fact that many ethnic localities in conflict zones were prevented from voting in 2020, thereby reducing the number of ethnic seats contested in the legislature.

In 2015, voters in ethnic areas who might have otherwise voted for an ethnic party voted for the NLD because they wanted a change in regime, and voting for the NLD was the only way of ensuring that. In 2020, it was no longer clear whether they would still vote for the NLD. Ethnic parties expected to win more seats in the national assembly. These expectations materialized in some states. The NLD won most seats in Chin, Kachin, Karen, Kayah, and Mon States, but there were improvements in ethnic representation in some areas. The Mon Unity Party won five seats in the national legislature, compared to just one in 2015. The Kayah State Democratic Party, a newly created merger of ethnic parties that had not won a seat in 2015, also won five seats. The Wa National Party won three; it had won only one in 2015.

Minorities were also better represented in 2020. In 2015, no Muslim took part in the elections. In 2020, Muslim candidates ran in Rakhine State, Yangon, and Mandalay. The two candidates who represented the NLD were elected in Mandalay and Yangon. More women also ran for seats in 2020; they represented about 20% of electoral candidates.

CONFLICTS IN RAKHINE STATE

Rakhine State has been unsettled by two major conflicts in recent years. One involves Rohingya Muslims and Buddhists, resulting in the creation of the Arakan Rohingya Salvation Army in 2016, which the army labeled as terrorist. The conflict led to waves of population displacement from Myanmar to Bangladesh, the last of which involved over 700,000 Rohingyas in 2017. Myanmar is currently facing a lawsuit in the International Court of Justice for genocide against the Rohingyas. The lawsuit was filed by the Gambia.

The NLD's administration denied allegations of genocide but admitted that war crimes had occurred, and the Tatmadaw, Myanmar's armed forces, began military trials of soldiers involved in those crimes. No information about the outcomes of the trials was revealed to the public. On the Gambia's request, the International Court of Justice has asked Myanmar to take concrete measures to prevent mass killings by the army, keep unbiased records of the conflict, and submit biannual updates on what it does to ensure that. The executive seems to have taken these demands seriously. Myanmar submitted its first report in 2020. President U Win Myint also asked the state-level government in Rakhine not to conceal information about the conflict. Concealment would lead to legal action.

Another conflict involves ethnically Rakhine nationalists from the Arakan Army (AA) fighting to establish their own state, the Arakan People's Authority. The AA was created in 2009. Clashes between the Tatmadaw and the AA were recurrent in 2020. More deaths resulted from Tatmadaw operations than from AA offensives. As in 2019, Internet access was blocked in conflict zones to limit insurgent attacks and information about counterinsurgency operations from being revealed. Information about the conflict initially originated in part from an AA spokesperson, but journalists can no longer communicate with the organization since it was labeled as terrorist in March 2020. Interacting with the group is a crime, and citizens suspected of being linked to the AA are liable to charges of being complicit in terrorist acts. Over 200,000 locals have been forced to find refuge in camps or monasteries because their villages were in conflict zones and either no longer safe to live in or burned down.

To facilitate the administration's fight against COVID-19, the army enforced a ceasefire with non-state armed organizations. Insurgents have cooperated with the central government in implementing measures to fight the pandemic, including organizations that have not signed the National Ceasefire Agreement under the NLD government or Thein Sein's earlier administration. Yet in Rakhine and Chin States, where the Tatmadaw is fighting the AA, no ceasefire was enforced. The ceasefire does not apply to conflicts involving insurgents classified as terrorists.

Rakhine State is one of the states where the NLD is less electorally successful. In 2015, it lost all its seats in northern constituencies. In 2020, northern Rakhine was judged too unstable for elections to be held there, and citizens in many localities were unable to vote. The polling stations closed in

the north were Arakan National Party bastions in 2015. The party still won most Rakhine seats in the national legislature (eight of 13, compared to two NLD seats, one USDP seat, and one Arakan Front Party seat). Yet it has many fewer seats than it could have had, had constituencies not been prevented from voting. In 2015, Rakhine State had 29 seats in the national legislature, but in 2020, that number was reduced to 13.

PEACE WITH NON-STATE ARMED GROUPS

While they involve the most serious human rights violations, the conflicts in Rakhine State are only a few among the many wars the Myanmar government has fought over the decades. Under the NLD's leadership, serious steps were taken toward resolving these conflicts. A conference has been organized every year between high-level state officials and leaders of non-state armed organizations to find concrete solutions that would enable both sides to make peace long-lasting. Among these solutions is the creation of a federation, where ethnic states would be autonomous in some policy spheres and have their own constitution. Constitutions would secure states' autonomy. Groups that have not signed the National Ceasefire Agreement have been invited to the conference. The central government hopes they will eventually sign the agreement. The AA, now labeled as terrorist, was not invited in 2020, and for that reason, the Ta'ang National Liberation Army and the Myanmar National Democratic Alliance Army decided not to attend the meeting.

The National Ceasefire Agreement has not prevented the resurgence of some conflicts. The Karen National Union (KNU) and the Tatmadaw have been fighting since the government decided to build a road in a KNU-controlled area in 2018. The army is assisting in the construction, but the KNU opposes military trucks entering its territory. Clashes between the two organizations have caused some deaths. The Restoration Council of Shan State, also called the Shan State Army-South, has also clashed with the Tatmadaw, causing population displacements.

TRAPPED TRANSITION

Under the NLD's first leadership (2016–2020), the transition stalled in various ways. The NLD and ethnic parties were hoping to demilitarize the constitution, but in early 2020 their proposed amendments were rejected

by the USDP and the army. Reforming the Constitution required more than 75% of support in the legislature, yet one-fourth of seats is reserved to the army. Without support from some military legislators, the Constitution is not amendable. The reforms would have reduced the needed majority to two-thirds. They would have also decreased incrementally the military's presence in the legislature, repealed a law proscribing an individual married to a foreigner from becoming president, removed the military's control over presidential pardons, enforced civilian control over the police, and lifted barriers to civilian trials of officers for political crimes under their earlier rule. These constitutional changes are necessary steps to democratization.

The military has used institutions created under the NLD's first leadership to silence individuals who voiced criticisms of the organization. In recent years, the Tatmadaw sued journalists, monks, and officials for defamation. The military did so with a law that makes defamation a crime. Citizens convicted of defamation are liable to up to three years of jail. The line between criticism of the army and defamation is nevertheless unclear, and what might have simply been a criticism of the army might have been framed as defamation. Framing criticism as defamation enables the military to control speech about the army under newly democratic rules of the game.

The Tatmadaw has also used the counterterrorism law, established under the earlier USDP leadership, to sue reporters who published information originating from the AA about the conflict in Rakhine State. This practice is not entirely new insofar as, in the past, the army had sued reporters for contacting non-state armed groups under a different law, the Unlawful Association Act. Sentences involved under this act are nevertheless less serious than the ones under Counterterrorism law.

Finally, the parliament passed a reform to enhance the transparency of elections, but the military sought to impose limits on its scope. In 2015, officers voted on military bases. Some were said to have been constrained to vote for the USDP and votes were also suspected to have been manipulated. Beginning in 2020, the reform made voting outside military bases mandatory for all officers. Military bases also have to submit voters' lists to be verified by the Union Election Commission prior to the elections. The army nevertheless insisted that officers in remote areas would still vote on its bases.

FOREIGN POLICY

By 2021, China, India, and South Korea will each have their economic zone(s) in Myanmar, where their enterprises will be producing goods in various sectors. Economic zones are managed jointly with Myanmar authorities. India's zone will be in Rakhine State, China's in Rakhine, Kachin, and Shan States, and South Korea's in the Yangon area. China's Kyaukphyu Special Economic Zone in Rakhine State had been approved by Thein Sein's administration. Initially, Myanmar was to have only a 15% share in the project, while China would have 85%. The NLD's administration managed to renegotiate a better deal for Myanmar, which will now benefit from 30% of shares. Special economic zones are among the different investment projects China has in Myanmar as part of the Belt and Road Initiative.

Myanmar's economy and state budget remain largely dependent on foreign financial assistance. In 2020, the government received loans from individual countries and international organizations. Japan supported healthcare and small and medium-size enterprises; South Korea supported small and medium-size enterprises; and China committed to development aid and a loan to support people in war-torn Rakhine. The World Bank and the Asian Development Bank have also supported the Myanmar government.

Under the NLD's leadership, the Myanmar government has had very good relations with China. USDP-affiliated Commander-in-chief Min Aung Hlaing nevertheless questioned China's intentions in Shan State, suggesting it might have supported non-state armed groups that are still in conflict with Naypyitaw. In an official visit to Myanmar in 2020, President Xi Jinping refuted those claims. Given the army's close ties to China under earlier military rule, it is ironic that the criticism was voiced by a USDP official. Min Aung Hlaing's foreign policy has sought to bring India closer to Myanmar. The two states have cooperated in countering insurgencies along their shared border. In 2020, Naypyitaw deported back to India over 20 insurgents who were fighting the Indian government and had found refuge in Myanmar.