



Peace and Electoral Democracy in Myanmar

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What's new? Myanmar will go to the polls in late 2020. Political positioning has begun in earnest, affecting important governmental decision-making. In ethnic-minority areas, particularly Rakhine State, there is growing disillusionment with electoral democracy that could fuel escalating violence.

Why does it matter? The pre-election period of political contestation will likely exacerbate ethnic tensions and conflict risks, particularly in the country's periphery. At the same time, balloting will be a crucial opportunity to consolidate gains in electoral democracy – an important if insufficient step toward long-term peace and stability in Myanmar.

What should be done? To bolster ethnic minorities' faith in elections, the government should signal its intention to appoint state chief ministers from the winning party in each state, rather than imposing National League for Democracy-led governments everywhere. More transparent decision-making about the likely cancellation of voting in conflict-affected areas would also help.

I. Overview

More than a year ahead of national elections in Myanmar, the key protagonists' political positioning is already affecting policy on everything from the peace process to the economy. Political actors now see important decisions through an electoral lens. Political contestation during the campaign risks aggravating ethnic tensions and conflict, particularly in the country's periphery; Rakhine State, where the anti-government Arakan Army continues an insurgent struggle for greater regional autonomy, is a likely flashpoint. The elections could also be a crucial if imperfect next step toward consolidating electoral democracy in Myanmar. The election commission and its international partners should focus on both mitigating conflict risks and enhancing the polls' credibility.

As Aung San Suu Kyi remains hugely popular with her ethnic-majority Burman base, the election result is not really in doubt. The party she leads, the National League for Democracy (NLD), will handily win a majority of parliamentary seats.

What is in doubt is the salience of elections for those other than her core supporters. More and more, minorities feel excluded from or ill served by the electoral system. The alienation is clearest in Rakhine State, where most of the Rohingya re-

maining after the expulsion of more than 700,000 of them in 2017 have no prospect of gaining the vote. The ethnic Rakhine population – another minority – also feel that politics has failed them. The landslide victory of the main Rakhine party in 2015 was followed by the presidential imposition of an NLD government and a lack of subsequent national government engagement with Rakhine leaders. Angered, many ethnic Rakhine now support the Arakan Army insurgency.

As other ethnic minorities also chafe at the perception of a Burman nationalist NLD leadership, the elections could be a pivotal moment. On the one hand, they could help defuse tension by showing a peaceful method for these communities to gain a greater voice in their own governance. On the other, they could cement the impression that the NLD has a hammerlock on power at all levels and lead to dangerous scepticism of electoral democracy.

The government should take steps now to lay the groundwork for elections that instil greater confidence in the democratic process within these minority communities. One important measure would be for it to commit to appointing chief ministers (the top executives for each state) from the party that wins the most seats in state legislatures. Such appointments would go a long way toward giving minorities a say in their own governance and in official decisions affecting their lives – and would almost certainly build greater support for the electoral process.

A more transparent and inclusive electoral process in conflict-affected areas would also help mitigate the erosion of confidence in democracy. In places where the election commission will cancel voting for security reasons, it should be more transparent about the basis on which such decisions are made. The election commission and its international partners should also take advantage of the coming year to enhance the polls' credibility, especially in the priority areas identified by election observation organisations. Improvements should include accurate updating of the voter rolls to ensure the registry of some five million new voters who have turned eighteen since 2015. Promoting greater representation of women, as candidates and on the currently all-male election commission, should also be a priority. Given the risks of conflict and the broader importance of making the elections as credible as possible, international partners should invest in long-term observation of the electoral process, not only election-day monitoring.

II. Electoral Positioning Begins

Though elections are not due to take place until 2020, probably that November, their impact on Myanmar politics is already evident.¹ The main power-holders are jockeying for position ahead of the polls, as seen in several recent developments.²

¹ Under the 2008 constitution, elections take place on a fixed five-year schedule, ruling out early polls or snap elections.

² For previous analysis of Myanmar elections, see Crisis Group Asia Reports N°266, *Myanmar's Electoral Landscape*, 28 April 2015; and 174, *Myanmar: Toward the Elections*, 20 August 2009; and Briefings N°147, *The Myanmar Elections: Results and Implications*, 9 December 2015; 118, *Myanmar's Post-Election Landscape*, 7 March 2011; and 105, *The Myanmar Elections*, 27 May 2010.

A. *Aung San Suu Kyi's National League for Democracy*

Dissatisfied with its showing in November 2018 by-elections (see section III.A below), Aung San Suu Kyi's NLD has concluded that it needs some clear government accomplishments to present to the electorate in 2020.³ With near-term progress unlikely on substantive but hugely challenging priorities including job creation, expanded electricity supply, ethnic group rights and the peace process, the search is on for modest or even symbolic achievements.

For example, pre-election politics explains why the party made a surprise move on 29 January to form a parliamentary committee on constitutional change – to the consternation of the legislature's military representatives, who stood in silent protest.⁴ The date was significant, being the two-year anniversary of the assassination of veteran NLD adviser and constitutional expert Ko Ni, who was both one of the country's most prominent Muslim public figures and a leading proponent of Myanmar's democratisation.⁵ The powerful military has a veto on amendments to the national charter and is highly unlikely to agree to alterations. Creating the committee, however, allows the NLD to argue that it is doing something to make the constitution more democratic and thus fulfil a key pledge ahead of the 2015 elections.

The committee has discussed each chapter of the constitution, and on 15 July it submitted its report to parliament – a 353-page tabulation of some 3,700 amendments proposed by the different political parties represented on the committee. The next step would be for parliament to debate the list, and the government may then put a package of charter reforms to a vote, likely forcing a military veto that would portray the institution as frustrating the will of the people for “change”, the 2015 slogan of the NLD. The NLD would no doubt see this as to its electoral advantage.

The government is also reportedly preparing a national referendum – a requirement for amending key constitutional clauses. It has instructed the General Administration Department to update voter lists ahead of the normal schedule.⁶ According to the constitution, such a referendum should be held only after parliament has approved the amendments, meaning only if the military does not exercise its veto power.⁷ But rather than seeking endorsement for the proposed reforms, the NLD may instead be planning to frame the referendum in a way that would put further political pressure on the military not to exercise its veto – for example by asking the electorate whether it supports the idea that constitutional change is needed.⁸

Part of the reason why the NLD delayed its push for constitutional change until the pre-election year is that it had previously viewed the peace process as the most

³ Crisis Group interviews, NLD MPs and party officials, Yangon, November 2018-February 2019; “Myanmar by-election results ‘a lesson’ for Suu Kyi’s party”, Reuters, 4 November 2018.

⁴ “Myanmar Suu Kyi’s party clashes with military over proposal to change army-drafted charter”, Reuters, 29 January 2019.

⁵ See Crisis Group Statement, “Myanmar Assassination Shows Urgent Need for Unity against Hate Crimes”, 29 January 2017. The case is not fully resolved. The gunman and three others have been convicted, but the plot’s alleged mastermind is still on the run. It also remains murky whether some more powerful figure may have been behind the killing. See “Ko Ni murder trial reaches climax”, *Frontier Myanmar*, 29 January 2019.

⁶ Crisis Group interview, election experts, Yangon, June 2019.

⁷ 2008 Constitution, section 436(a).

⁸ Crisis Group interview, election expert, Yangon, June 2019; also, Constitution, section 436(a).

effective route to charter reform. The current iteration of the process, which the prior government initiated in 2011, is predicated on reaching a political settlement with ethnic minorities to institute a form of federalism, which would require major changes to the constitution. The NLD hoped to introduce its desired democratic changes at the same time. The peace process has stalled for more than a year, however, in part because ethnic armed groups perceive the government and military as unwilling to stop fighting and make sufficient political concessions. With obstacles in its preferred pathway to constitutional change, the NLD decided to try a more direct route.⁹

The NLD's second achievement is the December 2018 announcement transferring the General Administration Department – the backbone of Myanmar's public administration – from the military-controlled Ministry of Home Affairs to a civilian government ministry.¹⁰ The department requires long-term reform, and voters are unlikely to see much difference in the way they interact with the bureaucracy at the local level prior to the elections, although it could be a first step toward progress after the election. But the NLD can present the move as a success in achieving greater civilian control of government – another of its key 2015 campaign messages and the main motivation for amending the constitution.¹¹

Each of these initiatives has the potential to weaken military authority or embarrass the institution – which especially resents the constitutional reform effort – and thus each could heighten tensions between the top brass and civilian government leaders. But fallout and thus the tension is likely to be limited. The military's constitutionally provided veto means that no one can force an amendment through against its will. It would be loath to exercise its veto but in the end would do so if it considered this necessary to protect its interests.

Moving the General Administration Department could have been a major point of contention had the NLD made the decision unilaterally, but it did not. The Thein Sein administration, which preceded Aung San Suu Kyi's, first mooted the idea, and the department conducted its own review, finding no constitutional or other legal or administrative obstacle to the move.¹² Prior to the December 2018 announcement, the civilian government again consulted the military, which did not object. The military has not revealed its rationale for its acquiescence, but it fits with its broader objective for the political transition, which is to withdraw from administration and governance and focus on security matters, while preserving the constitutional prerogatives that protect its autonomy.¹³

⁹ Crisis Group interviews, individuals involved in the peace process with knowledge of NLD thinking, Yangon, January–June 2019. See also Crisis Group Asia Briefing N°151, *Myanmar's Stalled Transition*, 28 August 2018, section II.B.

¹⁰ "Govt announces transfer of military-controlled dept to civilian ministry", *The Irrawaddy*, 21 December 2018.

¹¹ Crisis Group interview, Myanmar governance expert with direct knowledge of the matter, Yangon, January 2019. See also "Govt reveals plan to bring GAD under civilian control", *Frontier Myanmar*, 22 December 2018.

¹² Ibid.

¹³ Ibid.

B. *Opposition Parties*

Myanmar has a first-past-the-post voting system, whereby the party that obtains the plurality of votes in a given constituency wins the seat. Three fourths of parliament is elected, with the remaining quarter made up of military representatives appointed by the commander-in-chief. At present, that office belongs to Senior General Min Aung Hlaing.¹⁴

In central Myanmar, the main elected opposition is the Union Solidarity and Development Party (USDP), a group linked to the junta-era military establishment. It is neither an effective political opposition nor a real threat at the polls, holding 8.5 per cent of elected seats in parliament, compared to the NLD's almost 80 per cent. Though that disparity is unlikely to narrow, the NLD remains nervous about reductions of its huge popular mandate and the supermajority of elected seats that give it an overall majority in the parliament and hence the capacity to force through legislation. Thus it worries about USDP strongholds, which are few but loyal to the party, as well as the USDP's national reach and ability to get out the vote.

Compounding such NLD concerns, Shwe Mann – an ambitious former general, erstwhile USDP head and sometime confidant of Aung San Suu Kyi – announced in February 2019 that he was forming a new party, the Union Betterment Party, with some of his ex-USDP comrades.¹⁵ Shwe Mann reportedly pitched his party to the NLD as a way to split the old establishment vote, which tends to favour USDP, by running his party's candidates in USDP strongholds; this could theoretically make it easier for NLD to win a plurality of the votes in these areas.¹⁶ His initial policy statements, however, presented the party as democratic federalist in its orientation, rather than conservative nationalist, which would seem to put it in competition with the NLD rather than the USDP.¹⁷ Perhaps partly out of concern about this possibility, later in February, the NLD voted not to extend the term of the powerful parliamentary commission that Shwe Mann chaired.¹⁸

The parties representing ethnic minorities constitute NLD's main opposition other than the USDP. Together these ethnic parties control around 12 per cent of elected seats. In an effort to win more seats in 2020, several of these parties have merged along ethnic lines: among others, three Karen parties united in 2018 to form the Karen National Democratic Party; three Kachin parties amalgamated in June 2019 as the Kachin State People's Party; and three Chin parties and two Mon parties melded in July 2019 to form the Chin National League for Democracy Party and the Mon Unity Party, respectively.¹⁹ Even if such mergers are successful, they may

¹⁴ For detailed discussion of Myanmar's electoral system, see Crisis Group Report, *Myanmar's Electoral Landscape*, op. cit., section IV.

¹⁵ "Shwe Mann forms party ahead of 2020 election", *Frontier Myanmar*, 5 February 2019. The election commission officially registered the party on 25 April.

¹⁶ Crisis Group interviews, political observers and well-informed individuals, Yangon, January-March 2019. Examples of such seats could be Meiktila and Thazi, which are among the very few constituencies in the Burman-majority regions that the NLD did not win.

¹⁷ "Ex-General U Shwe Mann registers 'Union Betterment Party'", *The Irrawaddy*, 5 February 2019.

¹⁸ "Parliament abolishes legal affairs commission", *The Irrawaddy*, 28 February 2019.

¹⁹ See "Ethnic political parties merge to seek stronger representation in 2020 election", *The Irrawaddy*, 11 September 2018; and Union Election Commission notifications 86/2019, 7 June 2019 and 119, 121/2019, 11 July 2019.

only slightly improve ethnic parties' chances. Most of the constituencies that these merged parties aim to win are multi-ethnic; the main obstacle to winning them is vote splitting between, not within, the different ethnic electorates. In 2015, only eight of parliament's 323 seats would have wound up in different hands if the parties representing the same ethnic group had merged (assuming that all who voted for the individual parties would have voted for the united party).²⁰

C. *The Military*

Though the military has a reserved block of seats in the parliament, it also has a stake in the election outcome. The reason is not, as is widely assumed, that the USDP is the military's proxy or its unquestioning backer. The military had turbulent relations with the USDP when that party had a parliamentary majority from 2011 to 2015. It has long tended to view civilian politicians of every stripe as self-serving. Moreover, the bonds between the commander-in-chief and today's crop of USDP leaders are weak. The military's interest in the elections derives instead from its wish to see the NLD lose its supermajority, use of which it has regularly likened to "democratic bullying".²¹ Without this advantage, the NLD could no longer push through legislation without consulting others in the chamber, including military representatives.

More important to the military than any concern about the election outcome, however, is its desire to avoid being portrayed in a negative light during the campaign. This appears to have been one consideration underlying its decision to announce a unilateral ceasefire in Shan and Kachin States in December 2018, which was preceded by months in which it mostly refrained from clashes in those areas.²² Ethnic armed groups have often blamed lack of trust and progress in the peace process on the military's continued operations against them. The unilateral ceasefire helps neutralise that argument and, as the government feels pressure to show progress in the talks ahead of the elections, makes it more difficult to blame the military for failure to achieve results.²³

Similarly, the military's agreement to relinquish control of the Department of General Administration ensures that no one can lay delays in administrative reform at its doorstep. One can see the military's disgruntled reaction to the NLD's constitutional amendment gambit in the same light: the generals do not want to use their veto, knowing that the NLD would depict them as standing in the way of charter reform, but they will do so if they have to.

²⁰ Crisis Group analysis of voting data, December 2015. See also Crisis Group Report, *The Myanmar Elections: Results and Implications*, op. cit.

²¹ See, for example, "Military appointees complain of 'democratic bullying' in parliament", *Democratic Voice of Burma*, 5 April 2016. The supermajority threshold is two thirds of the elected seats, which is half of the total legislature once military appointees are included; the NLD has almost 80 per cent of elected seats.

²² Crisis Group interview, Myanmar individual close to the military, Yangon, February 2019; data on clashes from Myanmar Institute for Peace and Security, on file with Crisis Group.

²³ See Crisis Group Asia Report N°287, *Building Critical Mass for Peace*, 29 June 2017.

III. The Polls' Significance for Democratic Consolidation

A. Likely Electoral Outcome

The 2020 elections are unlikely to result in a change of government. Support for Aung San Suu Kyi, and hence for the NLD, appears to remain extremely strong in the Burman heartland, which represents a majority of the constituencies. As noted, there is no effective opposition party in these areas. Ethnic parties may make a small dent in the NLD's haul of seats, but they are unlikely to significantly change the composition of parliament or challenge the NLD's control over selecting the next president.

The November 2018 by-election results both reaffirmed the NLD's strength in the centre of the country and pointed to its possible vulnerabilities in other constituencies. The party has tended to worry about the latter rather than take heart in the former.²⁴

Thirteen seats were up for grabs – one in the upper house, four in the lower house and eight in state/region assemblies. In the two lower house seats in the heartland (Tamwe and Myingyan), the party won by massive margins – 85 and 76 per cent of the vote, respectively. These results were similar to the margins for these seats in 2015, and typical of NLD wins across the centre of the country.²⁵ On the day of voting, the NLD lost one seat (Seikkan) in the Yangon region assembly to the USDP. But in May 2019, the election commission overturned this result after it upheld a complaint of vote-buying by the USDP candidate. It then awarded the seat to the NLD, which polled second.²⁶

More concerning for the NLD was the result in the upper house constituency of Myitkyina, the capital of Kachin State. Having won the seat in 2015, the NLD came in third in the by-election, behind the USDP and Kachin Democratic Party, though the tally was close.²⁷ In 2015, Kachin leaders – including the influential Kachin Independence Organisation armed group – threw their weight behind the NLD. By 2018, Kachin sentiment had shifted sharply against Aung San Suu Kyi due to her perceived failure to address ethnic minority concerns in the peace process. The USDP was better than the NLD at getting out the vote amid low overall turnout; among those it helped turn out were many members of the military – who are more likely to vote USDP (or be instructed to).

The Kachin Democratic Party benefited from the new support of community leaders and disaffection with the NLD, as well as no-compete agreements with other Kachin parties that prevented a vote split. But the fact that Myitkyina has an ethni-

²⁴ “Myanmar by-election results ‘a lesson’ for Suu Kyi’s party”, Reuters, 4 November 2018.

²⁵ The NLD's vote tally in Tamwe and Myingyan in 2015 was 87 and 76 per cent respectively. See also Crisis Group Report, *The Myanmar Elections: Results and Implications*, op. cit.

²⁶ See “USDP lawmaker removed from seat for cheating in by-election”, *Myanmar Now*, 30 May 2019. Seikkan is an anomaly as it is one of the most heavily malapportioned constituencies in the country, with only 1,400 registered voters, mostly public servants, compared with an average of 54,000 for the by-election seats. Crisis Group calculations.

²⁷ The USDP won with 35 per cent, compared with the KDP's 28.1 per cent and the NLD's 27.9 per cent (the difference between the KDP and NLD being only 113 votes). In 2015, the NLD won with 57 per cent, compared with 4 per cent for the KDP; the USDP did not field a candidate that year.

cally diverse electorate, with large Shan and Burman populations in addition to the Kachin, hampered the Kachin party.²⁸

The NLD's woes in Myitkyina are at least a small red flag for the party, as they reflect a broader shift in sentiment among ethnic minorities across Myanmar away from Aung San Suu Kyi's party. Efforts to reduce vote splitting through mergers of ethnic minority parties, or non-compete agreements between them, may increase their share of the vote in 2020. Such steps, however, will not necessarily translate into many more seats for ethnic parties, or significantly dent the NLD's majority, due to the multi-ethnicity of populations in many constituencies, the first-past-the-post system (which will allow NLD to hold on to seats so long as they can muster a plurality of votes) (see section II.B above), and the fact that, in the lower house, almost two thirds of the constituencies are in the Burman heartland where the NLD won 96 per cent of seats in 2015.²⁹

The lower house – which has almost twice as many members (330) as the upper house (168) – is the more important of the two chambers of parliament because of the design of Myanmar's presidential electoral system. Three candidates are put forward. The elected members of each chamber choose one apiece and the combined military representatives of both chambers choose one together. A single round of voting then takes place in which all representatives – elected and military appointees – cast a ballot for their preferred candidate. The person with the most votes becomes president, and the other two become vice presidents. The system accordingly gives the lower house, with its superior numbers, a strong advantage in pushing through its candidate.³⁰

Once elected, the president has executive authority to appoint a government and make many decisions with limited legislative oversight. The president does not require a parliamentary majority or a supportive coalition to govern.³¹ A coalition government would therefore not normally arise in Myanmar.

B. *Consolidating an Electoral Tradition*

Myanmar has only recently emerged from a half-century of authoritarian rule, and is only in the beginning stages of consolidating a tradition of electoral democracy. Since the 1950s it has had only one broadly credible national election, in 2015.³² The constitution remains fundamentally undemocratic in many respects, including the

²⁸ Crisis Group interviews, election experts, Yangon, December 2018.

²⁹ There are 330 elected seats in the lower house, of which 207 are in the seven Burman-majority regions; the NLD won 199 of these in 2015.

³⁰ A party does not necessarily require a majority of lower house elected seats to determine that chamber's candidate for president; it only needs to form the largest bloc to ensure that its nominee receives the most votes.

³¹ For discussion of the extent of executive power and legislative checks, see Renaud Egretreau, *Caretaking Democratization* (London, 2016), ch. 3.

³² The result of the 1990 election was disregarded; in 2010 the NLD boycotted the polls, which were further undermined by allegations of significant malpractice and fraud. The 2015 poll was marred by the disenfranchisement of the Rohingya, but the NLD landslide reflected the will of the electorate and power was peacefully transferred.

significant political role and autonomy it grants to the military.³³ And yet, somewhat surprisingly, national political debate centres around the coming elections.

Spoilers have not yet emerged to distract from that focus. Though insurgency continues in the country's periphery, no significant actor seems to be considering non-electoral means of securing power nationwide. In particular, a military coup appears extremely unlikely because, however unhappy it may be with some decisions by Aung San Suu Kyi, overall the military is satisfied that the system it designed is serving it well.

In a deeply divided country with no strong democratic tradition, the apparent attachment to elections is both striking and crucial. It underpins the political stability at the nation's centre. And although electoral democracy is not a panacea and will not automatically lead to a more peaceful and tolerant country, it is hard to imagine meaningful and sustainable progress toward those goals if the country moves in a less democratic direction.

The 2020 electoral cycle presents an opportunity to build further support for the democratic process. Aung San Suu Kyi's huge popularity across a broad swathe of the country means that no pretender seeks her crown. The absence of competition at the top has unified much of the polity and curtailed political infighting that could have undermined the democratic system's credibility. This same stability has also created space for Myanmar to develop sound, relatively transparent institutional and regulatory underpinnings for elections – in 2015 these included generally accurate voter lists, fairly large-scale voter education and training, along with measures to guard the vote's integrity such as indelible ink and tamper-proof seals.

Improvements by 2020 in the priority areas identified by election observation organisations can help make Myanmar's electoral process more resilient in the face of inevitable future challenges.³⁴ Particularly important will be instilling confidence in the process in the next generation of voters. By the time of the 2020 polls, an estimated five million young people will have become eligible to vote for the first time.³⁵ Their first voting experience will do much to shape their perceptions of electoral democracy. First and foremost, instilling confidence requires effective voter list updating, a major logistical undertaking for the election commission – which is appointed anew by each incoming government and hence does not have the benefit of experience from the previous exercise.

The election is also a chance to seek greater representation of women – in party leaderships, as candidates and representatives, and on the election commission itself. Doing so will be critical for advancing the goal of inclusive governance given the serious disparities that currently exist in male and female representation.³⁶ The gov-

³³ For detailed discussion, see Crisis Group Report, *Myanmar: Toward the Elections*, op. cit.

³⁴ See "Observing Myanmar's 2015 General Elections: Final Report", Carter Center, August 2016; and "EU EOM Myanmar General Elections 2015: Final Report", European Union, March 2016.

³⁵ Crisis Group interview, electoral support expert, Yangon, January 2019.

³⁶ Women are massively under-represented in public life in Myanmar. In 2015, only 800 of 6,038 candidates (13 per cent) were women; of these, 63 were elected as MPs (out of 493), more than double the number in 2010. Only one person in the 24-member cabinet is female (Aung San Suu Kyi herself). None of the election commission's seventeen commissioners is female, though the body has a gender equality action plan. See "She Leads in Myanmar: Inspiring Women Leaders", International Foundation for Electoral Systems, March 2019.

ernment could narrow the gap by providing incentives and training for women candidates, and by mandating gender quotas for the appointment of election commissioners.³⁷

Consolidating electoral democracy in 2020 would help create precedents and traditions that could serve Myanmar in the future, when it might well face more difficult periods. Once Aung San Suu Kyi – whose stature is unique – departs the political stage, electoral politics will likely become more combative and could well become more corrupt. The more the public becomes accustomed to the idea of free and fair elections, and the stronger that electoral institutions are, the more resilient the system will be.

IV. Elections and Conflict

Much as the 2020 elections are a moment of opportunity for Myanmar’s electoral democracy, they are also a moment of risk. The contestation of the pre-election period could precipitate violence, as could the polls themselves; conversely, existing armed conflicts and social tensions have the potential to hurt the ballot’s integrity.

A. *The Arakan Army Conflict*

Fighting between the Arakan Army and the Myanmar military has escalated sharply in 2019, following the group’s deadly raids on police posts on the country’s Independence Day on 4 January.³⁸ Since then, there have been hundreds of clashes and the military has reportedly suffered heavy casualties, including among officers.³⁹ Despite government and military vows to “crush” the insurgents, the Arakan Army has intensified its attacks and expanded the geographical range of its operations.⁴⁰

The Arakan Army – which says it is fighting for the semi-independence (in its parlance, “confederation”) of Rakhine State – already draws significant popular support from the perceived failure of electoral politics in the state. The main Rakhine political party won a landslide victory in 2015, securing a large majority of the elected seats in the state legislature. The new president, however, used his constitutional powers to appoint an NLD chief minister to run the state. The government subsequently neglected to consult Rakhine political leaders about much of anything. Rather, it ordered the arrest of the most prominent Rakhine leader – Dr Aye Maung – in January 2018 on high treason charges for public comments it saw as supportive of the Arakan Army. On 19 March 2019, a court sentenced him to a twenty-year jail term, which he is trying to appeal.⁴¹

In the eyes of many ethnic Rakhine people, the Arakan Army offers an appealing alternative to a failed political process. The group’s “Arakan Dream 2020” slogan en-

³⁷ See Carter Center and European Union observer reports, *op. cit.*

³⁸ For details, see Crisis Group Asia Briefing N°154, *A New Dimension of Violence in Myanmar’s Rakhine State*, 24 January 2019.

³⁹ “Tatmadaw says it has clashed with AA nearly 100 times this year”, *The Irrawaddy*, 25 March 2019; “Senior Myanmar Army officer death toll mount in N. Rakhine”, *The Irrawaddy*, 4 June 2019.

⁴⁰ See Crisis Group report, *A New Dimension of Violence*, *op. cit.*

⁴¹ “Union supreme court to decide Dr Aye Maung’s appeal”, Development Media Group, 24 July 2019.

capsulates popular sentiment. For the Arakan Army the slogan's reference to 2020 is unrelated to the elections; it is the date by which they want to achieve their objective for greater Rakhine sovereignty by force.⁴² Both the timing and the goal raise serious concerns about the prospects for conducting 2020 elections peacefully, or at all, in Rakhine State.

The most worrying scenario is that the Arakan Army tries to block voting in Rakhine altogether. This cannot be ruled out, but seems unlikely. It would deny Rakhine parties both the legitimacy of an electoral win and control of the state legislature, which is a symbolically important platform albeit with limited powers. Moreover, if the Arakan Army were to act in this way, voting would still likely go ahead in the far south of Rakhine State, which is not conflict-affected, and is an NLD stronghold from which the current chief minister hails. The Arakan Army would presumably want to avoid a scenario where it is seen as responsible for preventing voting in Rakhine party strongholds, only for it to go ahead in NLD-dominated areas, leaving Naypyitaw no alternative but to appoint a chief minister from among its own representatives.

A more likely scenario is that continued clashes prevent polling from taking place in some places or generate insecurity that could lead the election commission to cancel voting across large areas of Rakhine State. As the commission's decisions are often opaque, such a cancellation would inevitably give rise to claims that the government was using insecurity as a means of disenfranchising Rakhine voters or unfairly influencing results. This could fuel escalating anger and violence.

If polls go ahead, another risk is that an ethnic Rakhine party scores an electoral victory but that Naypyitaw nevertheless installs an NLD chief minister as it has in the past. The Arakan Army might also use this as further justification for armed struggle. The Arakan Army is far more popular and influential than any Rakhine party and it is not backing any one in particular. But it would likely react sharply to an appointment that it saw as de facto ethnic Rakhine disenfranchisement and use it to mobilise further support for its violent campaign.

B. The Rohingya Crisis and Systemic Exclusion

A community that Myanmar's electoral democracy has failed utterly is the Rohingya. They were eligible to vote in all post-independence elections, until 2015. In February that year, responding to nationalist protests, President Thein Sein announced the cancellation of all Temporary Registration Certificates (or "white cards") – the only type of identity document that most Rohingya held. The Constitutional Tribunal also ruled that white card holders were ineligible to vote.⁴³ Most Rohingya therefore could not vote in the November 2015 elections, and it is virtually inconceivable that they will be able to do so in 2020 – whether they are still in Myanmar or among the majority who fled atrocities in their home country and are now living in refugee camps in Bangladesh.

⁴² The leader of the Arakan Army made this clear in a video the group circulated in late 2017, saying, "our Arakan dream is that we will take back Arakan in 2020. This message is for our people. Everyone needs to have this dream. It is important for our people to follow your duty to fight to take back your land".

⁴³ Crisis Group Report, *Myanmar's Electoral Landscape*, op. cit.

The Arakan Rohingya Salvation Army may attempt to disrupt voting in northern Rakhine State or use the elections as an occasion for symbolic attacks highlighting the Rohingyas' plight. But, while it certainly poses a risk, the group appears to have limited operational capabilities and territorial reach. It has staged a few small attacks in Maungdaw township in the last few months, including ambushes of Myanmar border police vehicles on 16 January and 22 April, video of which circulated on social media, though the group did not formally claim responsibility for either attack.⁴⁴ The group has a large footprint in the camps in Bangladesh, but apparently very limited capabilities in Myanmar.

Irrespective of the risk or extent of violence involved, Rohingya disenfranchisement will corrode the elections' credibility internationally and among the Rohingya community itself. The lack of voting in Rohingya areas will serve as a stark reminder of the violent expulsion of more than 700,000 from the country in late 2017, as well as those expelled in earlier waves of violence, and the continued confinement of those who remain in increasingly entrenched conditions of apartheid.⁴⁵

C. *Armed Conflict-Related Disenfranchisement*

The election commission law allows for cancellation of voting in part or all of a constituency for security reasons.⁴⁶ Ahead of the 2010 and 2015 elections, the commission issued notifications a few weeks before the vote listing areas where balloting would not take place.⁴⁷ Most were insecure or conflict-affected areas in states with predominantly ethnic-minority populations. The decision-making process was not transparent. The military informed the commission where it was to cancel voting, but did not disclose detailed reasoning, raising questions about whether political rather than security considerations may have driven some decisions.⁴⁸ Any such cancellations ahead of the 2020 vote are likely again to be controversial. The best way to mitigate that risk is to ensure that the commission acts with greater transparency and has strong justification for its decisions.

Some ethnic armed groups could also use intimidation or violence to achieve electoral objectives. For example, ahead of the 2015 polls, the leader of the Shan Nationalities Democratic Party claimed that the rival Shan Nationalities League for Democracy was supported in some areas by the Shan State Army-North armed group, which intimidated his party's members.⁴⁹ Also in 2015, the NLD said it was unable to cam-

⁴⁴ Crisis Group interviews, individuals with knowledge of incident, Bangladesh, January 2019. Footage of the incident is posted online. Video, YouTube, 19 January 2019. See also "Fresh ARSA attack injured six police officers", *The Irrawaddy*, 20 January 2019; and "Police officer injured in ARSA ambush in N. Rakhine", *The Irrawaddy*, 23 April 2019.

⁴⁵ For analysis of those conditions, including detailed legal considerations, see "Caged Without a Roof: Apartheid in Myanmar's Rakhine State", Amnesty International, November 2017.

⁴⁶ 2012 Union Election Commission Law, section 10(f).

⁴⁷ "Areas where elections will not be held", five Union Election Commission Notifications, nos. 99-103/2010, 16 September 2010; and 61-65, 67/2015, 12 and 27 October 2015.

⁴⁸ Crisis Group interview, individual working with election commission, Yangon, February 2015.

⁴⁹ See "Five years ago, people were afraid of politics", *Myanmar Times*, 23 March 2015.

paign in the Pao self-administered zone due to Pao National Organisation threats.⁵⁰ Given the anger toward the NLD in much of Rakhine State, it may be difficult for the party to campaign there also, and intimidation or threats of violence cannot be ruled out.

D. *Buddhist Nationalism and Communal Violence*

With elections on the horizon, Myanmar could now be entering a more turbulent period with greater communal violence, as happened in the lead-up to the 2015 elections. Such violence is not inevitable, however, and depends on a number of factors, some of which suggest that the risk is lower than during the last election cycle.⁵¹ In 2015, many Buddhist nationalists feared that an NLD-led government would adopt liberal and pluralistic positions contrary to their inclinations, but it did not. On the Rakhine State crisis – both as regards the violent expulsion of Rohingya and the Arakan Army insurgency – the NLD has adopted a staunchly nationalist position. The NLD has also backed away from criticizing a package of race and religion protection laws sponsored by the Buddhist nationalist MaBaTha group in 2015 (although it objected to them at the time), and has not pushed through new legislation to supersede or amend them.⁵² In fact the entire political landscape is much more in line with Buddhist nationalist views. No major party fielded a Muslim candidate in 2015, and none is anticipated to do so in 2020.

Still, there are certain developments that could presage a flare-up in communal violence in the run-up to the election. The first would be if the opposition USDP chooses to make the supposed threat posed to Buddhism by other religions a focus of its campaign strategy, as it did before the 2015 elections. At that time, it saw Buddhist nationalism as a club with which to beat the NLD. The party continues to promote a conservative and generally Buddhist nationalist agenda, but it may not perceive the same advantage over its rival that it saw four years ago, given that the NLD has now established its nationalist credentials. Thus, much may depend on the campaign strategy of individual USDP candidates in areas with a history of communal tension or violence.

Whether clashes occur also depends on the extent of provocation by Buddhist nationalist groups such as MaBaTha. They may find it hard to generate the same traction as they had under the sympathetic Thein Sein-led government, given that the NLD views these groups as political enemies, and has repeatedly moved to cur-

⁵⁰ For background, see “NLD members threatened at gunpoint to resign in east Burma”, *The Irrawaddy*, 23 May 2013. The Pao National Organisation is both an armed group with a ceasefire as well as a political party (which the group also registered as).

⁵¹ Although Myanmar has seen some horrific violence in recent years, the NLD government’s tenure has seen relatively little communal conflict. (It was mostly the state, rather than other ethno-religious groups, that perpetrated the violence compelling Muslim Rohingya to flee in 2017.) The last significant communal clashes occurred in the lead-up to the 2015 polls. For detailed discussion, see Crisis Group Asia Report N°251, *The Dark Side of Transition: Violence against Muslims in Myanmar*, 1 October 2013.

⁵² *Ibid.*, section III.B. These laws restrict interfaith marriage, polygamy, religious conversion and provide a legal framework for measures to control population growth in particular areas – all widely interpreted as targeting Muslims.

tail their activities.⁵³ The NLD could, however, overreach and prompt a nationalist backlash. For example, it is pursuing the firebrand monk Wirathu for lewd personal comments he made about Aung San Suu Kyi in two sermons. A court has issued an arrest warrant but the monk remains at large and is being tried *in absentia*. His detention or conviction could spark such a backlash.⁵⁴

V. Conclusion

As Myanmar struggles with a democratic transition that has been marred by violence and injustice, the upcoming 2020 elections could mark a pivotal moment. If the country is to find its way to a path toward more inclusive governance, where ethnic minorities have a greater voice and lower incentive to resort to violence, the consolidation of electoral democracy will almost surely be an important step along the way. The upcoming polls – if they go well – can begin cementing traditions and precedents that have a chance of seeing the country through future elections peacefully. This will be especially important once the enormously popular Aung San Suu Kyi has left office and elections almost certainly become more contentious.

The country's election rules, however, create challenges. The first-past-the-post system encourages a winner-take-all political culture that can make it difficult for ethnic and other non-NLD parties to gain seats and a voice in parliament. Fully changing this culture is a generational process, and changing the system is not on the cards at present.

Still, there are steps the authorities could take to make the polls more credible and show communities that their votes count. Appointing state chief ministers from the winning party, rather than imposing NLD governments as happened last time in Rakhine and Shan States, would also help. More transparent decision-making about the cancellation of voting in conflict-affected areas would also increase confidence in the electoral process and lessen the risk that conflict actors use cancellations to justify violence.

These measures will not by themselves bring peace and stability to Myanmar but they may encourage its people – especially the very large number of first-time voters – to invest in a system that over time is its best hope for moving in that direction.

Yangon/Brussels, 6 August 2019

⁵³ For a detailed examination of the group and its perspectives and motivations, see Crisis Group Asia Report N°290, *Buddhism and State Power in Myanmar*, 5 September 2017.

⁵⁴ "Court hears from final witnesses as Wirathu's trial in absentia nears end", *Myanmar Now*, 11 July 2019.

Appendix A: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

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