

1 April 2012 – A Much-noticed By-Election and its Manifold Contexts

1 Introduction

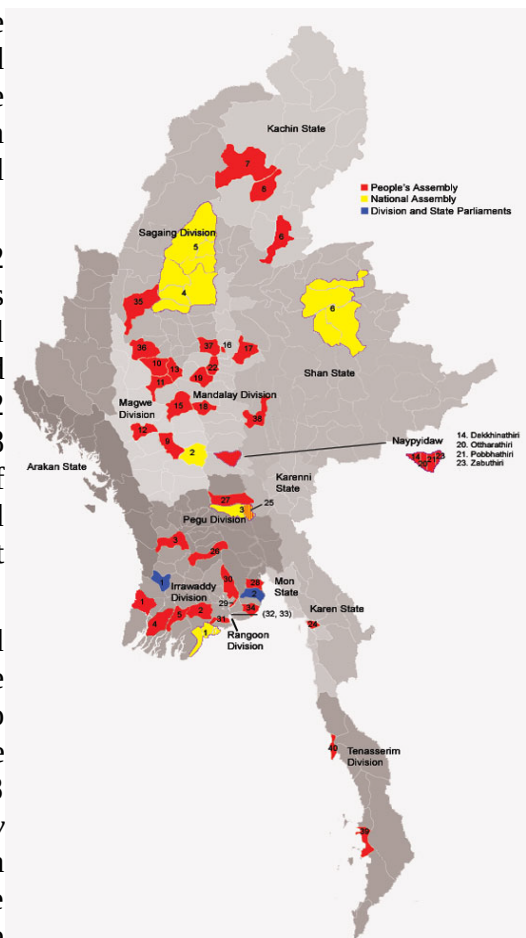
This chapter deals with just one of the many by-elections held in Burma/Myanmar in the tradition of the British electoral model of filling vacated seats in parliaments. For a number of reasons, this one however was “an unprecedented contest in Myanmar’s election history”. (Tin Maung Maung Than 2013: 208). This can be attributed first and foremost to Aung San Suu Kyi’s direct participation as a candidate and leader and the major Myanmar party opposing the government. This government was supported by an overwhelmingly large majority of supporters in the 16 parliaments of the country. In The House of Representatives (*Pyitthu Hluttaw*) it could rely on the support of 369 of the 440 members, 259 of them elected as candidates of the USDP in November and 110 appointed by Than Shwe, then chief of the armed forces before retiring from his two function as head of state and supreme commander of the armed forces. As a consequence the two “fractions” supporting the government owed loyalty to different persons, the elected MPs to party chief and elected president Thein Sein, the appointed soldiers to Min Aung Hlaing who had been nominated by Than Shwe as the new chief of the armed forces forced in 29 March 2011.

Different from by-elections held in Burma until 1962 when according to the British model – such elections were held in a single constituency that had been vacated for a variety of reasons.¹ The high publicity and expectations caused by the elections held on 1 April 2012 were related to a novelty provided by the 2008 constitution.. It prescribed some kind of separation of office and mandate so that members of the cabinet and other offices as in the judiciary could not retain their seat won in the elections. (Tin Maung Maung Than: 205).

As a consequence, not just one seat had to be contested but a rather great number in different constituencies of the 16 parliaments provided by the constitution, the two Union parliaments (*Pyitthu* and *Amyotha Hluttaw*) and the 14 parliaments of the Regions and States. All in all, 48 seats were vacated. Three of them for the *Pyitthu Hluttaw* located in Kachin State were postponed by the Election Commission due to security reasons caused by the ongoing civil war there between the Tatmadaw and the Kachin Independence Army.

In the end, 27 (from 330) seats in the Lower House were contested, six (from 224) for the Chamber of Nationalities and just two (from 630) for the regional parliaments.

Since all seats had been won by USDP candidates in 2010, the polls could be expected to be a contest between the USDP sponsored by the military and the NLD headed by Aung San Suu Kyi. Compared to the more than 1.100 seats in all 16 parliaments, the total number of polls were held in



Constitutions in which by-elections were held; red: Pyitthu Hluttaw; yellow: Amyotha Hluttaw; blue: Region/ State Hluttaws. (Source: Martin 2012: 2)

¹ For details see <https://www.parliament.uk/about/how/elections-and-voting/by-elections/> (accessed 21.4.2024).

just over 4% of all electoral districts. Given the small number of seats contested in the 14 States and Regions. The focus was on the competition between the country's two major parties.

The by-elections therefore were widely regarded as a test about the two political concepts that had fought each other since the coup in 1988: The USDP headed by the ex-general Thein Sein advocating "disciplined democracy" as largely implemented by way of the roadmap and the NLD impersonated by Aung San Suu Kyi as promoters of "genuine democracy". Moreover, since the 2010 elections had been widely regarded as a "sham", the by-elections could be seen as a test on whether the new semi-civilian government was determined to conduct free and fair elections or not..

After the elections had resulted in a convincing victory of the NLD candidates including Aung San Suu Kyi, and the winners were about to take their seats in parliament, UN General Secretary Ban Ki-moon who had been engaged in bringing about an understanding between the opposing camps flew to Naypyidaw to give a speech before the Union Assembly. He recalled his two previous visits and stated: "Today, I return to a new Myanmar, a Myanmar that is making history." He further stated: "We know that Myanmar can meet the challenges of reconciliation, democracy and development." In his long speech, he called for advancing "democratic transition" and emphasised that the parliament as at the very centre of performing this talk.²

Aung San Suu Kyi however did not listen to the speech. Her seat was still empty since parliament had convened again on 23 April. The parliamentarians-to-be had asked to change the oath prescribed in the constitution. It was worded "to uphold and abide by" it. They asked to change the strong wording by the pledge to "respect" the constitution. Since the wording of the oath was prescribed in the constitution, a possible change would take time. The NLD faced a dilemma. She had either to compromise is stand on the undemocratic quality of the constitution and its promise to make changing the constitution her top priority or forfeit the 43 seats won in the elections.³



Suu Kyi's empty seat in parliament 30.4.2012(Source: The Guardian)



Aung San Suu Kyi at the oath taking ceremony 2.5.2012 (DW. Other NLD MPs are wearing the party jacket

Aung San Suu Kyi referred to the "desire of the voters" in justifying the decision: She was quoted to have said: "Our voters voted for us because they want to see us in parliament,."

This episode reveals a great gap between big expectations and hopes and the realities. The NLD and the its leader had accepted the 2008 constitution. The government had not made any concession. When the elected members took their places, they were just integrated into the parliament in which the order of seating was egalitarian. Since the electoral system is based on polls on a basis of constituencies, the order of

² <https://www.un.org/sg/en/content/sg/statement/2012-04-30/secretary-generals-address-union-assembly-of-the-republic-of-the-union-of-myanmar>(accessed 22.4.2024).
³ Article 130 (a) was worded: "If a Pyithu Hluttaw representative is, without permission of the Pyithu Hluttaw, absent from a Pyithu Hluttaw session for a period of at least 15 consecutive days, the Pyithu Hluttaw may declare his seat vacant. In computing the said period of 15 days, no account shall be taken of any period during which the session is adjourned."

seating follows the alphabetical order of their names – except the bloc of the appointed members of parliament.

Just before the first session of parliament scheduled for 23 April, the new commander-in-chief of the Tatmadaw, Min Aung Hlaing, had exchanged 59 junior military MPs with seniors higher military ranks, as possible counter measure to the at least symbolically increased influence of the new “NLD opposition” in parliament. A senior Myanmar scholar working in Singapore referring to this action (Tin Maung Maung Than 2012) argued that the “six-decade old institutional culture” of the military’s self perception should be taken into account. He described this culture as

enshrining the self-professed role of the military as not only guardians of the state but also ‘minders’ of the body politic, and its sceptical view, bordering on contempt, of politicians and political parties. As such military leaders who have embraced the idea of symbiosis between the state and the *Tamadaw* could regard the current standoff between the NLD and the political establishment as the beginning of a campaign to change the rules of the political game and threatens its identity and institutional integrity.

In retrospect, this observation sounds prophetic. It is obvious that the optimistic assessments with regard to further developments as expressed by Ban Ki-moon were wrong. The seemingly minor issue of how to word the oath might indicate a fundamental difference of political cultures on the side of the civil and military contestants of defining and guarding Myanmar politics that might have been often overlooked.

On this background, the following parts of this chapter will start with a review of the encounters between representatives the military and civil representatives of the two sides aiming at gaining some insight in the views of how state and society should be structured with a special focus on the focus between the relationship between the government and the people (2). The following parts of the chapter will deal with the main events leading to the participation of the NLD and its leader (3), provide information about the run-up to the polls (4), some personal observations around and on election day (5,) a short overview on the election results (6) and a final assessment (7).

2 Communication of Uneven Protagonists on Different Levels

After the elections of 2010 that were widely regarded as absolutely not free and fair, the administration headed by president Thein Sein Thein received much advance praise. The new man on the top was widely regarded as the “regime’s pretty face” whose job was “to make continued military rule in Burma acceptable to the international community.”⁴ In his first speech as president, he made a number of promises that sounded like being copied from a textbook of how a democratic country should be ruled – including the statement that the media must be regarded as the “fourth pillar” of democracy.⁵ When the decade-long



Source: *New Light of Myanmar* 20.8.2011.
Caption: President U Thein Sein and Daw Aung San Suu Kyi pose for documentary photo at the President Office.

⁴ https://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/601_ebopaper2_/601_ebopaper2_en.pdf (accessed 23.4.2024).

⁵ For the text of the speech see *New Light of Myanmar* 1 April 2011.

harsh pre-censorship of media were lifted in August 2011, the assessment changed a bit but scepticism still prevailed.

Theia attitude started to change after on 20 August 2011 a picture had been published in the government newspaper showing Aung San Suu Kyi together with the president in his Naypyidaw office. The government newspaper published the photo on p. 9 at the end of a lengthy report about a religious ceremony in Naypyidaw in which Thein Sein and his wife had participated. In the morning. The short note on the meeting informed – in bold letters: “President U Thein Sein, Daw Aung San Suu Kyi vow to cooperate for national interest.” A short official information published by the country’s news agency followed:

President U Thein Sein received Daw Aung San Suu Kyi at his office in the Presidential Residence at 4 pm today. Frankly, President U Thein Sein explained measures of the government for national interests. The President and Daw Aung San Suu Kyi tried to find out potential common grounds to cooperate in the interests of the nation and the people putting aside different views.

One of Aung San Suu Kyi’s aides told the BBC about the meeting shortly after it had ended:

In my view, it was a good meeting. Later she met the director-general of the president's office and the president's wife. It was like meeting old friends. It was a warm and cordial meeting.⁶

Such pleasant wording does not inform about any political implications of the coming together and if it might be possible to find “common ground”. Nevertheless, the International Crisis group one month after the meeting headlined an update briefing “Myanmar: Major Reform Underway”. With regard to the encounter with the president, the paper noticed:

Aung San Suu Kyi has said that “from my point of view, I think the president wants to achieve real positive change”. A leading member of a democratic party described “a dramatic change in the political course of this country”.³ Some exiles and outside observers have dismissed the changes as “window dressing”, pointing out that the government and Aung San Suu Kyi have had talks in the past which came to nothing. (ICG 2011: 2).

The following paragraphs provide some information about former meetings in order to obtain some information about the participants’ concepts of cooperation or even reconciliation in the interest of the people of Myanmar.

2.1 1994 and 2002

Most likely, the first meeting between the military and Aung San Suu Kyi after the beginning of her house arrest happened on 20 September 1994, ten months before her first house arrest ended at a military guest house in Yangon. It had been arranged by a Buddhist monk living in England



Meeting 20 September 1994 (Source: Irrawaddy)

who had talked to both sides before (Zöllner 2012: 188-189). Two pictures were shown on state television informing the public that she was smiling and seemed to be well. On the next day, the

⁶ <https://www.bbc.com/news/world-asia-pacific-14585995> (accessed 15.4.2024).

photos were published in the state newspapers as well. Nothing was told about the contents of the talks. It was just reported that the meeting had been “cordial”.⁷

Five weeks later, a meeting between Khin Nyunt, accompanied by two other generals, and Aung San Suu Kyi took place that lasted three hours. The discussions were “frank and cordial”, the state newspaper reported and “covered the current political and economic situation” in view of the junta’s long term plans for the country’s welfare.⁸ Already before, Khin Nyunt had said that the military did not regard the daughter of Aung San as an enemy her regarded as his “younger sister” because he was older than she.⁹ Asked shortly after her release in 1995 about her impression of General Than Shwe and Khin Nyunt, she replied rather ambiguously: “I thought that Gen Than Shwe was very mature very honest and straightforward. And Gen Khin Nyunt I found rather charming. But that was Burmese way of charming.” And: She could work with them, because she could work with everybody.¹⁰

As argued by the sceptics in August 2011, the meetings had no practical political results. The meeting can be seen as a gesture of the military leaders towards the people and Aung San Suu Kyi that they respected the daughter of the Tatmadaw’s father in their own way,

Some ten years later, in July 2003, some more undated pictures of meetings between the two sides were published in the state media after another attempt of the military to come to an accommodation with Aung San Suu Kyi had failed. Again, the endeavour had been initiated through a go-between, the Malaysian diplomat Razali Ismail who had been appointed the UNI General Secretary’s special envoy to Myanmar in April 2000. His efforts resulted in a number of measures of the junta easing the pressure on the opposition starting with an end to the public campaigns against Aung San Suu Kyi that included the release of political prisoners (Zöllner 2012: 361-371). It was further reported that secret talks had taken place between Aung San Suu Kyi and the generals.¹¹

Aung San Suu Kyi was finally released in May 2002 and started to travel the country to reopen branches of the NLD. According to an agreement between the two sides, the precise content of which was never made public. The tour turned out to be triumphant. At all places visited, Aung San Suu Kyi was welcomed by masses of people.



*The dinner might have taken place in January 2002
(Source: Irrawaddy, 8 May 2006)*

The last travel to northern Myanmar came to an end with an attack on her convoy on 30 May 2003 by government supporters. (Zöllner 2012: 421-447) These events clearly demonstrated that the military authorities and Aung San Suu Kyi and her followers had a complete different understanding of the “agreement” concluded. Each side regarded its own position as superior excluding compromise.

Some months later, Aung San Suu Kyi had been put under house arrest again, the government started a public campaign and told its version of how to come to terms with

⁷ Burma Press Summare September 1984 (<https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs3/BPS94-09.pdf>; accessed 14.4.2024).

⁸ Burma Press Summary October 1994 (<https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs3/BPS94-10.pdf>; accessed 14.4.2024).

⁹ <https://www.tampabay.com/archive/1994/07/12/burma-military-leader-to-meet-with-dissident/> (accessed 14.4.2024).

¹⁰ <https://www.burmalibrary.org/reg.burma/archives/199507/msg00265.html> (accessed 18.4.2024).5

¹¹ *The Guardian* 11 January 2001: 21,

Aung San Suu Kyi and why the attempt failed. The long story was published in the *New Light of Myanmar* in a series of twelve articles allegedly written by a young member of the NLD who had accompanied the NLD leader on her journey and obviously based on the information gathered by the ruling authorities.¹²

The main message of the articles is to show how the NLD leader and the mostly young party members accompanying her and party chairman Tin Oo misused the opportunities provided by the government to install signboards at a number of NLD offices around the country by sewing disunity and creating public disorder in contrast to the junta's intention to opening the way for "good relations" between the authorities and the NLD. This intention is illustrated by a number of pictures from meetings between the two sides happening in 1994 and at the beginning of the thaw after Razali Ismail had started his diplomatic mission. One of the undated pictures show Aung San Suu Kyi, Than Swe and other members of the military at an event that was called a "family dinner" by the publishers of the articles. Very likely, the dinner took place on 22 January 2002 four months before another house arrest ended in May of that year about which the Myanmar public was not informed.¹³

Other pictures illustrating the articles show her visiting development projects of the government like the Paunglaung Dam Hydro-Power Project near Pyinmana (central Burma, close to the later capital Naypyidaw) on 29 June 2002 on the way back to Yangon after having made her first "political trip" to the last royal capital Mandalay.¹⁴ As the pictures show, she was treated as a guest of honour who was invited to be informed about the infrastructure projects performed by the government.

As in the previous occasions of meetings with the generals, this visit and others she was invited to attend was a one-sided affair. She and her party had not asked for it. One can call it a "one-sided dialogue". The government hoped that "her attitude would surely become more flexible to lean towards cooperation with the government." The military government looked for a change of Aung San Suu Kyi's mind towards an appreciation of what it had done in terms of developing the country and would be willing to cooperate. The observations of the virtual NLD member however indicate that such an expectation was futile. "Sadly, things did not turn out as expected" he is resorted to have notices had describes her attitude shown at a visit of a water pumping project near Pyay thus: "I looked across at her [,,] but there she was with folded arms and wearing a pair of dark sunglasses. Oblivious of such thoughts [of appreciation]"¹⁵



Source: Irrawaddy

The junta leaders' concept of approaching Aung San Suu Kyi was based on a hierarchical concept of society. At the "family dinner" at the Tatmadaw guest house, Than Shwe acted the head of family. Regardless of any difference of age, she was the "younger sister". It could be expected that she would behave accordingly in the traditional Burmese context. On this background the government press had defamed Aung San Suu Kyi as being "un-Burmese".

¹² *The New Light of Myanmar* 5 to 23 July 2003.

¹³ *Hawaii Tribune-Herald* 31.1.2002: 7. The information came from a western diplomat.

¹⁴ Her first trip after the release had been a visit to the monastery of the Buddhist monk Thamanya in Kayah State who was supposed to express an anti-military attitude (Zöllner/Ebbighausen 2018: 150-158).

¹⁵ *New Light of Myanmar* 6.7.2003: 8.

At the beginning of the travels following her release in 2002, the government invited her to cooperate in the government's endeavours to improve the country's infrastructure. She accepted the invitation, but did not appreciate the projects as expected by the junta leaders. She had explained her attitude to the government shortly after having been released from house arrest in 1995 with the statement: "I consider the people far more important than the government" and doubted that the economic measures taken would benefit the majority of the people.¹⁶

A Burmese editor of a newspaper criticising the military government reported another assessment of her meetings with General Than Shwe: "She told her close associates and UN envoys that she found it difficult to talk to the junta supremo. "After 15 minutes, we [she and Than Shwe] have nothing left to talk about".¹⁷

With regard to the "family metaphor", Aung San Suu Kyi used it herself. From her first speech at the Shwedagon Pagoda in August 1988 on she appreciated her relationship with "the people" who returned this affection. One can say that serving the people through implementing "genuine democracy" was her top priority. In 1995, she elaborated her relation to "the people" this way:

I always feels very at home with the people. When I meet them, they were just like meeting friends and family. They were very informal. And what make me very happy is the fact that they are not afraid of me. They treat me very much as a friend, as family, as elder sister, their younger or aunt or their daughter. [...] I like the fact that they are not afraid to talk to me. And they are not afraid to disagree with me. But when I am reasoning to them, then, they accepted it. Thus I feels very proud of my people when I meet them like that.¹⁸



Source: Irrawaddy

On the basis of such close relationship, Aung San Suu Kyi together started a series of "dialogues" with the people in 1995 and 1996. She was allowed to talk to the people who assembled in front of her house. The "dialogue" was organised by giving people the chance to put questions in the letter box. She discussed the questions with members of her party and gave answers later. The transcripts of her speeches show that her words were very much "accepted" by the listeners.¹⁹ Shortly after her release in November 2010, she was called "Mother Suu" by her followers.

The key term for Aung San Suu Kyi's concept of political communication was "dialogue" as the "only way" to achieve a democratic Myanmar as she stated in 1995²⁰ as well in 2010²¹. The meaning of this term however is rather quizzical. Dialogue cannot be enforced, it can just be asked for, she stated. That means that patience is necessary and the perseverance to suffer. She is however sure that in the end, dialogue will lead to democracy. To achieve this goal however, the main weakness of fearing the authorities has to be overcome. (Zöllner 2014: 181). Another problem to be tackled was the precondition of a dialogue with the authorities on different levels was the need of unity among

¹⁶ <https://www.burmalibrary.org/reg.burma/archives/199508/msg00130.html> (accessed 18.4.2024). A personal observation of the author shows that this attitude was shared by her supporters. When passing over a newly built bridge I asked a Burmese friend whom I accompanied, if she appreciated that the travel time had been shortened by some hours. "No" she said, "They did it with our money without our consent."

¹⁷ https://www2.irrawaddy.com/opinion_story.php?art_id=5890 (accessed 18.4.2024).

¹⁸ <https://www.burmalibrary.org/reg.burma/archives/199507/msg00265.html> (accessed 18-4-2024).

¹⁹ For a translation of the transcripts see Zöllner 2014.

the people. Her tours through Myanmar in 2003/2003 obviously served this aim by personally meeting the meeting the people on her way at the many occasions to open branches of the NLD.

Her concept is based on individual strength that is based on a kind of “political spirituality” that transforms the politics of a society towards democracy in which authorities must not be feared any more. Aung San Suu Kyi is a role model of such an attitude that already until her release in 2010 endured a series of ups and downs in her endeavour to make democracy the public creed and thus make an end to authoritarian rule.

Such a concept – as already outlined in her essay “Freedom of Fear” in 1990 - contained some internal contradictions as notes by Aung San Suu Kyi herself. One of them was to combine the necessity of the people’s unity as a precondition of a successful dialogue with military authorities and the demand for a multi-party system. The lack of unity enforced by the introduction of a party system had had contributed to the many splits of the GCBA and the associated monks’ organisations (see above).²² Aung San Suu Kyi noticed that the election victory of the NLD in 1990 was problematic. In one of her speeches:

The NLD won more than 400 seats...this means that other parties are extremely weak. It’s not good that only the NLD is strong. We need to empower the opposition. We need to encourage opposition parties. If the NLD is growing too strong, we have to take time and efforts to encourage other parties. (applause) If the NLD is too strong, the NLD members can get complacent and less diligent. In a democracy all political parties have to be strong. Now we have relations with other parties. We would like to be on good terms with them, as we want them to have popular support too. (Zöllner 2015: 50)

She did not elaborate on the options to “empower an opposition”.

2.2. After 2007

On this background, one may question if the picture of Thein Sein and Aung San Suu under the portrait of Aung San shown in the newspapers can be regarded as denoting an equality of the two partners. Thein Sein, the president, represented the government, legitimised by his party’s election victory under a constitution drafted by the military- In contrast, Aung San Suu Kyi, just released from house arrest, represented a party that had been deregistered after not have participated in the elections. The badge she still wore as a participant of a meeting organised by the government indicated that she was just “citizen Suu”.

As a consequence, the meeting of August 2011 can be seen as another attempt to offer Aung San Suu Kyi to join the “Myanmar family” under the military conceived transition to a “disciplined democracy” This process of accommodating her had started already some years earlier after Thein Sein had replaced the ailing prime minister Soe Win as acting premier. On 10 November 2007, at a time when Aung San Suu Kyi was still under house arrest, a picture on page 1 of the state newspaper showed Aung San Suu Kyi shaking hands with a man in civil dress. The attached text explained:

While putting energy in the democratization process, the government has been making efforts for the national reconsolidation. As part of efforts for transition to democracy by implementing the seven-step Road Map and assuring peace and stability and bringing about development of the country in unity and cooperation, Minister for Labour U Aung Kyi was assigned duties as Minister for Relations and he met Daw Aung San Suu Kyi at Seinle Kantha Guest House here from 1 pm to 1.25 pm and from 2.35 pm to 3.30 pm today. Daw Aung San Suu Kyi held discussion with Chairman of

²⁰ The term is used some 50 times in her speeches given in 1995 and 1996 over the gate of her house at University Avenue (Zöllner 2014: 137) and more often. The following examples are taken from the speeches given after her release in 1995.

²¹ <https://www.rfa.org/english/news/myanmar/assk-interview-11142010121207.html> (accessed 18.4.2024).

²² According to Theravada-Buddhist doctrine, the Sangha – like the Buddha and the Dhamma – cannot split. Otherwise, cosmological and political order is endangered.

the National League for Democracy U Aung Shwe, Secretary U Lwin, Central Executive Committee member of NLD U Nyunt Wai and Spokesperson of NLD U Nyan Win from 1.30 pm to 2.30 pm today.

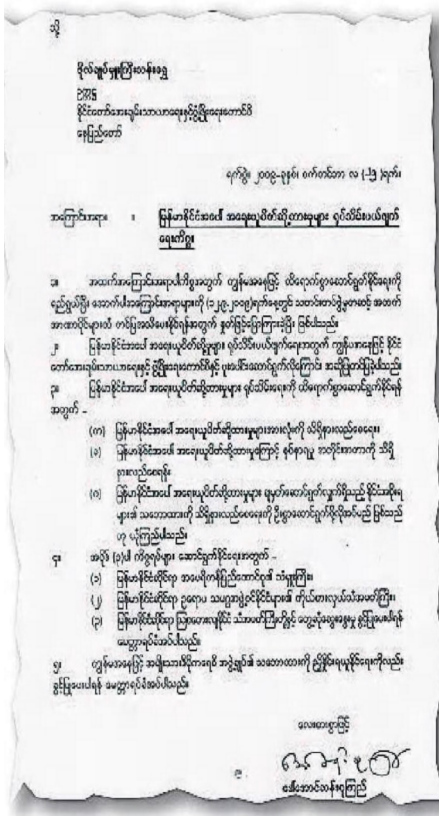
This meeting reported here was the third between the two. The first had happened on 8 October of that year closely related to the implementation of the roadmap. in which the holding of multi-party elections – step 5 - played an important role. The National Convention had finished its work on 3 September, on 18 October a committee had been appointed to draft the final text of the constitution that was later adopted through a referendum in May 2008 as a precondition to hold “free and fair elections”.

Aung Kyi the government’s envoy, was a newcomer on the political stage. He had been a military officer for a short time before being appointed deputy labour minister end of 2006 to take charge of relations with the International Labour Organisation (ILO). He became head of the ministry on 24 October 2024, on the same day on which Thein Sein took over the post of prime minister after Soe Win had died on 12 October. On the international stage, the Korean diplomat and South Korean foreign minister Ban Ki-moon had taken his post as UN General Secretary on 1 January 2007 and shortly later started a new initiative to end the political impasse in Myanmar. On 8 November, Aung San Suu Kyi responded to the national and international initiatives by sending a letter to the government:

Our first meeting on 25 October was constructive and I look forward to further regular discussions. I expect that this phase of preliminary consultations will conclude soon so that a meaningful and timebound dialogue with the SPDC leadership can start as early as possible.²³

In the following years, other meetings followed.²⁴ No details were made public but a letter to Than Shwe written by her on 25 September 2009 indicates that she was offering help in easing Western sanctions.²⁵ As a pre-condition, she asked to get “ a) in-depth knowledge of all the sanctions imposed on Burma, b) to come to full grip with the extent of consequences suffered by Burma as a result of sanctions, c)to firstly exert efforts to know the attitude and opinions of foreign governments, which have imposed sanctions on Burma.” She further wanted to talk with the envoys of western countries and members of her party to discuss this matter.

The letter was written after Aung San Suu Kyi had been sentenced to a prison sentence of 18 months - to be serve under house arrest – in August after she had permitted a US citizen to stay at her compound who had swum to her compound in May. He was quickly released after a Democrat US Senator had flown to Myanmar and had talked with Than Shwe as well as with Aung San Suu Kyi . Already before, the Obama administration taking office in January of that year had proclaimed a more flexible policy termed “pragmatic engagement” towards a number of



Letter Aung San Suu Kyi
25.9.2009 (Source: *The Independent* 30.9.2009: 18)

²³ https://euroburmaoffice.s3.amazonaws.com/filer_public/1b/d8/1bd8587b-a794-450f-acc2-2d12a6507779/eboasskanalysis.pdf (accessed 29.4.2024).

²⁴ 9 and 19 Nov 2007; 11 and 30 January 2008; 3, 7 October and 9 December 2009. and 15 January 2010 ALTSEAN Burma)(

²⁵ *The Independent* 30.9.2009: 18.

“rogue countries” in Asia and Africa (than the previous Bush administration (Steinberg 2015: 436-437)).

These events give an idea of how the developments in Myanmar were embedded in the international context and how the NLD leader conceived “dialogue politics” as a matter of “give and take”.

One can conclude that “charm offensive” of President Thein Sein started already when he took over his post as prime minister in 2007 in course of the further implementation of the 7-step roadmap. One can further argue that Aung Kyi took over the role of Khin Nyunt as the manager of the junta’s policies and Than Shwe’s right-hand man. He had lost this position in October 2004 after a purge of military intelligence under his control. He was sentenced to a 48 years prison term but – unlike his subordinates - permitted to stay at his home.

On the other hand, Aung San Suu Kyi continued her policy to work for the interest of the people using the NLD as organisation to achieve the unity necessary to successfully carry our negotiations with the military government. This way, two very uneven pyramids came into being. On one side stood the military under the control of the military’s chief commanders Than Shwe until March 2011 and Min Aung Hlaing thereafter. On the other side was Aung San Suu Kyi who as “Mother Suu” was seen as the undisputed leader of the people on top of the NLD that depended on her popularity. In terms of organisation, both pyramids were top-down structured, the big difference lay in the quality of the relationship between the people at pinnacle and the bottom. The military was had been built up over the years according to the principle of order and command and had developed to become a state within the state that was respected and feared by the civilian population. Aung San Suu Kyi was respected as well by the members of her League as the top leader but “loved” by the people.

As a consequence, the concepts of democracy pursued by both sides differed. The military’ concept was based on the belief that the country’s unity had to be guarded against forces that put their ideological, ethnic or factional interests first. To achieve this aim, discipline had to be necessary and had to be enforced, if necessary. Aung San Suu Kyi stressed discipline and unity as well but in a very different way emphasising the moral and spiritual quality of both virtues. In one of her speeches over the gate of her house in early 1996 she said:

Unity doesn’t mean unity in misdeed or negative unity. We cannot build unity on corruption by saying ‘Let’s get united. You don’t squeal on me. I don’t squeal on you.’ Unity has to be sought on truth. We will succeed when we are united on our sense of responsibility and sacrifice. (Zöllner 2014: 121).

In this sense, the linked unity to dialogue. In another speech she said:

Our League is bold enough to ask for a dialogue. We are united. Besides, people are standing firm behind us. We are ready for any dialogue as long as there is unity among ourselves, the people behind us and the truth on our side. (Zöllner 2014: 127)

The two people standing below the picture of the founding father of the modern Burmese army and the state represented very uneven traditions of unity and decision taking both rooted in Burmese traditions. The “authoritarian values” guiding the actions of the Tatmadaw leaders can be traced back to the times of royal rule (Maung Maung Gyi 1988) whereas Aung San Suu Kyi might have been influenced by the writings of the Burmese scholar and minister Hpo Hlaing (1830-1883) who in 1887 wrote a treatise for King Thibaw on the art of governing the country in which he included western concepts. He advocated a rule by way of consensus:

We can see that where there are meetings are held without rancorous disagreement, there is no pervading *fear* but peaceful well-being. Where there is an agreement, things go smoothly.²⁶

²⁶ Quoted after Mon Mon Myat 2023: 92.

Aung San Suu Kyi's promotion of "Freedom of Fear" might thus took up the ideas of the reformist political writer who tried to combine the teachings of the Buddha with his analysis of western political practice.

3 The Run-Up to the By-elections

Just one month after the meeting between President Thein Sein and Aung San Suu Kyi, the NLD announced that it considered registering the party again. Changes in the Party Registration Law were made on the suggestion of the Union Election Commission and adopted by parliament on 23 October. The first changed the wording of the regulation that all parties had to "safeguard" the 2008 constitution. The new wording was to "respect and abide by" it. Different from the oath to be sworn as a member of parliament, the law could be easily changed by the legislature. Furthermore, the clause that convicted persons were prohibited from joining a political party was removed. This however did not apply to Aung San Suu Kyi because this clause referred just to people still in jail. (Zöllner/Ebighausen 2018: 211-212). These rather cosmetic changes helped the NLD and her leader to make an almost complete U-turn with regard to participating in the by-elections in a face-saving way.

Finally, on December 23, 2011, Aung San Suu Kyi together with party leader Tin Oo travelled to Naypyidaw to register the party with the Election Commission. Already before, end of late November, US foreign minister Hillary Clinton visited Myanmar after Aung San Suu Kyi had given the green light in a phone conversation with President Barack Obama. The US foreign minister first visited Naypyidaw and met President Thein Sein, but the focus of the international media were on her meeting with Aung San Suu Kyi thereafter at her residence in Yangon. The visit confirmed the hope that "there will be no turning back from the road to democracy" as the host of the meeting was quoted.²⁷



In January 2012, a party spokesman confirmed that the party leader would contest the seat in Kawhmu township situated in the western part of Yangon Region bordering the Ayeyarwadi Region in the forthcoming by-elections. The seat had become vacant because the USDP candidate winning the seat in 2010 had taken over a ministerial post.

The move was however not welcomed by all of her followers. "Some members of the party are concerned that my dignity will be affected if I run for the election," she was quoted to have told her colleagues, but: "If one is engaged in politics, one has to do what is necessary. If I feel I should take part in elections, I will run."²⁸

As mentioned above, the by-elections had only a small numerical impact on the composition of the 16 Myanmar parliaments. The participation of Aung San Suu Kyi and the NLD however were seen as a litmus test for the government's seriousness to implement reforms. "This is an important moment for Burma," a US spokesperson said. "These by-elections, if seen as free and fair, will demonstrate the government's commitment for democratization."²⁹ Furthermore, an election victory of Aung San Suu Kyi was seen as "highly symbolic" as a newspaper worded it and quoted a Myanmar

²⁷ <https://www.csmonitor.com/World/Latest-News-Wires/2011/1202/Aung-San-Suu-Kyi-and-Hillary-Clinton-establish-strong-bond-video> (accessed 3.5.2024).

²⁸ *Democrat and Chronicle*, 1911.2011: 3A.

²⁹ *Boston Globe* 31.2.2012: A4.

supporter: "She is a person who can make my dreams come true. She can make this country good, She can give me a good life."³⁰

In accordance with such a hope, large crowds attended her campaign speeches that took her to many of the polling places around the country to support the NLD candidates. Her sober speeches about the "tough and rough road towards democracy" were answered with cries of "Mother Suu, we love you".³¹ As a result of her campaigning efforts, she fell ill during a tour to the southern town of Myeik one week before the elections and had to cancel further rallies.



Press conference, 30.3.2012 (Photo: Khin Maung)

She recovered quickly after her return to Yangon and gave a press conference one day before election day in the garden of her residence attended by more than hundred local and foreign journalists. There, she called the forthcoming polls as being not free and fair. Stones had been thrown at candidates of her party, candidates of her party had been threatened and campaign posters vandalised. All that went "beyond what was acceptable for a democratic election." "On the same matter, the president admitted that there might have been some flaws and asked politicians and people to "respect the will of the people".³²

Besides the NLD, 16 other parties participated in the elections. All i all, there were 148 candidates including 7 independents. One candidate each from the NLD and the NUP were disqualified ba the UEC, the polls in three constituencies in Kachin State were suspended because of security reasons. The number of candidates was thus reduced to 137. Only the NLD and the USDP fielded candidates in all constituencies, the NUP and NDF 23 and 13 respectively. (Tin Maung Maung Than 2013: 207-209). The regulations for campaigning were the same than in previous elections.

The rules and regulations for the campaigning period that started in February 2012 were similar to those prescribed for the 2010 elections. Each party could inform the public vis TV about the parties' programmes, Aung San Suu Kyi spoke on March 14. After referring to her party' fight for democracy during the last 20 years, she summarised the party programs in three points: The rule of law, internal peace and constitutional amendments. With regard to the first part, she stressed the need for an independent judiciary. As for the second point, she she stressed the need to "put out the fire of civil war" in rather general terms. Before turning to the third point, she referred to the Tatmadaw and said: "I believe that the endeavours for development of Myanmar call for essential participation of the Tatmadaw". Then she talked at some length about the weaknesses of the constitution:



Source: New Light of Myanmar 15.3.2012

Actually, a constitution is a charter placed between the people and the rulers. It can be amended, changed or abolished when necessary. It is found that the present constitution is not in conformity with democratic norms and standards. One clear example is that only the rule of people by the representatives elected by the people is the true essence of democracy. It has been known to all that

³⁰ *Tampa Bay Times* 10.3.2012: 20A.

³¹ *Casper Star Tribune/WY* 8.3.2012: 15.

³² *Boston Globe* 31.2.2012: A4.

in the 2008 constitution, the parliamentary seats of unelected representatives account for 25 percent of all. As there are unelected representatives in the respective Hluttaws, it is not in conformity with democratic principles. The National League for Democracy has publicly announced the sections of the constitution that need amendments.

It is common knowledge that after the 1988 democratic campaign, the NLD has been struggling for the emergence of a genuine democracy for over 20 years under various pressures and oppressions. The members loyal to the party were kicked out of their jobs, lawyers and doctors had their licences revoked, some were unjustly arrested and got severest sentences. Consequently, our social lives were ruined and the economy of our families deteriorated. Anyhow, our NLD members have stood for the people and the party maintaining their conviction.³³

After this rather strong statement, she turned to a number of other issues from economy to the rights of women and finally referred to the objection that such a programs was easier proclaimed than realised. Her answer:

Well, to establish the Union aspired by us is not an easy task. But, I do believe nothing is impossible if only we try out of wish, industry, sentiment and knowledge in unison. The National League of Democracy has decades of experiences in dealing with difficult tasks with diligence and industry. I would like to request the voters to vote in favour of our candidates as an assignment of harder national tasks for us to accomplish.³⁴

Differently from 2010, the government allowed a number of elections observers and journalists to witness the elections. Like in 2010, diplomats were offered to visit polling stations in different parts of the country.

4 Personal Observations

This section of tjhis chapter contains some observation of the author who spent some days before and after election day. To indicate the personal character of the observations, the style of the diary from which the following notes are taken, is preserved..

I took the chance to travel to the official residence in Kawhmu township in a car driven by a friend of a Burmese friend of mine. The leaving the rather new asphalt road leading to Kaw-hmu town, the street became very bumpy and dusty. It took us rather long because there were no signposts and the driver and his wife had to ask some times for the right direction. We had already learned before that the residence was a kind of donation of one of her supporters, a widow and, maybe, a member or a relative of her household staff. We further knew that the village was mainly inhabited by Buddhist Karens.



Signpost and posters at the entrance of the village (Photo: H.-B. Zöllner)

We had no difficulty to make sure that we had reached our destination because at the entrance to the village a picture of the famous candidate dressed in Karen style and the logo of the NLD were posted. At first glance, the village seemed quite well-to-do, on our way we had seen rice fields and bamboo plantations. Most of the houses were built in the traditional style built with wood and raised a bit off the ground, some were concrete buildings, one of the official residence of the candidate. It could bot be overlooked because large placards

³³ *New Light of Myanmar* 15.3.2012: 6.

³⁴ All quotations from *New Light of Myanmar* 15.3.2012: 6.

displayed portraits of Aung San and his daughter. We had seen this combinations already on the smaller NLD election posters at the streets and some party offices we had passed. In the yard besides the house, a structure of bamboo poles could be seen. We were told that it was to sustain a plastic cover to protect the people coming here on election day from the sun. A Japanese TV team will cover the big event here, too and Aung San Suu Kyi, albeit only shortly.

When we approached the house, we were invited to come in. Some 20 villagers were present, one of them acting as a spokesman. We were offered drinks and fruits. They were not members of the NLD, we were told, there was no party office in the village. The following questions and answers are taken from my diary:.

Why was just this village was chosen by her as her residence? Because she is half Karen and works for the reconciliation of the ethnic groups. How many votes she would get? 100%. Did she promise anything to happen after the elections? No, Daw Suu had visited the collage once and told that she was not promising anything but would try her best. What about a better road as many candidates mention as their election pledge.? No, the people are just content that she cares. "We love her."What has changed since the last elections in 2010? Nothing, just that Aung San Suu Kyi was allowed to participate in the elections. And why did the government act like this? Because it listened to the voice of the people. That was good.



After half an hour we leave the house after having written our names and a thank-you message in the guest book that was presented to us. Many journalist, mainly from Asian countries, had been here before, the first entry however was coming from a reporter of the New York Times.

On our way back we have a coffee in a tea shop in Kaw-hmu situated opposite of the local headquarter of the USDP. The candidate of the party is a medical doctor who recently opened a medical office there. He had no chance said the owner and gave us a leaflet that contained a poem in Burmese language

about Aung San Suu Kyi. Some time later, I got a translation. The title is "The Loving Mother" The first lines read:

The dark nights of an evil past
lasted far too long, mother.
The full moon that pushed through the black
lightless midnight hour, mother.
When you hear dogs baying in the dark night
don't get up, mother,
it could rob you of your sleep, I fear.
No matter how much Galon U Saw's coat of arms
brings shame to Kawhmu,
the blood in the peacock's coat of arms
is bright red, mother.

The poem refers to the killing of Aung San. His daughter must not be afraid however. The fighting peacock, the new symbol of her party, will protect her. The last lines read:

Thanks to a mother's love
can entire Myanmar
let flowers bloom instead of bullets.

Election day in Yangon some days later was a quiet and relaxed affair. I visited a polling station close to the house of my friend. Differently from two years ago, I could come close, take a photo and have a look at the voter lists displayed publicly. Later, I watch a report on the election broadcast by the Democratic Voice of Burma from abroad. In 2010 we went to the polls like robots, somebody says, now we feel free.

In the evening, I attended the election party at the NLD headquarters and witnessed her supporters jubilantly welcomed the first results coming in. The NLD had even won all contested seats in Naypyidaw.

5 Results and Reactions

The outcome of the elections duly published in the state newspapers was more than clear. The NLD won all but two of the 45 finally contested seats. Three elections were cancelled due to civil war. One seat was won by the USPD candidate because of the disqualification of his NLD contender. One seat for the Amyotha Hluttaw in Shan State was lost to the SNDP. In terms of votes cast, the NLD got 66% compared to 37% for the USDP. Somehow amazingly, the great interest aroused by the polls did not result in a higher voter turnout than in 2010. 66.79% of the 4,091,840 voters went to the polling stations, significantly fewer than the 77% that had "robot-like" did so one and a half year before. The number of advanced votes was rather small (3,6) (Tin Maung Maung Than 2013; 210).

Inside and outside Myanmar, some surprise was expressed about the extent of the NLD's victory that was called "historic" by some observers. Aung San Suu Kyi named the event the "beginning of a new era". In a short speech given to her supporters on April 2, she stated: "What is important is not how many seats we may have won, but that the people participated in the democratic process" and incited all other parties to work together for the peace and prosperity of the country.³⁵ Ko Ko Hlaing, the key political advisor of President Thein Sein, explained the result thus: "For many years, people have seen old faces. They wanted change, to taste a new cuisine. Politics, especially elections, is based on emotions of the people. And the emotional mood was for NLD." He added that Ms. Suu Kyi's personality was a major factor in the victory. "She is not just a politician. She is a celebrity and has star power, which helped the party's candidates."³⁶

Western observers stressed the importance of the elections as an important step for the country's transformation towards democracy as Hillary Clinton worded it. As a result, the USA would soon appoint an ambassador to represent the country. Between 1990 and 2012, the highest representative of the country in the US embassy was a charge d'affairs. Furthermore, sanctions were eased both by the USA and the European Union.³⁷



6 The NLD in Parliament

The first session of the *Pyithu Hluttaw* convened on April 23. On that day, the oath taking ceremony

Oath taking ceremony, 2.5.2012; first row, centre: Aung San Suu Kyi (New Light of Myanmar)

³⁵ *The Guardian* 2.4.2012 (<https://www.theguardian.com/world/2012/apr/02/aung-san-suu-kyi-new-era-burma>; (accessed 17.2.2021).

³⁶ *The Hindu* 3.4.2012 <https://www.thehindu.com/news/international/top-myanmar-official-welcomes-election-results/article3277557.ece> (accessed 17.2.2021).

³⁷ *The Boston Globe* 5.4.2012: A4.

for new parliamentarians was scheduled to take place. The NLD parliamentarians however did not show up. Only a number of new Tatmadaw members of the parliament were sworn in. The oath contained the wording that the parliamentarians vowed to "safeguard" the constitution. This wording had been objected earlier in the text of the law on party registration. The NLD demanded the constitution should be changed accordingly. That however was rejected by the USDP. As a consequence, the elected NLD members did not attend the session on April 30 when UN General Secretary Ban Ki-Moon addressed parliament and lauded both President Thein Sein and Aung San Suu Kyi, the former for his "vision, leadership and courage to put Myanmar on the path of change", the latter "for joining the political process"³⁸. Two days later, on May 2, the oath taking ceremony took place. Aung San She gave two reasons for the decision. "The reason we accept it, firstly is the desire of the people. Our voters voted for us because they want to see us in parliament" and "politics is an issue of give and take." The party would not give up to change the constitution.³⁹

Aung San Suu Kyi's tensely awaited first appearance in parliament was unspectacular but was described by some media as historic. On July 25, she took part in a discussion on a proposed law to protect the rights of minorities. In her speech she stressed that minority rights must extend beyond the strengthening of language and culture of certain ethnicities. Shortly thereafter, Aung San Suu Kyi was chosen to lead a parliamentary committee on the rule of law, peace, and tranquillity. The committee went on to propose an anti-corruption law, which was passed in August 2013.

Not surprisingly, the small numbers of NLD parliamentarians in the *Pyithu Hlattaw* had no great impact on the proceedings in the house. The issue of changing the constitution that had been a core issue of the party program explained in her TV campaign speech was taken up by forming a 109 member committee to review the constitution. It included 7 NLD members. Two years later, the results of the proceedings were debated for three days by both chambers of the Union legislature. One of the six proposals concerned the crucial issue of lowering of the 75 per cent threshold (Sec. 436) for constitutional change to 70 per cent that would make an end to the power of the 25% of appointed military members to veto any constitutional changes. It rejected with 33,45% votes against it. That means that most USDP parliamentarians must have voted in favour for the proposal. Some other changes that were in line with demands of the NLD were rejected as well. One of these other amendments referred to section 59f of the constitution barring all candidates to become president who had spouses or children with foreign passports.⁴⁰ NLD speakers supported the amendments, but with some reservations.⁴¹ It was reported that the changes proposed by the USPD went not far enough.⁴²

7 Summary

Without doubt, the by-elections of April 1, 2012 signify a milestone in the political history of Myanmar after the implementation of the 2008 constitution. This significance is twofold. Most onlookers and analysts stress the relevance of the polls as an important step towards democratisation in the country and a confirmation that the nominally civilian government was serious about its reform agenda. It was however less often noticed that Aung San Suu Kyi and her party had made kind of a U-turn by accepting the terms of the 2008 constitution in participating in the elections. This happened, as Aung San Suu Kyi explained, because "the people" wanted to see her and other members of her party in parliament. By taking the oath prescribed in the constitution, she became part of the system created by the Tatmadaw's constitution. She had entered realpolitik.

³⁸ <https://www.un.org/sg/en/content/sg/speeches/2012-04-30/address-union-assembly-republic-union-myanmar> (accessed 17.2.2021).

³⁹ <https://www.dw.com/en/suu-kyis-party-agrees-to-take-myanmar-oath-of-office/a-15917555> (accessed 17.2.2021).

⁴⁰ *Global New Light of Myanmar* 26.6.2015: 1.

⁴¹ *Global New Light of Myanmar* 25.6.2015: 1

⁴² <https://constitutionnet.org/news/myanmar-proposed-amendments-seek-entrench-legislative-supremacy-and-devolve-marginal-autonomy> (accessed 17.2.2021).