

## 7 November 2010 - A New Constitution and an Election Boycott

### 1 Introduction

The process to draft a new constitution by a National Convention that had started in January 1993 was “adjourned” on 39 March 1996 after the 86 NLD delegates that had been taken part in the proceedings had walked out in November 1995 and had been excluded shortly later. Before, Aung San Suu Kyi had been released from house arrest on 10 July 1995 and restarted her political activities in a very restricted way.<sup>1</sup> It reconvened 2004 after Khin Nyunt who had been appointed prime minister in August 2003 had announced a “7-step roadmap” on 30 August 2003 the first of them was reconvening the convention. The plan was exactly executed after the newly assembled convention that aimed at including all parts of Myanmar society hand composing more than 1,000 people ad met at a newly built camp north of Yangon. Where it met six times between May 2004 and September 2007<sup>2</sup>

The elections were the fifth step of the roadmap: "Holding of free and fair elections for Pyithu Hluttaws (Legislative bodies) according to the new constitution." This constitution was based on the principles that had been adopted by the Convention between 1993 and 1996. A core point was worded thus: The last of the six principles prescribes was worded: “Participation by the Defence Serviced in a national political leadership role in the future state.

The most often quoted provisions of the constitution that specified this principle were: a quarter of the seats in all parliaments was filled with Tatmadaw men (sections 109b, 141b, 161d). These parliamentarians, nominated by the Commander-in-Chief of the Armed Forces could veto any change of the constitution. Amendment bills required a three-quarter majority (section 436). Furthermore, the heads of three key ministries (for defence, home and border affairs) were nominated by the Commander-in-Chief (section 232). Six of the 11 members of the influential National Defence and Security Council came from the Tatmadaw (section 201).

These – and some other – provisions clearly limited the power of the elected parliament of the Union that consisted of two chambers, the House of Representatives (*Pyithu Hluttaw*) and the House of Nationalities (*Amyotha Hluttaw*). Both chambers elected the President in a joint session – called the Union Parliament (*Pyidaungsu Hluttaw*) after both houses plus the military had nominated candidates for the post. The candidates not being elected for the top post, took over as Vice Presidents.

Another novelty was the establishment of 14 parliaments seven each for the Burmese dominated Regions and the States named after other ethnic groups regarded as "indigenous" since independence. The new parliaments however were not entitled to elect the head of the respective governments of the 14 regions. This right was given to the president.

Not surprisingly, the first elections happening in Myanmar after 20 years were seen very sceptically by foreign observers. An Australian newspaper reported on election day:

Voting began in Myanmar's first election in 20 years today amid both a barrage of criticism that the voting was rigged in favour of the ruling military and some hope that some change towards some democratic reform might nonetheless follow.<sup>3</sup>

Less balanced was a commentary of the American foreign minister who visited Australia at that time quoted in the same issue:

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<sup>1</sup> For details see Zöllner 2012: -229-276.

<sup>2</sup> For details see Zöllner 2012: 463-467.

<sup>3</sup> *The Aniston Star* (Amiston AL) 7.11.2010: 10A.

US Secretary of State Hillary Rodham Clinton lashed out today at Myanmar's military rulers, calling their weekend elections deeply flawed and a sign of "heartbreaking" repression in the country.<sup>4</sup>

Aung San Suu Kyi and the NLD are not mentioned in this news. Only few newspapers mentioned the winning party of the previous elections and its leader still under house arrest at the time of the polls. She was released one week later after having served a prison sentence she was allowed to spend at her house.<sup>5</sup> Some other pre-election reports told that the NLD had boycotted the elections, a decision that had caused some members to found a new party that contested the elections. It was expected that a proxy party of the military, the Union Solidarity and Development Party (USDP) would win.<sup>6</sup> Another report informed about an imminent release of Aung San Suu Kyi on November 13. The arrival of her youngest son in Thailand was seen as a further indication of her freeing insinuated by government sources and one of her lawyers. The respective report<sup>7</sup> stated that the NLD had been banned from participation in the polling.

The following narration will shed some light on the controversial elections won by the USDP that had been established by the military. It starts with an outline on the provisions of the 2008 constitution with regard to elections (2) followed by some looks at the development of the party landscape since 1990 (3). Next, the run-up to the elections will be described (4). followed by some personal impressions from the days before and after the elections (5) The elections results will be presented with a special focus on the results in the 14 states of regions (6). The last two sections deal give an overview on assessments and analyses of the elections (7) and an outlook on Aung San Suu Kyi's re-entering the political scene again after her release from house arrest one week after the polls (8).

## 2 The Provisions of the 2008 Constitution Related to Elections

The adoption of a new constitution through a referendum was designated as step four of the 7-step roadmap announced in August 2003 followed by elections. Here as elsewhere in the proclaimed way towards democracy, no information about the intervals between the steps was given. The constitution was adopted in May 2008, the elections were held in November 2010 a date that had been only announced on August 13 of that year.

The constitution put the last of the six objectives to be observed by the National Convention in 1993 to give the Tatmadaw a leading role in national politics of the state into legal terms. The most often quoted provision is related to the composition of all parliaments. A quarter of the seats are filled through the nomination of the armed forces' supreme commander. With regard to the two Union parliament formed by the *Pyithu Hluttaw* (House of Representatives) and the *Amyotha Hluttaw* (House of Nationalities). the Tatmadaw parliamentarians can block amendments of the constitution which require a three-quarter majority of the members of the two houses (Chapter XII).

The number of seats in the House of Representatives was set at 440 - 330 elected in the country's 330 townships plus the 110 nominated soldiers. In the House of Nationalities 224 seat were to be filled, 168 elected (12 each from each of the 14 Region or State regardless of the number of voters) plus 56 soldiers.

Another innovation was the provision of 14 new parliamentary bodies, one each for the seven States named after non-Burmese ethnic groups, and the seven Regions in the Burmese heartland (plus Tanintharyi). From the legislatures, a chief minister and cabinet members are drawn. The chief ministers are however not elected by the parliaments but nominated by the president. They then choose cabinet ministers who have to be elected members of a parliament.

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<sup>4</sup> *ibid.*

<sup>5</sup> For details about the bizarre incident leading to the sentence see Zöllner/Ebbighausen 2018: 200-202.

<sup>6</sup> *Sun Sentinel* (Florida) 7.11.2020: B5,

<sup>7</sup> *National Post* (Toronto) 6.11.2010: 25.

In order to do justice to Myanmar's ethnic diversity in most parts of the country, one to seven Ethnic Affairs Ministers are elected in the States and Regions (except in Chin State) who are designed to care for the interests of minorities. These ministers are the only one directly elected by the voters.

Furthermore a number of self-administrative divisions and zones were established in which "Leading bodies" composed of elected and appointed member together with members of the armed forces are given certain legislative powers.

The term of the parliaments was set at five years, the election system inherited from the colonial power however was not changed.

### 3 The Changing Party Landscape

93 parties finally had contested the 1990 elections, down from the 234 that had been registered until end of January 1990. After the adoption of the 2008 constitution, ten were still left. Most of the parties had been de-registered on formal reasons because they lacked a proper organisation, some disbanded and a few were thrown out because of "treasonous activities" like Sein Win's NDP after the foundation of the NCGUB in December 1990. Among the still existing parties were the NLD, the NDP and the most successful ethnic party the SNLD (ICG 2009: 6, fn. 26). The other seven were small ethnic parties. According to section 25 the of Parties Registration Law enacted by the SPDC in March 2010, all still existing parties had to apply to the Election Commission within 60 days and needed the permission to continue activities and participate in the forthcoming elections.<sup>8</sup>



*Election Commission meeting (Source: BNI 2011: 25)*

A 17 member election commission had been formed two days before the promulgation of the law composed of "a mixture of former military officers, judges, lawyers, professors and ethnic nationals" (Wai Yan Aung 2020). It was headed by Thein Soe, a former major general and Deputy Chief Judge of the High Court. Because the member were appointed by the SPDC "without public input", the commission was regarded as lacking independence (BNI 2011: 2).<sup>9</sup>



*Thein Soe (Source: Irrawaddy)*

47 parties registered for the elections, among them six of those who had already participated in the 1990 elections. The two parties that won the most seats then, the NLD and the SNLD, chose not to register under the law.<sup>10</sup> Ten parties were not allowed to contest the elections.<sup>11</sup> Among the newcomers, the Union Solidarity and Development Party (USDP) had been build up by the military junta. It fielded candidates in all contested constituencies. The forerunner of the party was the Union Solidarity and Development Association (USDA) founded in September 1993 as a social organisation registered with the Home Ministry. With

<sup>8</sup> For the text of the law see <https://www.burmalibrary.org/en/collected-myanmar-laws-of-2010-english> (accessed 20.12.2020).

<sup>9</sup> For a list of all members and some remarks on their previous occupation see BNI 2011; 23-24.

<sup>10</sup> Two other small parties – the Shan State Kokang Democratic Party and the Wa National Development Party – did not register. The former had won seat in 1990, the latter none.

<sup>11</sup> For details see BNI 2011: 31. Five parties were not meeting the "political qualifications" of the law, five others were not able to field three candidates.

the assistance of the military government, it developed into a mass organisation. In 2009, it was reported that “it has a vast network of offices (more than 15,000) across the country, is well funded and has a stated membership of 24 million, around 40 per cent of the population.” (ICG 2009: 13, fn 67) I

In April 2010, more than twenty ministers and vice-ministers of the government resigned from their military posts, among them Prime Minister General Thein Sein. They formed the core of the USDP Leadership. The party registration law, civil servants and members of the armed forces were prohibited from forming or being members of political parties. Thein Sein headed the party that took over the assets of the association. The transformation of military politicians into civilians resembled what happened in 1974 when the BSPP became the only Burmese party together with the enactment of the new constitution.

Shortly before the registration of the USDP, on March 29, the Executive Council consisting of more than 100 members of the NLD's Central Executive Committee (CEC) resolved without any dissenting vote not to take part in the elections and thus risk to be deregistered. One week before, Aung San Suu Kyi had conveyed a message from her house arrest through one of her lawyers to the party. If she had to decide, she would not enter the polls. She communicated. “Registering the party under the unjust and one-sidedly drawn-up laws cannot be accepted,” she was quoted as having communicated.<sup>12</sup> The party spokesman announcing the decision of the CEC stated as the main reason that – repeating Aung San Suu Kyi's reported statement - “the election laws are unjust”.<sup>13</sup>

In a lengthy “special announcement” issued by the NLD's Central Executive Committee on 23 March,<sup>14</sup> the party criticised the laws regulating the elections, partly as being not in line with the constitution of 2008. A core point of the argumentation was that the regulation the imprisoned persons could not establish political parties was against the existing constitution and further “contravenes the practices of democracy”. This point referred to Aung San Suu Kyi's sentence of 2009 for violating the terms of her house arrest. Other NLD members who had been sentenced on different charges were affected by the regulation as well. It was further argued that the results of the 1990 elections “could not be voided automatically”.

Besides the "undemocratic" 2008 constitution, a clause of the party registration law was named that



*Young NDF supporters on election day (Photo: H.-B. Zöllner)*

barred prisoners – former or actual – to participate as candidates. Aung San Suu Kyi had been sentenced for violating the terms of her house arrest in August 2009, but was allowed to serve the reduced sentence of 18 months in her house. She as well as many other NLD members who had served prison terms would be affected by the provision. It was said that the NLD advocated an election boycott without however conducting a campaign. Some smaller students' and monks' organisations called for a boycott (Martin 2010: 6). On the other side, the official media regularly informed about the election preparations, reported about demonstrations of how to vote and invoked the public to participate stressing that voting would be free

<sup>12</sup> <https://www.reuters.com/article/us-Myanmar-politics/suu-kyis-party-says-wont-stand-in-myanmar-polls-idUSTRE62S1JM20100329> (accessed 21.1.2021).

<sup>13</sup> <http://news.bbc.co.uk/2/hi/asia-pacific/8592365.stm> (accessed 4.7.2021).

<sup>14</sup> <https://www.burmalibrary.org/en/nld-special-announcement-20310> (accessed 4.7.2021).



and fair. It was further emphasised that the candidates or their representatives were entitled to witness the counting process.

Obviously, the NLD's decision was not approved by all party members and supporters.. Some weeks after the NLD had been de-registered on May 6, 2010, party members of the NLD among them members of the Executive Council, applied for registering a new party with the Election Commission called "National Democratic Front" (NDF). According to a spokesman, the founders felt the "duty to transform the country into a democracy". The registration should not be regarded as a sign that the 2008 constitution was supported. It was further argued that the younger generation should take a leading role in contrast to the old age of most CEC members of the NLD.<sup>15</sup> The new party regarded itself as the successor of the NLD as shown by the choice of the *khamauk* (traditional rice farmers hat), the party symbol assigned to the NLD before the 1990 elections. A number of NLD leaders sent letters to the Election Commission protesting this action.<sup>16</sup>

The party landscape emerging after re-registration and registration process was characterised by an asymmetric dichotomy. On one side stood two parties representing the "old order" of military dominated rule, first and foremost the USDP, created out of a mass organisation by the military junta, and the NUP. The latter still stood for the socialist ideals of the BSPP period, had still a countrywide organisation but no mass following. On the other side was the NLD as the challenger-in-waiting boycotted the polls, obviously following the advice of the still detained party icon who would not have been permitted to contest the elections personally.

Between these unequal giants, a number of small parties existed. Some of them had already contested the 1990 elections, others were founded just recently, most prominently the NDF as a political force sharing the political ideals of the NLD but advocating a more pragmatic attitude towards the 2008 constitution designed by the military. Together with this party, some others were grouped together by observers under the term "third force". The term was defined as "an informal group of local NGOs, CBOs, and political parties, as well as international academics, activists, and practitioners" by a sympathetic western observer (Muller 2016: 68).

The "group" originated after the steep increase in civil society organisation after Cyclone Nargis in May 2008 – and the adoption of the new constitution by a referendum happening at about the same time. The most prominent and effective organisations springing up after the catastrophe was Myanmar Egress, a capacity building organisation registered as a business enterprise, founded in 2006 by Nay Win Maung, born 1962, who had studied and practised medicine. He then started to publish newspapers with the assistance of a son of Khin Nyunt, at that time Secretary 1 of the military junta. The newspapers published by his company however were censored like all private owned media.



Nay Win Maung speaking at a graduation ceremony (Source: Myanmar Times)

Myanmar Egress aimed at educating the younger generation and offered a number of certified courses lasting three months or shorter on a variety of topics related to social work, management including a course on "Leadership in State Building".<sup>17</sup> Its motto was: "Developing Identity, Creating Space and Engaging Society in Myanmar". The

<sup>15</sup> <https://www.mmtimes.com/national-news/5300-ndf-applies-to-register-for-election.html> (accessed 22.1.2021).

<sup>16</sup> [https://www2.irrawaddy.com/article.php?art\\_id=18885](https://www2.irrawaddy.com/article.php?art_id=18885) (accessed 22.1.2021).

<sup>17</sup> For the program see <https://www.facebook.com/notes/myanmar-egress/about-myanmar-egress-traing-programs/212073405472468/> (accessed 23.1.2021).

school located in the back offices of the state owned Thamada Hotel close to the Sule Pagoda was funded by fees by participants who could afford to pay them and financial support given by foreign agencies. Academic advisor was Robert Taylor, a prominent Myanmar scholar. The courses attracted many students and was one of the many organisations egged in assisting victims of the Nargis catastrophe of May 2008. Within a rather short time, a number of dedicated alumni founded their own capacity building institutions or NGOs later,

The aim of the organisation was to create space for societal engagement in order to "face the challenges of political deadlock in the country and globalization in the world".<sup>18</sup> In this vein, the organisation in view of the elections to be held in course of the regime's roadmap tried to help creating new parties that were not government sponsored like the USDP and others. These activities concentrated on the ethnic parties the first of them being the Rakhine Nationalities Development Party (RNDP) (Lall 2016: 47-49).

#### 4 The Run-Up to the Elections

On 19 August 2010, the rules for campaigning were made public. On September 14, the final list of the 37 parties that were allowed to compete was announced. The number of candidates fielded by the parties show the gross inequality of the electoral competition. Due to the two-chamber system introduced by the constitution and the 14 regional and state parliaments that were provided for the first time in the country's electoral history, the vast number of 1.163 seats had to be filled. Elections however did not take place in nine constituencies, in five of them no member of the *Pyithu Hluttaw* could be elected.

The USDP was the only party fielding candidates in almost all constituencies (1112 of 1163) followed by the NUP with around 950. The NDF and the Shan Nationalities Democratic Party (SNDP) nominated candidates in about 160 constituencies in more than two states and regions, five parties each fielded 40 to 50 and 20-30 candidates. Furthermore, around 90 independent candidates registered (BNI 2011: 29-30; 34). In the absence of the NLD that might have been at least a challenger to the USDP even if Aung San Suu Kyi was still under house arrest like in 1990, only the parties that had been founded by the two previous governments were able to contest the elections countrywide due to the networks built up until - the NUP - and after 1988 - the USDP. The latter was superior to the former because it could tap more financial resources.

Not only in this field, the "newcomers" were severely handicapped. The registration process was quite costly. For each candidate, 500.000 Kyats, equivalent to 500 US\$, had to be paid – against 10.000 Kyats in 1990 (equivalent to some 150 IS\$ then). Furthermore, the censorship board requested a deposit of 500.000 Kyats from each party as a precondition to print campaign material that had to be scrutinised by the board. In addition, money was needed to build up a party infrastructure.

Like in 1990, each party was given 15 minutes to address the public over radio and TV in September. The speeches were reprinted in the state newspapers. Due to the regulations issued by the elections commission and the pre-censorship of the speeches, they were rather uniform. The NDF referred to the fact that most members came from the NLD and pointed to its symbol, the bamboo hat. The spokesman of the USDP said that the party would uphold the legacy of the USDP and affirmed to have chosen the "best candidates serving the public interest".<sup>19</sup>

International elections monitoring and observation teams were not given permission to work in country. Diplomats and journalists accredited in Myanmar however were allowed to go to polling

<sup>18</sup> <http://myanmaregress.org/about/> (accessed 23.1.2021).

<sup>19</sup> See NLM 11.10., p. 7 (NDF) and 9.10., p. 7 (USDP).

stations. A number of international and national groups however observed the elections and published their findings. According to one report, "[e]lection day proceeded in a smooth and peaceful manner." in all parts of the country (Observation Report: 63).

## 5 Some Personal Observations

I was in Yangon over the time of the elections. One of my main address that I visited regularly was Myanmar Egress. During my two or three annual visits to the country, I had witnessed the development of the school and come in contact with Nay Win Maung and the other founders one of them had lived in my home town Hamburg for some time, the editors of the newspapers and the teaching staff. I gave some talks for different classes and enjoyed talking to the students. It was always a pleasure to visit and witness many engaged people to work for a better future of Myanmar. From time to time, I exchanged views with other foreign visitors. Myanmar Egress was a real hotspot.

With regard to the elections, Nay Win Maung informed me about the big scheme of educating party members and help to create networks, particularly among and between ethnic group. The bis aim was to contribute to creating an atmosphere for a mutual understanding and peace negotiations to end the civil war. Quite obviously however, the emotional engagement of the Egress people was with the NDF. Some of the students helped with the party's efforts to win voters, almost all contributed to the "I Vote" campaign launched by the heads of the Myanmar Egress.



*Stickers arranged on the floor (Photo: H.-B. Zöllner)*

Thousands of stickers showing the emblems had been printed as well as t-shirts distributed and sold showing it. Nay Win Maung told me that the design of the logo had been done by popular comedian Zaganar who just served a prison sentence because of his engagement during the "Saffron Revolution" in September 2007. It was a double protest against his imprisonment, I was told, that did prevent him from voting and against the attempts to boycott the elections. This way, Zaganar had made himself a member of the "Third Force" group.



*Myanmar Egress students and two foreigners (last row: the authors) at the end of the I-vote campaign at Kandawgyi Lake*

Egress campaigner went out on the streets and attached the stickers to lampposts, house walls and even to the shirts of passers by or their umbrellas. Furthermore, leaflets were distributed containing short information about the voting procedure. Two days before election day, I joined a group of students who went to the park around Kandawgyi Lake, a popular recreation zone, helped placing stickers and distributing leaflets and chatted with some of the students. It was a very nice afternoon full of infotainment.

In the ten days before the elections, I gathered a number of assessments about the polls. The chief pastor of Judson Church calls it a "sham" because of the undemocratic constitution, but will hold a prayer meeting for a good outcome. The German ambassador tells about the many rumours about election fraud by using the instrument of advanced voting of people that cannot make it to the polling stations on election day. Allegedly, in one constituency a very high number, a quarter of the names on the

voter's list, were stored. The government is nervous and afraid of the NUP. The party might benefit from some kind of nostalgia. A taxi driver will not vote, he favours Aung San Suu Kyi. At Myanmar Egress, the voter turnout to be expected is the main theme. Dr. Nay Win Maung is optimistic. According to the information he has got from informal pollsters in all parts of the country, the percentage to be expected has increased from 75 to 85 %. The chief editor of the Voice weekly is not that optimistic. The foreign exile media like the Democratic Voice of Burma broadcasting from Oslo promoting boycott. Maybe, just 40-60% of the people will vote.

The city is very quiet on election day. The government has asked shopkeepers not to open their shops and most of them seem to follow the recommendation. Pick ups can be seen and heard playing patriotic music and calling the people to vote. I should not come too close, my young Myanmar companion warns me, and taking photos is not recommended. The atmosphere is quiet but there is tension in the air. Over a cup of coffee in one of the rare open restaurants, I learn from my companion that the people in his village are completely ignorant. They are afraid not to vote for the USDP because they fear to be punished then. He has told them that this is nonsense and now they will do the "right thing".

In the evening, I join the election party that takes place in the former ball room of the Thamada Hotel. Via four beamers, pictures are projected on the white wall. The activities of the NDF are thus illustrated, Facebook news shown and from time to time news received via handy are shared. Many foreigners are coming and going, speculations are exchanged, but no concrete results are available yet.

On Monday, more rumours than results are available. The NDF won 20 seats in Yangon, 30 had been possible. An attempt of election fraud has not worked, the faked advanced votes had been deposited at the wrong place. The chief editor got the news that in one constituency a single person had voted 5.000 times., The big shots of the USDP, all former generals, have won. Their constituencies will benefit. One day later it becomes clear that fraud has happened. Some seats that seemed secure for a non-USPD candidate after the ballots put into the boxes on election day had been counted were lost after the advance votes were added.

I ask what might have been the motif behind the fraud given the fact that the military had secured their continuing influence anyway? One answer goes: It was greed on the side of "important" candidates mixed with the fear of losing face. Another one: The relationship between the rulers and the people is characterised by mutual fear. The former do not trust the latter and vice versa. An old proverb defines government as the enemy of the people, its therefore better not to anger the authorities.

What can be done? Appeals could be filed with the election commissions. That would however be very expensive, 1,000 dollars would have to be paid – and the chances to win would be very small. The difference to the elections of 1990? Then the military acted as a referee who cared for free and fair elections and later decided that the winning party had misunderstood the rules of the game. Now, the military was a referee plus the top scorer who could not risk to miss the goal. As a consequence, the rules of the game have to be changed – and that will take time. These election might be a beginning of such a process, says one of the senior members of Myanmar Egress.- The young students however are depressed and need to be comforted.

## 6 Election Results

My observations clearly underline the general amassment that the numerical elections results do not represent the opinion of the electorate. The party that had distinctively won the 1990 elections, boycotted the polls. The voter turnout of more than 75% - some percent more than cast in 1990 – however shows that any calls for boycott of the elections were ineffectual. The number of invalid votes was much lower than 1990.

This chart informs about the results of the elections to the *Pyithu Hluttaw* in terms of percentages of the votes and seats won. Like in all previous elections, it illustrates that the first-past-the-post electoral system leads to an uneven distribution of seats compared to the percentage of votes one countrywide. The parties competing countrywide are disadvantaged whereas regional parties benefit. It is notable that the National Unity Party almost got the same percentage of votes as in 1990

<b>Party</b>	<b>Votes</b>	<b>%</b>	<b>Seats</b>	<b>%</b>
Union Solidarity and Development Party	11,858,125	56.76	259	58.86
National Unity Party	4,060,802	19.44	12	2.73
National Democratic Force	1,483,329	7.10	8	1.82
Rakhine Nationalities Development Party	599,008	2.87	9	2.05
Shan Nationalities Democratic Party	508,780	2.44	18	4.09
All Mon Region Democracy Party	167,928	0.80	3	0.68
Phalon-Sawaw Democratic Party	82,038	0.39	2	0.45
Chin Progressive Party	76,463	0.36	2	0.45
Kayin People's Party	70,705	0.34	1	0.23
Inn National Development Party	52,195	0.25	1	0.23
Ta'ang National Party	46,652	0.22	1	0.23
Chin National Party	36,098	0.17	2	0.45
Wa Democratic Party	27,546	0.13	2	0.45
Unity and Democracy Party of Kachin State	11,170	0.05	1	0.23
Other parties and <u>independents</u>	1,811,868	8.68	1	0.23
Pa-O National Organisation	–	–	3	0.68
Military appointees	–	–	110	25.00
Cancelled	–	–	5	1.14
Invalid/blank votes	1,555,962	–	–	–
<b>Total</b>	<b>22,421,123</b>	<b>100</b>	<b>440</b>	<b>100</b>
Registered voters/turnout	29,021,608	77.26	–	–

*Source Wikipedia*

The following charts provide details about the distribution of seats in the seven States. It highlights the success of small regional parties that succeeded to win a great number of seats in the constituencies they contested. The most impressive example is the small Pa-O National Organisation from the Shan state. All of their 10 candidates won the seats the party contested, three in the House of Representatives, one in the House of Nationalities and six in the parliament of Shan State.





	Chin	Kachin	Kayah	Kayin	Mon	Rakhine	Shan
CNP	27.78						
CPP	27.78						
USDP	38.89	52.63	100.00	41.18	52.17	40.00	50.47
SNDP		10.53					28.97
RNDP						51.43	
PSDP				23.53			
KPP				11.76	4.35		
AMRD				11.76	30.43		
NUP		28.95					

Source:: Centre for Peace and Convolute Studies 2011: 81; 82

In contrast, the USDP won the majority of seats in all States with the exception of Rakhine State. Almost in all other States the ethnic votes were given to a number of ethnic parties, an indication of the multi-ethnic composition of the States in which the name giving ethnic group might not form the majority and the intra-ethnic diversity of groups like the Chin that shared some kind of common identity but were divided culturally and linguistically.<sup>20</sup> Only in two States – Rakhine and Shan – parties were formed that won a considerable number of seats. But even in Rakhine with its relative homogenous population, the USDP won a number of seats in the northern part of the State bordering Bangladesh that was populated by a Muslim Rohingya majority and in the southern part of the state while its rival swept all other seats. This is in line with the tendency of the Buddhist Rakhine people to regain as much independence from a Burmese dominated state as possible whereas the USDP might have been regarded as more “neutral” by the Muslim population if the State. The Rohingya were given “white cards” that entitled them to vote – and take part in the referendum of 2008 on the constitution - although they were not enjoyed full citizenship rights One Muslim candidate was elected on a USDP ticket. In 2015, he tried to run as an independent candidate, but was rejected by the election commission.

It is notable that the NUP; the successor of the BSPP, got quite a number of votes and that the NDF candidates contesting seats not successful.

## 7 Assessments and Analyses

Most observers both inside and outside Myanmar judged the elections as a "sham" even before it had been conducted. A detailed report about it was entitled "Hobson's Choice", i.e. a free choice in which only one thing is offered, a charade. The main reason given: it did not meet international standards of a democratic election:

Burma failed to meet even the most basic international standards:

- Government based on the will of the people
- Basic human rights
- Freedom to stand for election
- Impartial election administration (BNI 2011: 7)

The Burma state newspapers reported about the voting of the leaders of the country and extensively about foreign diplomats visiting polling stations in various parts of the state. From November 11 on, lists of the winning candidates were published. One day later, a long article of a "law analyst" was published entitled "Hands hold together, let' walk towards the goal". The article gave a short overview about the country's party history, mentioned the de-registrations of the five parties that did

<sup>20</sup> The list of 135 ethnic groups used for the 2014 census alone 57 were named as being “Chin”.

not registered for the 2010 elections and stressed the "sportsman's spirit" of winners and losers in an electoral competition. The essence of the text was summarized thus:

The Multiparty Democracy General Elections have been successfully completed. There is no ban on the right to form as political parties of organizations that want to accept and practise a genuine and disciplined-flourishing multiparty democratic system. If those organizations submit their applications to the UEC in accord with the law, the UEC will scrutinize whether they are in conformity with the provisions prescribed in the law or not, and decision will be taken.<sup>21</sup>

Between these controversial assessments, a few reports tried to provide a differentiated analysis of the polls. Former Australian ambassador to Myanmar made a more balanced statement in his foreword to a review of the election that he termed "the only independent view of the 2010 elections, based on the observations of people who were on the ground in many different parts of the country":

Free and fair these elections were not, but dismissing them out of hand, as many in the international community have tended to do, is not helpful – it does a disservice to those opposition parties who made the difficult decision to contest, and to those few of their candidates who managed to win against the odds. These parties and candidates are committed to using the small space they have carved out to push a reform agenda, and those who stand on the side of democracy should give them their encouragement. (Observation Report 2011: 3)

With regards to the "odds" a Japanese researcher took a closer look at the advanced votes issue. It analysed the ration between advanced votes and those put into the ballot boxes in the Yangon constituencies for the *Pyithu Hluttaw* in which a total of 45 seats were contested.

Party	No. of Candidates	No. of Seats Won	% of Votes Won			% of Advance Votes
			Vote on Poll Day	Advance Votes	Total	
Union Solidarity and Development Party	45	37	48.4	78.6	50.1	9.0
National Democratic Force	37	8	20.8	7.4	20.1	2.1
(37constituencies in contention)			28.6	9.7	27.4	2.1
National Unity Party	43	0	13.6	7.6	13.3	3.3
Democratic Party (Myanmar)	15	0	4.3	1.2	4.1	1.6
88 Generation Student Youths	18	0	6.2	2.3	6.0	2.2
Others	38	0	6.6	2.9	6.4	2.6
Total	196	45	100.0	100.0	100.0	5.7

The USPD thus got ten times more advanced votes as any other party.

The findings on this issue concluded with an answer to the question of how would the distribution of seats would have been changed if all advance votes from the results, would be excluded.

In this case, total of about 30 seats would shift from the USPD to pro-democracy or ethnic minority parties. Although not a negligible number for pro-democracy and ethnic minority parties, even this kind of shift would have not changed the formidable edge enjoyed by the USPD in the Union Legislature. (Kudo 2011 (2))

A leading functionary of the SNDP was quoted with this comment:

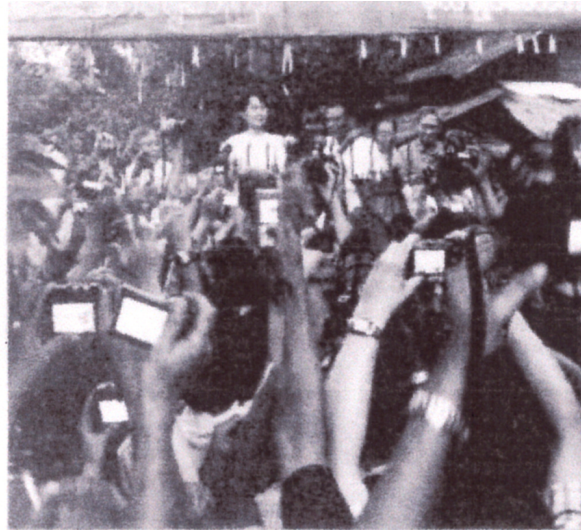
<sup>21</sup> New Light of Myanmar 12.11.2010: 8 (<https://www.burmalibrary.org/en/the-new-light-of-myanmar-12-november-2010>; accessed 28.1.2021).

We are well aware of the USDP's cheating, but we don't see any point in disputing the results of the election. If we sue them, we will have to pay one million kyat for every constituency that they stole. We don't want to waste our time and money on this.<sup>22</sup>

## 8 Outlook: Aung San Suu Kyi's Return to Active Politics

One week after the elections, on November 13, Aung San Suu Kyi was released from arrest and one day later welcomed by a great number of her supporters before her house in University Avenue when the news of her release had spread and on Sunday at the NLD head office in Shwegondine Rd. Quite naturally, the event caught the attention of the international public and was contrasted with the elections of November 7.

It was speculate that the might have happened to divert public interest away from the elections that had been a "mocking of democracy" as a Canadian newspaper worded it.<sup>23</sup> Her lawyer was quoted that he had expected the release because her prison term passed on her in August 2009 had ended just now and that plans had made to welcome her.<sup>24</sup> Some observers had been surprised that the "government decided to respect its own orders and allow the stated termination of her house arrest."<sup>25</sup>



*Meeting the people at the gate of her house  
(Source: Edmonton Journal 14.11.2010: 3)*

It was reported that she wanted to help investigating the elections frauds<sup>26</sup> and that that the government had been called "foolish" by Myanmar citizens because it gave her a "big gift with the cheating."<sup>27</sup> Furthermore, the disbandment of the party by the Election Commission was to be questioned in court and ways were sought to make the party legal again.<sup>28</sup> In her 45 minutes speech on November 14, she did not refer to the elections. She thanked the people for warmly welcoming her but said that this was not sufficient.

But it is not enough just to say you love me, you have to work. So I thought what love means. Love means the desire for mutual happiness and the implementation of that desire. It is not enough to keep repeating "I love you". [...] Everything is politics. Politics is not just coming here and supporting us. The housewife, who is cooking at home, also has something to do with politics because she is struggling to feed her family with the money she has (cheers). Struggling to send children to school is politics. Everything is politics. No one is free of politics. So saying that politics does not concern you and that you do not wish to be involved in politics is a lack of awareness of politics. So I ask the people to try and understand politics and to teach us. We must teach one another. Unless the people teach us what democracy is, we will not make mistakes.<sup>29</sup>

With such a message, she took up what she had said six years earlier when she talked to her followers on weekends over the gates of her house (see Zöllner 2014). She further stressed, that she and her party would work with all democratic forces and that she wanted to achieve reconciliation.

<sup>22</sup> *The Irrawaddy* 2011.2010.

<sup>23</sup> *Edmonton Journal* 14.11.2020: 3.

<sup>24</sup> *The Spokeman-Review* 8.11.2010: A4.

<sup>25</sup> *Calgary Herald* 14.11.2010: 15.

<sup>26</sup> *The Atlanta Journal-Constitution* 11.11.2010: 8A.

<sup>27</sup> *Edmonton Journal* 14.11.2020: 3.

<sup>28</sup> *The Times Herald* (Michigan): 16.11.2010: 7.

<sup>29</sup> <https://www.burmalibrary.org/en/daw-aung-san-suu-kyis-public-address-nld-headquarters-14-november-2010> (accessed 28.1.2021).

I am a fervent believer in national reconciliation. I believe that this is the path we should take. Let me openly tell the people here that I have no grudge against the people who kept me under restriction (cheers). I believe in human rights and the rule of law. I will always strive for this. I don't harbor hatred of anyone. I have no time for this. I have too much to do to harbor any hatred. The people in charge of keeping me under restriction were good to me. This is the truth and I value this and I am grateful.<sup>30</sup>

This quote illustrates that the first weeks of November 2010 opened a new scenario for Myanmar's party politics dominated again by two very uneven competitors. On one side stood Aung San Suu Kyi, just released from a long time without being able to meet the people directly, the undisputed leader of the NLD that had won the elections 20 years ago. On her recommendation, the party had boycotted the recent elections as "undemocratic". Now, she called on her supporters to join her and all other like-minded forces to continue the fight for democracy. On the other side stood the newly formed USDP, the distinct election winner of the polls that was rightly regarded as a proxy of the military. Its leader was Thein Sein, its Chairman and still the prime minister, who only some months ago had changed clothes to become a civilian after he had served in the Tatmadaw for four decades. He was widely regarded as a "loyal servant and puppet" of Sr. Gen. Than Shwe, chairman of the junta and president since 1993, the mastermind behind the Burmese way to a disciplined democracy and the man who was believed to remain most likely the "real ruler" of the country as had been alleged in 1988 with regard to Ne Win.. Not much was known about the party leader and the first head of state under the new constitution. He was however a man who had a lot of military, administrative and political experience as had many of his leading newly appointed fellow politicians.

As different as the leaders were the two parties they represented. The USDP had a solid structure built up for years during the rise of the USDA as a mass organisation and was well funded. It was however not popular with the people. The NLD, on the other side, did not exist legally any more. Its infrastructure was very weak as a result of years of oppression and the absence of her popular leader who however was loved by the people. This love however was not enough as Aung San Suu Kyi's speech in November 14 shows., It might have been regarded by her as somehow "unpolitical" in view of the still unfinished task to make democracy the popular creed.

Finally, the military and Aung San Suu Kyi defined "democracy" very differently. This is illustrated by the very contrasting understanding of "discipline" emphasised by both political contenders. For the USDP, democracy was based on a set of rules laid down in the constitution that ensured the stability of the state and a disciplined and peaceful communal life. Aung San Suu Kyi's concept was based on the moral and spiritual standards of the individuals that guaranteed an orderly societal environment.

Because of these interconnected differences, the first weeks of November 2010 can be regarded as the beginning of a transition characterised by a competition of two very unequal parties that on paper seemed to have the same goals, to unite the country in a democratic way and achieve national reconciliation. In both concepts, elections played a secondary role as an endorsement of the concepts of the respective leadership. With the re-appearance of Aung San Suu Kyi as the representative of a moral democracy contesting the military shaped constitution the options of including "third forces" in shaping the political process became marginal both with regard to internal politics and the international community.

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<sup>30</sup> See previous footnote.

