



The Art of Transition: Will the Democratic Transition Bring Genuine Change to Myanmar?

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Abstract

In 2010, after decades of enforced self-isolation under a dictatorship, the country formerly known as Burma set out on a slow journey of opening up, reaching its peak to date in November 2015 with the first democratic elections in a quarter of a century. The government formed by the National League for Democracy (NLD), the party of Nobel Peace Prize Laureate Aung San Suu Kyi, is finding it difficult to manage the unfamiliar tasks of running the country and measuring up to the people's and the international public's expectations as well as meeting the innumerable challenges of the multi-ethnic country of Myanmar, which is still marked by internal unrest.

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Analysis

The hype is over.* Since the time when Myanmar was featured regularly in the world's leading media during the initial phase of its alleged transition to democracy between 2010 and 2015, interest has waned notably. Particularly for renowned prophets of world events, the country was not even worth mentioning in the latest issue of their predictions "The World in 2017".¹ It appears that the international public is under the misapprehension that political change towards democracy is completed once general elections have been conducted successfully. In the case of Myanmar, the situation is obviously aggravated by the fact that the shining light of the transition, the Nobel Peace Prize Laureate and NLD chairperson Aung San Suu Kyi, was beyond reproach for a long time – abroad almost even more than at home. Her public image was associated too closely with the aura of a martyr suffering years of house arrest, while that was not necessarily the way she saw herself.² Consequently, it took a long time for a more questioning and informed discourse to arise, capable of critically examining the country's situation in the new era under the NLD's leadership and clearly explaining it to the international public.³ Taken as a whole, the situation in Myanmar, which gives no cause for optimism, does not really come as a surprise.

The 2015 Elections: Difficult Beginning despite a Convincing Mandate

No doubt the elections of 8 November 2015, which ended in an overwhelming electoral victory for the NLD at all levels of the political system and in almost all parts of the country, can be seen as marking a turning point in Myanmar's recent history.⁴ The party won 79 per cent of all the electable seats in the two houses of the Assembly of the Union. This NLD wave also swept aside the political competition in the seven parliaments in the Ayeyarwady, Bago, Magway, Mandalay, Sagaing, Tanintharyi and Yangon Regions, where the party won majorities ranging from 63 to 75 per cent. Its election victory was not quite as overwhelming in the ethnic states. In the Chin, Kayah, Kayin and Mon States, the NLD won majorities ranging from 50 to 61 per cent. Only in the Kachin, Rakhine and Shan States was the party not able to achieve an absolute majority despite very good results.

The outcome of the eagerly anticipated elections met with an euphoric reaction, not only in Myanmar but also around the world. The headlines spoke of a landslide, celebrated as a "triumph of hope".⁵ However, even back then many commentators pointed out that the new government would have to contend with numerous challenges and forecasted troubled times to come. What they referred to was the task of translating the weighty mandate obtained from the people in the election into successful policies and simultaneously finding a

* The author would like to thank Julian Rothkopf MPP, LL.M., Nicolò Ciattoni and Alexis Freytag von Loringhoven for important research contributing to this article.

¹ The Economist 2016: The World in 2017, 9 Nov 2016.

² Cf. DVB: Aung San Suu Kyi: I started as a politician not a human rights defender, 29 Oct 2013, in: <http://bit.ly/2shPs2l> [27 Mar 2017].

³ For example see: Lindborg, Nancy 2017: Burma is still on the rocky road to democracy, The Hill, 16 Mar 2017, in: <http://bit.ly/2rthaeL> [19 Mar 2017].

⁴ For an in-depth overview of the results see Moe Thuzar 2015: Myanmar's 2015 Elections: New Hope on the Horizon? Singapore. To date, Myanmar's Union State Commission has made the official results available exclusively in Burmese, Cf. Union Election Commission, <http://bit.ly/2srCO03> [16 Mar 2017]. Many government websites still do not adequately fulfil foreign users' justified need for information.

⁵ Washington Post 2015: Burma's elections represent a triumph of hope, 9 Nov 2015, in: <http://wapo.st/1kHLkE7> [16 Mar 2017].



modus vivendi for working with the military (*Tatmadaw*), which would continue to exert political influence. Even at the moment of greatest jubilation, the military did not leave the NLD and its chairperson in any doubt as to who was ultimately responsible for initiating the change. Former President Thein Sein made this very clear when speaking to journalists shortly after the elections: “The election is the result of our reform process”.⁶

Looking back, the self-assurance needed by the former junta general at home and abroad seems necessary; especially to establish – from the military’s point of view – its own role in the context of the nascent changes in the political landscape before 2010 in the historiography. There has been a great deal of discussion nationally and internationally about the reasons for the change of mind among the military leadership. Figures from the ASEAN region saw the change not so much as an act of self-preservation of a despondent authoritarian regime but as something more prosaic: “The generals could see that the country was in a cul-de-sac. There were no options left.”⁷ Even cyclone *Nargis*, which devastated Myanmar in 2008 and took more than 100,000 lives, as well as the much-criticized unprofessional crisis management by the government in Naypyidaw have been cited as possible reasons, as was, to a lesser degree, the so-called Saffron Revolution led by monks in the autumn of 2007.⁸

Whatever the motivation ultimately tipping the scales in favour of the controlled opening of the country, the generals’ approach was in line with the trend of public opinion from 2010 onwards. In various surveys published even before the 2015 elections, a majority of the Myanmar population expressed their preference for a different political system, and most of the respondents advocated democracy. This is surprising insofar as the same surveys show clearly that Myanmar has the most traditional and conservative political culture in Southeast Asia with hierarchical thinking and a deep-rooted respect for authority.⁹ Nevertheless, as many as 88 per cent of respondents already voiced the opinion that things in the country were heading in the right direction back in 2013, when the opening process was still evolving.¹⁰

The NLD’s election victory was followed by a relatively long phase during which the preceding administration gradually transferred government responsibility. These five and a half months were characterised by wrangling between the two sides, which were unable for a long time to even agree on the procedures of the formal hand-over of power. According to the media, the dispute dragged on for several weeks, reportedly prompting Aung San Suu Kyi to say that Myanmar was a global leader in the length of transitions. Politically more significant was the hope, which the NLD still clung to for some time after its election victory, that the overwhelming mandate received from the public would ultimately persuade the military, contrary to their former and consistently expressed stance, to drop their opposition against Aung San Suu Kyi standing for president. After all, there

⁶ ABC News 2015: Myanmar president Thein Sein says election is ‘result of reform’, vows smooth transfer of power, 15 Nov 2015, in: <http://ab.co/2rYOpZG> [17 Mar 2017], emphasis by author.

⁷ According to Singapore’s long-serving prime minister (1959-1990) in: Lee, Kuan Yew 2013: *One Man’s View of the World*, Singapore, pp. 197-198.

⁸ Cf. Lall, Marie 2016: *Understanding Political Reform in Myanmar. People and Society in the Wake of Military Rule*, London, pp. 29-32.

⁹ Cf. Welsh, Bridget/ Huang, Kai-Ping 2016: *Myanmar’s Political Aspirations & Perceptions 2015. Asian Barometer Survey Report*, Petaling Jaya, pp. xii-xvii.

¹⁰ Cf. International Republican Institute 2014: *Survey of Burma Public Opinion. December 24, 2013 – February 1, 2014*, p. 10, in: <http://bit.ly/2qEI2Fm> [17 Mar 2017].



could be no doubt that the overwhelming majority of the population wanted to see Aung San Suu Kyi as head of state: In no other way is the broad support for the NLD in the parliamentary elections to be understood.

This idea was also promoted vociferously by NLD supporters living in the West,¹¹ although there had been a widely conducted debate about the controversial Article 59 (f) of the Myanmar constitution¹² for several months beforehand. Subsequently, there was a general consensus that the Nobel Peace Prize Laureate would be barred from the highest public office for constitutional reasons, namely because her two sons had foreign citizenship; this was the case despite the fact that the applied 2008 constitution had no democratic legitimacy and one could undoubtedly assume that the foreign citizenship of the “Lady’s” sons was and remains of minor importance to the people. Nevertheless, the charter formed the basis of the transition plan conceived and implemented by the military-controlled predecessor government. Everyone adhering to this plan was a prerequisite for the military’s continued support for the transition process. Consequently, Aung San Suu Kyi was merely left with the prerogative of being able to select the candidates for the office of the head of state, based on her position as NLD chairperson and her personal charisma. She had announced that if she were not allowed to take over the top job herself she would govern by directing a person of her trust in the presidential office. She also said she would insist on having the final say on all key issues on an informal basis. This political outsourcing of the presidency and the prospect of a quasi-constitutional body in the person of Aung San Suu Kyi, which has no basis in the constitution, led to a wide debate in the media. To many, this option seemed to be too inconceivable, too impractical and too unlawful. However, her announcement was implemented exactly as stated with the nomination and sub-sequent election of her long-term confidant Htin Kyaw to the office of the head of state in March 2016. This decision was the first indication of the determination of Myanmar’s new political leadership figure to adhere to her strategic goals.

Achieving Power through a Loophole: The Route to Becoming “State Counsellor”

Aung San Suu Kyi, who was initially slated to take over four challenging ministerial posts in the new government, an incredible number to Western eyes,¹³ was not willing to direct policy guidelines merely on an unofficial basis, without a formal assignment of competences, responsibilities and budgets. The post of Foreign Minister alone would, in fact, have suited her affinities and also matched what she could bring to this office by virtue of her personality. One can also assume the military wanted to see her in this office, helping to have the sanctions against the country lifted by showing a face representing a new, democratic Myanmar and thereby furthering an economic upturn. But Aung San Suu Kyi and her party obviously wanted more, although constitutional reform was beyond their influence. After the unsuccessful unofficial presidency initiative, the NLD leadership devised a new strategy instead by drafting a “State Counsellor Bill”, which would allow the party chairperson to perform this advisory function for the government, making her a de-facto head of government, a position the constitution did not provide for.¹⁴ This elicited a furious reaction from the surprised military

¹¹ See for instance here: <http://on.fb/2qEwpyn> [17 Mar 2017].

¹² Myanmar’s 2008 constitution in English can be found here, for example: <http://bit.ly/2srGxeq> [17 Mar 2017].

¹³ The government departments earmarked for her were “foreign affairs, education, electric power and energy, and head of the office of the president”, according to Ei Ei Toe Lwin, Lun Min Mang, Htoo Thant 2016: NLD leader takes four cabinet posts, The Myanmar Times, 23 Jun 2016, in: <http://bit.ly/2rorZws> [17 Mar 2017]. In the end, Aung San Suu Kyi took office as Minister of Foreign Affairs and Minister of the President’s Office.

¹⁴ In the debate within Myanmar, the creation of this position by the NLD was occasionally justified by reference to the constitution, specifically Article 217, which states among other things that “Nothing in this Section shall prevent the Pyidaungsu Hluttaw from conferring functions and powers upon any authoritative body or person”.



faction in the assembly; its constitutionally enshrined blocking minority of 25 per cent of the seats may be helpful for preventing changes to the constitution, but it proved ineffective in blocking the adoption of a simple bill via a majority vote in the two chambers of the Assembly of the Union dominated by the NLD.¹⁵ The “Lady” and her party had thereby created political facts and demonstrated how far they were prepared to go to implement their agenda. The suspected mastermind behind this tactical political move, top NLD lawyer and Muslim human rights activist U Ko Ni, was shot and killed in broad daylight at Rangoon airport on 29 January 2017.¹⁶ He was known to be critical of the 2008 constitution and the way it enshrined the military’s position of power. For the very reason the network behind the murder consisted mainly of ex-military personnel, as the police investigation uncovered, the military felt compelled to issue an official denial of any involvement in the act.¹⁷

Not Yet on Equal Footing: Parliament Working under Stringent Limitations

When the NLD took over government responsibility, there were many new members in both chambers who were totally unfamiliar with the parliamentary tasks now assigned to them. This posed the question as to whether this inexperienced legislature would ever be able to work on equal footing with an executive that has always been able to push through its policies thanks to the country’s centralised government structure. The seemingly unaccentuated way the new President Htin Kyaw was performing his role also left no doubt that the power structures had been set up precisely as Aung San Suu Kyi had intended. A news magazine reported as follows about the concentration of power in the person of the State Counsellor: “Suu Kyi addressed her party’s lawmakers the afternoon before the presidential vote in March, lecturing them on exactly what to do and reminding them of their responsibility to carry out her will.”¹⁸ In parallel, the party leadership issued strict instructions regarding the NLD parliamentarians’ public relations: no talks with media representatives and no participation in civil society events without approval, nor any questions in parliament that had not been previously vetted – modes of practice the media perceived as worrying.¹⁹ These restrictions imposed on the elected people’s representatives are exacerbated by a lack of knowledge in key areas of political communication (media relations and public relations) and personal branding, the public self-marketing of individuals in political competition.

People have currently to put up with the parliamentarians not yet being capable of fulfilling their function appropriately due to inadequate working conditions. Particularly the lack of funding as well as shortages of support personnel and technical resources clearly need rectifying. The situation is made worse by procedural issues with the conduct of parliamentary business, for instance in the House of Representatives (*Pyithu Hluttaw*). Among other things, representatives complain that the current procedure for submitting proposed resolutions disadvantages the representatives from minority parties. Representatives are also not happy about the fact that only one supplementary question can be asked in addition to those questions submitted according

¹⁵ Cf. The Myanmar Times: Military MPs slam bill to create ‘state counsellor’ role, 1 Apr 2016, in: <http://bit.ly/2rocZi> [17 Mar 2017].

¹⁶ A comprehensive profile of and tribute to the lawyer U Ko Ni can be found here: Crouch, Melissa 2017: A personal tribute to U Ko Ni, New Mandala, 31 Jan 2017, in: <http://bit.ly/2roCFeV> [26 Mar 2017].

¹⁷ Cf. Htoo Thant: Tatmadaw not involved in U Ko Ni’s murder, says General, in: The Myanmar Times, 1 Mar 2017, p. 3.

¹⁸ Nyang Hlain Lynn 2016: Keeping Democracy in Check, Frontier, 30 Jun 2016, p. 14.

¹⁹ Cf. Frontier 2016: Accountability required, 30 Jun 2016, p. 3.



to the rules during the regular question time sessions. Other representatives are not permitted to ask questions of their own relating to a question submitted by a colleague. Responding members of the government can only read out prepared answers and are not allowed to add any impromptu comments of their own. Currently, committees can only conduct hearings with the approval of the Parliament's Speaker. All these restrictions prevent the parliamentary operation from developing the dynamic that should exist between legislature and executive and deny the parliamentarians important information and control instruments.²⁰

Political Priorities and Problems: Peace Process and Rakhine Unrest

Despite the NLD only having been in government since April 2016, the party and its chairperson have defined several clear political priorities, particularly in the area of domestic policy. The most important is the resumption or continuation of the internal peace process with the ethnic armed organizations (EAOs).²¹ Aung San Suu Kyi's intention was to complete a historic process that her father Aung San had begun in 1947 with the Panglong Conference, named after the location of the event in Shan State. In collaboration with representatives from the Chin, Kachin and Shan minorities, he wanted to determine some very general conditions for the different ethnic groups living together after independence.²² According to this agreement, which predated independence of 1948, the constituent states were to be awarded fundamental rights and privileges and they were to retain their existing autonomy.²³ There was no mention of any federalist concept and this was, if present at all, an implicit part of the agreement. The Karen, Karenni, Mon and Rakhine minorities were not involved. While the 1947 constitution enshrined the theoretical possibility of the secession of constituent states, the military governments in power after the assassination of Aung San consistently strove for a centralist state.

Aung San's daughter, keen at all times to maintain her father's legacy and uphold his public image as a national hero, made it clear in public statements even before the new government took office that in her opinion there was virtually no chance of solid progress being made in the country's development without an enduring and binding peace agreement. After the NLD's election victory, Aung San Suu Kyi consequently declared that the peace process would be the first priority of the new government.²⁴ After close to 60 years of civil war with ethnic groups that had organised themselves in 21 EAOs, 14 bilateral ceasefire agreements were made between individual groups and the government between 2011 and 2014. From 2013 to 2015, President Thein Sein's administration conducted collective negotiations, which ultimately resulted in the Nationwide Ceasefire Agreement (NCA) on 15 October 2015. However, that was initially only signed by eight of the 16 EAOs that had been involved in the negotiations, and it did not prevent several outbreaks of armed violence in Kachin State as well as in the north of Shan State. Aung San Suu Kyi must have seen this as a threat to her own agenda, because as early as 2015, she called upon those involved in the NCA negotiations not to conclude any hasty agreements with the then government.²⁵ This should be left to a process under her leadership, which was subsequently

²⁰ The Myanmar KAS office will publish a paper with recommendations on how the parliamentary work in the Myanmar House of Representatives can be improved during the course of 2017.

²¹ Based on the term "Ethnic Armed Organizations", which is in common use internationally, the associated abbreviation EAO is used throughout this article.

²² Zöllner, Hans-Bernd/ Ebbighausen, Rodion 2015: Die Tochter. Aung San Suu Kyi, Angermünde, p. 230.

²³ The text of the 1947 Panglong Agreement is available in: <http://bit.ly/2rICOGd> [19 Mar 2017].

²⁴ Cf. Slow, Oliver: Aung Naing Oo, the patient peace advocate, *Frontier Myanmar*, 29 Feb 2016, in: <http://bit.ly/2rXOlrz> [16 Mar 2017]. Aung Naing Oo is also the author of a more recent paper providing an overview of the peace process: Aung Naing Oo 2016: *Pathway to Peace. An Insider's Account of the Myanmar Peace Process*, Dec 2016, Yangon.

²⁵ Cf. Ganesan, Narayanan: Ethnic Insurgency and the Nationwide Ceasefire Agreement in Myanmar, in: *Asian Journal of Peacebuilding* 3:2, pp. 273-281, here: p. 275, in: <http://bit.ly/2thvTew> [27 Jun 2017].



initiated with the so-called 21st-Century Panglong Conference held in the capital Naypyidaw, the State Counsellor's first significant attempt to guide the peace process. Among the total number of participants estimated at 1,500, she brought together over a dozen EAOs as well as government and military representatives.

It was noticeable that the government had been lowering expectations of a decisive breakthrough beforehand. In the end, the conference resulted in a sequence of prepared statements or position papers by various involved parties being read out without any negotiations on important issues being conducted. Nevertheless, the different stakeholders clarifying their positions in this way is seen by some as a necessary prerequisite to embarking on further discussions and negotiations.²⁶ Further aspects perceived as encouraging included the presence of former UN Secretary Ban Ki Moon and the fact that the organisers had succeeded in bringing so many stakeholders together, even though three EAOs did not attend due to their differences with the government and the military about the conditions of their attendance. All the signatories as well as the non-signatories of the NCA were involved in the conference, which differentiated this one from the *Union Peace Conference* of the predecessor government in January of the same year, which was restricted to NCA signatories. A procedural error caused the pre-mature departure of the delegation of the country's largest EAO, the United Wa State Army (UWSA), after just one day.

In the spring of 2017, Myanmar's press expressed fears of the peace process stalling and losing its momentum as it appeared that adhering to the six-monthly cycle was unrealistic and that initially the first follow-up conference already seemed not compliant. Observers concede, however, that the peace process is more challenging for the NLD government than it had been for the previous administration. The reasons include the difficulty in bringing together the agendas of different stakeholders and the fact that the EAOs have so far failed to spell out what they would consider an acceptable negotiation outcome.²⁷ This lenient attitude contrasts with the consistently negative assessment by long-time Myanmar observers. In view of the continuing armed clashes, they do not see what is happening as a peace process but rather as a conflict process and consequently think that the numerous types of foreign engagement in the peace process are unhelpful, not to say: useless.²⁸ This perspective chimes in with criticism of the military's persistent demand that only the NCA signatories should be accepted as negotiating partners and belittles what has been achieved so far, particularly the NCA. Meanwhile, the armed clashes continue, claiming numerous lives once again in the spring of 2017.²⁹

The most serious strain on the NLD in its first year in office, in the domestic and foreign policy areas, developed from October 2016 onwards in Rakhine State, with attacks on border police posts and military units, which,

²⁶ Cf. Wansai, Sai 2016: Aftermath of 21st Century Panglong: Positive symbolism throws the door of earnest negotiations wide open, Shan Herald Agency for News, 4 Sep 2016, in: <http://bit.ly/2rXrc8Q> [19 Mar 2017].

²⁷ Cf. Mizzima 2017: Seeking an enduring peace, 23 Feb 2017, p. 3. One can assume that the greatest challenge will be the disarmament of the non-signatories of the NCA as they maintain that retaining their arms is essential for their capability to maintain their ethnic interests. Consequently, disarming the EAOs is likely to be a difficult and lengthy process.

²⁸ These include the well-known Swedish journalist Bertil Lintner, a by no means uncontroversial Myanmar observer with decades of experience and a store of knowledge, who does not hold back from expressing harsh criticism. Cf. Lintner, Bertil 2016: Burma's Misguided Peace Process Needs a Fresh Start, The Irrawaddy, 11 Oct 2016, in: <http://bit.ly/2ss0PEv> [20 Mar 2017]. Cf. similar, but more blunt: Lintner, Bertil 2017: No peace in sight for Myanmar, Asia Times, 19 Feb 2017, in: <http://ati.ms/BjvEG> [20 Mar 2017]. Observers who do not share Lintner's critical view of foreign involvement in the peace process point to the important role foreign countries play in funding the negotiating process and the associated institutional structures.

²⁹ On 6 March 2017, 30 civilians were killed during an incident according to government sources. Cf. The Global New Light of Myanmar 2017: China suspends bank account of MNDAA [Myanmar National Democratic Alliance Army], 23 Mar 2017, p.1. BBC News 2017: Myanmar rebel clashes in Kokang leave 30 dead, 6 Mar 2017, in: <http://bbc.in/2qEmEjG> [23 Mar 2017].



according to the official interpretation, were carried out by Muslim insurgents with foreign support and left several people dead. The subsequent retaliatory crackdown by the military resulted in thousands of Muslims fleeing their homes,³⁰ some 120,000 of them seeking refuge in camps, near the regional capital of Sittwe among other places, while around 21,000 refugees had crossed the border to Bangladesh by the beginning of December 2016 according to the International Organisation for Migration (IOM).³¹

The refugees accused the Myanmar military of numerous, partly very serious crimes against the Muslim minorities during its operation in northern Rakhine State – accusations that were refuted by the president's spokesman.³² International pressure on Naypyidaw ultimately led to an investigation committee being set up headed by the First Vice-President and former Chief of Military Affairs Security U Myint Swe. However, this government measure left international bodies unimpressed for the most part. On 24 March 2017, the UN Human Rights Council not only extended the mandate for the Special Rapporteur on the situation of human rights in Myanmar³³ by a further year, but also approved the urgent dispatch of an independent international fact-finding mission to investigate the alleged human rights violations by military and security personnel in Rakhine State.³⁴ The Myanmar government must have seen that as an international vote of non-confidence in its own investigation, with the result that it immediately distanced itself from the resolution.³⁵ In addition, the *Advisory Commission on Rakhine State* had already been set up under Aung San Suu Kyi in August 2016, headed by the former UN Secretary General Kofi Annan. Its remit was to compose general recommendations to improve living conditions in Rakhine State. The commission presented the preliminary results of its work in Rangoon on 16 March 2017, with its 30 recommendations focusing on humanitarian emergency measures, media access, closure of refugee camps, the clarification of open questions of Burmese citizenship rights,³⁶ but above all also the prosecution of crimes in the area of human rights.³⁷

The Unresolved Question: Change – if, how and when?

Myanmar's critical situation one year on from the NLD taking over the country's government is self-made to a large extent. The party is rightly being criticised for proclaiming slogans rather than implementing actual programs³⁸ and the consensus is that it only received its high approval rating in 2015 because of Aung San Suu

³⁰ This is the population group referring to itself as "Rohingya", a term that the government does not recognise officially and that polarises large numbers of the majority ethnic Bamar as well as military Buddhist groups. They vehemently reject the Rohingya's claim to citizenship rights and accuse them, among other things, of merely wanting to improve their own living conditions in Rakhine State on the back of the indigenous population.

³¹ Cf. NEWS18.com 2016: 21,000 Rohingya Flee to Bangladesh From Myanmar, Says IOM, 6 Dec 2016, in: <http://bit.ly/2qEsVvT> [25 Mar 2017].

³² Cf. Reuters 2016: Exclusive: Rohingya women say Myanmar soldiers raped them amid crackdown on militants, in: <http://reut.rs/2shZQrc> [26 Mar 2017].

³³ The mandate has been in place since 1992 and has been exercised by the South Korean law professor Yanghee Lee since 2014. Cf. United Nations High Commissioner for Human Rights (UNHCHR): Special Rapporteur on the situation of human rights in Myanmar, in: <http://bit.ly/2si6r4T> [26 Mar 2017].

³⁴ Cf. UNHCHR 2017: Human Rights Council decides to dispatch a fact-finding mission to Myanmar to establish facts on violations, especially in Rakhine State, press release, 24 Mar 2017, in: <http://bit.ly/2qEuk5n> [26 Mar 2017].

³⁵ Cf. Ministry of Foreign Affairs 2017: The Global New Light of Myanmar, press release, 25 Mar 2017, p. 9; *ibid.*: Gov't rejects UN Rakhine investigation, p. 1.

³⁶ International reporting in particular does not give adequate attention to this complicated topic, which is crucial for an understanding of the Rohingya issues. An introduction to the subject matter can be found in Su Myat Mon 2016: Push for Citizenship Verification Brings Contentious Law Into Focus, *The Irrawaddy*, 12 May 2016, in: <http://bit.ly/2ss6URb> [26 Mar 2017].

³⁷ Cf. Nyan Lynn Aung: Rakhine Advisory Commission presents 30 recommendations, in: *The Myanmar Times*, 17 Mar 2017, p. 2. The commission's recommendations were officially welcomed by the Myanmar government, cf. State Counsellor's office, press release, in: *The Global New Light of Myanmar*, 18 Mar 2017, p. 1.

³⁸ The remarkable thing here is the assessment in recent literature that once in power Aung San Suu Kyi would not excel



Kyi's involvement. It also failed to equip many of its future office and mandate holders adequately with expertise about relevant policy matters so that they are now facing challenging tasks and realising their own deficiencies, fully aware of the fact that the population is expecting visible progress in the country's development. These deficiencies cannot remain hidden from the public for long. The governing party, however, prefers to act as moral watchdog regarding its representatives' conduct,³⁹ while the party itself and its chairperson have not done nearly enough to strengthen political institutions – a fundamental prerequisite for a successful democratic transition.

Beside the described weaknesses of the parliament, the judiciary has also failed to play a significant role to date. While the Constitutional Tribunal⁴⁰ in particular does exist, it is not being included in the construction of the rule of law framework to a sufficient extent. The executive, on the other hand, can continue to push ahead with its agenda disregarding the other powers thanks to Myanmar's centralised government structures – with three military figures in key cabinet posts (Home Affairs, Defence, Border Affairs).

The minorities, which had placed their trust in Aung San Suu Kyi as a leader who would act without any ethnic allegiance, are beginning to view her much more critically as they see the State Counsellor acting as a Bamar – a member of the ethnic majority that she belongs to – in many matters. One way in which this criticism has manifested is an increase in protests in the minority regions and states about public buildings and memorials being named after the state's founding father Aung San.⁴¹ And the fact that she has placed the peace process at the top of her domestic policy agenda also means that any constitutional reform, whatever form it may take, and with that truly democratic change cannot become possible until after the materialisation of such a peace agreement. Even if peace could be achieved in the foreseeable future with the support of all stakeholders (which seems an illusory hope right now), the current incidences of unrest allow the armed forces to present themselves permanently as the guarantor of security and order, particularly to the majority ethnic group of the Bamar, and especially as the preserver of the unity of the multi-ethnic state. This should not be underestimated in terms of its significance for the Bamar. Many of them are concerned when they see the ethnic minority regions almost encircling the areas inhabited by the Bamar, and they do not have a totally negative view of the *Tatmadaw*.⁴²

It would therefore be entirely mistaken to think, as some Western news stories seem to imply, that the military has adopted a different, less influential role since 2015 or that it is no longer in a position to exercise governmental power. On the contrary: it remains unclear whether and, if so, which concessions Aung San Suu Kyi made or had to make to the armed forces to be able to take on the political role she plays today. It is obvious that this could include a promise not to champion the causes of particularly controversial minorities such as the Rohingya.⁴³ The more far-reaching strategic goal of the State Counsellor and her party – to maintain the politi-

through political thinking but allow herself to be guided by the bureaucracy, in: Taylor, Robert H. 2013: Myanmar's "Pivot" to the Shibboleth of Democracy, in: *Asian Affairs* 44:3, pp. 392-400, here: pp. 397-398.

³⁹ Cf. Htet Naing Zaw 2016: NLD to Discipline Lawmaker After Extramarital Affair, *The Irrawaddy*, 10 Oct 2016, in: <http://bit.ly/2qJHSf2> [27 Mar 2017].

⁴⁰ Cf. Myanmar Constitutional Tribunal: <http://bit.ly/2shSTpT> [27 Mar 2017].

⁴¹ Cf. for example the long-lasting protests in Mon State in the spring of 2017 against a road bridge being named after Aung San, in: Pyae Thet Phyoo 2017: Mon bridge name a state matter: Union Minister, in: *The Myanmar Times*, 17 Mar 2017, p. 3.

⁴² The Facebook page of the commander-in-chief of the armed forces appears to be a good indicator: <http://on.fb/2rIGDlp> [1 Jun 2017].

⁴³ A background study on the Rohingya problem was provided by the Konrad-Adenauer-Stiftung's office in Myanmar in 2017: Rüländ, Anchalee 2017: Myanmar's Rohingya Problem in Context, *ETH Zurich, Center for Security Studies*, May 2017, in: <http://bit.ly/2sBvUKA> [3 Jul 2017].



cal power base they have only just won – forces her to toe the line for now. In Myanmar, being in government means above all being part of the system,⁴⁴ and that also applies to the NLD.

Western observers are slowly beginning to appreciate all these correlations,⁴⁵ and they should also accept that there need to be differences in the public conduct between Nobel Peace Prize Laureates who remain activists and those who take on political responsibility and have to be pragmatic. Observers have wondered why the State Counsellor has not been making greater efforts to cultivate allies outside the party and parliament to support her course. One point of criticism in this context relates to her overly distant relationship with civil society. In addition, militant Buddhism has emerged as a disruptive factor jeopardising the peace process, which will require particular monitoring.⁴⁶ And even the most loyal NLD representatives are now calling for the government to put greater emphasis on measures to revive the ailing economy.⁴⁷

Without making progress on the economic front, the government will hardly be able to realise the remaining goals of Aung San Suu Kyi's agenda, and the balance sheet of its achievements will look rather meagre. Finally, Myanmar is also discovering political competition, and the formation of a third political power (besides the NLD and the military-backed Union Solidarity and Development Party, USDP) comprising activists of the 1988 protest movement is now on the cards.⁴⁸ So what will become of the hope for genuine democratic change in Myanmar? In an ASEAN (Association of Southeast Asian Nations) comparison, the country's situation appears acceptable for now in terms of its democratic development. Looking ahead to the future in a recent speech he gave in Rangoon, the association's former secretary general and former Thai foreign minister Surin Pitsuwan said "Myanmar's success is ASEAN success".⁴⁹ But in 2017, there is still no knowing whether the transition will end in success or failure.

Remarks: Opinions expressed in this contribution are those of the author. The analysis was first published in KAS International Reports, vol. 33 (2017) 2, p. 80-91.

⁴⁴ Cf. Lall, n. 8, p. 82.

⁴⁵ Cf. for example Darwin Peng: 2017: Understanding Aung San Suu Kyi's Silence on the Rohingya, Harvard Political Review, 21 Feb 2017, in: <http://bit.ly/2rlxsBs> [27 Mar 2017].

⁴⁶ Cf. Der Spiegel 2017: Maulkorb für den Hetzer, 18 Mar 2017, p. 71.

⁴⁷ Cf. Chan Mya Thwe: Time to fix the economy with action, not words, The Myanmar Times, 21 Apr 2017, in: <http://bit.ly/2rYqZC2> [11 May 2017]; even more clearly in Gilmore, Steven/Robinson, Gwen 2017: Myanmar business sector disappointed with pace of reform. One year on, red tape and regulatory holes are hobbling growth, Nikkei Asian Review, 6 Apr 2017, in: <http://s.nikkei.com/2o50s3i> [11 May 2017].

⁴⁸ Cf. Hein Ko Soe 2017: 88 Generation faction to form political party by end of 2017, Frontier Myanmar, 2 Feb 2017, in: <http://bit.ly/2rovNhj> [28 Mar 2017].

⁴⁹ Cf. The Myanmar Times 2017: Myanmar's success is ASEAN success, says Surin Pitsuwan, 23 Mar 2017, in: <http://bit.ly/2rtMtpO> [28 Mar 2017].



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Dr Eschborn has extensive journalistic experience with German and Asian newspapers and gained his first political experience during his position as private secretary to the deputy floor leader of the Christian Democratic Party (CDU) in the German parliament (Bundestag) and to the state chairman of the CDU in the German federal state of Rhineland-Palatinate. His publications include articles and books regarding the development strategies of ASEAN states, the EU-ASEAN relations, the role and impact of German political foundations in development policy, the political system of Thailand, individual aspects with reference to the political and legal reform processes in Thailand and Indonesia since the 1990s and current political issues on the Korean peninsula.



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