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Myanmar's Elections – The Day After



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The long wait for democracy is over for Myanmar and the Aung San Suu Kyi-led National League for Democracy (NLD), but they will now have to face the collective and inherited challenges from the past. How they manage this could also determine the way democracy progresses in the nation. The pertinent question is whether the Constitution should be amended to facilitate Suu Kyi becoming the President, so as to reflect the mandate and also to avoid a constitutional grey area of a politico-administrative minefield for the nation?

The November 8, 2015 parliamentary election in Myanmar was closely watched by both the domestic audience and the international community. This was the first democratic exercise, both in letter and spirit, in two and half decades. The last truly free and fair elections in 1990 did not witness the victor being allowed to take over the reins of governance but replaced by a purge that took the nation backwards to totalitarian rule. The fact is that the current elections shall herald the future trajectory of the nation, not only on the domestic political and economic front, but also in terms of existing/emerging international relations.

Key Points

1. The elections in Myanmar have resulted in the Aung San Suu Kyi-led NLD securing a sweeping victory and an absolute majority in the Parliament.
2. The initial signs reveal that the Army has welcomed the electoral verdict and shall honour the same, unlike the experience in 1990.
3. Though Myanmar has embraced democracy, the road ahead is full of challenges. The first challenge would be in ensuring that the Army and the newly elected civilian government are able to work together.
4. Secondly, the new civilian government would have to carry with it the various sections of the Myanmar state and society, including the armed forces.
5. The NLD would have to show a great deal of political acumen when it comes to dealing with issues like administrative reforms, talks and reconciliation with ethnic groups and in taking democracy forward.
6. One challenge that would be both a political necessity and a risk would be the amendment of the 2008 Constitution. Many sections of this Constitution would have to be revisited. But when, how and why would be the challenges for both Aung San Suu Kyi and the NLD

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Myanmar's Elections ...

In a Parliament with a total of 664 seats, only 498 seats were contested since a fourth of all seats are filled by the nominees of the nation's all-powerful military, the *Tatmadaw*. The NLD, led by Nobel Peace Laureate, Aung San Suu Kyi, secured 238 seats in the Lower House, the *Pyidaungsu Hluttaw*, which has a total strength of 440 but with only 330 elected members. In the *Amyotha Hluttaw*, the Upper House, the NLD secured 131 of the 168 seats that went to polls, where the total strength of the House is 224.¹ The NLD secured 369 of the 440 parliamentary seats, with more than 60 per cent of the votes in its favour which is 83 per cent of elected parliamentary representatives, whereas its nearest competitor and the *Tatmadaw*-propped, Union Solidarity and Development Party (USDP) managed to win only 28 seats in the *Pyidaungsu Hluttaw* and 12 seats in the *Amyotha Hluttaw*, which is about 40 seats in all.

The NLD's absolute majority in securing more than 80 per cent of the parliamentary membership has already been welcomed, both within Myanmar and by the international community. By giving the NLD an absolute majority, the Myanmar voter has rendered the military's inherent 25 per cent seat-advantage that they had given themselves under the present Constitution, insignificant. The voter's decision, thus, needs to be appreciated as much as the NLD's hard work and Suu Kyi's charisma. However, the most important takeaways of this election could be profound at various levels and for various reasons.

Military's Sensitivities

The last time Myanmar went to the polls was in 1990, where the NLD, leading an umbrella coalition, secured a similar feat. The result this time, thus, is a continuation, confirmation and consolidation that the NLD is the true representative of the nation's people, who have otherwise faced misgovernance at the hands of the military junta. However, the real challenge for Suu Kyi and her NLD is not in winning the election, which is now over, or entering

Parliament, which seems to be a given, but in governing the nation.

To begin with, the 2008 Constitution had ensured the military's role in the affairs of the state. It could be challenged only within 'limits', and in keeping with the sensitivities and sensibilities of the *Tatmadaw*. It is not only the military's position inside the Parliament that will be a challenge to the NLD but also the influence that the *Tatmadaw* exerts on the whole government machinery. Under the Constitution, the Army Chief holds the exclusive right to appoint key ministers such as of the Ministries of Home Affairs, Border Affairs and Defence. In a country that is torn apart by ethnic militancy, these ministries hold the keys not only for the unity but also for the prosperity of Myanmar.

The new Parliament will convene in January 2016, when it also turns into an Electoral College, to elect the next President in February who is both the Head of State and Government. Under the Myanmar scheme, the Parliament will nominate three candidates for the presidency, one from each House and a military nominee. The full Parliament then shall elect one of these three as President, whereas the other two shall automatically become Vice-Presidents. This means that the NLD, with its overwhelming majority in the Parliament will have the final say in electing the next President but will still have to work with the Army at every level since one of the Vice-Presidents, apart from key ministers, would be an Army nominee.

Additionally, the NLD will also have to work with a military-dominated bureaucracy. Both the NLD and the military leadership would have to understand and appreciate the nuances of democracy and work within these constraints of an evolving hybrid democratic system. Needless to say, the electoral outcome also reflects the outlook of the common voter. For the NLD, living up to them, and re-engineering and reenergising the inherited and mostly ineffectual politico-bureaucratic apparatus

is going to be a big challenge for individual ministers, who, too, would have to recalibrate their understanding of electoral democracy.

Given the fact that Suu Kyi is debarred from running for the presidency by the current Constitution (Article 59(f)), since her late husband was a 'foreigner', a British national, it would mean that the NLD would have to scout for another candidate, acceptable to the party, the people and to Suu Kyi, personally. The democratic dichotomy under the circumstances is understandable, as people did not vote for the new President, but only for the NLD and Suu Kyi. The party won solely on projecting Suu Kyi and did not even remotely project anyone else as a possible presidential candidate. Thus, the responsibility and accountability to the voter will lie with Suu Kyi and the party, not the new, indirectly elected, President.

However, the real challenge for the new government may stem from the existence of multiple power centres; the President as the constitutional authority, the military, and the third (only) with a popular mandate. The military chief, Senior-General Min Aung Hlaing, under the existing system wields great power through the men that he nominates for the presidency, as ministers and those who will occupy the 25 per cent 'reserved seats' in the Parliament. The third would be Suu Kyi, who has said that the next President would have no authority and would "act in accordance with the decisions of the party"² (NLD); and that she would make all the decisions³ as the leader of the largest party inside the Parliament, thereby placing herself above the President⁴.

Thus, the biggest challenge for Myanmar on the political front would be in managing the various conflicting and competing masters who would wield power rather than the constitutionally-anointed officials. To balance this dynamics which already has all the right prescriptions for a disaster-in-waiting will be a challenge. It is not unlikely – which is also desirable -- that the NLD and the military mutually respect the existing constitutional position

and the popular mandate and thereby refrain from challenging each other.

Such equanimity will not be easy for either side to achieve. But the contemporary compulsions cannot be overlooked if the democratisation process has to be consolidated for the nation to move ahead. Thus, the NLD and the military need to understand and appreciate the 'unprecedented historic moment' that they are part of.

Politics After Elections

Thus far, the international narrative of the politics in Myanmar was dominated by the NLD/ pro-NLD narrative. Given that the NLD would now be held accountable by the people on all issues of governance, Aung San Suu Kyi would have to be mindful of a few key issues among many others. The foremost priority for the NLD-government would be to reach out to all the ethnic groups who account for about 40 per cent of the population. At present, the various ethnic-centric political parties between them could muster only about 30-odd seats in the *Pyidaungsu Hluttaw* and 10 or so seats in the *Amyotha Hluttaw*⁵. And, thus, the parliamentary presence of the ethnic groups seems to be 'near-absent' since the NLD performed well in the ethnic regions, at the cost of the ethnic parties. The implications of this would have to be carefully studied since a lot will ride heavily on how well both the government in Nay Pyi Dwa and the NLD can initiate/take forward a policy and politics of 'inclusiveness' in the ethnic context.

This is a challenge, which in all probability could surface in the times to come and for reasons that would be too complex to comprehend now. At the same time, ethnic politics will be a tempting proposition to be used both by the *Tatmadaw* and the NLD, to either discredit or undermine the other. If the two sides are serious about the larger business of governance, they would have to begin here – outside of their own comfort zones.

On the other hand, the issue of the Rohingya Muslims, who are not considered to be citizens of Myanmar, is another area of concern. The international community has expressed its concerns while this issue has also fuelled the rise of right-wing politics in Myanmar. To address or not to address the Rohingyas question could be a major test for the NLD. The *Ma Ba Tha*, a nationalist Bamar-Buddhist organisation, has already upped the ante on this front. The outfit's leaders, Vimala Buddhi and Ashin Wirathu, have already captured media space as the face of Myanmar's 'destructive' right-wing politics. The NLD, as the custodian of democracy, will be compelled to be seen as accommodative to the Rohingyas – but could end up fuelling the Bamar-Buddhist nationalist sentiments. Though the outgoing military rulers have made some progress in ethnic reconciliation with individual groups, the junta, despite international criticism, has continued to turn a blind eye on the Rohingyas issue.

If the new government is unable to make any significant headway in the reconciliation process with the ethnic minorities or on the Rohingyas front, it could create other problems. Their task is to ensure change with continuity for political reasons, and continuity with change on the administrative front.

Mass Expectations

Irrespective of the outcome of the indirect presidential polls due in February, the NLD has already got its hands full. It might be weighed down by the expectations of the masses and would have to initiate serious and visible administrative reforms that will be in keeping with the democratic expectations of the people. The second challenge is on the economic front since a good section of the NLD's support base comes from the aspiration-centred class and generation.

On both these issues, the NLD would have to prevail over the existing junta nurtured system. Addressing administrative challenges may be possible since

incumbent President Thein Sein had initiated a number of reforms on the political front. To carry forward Thein Sein's political wisdom/compulsions onto matters of civil administration with a generous dose of political acumen may be feasible.

On the economic front, a study by McKinsey says that Myanmar has the potential to grow at a rate of at least 8 per cent per annum for the next five years. With two-thirds of the nation's 34.5-million population comprising a cheap labour force (earning US\$ 3 a day) it could enable Myanmar to become the next manufacturing hub of Asia⁶. The much-praised jade-mining sector that is guesstimated to be worth over US \$ 31 billion is controlled by a network of crony front companies, drug lords and military elite⁷. However, socio-economic reforms aimed at addressing the aspirations of the NLD support base, could be more difficult to achieve, as much of the so-called big business is nothing more than an oligarchy⁸ that is hand-in-glove with the junta.

It is a similar parallel-economy network that not only controls the drug industry but also helps to sustain the insurgency groups in the country⁹. The new government would have to balance out conflicting commitments and enforcing change but without adversely upsetting the existing equilibrium. How the leadership negotiates this transition during the interim period, without upsetting the aspiration-centric support base, will be observed closely. Thus, the world's fourth fastest-growing economy¹⁰ would have to streamline to government contract processes that are still anything but transparent as well as deal with the military's commercial interests like the Myanmar Economic Corporation and Economic Holding Limited. How far the NLD government can make meaningful economic progress for the people at large, without upsetting the principles of the existing economic/corporate structure, will also contribute to the future political narrative of the nation.

With an existing oligarchy, on the one hand, and an ever optimistic demography, on the other, along with the

military's commercial interest to be taken into account, the NLD's economic plan will be closely scrutinised by all sections. This means, as the 'real' power behind the throne, Aung San Suu Kyi would have to *walk the plank*, and do so with élan and effectiveness.

Suu Kyi as President?

The road to success, it is said, is one that is always under construction. For Myanmar, this road is not only filled with potholes and pitfalls but also a possible black hole that could suck the nation back into the abyss, from where it is struggling to climb out. The euphoria of the delayed arrival of democracy for the nation and the sweeping electoral victory in the case of the NLD would have to settle down for political wisdom to dawn.

Aung San Suu Kyi's post-poll declaration, placing herself "above the President" can be exploited by her political adversaries. Her challenge is to traverse the role of holding the elected government accountable without violating the constitutional diktat on which the democratic future of the nation would depend.

In this context, the NLD and the nation could consider amending the Constitution for Suu Kyi to contest for the presidency, but under the existing indirect elections. It could be attempted between the new Parliament being convened and the February polls, or in a more considered manner, after a new President had been installed. This will be a personal decision for Suu Kyi since the constitutional impediment is personality-driven; just to keep one person out of the race.

At the same time, any amendment to the Constitution should not be driven by individual motivation but to initiate institutional reforms. It is not only the citizenship clause of the Constitution (Article 59(f)) that is a bone of contention but other sections of the Constitution that are equally important. There are a few noteworthy constitutional provisions like Section 20 (f) that states "the Defence Services

are mainly responsible for safeguarding the Constitution" which can mean that the *Tatmadaw* would have overarching powers that are not only in defining but also in interpreting the Constitution, as its fancies. Another equally important provision, Section 436 (a) & (b), states that any amendment to the Constitution will require at least a three-fourth majority in the Parliament. With a quarter of the Parliament constituting military representatives, the NLD shall face more than considerable opposition to amend the Constitution without the support of the *Tatmadaw*.

A realistic assessment could end some of the uncertainties already attending on the next presidency, if not the following ones, too, since much will depend on the popularity of both the NLD and the charismatic Suu Kyi. They would, however, have to be preceded by an honest and sincere study on whether the Myanmar people have voted for change just for the sake of change - from military to democratic rule, and Suu Kyi and the NLD were at the right place at the wrong and right times - or, have they voted exclusively for Suu Kyi and the NLD?

With political astuteness, patience and international support, Myanmar may still become the golden land, which not very long ago used to be described as the "rice bowl of Asia". All that will depend not just on the election that is already behind the nation, but also on the path that it takes through the governance-transition process(es) and the larger democratic transition that all of it entails - and is expected - in the times to come.

In What Way Can India Contribute?

In this backdrop, India, given its experience with both electoral politics and political administration, and which encompasses the greatest degree of contradictions within the democratic world, can extend its good offices to Myanmar in a couple of ways. New Delhi's experience in handling a multiple stakeholders' system in the form of an

... The Day After

alliance based coalition/cohabitation government can be a start. Furthermore, New Delhi's experience is not only limited to mainstream politics but also includes streamlining/mainstreaming a number of belligerent groups that picked up arms against the state. Additionally, India might be the only nation in Myanmar's periphery that knows how to manage the complexities of the conflictive pressures of democracy, along with social-economic progress.

The Indian experience of carrying along every section of both state and society can be insightful for the new dispensation in Nay Pyi Dwa, which would have to meet the aspirations of the people within the limitations of the existing system. And if a representative polity is to stay in Myanmar, the NLD led administration in Nay Pyi Dwa would have to lay the foundations for a sustainable democratic form of governance and polity, both in letter and spirit, where again, the good offices of India could be a start.

Notes

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