

A New Era for Myanmar – Trouble Ahead for Ethnic Minorities

For the first time in over half a century, Myanmar has a government with a popular mandate. Although the Myanmar armed forces still have extensive political powers under the 2008 constitution, and may seriously curtail the independent action of the new government, the inauguration of President U Htin Kyaw represents a radical increase in the internal and international legitimacy of the Myanmar State.

Paradoxically, this coincides with a setback for the country's ethnic minorities and their struggle for autonomous status within a federal state, to be negotiated as part of a national political dialogue.

Brief Points

- For the first time in over half a century, Myanmar has a government with a popular mandate, led by the National League for Democracy (NLD).
- Concurrently, Myanmar's ethnic minority organisations now face a double marginalisation, militarily as well as politically.
- What does this marginalisation mean for the bargaining power of the ethnic minority organisations and what can they do to strengthen their position?
- What can the new government do to enhance national reconciliation and peace?

Marte Nilsen

Peace Research Institute Oslo (PRIO)

Stein Tønnesson

Peace Research Institute Oslo (PRIO)

A two-tiered peace process

There are two main tiers in Myanmar's peace process. The first is the process of negotiations between the government and the ethnic armed groups, initiated by former President U Thein Sein and led by Minister U Aung Min, with the aim of first signing a nationwide ceasefire accord (NCA), and then starting a national political dialogue about power sharing, decentralisation and political reforms. The second tier is a wider process of including ethnic minorities in political decision-making at the Union, state and regional levels, transforming the existing political structure from within, and arriving at a situation where the ethnic minorities are treated as equals to the Bamar majority in an ethnically inclusive national Union. The success of the first tier is tremendously important for the second.

As for the first tier, after five years of negotiations and attempts to build trust between the ethnic armed groups and the Union government, a general agreement was reached on the content of a NCA. The agreement signed on 15 October 2015 was meant to be applied nationwide, and most of the country's ethnic armed groups, which number upwards of 20, took part in its negotiation. Due to disagreement between the Myanmar armed forces (Tatmadaw) and some of the ethnic armed organisations over the inclusion of additional armed groups, only eight of them decided to sign. These included the Karen National Union (KNU), which had fought the central government continuously for 63 years. The Kachin Independence Army (KIA), however, did not sign. It had played a prominent role in the negotiations, and held sway over several smaller armed groups, who also did not sign. Fighting continued in Kachin State afterwards, and intense fighting flared up in northern Shan State, partly between the Tatmadaw and local non-signatory groups, and partly between signatory and non-signatory groups.

An unintended outcome of the failure to implement the ceasefire nationwide is that the NLD-led government may now get a chance to put its own stamp on the negotiations and gain ownership to the process. The outgoing and incoming government would then share the credit for having managed a successful peace

process. There are two problems, however. First, the Tatmadaw is unlikely to allow the new government to make any further concessions to the ethnic armed groups. The second problem is that the process so far has left these groups with little sense of achievement, and they may not see much gain from a ceasefire. Local distrust of the armed forces has grown instead of diminished in the areas where fighting has continued, and a rift has emerged between signatory and non-signatory groups. In some areas, notably in Kayin State, the ceasefire agreement signed by the KNU in 2012, which formed part of the basis for the 2015 NCA, has benefitted local populations by allowing internally displaced persons to return to their villages and resume economic activities and communications with other areas. Yet the NCA has not thus far brought much of substance to the ethnic armed organisations themselves.

This division and marginalisation of the ethnic armed groups has coincided with a devastating political defeat for the ethnic minority parties in the November 2015 elections, leaving many ethnic minorities with little or no representation in the country's political institutions, severely affecting the second tier of the peace process. Ethnic armed groups might gain from signing the NCA if they can be sure that representatives of their ethnic group will be listened to in a meaningful national political dialogue, but the general weakening of the ethnic minorities in the 2015 elections has reduced the prospects of this being the case. Many people in the ethnic minority areas question the Tatmadaw's willingness to respect a ceasefire and cooperate with the new civilian government in providing for a meaningful political dialogue, and ethnic minorities fear being sidelined by the Bamar-oriented infighting between the NLD and the military.

The political marginalisation of minority groups

The ethnic minority parties secured only 55 of the 498 elected seats in the Union Parliament (Pyidaungsu Hluttaw) and most of these were won by the Arakan National Party (ANP) and the Shan Nationalities League for Democracy (SNLD). With the exception of Rakhine and Shan State, the ethnic minority parties also performed poorly in the State Parliament elections. Why did they fail? There are three

main reasons. The foremost is the extraordinary nature of this particular election, which most people viewed as a referendum for or against military rule. Voters saw the election first and foremost as a chance to end fifty years of military dictatorship and provide the military's main opponent since 1988, Aung San Suu Kyi, with a mandate to generate change.

Second, the rivalry between several political parties seeking to represent the same ethnic group also contributed, although the combined votes for the various parties would in most places not have been enough to beat the NLD candidates. Only seven more seats in the Union Parliament and nine in the State parliaments would most likely have gone to ethnic minority parties if they had managed to unite. Yet it is clear that the pre-election merger of the two main Rakhine parties in the Arakan National Party contributed to its success. Similar mergers in other states could perhaps have led to more support, and if several ethnic minorities had been able to establish electoral alliances, backing each other's candidates, this might have further enhanced ethnic minority representation. It cannot be ruled out that ethnic minority people in many constituencies opted for the NLD instead of minority parties, because of the rivalries between the various ethnic parties. The divide between those who had participated in and those who had boycotted the 2010 elections in Shan and Mon States proved particularly damaging. Other ethnic minorities also suffered. In states and regions with a heterogeneous population, the best chance for ethnic minority leaders to mobilise a substantial following would probably be to form a multi-ethnic party, emphasising local issues of concern to all inhabitants. The Kachin State Democracy Party tried this, but failed to convince others to join and ended up competing against no less than seven ethnic minority parties in Kachin State, thus winning only one seat in the Lower House (Pyithu Hluttaw) and three seats in the Kachin State Hluttaw. Ethnic minority parties need to realise that ethnic minority votes do not come for free. There is an urgent need for cooperation between them, within as well as across ethnic groups, and to mobilise the electorate on issues and policies of cross-ethnic concern, not just on ethnic loyalty.

Third, the (British) first-past-the-post electoral system favoured the NLD as the largest party.

With 57 percent of the votes, the NLD got 79 percent of the elected seats in the Union Parliament – which equals 57 percent of the elected and appointed seats combined. With the NLD's landslide victory, it will now be difficult to introduce a system of proportional representation or a hybrid system, like the one in Germany. The NLD benefits strongly from the current system and now controls Myanmar's legislative process. Under the 2008 constitution, however, the military selects 25 percent of the members in all assemblies, and these military representatives are likely to sympathise with Thein Sein's Union Solidarity and Development Party (USDP), which received 28 percent of the votes, but only 8 percent of the elected seats in the Union Parliament. The USDP and the military appointees (who together control 31 percent of the members of the Union Parliament) have an obvious interest in changing the electoral system. Perhaps the only imaginable way that the system might change in the foreseeable future is through a bargain, where the NLD agrees to a more proportional system and the military agrees to give up its right to appoint the 25 percent. A key aim of the NLD is to revise the constitution in a democratic direction, reducing military prerogatives. To accept a proportional electoral system might be an appropriate concession to make in return. In this way, Myanmar would take a significant step towards genuine democracy, and one could hope that it would also enhance the chance of ethnic minority representation.

Electoral reform could become a matter for national political dialogue. In that case, it would also be reasonable to discuss the number and boundaries of the electoral constituencies in order to strike a balance between the need to have a reasonably equal number of votes behind each elected MP, and the need to ensure good representation for peripheral areas, which are often the abode of the ethnic minorities.

A consequence of the electoral defeat of the ethnic minority parties is that already marginalised ethnic minorities are now underrepresented politically at a critical juncture in Myanmar's democratic transition. Underrepresentation was already a problem in the democratic post-independence years (1948–1962) when ethnic civil wars broke out in many frontier areas, in turn providing a rationale for the army to seize power. For the

current peace process to succeed, there must be channels through which ethnic minority organisations can express their grievances and work for reforms. This is important in order to build trust between the Bamar majority and the ethnic minorities, and also to show the ethnic armed groups that there is space for ethnic minorities to contribute politically and have an impact on decisions. Any further marginalisation of ethnic minorities at the political level is likely to be detrimental to the peace process.

The marginalisation of ethnic armed groups

Daw Aung San Suu Kyi and the NLD have declared that the peace process will be prioritised by the new government. Yet, few concrete plans have emerged. The NLD will want to put its own stamp on the process, but it cannot make moves without the Tatmadaw. The question then is how NLD-Tatmadaw cooperation will be met by the ethnic armed organisations.

While articulating confidence in Aung San Suu Kyi as a national leader, ethnic armed organisations have expressed doubts as to whether the Bamar-dominated NLD understands the grievances and demands of the ethnic minorities. President U Htin Kyaw's partly Mon ethnic background, Vice-President Henry Van Thio's Chin background and the appointment of Mon National Party's Naing Thet Lwin as Minister for Ethnic Affairs may be conciliatory factors. However, the Mon and the Chin are the least problematic of the large ethnic minorities from the government's point of view, and it is the actual political outcome of government policies that will be decisive for the ethnic minority leaders. Expectations for what Aung San Suu Kyi is going to achieve are high. However, if the new government appears too weak and pliable vis-a-vis the Tatmadaw, this may discourage the ethnic armed organisations from taking part in the peace process. The constitution gives the Commander-in-Chief a decisive role in matters of national security and the president and his peace negotiating team will have little choice but to listen to what he says. The ethnic armed organisations cannot on their side trust any agreement that does not have the support of both the NLD and the Tatmadaw.

At this point in the peace process, ethnic armed groups have little confidence in substantial improvements. The months prior to and immediately after the partial signing of the NCA in October 2015 were marked by active warfare between the Myanmar armed forces and the Kokang Myanmar National Democratic Alliance Army (MNDA). Fighting also continued in Kachin State with the Kachin Independence Army (KIA). The MNDA, the Ta'ang National Liberation Army (TNLA/Palaung) and the Arakan Army (AA) were not allowed by the Tatmadaw to take part in the ceasefire negotiations, causing protests from the alliance of ethnic armed organisations in exile, the United Nationalities Federal Council (UNFC), and splits between signatory and non-signatory groups. And while talks continued between signatory groups and representatives of the outgoing government in the first two months of 2016, the peace process was in fact deadlocked during the period of transition. In February, there was also severe fighting between the TNLA and one of the signatory groups – the Shan State Army-South (RCSS/SSA-S) – further weakening ethnic minority unity.

With rivalries and splits between the various ethnic groups, and a likely power struggle at the Union level between the NLD and the military, the peace process will be difficult. The Myanmar armed forces have made it clear in negotiations with the NLD prior to the transition that they are unwilling to make constitutional amendments at this stage, and any amendments can be blocked by their appointed MPs since constitutional revision requires a 3/4 majority. Military MPs have also openly expressed their discontent with NLD MPs who have criticised the Tatmadaw. The NLD may find that its chance to revise the constitution increases if it cooperates with ethnic minority organisations who also want to change the constitution. While the national political dialogue will be a lengthy and demanding process, it could be good news for the ethnic minorities if the NLD should seek their support. They could then conceivably form a common ground for building a more democratic and federal union. However, the Tatmadaw is likely to resist the calls for change and guard its decision-making autonomy. After the landslide victory of the NLD in the general elections, the Tatmadaw is likely to be even more vigilant than before in guarding its constitutional prerogatives.

What can be done?

With the marginalisation of both ethnic minority parties and ethnic armed organisations, it is important for the ethnic minorities to find new ways to engage in political processes at all levels:

- Ethnic minority parties that succeeded in taking seats in the Union or State legislatures may reach out to unrepresented parties to find a common platform for future elections.
 - Ethnic minority parties may work together to influence the NLD-led government and the Chief Ministers in promoting minority issues across the country.
 - Ethnic minority members of the NLD and the USDP could advocate national reconciliation, power sharing and peace in their parties' policies, including reforms of the system of governance, minority language instruction, cultural rights, and social and economic development in ethnic minority areas.
 - Civil society organisations may demand a place in the national political dialogue and hold the government accountable to its promises.
 - All ethnic armed organisations will need to become parties to the NCA and take part in monitoring it, so that the national political dialogue can be conducted under peaceful conditions, and all ethnic areas can benefit from a peace dividend in terms of aid to build schools, medical services and basic infrastructure.
- President U Htin Kyaw, Aung San Suu Kyi and the new NLD-led government would be well advised to ease the double marginalisation of the ethnic minorities, include them systematically in political decision-making, and secure progress in the negotiations between the Tatmadaw and the ethnic armed organisations. The government may consider:
- Selecting ethnic minority people with high local credibility as Chief Ministers in the seven ethnic states, and ensuring that they in turn appoint people representing all the main ethnic minorities of their state in the local governments.
 - Promoting and financing local autonomy in the smaller ethnic minority areas, both within the Bamar-dominated regions and the seven ethnic states.
 - Including representatives of ethnic minority parties in all committees and political decision-making bodies.
 - Organising the national political dialogue in a way that ensures both broad consultation, and the initiation of step-by-step reforms in the direction of a complex federal solution.
 - Building on the human resources and experiences accumulated by the previous administration.
 - Engaging with the Commander-in-Chief to find a common platform for the peace negotiations that will allow the NCA to be signed by all armed groups so it can be applied nationwide. ■

THE AUTHORS

Marte Nilsen is a historian of religions and Senior Researcher at PRIO.
Email: marte.nilsen@prio.org

Stein Tønnesson is a historian, Research Professor at PRIO and leader of the East Asian Peace Program at Uppsala University.
Email: stein@prio.org

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