

Institutions in Myanmar's 2015 Election: Election Commission, International Agencies and the Military

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Abstract

Myanmar successfully held an historic general election on 8 November 2015 under President U Thein Sein's government. Local people as well as the international community welcomed the election outcome, where the NLD won by a landslide, with 77.1 per cent of seats nationwide. The ruling USDP won only 117 seats out of 1,150, or 10.2 per cent of the total.

In the pre-election period, some people assumed the election would not be free and fair. Even though by-elections had been held successfully on 1 April 2012 and had brought members of the NLD to parliament, they pointed to general mistrust of the UEC, as well as to the removal of the Speaker of the Legislature Thura U Shwe Mann as a member of the USDP Executive Committee by a so-called internal party coup. Furthermore, Myanmar was hit hard by heavy rain and flooding between July and August 2015, which led to speculation that the election might not be held, or might be conducted improperly. Nevertheless, when it was conducted, it attracted praise from home and abroad.

The success of the 2015 election was in part due to the respective roles played by certain key institutions. This paper will concentrate on the roles of the UEC, international agencies, and the military, or Tatmadaw. Today, electoral commissions are integral to conducting democratic elections, and in Myanmar too, the role of the newly created UEC was essential to the success of the 2015 election. In countries like Myanmar without a strong tradition of regular elections, international agencies are an important enabling factor in conducting a successful election. In the case of Myanmar, 2015 was the first time the

government opened the door to international observer missions and capacity-building organizations, which contributed in important ways to the election outcome. Lastly, the election could not be held successfully without the complaisance of the Tatmadaw, which has a record of having played an obstructionist or spoiling role. Although questions remain about the role of the military in the post-election power transition and in the work of the forthcoming legislature, it was true to its word in allowing the 2015 election to proceed smoothly, and in remaining committed to the process for the transfer of power to a new government despite the NLD's overwhelming victory.

The Union Election Commission

A crucial ingredient for a credible election is an independent electoral commission. Although Myanmar's current UEC is new, the country has prior experience with similar institutions. After independence in 1948, general elections in 1951 and 1956 were held under the management of a single election commissioner. In 1960, the first commission with three members was formed, all of them civilians. Each of these elections resulted in transfer of government to the successful party.² For the 1990 election a five-member commission was formed, four from a civilian background and one a retired brigadier general (SLORC 1991, p. 401).

The 1990 election, which was held under a military government, was fair in a broad sense. The NLD won a landslide victory with an estimated eighty-two per cent of the vote, but the military declined to transfer power for want of a constitution at that time. After years of rule, the Tatmadaw government adopted a seven-step road map for Myanmar's democratic transformation. As part of the process, a new election commission was established in April 2009 under the terms of the 2008 Constitution of Myanmar. It was formed with eighteen members chaired by U Thein Soe, who came from a military background.³

The first general election the new commission took responsibility for

under the new constitution was held in 2010 (see Horsey 2012; Skidmore and Wilson 2012). It prepared for the electoral process in just eight months, during which time all necessary preparations, such as delimitation of constituencies, enacting of rules and regulations, formation of sub-commissions, preparation for polling booth stations, calling for candidates, and many other things, had to be done. Training for the sub-commissioners as well as the members of polling booths was conducted urgently. Voter education could not reach out to all people, especially in remote areas. Unfortunately, the lack of census data as well as mismanagement and lack of funding hampered the quality of the electoral process.

The conduct and results of the election, which the NLD boycotted, were criticized by locals and the international community. The major criticism of the election commission was that the USDP, which was formed under the leadership of retired military officers, won a landslide victory with the aid of advance votes. Other criticisms and questions concerned the commission's lack of experience and capacity, the process for appointment of ballot officers, restrictions on party campaigns, flaws in the list of registered voters, and ambiguity between practical and legal circumstances. The commission was in a dilemma concerning its power and function, as legally it was supposed to be neutral but in fact it was obligated to comply with government instructions and enable the USDP victory.

When the new administration had been set up by President U Thein Sein, the election commission was classed as a union-level organization with the nomination of the president and approval of the Hluttaw, or parliament, in accordance with the 2008 Constitution. The UEC was criticized again because it was chaired by U Tin Aye, a former senior military officer who was appointed by presidential nomination. Almost all members came from the former election commission, although they were mostly civilians.⁴

The year 2015 was the last in the term of President U Thein Sein's

government. So elections had to be carried out to form a new government and convene a new parliament. Holding a successful election in 2015 was the top priority of the UEC, and for U Thein Sein's government as well. The president stressed his commitment to conducting free and fair elections in his monthly radio talk, stating that "my government under its executive authority and within the bounds of its executive power, will ensure that the elections are free and fair" (Thein Sein 2015).

Although the president promised to hold a free and fair election, people still mistrusted the government and did not think that the UEC could do its work credibly, given its record in 2010. Moreover, 2015 was a critical year for Myanmar for many other reasons. The country had to sign a nationwide ceasefire agreement (see Su Mon Thazin Aung, this volume), rehabilitate flood victims, solve the problems of labour and student strikes and land grabbing issues, among other things (see Pedersen 2014). Many were worried the election would be marred by violence in some areas, due to rising nationalism and religious extremism. Under these complex circumstances, the UEC had to tackle a range of issues and challenges in the pre-election period.

The UEC would not easily convince political parties or civil society organizations (CSOs) to trust it. To address the trust deficit, the UEC launched an information center in Yangon and a new website on 27 May 2015 where eligible voters could check their names against voting lists compiled by the commission.⁵ Meeting with the Myanmar Press Council and CSOs to discuss a draft Code of Conduct for observers and political parties, it sought to demonstrate its willingness to conduct a free and fair election. The draft code was discussed with the over sixty local CSOs and international organizations in December 2014. About two-thirds of the original code was changed in line with CSOs' requests.

The poor capacity of the UEC and its staff was one of the biggest challenges. Chairman U Tin Aye frankly admitted in interviews on Sky net

News during October 2015 that the UEC could not manage at the two lowest tiers of administration, the township and ward or village levels, due to a shortage of staff (Sky net 2015). Although it had been recruiting through the Union Civil Services Training, these new staff would become available only after mid-2016. He explained that mistakes happened because of poor management, and expressed concerns about the difficulties of capacity building and the material limitations of the UEC. Therefore, he encouraged international and local donors to supply basic needs for the UEC staff.

One reason for the lack of staff and capacity was indeed under-funding, in part caused by a sense that the election would cost too much at a time when the government had limited resources for other urgent matters. On 17 March 2015, the UEC proposed a 5700.811 million kyat (US\$5.4 million) budget to parliament for the cost of the 2015 election, to erect polling stations, produce ballots, hold receptions for volunteers at voting booths, and so on. One parliamentarian raised a question about the UEC's budget proposal, which was equivalent to the cost of building 126 Rural Health Centers (RHCs). Building RHCs was one of the Millennium Development Goals (MDGs) to be accomplished in 2015. The point was that holding a national election would cost a lot to the national budget that could be used elsewhere. The Hluttaw decided to record that motion.

In the lead-up to the election the UEC was criticized both by political parties and CSOs over the issuing of registered voters lists; the drafting of a Code of Conduct for the media, election observers, and CSOs; cancelling of the election in some constituencies (see Lidauer, this volume); and the way international election observers were allocated to different regions.

One of the issues that caught attention was advance votes, which had caused public concern in the 2010 general elections. In 2015 similar questions were raised about what would happen with the advance votes, but whereas the problem in 2010 was one of fraud, in 2015 it turned out for the most part to be

one of capacity. When advance voting began in some Myanmar embassies abroad, especially in Singapore where hundreds of thousands of Myanmar citizens work, information was posted on social media about inconsistent voting procedures and ballots. It was a huge task for Myanmar embassies to arrange convenient advance voting due to their lack of prior experience and limited staff. Voters were confused and there were problems associated with the short time frame and lack of cooperating among government officials, the UEC, and staff at embassies.

The UEC's efforts to police the activities of campaigning political parties also attracted attention. With locals and the international community watching the UEC needed to take a firm stand and act as an independent body not as a partisan of one party or another. It issued warnings to parties about various activities. For example, it called on the United Nationalities Alliance to avoid supporting student protests over a new National Education Law in early 2015 (Hine Ko Soe 2015). It also warned the Mon National Party, which published a joint statement with the New Mon State Party, a group still in armed struggle against the central government (Lawi Weng 2015). It raised concern over unofficial election campaigns and party promises, especially from the ruling party. For example, the minister for industry distributed gifts in fifteen villages in Min township to get people to vote for the USDP (Ye Mon and Wa Lone 2015).

The largest number of complaints arose over the voter lists. Although the UEC disseminated preliminary voter lists across the country and invited people to correct mistakes for fourteen days starting on 7 September 2015, few people checked the lists, and errors were only made known later. In the end, the UEC released preliminary voter lists four times, but a correct listing could not be compiled as political parties criticized the process and did not cooperate in getting people to check their details.

Voting rights for people who lived in slum areas also became a

significant unresolved issue. Legally, people living as squatters and in slums are not eligible to register as residents of a constituency, since they have no definite address and no official household registration in a town or ward. This made it impossible for the UEC to register these people. Furthermore, the commission also had to be aware that a big movement of people into slums around Yangon area could significantly affect election outcomes. This happened in 2010, particularly in South Okkalapa constituency, where a large number of fishermen from Ayeyarwady Region deliberately moved into the constituency and voted as migrant workers in Yangon Region. Nevertheless, the UEC did agree to relax its rules for migrant workers to vote in their current constituencies, even though formally they should not have been able to do so (Eleven Myanmar 2015). However, political parties continuously emphasized the voting rights of those in slums; they pointed out that citizens' right to vote was at odds with the law.

Despite all the speculation, accusations, and rumours just before the election, the real essence of holding an election through public participation could be observed on election day, 8 November 2015. Long queues waited outside ballot stations at dawn. The enthusiastic and disciplined participation of the public showed how Myanmar could hold free, fair, and transparent general elections for the first time in decades. As the vote counting went on, nearly all election observers, both local and international, clearly stated that the election was overall fairly free and transparent. This successful achievement was the result of the politically active Myanmar community, and the relentless efforts of the UEC, political parties, and a handful of CSOs as well as international groups that came to Myanmar before and during the process to communicate their skills and offer their experience.

INTERNATIONAL AGENCIES

International agencies were active in providing electoral assistance to the

UEC, political parties, and a variety of CSOs in anticipation of the 2015 election. The primary agency providing financial and technical assistance was USAID. It coordinated activities with the United Kingdom's Department for International Development and Australia's Department of Foreign Affairs and Trade. They provided funding for the International Foundation for Electoral Systems (IFES), the National Democratic Institute (NDI), and the International Republican Institute's (IRI) operations in the country. Furthermore, European Union support included grants to civil society groups, media training, police training, and technical assistance to the UEC in drafting the Code of Conduct for election observers (Myanma Alin 2015).

Ahead of the election, the NDI provided technical assistance to Myanmar's parliament through the creation of a Parliamentary Resource Center in Naypyitaw, and training to strengthen parliamentary processes and the reform agenda. NDI also worked with CSOs to facilitate peer-to-peer training and best practices. NDI trained some 5,000 citizens as election observers to monitor electoral processes before and during election day (NDI 2015).

IRI focuses on strengthening political parties. It provided training workshops to all parties—from the NLD and USDP to small ethnic parties—to teach them how to conduct campaigns, organize internal party structures, and develop party platforms. It also supported civil society groups engaged in voter and civic education campaigns.

In addition, with funding from Norway, the International Institute for Democracy and Electoral Assistance (IDEA), together with the Danish Institute for Parties and Democracy, and Democracy Reporting International operated in Myanmar on a new 2015 electoral trust-building initiative. IDEA also provided technical assistance to the UEC via workshops on how to use IDEA's Electoral Risk Management tool, to identify potential trouble areas before the election.

In 1990 and 2010, foreign observers were not allowed to monitor and scrutinize general elections. In the 2012 by-election, only observers from

Southeast Asian countries were invited. Thus, 2015 marked the first time in Myanmar's election history that international observers other than those from nearby countries were invited. In total, the UEC issued accreditation cards to 470 diplomats from thirty-two international embassies, 465 staff from six international election observation bodies, 183 staff from nine international organizations assisting in electoral processes, and 9,406 staff of local observation organizations.⁶

Among them, the Carter Center and European Union organized sizeable missions. The Asian Network for Free Elections (ANFREL), a regional network of CSOs focused on election monitoring, was also actively involved. The organization had been working in Myanmar furtively since 1999, and it partners with local CSOs and media organizations to develop talent and support their efforts to deepen civic engagement.

Although international observers and election support agencies generally came to Myanmar with goodwill, they met with mixed responses among local actors. From the perspective of political parties, the critical question was how development partners would distribute their assistance to parties. Some questioned whether international assistance should be accepted at all.

For instance, U Sai Leik, spokesperson for the Shan Nationalities League for Democracy, said his party had received no support and was unsure who was benefiting from the international programme. He said, "We have never accepted any never accepted any assistance from international donors yet" (Ei Ei Toe Lwin and Dinmore 2015). The Rakhine National Party expressed its view that parties should not accept direct international assistance according to the 2008 Constitution. CSOs argued that foreign assistance had little impact at the grassroots level where it was needed, and it could only reach parties or civil society groups with close ties to the UEC.

The general consensus among observers themselves was that the election was fair. For instance, during its press conference, the European Union's

election observation mission stressed that the elections was well-run and peaceful (Lambsdorff 2015). The 150 or so European Union observers had rached more than 500 polling stations across the country and reported very positively on the voting process, with ninety-five per cent rating the process as 'good' or 'very good'. However, their assessment was that the process of in-constituncy and out-of-constituncy advance voting was less well managed and transparent.

In some other setting scholars have pointed to how election observers' reports reveal as much about their own biases as about what has actually taken palce in an election (see Kelly 2010). As this was the first time Myanmar allowed international observers in large numbers, it is not possible to make a comparison with earlier experiences and it is also hard to identify the biases, strengths, and weaknesses of foreign election observers' missions. Also, given the NLD won with such a convincing margin, questions of bias were less relevant than if had it won with only a slim majority.

THE TATMADAW

In order to understand the role of the Tatmadaw in Myanmar electoral politics, one must look back to history. As civil war has lasted for many decades, military involvement in politics is strong. As long as the state is weak and unable to manage political instability, military involvement in politics cannot be easily changed, even with good electoral outcomes. On two previous occasions free and fair elections were held under military rule: in 1960, and again in 1990. Yet, these elections were followed by long periods of military rule, and most people have negative views about the periods of military rule, and most people have negative views about the military's role in politics since the failed democracy uprising of 1998.

Today it cannot be denied that Myanmar's path to democratization in recent years was made possible by military officers. But even since the transition to democracy began, some civilian posts have been taken by military officers. So in the eyes of Myanmar people, the military continues to be treated with distrust and hostility. Events like the silver jubilee anniversary commemoration of the 1990 election at the Judson Center, and efforts by elected members of parliament from 1990 to launch legal proceedings against some members of the military junta for breaking electoral laws cause uneasiness for the military (Lun Min Maung 2015). Criticism and hatred of the military expressed on Facebook and other social media do little to bring civilians and the military closer together. Yet, without trust between civilians and the military, it will be difficult for the present number of seats in parliament reserved for the military to be reduced from twenty-five per cent.

For its part, the military has been trying to improve its professionalism in order to rid itself of old habits. The National Defence College, which trains colonels and high-ranking officials, has been upgrading its curricula since 2008, after the constitution was promulgated. Courses on civilmilitary relations, democracy, and human rights are now a part of the curriculum. Visiting military delegations from abroad, such as the United States, embolden the military to open up and re-engage with the West.

Some colonels are being sent to the United States for further professional training. Also, in 2015, Commander-in-Chief Senior General Min Aung Hlaing held regional seminars on defence and frequently took military friendship tours to Japan, Indonesia, Thailand, Malaysia, India, Israel, Russia, and China, to improve professionalism with the support of partners inside and outside the region.⁷

Throughout 2015, the military insisted it would be on guard to ensure that the election would be fair. Commander-in-Chief Senior General Min Aung Hlaing said that "any armed pressure or threats to voters couldn't be allowed in

the General Elections" (Global New Light of Myanmar 2015), although he did not elaborate. At the time of the election, he took a leaf out of the president's book by being more open and engaging in dealing with the public and media on the military's role, especially in addressing questions about the transfer of power to the newly elected parties. After casting his vote, the commander responded to questions raised by the media. He said that there was no reason not to accept the election results. In a November 23 interview with the *Washington Post* posted to the senior general's Facebook page, he showed positive signs that power would be transferred peacefully. At a meeting with political parties in Yangon on 15 November 2015, the president, himself a former army general, also stressed that the current government would work for a smooth transition in line with existing laws, regulations, and procedures, and would do so calmly, peacefully, and smoothly so as not to cause concerns about the power transfer.

The questions are not surprising, given that in 1990 the election was held freely but it did not result in a power transfer. The reason given by the military to refuse to transfer power at that time was lack of a constitution. People still mistrust the government and Tatmadaw when it comes to the transfer of power, meetings with the NLD leader Daw Aung San Suu Kyi notwithstanding. The events of 1990 caused massive trauma for the political development of Myanmar, and fears of a U-turn or military coup will take time and many more confidence-building measures to dissipate.

CONCLUSION

The 2015 general election fulfilled the high hopes of people of Myanmar to vote freely and fairly, avoiding pre- and post-election instability. It was successful due to the cooperative efforts of the UEC, government, military, CSOs, media, and international observers. The UEC as an integral institution proved up to the task, despite skepticism about its role. International agencies,

as important supporters of democratic development, also made major contributions. Overall, the UEC has proven to be a welcome development, as many reforms have taken place that put it in a much more favourable light at the end of 2015 than only a few years before. The willingness of the UEC to work with international and local observer missions is a significant feature of its changed circumstances.

The military went along with the 2015 election and did not obstruct or play a spoiling role, despite ample opportunities should it have wished to do so. It stayed neutral, as it did in the 2012 by-election. Reducing the Tatmadaw's involvement in politics remains a matter to be dealt with through consideration of history, and building of trust. Significant challenges lie ahead and it is by no means certain that Myanmar's political transition will go smoothly, but the 2015 election marks an historic achievement on the path to a democratic Myanmar, one for which all institutions involved deserve credit, as well as the politically active and discerning Myanmar public.

Appendix

Election commission members, 1960 election

1. Thadoe Thudama U Tin
2. Thadoe Mahar Thayey Sithu U Chan Tun Aung
3. Wanna Kyaw Htin U Ohn Pe

Election commission members, 1990 election

1. U Ba Htay
2. U Saw Kyar Doe
3. U San Maung
4. Saya Chae
5. U Kyaw Nyunt
6. U Aye Maung

Election commission members, 2010 election

1. U Thein Soe
2. U In Zaw Naw
3. U Khin Maung Nu
4. U Saw Ba Hlaing
5. Dr Ba Maung
6. U Nyunt Tin
7. U Maung Thar Hla
8. Dr Sai Kham Hlaing
9. U Aung Myint
10. U Myint Naing
11. Dr Tin Aung Aye
12. Dr Daw Myint Kyi
13. Daw Khin Hla Myint
14. U Thar Oo
15. Dr Maung Htoo
16. U Thar Htoo
17. U Win Kyi

Election commission members, 2015 election

1. U Tin Aye
2. U Tin Htun
3. Dr. Daw Myint Kyi
4. U Win Kyi
5. U Win Ko
6. U Myint Naing
7. U Aung Myint
8. U Nyunt Tin

9. N Zaw Naung
10. Saw Ba Hlaing
11. Sai Khum Win
12. Ha Ki
13. Dr. Maung Maung Kyi
14. Sai Nun Taung
15. Sai Htun Thein
16. Dr. Sai San Win

Notes

- 1 In addition to sources cited, the contents of this chapter are drawn from two roundtable sessions on the election results held at the Department of International Relations, University of Yangon, on 9 and 13 November 2015. The first roundtable was a closed session of faculty members, while the second brought faculty together with colleagues from the Myanmar Research Centre, Australian National University.
- 2 For general discussion of the history of elections and their management in Myanmar, see history section of the UEC website, [http:// uecmyanmar.org](http://uecmyanmar.org).
- 3 Biographies of election commission members are available on the UEC website.
- 4 A list of election commissioners is provided in the appendix.
- 5 The website address is <http://checkvoterlist.uecmyanmar.org/>. Aside from the website, the UEC also made mobile apps available for people working from telephones and tablets.

- 6 See the section of the UEC website on international cooperation for details.
- 7 Trip details available on Senior General Min Aung Hlaing's Facebook page.

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