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# Myanmar's New Government: Finding Its Feet?

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## Table of Contents

|                                                               |    |
|---------------------------------------------------------------|----|
| Executive Summary.....                                        | i  |
| I. Introduction .....                                         | 1  |
| II. Transition to a Democratic Government .....               | 2  |
| A. Formation of the New Administration .....                  | 2  |
| B. Transfer of Power.....                                     | 3  |
| C. Initial Steps .....                                        | 4  |
| III. The State of Elite Relations .....                       | 7  |
| A. An Uncomfortable Cohabitation.....                         | 7  |
| B. Relations with the Military .....                          | 7  |
| C. Ethnic Politics .....                                      | 9  |
| D. Other Elite Relations .....                                | 10 |
| IV. Key Challenges.....                                       | 12 |
| A. Peace Process .....                                        | 12 |
| B. Rakhine State and Buddhist Nationalism .....               | 14 |
| C. Rebalancing Relations with China.....                      | 16 |
| V. Assessing the Record So Far .....                          | 18 |
| VI. Conclusion .....                                          | 20 |
| APPENDICES                                                    |    |
| A. Map of Myanmar .....                                       | 21 |
| B. Current Composition of the Government .....                | 22 |
| C. About the International Crisis Group .....                 | 23 |
| D. Crisis Group Reports and Briefings on Asia since 2013..... | 24 |
| E. Crisis Group Board of Trustees .....                       | 26 |

## *Executive Summary*

Four months into the new government's five-year term is too early to come to definitive judgements about its performance. Nevertheless, its priorities and approach are becoming clearer, and there are some initial indications of how national politics is adjusting to changed realities. These provide the basis for an initial assessment as Myanmar's transition enters a new phase under a democratically-elected government that has set a positive initial tone and taken important steps to address the authoritarian legacy. Some of the remaining political detainees were quickly released, and several oppressive and outdated laws have been repealed or are being amended.

Perhaps the most important observation, however, is that Myanmar has passed through a year of considerable uncertainty and change with no major political turmoil. Aung San Suu Kyi's National League for Democracy won a landslide victory in a broadly credible election with almost no violence; there was an orderly handover of power from the military-backed government, and the new administration has now entered an awkward cohabitation with the military, as dictated by the 2008 constitution, without significantly compromising key principles or prompting any fundamental rift with the soldiers. Navigating these difficult waters has been a key early success for all concerned.

The difficulty and uncertainty of that task has left its mark. Suu Kyi, the leader of a long-repressed grassroots change movement, has only partial executive authority under the constitution – both because she is formally barred from the presidency, and because of the military's significant constitutional power. This appears to have amplified longstanding tendencies, leading her to concentrate power in her own hands and delegate little. She is state counsellor, foreign minister, president office minister and in personal charge of the peace process and addressing the situation in Rakhine state.

While there have been no major failures, there have been missteps, including on the peace process and Rakhine state, both of which relate to a failure to appreciate the complex details and a lack of consultation in advance of announcing important decisions or initiatives. Relations with the military have not always been sensitively handled. Though there appears to be good cooperation and a convergence of views on the peace process – even to the extent that armed group leaders are worried they may have to negotiate with a formidable united front of Suu Kyi and the military – relations in other areas have been strained, particularly around Suu Kyi's appointment as state counsellor and the manner in which that bill was pushed through the legislature in April. It is essential for the success and stability of the transition that cooperative relations with the military are maintained, and more broadly that the military sees some benefits from the substantial concessions it feels it has made.

The government faces daunting tasks. After decades of authoritarian rule and civil war, many key challenges are structural problems – some dating back to independence in 1948 and the incomplete process of state-building – that cannot be fixed simply by adopting more enlightened policies. The government must find ways of moving the peace process forward, addressing the situation in Rakhine state and continuing the delicate process of rebalancing external relations, particularly vis-à-vis China. As state counsellor, foreign minister and chair of the high-level committees

in charge of the peace process and Rakhine state, leadership on all these fronts falls on Suu Kyi's shoulders, a huge responsibility and potentially overwhelming workload. Success depends on twin policy and personal challenges: developing not only considered and consultative approaches, but also her ability to delegate.

The international community can help in several ways. Western countries are rightly giving the government strong political backing, but should not shy away from offering frank and honest advice. Financial and technical support are much needed, though there is significant risk of uncoordinated aid projects and overlapping and inconsistent technical assistance overwhelming government capacity and potentially doing harm. Donors also need to keep in mind that projects should be carefully designed and closely monitored to reflect that the state and government remain absent or contested in many conflict-affected areas. For two reasons, it is also vital that the West in particular explores appropriate avenues of military-to-military cooperation. It is essential for sustainability of the transition that the military sees institutional benefits from its decision to give up significant power; and socialisation of a generation of military officers with their peers in democratic countries can make an important contribution to reform of the institution.

**Yangon/Brussels, 29 July 2016**

# Myanmar's New Government: Finding Its Feet?

## I. Introduction

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This report, Crisis Group's first on Myanmar since the transfer of power at the end of March 2016, provides an initial assessment of the new democratic government's record after four months in office. While this is a very short period to make any definitive judgement, there is now sufficient information available to give initial indications of the tone and general approach of the administration. Future reporting will examine in more detail some of the key challenges that the country faces – the peace process, the volatile situation in Rakhine state, and the rebalancing of relations with neighbouring China – and the success of the government in addressing them.

The report is based on extensive research, including interviews conducted over the course of 2016 in Yangon, Mandalay, Naypyitaw and Rakhine state with current and former ministers and government officials, legislative representatives, ethnic armed group and political party leaders, local analysts, civil society organisations and diplomats, among others.

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## II. Transition to a Democratic Government

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### A. *Formation of the New Administration*

The new administration took power at a formal handover ceremony on 30 March 2016.<sup>1</sup> This marked the end of a transitional period of nearly five months following the 8 November 2015 elections, in line with constitutional provisions.

The elected legislators, who had already taken their seats on 1 February, convened as an electoral college from 10-15 March to select the president. Aung San Suu Kyi is constitutionally barred from that office due to her sons and a daughter-in-law being foreign (UK) citizens, but the National League for Democracy (NLD) has a large majority, and its candidates were easily nominated in both houses.<sup>2</sup> Pursuant to the constitution, the military selected a third candidate, and the electoral college then chose a president from among the three candidates, in a single vote, with the unsuccessful candidates becoming vice presidents. The NLD's large majority was able to determine the president, Htin Kyaw, a long-time confidant of Suu Kyi; retired Lt.-General Myint Swe, the chief minister of Yangon region under the former government, became vice president 1, and Henry Van Thio, a little-known Chin legislator with no prior links to ethnic politics became vice president 2. President Htin Kyaw is a low-profile but widely respected individual with long NLD links and the son of a famous poet.<sup>3</sup>

Suu Kyi had made clear before the election that she would be the key decision-maker in the new government, with Htin Kyaw, the first elected civilian head of state since 1962, serving as a proxy – thereby circumventing the constitutional bar. Vice President Myint Swe is considered a hard-line officer who, though retired, is likely to continue representing the interests of the military and old political elite. The vice presidents mainly carry out ceremonial and diplomatic functions, though the constitution does assign them positions on key bodies such as the National Defence and Security Council and the Financial Commission (see Section II.C below).

On 17 March, the president-elect submitted to the legislature a list of the 21 ministries that would make up his administration, and on 22 March a list of eighteen nominated ministers. It is within the president's constitutional power to decide the number and scope of ministries and appointment of ministers, except for defence, home and border affairs, whom the commander-in-chief nominates. There is a formal confirmation process for designated ministries and ministers, but the legislature has little authority to reject the proposals. The cabinet is a mix of senior NLD members and independent technocrats, but with a strong focus on loyalty to Suu Kyi and the party.

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<sup>1</sup> For recent Crisis Group reporting on Myanmar, see Asia Briefings N°s 147, *The Myanmar Elections: Results and Implications*, 9 December 2015; 146, *Myanmar's Peace Process: A Nationwide Ceasefire Remains Elusive*, 16 September 2015; 144, *Counting the Costs: Myanmar's Problematic Census*, 15 May 2014; 143, *Myanmar's Military: Back to the Barracks?*, 22 April 2014; also Asia Reports N°s 266 *Myanmar's Electoral Landscape*, 28 April 2015; and 261, *Myanmar: The Politics of Rakhine State*, 22 October 2014.

<sup>2</sup> Section 59(f) of the 2008 constitution requires that a president or vice president's parents, spouse, children and children-in-law not be foreign citizens or owe allegiance to a foreign power. For a discussion of the election results and their implications, see Crisis Group Briefing, *The Myanmar Elections*, op. cit.

<sup>3</sup> The poet was Min Thu Wun (1909-2004).

The legislature approved the proposals, which reduced the number of ministries by about one third from the previous government.<sup>4</sup> The president highlighted efficiency and cost-savings as the main reasons for the reduction. The reorganisation mainly involves a merger of ministries rather than a significant cut in the number of departments or functions; the government has pledged that no civil servants will lose their jobs. The current cabinet line-up (changed slightly since the initial appointments) is at Appendix B below.

The president also appoints the chief ministers of the fourteen state and region governments. This means that the leadership and composition of these regional executives do not necessarily reflect the results of the elections in those areas and the corresponding make-up of the state/region legislatures. Indeed, the president appointed NLD legislative representatives to all positions, even in Shan and Rakhine states, where the NLD did not win the most seats.<sup>5</sup>

### B. *Transfer of Power*

The NLD's election victory set the stage for the first orderly handover of power to an elected government since independence in 1948.<sup>6</sup> The process went surprisingly smoothly. President Thein Sein and Aung San Suu Kyi agreed on 2 December to set up transition teams to ensure smooth and efficient handover of responsibilities. The government team was headed by President's Office Minister Hla Tun and the NLD team by senior party member Win Htein. They met on a number of occasions between December and March. Thein Sein also instructed each ministry to prepare a detailed document setting out its main priorities and achievements over the previous five years, key ongoing activities and goals.<sup>7</sup>

During this period, Suu Kyi met three times with Commander-in-Chief Min Aung Hlaing, who retains considerable autonomous powers under the constitution. Both have a strong interest in building a constructive working relationship. On 2 December, they held their first ever one-on-one session, without aides, and appeared to go quite far to make sure the optics were positive; Min Aung Hlaing greeted Suu Kyi at her car and waved her off at the end, a strong public signal in a country very conscious of status and protocol. They also posed for photographs after the meeting, smiling and making positive comments to the media, without disclosing any content. Subsequent meetings followed, with aides present, on 25 January and 17 February. According to the NLD, there were "friendly, open discussions about the formation of a new government, the transition, post-election peace and stability, the parliament and peace process".<sup>8</sup>

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<sup>4</sup> In 2011, President Thein Sein designated 34 ministries, reduced to 31 by early-2016 (counting the president's office once, as a single structure, though it may have more than one minister).

<sup>5</sup> "Appointment of Region/State Chief Ministers", President's Office Order no. 4/2016, 30 March 2016.

<sup>6</sup> Elections in 1951-1952 and 1956 returned power to the incumbent Anti-Fascist People's Freedom League government, led by U Nu; elections in 1960 again returned Nu to power after an eighteen-month period of military caretaker government.

<sup>7</sup> See, for example, "Government, NLD meet for fourth time to discuss handover of duties of the Head of State", *Global New Light of Myanmar*, 12 March 2016, p. 3. Crisis Group interview, individual briefed on the handover documents, Yangon, May 2016.

<sup>8</sup> "We can work together", *Myanmar Times*, 3 December 2015. NLD statement, 25 January 2016.

A more surprising meeting was between Suu Kyi and former strongman Than Shwe, on 4 December, arranged through the latter's grandson. While content has not been revealed, the grandson reported that Than Shwe had endorsed Suu Kyi as the "future leader of the country".<sup>9</sup> But it was not so much the substance as the symbolism that was important. While he no longer wields significant day-to-day power, Than Shwe is at the apex of a powerful patronage network, and many perceive him to be still very influential. His endorsement means his network and others who feel loyal to him are much less likely to be obstructive to Suu Kyi's administration, which can be very important for stability and progress. The formal handover of power took place at a ceremony on 30 March at the legislature, followed by a dinner attended by the outgoing and incoming administrations at the Presidential Palace.

### C. *Initial Steps*

Following the transfer of power, Suu Kyi quickly set about implementing her pre-election pledge that she would take a position "above the president" and "make all the political decisions".<sup>10</sup> The president-elect had already named her to be foreign minister and president's office minister. The first is important not only in giving her direct authority over external relations, but also because it includes a seat on the National Defence and Security Council, the peak decision-making body on security matters, whose membership is constitutionally defined.<sup>11</sup> (She initially also took on two additional portfolios, energy and education, but other ministers were appointed to these positions on 5 April.)

In its first law-making action after the transfer of power, the legislature on 5 April approved a bill creating a new position of "state counsellor" for Suu Kyi by name. Its responsibilities are vaguely defined, but it provides legal authority for her to advise both executive and legislative branches, sidestepping the strict separation of powers enshrined in the constitution – a point strongly criticised by military and some opposition lawmakers.<sup>12</sup> On 10 May, a new ministry was created to support Suu Kyi in her state counsellor role, and a veteran diplomat was appointed to head it. The ministry was approved by default, after no lawmakers registered to discuss the request. Opposition and military representatives reportedly declined to do so as they believed the result of any vote was a foregone conclusion, and any views they gave would not be considered.<sup>13</sup>

Her twin roles as state counsellor – de facto head of state – and foreign minister, in addition to several thematic committees that she chairs, amount to an enormous

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<sup>9</sup> The grandson, Nay Shwe Thway Aung, posted photographs and a read-out of the meeting on his Facebook page.

<sup>10</sup> Channel News Asia interview, Suu Kyi, 10 November 2015; also, "Appointed president will take instructions from me if NLD wins: Suu Kyi", Channel News Asia, 10 November 2015.

<sup>11</sup> This eleven-member body is led by the president and includes the two vice presidents, the speakers of the two houses of the legislature, the commander-in-chief and his deputy and the defence, foreign affairs, home affairs and border affairs ministers (Section 201, constitution).

<sup>12</sup> The bill states that the position was created to give advice to the state on promoting multiparty democracy, market economy, federalism and peace and development of the country.

<sup>13</sup> Retired ambassador Kyaw Tint Swe was appointed as minister on 17 May. See, for example, "MPs quiet as state counsellor ministry approved", *Myanmar Times*, 11 May 2016.

workload.<sup>14</sup> She has appointed an experienced retired diplomat, Kyaw Tin, as deputy foreign minister and designated him “minister of state”, which is intended to elevate his rank and authority to that of a minister, so he can carry out many of the functions of foreign minister. Suu Kyi herself continues to perform many of the more high-profile functions, however, including attending the Association of South East Asian Nations meeting of foreign ministers and dialogue partners in July.<sup>15</sup>

The new administration has given some broad brushstrokes, but few details, about policies and priorities. In her Myanmar New Year speech on 18 April – her first detailed address to the nation – Suu Kyi indicated five broad priorities: national reconciliation, internal peace, rule of law, constitutional amendment and further democratic development, among which, she stated, national reconciliation was most important.<sup>16</sup> By this, she appears to mean healing past deep divisions, particularly between the military and the civilian population and between supporters and opponents of the NLD.<sup>17</sup>

The government has made efforts to show it is different in tone and substance from its predecessor. In terms of substance, on 8 April it dropped charges, mostly of unlawful demonstration, against 199 people and released them from pre-trial detention, on Suu Kyi's initiative. On 16 April, the president pardoned 83 imprisoned for political activities. The legislature repealed a number of measures long used to target political activists, including the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts.<sup>18</sup> A proposal to remove the requirement to register all overnight guests from the Ward or Village Tract Administration Law is being debated and was approved by one chamber on 3 June.

As regards tone, the administration is projecting a sense of austerity and discipline. For example, a main reason the president gave for reducing the ministries was savings in ministerial salaries and benefits; a similar reason was given for eliminating nearly all deputy minister positions.<sup>19</sup> The NLD requires all its legislative representatives to stay at the spartan government guest house in Naypyitaw when the legislature is in session, even if they have their own houses or means to rent better accommodations; the rooms are small, concrete cubicles with low-quality beds and blankets, described by a 72-year-old ex-political prisoner as “just like a cell, except

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<sup>14</sup> The committees chaired by Suu Kyi include the peak bodies on Rakhine state and the peace process (the Central Committee on Implementation of Peace, Stability and Development of Rakhine State; and the Union Peace Dialogue Joint Committee). She was also appointed on 11 July as chair of the National Reconciliation and Peace Centre, which replaces the previous government's Myanmar Peace Centre.

<sup>15</sup> Crisis Group interview, diplomat briefed on the matter, Yangon, May 2016.

<sup>16</sup> The *New Light of Myanmar* carried an unofficial English translation of the full text on the same day, pp. 1, 3.

<sup>17</sup> Crisis Group interviews, senior NLD members and other informed observers, 2016, supported by her public comments on this subject.

<sup>18</sup> “POC's [prisoners of conscience] walk free”, *Global New Light of Myanmar*, 9 April 2016, pp. 1, 3. President's Office Order no. 33/2016, 16 April 2016. Those pardoned were released the following day. Pyithu Hluttaw Law no. 3, 1975, repealed on 31 May 2016.

<sup>19</sup> See comments by NLD spokesperson (now Mandalay Chief Minister) Zaw Myint Maung in “Ministry shake-up: ‘Small is beautiful’”, *Myanmar Times*, 17 March 2016.

now my family are with me”.<sup>20</sup> No alcohol was served at the president’s inauguration dinner, and receptions for visiting dignitaries have been notably frugal.<sup>21</sup>

Again, this is partly to demonstrate that it is different from the last administration. The main concern does not appear to be fiscal; rather, it should be seen in the light of where the NLD has come from and where it now finds itself. For more than two decades, it was a grassroots movement for change, with limited resources and under huge political and socio-economic pressure from the military regime. It now finds itself occupying the grandiose halls of power in Naypyitaw constructed by that regime at huge cost. Austerity is a way of demonstrating to the country – and perhaps reaffirming to itself – that it will remain uncorrupted and true to its origins and its election pledge to work on behalf of the ordinary people of the country. This has also given rise to a refreshing sense of approachability and humility.<sup>22</sup>

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<sup>20</sup> Crisis Group interview, NLD representatives at the guest house, Naypyitaw, September 2015. “NLD ‘iron rules’ stifle new parliamentarians”, *Myanmar Times*, 25 April 2016. Quotation from “Hardship and no politics in ‘jail cell’ MP housing”, *Myanmar Times*, 1 September 2015.

<sup>21</sup> For example, Michael Peel, “Storm in a teacup stirred up over Myanmar banquet brew”, *Financial Times*, 8 June 2016.

<sup>22</sup> Crisis Group interviews, wide range of individuals in different capacities who have had dealings with the new administration, Yangon, April-June 2016.

### III. The State of Elite Relations

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#### A. *An Uncomfortable Cohabitation*

The NLD's landslide victory in 2015 transformed the political landscape. Though barred from the presidency, Suu Kyi is the country's undisputed political leader, formalised through her state counsellor role. The constitution's separation of powers means she has automatically resigned her seat in the legislature and may not take part in party activities while in office (the same applies to other legislators and party members appointed to executive positions).<sup>23</sup> Nevertheless, she continues to wield huge authority over the NLD and thus over law-making.

That authority is not unchecked. The constitution gives the military considerable powers, including control of the three key security ministries (defence, home affairs, border affairs), a 25 per cent bloc of unelected legislators (thus a veto over constitutional change) and control of its own affairs, including military justice. Suu Kyi's administration thus is in an uncomfortable cohabitation with the military. The quality of that relationship will be a key determinant of its success.

#### B. *Relations with the Military*

Relations with the military have been decidedly mixed. The optics of Suu Kyi's transition meetings with the commander-in-chief were positive, though little is known about the content. Suu Kyi cannot govern effectively without support, or at least acquiescence, of the military. Conversely, the military is reliant on her to achieve such key objectives as a better domestic and international reputation and improved military-to-military ties with the West. More fundamentally, the military is invested in the transition's success: if the government fails, it will be a failure for the country and of the transition process that the military itself initiated.<sup>24</sup>

Yet, shared interests do not automatically translate into positive relations. There have been a number of points of tension. The military was particularly upset with the State Counsellor Bill, which was introduced only a few days after the transfer of power. On substance, it was concerned that the bill unconstitutionally created a position that undermined the president's authority and was accountable to both the executive and the legislature, a view shared by some opposition representatives. The military is particularly sensitive on constitutional matters, as the prerogatives that charter grants it were essential in creating confidence to hand over many powers.<sup>25</sup> On form, it was aggrieved at how the bill was rammed through quickly, without due consideration of its objections.

Unable to prevent passage, the military bloc in the lower house staged a symbolic protest on 5 April, with one of its legislators stating: "As the Hluttaw [legislature] did

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<sup>23</sup> Sections 63, 64, 2008 constitution, and corresponding provisions for others in the executive.

<sup>24</sup> For discussion of why the military felt the country had to change, see Crisis Group Briefing, *Myanmar's Military*, op. cit.; also "The Republic of the Union of Myanmar Defence White Paper (2015)", Naypyitaw, December 2015.

<sup>25</sup> Military MPs slam bill to create 'state counsellor' role", *Myanmar Times*, 1 April 2016; "NLD to ram through state counsellor law", *Myanmar Times*, 4 April 2016. Crisis Group Briefing, *Myanmar's Military*, op. cit.

not consider our proposed amendments, we refused to vote” on the bill.<sup>26</sup> At the end of the session, the bloc stood in silent protest, and subsequently denounced passage as “democratic bullying” by the majority. Since the NLD appointed all members of the Constitutional Tribunal, the military likely felt a formal legal challenge would be unsuccessful and risked further demonstrating its legislative impotence.<sup>27</sup>

There have been a number of other contentious points in the legislature, but also examples of military concerns being accommodated.<sup>28</sup> An Arakan National Party (ANP) legislator introduced an urgent motion in the upper house calling for an end to fighting in Rakhine state between the military and the Arakan Army (AA), and for the armed group to be included in the peace process. During the 3-4 May discussion, the defence minister and military legislators rejected both points, saying the AA was the aggressor and should “end its armed struggle and cooperate with the government elected by the people”. The military strongly opposed the motion, whose passage could have soured government-military relations in the peace process; if the NLD had blocked it, this would have defied opinion in Rakhine and many other ethnic areas. The speaker’s compromise, to put the motion and discussion on record rather than having a vote, was agreed, 195 to six, defusing the situation.<sup>29</sup>

The military and the government also seem to be collaborating effectively on the peace process with ethnic armed groups. The process provides a forum where senior government and military officials meet on a regular basis and discuss concrete issues, so is a potential trust-building venue. As it proceeds, however, there are several issues on which views could strongly diverge (see Section IV.A below).

There has been speculation for more than a year whether the commander-in-chief’s tenure might be a point of contention between him and Suu Kyi, since he reached the normal retirement age of 60 in 2016. However, in a meeting with the media on 13 May, he asserted that the constitution allows him to decide on his retirement; that military rules specify mandatory ages for different ranks, but not for his rank of senior general; and that he intended to continue in service “as long as I am still fit for the post”.<sup>30</sup> This has important implications for the peace process, where relations with the military will be critical.

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<sup>26</sup> Brig.-General Maung Maung, quoted in “State Counsellor Bill passed by Lower House”, *Global New Light of Myanmar*, 6 April 2016, p. 3.

<sup>27</sup> “President signs State Counsellor Bill into law”, *Global New Light of Myanmar*, 7 April 2016. The Constitutional Tribunal has final authority on constitutional matters. Its nine members are nominated by the president and the speakers of the two houses (three by each).

<sup>28</sup> For a detailed discussion, see Renaud Egretieu, “How powerless are Myanmar’s military legislators?”, *Nikkei Asian Review*, 5 June 2016.

<sup>29</sup> “A dilemma of peace: Military MPs justify continued conflict with AA”, *Global New Light of Myanmar*, 5 May 2016, p. 1. See also “Talk on motion to end fighting in Rakhine”, *Global New Light of Myanmar*, 4 May 2016, pp. 1, 3; Sithu Aung Myint, “A lesson in defusing tensions”, *Frontier Myanmar*, 22 May 2016.

<sup>30</sup> “Excerpts from the meeting with local media that reflect the stance and actions of the Tatmadaw”, Office of the Commander-in-Chief, Naypyitaw, 16 May 2016 (posted on the commander-in-chief’s official Facebook page at [bit.ly/28Sz15L](https://bit.ly/28Sz15L)). In support of his position that he was constitutionally empowered to decide on his retirement, he cited section 20(b) of the constitution, which provides that: “The Defence Services [have] the right to independently administer and adjudicate all affairs of the armed forces”.

### C. *Ethnic Politics*

The NLD's election sweep sidelined parties representing ethnic minorities. Collectively, they have only 9 per cent of seats in the national legislature, and only two parties, the ANP and Shan Nationalities League for Democracy (SNLD), achieved any real success; the rest won just a few seats or none at all.<sup>31</sup>

Relations between the NLD and these two parties got off to a rocky start. Neither Suu Kyi nor the NLD reached out to them or other ethnic parties during the long period between the elections and the transfer of power; nor were there attempts to negotiate power sharing in these states or who would be appointed as chief ministers. The ANP was upset with the NLD for announcing in January without consultations the nomination of ANP Vice Chair Aye Thar Aung as deputy speaker of the lower house. Relations became more strained once it was confirmed that the NLD would use a much-criticised provision of the constitution to appoint its members to all fourteen chief-minister posts. Both the ANP and SNLD then refused to take any position in the national or regional governments.<sup>32</sup>

The rift culminated in a strong public statement from one of Myanmar's most respected politicians, SNLD leader Khun Tun Oo. Addressing a meeting of the United Nationalities Alliance – a grouping of ethnic minority parties that has always staunchly backed the NLD – he said they now had to rely on their own strength, as “ethnic people can no longer rely on the NLD”.<sup>33</sup>

Distrust between ethnic leaders and the new government has extended to the peace process. Suu Kyi's 27 April announcement of a vaguely defined new “Panglong-21” peace conference within two months, with no advance consultation with ethnic armed group or political leaders, raised concerns both about what the substance of the new proposal would be and how it was announced. A month on from the announcement, the leader of the Shan State Army-South – one of the largest armed groups that signed the Nationwide Ceasefire Agreement (NCA) – said:

I do not know in detail how this conference will be.... I have no idea which points [Suu Kyi] will work on and how she will deal with it.... I am also worried that she might misunderstand and do it in a wrong way. If this conference is wrong, it will affect the future of the union.<sup>34</sup>

The commander of the AA, currently fighting the military in Rakhine state and elsewhere, expressed a lack of trust in the Panglong-21 initiative. His concerns were related to both the government's handling of consultations and a perception it was acting unilaterally in Rakhine state: “currently the central government is not managing the states in a federal manner.... So, we are not fully confident that a peace deal could be signed during the term of this government”. Senior Kachin Independence Organisation representatives, while cautiously welcoming the initiative, have also

<sup>31</sup> For a detailed analysis of results, see Crisis Group Briefing, *The Myanmar Elections*, op. cit.

<sup>32</sup> Crisis Group interviews, ANP representatives, Sittwe and Yangon, May 2016. “Choice of deputy Speaker stokes ANP dispute”, 1 February 2016; “NLD to keep all chief minister jobs”, 4 March 2016; “SNLD rejects offer of posts in government”, 25 March 2016; “NLD control over chief ministers riles ethnic parties”, 29 March 2016; all articles *Myanmar Times*.

<sup>33</sup> Khun Tun Oo remarks, United Nationalities Alliance meeting, Yangon, 7 May 2016.

<sup>34</sup> “Lt-Gen Yawd Serk: If this conference is wrong, it will affect the future of the union”, Shan Herald Agency for News, 26 May 2016.

expressed doubts and concerns that Suu Kyi has not spoken out about escalating fighting in Shan and Kachin states.<sup>35</sup>

Part of the underlying worry among armed group leaders is a perceived convergence of views between Suu Kyi and the military on the peace process, despite tensions between them on other issues. This should not automatically be a problem – indeed, a lack of cooperation or any significant divergence of views could be fatal to the process. The fear among armed group leaders, however, is that it would be impossible to negotiate with a united front of Suu Kyi and the military, with their combination of popular legitimacy and power.<sup>36</sup> This has not, however, prevented generally positive momentum on the process. The Panglong-21 conference is slated for late August, though dates have not yet been fixed, and the timing could slip further.

#### D. *Other Elite Relations*

Relations between the new government and the old political elite have also been mixed. The previous government's Union Solidarity and Development Party (USDP) was routed in the elections, securing only 6 per cent of seats in the national legislature.<sup>37</sup>

The USDP had already ousted its chair, the then-speaker Shwe Mann, in a mid-night putsch in August 2015, though he remained a party member and electoral candidate. This was the result of longstanding tensions between its main factions headed by Shwe Mann and President Thein Sein, respectively – mirroring legislative-executive tensions. The situation had come to a head when Shwe Mann rejected many applications from Thein Sein allies, as well as retiring military officers seen as supportive of the president, to stand in the election. Many USDP members had been uncomfortable with the close relationship Shwe Mann had built with Suu Kyi, which they saw as intended to further his ambition to be her presidential nominee, at the USDP's expense. The military was also angered when he pushed proposals for constitutional change Suu Kyi championed, knowing they would not pass, but embarrassing the military by forcing it to veto.<sup>38</sup>

Suu Kyi and Shwe Mann maintained their alliance after the elections. While his presidential ambitions were not realised, the lower house speaker on 5 February appointed him to head the Legal Affairs and Special Issues Assessment Commission, a powerful legislative advisory body. Given his personal authority and the loosely-worded mandate of the commission, there was concern in the USDP and military about how much power over legislation this gave him, and how much influence he had over Suu Kyi. These concerns were heightened when President Htin Kyaw included two of Shwe Mann's close USDP allies in the cabinet. Things came to a head on 22 April, when Thein Sein – who resumed his position as USDP chair shortly after his presidential term ended – expelled Shwe Mann and sixteen others from the party, including both USDP cabinet ministers (see Appendix B below) and all USDP

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<sup>35</sup> “The army insists we give up our weapons – this is a major obstacle”, *Myanmar Times*, 24 June 2016. “Embattled ethnic armed groups cast doubt on Suu Kyi's peace drive”, *The Irrawaddy*, 25 May 2016.

<sup>36</sup> Crisis Group interviews, ethnic leaders and other individuals involved in the peace process, Yangon, April-June 2016.

<sup>37</sup> For detailed analysis, see Crisis Group Briefing, *The Myanmar Elections*, op. cit.

<sup>38</sup> Crisis Group interviews, senior USDP members and an individual close to the military, Yangon and Naypyitaw, August-October 2015.

members of Shwe Mann's special commission. In addition to previous concerns, the immediate trigger appeared to be worries that Shwe Mann was building support to retake the party leadership.<sup>39</sup>

There is a risk that the animosity between Shwe Mann and the opposing USDP faction could further complicate Suu Kyi's relations with the old elite. It is important she avoids this: though the USDP is now legislatively impotent, it retains considerable spoiler power. More crucially, Suu Kyi's support for Shwe Mann could possibly damage her relations with the commander-in-chief. This risk currently appears to have eased, with indications that she has put slightly more distance between herself and the former speaker. This has been particularly so on the peace process, where Shwe Mann was unsuccessful in pushing for allies to be appointed to key committees, which would have angered the military.<sup>40</sup>

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<sup>39</sup> The close allies were Minister for Religious Affairs & Culture Aung Ko; and Minister for Labour, Immigration & Population Thein Swe. Crisis Group interviews, individual close to military and Western diplomat, both Yangon, May 2016. "Shwe Mann contests USDP expulsions", *Myanmar Times*, 26 April 2016. Crisis Group interview, Asian diplomat, Yangon, April 2016. Shwe Mann reportedly had sufficient signatures when ousted to call an extraordinary party congress.

<sup>40</sup> Crisis Group interview, individual close to the peace process, Yangon, May 2016.

## IV. Key Challenges

The government must urgently address a number of key challenges. After decades of authoritarian rule and civil war, some are long-term structural problems that cannot be fixed by merely adopting more enlightened policies.<sup>41</sup> These include moving the peace process forward, addressing the situation in Rakhine state and continuing the delicate process of rebalancing relations with China.

### A. *Peace Process*

The previous administration took significant strides toward ending the six-decade civil war, signing bilateral ceasefires and initiating joint negotiations on a national agreement. However, a lack of trust, exclusion of some armed groups from the process and pre-election political dynamics complicated the process. The text of a Nationwide Ceasefire Agreement (NCA) was agreed between all groups, but only eight signed in October 2015.<sup>42</sup> This lack of inclusivity resulted in intra- and inter-armed group divisions, making it at best a partial success.

The new government has a number of advantages that could allow it to overcome previous obstacles. It has a powerful electoral mandate, including in many ethnic areas, and strong domestic and international legitimacy. Suu Kyi enjoys considerable public trust and confidence. The government also has the possibility to learn from its predecessor's experience and refine its approach accordingly. It is at the beginning of its term, giving it some room for manoeuvre. Yet, it faces huge challenges. It has inherited a process that is part-way through and with which its leaders have had only limited involvement; the learning curve is steep. The process is also fragile and has been languishing for several months without direction, because the signing of the NCA was followed quickly by the elections and subsequent long lame-duck period. Meanwhile, there has been serious fighting in Shan and Kachin states and significant armed conflict returning to Rakhine state for the first time in decades.

Decisions the government takes in these first months – its policy direction, consultations with stakeholders and practical implementation – will shape the peace process for the next five years. It is critical to get these right.

There have been some initial missteps, particularly around Suu Kyi's announcement of the Panglong-21 conference, that have worried armed group leaders (see above). In a 26-28 May meeting of the political committee established by the NCA, the Union Peace Dialogue Joint Committee (UPDJC), Suu Kyi had partial success in allaying some of these concerns. She confirmed she would continue to follow the NCA framework and that Panglong-21 was merely a different name for the peace

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<sup>41</sup> This was a point made by a former Crisis Group Myanmar analyst, who wrote in 2008 that “many of the effects of military rule over time have become causes of underdevelopment in their own right.... [They] are structural and will not be resolved – or even necessarily alleviated – simply by replacing the military government with one established through elections”. Morten Pedersen, *Promoting Human Rights in Burma* (New York).

<sup>42</sup> See Crisis Group Briefing, *Myanmar's Peace Process*, op. cit. All groups allowed to participate in the process agreed on the text, but the government excluded three engaged in active conflict – the Myanmar National Democratic Alliance Army (MNDAA) in Kokang, Ta'ang National Liberation Army (TNLA) and AA – though these were represented by the Nationwide Ceasefire Coordination Team that negotiated the document with it.

conferences envisaged in that framework. However, she also indicated that the scope of discussions would be narrowed considerably, from the five thematic areas agreed previously in the UPDJC, to two: political issues (specifically, constitutional questions relating to federalism) and security matters (including demobilisation, disarmament and security sector reform).<sup>43</sup>

The other three thematic areas have been relegated to a new “Civil Society Organisation Forum” that is to feed into the main conference in a way yet to be determined. This decision should be reconsidered. The areas the main conference no longer covers are social issues (including culture, language, gender, resettlement, human rights, drugs), economic issues (including foreign investment, tax and revenue distribution and regional development) and issues around land and natural resources (including resource management and sharing of revenues).<sup>44</sup> Some are key matters for ethnic communities and their leaders, and there is concern they are now considered secondary. Some, such as language policy, could be relatively easy concessions for the government that could build confidence for addressing more challenging topics in the negotiations.

There is suspicion among some ethnic leaders that the priority on constitutional issues reflects Suu Kyi's broader objectives rather than peace process exigencies. Parties that did not win national seats in the 2015 elections have also been relegated to the Civil Society Organisation Forum, limiting the range of ethnic political participation in the main negotiations, though there are recent indications that this may be reconsidered.<sup>45</sup>

Suu Kyi's stated intention to make Panglong-21 inclusive has been positively received. This has long been a demand of the armed groups that did not sign the NCA. As a first step, the new chief peace negotiator, Dr Tin Myo Win, met the United Nationalities Federal Council (UNFC), the main umbrella organisation of non-signatories, and invited them to participate in a preparatory meeting with the NCA signatories; a similar invitation has been made to non-signatory groups not in the UNFC.<sup>46</sup> However, the attendance conditions for Panglong-21 do not appear to differ much from the previous government's: to be full participants, groups will still have to sign the NCA first; if not, they can only be observers. This reflects the military's longstanding position, which the commander-in-chief reiterated in his 13 May press briefing.<sup>47</sup> The old government invited non-signatories to the first Union Peace Conference in January on the same observer basis, but they declined. Some may now be

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<sup>43</sup> See “NCA to guide 21<sup>st</sup> Century Panglong Conference”, *Global New Light of Myanmar*, 28 May 2016, pp. 1, 3.

<sup>44</sup> The previously-agreed five areas are set out in the “Framework for Political Dialogue”, agreed in the UPDJC on 15 November 2015. This will now be amended.

<sup>45</sup> Crisis Group interview, ethnic political party representative, Yangon, June 2016.

<sup>46</sup> Dr Tin Myo Win, Suu Kyi's long-time personal physician, was one of the few people with somewhat regular access to her during her house arrest years. He fulfilled a discreet, important go-between function, political and personal, with the outside world. “Govt invites non-signatories of NCA to join political dialogue framework meeting”, *Global New Light of Myanmar*, 4 June 2016, p. 1; “Wa and Mongla armed groups to attend ‘pre-Panglong’ peace meeting”, *The Irrawaddy*, 20 June 2016.

<sup>47</sup> “Excerpts from the meeting with local media that reflect the stance and actions of the Tatmadaw”, Office of the Commander-in-Chief, Naypyitaw, 16 May 2016 (posted on his official Facebook page at [bit.ly/28Sz15L](https://bit.ly/28Sz15L)). “Government peace delegation asks ethnic groups to disarm”, *The Irrawaddy*, 21 June 2016.

more inclined to sign the NCA, and others may agree to attend as observers, but may attach conditions.

The possibility for the three previously excluded armed groups (Myanmar National Democratic Alliance Army in Kokang, Ta'ang National Liberation Army and AA) to participate in Panglong-21 remains unclear.<sup>48</sup> Who can attend Panglong-21 and under what conditions has potential to become contentious between Suu Kyi and the military, which would greatly complicate the process.

The government and NCA signatories have agreed Panglong-21 is to be held before 31 August, but this is very ambitious given the difficulty of the endeavour and the many armed groups involved.<sup>49</sup> Pushing ahead with the conference before the necessary consultations have been held and trust built would be risky.

#### B. *Rakhine State and Buddhist Nationalism*

The situation in Rakhine state remains volatile. Politics has become more polarised as a result of the perceived sidelining of the ANP, which has led the party to adopt a more radical position and put it in opposition, or confrontation, with the NLD-led Rakhine state government. This has coincided with an upswing in radical Buddhist nationalist activity nationally, after several months of relative quiet. During the campaign, there were repeated efforts to use Buddhist nationalist narratives for party-political ends, but parties and candidates standing on a Buddhist nationalist platform won no seats or significant numbers of votes.<sup>50</sup> Once the new administration was in power, nationalists began to reassert themselves, though they have started to face more push-back from government than they did under its predecessor.

In Rakhine state, this assertiveness took the form of demonstrations by Rakhine nationalists outside Aung Mingalar, the last Muslim enclave in urban Sittwe. Protesters demanded a headcount of residents, amid implausible claims that its population had tripled; Aung Mingalar residents were concerned about possible attacks. In an effort to defuse the situation, the chief minister agreed to the proposal, carried out by immigration officials with observers from both communities, on 22 May; it showed the population unchanged.<sup>51</sup> However, calls to verify the Aung Mingalar population are linked to broader political objectives of their advocates, related to segregation and moving Muslim populations out of urban areas. Further tests of the authority and resolve of the new state government by Rakhine nationalists are likely to follow.

At the national level, the first significant test of the new government was an unauthorised street protest outside the U.S. embassy in Yangon on 28 April against use of “Rohingya” in an earlier embassy statement. This prompted a request from the foreign ministry to the embassy not to use the word, a subsequent instruction from Suu Kyi to her own officials to avoid both the terms “Rohingya” and “Bengali” and

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<sup>48</sup> Under consideration, according to public comments of the commander-in-chief and people close to the talks, is to require the groups to put their arms beyond use in a verifiable way, a formula used in other peace processes, but which they are highly unlikely to accept at this stage.

<sup>49</sup> “Gov’t, NCA signatories agree to hold UPC no later than 31 August”, *Global New Light of Myanmar*, 29 June 2016, p. 1, 4.

<sup>50</sup> See Crisis Group Briefing, *The Myanmar Elections*, op. cit.

<sup>51</sup> Crisis Group interviews, government and ANP representatives, and Aung Mingalar leader, Sittwe, May 2016.

discussion with visiting U.S. Secretary of State John Kerry on eschewing “emotive terms”.<sup>52</sup>

Suu Kyi had signalled on several occasions that she did not consider the Rakhine state situation the biggest or most difficult facing the country and had urged the international community, and UN agencies in Myanmar specifically, not to “exaggerate” it.<sup>53</sup> But her position has shifted in light of political realities in Rakhine state, and as nationalist groups across the country have come to focus on the “Rohingya issue”. On 31 May, a “Central Committee on Implementation of Peace, Stability and Development of Rakhine state” was formed, chaired by her – signalling that the situation will be one of her top priorities, along with the peace process. The committee includes all cabinet members plus the Rakhine chief minister and the state secretary. Sub-committees were also formed, on security, citizenship, development and relations with aid agencies.<sup>54</sup>

It signals that the centre of gravity on Rakhine policy formulation and implementation has shifted from Sittwe to Naypyitaw, something the ANP has objected to, as well as its non-inclusion on the committee. This lack of representation of the two communities on the committee will present challenges but was probably unavoidable given the extremely polarised politics.

An early focus of the Rakhine committee has been citizenship verification of Muslims in the state, one of the most difficult and contentious issues to be addressed. The first steps – including roll-out of temporary identification documents for Muslim residents and attempts to find a compromise term between “Rohingya” and “Bengali” – have raised objections from both sides. In particular, there has been strong reaction by Rakhine nationalists to the government’s preferred phrase, “the Muslim community in Rakhine state”, which may make it much harder to compromise on nomenclature.<sup>55</sup> Success in addressing the complex situation in Rakhine state requires a solid understanding of the nuances – including deep distrust of government by both Buddhist Rakhine and Muslims – together with a willingness to consult broadly to obtain buy-in (or at least reduce opposition) of hardliners in both communities.

On the broader question of anti-Muslim sentiment, Suu Kyi met on 14 May with the chief monk of the Buddhist regulatory body, the State Sangha Maha Nayaka Committee. She committed her government to fulfilling “the rational wishes and ambitions of the people of all different races and faiths” and “highlighted the need to establish trust and understanding to ensure peaceful coexistence among different ethnic groups and faith groups residing in the country”.<sup>56</sup>

<sup>52</sup> The embassy statement, posted on Facebook in Burmese, expressed condolences to internally-displaced Muslim victims of a boat accident, initially thought to be Rohingya but later found to be mostly Kaman Muslims. “‘Rohingya’ ferry victims not Rohingya”, *Myanmar Times*, 2 May 2016. See transcript, “Joint press availability with Burmese Foreign Minister Daw Aung San Suu Kyi”, U.S. State Department, 22 May 2016.

<sup>53</sup> This was her position at a meeting with heads of UN agencies and other international organisations in Naypyitaw, 11 May 2016. Crisis Group interviews, meeting participants, Yangon, May 2016. See also “Myanmar’s Suu Kyi says don’t ‘exaggerate’ Rohingya plight”, Agence France-Presse, 5 November 2015; “UN agencies cautioned on Rakhine”, *Myanmar Times*, 13 May 2016.

<sup>54</sup> President Office Notifications nos. 23, 24/2016, 30 May 2016.

<sup>55</sup> “‘Green cards’ distributed to stateless Muslims”, *Myanmar Times*, 16 June 2016; “Arakanese and Rohingya criticize new government term for Muslims”, *The Irrawaddy*, 21 June 2016. “Anti-Rohingya nationalist group plans posters, protests”, *The Irrawaddy*, 27 June 2016.

<sup>56</sup> “Daw Suu speaks on unity”, *Global New Light of Myanmar*, 15 May 2016, p. 1.

The implementation challenges were demonstrated by the first incident of anti-Muslim violence to occur under the new government's watch – an attack on a Muslim shop in Bago region on 23 June, followed by destruction of a nearby mosque and madrasa. However, steps are being taken to translate the vision into action. The Yangon chief minister, who is close to Suu Kyi, has publicly criticised the Buddhist nationalist “Association for the Protection of Race and Religion” (MaBaTha). It called off plans to demonstrate against him once it was clear he had the backing not only of the government, but also of the Sangha Maha Nayaka Committee, which issued a statement, reported in state media, saying that MaBaTha had no official Buddhist status. Also, prominent MaBaTha monk Wirathu faces possible prosecution for insulting comments in 2015 against the UN Special Rapporteur for human rights in Myanmar.<sup>57</sup> These are developments that would have been hard to imagine under the previous government.

### C. *Rebalancing Relations with China*

As the transition continues, the government faces the task of reshaping and rebalancing international political and economic relationships. The challenge that looms largest is how to craft a new relationship with China, its largest trading partner by far and a key source of foreign direct investment.

The importance of the relationship was underscored by the fact that Suu Kyi's first official engagement as foreign minister was to host Chinese Foreign Minister Wang Yi on a two-day visit, 5-6 April. China had pushed hard to ensure he would be the first foreign dignitary to meet Suu Kyi.<sup>58</sup> However, this was largely symbolic; no major outcomes were announced, including on the controversial Myitsone dam project, suspended by former President Thein Sein and which Suu Kyi said she had not yet been able to study in detail.<sup>59</sup> Suu Kyi's likely visit to the U.S. in September, possibly before any visit to China – and only her second major foreign trip, after Thailand in June – will no doubt be scrutinised closely in Beijing, especially given longstanding concerns over her closeness to the West. Her only prior visit to China was in June 2015, as NLD leader.

Thein Sein's 2011 suspension of the Myitsone dam construction, one of China's flagship projects in the country, shocked Beijing and marked the start of concerted re-engagement between Myanmar and the West. Though China is keen to restart construction, it understands that negative public opinion on the project in Myanmar may make that unfeasible. Nevertheless, it is keen to protect its other major projects, in particular, development of a large deep-sea port and special economic zone on the Indian Ocean coast at Kyaukpyu – and extract a quid pro quo for any cancellation of Myitsone.<sup>60</sup> China is also using its considerable leverage over armed groups on the border to show Naypyitaw that it has in effect a veto on the peace process and to

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<sup>57</sup> “Residents flee, police move in after mob violence targets Muslims in Bago village”, *Myanmar Times*, 27 June 2016. “Only one Sangha organization exists: SSMNC”, *Global New Light of Myanmar*, 13 July 2016, p. 1. See also, “Wirathu faces possible court case as fortunes turn for MaBaTha”, *Frontier Myanmar*, 14 July 2016.

<sup>58</sup> Crisis Group interviews, Western and Asian diplomats, Yangon, April-May 2016.

<sup>59</sup> “China pledges support for new Myanmar government”, *Myanmar Times*, 6 April 2016.

<sup>60</sup> *Ibid.* Crisis Group interviews, diplomats and analysts, Yangon, April-June 2016.

register concerns about the involvement of some other countries in the process.<sup>61</sup> Resolving these issues will require more than project-specific guarantees and peace process reassurances; it will necessitate developing a broad, mutually-acceptable vision of bilateral relations.

A specially delicate aspect is enhanced military-to-military cooperation between Myanmar and the West, something of significant interest to the Myanmar military as it seeks to broaden defence cooperation. It is of great importance that Western militaries in particular explore appropriate avenues. First, it is essential for sustainability of the transition that the military sees institutional benefits from its decision to give up significant power. A driver of change has been its desire for Myanmar to build strategic relationships with the West, particularly the U.S., and access high-quality training. Secondly, socialisation of a new generation of officers with peers in democratic countries can make an important contribution to reform of the institution. The West will have to be careful what kinds of training it provides, since Myanmar's military is still engaged in domestic armed conflict and has a grim human rights record. Myanmar will need to ensure it is cognisant of possible Chinese concerns as it builds a broader framework of constructive relations with Beijing.

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<sup>61</sup> In particular, Western countries and Japan. Crisis Group interviews, Myanmar government officials and other peace process actors, Yangon, Naypyitaw, September-October 2016. See also, "Myanmar official accuses China of meddling in rebel peace talks", Reuters, 8 October 2015.

## V. Assessing the Record So Far

Though it is too early for definitive judgements about performance, the government's priorities and approach are becoming clearer, and there are some preliminary indications of how national politics is adjusting. These provide the basis for an initial assessment. Overall, the government has set a positive initial tone and taken some important steps to address the authoritarian legacy. Many political detainees were quickly released, and some oppressive laws have been repealed or are being amended, though there is much more to do in this regard.<sup>62</sup> Constitutional reform, a stated government priority, appears to be on the back-burner for the moment, probably wisely given its difficulty and the range of other urgent problems that must be addressed. There is little clarity on policy priorities in most areas, but the government instructed all ministries and state/region governments to formulate and begin implementing "100-day plans" as of 1 May, consisting of quick-win actions and projects that would benefit the people.<sup>63</sup>

Perhaps most importantly, Myanmar has passed through a year of much uncertainty and change without major political turmoil. Following the landslide victory of Suu Kyi's NLD in a broadly credible election with almost no violence, there was an orderly handover from the military-backed government; and her administration has entered an awkward cohabitation with the military, as dictated by the 2008 constitution, without significantly compromising on key principles or prompting a fundamental rift with the military. Navigating these difficult waters has been a key early success for government, military and country.

The enormity of the challenges and the uncertain limits of the new government's power have had an impact. Suu Kyi has only partial executive authority under the constitution. This seems to have amplified longstanding tendencies, leading her to concentrate as much power as possible in her own hands. Many commentators have noted that the president and two vice presidents have largely disappeared from view. The cabinet also reflects this tendency, with clear priority given to loyalty; even a fake-degree scandal failed to unseat ministers in the two key economic portfolios.<sup>64</sup> A notable lack of transparency and sometimes difficult initial relations with the media may be partially explained on the same basis. So too may prima facie curious positions, such as not objecting to the renewal of U.S. sanctions on Myanmar, which Suu Kyi may feel provide her with some leverage against the military and businessmen from the old elite, even at some cost to the economy.<sup>65</sup>

The government has also made some initial missteps, including on the peace process and on Rakhine state, both of which can be seen as stemming from a failure to appreciate the complex details and a lack of consultation in advance of important decisions or initiatives. This has to be put in perspective: it is not unexpected that a

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<sup>62</sup> "They Can Arrest You at Any Time: The Criminalization of Peaceful Expression in Burma", Human Rights Watch, June 2016.

<sup>63</sup> "100 days: Planning the government's reform agenda", *Frontier Myanmar*, 16 June 2016.

<sup>64</sup> See, for example, "President Htin Kyaw – Missing in action", *The Irrawaddy*, 2 June 2016. "NLD leadership challenged over cabinet choices", *Myanmar Times*, 28 March 2016.

<sup>65</sup> "Problematic first month for new government", *Myanmar Times*, 29 April 2016. Suu Kyi was briefed in advance on renewal of U.S. sanctions and offered no objection. This was also her public position shortly after renewal, during Secretary of State Kerry's visit. Crisis Group interview, knowledgeable individual, Yangon, May 2016; transcript, "Joint press availability", op. cit.

new, inexperienced government inheriting the legacy of decades of divisive authoritarian rule would make missteps. Importantly, there have been no major failures. The key question is whether the missteps can be attributed to the settling-in period, or reflect a deeper culture of impulsive, non-consultative decision-making. If the latter, this would be a significant concern, but it is too early to judge.

Relations with the military have not always been sensitively handled. While there appears to be good cooperation and a convergence of views on the peace process, they have been strained in other areas, particularly around Suu Kyi's appointment as state counsellor and how that bill was pushed through the legislature. The president has avoided calling meetings of the National Defence and Security Council, constitutionally-mandated as the highest security body, likely because Suu Kyi does not accept its democratic legitimacy, and the commander-in-chief has a slim majority in it that would give him control of decisions.<sup>66</sup> While Suu Kyi may consider these unavoidable issues of principle, it is critical for maintaining cooperative relations that decisions the military sees as affecting its interests or the constitutional order are handled sensitively. More broadly, success hinges in part on whether the military sees benefits from the substantial concessions it feels it has made in the transition.

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<sup>66</sup> The National Defence and Security Council consists of the president, the two vice presidents, the speakers of the two legislative chambers, the commander-in-chief and his deputy, and the ministers for defence, home affairs, border affairs and foreign affairs. The commander-in-chief holds the balance of power, with five of the eleven members under his direct authority, including one vice president, who was nominated by the military and is a retired officer, so likely loyal.

## **VI. Conclusion**

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Though there have been some teething problems, the outlook is encouraging. The transfer of power has been remarkably smooth, the government has taken some early steps toward further political liberalisation, and there has been no fundamental rift with the military. There have been some early missteps on the peace process and Rakhine state, caused by announcing decisions without a full grasp of nuances or necessary consultations. These may reflect an inexperienced team finding its feet and can be overcome – as can residual distrust in the military – with some adjustment in the way government takes and implements decisions.

The government's task is daunting. After decades of authoritarian rule and civil war, many key challenges are structural. The government must find ways of moving the peace process forward, addressing the situation in Rakhine state and continuing the delicate process of rebalancing China relations. As state counsellor, foreign minister and chair of the high-level committees in charge of the peace process and Rakhine state, leadership on all these fronts falls on Suu Kyi's shoulders, a huge, potentially overwhelming burden. Success, therefore, depends not only on developing considered and consultative approaches, but also on ability to delegate. The international community can help by providing appropriate support and wise counsel and should not shy away from giving tough advice whenever necessary.

**Yangon/Brussels, 29 July 2016**

## Appendix A: Map of Myanmar



International Crisis Group/KO/Dec 2015. Based on UN map no. 4168 Rev. 3 (June 2012).

## Appendix B: Current Composition of the Government

| <b>Position</b>                                | <b>Office holder</b>       | <b>Previous position</b>         |
|------------------------------------------------|----------------------------|----------------------------------|
| President                                      | Htin Kyaw                  |                                  |
| Vice President 1                               | Lt.-Gen. (retd.) Myint Swe | Ex-Yangon Chief Minister         |
| Vice President 2                               | Henry Van Thio             | NLD MP (2015)                    |
|                                                |                            |                                  |
| <b>Ministers</b>                               |                            |                                  |
| Foreign Affairs                                | Aung San Suu Kyi           | NLD Chair, NLD MP (2012, 2015)   |
| Agriculture, Livestock & Irrigation            | Dr Aung Thu                | NLD                              |
| Transport & Communication                      | Thant Sin Maung            | NLD                              |
| Religious Affairs & Culture                    | Aung Ko                    | USDP                             |
| Natural Resources & Environmental Conservation | Ohn Win                    |                                  |
| Electric Power & Energy                        | Pe Zin Tun                 | Ex-Permanent Sec'y, Energy       |
| Labour, Immigration & Population               | Thein Swe                  | USDP                             |
| Planning & Finance                             | Kyaw Win                   | NLD                              |
| Industry                                       | Khin Maung Cho             |                                  |
| Health and Sports                              | Dr Myint Htwe              |                                  |
| Education                                      | Myo Thein Gyi              | Ex-Director-General, Education   |
| Construction                                   | Win Khaing                 |                                  |
| Social Welfare, Relief & Resettlement          | Dr. Win Myat Aye           | NLD                              |
| Hotels & Tourism                               | Ohn Maung                  | NLD                              |
| Commerce                                       | Than Myint                 | NLD                              |
| Information                                    | Pe Myint                   |                                  |
| Ethnic Affairs                                 | Thet Lwin                  | Vice-Chair, Mon National Party   |
| President's Office                             | Aung San Suu Kyi           |                                  |
| State Counsellor's Office                      | Kyaw Tint Swe              | Retired Ambassador               |
| Defence*                                       | Lt.-Gen. Sein Win          | Reappointed from previous gov't. |
| Home Affairs*                                  | Lt.-Gen. Kyaw Swe          | Ex-Chief, Bureau Special Ops.    |
| Border Affairs*                                | Lt.-Gen. Ye Aung           | Ex-Judge Advocate General        |
| Attorney General                               | Tun Tun Oo                 | Ex-Deputy Attorney General       |
|                                                |                            |                                  |
| <b>Deputy Ministers</b>                        |                            |                                  |
| Minister of State for Foreign Affairs          | Kyaw Tin                   | Retired Ambassador               |
| Agriculture, Livestock & Irrigation            | Dr Tun Win                 |                                  |
| Planning & Finance                             | Maung Maung Win            | Ex- Permanent Sec'y. Finance     |
| State Counsellor's Office                      | Khin Maung Tin             | Retired Ambassador               |
| Defence*                                       | Rear-Admiral Myint Nwe     |                                  |
| Home Affairs*                                  | Maj.-Gen. Aung Soe         |                                  |
| Border Affairs*                                | Maj.-Gen. Than Htut        |                                  |

\*Positions appointed by the armed forces commander-in-chief

## Appendix C: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

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**July 2016**

## Appendix D: Reports and Briefings on Asia since 2013

*As of 1 October 2013, Central Asia publications are listed under the Europe and Central Asia program.*

### Special Reports

*Exploiting Disorder: al-Qaeda and the Islamic State*, Special Report, 14 March 2016 (also available in Arabic).

*Seizing the Moment: From Early Warning to Early Action*, Special Report N°2, 22 June 2016.

### North East Asia

*China's Central Asia Problem*, Asia Report N°244, 27 February 2013 (also available in Chinese).

*Dangerous Waters: China-Japan Relations on the Rocks*, Asia Report N°245, 8 April 2013 (also available in Chinese).

*Fire on the City Gate: Why China Keeps North Korea Close*, Asia Report N°254, 9 December 2013 (also available in Chinese).

*Old Scores and New Grudges: Evolving Sino-Japanese Tensions*, Asia Report N°258, 24 July 2014 (also available in Chinese).

*Risks of Intelligence Pathologies in South Korea*, Asia Report N°259, 5 August 2014.

*Stirring up the South China Sea (III): A Fleet-ing Opportunity for Calm*, Asia Report N°267, 7 May 2015 (also available in Chinese).

*North Korea: Beyond the Six-Party Talks*, Asia Report N°269, 16 June 2015.

*Stirring up the South China Sea (IV): Oil in Troubled Waters*, Asia Report N°275, 26 January 2016 (also available in Chinese).

*East China Sea: Preventing Clashes from Becoming Crises*, Asia Report N°280, 30 June 2016.

### South Asia

*Pakistan: Countering Militancy in PATA*, Asia Report N°242, 15 January 2013.

*Sri Lanka's Authoritarian Turn: The Need for International Action*, Asia Report N°243, 20 February 2013.

*Drones: Myths and Reality in Pakistan*, Asia Report N°247, 21 May 2013.

*Afghanistan's Parties in Transition*, Asia Briefing N°141, 26 June 2013.

*Parliament's Role in Pakistan's Democratic Transition*, Asia Report N°249, 18 September 2013.

*Women and Conflict in Afghanistan*, Asia Report N°252, 14 October 2013.

*Sri Lanka's Potemkin Peace: Democracy under Fire*, Asia Report N°253, 13 November 2013.

*Policing Urban Violence in Pakistan*, Asia Report N°255, 23 January 2014.

*Afghanistan's Insurgency after the Transition*, Asia Report N°256, 12 May 2014.

*Education Reform in Pakistan*, Asia Report N°257, 23 June 2014.

*Afghanistan's Political Transition*, Asia Report N°260, 16 October 2014.

*Resetting Pakistan's Relations with Afghanistan*, Asia Report N°262, 28 October 2014.

*Sri Lanka's Presidential Election: Risks and Opportunities*, Asia Briefing N°145, 9 December 2014.

*Mapping Bangladesh's Political Crisis*, Asia Report N°264, 9 February 2015.

*Women, Violence and Conflict in Pakistan*, Asia Report, N°265, 8 April 2015.

*The Future of the Afghan Local Police*, Asia Report N°268, 4 June 2015.

*Revisiting Counter-terrorism Strategies in Pakistan: Opportunities and Pitfalls*, Asia Report N°271, 22 July 2015.

*Sri Lanka Between Elections*, Asia Report N°272, 12 August 2015.

*Winning the War on Polio in Pakistan*, Asia Report N°273, 23 October 2015.

*Nepal's Divisive New Constitution: An Existential Crisis*, Asia Report N°276, 4 April 2016.

*Political Conflict, Extremism and Criminal Justice in Bangladesh*, Asia Report N°277, 11 April 2016.

*Sri Lanka: Jumpstarting the Reform Process*, Asia Report N°278, 18 May 2016.

*Pakistan's Jihadist Heartland: Southern Punjab*, Asia Report N°279, 30 May 2016.

### South East Asia

*Indonesia: Tensions Over Aceh's Flag*, Asia Briefing N°139, 7 May 2013.

*Timor-Leste: Stability At What Cost?*, Asia Report N°246, 8 May 2013.

*A Tentative Peace in Myanmar's Kachin Conflict*, Asia Briefing N°140, 12 June 2013 (also available in Burmese and Chinese).

*The Philippines: Dismantling Rebel Groups*, Asia Report N°248, 19 June 2013.

*The Dark Side of Transition: Violence Against Muslims in Myanmar*, Asia Report N°251, 1 October 2013 (also available in Burmese and Chinese).

*Not a Rubber Stamp: Myanmar's Legislature in a Time of Transition*, Asia Briefing

N°142, 13 December 2013 (also available in Burmese and Chinese).

*Myanmar's Military: Back to the Barracks?*, Asia Briefing N°143, 22 April 2014 (also available in Burmese).

*Counting the Costs: Myanmar's Problematic Census*, Asia Briefing N°144, 15 May 2014 (also available in Burmese).

*Myanmar: The Politics of Rakhine State*, Asia Report N°261, 22 October 2014 (also available in Burmese).

*A Coup Ordained? Thailand's Prospects for Stability*, Asia Report N°263, 3 December 2014.

*Myanmar's Electoral Landscape*, Asia Report N°266, 28 April 2015 (also available in Burmese).

*Southern Thailand: Dialogue in Doubt*, Asia Report N°270, 8 July 2015.

*Myanmar's Peace Process: A Nationwide Ceasefire Remains Elusive*, Asia Briefing N°146, 16 September 2015 (also available in Burmese).

*The Myanmar Elections: Results and Implications*, Asia Briefing N°147, 9 December 2015 (also available in Burmese).

*Thailand's Lengthening Roadmap to Elections*, Asia Report N°274, 10 December 2015.

*The Philippines: Renewing Prospects for Peace in Mindanao*, Asia Report N°281, 6 July 2016.

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