

Focus on Burma's election has largely been on the Parliament, but in fact this is a largely powerless body which will be dominated by the military. Real power will lie with the President, the Commander-in-Chief and the new National Defense and Security Council.

The run-up to the election

The election on 7th November will be the first in Burma for 20 years. At the last election the National League for Democracy, led by Aung San Suu Kyi, won 82 percent of the seats in Parliament, but the generals refused to hand over power.

The election on 7th November is stage five in a seven stage road map announced by Burma's generals in 2003. The roadmap was designed to head off the threat of tough international sanctions following the Depayin Massacre, a failed attempt on Aung San Suu Kyi's life in May 2003. More than 70 of her supporters were killed in the attack on her convoy, and Aung San Suu Kyi was detained. She has remained in detention ever since.

The attack was carried out by a pro-regime political militia, the Union Solidarity Development Association (USDA), whose President is Than Shwe, the dictator of Burma. The USDA has now become the Union Solidarity Development Party, which is the main political party representing the military dictatorship in the elections.

The process of the election

After its unexpected defeat in 1990, the military is leaving nothing to chance in this election. Every aspect is being fixed:

- Ahead of the election general repression increased, with a doubling of the number of political prisoners since 2007.

In brief:

- Assembly/Parliament with one Upper House and one lower house
 - 14 regional and state assemblies (Parliaments)
 - 25% of seats (110) in People Assembly (Lower House) reserved for military
 - 25% of seats (56) in Upper House reserved for military
 - 25% of seats in state and regional assemblies reserved for the military
 - 1,163 seats available by vote (but voting banned in at least 6 seats in ethnic areas)
 - 37 parties allowed to participate
 - Dictatorship linked parties only ones which can afford to stand in almost every constituency
 - 2,203 political prisoners unable to take part
 - New National Defense and Security Council where real power lies – not Parliament
-
- What limited development projects the dictatorship does undertake have been frequently channelled through the USDA, to try to win support of the people.

- NLD and other democracy activists faced regular harassment, restrictions and intimidation.
- All media is censored and full of articles promoting the dictatorship and USDA/USDP, and attacking the NLD and other pro-democracy groups.
- All media coverage of the election is censored.
- International media are banned from sending journalists to cover the election.
- International observers are not allowed.
- Voting has been banned in many ethnic areas.

An 18 member Union Election Commission, with members solely chosen by the dictatorship, has released severely restrictive election laws governing how parties can campaign. Members of the commission include people on the European Union visa ban list for their part in giving harsh sentences to democracy activists arrested during the 2007 uprising. Restrictive laws include:

- People serving prison sentences cannot take part. This excludes more than 2,200 political prisoners from the elections.
- Huge fees are required to stand as a candidate. The \$500 fee is more than the average annual income in Burma.
- All election materials have to be approved and can be censored. This is equivalent to the Labour Party in the UK having to get approval for its leaflets from the Conservative Party, or vice versa.
- Permission to hold public meetings has to be applied for in advance, and details given on how many people will attend, who will speak and what they will speak about.
- Political parties have to apply to be officially registered by the dictatorship, with strict conditions applied.
- Candidates for political parties have to be approved by the election commission.
- A catch-all phrase of making no speeches or activities which 'tarnish the image of the state', is designed to stop candidates criticising the government and election. If applied in the UK David Cameron could have been jailed for saying Britain had a 'broken society' during the May 2010 election.



Credit: Irrawaddy

Laws designed to exclude the main opposition party

The requirement for political parties to expel members serving prison terms appears specifically designed to make it impossible for the NLD to register under these rules. 413 members of the NLD are currently in detention, and many have made huge sacrifices and are suffering appalling treatment.

In addition, the election law requires the NLD, if it registered as a political party, to support and defend a new constitution written by the dictatorship which is designed to maintain dictatorship, deny genuine democracy, and does not grant basic human rights. Again this was an unacceptable condition.

Even more harassment and hurdles and fixes

- There are countless reports of harassment of people in parties not allied with the dictatorship. Candidates and their families have been targeted. There are also reports of bribes and threats.
- Some ethnic political parties have not been allowed to register, including The Kachin State Progressive Party, likely to have been the most popular Kachin party.

- Military Commanders cast bloc votes for the soldiers they command.
- Government employees have already been forced to vote for pro-military parties.
- There are accusations of selective voting for Burmese abroad and activists not invited to vote.
- Hundreds of thousands of people and their families in state-linked jobs such as the Army and civil service were told to vote for the USDP in ballots in advance of the election.

MPs in new Parliament won't have real power

- After the election the military dictatorship will hand-pick some members of the Parliaments, who will form an Electoral College formed of three groups, which each choose a candidate for Vice-President. One group has MPs from the region and states, one group has MPs from townships and population, and the other group will be soldiers in the military who are in Parliament.
- The heads and deputy heads of the upper and lower house then decide if the candidates have the required qualifications to be President and Vice-Presidents, and if so there is then a vote in both houses to choose the President, with the two losers becoming Vice-Presidents. As the military and their parties will dominate the Parliaments, they will have complete freedom to select their own candidates.
- The President and Vice-Presidents do NOT have to be elected representatives, or even military representatives, in the Parliament.
- If they do have seats in the Parliament, they have to resign from them.
- The President will then form a government.
- The President and Vice-Presidents must come from the military, although they could be retired military officers.
- The new governmental system is Presidential, not parliamentary. Almost all government powers lie with the President.

- Unless he breaks the law, the President is not accountable to the Parliament.
- The President chooses government ministers.
- The ministers do not have to be members of Parliament.
- Ministers report to the President, not Parliament.
- The Parliament has no right to question the President on policies; the President chooses whether or not he wants to speak to Parliament.

MPs in the new Parliament won't have free speech

- MPs are not allowed to criticise the constitution, instead they must defend it. So if they call for democratic change, which requires constitutional change, they risk being jailed.
- If an MP does say something which is deemed against the law, it is removed from the official Parliamentary record.
- All existing repressive laws remain in place, including censorship. So even if an MP does speak out, it is unlikely to be reported in the media.

The Military remain above both the President and the Parliament

- The Military is independent in all matters, including its budget, and the running of military owned companies.
- The head of the Military decides who the Home Affairs Minister, Border Affairs Minister, and Defense Minister will be. This also applies in state and regional Parliaments.
- The Military effectively has a veto over any legislation passed by the Parliament, if it deems it to be a threat to national security or national solidarity. (The use of the word 'solidarity' is believed to refer to any moves by ethnic parties in regional Parliaments to promote and protect their cultures or increase levels of autonomy.)
- The military can assume control of the government at any time if it deems there is a threat to national unity or solidarity.

- The military can independently take military action within Burma without approval from Parliament or the President.



The future role of Than Shwe has not been revealed.

Power lies with a new National Defense and Security Council (NDSC), not the Parliament

- Real power is likely to lie within the NDSC, which has eleven members, including the President and Commander-in-Chief of the Defense Services. None of the members need to be elected.
- This is a transition from the State Law and Order Restoration Council (SLORC) which seized power in 1988 after the democracy uprisings. SLORC then renamed itself the State Peace and Development Council on the advice of an American public relations firm. It will now be the NDSC.
- Membership:
 - The President (who must have military experience)
 - Vice President (who must have military experience)
 - Vice President (who must have military experience)
 - Speaker of Pyithu Hluttaw (Lower House)
 - Speaker of Amyotha Hluttaw (Upper House)
 - Commander-in-Chief of the Defense Services (from the military)
 - Deputy Commander-in-Chief of Defense Services (from the military)
 - Minister for Defense (chosen by the military)
 - Minister for Home Affairs (chosen by the military)
 - Minister for Foreign Affairs
 - Minister for Border Affairs(chosen by the military)

Eight of the eleven positions will be either serving or former military men, or chosen by the military. Two more will be chosen by a Parliament controlled by the military, and the final position chosen by a serving or former soldier.

An unfair system that is impossible to change without military agreement

With a majority of more than 75 percent required to change the constitution, it is impossible to promote democratic change without agreement from the military.

It has been argued that while the current Parliament may be full of pro-regime parties and soldiers, in future elections over the next 5-15 years this may change. Even if one was to accept that that for 15 years or more the people of Burma can continue to suffer appalling human rights abuses, including rape, torture, arbitrary executions and other acts constituting war crimes and crimes against humanity, this argument still ignores the reality of the situation in Burma. The military have a constitutional veto over democratic reform, now and in 15 years time.

Even if by some miracle future elections in 2015 or 2020 elections were free and fair, and pro-regime parties lost all their seats, the military, by having 25 percent of seats in Parliament, still have a veto over constitutional democratic change.

Even if miracles became even more abundant, and a handful of soldiers were willing to vote with all the elected officials to reform the constitution, and those soldiers were not replaced by the military before the vote, the Commander-in-Chief of the Defence Services can constitutionally take full control of the country if he decided such reforms are a threat to national security or national solidarity.

It is impossible for Parliament to be a forum for the provision of any genuine democratic change unless the military agree to it.

Those arguing that over the long term parliament could be a forum for political change are in fact depending on a single factor, that at some point the Commander in Chief of the Defence Services will decide to hand over power.

A strategy that depends on crossing our fingers and wishing for a liberal in military clothing to somehow become Commander-in-Chief is simply not credible.

This is why Aung San Suu Kyi and the National League for Democracy have decided that the path to democracy and human rights in Burma lies outside this Parliament, not within it.

For many years the United Nations Security Council, United Nations General Assembly, United Nations Human Rights Council, United Nations Secretary General, European Union, ASEAN, USA and even China has stated that the way to bring genuine change in Burma is for dialogue between the democracy movement, including the NLD, genuine ethnic representatives, and the dictatorship. The jargon used to describe this dialogue is tri-partite dialogue. This dialogue should lead to national reconciliation and a transition to democracy.

A revived UN-led effort to secure such dialogue, with strong backing from world leaders and the United Nations Security Council, stands much greater and faster prospects of bringing change to Burma than fake elections and a constitution designed to maintain dictatorship.

**Published by The Burma Campaign UK, 28 Charles Square, London N1 6HT
www.burmacampaign.org.uk info@burmacampaign.org.uk tel: 020 7324 4710**



**for Human Rights, Democracy
& Development in Burma**