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**PARLIAMENTARY DEVELOPMENT
IN MYANMAR**
AN OVERVIEW OF THE UNION PARLIAMENT
2011-2016

Renaud Egretau

Policy Dialogue Brief Series No.19

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Parliamentary Development in Myanmar

An Overview of the Union Parliament, 2011-2016

Renaud Egreteau

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ONE: Introduction

The reemergence of Parliament in Myanmar has been one of the most startling illustrations of the transformations at work since the State Peace and Development Council (SPDC, or “junta”) was disbanded in 2011. Following controversial general elections held under SPDC rule in November 2010, a new bicameral national legislature, traditionally called the “Union” (*Pyidaungsu*) Parliament in postcolonial Myanmar, was convened on January 31, 2011. Subnational parliaments were also subsequently formed in the fourteen states and regions of the country.

Since then, the Union Parliament has evolved into a significant political institution of the “post-junta” regime, attempting to develop the three core functions a legislature is expected to perform: lawmaking, oversight, and representation. First under the leadership of the Union Solidarity and Development Party (USDP, 2011-2016), then under Daw Aung San Suu Kyi’s National League for Democracy (NLD) after its resounding victory in the 2015 polls, the national legislature has begun to modify, repeal, and produce new legislation. It has taken nascent but significant steps towards the vetting and scrutiny of the executive branch and state bureaucracy. It has also served as a new public space where the complaints and grievances of citizens are heard in ways unthinkable under Myanmar’s past military rulers. This may prove a unique case among post authoritarian societies attempting to revive parliamentarism in a transitional context.

These outstanding developments do not mean, however, that Myanmar’s progress towards the institutionalization of its new legislative branch will be steady and successful beyond the initial post-junta legislatures. There are several areas where reform and restructuring are needed to improve the long-term efficiency, representativeness, and autonomy of the still-fragile parliamentary institution and a legislative process that is characterized by a lack of experience and professionalism. Manifest weaknesses include the lack of sufficient resources, efficient organizational capacity, mastery of legislative drafting, and oversight and vetting mechanisms, and inadequate autonomy vis-à-vis the post-SPDC governmental and military institutions.

Myanmar’s Parliament thus appears to have fallen into the category of a nascent, marginal legislature with a willingness and emerging capacity to influence, rather than command, policy and lawmaking, and a potential

for vetting, rather than thoroughly overseeing, the activities and behaviors of the other branches of government. To assist the new legislature in its efforts to professionalize its operations and enhance the capacity of its members and staff regardless of electoral outcomes and partisan control, international donors and civil society organizations have started developing a series of parliamentary strengthening programs. Therein lies an opportunity to consolidate a state institution essential to a functioning, representative democracy.

TWO: The Return to Parliamentary Democracy

It took some 23 years for the military establishment that seized power after the coup d’état staged in 1988 to terminate direct military rule and move the country towards a semi civilian form of government. The transitional process, which started to accelerate after a new Constitution was ratified in 2008 and national and regional elections were held in November 2010, was conceived as elite-driven and top-down, with the armed forces looking after the whole process. After the newly elected Union legislature convened in January 2011, a hybrid government, combining civilian and military-appointed ministers and led by a president elected by the new Parliament, was formed in March 2011 under the leadership of the SPDC’s former prime minister U Thein Sein.

Legislative structures. Chapter Four of the 2008 Constitution specifically deals with the structures and functioning of the post-junta legislative branch. Legislative power is vested at the national level in a bicameral Union legislature. It combines a 440-seat lower chamber (House of Representatives, or *Pyithu Hluttaw*) and a 224-seat upper chamber (House of Nationalities, or *Amyotha Hluttaw*). There is no mention in the 2008 Constitution of any “lower” or “upper” body, but both adjectives have been colloquially used in English-language literature and parliamentary debates.

Repatriation of seats. The Constitution mandated that three-quarters of the seats in Parliament – 330 in the Pyithu Hluttaw and 168 in the Amyotha Hluttaw – be filled by universal suffrage. The 330 constituencies of the Pyithu Hluttaw are based on the country’s 330 townships. In the Amyotha Hluttaw, each state and region has twelve elected seats. The remaining quarter of all seats are constitutionally reserved for unelected

delegates from the armed forces: 110 military MPs in the lower house and 56 in the upper house. The commander in chief of the Tatmadaw appoints the military legislators, who can be substituted at any time, whereas civilian representatives from both chambers are elected for a fixed, five-year term.

Bicameralism. The two houses are meant to enjoy equal powers. They constitutionally function as independent, full-fledged chambers; neither can veto the work of the other. Whenever the Pyithu Hluttaw and the Amyotha Hluttaw fail to agree on a bill, their members congregate in a joint assembly, known as the Pyidaungsu Hluttaw, to settle the issue and vote. Bills can be introduced in either of the two houses. There are a handful of exceptions that must be introduced in the Pyidaungsu Hluttaw: the annual budget bills, tax-related bills, and national plans, as well as constitutional amendments. The upper house speaker presides over the Pyidaungsu Hluttaw for the first half of the five-year legislature, and is then succeeded for the remaining 30 months by the lower house speaker.

The 2010 elections. The elections held under SPDC control on November 7, 2010, were meant to ensure a controlled transition from the military regime to a semi-civilian administration. Unlike the 1990 elections, Daw Aung San Suu Kyi and her party, the NLD, opted for a boycott. The electoral process was deeply flawed, and the results were widely condemned as a mockery. The USDP, a political party backed by the SPDC and made up of retired military officers, former bureaucrats, co-opted ethnic leaders, and powerful local businessmen, won an overwhelming majority of the vote. With 388 MPs, it controlled almost 59 percent of the legislature.

The NLD returns. On April 1, 2012, a series of by-elections was organized. This time, the NLD chose to compete, and it won in a landslide, taking 41 seats in the Union Parliament. It became the second civilian parliamentary force in the lower house behind the USDP, ahead of the Shan and Rakhine parties. Daw Aung San Suu Kyi herself was, for the first time, elected by the people, in a rural constituency of the Ayeyarwaddy delta.

The 2015 elections. The second post-junta general elections were held on November 8, 2015. The polls proved among the freest that Myanmar had known in decades. The NLD won another thundering victory, collecting some 58 percent of the vote. Daw Aung San Suu Kyi was returned to the Pyithu Hluttaw, along with 254 other NLD candidates in the same house. In the Amyotha Hluttaw, the NLD grabbed 155 seats. Echoing the USDP victory in 2010, the new ruling

party thereafter controlled 59 percent of the Union assembly.

Takeaway. The 2010 elections swept a cohort of “transitional” lawmakers into the first post-junta Union Parliament, many of them boasting a long association with the old guard of the SPDC regime. The second post-junta elections, in 2015, however, fostered an almost complete renewal of the legislative landscape, returning just 13 percent of incumbent MPs to office. Not only was the old guard of the USDP crushed, but most non-NLD and ethnic opposition politicians who had won seats in the 2010 polls lost them in 2015. On the one hand, this high legislative turnover has been a welcome step towards the consolidation of Myanmar’s transitional process. Regular, free elections strengthen the efforts of liberal forces to move away from the previous authoritarian order. On the other hand, high legislative turnover is seldom beneficial to the stability and effectiveness of new, fragile parliamentary institutions. In upcoming legislatures, Myanmar will need committed, professional MPs, regularly returning to Parliament, to support the institutionalization of the country’s new legislative branch.

THREE: Organizing the House

Unlike its predecessors, seated in Yangon, the new legislative compound in Nay Pyi Taw is massive. Located in Zeyathiri Township, it comprises 31 colossal, palace-style structures and sprawls over 800 acres. Three separate amphitheatres have been erected to house the Pyithu Hluttaw, the Amyotha Hluttaw, and the Pyidaungsu Hluttaw. Public access to this monumental facility, while limited, is allowed.

Administration. Besides MPs, parliaments around the world are filled with professional staffers. Intended to be politically impartial, parliamentary staff are assigned to the administration and internal committees of the legislative body and are responsible for its daily functioning and activities. When Myanmar’s Union legislature was revived in 2011, a single Hluttaw Office was created and placed under the leadership of a director general (DG). Administrative officers were then transferred from various Union ministries to fill the posts of the new parliamentary bureau. Retired civil servants – including military retirees – were also asked to serve as instructors, consultants, or senior managers.

As the Parliament’s activities dramatically increased after a couple of hesitant sessions of the USDP

legislature, the decision was made in 2012 to form three separate administrative units to oversee the functioning of the Pyithu Hluttaw, the Amyotha Hluttaw, and the Pyidaungsu Hluttaw, respectively, with an expanded workforce. As of late 2016, the combined Hluttaw Offices counted about 1,240 employees. This still falls short of the target of 3,100 employees set in 2015 by the Hluttaw Office leadership, however.

The Pyidaungsu Hluttaw Office is led by a DG and two deputy directors general (DDGs). The number of employees of this office is notably lower than the other two. The Pyidaungsu Hluttaw, indeed, performs fewer legislative functions, and has no MPs of its own to look after. The office is divided into three departments: (1) the Plenary (Legislation) Department (for the parliamentary and legislative activities of the joint assembly); (2) the International Relations, Research, and Library Department; and (3) the Administration Department (combining human resources, finance, and other administrative duties). This office does not, however, serve as the administrative coordinator of the Parliament.

The Pyithu Hluttaw Office is overseen by one DG and four DDGs. The office comprises four departments: (1) the Speaker's Office, which manages the daily activities of the Pyithu Hluttaw speaker (and the deputy speaker); (2) the Plenary (Regular Session) Department, which deals with daily parliamentary meetings and the work of Pyithu Hluttaw standing and ad hoc committees, and more generally coordinates the daily activities of MPs in the chamber (there were 25 committees at the end of the USDP-controlled Pyithu Hluttaw, and there are 19 in its NLD-led successor); (3) the International Relations and Research Department; and (4) the Administration Department, which deals with staff affairs, daily logistics, employee salaries, MP allowances, and other budgetary matters.

The Amyotha Hluttaw Office is also headed by one DG and follows the same organizational structure as the Pyithu Hluttaw Office, with four similar departments: (1) the Speaker's Office (which also oversees the activities of the deputy speaker); (2) the Plenary Department, for the regular session and parliamentary committees (there were 18 committees in the USDP-led Amyotha Hluttaw, and there are 16 in its NLD-led successor); (3) the International Relations, Research, and Public Relations Department; and (4) the Administration Department.

Human resource challenges. The three Hluttaw Offices are understaffed, although the directors general have announced big expansion plans. They also must

cope with high rates of resignations from their ranks. The brightest or more senior of its fresh recruits seldom stay on board, and the trend seems to have accelerated with the trainings provided by domestic and international organizations. The more skills they acquire from their parliamentary training, the more competitive young staff become in Myanmar's rapidly evolving job market. Given the high turnover of MPs between the 2010 and the 2015 elections, a pattern that is likely to continue, the institutional memory and continuity that successful legislatures require will be in short supply without a permanent, professional staff.

Committees. Parliamentary committees are central to the workings of parliaments. Standing committees are permanent, and their role is predefined in either the Constitution or the assembly's rules of procedure. Other, non-statutory committees can be formed temporarily, according to the inclinations of the speakers. Committees are considered the most convenient arenas for conducting parliamentary scrutiny, one of the three core functions of a legislative body.

The 2008 Constitution mandates four standing committees in each house. They are: (1) the Bill Committee, which considers proposed legislation; (2) the Public Accounts Committee, which examines whether funds granted by Parliament to the government have been properly spent; (3) the Government's Guarantees, Pledges, and Undertakings Vetting Committee, which scrutinizes the promises made by the executive and reports on the extent to which they have been satisfactorily implemented; and (4) the Hluttaw Rights Committee, which oversees the functioning of the Parliament and the role, privileges, and duties of its members. All other ad hoc or special committees are created – and renamed, dissolved, or restructured – by the two speakers, according to the policy matters they intend to focus on during their terms. At the end of the USDP legislature in January 2016, there were 43 committees and five joint committees in the Union Parliament. In 2016, the NLD legislature established 37 ad hoc committees.

Committee rules. The Parliament's procedural rules stipulate that each committee have a maximum of 15 members, including one chair and one secretary. It is the privilege of the speakers to appoint the chairs, secretaries, and members of these committees. Since the fourth session of the NLD legislature, held in early 2017, four "observers" have been added (two military MPs and two civilian MPs). The chairs exercise substantial authority over the functioning of the committees. They decide the frequency of meetings,

which seems to range from thrice a week, or more, for the Bill and Public Accounts Committees, to “once in a while” for lower-profile committees.

Assistance. Since the end of international sanctions in 2012, Myanmar has been offered several parliamentary assistance programs. MPs, as well as parliamentary staffers, have benefited from a wide range of increasingly coordinated parliamentary strengthening initiatives, designed and funded by about sixteen different countries and international organizations. International donors have started working to better coordinate their programs, to avoid redundancy and even a sense of competition among themselves. The USDP-controlled Parliament established a Joint Coordinating Committee on Parliamentary Development to design a three-year Strategic Plan (2015-2018). Four strategic objectives were identified: improving the effectiveness of the plenary sessions and committees, improving the capacity of MPs, increasing the capacity of parliamentary staff, and enhancing communication and collaboration.

Hitches. Despite positive responses, there have been a few hitches along the way. Foreign assistance to the Parliament has often reflected development rationales rather than focusing on specific parliamentary strengthening needs. Major international development agencies and foreign governments have tended to design their support as a tool for better governance, broader democratization, and development, rather than as pure instruments of legislative strengthening. English tutoring, communication skills lessons, computer and IT trainings, and classes on office management or current political affairs, while much needed in present-day Myanmar, would better be provided, with external financial help, by domestic institutions with extensive knowledge of their own society.

FOUR: Profile of the Union Parliament

Comparing the profiles of Myanmar’s past, present, and upcoming legislators may indicate whether there have been – and potentially can be further – fundamental changes in the structure of power in Myanmar society. It may also show whether this change, or lack thereof, can have an impact on the professionalization of legislative elites, and ultimately on the consolidation and institutionalization of Myanmar’s reemerging legislative branch.

The typical legislator. In the 2010s, Myanmar’s typical

legislator presents a rather conventional image of the archetypal Burmese postcolonial leader: a man, in his fifties or sixties, ethnically Bamar, Buddhist, and with a professional career in public service – either in the civilian bureaucracy and education sector, or in the armed forces. The 2008 Constitution fixes the minimum age for election at 25 years for the Pyithu Hluttaw and 30 years for the Amyotha Hluttaw. After the 2012 by-elections, the average elected representative was about 57 years old in the lower house, and 58 years old in the upper house. At the time of its first session in 2016, the average civilian MP in the NLD-led legislature was 54.5 years of age.

Female representation. Though female representation in the Parliament has been low, it increased more than twofold between the USDP legislature and its NLD successor, and is now similar to other parliaments in Asia. Only 18 women were elected in the 2010 elections (3.6 percent of the 492 elected MPs). However, women filled twelve of the 41 seats won by the NLD in the 2012 by-elections – all in the lower house – raising their proportion to 6 percent. The 2015 general elections gave another boost to women in Parliament: 23 joined the upper house and 44 joined the lower house, pushing their number to 67 (or 13.7 percent of the elected bloc). Only three women were nominated as committee chairs in either USDP-led house, one of them Daw Aung San Suu Kyi. There were, however, only two female committee chairs in the NLD-led legislature formed in 2016.

Ethnic representation. The first two post-junta legislatures have somehow come close to mirroring society in terms of ethnic representation. In the USDP legislature, 64 percent of elected representatives were ethnic Bamar or half-Bamar. Startlingly echoing these proportions, about 64 percent of civilian MPs in the NLD-led legislature also declared themselves Bamar or half-Bamar. In the USDP-controlled legislature, civilian legislators of Shan origin formed the second-largest group after the Bamar, followed by the Rakhine, the Chin, the Kayin, and the Mon. In the NLD-led Parliament, elected members with Shan backgrounds were again the second-largest group, though with a lesser share, again followed by the Rakhine, the Chin and Zomi combined, and then the Kayin and Mon. Both successive legislatures had a high number of MPs with mixed ethnic backgrounds.

Religion. Buddhist parliamentarians dominated both post-SPDC legislatures, despite a marginal increase in the number of Christian MPs and the absence of Muslim representatives in the NLD assembly. Buddhists made up 91 percent of the civilian MPs in

the Pyithu Hluttaw that convened after the 2012 by-elections. In the Amyotha Hluttaw, they comprised 84 percent. Fifty-two civilian MPs in both houses (10.5 percent) declared themselves Christian. Three Muslim parliamentarians – or 0.6 percent of the total legislature – were also present.

The elections held in November 2015 did not enhance religious diversity – far from it. In the run-up to the polls, Myanmar’s central authorities disenfranchised the majority of the one-million-strong Rohingya community chiefly residing in Rakhine state. The NLD did not support any Muslim politicians, and in the end, no Muslim MPs were elected to the new legislature. The share of Buddhist elected MPs reached 88 percent of the legislature. Christian representatives grabbed 23 seats in the upper house and 33 in the lower house to form about 11 percent of the assembly, a proportion much higher than the share of Christian minorities in the country’s total population (6.3 percent in the 2014 census).

Education. MPs elected to the two post-junta legislatures have generally had stronger educational credentials than the average Myanmar citizen, suggesting the emergence (or consolidation) of a distinctive elite. In the USDP-led legislature formed after the 2012 by-elections and the entrance of NLD representatives, about 76 percent of the elected MPs claimed a university degree (BA, BS, or above), chiefly from domestic institutions. The second post-junta legislature, dominated by the NLD, had a slightly higher incidence of university degrees: about 81.5 percent among civilian MPs. Between the two legislatures, the number of MPs with no postsecondary education dropped from 87 to 50.

Professional background. A substantial percentage of civilian MPs who entered Parliament in 2010 or 2015 were involved in business, trade, or other commercial activities: 29 percent in the USDP legislature and 33 percent in the NLD legislature. Professionals from the education sector followed: about 17 percent in the USDP legislature and 14.5 percent in the NLD legislature. Then came the civil servants, public administrators, and what might be called the professional “politicos,” who have forged their careers in politico-bureaucratic machines: from 16.5 percent (USDP) to 8.1 percent (NLD). Daw Aung San Suu Kyi falls into this “politico” category, as she has identified herself as a professional politician in her parliamentary biographies. The biggest increase between the two legislatures was observed in the law sector. Only 27 elected MPs of the USDP-led Parliament hailed from the law sector, or 5.5 percent. In the NLD-led Parliament, there were

44 legal professionals, or 9 percent. Tatmadaw and police retirees formed 12.4 percent of the civilian parliamentary bloc in the USDP Parliament, but less than 5 percent in its NLD successor. Medical professionals, including pharmacists and veterinarians, formed about 8 percent of the USDP legislature and 12 percent of the NLD legislature. MPs drawn from the agriculture and farming sector rose from about 8 percent in the USDP Parliament to 12 percent in 2016.

Takeaway. Having a “rainbow” Parliament does not necessarily lead to more peaceful and harmonious legislative politics. Identity conflicts and ethnoreligious cleavages may actually be exacerbated. Nevertheless, more (or better) representation has always proved to be an initial, and crucial, step towards the broader integration of minorities into a divided society. The (re)integration of women, Muslim, Hindu, and even Sikh candidates into the candidate lists of Myanmar’s major political parties will be a first step towards more inclusiveness in upcoming elections. Boasting a university degree does not necessarily mean that a parliamentarian will be a better lawmaker, able to draft bills and deftly check budget documents. Yet, education credentials were a key criterion in the NLD’s selection of candidates in 2015, with the idea that educated MPs would understand legislative work and acquire skills more rapidly.

FIVE: Representation and Constituency Services

An elected assembly is one means, among many, of fashioning a government that is responsive to the will of the governed. A parliament is intended to convey the consent of the people, and parliamentarians are thus tasked to deal with the many concerns and problems expressed by their constituents. There has been an obvious, incremental change in the perceptions, activities, and interactions many Union-level parliamentarians have shaped with their constituents since the first post-junta legislature convened in 2011. Unlike the early days of the USDP legislature, most elected MPs now give the impression, at least, that they are aware of the bonds that elected representatives must build with their constituencies. They are also expected to give their constituents a voice at the upper, more visible levels of government, and make their concerns and ideas known to the “powers that be.” And they are supposed to acquire new resources or prevent existing resources from being taken away from their

constituents, and, more generally, secure a vast array of services for the people who voted for them, especially if they are seeking reelection.

Linking with constituents. Elected MPs have attempted, often following party orders, to establish regular, direct linkages with their own constituencies, listen to the grievances and demands of constituents, and report back to them on the activities they have carried out on their behalf. A useful way to improve interactions with constituents is to set up a local office in one's home district. Myanmar's two major parties of the 2010s, the NLD and the USDP, are the only two political forces with the resources, financial networks, and district branches to support their representatives at all political levels throughout the country. The NLD, in particular, ordered its national and regional MPs to make the most of these party branches and avoid setting up their own separate constituency offices. Most MPs in the NLD legislature have made their phone numbers and Viber and Facebook accounts public, as a result of which they have been increasingly (even overwhelmingly) contacted by their constituents seeking a wide range of services and assistance.

Speaking for constituents. A representative assembly remains the most popular institution to provide citizens, and the electorate, with a "voice." Among the segments of Myanmar society most eager to be heard in the upper levels of government are the ethnic, non-Bamar minorities. The 2010 and 2015 electoral campaigns were seen as a chance for minorities to advance their struggle for ethnic rights and liberties, while denouncing the discrimination they attributed to continuing social, cultural, and political dominance by the Bamar ethnic majority. Other elements of the electorate have exhorted MPs to speak out on issues such as land confiscation and abuses by local authorities and security forces.

Serving constituents. MPs, especially at the Union level, are increasingly viewed as "service facilitators" by village headmen and individual citizens. The Constituency Development Fund (CDF), first implemented in the 2013-2014 fiscal year, provides each of Myanmar's 330 townships with an annual sum of 100 million kyats, to be spent on public works such as bridges, small water treatment plants, solar panels, the renovation of school buildings, and so on. It has proven to be a popular legislative instrument for elected MPs, eager to make the most of these "pork-barrel" opportunities. Many have proudly defended the public works and small development projects funded annually in their constituency. As a matter of fact, despite proliferating embezzlement and corruption cases, the

NLD has chosen to continue this popular scheme since it took control of the Union Parliament in 2016. The CDF is viewed as having directly empowered elected representatives and permitted them to bring tangible, if selective, benefits to their home constituencies. Better regulations and oversight mechanisms will need to be devised, however.

Takeway. Compared to the previous USDP legislature, elected representatives in the NLD Parliament have appeared to increasingly focus their work on representational activities. They are expected to provide their constituents with a voice at the upper, more visible levels of government, and make their concerns known to the "powers that be." At the same time, they are expected to secure a vast array of services to the people in their constituency, and they seem to devote an increasing amount of time to interacting with local people seeking a service or filing a complaint. The NLD-led Parliament will increasingly be perceived by the people as the place where grievances can be heard, and MPs will be seen as mediators, whom one needs to contact whenever a complaint emerges.

SIX: Lawmaking

A parliament legislates. It makes and remakes laws, delves into old pieces of legislation to amend or repeal them, and prepares new ones. Lawmaking is one of the defining activities of a parliamentary representative. Myanmar's 2008 Constitution has outlined a hybrid form of presidentialism never attempted in the country before. This institutional arrangement has bestowed a leading role in lawmaking upon the executive branch, and the Union president in particular. However, the role of the Union legislature in debating legislation and scrutinizing draft bills should not be overlooked.

Dynamics under the USDP (2011-2016). In light of the first five years of lawmaking experiments under the aegis of the USDP, three observations can be made: (1) The executive branch has set and controlled the legislative agenda, leaving little room for parliamentarians to initiate policymaking. (2) Due to that executive impulse, the legislature has tended to over-focus on its lawmaking function, to the detriment of other parliamentary roles and duties. (3) The legislative drafting process has been inefficient and superficial, despite the rapid professional development of many MPs. This pattern was to be expected, given the loss of institutional memory and organizational expertise in the country since the 1950s.

On the beneficial side, the strong focus on Myanmar's 400-odd existing laws, and the attempt to address, revise, or repeal the most ill-written, out-dated, and repressive of them, was a healthy sign of the political engagement of the first post-junta legislators. It pointed to the willingness to consider, if not fully embrace, the dismantling of the old authoritarian structures (of which, startlingly, most USDP legislators were the products). The first post-junta Parliament has indeed succeeded in establishing itself as a venue for "legislating reform," and has induced some change in Myanmar's governance structure and major socioeconomic sectors, including child care, foreign direct investment, the trade in agricultural products, income taxes, elections rules, and corruption. Two hundred thirty-two laws were passed by the USDP-controlled legislature between 2011 and 2016 (or an average of 46 per year).

Initial dynamics under the NLD. Expectations ran high when the NLD-controlled legislature first convened in February 2016. However, the initial sessions of the NLD-led Parliament have been less active in terms of lawmaking. The new NLD leadership has given thoughtful consideration to criticisms of the previous Parliament over the hasty adoption of badly drafted bills and the endless making and remaking of the same ill-written pieces of legislation. The party has imposed stricter discipline on its MPs since 2016, and the internal vetting policy of the NLD party machine seems to have been strengthened at the beginning of the second post-junta legislature. Only 24 laws were adopted by the NLD legislature in its first year of existence (February 2016 to March 2017).

Takeaway. Two major challenges now lie ahead for the NLD Parliament. First, will the new parliamentary majority pursue the reforms prudently initiated by its USDP predecessor and continue to repeal "bad laws" and enact "sound laws" to dismantle the repressive legal arsenal long used to stifle dissent and curb fundamental liberties in postcolonial Myanmar? There were, as of November 2016, 418 existing laws in Myanmar, and at least a fifth of them could be deemed outdated, ill-written, or simply bluntly repressive. Second, and more important in the long term for the success of democratization, how can new laws, especially "good ones," be appropriately implemented in the future? It is one thing to enact well-drafted laws, with powerful and eloquent language and meeting all international standards. It is another to ensure that adequate bylaws are enacted to properly and systematically implement these new laws. Myanmar's justice system, which seems decades away from forming a functional, efficient,

and independent judicial branch; the country's rigid bureaucracy, still largely structured around patronage relations and clientelistic practices; and the self-regulated security sector may not be inclined, or in a position, to effectively implement new, liberal legislation passed by Parliament.

SEVEN: Oversight

Myanmar faces a challenge typical of aspiring democracies with deep legacies of top-down authoritarianism: how to check and make accountable the individuals and institutions that have kept such a strong hold on power and policymaking, without any oversight or accountability, for so many years.

Vetting rather than overseeing. The parliamentary oversight exerted by the Union legislature since 2011 has proven relatively weak, sometimes, and too often reliant on initiatives by individual MPs. The USDP Parliament attempted to "vet" and "audit" the activities and decisions of the other branches of government, and to oppose the Union presidency on the basis of rivalries and divergent political ambitions, rather than to thoroughly "scrutinize" and "oversee" these powers.

Nevertheless, there has been some tentative oversight of the ruling executive, performed by parliamentary committees and backbenchers alike – including those of the two successive ruling parties. This nascent oversight function has been incrementally consolidated through diverse local and international assistance schemes set up since 2012. Questioning of relevant authorities (interpellations), a handful of investigations launched by committees, and motions by individual MPs can be valuable instruments of oversight. However, these individual or committee interventions have often been disorganized, incomplete, self-interested, and concerned with either trivial issues or poorly documented allegations.

Budget control. Approving the national budget and vetting public expenditures are key functions of a legislature. The Union Parliament is chiefly charged with evaluating how public funds have been used and how efficient the Union budget process has been in past fiscal years. The legislature performs an annual audit, with the assistance of the Office of the Auditor General. The Public Accounts Committees and the Government's Guarantees, Pledges, and Undertakings Vetting Committees of the upper and lower house are designated to lead the parliamentary scrutiny process. Budget cuts proposed by PACs and approved by the

Union legislature have become increasingly frequent, especially when supplementary budget requests sent by ministries are debated in the house in November or December every year. Most ad hoc committees must also perform an annual review of the budget of one or more Union ministries. Cooperation between the Parliament and ministerial bureaucracies has increased over the years, despite difficulties in improving transparency. Given the lack of expertise of MPs and parliamentary staffers in both post-SPDC legislatures, it seems likely that the pattern of weak and partial oversight, more in the style of a vetting process than of thorough scrutiny, will endure in future legislatures, despite a growing number of budget-focused trainings offered by international donors.

Takeaway. The tasks are huge, most elected MPs are still new in the parliamentary business, and the power relations between backbenchers, on the one hand, and powerful ministers, party leaders, senior bureaucrats, and soldiers, on the other, remain highly unbalanced. What is more, if parliamentarians have been keen on attempting to oversee what other branches of government have done or intended to do, most have appeared far less enthusiastic about being “checked and balanced” themselves, and have yet to perform any meaningful oversight of their own institution and the way the Parliament has functioned. The emphasis on this core function of oversight and budget vetting may be needed at this stage of development of Myanmar’s new parliamentary institutions. But the political will to exert strong and meaningful scrutiny is also expected, beyond the Parliament. Currently, there seems to be simply too little eagerness to spread political responsibility for any past, present, and future missteps, misappropriations, manipulations, and abuses by powerful institutions of post-junta Myanmar. Odds are that the Union Parliament will continue its vetting and scrutinizing activities, with increasing professionalism, yet without the willingness or capacity to perform strong, comprehensive, and systematic oversight of all institutions of the executive branch in upcoming legislatures.

EIGHT: The Way Forward

The Union legislature has undoubtedly evolved into a significant political institution of Myanmar’s post-junta regime. Two rounds of general elections were held, in 2010 and 2015, as well as by-elections in 2012 and 2017. The results were honored by the armed forces and the regime in place – unlike in 1990. A new

legislative elite has emerged in a country long deprived of elected representatives and professional lawmakers. Over the years, they have grown ever more conscious of their duties as parliamentary representatives, interviews have revealed, and eager to work on the three classic functions that legislators are expected to perform: lawmaking, oversight, and representation. The Union Parliament, under the leadership of both the USDP and the NLD, has also begun to modify legislation to a degree unthinkable during the era of military rule. It has tentatively vetted the activities of the various institutions of the executive branch, and rebuffed draft bills submitted by government bureaucrats. It has summoned Union ministers for the ritual of parliamentary questions. It has even sometimes cut budget increases proposed by military-controlled Union ministries. Both chambers have also attracted considerable media attention and become the object of intense lobbying from an active domestic civil society.

These outstanding post-SPDC developments do not mean, however, that Myanmar’s progress towards the institutionalization of its new legislative branch will be steady. If there are several key indications that Myanmar’s reemerging Parliament is on the right track, it is important to emphasize that this reemergence is still in its early stages. Unsurprisingly, after so many years without any meaningful legislative activity, the initial workings of the two houses have been characterized by lack of experience. It has also taken several years for the parliamentary administration to organize a functional staff, which is still not fully independent from the interference of the state bureaucracy and the armed forces.

Moreover, the first post-junta legislature (2011-2016) tended to over-legislate and produce ill-written laws, which subsequently had to be revised and amended. Since it first convened, in February 2016, the NLD legislature has, on its side, given clear priority to representational and public relations activities. However, criticism of its unwillingness to discuss certain sensitive issues in plenary debates has raised concern about the institutional autonomy of the legislative branch, especially vis-à-vis the state counsellor and the NLD party hierarchy. There are also strong signs that the concept of parliamentary oversight is still not well understood by a majority of MPs, who rather tend to construe it as a broad, politically motivated opposition to the government and bureaucracy.

This report nonetheless points to a remarkable attempt to professionalize the functioning of the Parliament, its members, and staff, in the space of just six years

of existence and two general elections. It may prove a unique case among post authoritarian societies attempting to revive parliamentarism, and in the end, potentially a model to follow. Yet, more attention needs to be paid to the Parliament's internal development to better understand how to strengthen its workings;

consolidate the autonomy of the institution, its members, and its staff; and shape a body that will long remain essential for the deepening of democratization in Myanmar.

NINE: Key Questions and Further Reading

DISCUSSION QUESTIONS

- The USDP over-legislated, and the NLD has over-focused on representational activities. Will the Union Parliament find the right balance between the three core parliamentary functions: representation, lawmaking and oversight?
- Will the Union legislature and its administration develop a detailed calendar to manage the Parliament's time and workload more efficiently?
- Can parliamentary oversight procedures be improved, particularly by initiating an incremental scrutiny of the security sector and moving beyond superficial vetting of the annual budget and public expenditures of the state?
- How will the relationship between the executive, dominated by a single party, and the legislative powers evolve?
- Can there be a stronger role for opposition parties in Parliament, since ruling parties tend to dominate policymaking?
- Myanmar needs committed, professional MPs, regularly returning to Parliament, to support the institutionalization of the country's postauthoritarian legislative branch. Will high electoral turnover continue in upcoming general elections?
- How will Parliament's sociological profile evolve in upcoming legislatures? Will there be more inclusive representation, particularly of women and religious minorities?
- What role is there for the Tatmadaw in Parliament? Will military-appointed representatives continue to be quiet, yet committed, backbenchers, while firmly exercising their constitutional veto power?
- Beyond Nay Pyi Taw, what should be the role of subnational parliaments? Can there be constitutional reform allowing the transfer of some key legislative powers and prerogatives from the Union Parliament to the fourteen state and regional assemblies to expand decentralization?

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