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Regional Outlook Paper

BE CAREFUL WHAT YOU WISH FOR:
THE NATIONAL LEAGUE FOR DEMOCRACY AND
GOVERNMENT IN MYANMAR

Andrew Selth

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for Democracy and Government in Myanmar

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Executive Summary

The National League for Democracy (NLD) has been in power in Myanmar for just over a year, following its landslide victory in the November 2015 elections. In March 2016 a new president and government were sworn in, and in April Nobel peace laureate Aung San Suu Kyi became the country's de facto leader, under the newly-minted title of State Counsellor. Hopes were high that the quasi-civilian administration would promptly introduce sweeping changes to the country, which had endured over 50 years of inept and self-serving military rule. It was a mood encouraged by promises made by Aung San Suu Kyi during the 2015 election campaign. However, the verdict on the NLD's first year in office, by international commentators at least, has been almost uniformly negative.

The NLD inherited a wide range of complex problems, some of which had defied resolution ever since the British colonial era (1824-1948). President Thein Sein's government (2011-2015) had taken tentative steps toward reform, but critical political, economic and social problems had been ignored. Every portfolio of government apart from Defence was begging for greater attention and more resources. There has since been some modest progress, but the NLD government and Aung San Suu Kyi herself have been widely criticised by international observers. Peace negotiations with ethnic armed groups have effectively stalled. 'Area clearance operations' by the security forces against the Muslim Rohingyas have been condemned as 'genocide' and 'ethnic cleansing'.

Domestic criticisms have been more muted, but clearly the shine has come off the new government, and its leader. Remarkably, a comment increasingly heard in Myanmar is that the NLD government is in some respects no better than the former military regime. Aung San Suu Kyi's supporters and apologists for the NLD government have tried to deflect criticism by blaming the armed forces, which have retained a powerful position in national affairs. Some pundits have gone further, suggesting that the generals always intended the fledgling administration to fail. Such conspiracy theories, however, are unconvincing. The NLD has been responsible for many of its own problems.

Myanmar always has the capacity to surprise, which makes predictions risky. However, the outlook for the remainder of the NLD's term of office is for more of the same, with the government struggling to overcome its own weaknesses and the many other obstacles it faces to deliver promised reforms. There will continue to be an uncomfortable *modus vivendi* between the civil and military authorities, with the armed forces protecting their prerogatives and safeguarding the country's security, as they see it. Some key policies, such as the negotiation of a nation-wide peace agreement with ethnic armed groups, will continue to encounter obstacles. Aung San Suu Kyi will not satisfy all international concerns expressed over the Rohingyas, leaving her vulnerable to further criticism.

Whatever happens, the armed forces will remain the ultimate arbiter of power in Myanmar. As far as can be judged, the generals do not envisage a transition to a full democracy in the foreseeable future, and possibly not for a decade or more.

Author's Note

After the Myanmar armed forces crushed a nation-wide pro-democracy uprising in September 1988, the country's official name (in English) was changed from its post-1974 form, the 'Socialist Republic of the Union of Burma', back to the 'Union of Burma', which had been adopted when Myanmar regained its independence from the United Kingdom (UK) in January 1948. In July 1989 the new military government changed the country's name once again, this time to the 'Union of Myanmar'. At the same time, a number of other place names were changed to conform more closely to their original pronunciation in the Burmese language. In 2008, after promulgation of a new national constitution, the country's official name was changed yet again, this time to the 'Republic of the Union of Myanmar'.

The new names have been accepted by almost all countries, the United Nations and other major international organisations. A few governments, activist groups and news media outlets, however, still cling to the old forms, apparently as a protest against the former military regime's human rights abuses and its refusal to introduce a genuinely democratic system of government. The old names were also believed to be the strong preference of then opposition leader Aung San Suu Kyi, who was held under house arrest by the military regime for almost 15 years. Questioned about the official name of the country soon after her party took office in 2016, the State Counsellor stated her continuing preference for the colonial-era term 'Burma', but said that both names were acceptable.¹ In this paper the official names have been used, although 'Burmese' has been retained to describe the dominant language of the country. Such usage does not carry any political connotations.

The armed forces effectively ruled Myanmar from the 1962 coup but, from 1974 to 1988, they exercised power through an ostensibly elected 'civilian' parliament. On taking back direct control of the country in September 1988, the armed forces abolished the old socialist government structure and created the State Law and Order Restoration Council (SLORC), which ruled by decree. In November 1997, apparently on the advice of a United States-based public relations firm, the regime changed its name to the State Peace and Development Council (SPDC), but continued to rule through executive fiat. In 2008, it held a constitutional referendum, which was followed by carefully managed elections on 7 November 2010. The resulting national parliament, consisting of both elected officials and non-elected military officers, met in January 2011. A new government was installed under President Thein Sein in March that year.

On 8 November 2015, a new general election was held which, by most accounts, was reasonably free and fair. The result was a landslide for Aung San Suu Kyi's National League for Democracy (NLD), which secured 390 of the 491 seats (or 79.4%) contested at the Union level. It secured 255 seats in the 440-seat lower house (*Pyitthu Hluttaw*) and 135 seats in the 224-seat upper house (*Amyotha Hluttaw*). The armed forces are allocated 25% of the seats in both houses, but this gave the NLD a majority in the combined Union Assembly (*Pyidaungsu Hluttaw*). As a result, it was able to elect a new president in 2016 and pass a law creating the position of State Counsellor for Aung San Suu Kyi (who under the 2008 constitution is unable to become president).² The national charter states that the president 'takes precedence over all other persons' in Myanmar but, even before the elections, Aung San Suu Kyi had made it clear that she was going to be 'above the president' and act as the country's de facto leader.

After the UK dispatched troops to the royal capital of Mandalay and completed its three-stage conquest of Burma (as it was then called) in December 1885, Yangon (formerly Rangoon) was confirmed as the administrative capital of the country. It remains the commercial capital, but in October 2005 the SPDC formally designated the newly built city of Naypyidaw (or Nay Pyi Taw), 327 kilometres north of Yangon, as the seat of Myanmar's government. Where they appear in this paper, the terms 'Yangon regime', or in some cases simply 'Yangon', are used as shorthand for the central government, including the military government that was created in 1962 and re-invented in 1974, 1988 and 1997. The government after 2005 is referred to as the 'Naypyidaw regime', or 'Naypyidaw', to reflect the administrative change that took place that year.

Another term used in this paper is *Tatmadaw* (literally 'royal force'), the vernacular name for Myanmar's tri-Service (i.e. army, navy and air force) armed forces. In recent years, this term has gained wide currency in English-language publications on Myanmar. Sometimes, the Tatmadaw is referred to simply as 'the army', reflecting that Service's overwhelming size and influence, compared with the other two. While the term 'Defence Services' usually refers only to the armed forces, it is sometimes used in a wider context to refer to the armed forces, the Myanmar Police Force, the 'people's militia' and sundry other paramilitary forces. On occasion, the Myanmar Fire Services Department and Myanmar Red Cross have also been included in this category.

This Regional Outlook had its beginnings in a Griffith Asia Institute research seminar held at Griffith University on 6 April 2017.³ It also draws on a number of short articles that were published online before and after the seminar. References are given where appropriate in the paper, but three articles in particular are relevant. One was posted on the Lowy Institute's *Interpreter* blog on 27 April 2017, under the title 'Suu Kyi's Myanmar, one year on'.⁴ Another was published in the *Nikkei Asian Review* on 8 May 2017 under the title 'Why Myanmar's military is not plotting a coup'.⁵ The third was posted on the *Australian Outlook* on 3 June 2017 under the title 'Aung San Suu Kyi and the Tatmadaw'.⁶

1. Introduction

The root of a nation's misfortunes has to be sought in the moral failings of the government.

Aung San Suu Kyi
'In Quest of Democracy'
(1991)⁷

The National League for Democracy (NLD) has been in power in Myanmar for just over a year, following its landslide victory in the November 2015 elections, which most observers agreed were (within the limits laid down by the 2008 constitution) reasonably free and fair. In March 2016, a new president and government were sworn in, and in April Aung San Suu Kyi became the country's de facto leader, under the newly-created title of State Counsellor.⁸ Millions of people, both within Myanmar and further afield, looked forward to seeing sweeping changes throughout the country, which had endured more than 50 years of harsh and ideologically-driven authoritarian rule. The anniversaries of these events prompted a spate of reviews in the international news media and journals by professional Myanmar-watchers, popular pundits and other commentators.

The verdict on the NLD's first year in office, by international observers at least, was almost uniformly negative. To varying degrees, most reviewers expressed their disappointment with the NLD's performance.⁹ Even allowing for the unrealistically high expectations apparent both within and outside the country after the 2015 poll, and the challenges of taking power for the first time, the new government was seen to have failed to deliver on almost all its core promises.¹⁰ Indeed, the new administration is increasingly inviting unfavourable comparisons with the former military regime. Foreign observers have been particularly critical of Aung San Suu Kyi's refusal to intervene on behalf of the mostly stateless Muslim 'Rohingyas' in Rakhine State.¹¹ Domestic criticism has been more muted, but clearly the shine has come off the new government, and its leader.

Since the publication of these reviews, a number of Aung San Suu Kyi's supporters and apologists for her government have leapt to their defence, arguing that it is too early to judge the new administration. They have rightly reminded critics of the parlous state of Myanmar when the NLD took power and the many 'fiendishly complex' problems faced by the incoming administration.¹² Some of the NLD's supporters have also sought to deflect criticism of Aung San Suu Kyi to the armed forces (*Tatmadaw*), which they see as the root cause of all her problems.¹³ They have pointed out that the military high command still wields considerable influence in Myanmar politics and as a consequence the government does not control all the levers of power. To their minds, Aung San Suu Kyi cannot therefore be held responsible for all the disappointments of the past year.¹⁴

Some local observers and foreign commentators have gone even further, suggesting that in various ways the *Tatmadaw* is deliberately sabotaging Aung San Suu Kyi's government. A few have even claimed that this was always the generals' plan. In the view of these pundits, ever since the NLD took office the armed forces have played a spoiling role, both to deny the quasi-civilian government a chance to establish itself, and to persuade Myanmar's people that only a strong military regime can deliver the sweeping changes they all desire.¹⁵ According to this thesis, the generals are waiting for the new government to collapse so that they can take back control of the country, and have even manufactured a number of security crises to nudge it in that direction.

The NLD's defenders make some good points, and there is some circumstantial evidence to support the conspiracy theorists. However, before dismissing Aung San Suu Kyi's critics it is worth considering the issues raised and looking more closely at the claims they have made.¹⁶ As is often the case, the actual situation in Myanmar is more complex than the one portrayed by the news media or represented in activist literature.

2. A Poisoned Chalice?

On taking power in early 2016, Aung San Suu Kyi and the new NLD government immediately faced a host of very difficult problems. Not all were of their own making. Six in particular stand out.

First, Myanmar was suffering the effects of more than 50 years of inept and self-serving military rule. There had been some modest progress since the collapse of Ne Win's autarkic socialist regime in 1988, when the State Law and Order Restoration Council (SLORC) relaxed certain regulations, but in 2016 every portfolio of government apart from Defence was begging for greater attention and more resources.¹⁷ President Thein Sein's government had taken tentative steps toward reform between 2011 and 2015, but he had only picked the low-hanging fruit. Many critical political, economic and social problems had effectively been ignored. For example, education had been allocated a smaller percentage of GDP than any other country in the world except Equatorial Guinea.¹⁸ In 2000, the World Health Organisation's World Health Report ranked Myanmar 190 out of 191 member states on overall health system performance.¹⁹ Its position had improved only slightly under Thein Sein.²⁰ Defence, by contrast, routinely received more than double the combined budget allocations of these two portfolios.

Second, the NLD took over a country that was deeply divided by political, ethnic and religious conflicts, some of which dated back to the colonial period (1824-1948). Nearly 20 ethnic armed groups (EAG), some of them quite large and well-armed, challenged the central government, whose writ did not run in several areas. The national peace process begun under Thein Sein had stalled as a result of mutual distrust, historical grievances, incompatible goals and sporadic fighting. Levels of social trust were low and the potential for fresh outbreaks of communal violence was high.²¹ The antagonism felt by the majority Buddhist population towards the country's Muslims, the so-called 'Rohingyas' in particular, was of international concern.²² Protests and demonstrations over social and economic issues were becoming more common. There were also extremist elements opposed to the democratic transition process, as demonstrated by the assassination of NLD advisor Ko Ni in January 2017.

Third, the constitution promulgated in 2008 gave the Tatmadaw a major role at the centre of government, with 25% of all seats in both provincial and national assemblies reserved for serving military officers. Also, the Commander-in-Chief (C-in-C) of the armed forces directly appointed three key ministers at the Union level, namely Home Affairs, Defence and Border Affairs. This gave him effective control over the Myanmar Police Force (MPF), the national bureaucracy and immigration policy. According to one senior NLD advisor, speaking in February 2016, 'all the levels of the administrative system are under the authority of the military chief'.²³ He also controlled the potentially powerful National Defence and Security Council (NDSC). At the same time, the Tatmadaw exercised a monopoly over the means to exert state force. It operated completely independently from the government in all matters pertaining to national security, the definition of which was left to the C-in-C. The members of the armed forces enjoyed special legal status.

Fourth, Aung San Suu Kyi and the NLD took over a country that was gradually responding to new regulations, increased foreign direct investment, burgeoning international trade and higher levels of foreign aid.²⁴ However, the economy was still in dire straits. As a percentage of GDP, the budget deficit had increased threefold over the last year of Thein Sein's

administration.²⁵ Myanmar lacked a modern fiscal structure and the banking sector was undeveloped. Tax revenues were low and collection mechanisms hopelessly inadequate. Indeed, the economy was still largely informal, with most transactions unregulated and conducted in cash. Money laundering, including by narcotics traffickers, was a major problem.²⁶ As the Australian economist Sean Turnell has written, corruption and financial irregularities underpinned almost all major deals made in the country.²⁷ Wages were among the lowest in Southeast Asia. Poverty levels averaged 26%. In rural areas they were even higher.²⁸

Fifth, Myanmar lacked many of the institutions and structures needed to function in a globalised, inter-connected world. For example, the legal system was deeply flawed and distrusted by both the local and foreign communities. Despite the award of two mobile phone contracts and the construction of numerous roads and bridges under Thein Sein, communications and other key components of a national infrastructure were badly lacking. Transport links between Myanmar and other countries – including its neighbours – were undeveloped. Air and maritime links were gradually improving, but from a low base. The national river and rail systems were inefficient and critically underfunded. There were no rail links between Myanmar and surrounding countries. The few major roads to the international border could barely cope with the increasing demand. Many were unpaved and all were poorly maintained. The main route from southern Myanmar to Thailand was so narrow that it did not even permit two-way traffic. All these problems added to the difficulties of maintaining trade and other relationships.²⁹

Sixth, as Robert Taylor has pointed out, the NLD inherited a moribund bureaucracy that was largely ineffective.³⁰ It was stacked with former military officers who operated mainly through personal relationships, rather than established procedures based on formal organisational structures. Many lacked managerial expertise. Also, after decades of a hierarchical command culture, answering to an authoritarian government, there was no tradition of public servants taking the initiative, challenging decisions or even reporting policy failures. After the 2015 elections, the senior ranks of the civil service pledged their support for the NLD government, and a few officials even became ministers. However, there was still widespread resistance to change.³¹ In any case, the country's national bureaucracy answered not to the civil government, but to the armed forces, through the Home Ministry's General Administration Department (GAD). This made the implementation of new policies difficult and open to manipulation.³²

As if this was not enough for them to deal with, Aung San Suu Kyi and the NLD created many of their own problems.

3. Self-Inflicted Wounds

As Derek Mitchell has observed, 'Opposing oppressive state power and running a government are two vastly different skills'.³³ It is therefore hardly surprising that the NLD was ill-prepared to take office and has found it difficult to come to terms with its dramatically changed circumstances. For some of the problems the party has encountered, Aung San Suu Kyi herself must be held accountable.

Before and during the 2015 election campaign, Aung San Suu Kyi made a number of promises that were always going to be difficult to keep. For example, she promised to amend the 2008 constitution and reduce the power of the armed forces, neither of which was likely, at least not in the short term. She also undertook to eliminate corruption, another remote prospect (although her government is reputed to be clean, compared with past administrations).³⁴ In what appears in hindsight to be evidence of monumental hubris, Aung San Suu Kyi stated that she would give her highest priority to the national peace process, before turning to other domestic matters. Yet the peace process was not only an extraordinarily complex and difficult problem, its progress was effectively in the hands of the armed forces. In any case, most of the population cared more for issues that affected them directly, like better government services and a lower cost of living.³⁵ Adding to the NLD's woes, falling government revenues have meant that it has been difficult to fulfil its commitment to increased social spending.³⁶ All this has led to a loss of confidence in the new government's ability to keep its promises.

In other ways too, the NLD has made life more difficult for itself. The party must have had some idea of what to expect when it took power, and after the elections it had five months to prepare for government. Yet, it was not until 10 March 2016 that it finally nominated a president, leaving precious little time to make a host of executive, committee and other appointments. It is believed that this long delay was caused by Aung San Suu Kyi's insistence on exploring ways for her to assume the presidency, despite the fact that such a move had been categorically ruled out, both by the provisions of the 2008 constitution and, it appears, by the armed forces C-in-C, with whom she held three meetings after the elections.³⁷ Eventually, a loophole was found that permitted the NLD to create the post of State Counsellor, at which time other positions could be filled. However, as Kyaw Sein and Nicholas Farrelly have written, 'Acting in haste to make such appointments meant that the NLD was poorly prepared for taking over the reins of government'.³⁸

To make matters worse, few of the NLD's elected members had any executive or law-making experience. They had little understanding of how a democracy worked in practice. When they finally took office they seemed to have few detailed or articulated policies, even on core issues. They also lacked considered strategies to implement the sweeping changes that Aung San Suu Kyi had promised before and during the election campaign. It was almost as if the party's overriding goal was to win government, and little thought had been given to what might follow after that. Those policies the government has pursued since early 2016 do not appear to have been well considered or coordinated, prompting criticism from both local and foreign stakeholders.³⁹ Public communications have been handled badly, causing needless confusion, and at times even offence. Given these problems, it is hardly surprising that over the past year the administration has seemed unable to capitalise on its election victory and mobilise the population behind it, or provide a compelling vision for the country's future.⁴⁰

In the name of 'lean and efficient government', the number of ministries was reduced from 36 to 23. Yet, this seems more a reflection of the shortage of qualified candidates for ministerial positions than a carefully considered attempt to streamline government. In addition, the NLD's ministers appear to have been chosen as much for their loyalty to Aung San Suu Kyi, and their readiness to toe the party line, as for their competence. Some appointments have already proven ineffective, prompting rumours that Aung San Suu Kyi is considering a cabinet reshuffle.⁴¹ Two ministers who were allocated key economic portfolios were discovered to have claimed educational credentials to which they were not entitled, adding to public unease over the Cabinet's qualifications. Probably because they were not deemed sufficiently loyal to Aung San Suu Kyi and the NLD, some experienced personnel who had worked for the Thein Sein government were dismissed.⁴² This has all contributed to complaints of administrative inertia. Decisions and clear policy guidance have been difficult to obtain. Aung San Suu Kyi's personality and idiosyncratic work practices have not helped matters.

The president stated in his inaugural speech on 30 March 2016 that the government was formed 'to be in accordance with the policies of the NLD, and its leader'.⁴³ The separate reference to Aung San Suu Kyi is revealing. She is not only State Counsellor (a position she considers to be 'above' the president), but she is also Minister in the President's Office and the Minister of Foreign Affairs.⁴⁴ She chairs two key sub-cabinet committees.⁴⁵ She vets every bill before it is submitted to parliament and reportedly insists on making the final decisions on even minor matters.⁴⁶ Although she gave up two ministerial positions initially allocated to her (Education and Energy), she has resisted suggestions that she delegate more of her authority to others.⁴⁷ It is little wonder therefore that, according to several sources, she is unable to cope with the many demands made upon her.⁴⁸ Her imperious leadership style, remoteness and tendency to micro-manage both government and party business has led to resentment and administrative inefficiencies. Also, her insistence on exercising a paramount role has undercut the authority of her ministers and added to the difficulty of state institutions trying to establish themselves as independent agencies.

With those circumstances in mind, the NLD's approach to government has been described by many as elitist and driven from the top. Some foreign commentators, and even a few in Myanmar, have described Aung San Suu Kyi as a 'democratic dictator'.⁴⁹ According to Elliott Prasse-Freeman, ethnic minority organisations, civil society groups and grass-roots campaigners are all becoming increasingly unhappy with her reluctance to include them in planning to address the country's problems.⁵⁰ When representatives of ethnic minority organisations have been included in discussions, for example with regard to the peace process, they have complained of tokenism, and a failure by the NLD adequately to consult them or take their views into account. Public feedback on policy proposals has not been welcomed. Some activists, such as those working on land and environmental issues, feel that they are being actively opposed by the NLD government. Protests and demonstrations over pressing social issues have either been ignored or suppressed.

Questions have also been raised over the NLD's priorities. When it took office, the president announced that the new government's highest priorities would be national reconciliation, internal peace, the amendment of the constitution and socio-economic development.⁵¹ Yet, there seems to have been little real progress on these issues. Also, during its first five months in power the NLD did not address any of the pressing reform legislation left over from the previous government, reportedly due to a lack of capacity and the need for the party to become familiar with parliamentary procedures.⁵² In its first year, it passed 19 bills, but only five were new. The other 14 were either amendments to, or the repeal of, existing laws. A raft of 100-day plans, designed to impress the population with the NLD's support for change, quickly ran out of steam. Most were simply commitments to projects begun by

the Thein Sein government, few outlined new initiatives and almost none listed any concrete plans for action.⁵³ They seem to have inspired cynicism rather than confidence in the new administration.

Underlining the apparent lack of attention paid to major reforms, one of Aung San Suu Kyi's first decisions was to launch a massive anti-litter campaign.⁵⁴ This was followed by the introduction of restrictions on the sale of betel nut, a mild stimulant popular in Myanmar. After a popular outcry, this poorly considered measure was rescinded.⁵⁵ There was a lack of coordination between the central and provincial authorities, as evidenced by a plan put forward by the Myanmar Police Force to enforce early closing on Yangon nightlife.⁵⁶ Also badly managed was an attempt to register some 400,000 squatters in Yangon before removing them to temporary shelters.⁵⁷ While State and Region authorities must accept much of the blame for bungled local initiatives, they have added to increasing doubts about the NLD's ability to draw up sensible proposals and weigh their impact on the local population. Some analysts considered them little more than misguided attempts to put cosmetic changes before changes of real substance.⁵⁸

As Kyaw Sein and Nicholas Farrelly have noted, 'The business community in Myanmar was especially critical of the new government'.⁵⁹ The administration was slow to articulate its economic plans. A skeleton 12-point policy only appeared in July 2016.⁶⁰ This was useful as an overview, in that it stressed broad principles like transparency, the sustainability of natural resources and infrastructure development, but it lacked the details needed for businesses to plan future activities. The economic targets cited were vague and in some case clearly unachievable. Also, Aung San Suu Kyi took months to appoint members to a panel that approved foreign investments. A new Companies Act to replace an outdated law and ease rules on foreign ownership floundered in parliament. Arbitrary and contradictory regulations were introduced, licencing laws were changed without notice and other measures promulgated which helped undermine investor confidence. Foreign direct investment in Myanmar has fallen under the NLD, contributing to a declining growth rate.⁶¹ The World Bank has called for greater 'clarity, communication and credibility of economic policies'.⁶²

Outside Myanmar, Aung San Suu Kyi's reputation as a democratic icon and defender of universal human rights has taken a severe beating.⁶³ She has been criticised for not curbing the Tatmadaw's harsh military operations in northern Myanmar. Her failure to speak out on the plight of the Rohingyas and her government's repeated refusal to respond in any substantive way to what the UN has described as 'genocide' and 'crimes against humanity' in Rakhine State has undermined her global status and weakened the NLD's ability to attract international support.⁶⁴ Even her fellow Nobel laureates have expressed their frustration at Aung San Suu Kyi's lack of action on the Rohingya issue, stating that she 'is the one with the primary responsibility to lead, and lead with courage, humanity and compassion'.⁶⁵ Asked by a BBC interviewer in April 2017 about the accusation by her fellow Nobel laureates that she had failed the most fundamental test of humanity, Aung San Suu Kyi simply replied: 'that is their perception'.⁶⁶ It did not help dispel the impression of someone out of touch with reality, or refusing to face the facts.

4. Plus Ca Change?

The NLD's 2015 campaign slogan was 'Time for Change', a theme that it emphasised at every opportunity. In August that year, for example, Aung San Suu Kyi told a large crowd: 'Vote for us, just look at the party flag ... It's time for change, let's vote for NLD and have real change!'⁶⁷ Yet, ironically, one aspect of the democratic transition in Myanmar which has prompted critical comment in both the domestic and international news media has been the extent to which the new government seems to have adopted attitudes that mirror those of the Thein Sein administration, or even at times the military dictatorship which preceded it. For example, a reporter for *Time* magazine wrote in March 2017 that 'The most disappointing feature of the NLD government is that it time and time again appeared to align itself with military interest ... either through supportive statements or abject silence, without making clear any difference between their objectives and interest'.⁶⁸

Whatever *modus vivendi* was worked out between Aung San Suu Kyi and Senior General Min Aung Hlaing prior to the NLD taking office, it goes without saying that, as particular issues arose, there would need to be continuing contact and discussion between the State Counsellor and Commander-in-Chief, or their offices. For the coalition civilian-military government to work effectively, and respond to unexpected developments (such as the October 2016 attacks against security posts in Rakhine State) there needed to be, if not specific agreement, at least a high level of recognition and acceptance of the interests and prerogatives of the two parties. Inevitably, there would be a need for compromises.⁶⁹ In this delicate balancing act, however, it is hard to escape the conclusion that the Tatmadaw has had the upper hand and that, either with or without Aung San Suu Kyi's endorsement, the C-in-C has usually been able to get his own way. The NLD's apparent deference to the wishes of the armed forces can be seen in a number of areas of government business but, as might be expected, it is most noticeable in security-related matters.

Over the past year or so, Aung San Suu Kyi has emphasised her determination to negotiate a nation-wide ceasefire with the EAGs, with a view to securing a comprehensive peace agreement. She has invested enormous political capital in her '21st Century Panglong' process, named after her father's (albeit flawed) agreement with three major ethnic groups in 1947. However, as many observers have pointed out, the NLD's approach to this difficult issue, which has defied resolution ever since Myanmar regained its independence in 1948, seems to be dictated in large part by the armed forces, which have traditionally taken a hard line.⁷⁰ The Tatmadaw's insistence on disarmament, demobilisation and reintegration, for example, is anathema to the EAGs, who fear the loss of bargaining power that would result, and their consequent vulnerability to military pressure.⁷¹ The generals have resisted demands for multiple armed forces in Myanmar, under a shared military leadership. Their firm commitment to 'national unity' is also at odds with calls for a federal political structure, and the inclusion of separate constitutions (with secession clauses) in any future agreement.

Aung San Suu Kyi has made a number of statements regarding the peace process, but they have been heavy on rhetoric and light on practical measures. She has not invested the time and energy into personal diplomacy with ethnic minority leaders that informed observers feel is needed to build up trust and increase the prospects for a comprehensive agreement.⁷² Rather, she has had a tendency to preach to the ethnic communities, usually in formal settings, telling them for example that they should approach the negotiations 'on the basis of what they can give rather than what they would like to take'.⁷³ More to the point, she has in key respects seemed to support the negotiating position laid down by the Thein

Sein government, and endorsed by the armed forces.⁷⁴ After the Tatmadaw launched a major campaign against a coalition of EAGs in the north of Myanmar she publicly expressed support for 'the valiant effort of the Tatmadaw and security forces'.⁷⁵ In the case of military operations against the Kachin Independence Army in late 2016 and early 2017, she is reputed to have actually signed off on the orders.⁷⁶

Similarly, in defending her government from accusations of ethnic cleansing and genocide against the Muslim Rohingyas, Aung San Suu Kyi and her representatives have followed much the same line as the former military regime, when it was accused of human rights violations. They have flatly denied that any abuses have occurred and accused the international news media of inaccurate reporting, even peddling 'fake news'.⁷⁷ In response to repeated accusations of sexual assault by the security forces in Rakhine State, a banner reading 'fake rape' was posted on the State Counsellor's official Facebook page.⁷⁸ Apparently with Aung San Suu Kyi's support, the Tatmadaw has branded accusations by governments, international organisations and activist groups as 'reckless'.⁷⁹ Unsurprisingly, an official enquiry launched in late 2016 under Vice-President (and former general) Myint Swe confirmed this position.⁸⁰ Government pressure has been brought to bear on news media outlets in Myanmar departing from this line and at least one journalist has been dismissed for suggesting that the Tatmadaw may be guilty of human rights abuses.⁸¹

In March 2017, when pressed by the United Nations Human Rights Council to accept a fact-finding mission to investigate reports of atrocities in Rakhine State, Aung San Suu Kyi stated that 'we must work ourselves for our country's responsibilities, because we are the ones who best understand what our country needs'.⁸² She said the UN's decision to despatch a team to Myanmar was 'not suitable for the situation of our country'. This sounds eerily like the responses made by the military regime before 2010, to calls by the international community to free Aung San Suu Kyi from house arrest, calls that were encouraged by the then opposition leader. Astonishingly, given Aung San Suu Kyi's 20-year campaign to persuade the international community to exert pressure against the former military regime, a spokesman for her government stated in December 2016 that 'urging a country's leader to do something was an act of interference' in that country's internal affairs.⁸³

As Justine Chambers and Gerard McCarthy have suggested, 'the government's defensive approach to both domestic and international media investigating these claims echo old authoritarian tactics and speaks to an assumed relationship of civilian deference to the military'.⁸⁴ Addressing Aung San Suu Kyi and the NLD government more broadly, the UN High Commissioner for Human Rights has bluntly stated that 'The repeated dismissal of the claims of serious human rights violations as fabrications, coupled with the failure to allow our independent monitors access to the worst affected areas in northern Rakhine is highly insulting to the victims and an abdication of the Government's obligations under international human rights law'.⁸⁵ Not so long ago, the world had become used to hearing charges of this kind levelled against Myanmar's military regime. However, few observers, either within or outside the country, expected that such accusations would ever be made against a government led by Nobel Peace Prize winner Aung San Suu Kyi.

Concerns have also been expressed over the NLD's approach to democratic government. For example, the NLD has reduced the role of the *Pyidaungsu Hluttaw*, which under President Thein Sein had provided critical oversight of the president's office. Indeed, under Speaker and USDP leader Thura Shwe Mann it had carved out a surprisingly independent role, albeit still within the bounds of the 2008 constitution. This has now changed. Ostensibly in order to dampen the potential for conflict between the executive and legislature, the NLD has imposed strict party discipline, limiting internal debate and greatly reducing the scope for elected MPs to raise issues in the legislature. They are also forbidden

publicly to criticise the party or its leader. Before 2016, the leadership of standing and ad hoc parliamentary committees was based on roughly proportional representation across the political spectrum. Almost all committees are now chaired by NLD members. The goal might be a more streamlined, disciplined and efficient administration, but a number of important checks and balances have been removed.

Another issue on which the NLD government's position has seemed uncomfortably close to that of the former military regime has been freedom of speech, in particular freedom of the press. Most observers acknowledge an improvement in this area since Thein Sein's inauguration in 2011, but they also warn that there are still problems.⁸⁶ For example, at Aung San Suu Kyi's specific request, severe restrictions have been imposed on the number, movement and rights of reporters covering the national parliament. (Admittedly, this was after 600 journalists tried to cover its opening, causing chaos in the process).⁸⁷ The government has also exerted pressure on individual news outlets, even intervening to get editorial policies changed. Journalists have been attacked for criticising the government and armed forces.⁸⁸ Some have been dismissed and a number have been jailed.⁸⁹ The NLD censored a film at a human rights festival because it portrayed the Tatmadaw in a critical light.⁹⁰ In July 2017, one local journal published an article stating: 'We journalists are under attack. Press freedom is in jeopardy in Myanmar'.⁹¹ Both the Tatmadaw and the NLD government were held responsible.

A particular matter of concern to journalists and members of the public alike has been the government's reluctance to amend the Telecommunications Law. Introduced in 2013 to promote foreign investment in Myanmar's technology sector, it includes section 66(d), which makes it illegal to use a telecommunication network to 'extort, threaten, obstruct, defame, disturb, inappropriately influence or intimidate'. This clause has been cited more than 50 times, mainly by officials, military officers and institutions trying to intimidate and silence journalists, Internet users and others critical of their behaviour.⁹² To date, 68 people have been charged under this law, 61 since the NLD assumed government.⁹³ Fourteen have been journalists.⁹⁴ For example, in June 2017 a satirist working for *The Voice* was charged under 66(d) for defaming the armed forces.⁹⁵ The month before, a woman was sentenced to six months in prison for sharing Facebook posts critical of Aung San Suu Kyi.⁹⁶ Attempts in parliament to debate the use of this law to stifle legitimate dissent have been quashed by the government.⁹⁷

Elliott Prasse-Freeman has suggested that, despite the fact that the NLD government includes over 100 former political prisoners, 'The democratically elected government appears singularly reluctant to dismantle the junta's machinery of repression'.⁹⁸ Indeed, many repressive laws remain on the books and have been used by the new government to silence dissidents. It has also kept a range of regulations that were used by the military regime against the NLD and other opposition organisations.⁹⁹ A proposed new law governing public demonstrations has retained harsh aspects of old laws.¹⁰⁰ For example, it prevents demonstrators from spreading 'wrong' information or straying from approved chants.¹⁰¹ Accusations from Amnesty International and Human Rights that the law lags behind international standards have been dismissed. The NLD has also avoided defining the term 'political prisoner', despite promises during the election campaign to do so.¹⁰²

The NLD administration released hundreds of political prisoners in April 2016, and more were granted amnesties in May 2017. However, peace activists, factory workers, land rights campaigners and hard-line nationalists alike have been charged with breaking protest laws which date back to the former military regime (some even to the colonial era).¹⁰³ Some marchers arrested had simply failed to follow an agreed route. Others were charged multiple times for the same offence, having passed through a number of separate jurisdictions. With

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Aung San Suu Kyi's support, the NLD government has continued to pursue charges made by the previous regime, for example against activists opposed to a copper mine built on land seized from displaced farmers.¹⁰⁴ Those charged with defamation under clause 66(d) of the Telecommunications Law have often been denied bail, even when their wrongdoing has been relatively minor.¹⁰⁵ To quote Prasse-Freeman again, 'In truth, Burma's version of democracy seems to mean a reduction in the country's degree of authoritarianism, not a qualitative change to its political system'.¹⁰⁶

Given all these factors, it is little wonder that the verdict on the NLD's first year in office, as seen by international observers at least, has been so negative.

5. The Verdict

After the NLD government reached the milestone of a year in office, numerous reviews were published in the international media by Myanmar watchers and other commentators, surveying its performance. These reviews were almost uniformly negative, for the reasons outlined above. Aung San Suu Kyi did not escape criticism, particularly due to her weak response to the Rohingya problem. This reaction was understandable, in the circumstances, but it needs to be tempered by an appreciation of the broader context.

Former US ambassador to Myanmar Derek Mitchell, a well-informed and objective observer, has been quoted as saying:

Expectations were extremely high for change, even as observers understood the constraints that the NLD faced. That said, people do question whether the NLD, and Aung San Suu Kyi herself, have made the most of their first year in office.¹⁰⁷

Referring specifically to Aung San Suu Kyi, another former senior Western diplomat to Myanmar stated in March 2017:

She had the whole world and everyone at home on her side. And look what happened. She has alienated the ethnics, she has lost the battle over Rakhine ... and has not delivered on the economy'.¹⁰⁸

In an insightful article for the US Institute for Peace, later republished by the *Nikkei Asian Review*, Derek Mitchell noted that Aung San Suu Kyi and the NLD had not taken advantage of the momentum provided by their massive electoral victory to lay out a coherent vision for the country, capitalise on the goodwill and hope that was engendered by the change of government, and forge productive relationships with political groups and other potential allies. As a result, Mitchell believed, they had failed to inspire the population and set the course for a successful government.¹⁰⁹ This seems to be a very widely held view, albeit not always so diplomatically worded.

Aung San Suu Kyi's failure to meet international expectations has not only had an impact on Myanmar's fortunes, but also its reputation. As the *New York Times* editorialised in May 2016, Aung San Suu Kyi's 'halo has been a central factor in Myanmar's reacceptance into the world community after decades of ostracism'.¹¹⁰ Waning confidence in her, and by extension the NLD government, has affected Myanmar's prospects and regional influence.¹¹¹ Both the World Bank and the IMF have downgraded their forecasts of Myanmar's economic growth, citing a combination of internal and external factors. The former include reduced confidence among foreign investors, slow growth in the agriculture sector and uncertainty over construction in Yangon. Both institutions have urged the government to 'raise its game on economic policy-making'.¹¹² ASEAN leaders have been critical of the NLD government's handling of the Rohingya crisis and warned that it could affect regional peace and stability.¹¹³

Most observers have acknowledged the political realities in Myanmar, and the hard choices that Aung San Suu Kyi needs to make to preserve her domestic power base and pursue her vision for a peaceful, prosperous and democratic Myanmar.¹¹⁴ However, few outside the country have seen them as justification for inaction in key areas. For example, her current relationship with the C-in-C is difficult to read, but there is a strong feeling among foreign

commentators that she could do more to persuade him to curb the excesses of the security forces. After all, that would also be in the interests of the Tatmadaw and police. She could use the constitutional provisions relating to states of emergency to exercise greater civilian oversight of military operations. A number of observers have also questioned Aung San Suu Kyi's failure to try and change popular perceptions of the 'threat' posed by Muslims.¹¹⁵ It would not harm her domestic political position or relationship with the armed forces to preach greater tolerance and mutual respect for all Myanmar's diverse peoples. It could also reduce the risk of future internal instability.

What is perhaps most perplexing about Aung San Suu Kyi's behaviour since taking office has been her failure to capitalise on her greatest political asset, namely her own personality cult. More than anyone, she represents the NLD brand. Indeed, she has actively cultivated this image. For example, during the 2015 election campaign she told voters not to bother about the individual NLD candidates running in their electorates, but simply to vote for the party, which she personified. Despite growing disappointment in her government, she remains very popular in Myanmar, albeit less so in the ethnic minority areas. However, for reasons that are not clear, she has made very few personal appearances. Her rare public statements have focussed on abstract concepts like national reconciliation and the rule of law.¹¹⁶ She has also tended to demand more of people, rather than acknowledging their concerns and promising to help them. She has left it to others to convey the government's views on specific issues. Over the past 12 months Aung San Suu Kyi has only given three in-depth interviews, all to foreign news media organisations.¹¹⁷

Aung San Suu Kyi's boosters have complained that she is being 'hung out to dry', and that international criticism should be directed more at Senior General Min Aung Hlaing and the armed forces. Certainly, the Tatmadaw high command has made life difficult for the new administration.¹¹⁸ Some observers have gone further and claimed that the generals are deliberately sabotaging Aung San Suu Kyi's government. In the view of these pundits, ever since the NLD took office the armed forces have played a spoiling role, both to deny the new government a chance to establish itself, and to persuade Myanmar's citizens that only a strong military regime could deliver the sweeping changes they all desired.¹¹⁹ According to this thesis, the generals are waiting for the NLD administration to collapse so that they can take back control of the country, and have probably even manufactured a number of security crises to nudge it in that direction.

These arguments are unconvincing. The NLD is only in power because 14 years ago the military regime launched a detailed seven-step plan for Myanmar to make the transition to a 'disciplined democracy'. After all their efforts, it defies logic that the generals would now wish to see their creation fail.¹²⁰ Indeed, they seem quite comfortable with the current arrangements. In any case, as Derek Mitchell has noted:

The NLD does not need others to build trust with and among ethnic nationality populations; streamline decision-making; re-evaluate ministerial authorities and appointments; outline a detailed economic policy; use its absolute parliamentary majority to end regressive legacy laws and pass new progressive legislation; reach out to civil society as partners; develop a visionary strategy for dealing with Rakhine State that ensures security and equal rights for all populations; and offer a compelling vision of the principles on which an emerging new "democratic Myanmar" will be based.¹²¹

The continuing power of the armed forces in Myanmar poses serious challenges. That cannot be doubted. However, this should not be used as an excuse, either by the

government or its supporters, to justify the NLD administration's poor performance or shortcomings in Aung San Suu Kyi's leadership.

All that said, the NLD's first year in office needs to be considered in the widest perspective. Thanks to the campaign for democracy waged by Aung San Suu Kyi and her legion of supporters over almost two decades, the international community has long held Myanmar to an unrealistically high standard. To get a fair reading of its progress, it should be measured against the same criteria as those used to consider other developing countries. In doing so, it is worth remembering that there are precious few truly Western-style democracies in the Asia-Pacific region. Also, there are many examples around the world of political transitions that have stalled, or even gone backwards.¹²² The NLD government is not alone in facing the challenges of democratization in the face of entrenched military power, multiple internal conflicts and shattered economies. While the NLD government's handling of some issues has rightly attracted unfavourable comment, it can be argued that, compared with many other states, for example in Africa and the Middle East, Myanmar is not doing too badly.

For all its faults, the NLD government has made modest progress in some areas, and more is promised. Kyaw Sein and Nicholas Farrelly have identified four major wins: improved relations with Tatmadaw, a structured dialogue with ethnic armed groups, cooperation with the existing bureaucratic apparatus and the consolidation of administrative power. Admittedly, these achievements need to be qualified, and do not seem to have brought many practical results, but they can still be seen as positive developments.¹²³ In addition, the economy still has enormous potential, aided by the lifting of US sanctions in September 2016.¹²⁴ The results may still be a way off, but efforts are being made to improve the country's infrastructure, education and health services.¹²⁵ Measures have been introduced to help reduce rural poverty. State banks are being restructured and unprofitable state enterprises are being closed. The IMF and World Bank have praised the government's financial reforms and its fiscal restraint.

Aung San Suu Kyi remains popular and, despite its disappointing performance, for most of the population the NLD government is still preferable to a return to military rule.¹²⁶ Australian Myanmar-watcher Trevor Wilson remains optimistic, writing in June 2017:

More than a year late, Myanmar's transition from military rule remains far from complete, but it has been going in the right direction ... Myanmar's overall circumstances are probably better than ever before.¹²⁷

However, by-elections held in April 2017 suggest that more trouble may lie ahead. The NLD won only nine seats out of the 19 being contested (12 at the Union level). This result has been described by some analysts as a warning signal to Aung San Suu Kyi.¹²⁸ The ethnic minorities in particular seem to have lost confidence in the government, in particular its ability to curb the military activities of the armed forces and deliver a comprehensive peace settlement. This may help account for the increased vote against the NLD.¹²⁹ However, the NLD received by far the majority of the votes cast. Also, apathy is likely to have been a major factor. Only a quarter of the two million registered voters turned out to cast their ballot.

Aung San Suu Kyi has belatedly acknowledged the growing chorus of criticism, both at home and abroad, and asked for more time to tackle outstanding problems.¹³⁰ She was quoted in March 2017 as saying 'Ten months or a year is not much ... This is just a short period'.¹³¹ Other members of the government too have requested that people be patient, and let the NLD find its way in unfamiliar territory. They have emphasised the difficulty of turning the country around after such a long period of military rule, and the restrictions imposed on the administration by the 2008 constitution. These points are well made. The challenges facing

the new government are staggering. Aung San Suu Kyi has even stated that she and her government would step down if that was the popular wish in Myanmar, and someone better could be found to take over.¹³² This offer was rather disingenuous, given that she has no obvious successor – she has made sure of that – and the only viable alternative to the NLD is another military government, which no-one in the country (including the generals) want to see.

6. Conclusion

Aung San Suu Kyi and the NLD government have come in for a great deal of criticism since taking office in March 2016. Much of that criticism is well deserved. They have not performed well. In particular, they have not provided the new start that so many people wanted, and expected. As one observer has written:

Aung San Suu Kyi and the NLD came to power with virtually the entire country and world on its side. That goodwill still exists. But it was predicated on the assumption that the new government will represent a real break from the past.¹³³

That break has sometimes been hard to identify. Instead, and to the surprise of many, the government in several ways seems to be following in the footsteps of former military administrations. Aung San Suu Kyi herself has been accused of having only one strategy, and that is to maintain good relations with the Tatmadaw.¹³⁴ Her failure to curb the behaviour of the armed forces, if that was ever going to be possible given the biased nature of the constitution and resulting power imbalance, is cited as her greatest failure. Yet, this dark view of Myanmar over the past year underestimates the positive developments which have taken place.

For the first time in half a century, a popularly-elected government has taken office in Myanmar, albeit in coalition with the armed forces. The transfer of power was peaceful, and relatively smooth. Despite decades of often bitter antagonism, a working relationship has been developed between the NLD and the armed forces. A long list of reforms is being considered, and work has begun on their implementation. A major effort has been made to reach a nation-wide ceasefire with EAGs, with a view to a peace agreement that will help resolve problems dating back to Independence. This process has produced few practical results to date, but even so it must be considered a major step forward. There have been fresh outbreaks of conflict in the north and west, but the rest of Myanmar, where the bulk of the population live, has remained calm. There are still a host of difficult problems to be tackled, particularly in rural and ethnic minority areas, but most in the country would agree that life for the average citizen has improved. These are no little achievements, given Myanmar's troubled history.

Myanmar always has the capacity to surprise, which makes it difficult to predict what the future may hold. However, the outlook for the remainder of the NLD's five-year term of office is for more of the same, with the government struggling to overcome its own weaknesses and the many other obstacles it faces to deliver promised reforms. Some policies, such as the negotiation of a peace agreement with the ethnic armed groups, will continue to encounter serious obstacles. There is also little chance that Aung San Suu Kyi and the government will go as far as the international community wants, in addressing the Rohingya problem. In the meantime, the armed forces will protect their prerogatives and safeguard Myanmar's security, as they see it. There will continue to be an uncomfortable modus vivendi between the civil and military authorities. However, within the bounds of the 2008 constitution the generals want the NLD government to succeed, as they share many of its goals. They too want Myanmar to be strong, modern, prosperous, stable, united, independent and respected. Barring a dramatic and unexpected breakdown in Myanmar's unity, stability and sovereignty, a military takeover is not likely.

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Whatever happens, the armed forces will remain the ultimate arbiter of power in Myanmar. As far as can be judged, the generals do not envisage a transition to a full democracy in the foreseeable future, and possibly not for a decade or more.

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