



IFES supports citizens' right to participate in free and fair elections. Our independent expertise strengthens electoral systems and builds local capacity to promote sustainable democracy.

Burma's April 1 Parliamentary By-Elections

Background

Following the appointment of elected representatives to the government by Burma's new President Thein Sein, the April 1 by-elections were required to fill vacant legislative seats. The main opposition party, the National League for Democracy (NLD), sought to contest seats in the by-elections for the first time since 1990, when it was denied a mandate to govern by the country's military. NLD's decision to participate in 2012 was a pragmatic response to the new government's top-down reforms that opened partial but significant democratic political space in Burma. NLD's participation was actively encouraged by the new government. Most stakeholders saw the limited race as an opportunity to achieve a more representative parliament while not challenging the political interests of the former regime. Adding to the historical significance of the elections, NLD leader and democracy icon Aung San Suu Kyi stood as a candidate, easily winning her district.

The April 1 parliamentary by-elections were initially for 48 vacant seats; however, polling in three districts in Kachin State was postponed for security reasons shortly before Election Day. This brought the seat total down to 45. All of the seats up for contest were previously won in the 2010 parliamentary elections by regime-backed Union Solidarity and Development Party (USDP) candidates. Forty-three of the contested seats were for national parliament and the remaining two were seats in Burma's new regional assemblies.

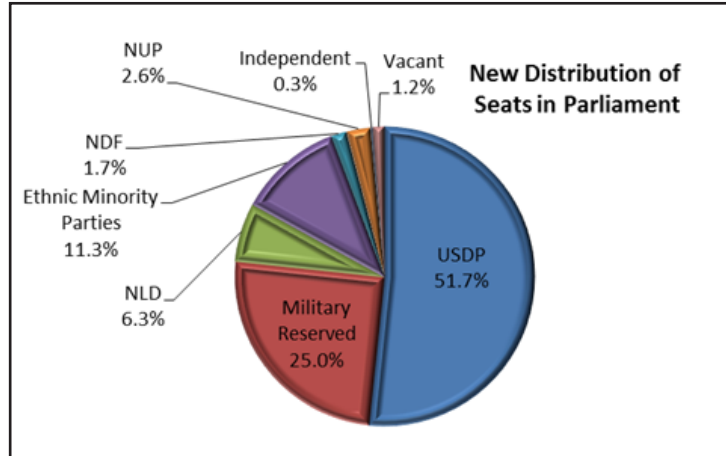
In the weeks leading up to the by-elections, cases of intimidation, bribery, fraud and other unfair practices by the USDP were reported by opposition parties and other independent observers. These cases did not appear to be systematic nor were they perpetrated on a large enough scale to affect the credibility of election results. The by-elections voter register was deeply flawed indicating likely deficiencies in the national register.

Burma invited the Association of Southeast Asian Nations (ASEAN), United States, European Union and a number of other observers to monitor the April 1 by-elections, although invitations were distributed very late in the process. Responding rapidly, most invitees arrived just days before the election. While appropriately criticized for its limitations, the observation opportunity arranged by Burmese officials represented an important signal that the government was willing to increase transparency as a part of a larger bid to see international sanctions lifted, and to improve relations with ASEAN neighbors and the West. The United States sent two international observers to "witness" the elections, while clearly signalling that "election observation" would have required more time and greater access to multiple stages of the election process.



Results

The April 1 by-elections had a high turnout, peaceful atmosphere, full participation of political parties and unheralded levels of access by media. Analysts predicted the NLD would fare well under credible conditions, but the extent of their electoral success was a surprise to most. NLD captured a landslide victory, winning 43 of the 45 seats in the by-elections. NLD candidates even captured all four seats in the nation's capital, a stronghold of former regime influence. Of the remaining two seats, one went to the USDP in a constituency where the NLD candidate was disqualified, and the other went to an ethnic minority party, the Shan Nationalities Democratic Party (SNDP), by a narrow margin over the NLD candidate. Even with NLD's landslide victory, groups safeguarding the interests of the former regime still strongly control parliament. This overwhelming majority is strengthened by the fact that 25 percent of parliament's seats are constitutionally reserved for the military.



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Impact on the 2015 General Elections

The April 1 by-elections were successful despite significant problems with the legal framework and electoral operations and procedures. IFES' analysis of election law and processes highlights a critical need for attention to be given to several problematic areas.

The legal framework contains numerous ambiguities, omissions and provisions that fail to provide an adequate basis for a credible and transparent electoral process. In particular, the brevity of the legislation means that there is insufficient detail on important definitions, timeframes and procedures. Although some of these gaps are addressed by Union Election Commission (UEC) regulations, key elements are better established in law.

The current scenario leaves a credible process highly dependent upon the prevailing political will of the ruling government. Fortunately, in the limited 2012 contest there was strong political will for credible elections by President Sein's government. However, NLD's sweeping by-elections victory coupled with the fact that 75 percent of parliament seats will be contested in 2015 dramatically raises political stakes. There are no guarantees that strong political commitment will similarly buttress a weak framework for the 2015 general elections.

Ahead of the 2015 elections, initial priority should be given to areas in the legislation that fail to protect universal rights and fundamental freedoms, or deviate from established international standards of practice for credible elections. These areas of concern include: universal right to suffrage; limitations on the freedoms of movement, expression, assembly and association that impact campaigning activities; absence of the right to an effective remedy in cases where there are electoral complaints; and insufficient safeguards that would ensure the right to a secret ballot.

Although the 2012 by-elections were deemed successful, observers noted widespread procedural inconsistencies, which indicated that polling officials lack clear instructions or effective training. Burma faces a critical need for strengthened capacity and better training in many of its newly-active sectors as sanctions are lifted and reforms are implemented. With preparations for the 2015 elections starting now, the electoral sector should be considered one of the most urgent cases for dedicated in-country technical assistance and comparative expertise. There is concern that the political success of the 2012 by-elections and the "behind-the-scenes" nature of election planning may mask the urgency of assisting Burma's electoral sector. Many opportunities to strengthen the sector may already be lost by the time the 2015 elections come into significant international spotlight.