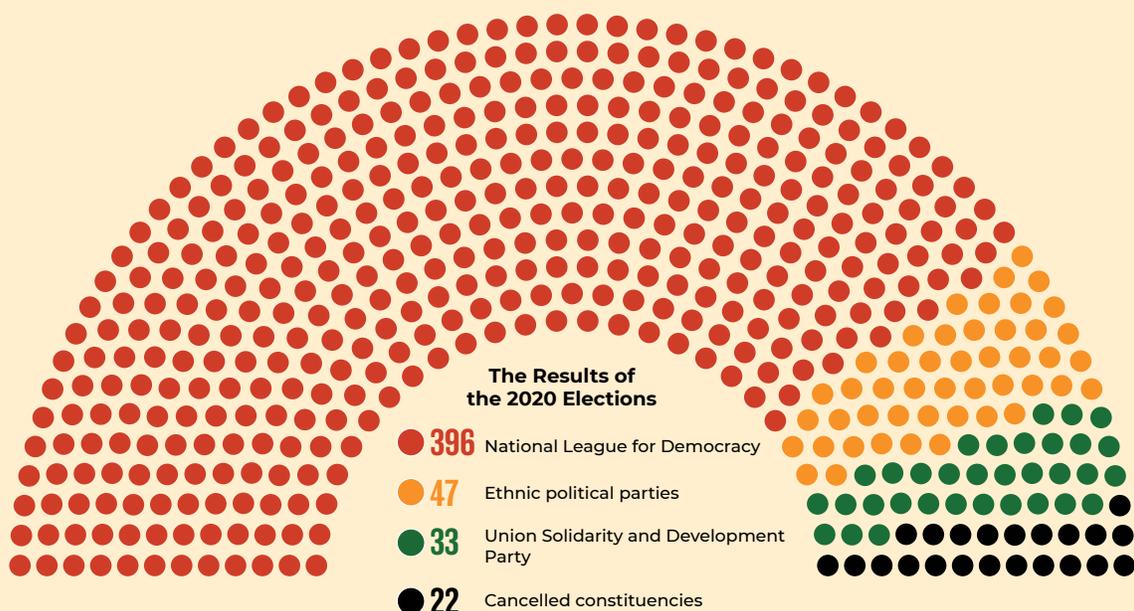


BURMA'S ELECTORAL SYSTEM CHANGE AND PROPORTIONAL REPRESENTATION

| Naw Gladys Maung Maung

On May 12, 2021, the newly formed Union Election Commission under the State Administration Council (SAC) met with a total of 59 political parties in Nay Pyi Taw. Among the main topics of discussion were the alleged 2020 general election fraud, the disbanding of the National League for Democracy (NLD) party and the potential implementation of the Proportional Representation (PR) electoral system in the upcoming elections ("Military council's election," 2021). The latter issue had already been discussed in SAC's earlier meeting with 53 political parties as well as during its past press conferences ("53 political parties," 2021).



First-past-the-post (FPTP), the electoral system that Burma has been consistently using up until the most recent general election in 2020, is commonly considered a system in which minority ethnic groups and small political parties suffer in terms of parliamentary representation. Instead, the FPTP tends to favor large political parties due to its inherently built-in, significant vote-seat anomaly: a discrepancy between the percentage of votes a party garners and the percentage of seats it secures in parliament (see Nu Tsen Mun, 2020).

During the nationwide protests against the military coup, people demanded that their votes in the 2020 general elections be respected.



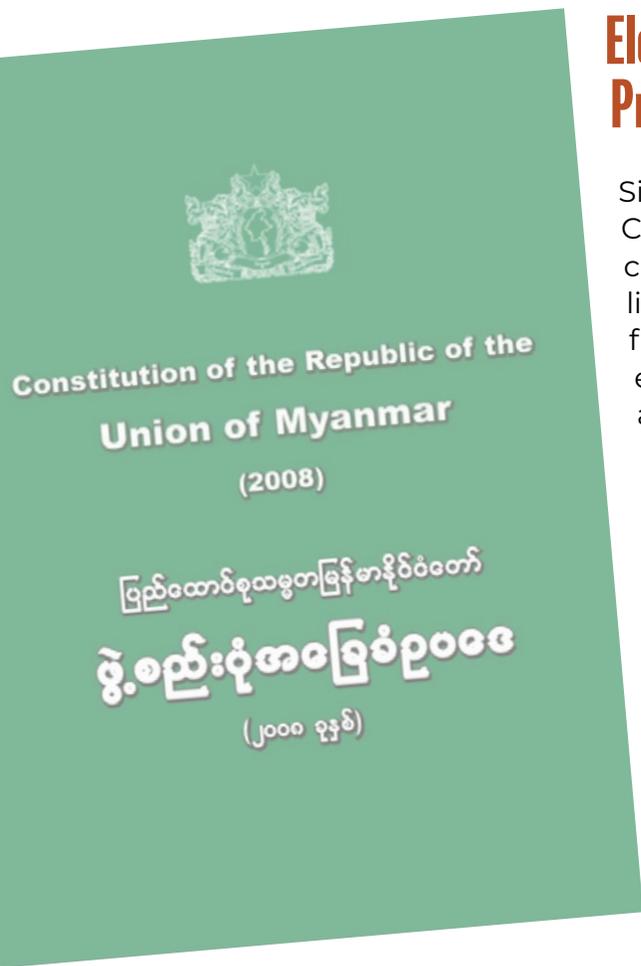
Proportional Representation, abbreviated as PR, refers to electoral systems that allocate parliament seats proportionally to the number of received votes. For example, if a party receives 20% of total votes, it will similarly receive approximately 20% of total seats in parliament. Another key characteristic of PR is that under such system, more than one representative in each constituency is elected. To do so, constituencies are often expanded, meaning that an electoral district using PR covers a larger population than a single-member district under FPTP does. In the PR system, the more representatives are elected in a specific constituency, the better the system works: the proportionality between each party's votes and seats increases, and thus all voters become represented more fairly.

Whether the current FPTP system should be replaced with a PR system or not is an issue of discussion that has not reached a consensus among the many political forces of the country yet. Moreover, the process of adopting a new electoral system is something that always gets politicized. The NLD, for instance, has routinely opposed the idea of switching from FPTP to PR, likely because it understands that, as a large party gaining a disproportionately larger share of parliament seats than its share of votes under FPTP, it would not reap the same benefits under PR.

In a similar vein, the reason why the Tatmadaw, the Union Solidarity and Development Party (USDP) and other smaller parties are on board with the idea of adopting PR is probably because they expect to benefit from it. These parties' support for PR seems to be primarily based on their own interests (i.e. to secure more parliament seats) rather than the country's interests at large, even though some of these parties' expectations for electoral benefits may not be realized in practice through implementing PR.

Provided that it is natural to advance one's own political agenda, it is crucial to recognize that the current military coup council is not going to make any offers without these serving its own interests first. At the same time, it is equally important to remember that automatically opposing everything that the military proposes may not be a good enough approach either, at least when it comes to Burma's electoral system change.

It is one thing to have no confidence in elections orchestrated by the SAC; another is carefully assessing the PR system itself as a possible alternative to the country's current electoral system. Only by doing so will we be able to make informed decisions when choosing an electoral system that guarantees fair representation.



Electoral-System-Related Provisions in the 2008 Constitution

Since the military is still holding onto the 2008 Constitution, the coup council's process of changing Burma's electoral system would likely take place within the constitution's framework. Notable provisions regarding the electoral system in the 2008 Constitution are as follows:

According to the 2008 Constitution, the Pyithu Hluttaw shall be composed of no more than 330 members elected based on township or population; two members shall be elected from each township to make up the respective State/ Region Hluttaws. For the Amyotha Hluttaw, the constitution provides that 12 members shall be elected from each state/region, including one member each from the self-administrative zones and division.

While it is true that FPTP is currently being used for elections at every level of parliament, a close look at these provisions reveals that the constitution does not explicitly prescribe the use of single-member districts for any level of the legislature. The vaguely worded article 109(a) states that no more than 330 members of the Pyithu Hluttaw shall be elected "on the basis of township as well as population." This leads to the assumption that these 330 representatives need to be elected from 330 townships, which in turn must mean that the use of single-member districts for the lower house is constitutionally entrenched—it is, in fact, not.

The interpretation of the article 109(a) may be open for debate but when it comes to the Amyotha Hluttaw, there is no specific provision in the constitution that would state that its 12 representatives shall be elected from 12 constituencies (with one representative each). This removes the limitation of single-member constituencies and allows the representatives for the Amyotha Hluttaw to be elected using any electoral system. Likewise, the constitutional provisions on State/ Region Hluttaws only mention that two representatives shall be elected per township, but it does not mention how.

The reason these provisions are discussed is to point out that if PR (instead of FPTP) was to be adopted for the Amyotha Hluttaw and State/ Region Hluttaws, the shift could be done without making any changes to the 2008 Constitution whatsoever—it would only require the amendment of the election laws (Lemargie et al., 2014).

Adopting PR for the Amyotha Hluttaw would indeed be the simplest approach under the 2008 Constitution, and doing so while keeping the FPTP for the Pyithu Hluttaw is entirely possible as well. This way, a so-called parallel system would be created where two different electoral systems are used to elect different groups of representatives into parliament.

In 2014, there were not only proposals and debates in the Pyidaungsu Hluttaw, but also an establishment of a commission to investigate whether PR is an appropriate system for the country. However, Thura U Shwe Mann, the then Speaker of Pyidaungsu Hluttaw decided to drop the PR issue claiming that a switch to a new electoral system would be unconstitutional.

Source: BBC



Proportional Representation under the 2008 Constitution

Adopting PR under the 2008 Constitution—or a similar framework in which a chunk of parliament seats are reserved to military representatives—could be an extremely dangerous move for the country. The reasons are as follows:

- 1** The main groups that would benefit from PR under the 2008 Constitution are the USDP and Tatmadaw. Among smaller parties, some may benefit, while others would be worse off, with the outcomes being hard to predict over the long term. Ethnic groups whose populations are not territorially concentrated may benefit.
- 2** While it is true that some smaller parties would have a higher chance of entering the parliament, it is rather unlikely that any of them would secure enough seats to form a government—and some would even lose seats (see Nu Tsen Mun, 2020). This could lead to a scenario where the Tatmadaw and its allied parties would always dominate the parliament and manage to form a government after each election. If this scenario was to unfold, not only would the military and its allies be able to have influence over smaller parties, but talking about a lack of inclusivity in parliament would also become irrelevant. Presumably, the fact that the SAC has recently discussed how different PR systems—including the one in Thailand—work could be a reflection of the regime’s ongoing interest in electoral systems that guarantee military presence in parliament and designs that could weaken opponent political parties (Nay Chi, 2021).
- 3** The military would likely take the opportunity to portray the electoral system change as a sign of its commitment to a multiparty democratic system, and thereby to try to gain domestic and international recognition. Indeed, the military has been repeatedly claiming that its staging of a coup had been justified, because its sole intention had been to establish a multiparty democracy. There is little reason to believe that the same international community that welcomed the elections under the 2008 Constitution (which violates numerous democratic standards) would be too skeptical of the military’s promise to adopt an electoral system that would—at least in theory—foster an all-inclusive political sphere. In case the international community decided to support the military-initiated electoral system change, the regime’s legitimacy would be significantly enhanced and undoing the impacts of the SAC’s takeover would become increasingly difficult.

U Thein Soe, the election commission chair during the 2010 general elections, has been appointed by the SAC to lead its election commission and is now working towards disbanding the NLD party and implementing PR.

Source: The Irrawaddy



Source: Myanmar Times

In August of 2014, when the parliament was discussing the possibility of changing the electoral system into PR, there were public demonstrations against it.

Proportional Representation in the Context of Burma

It is important to keep in mind that PR is not a single model that can be copy-pasted and applied to Burma at once. There are many details to design, such as the number of representatives per constituency, the list style and the formula for calculating share of seats, including the vote share threshold. These characteristics would help determine how well the system performs for the people of Burma (and for self-interested actors in the country). Indeed, if designed properly, PR does have promising attributes that could effectively solve the political and social problems of the country:

1 By encouraging a more inclusive parliamentary politics, PR could create a political path to addressing the majority-minority problem between Bamar and non-Bamar ethnic groups as well as the issue of inequality.

2 Since PR would prevent large political parties from single-handedly dominating the parliament, it could cultivate the practice of having more than two parties working together in order to find practical solutions. Instead of having a couple of large parties with opposite economic and political ideologies alternate in leading the country, the fact that multiple parties would have to collectively make policy decisions would enable the parliament to make more long-lasting arrangements.

The Results of the 2020 Elections

-  National League for Democracy
-  Ethnic political parties
-  Union Solidarity and Development Party
-  Cancelled constituencies

3 On the one hand, how quickly we are able to move forward as a country during a period of democratic transition depends on how effectively different political forces can work together; having to wait for a multitude of political parties to agree on every decision may slow things down. On the other hand, such a set-up could provide the necessary push for these parties to develop democratic practices such as cooperation, collective leadership and negotiation.

4 Moving beyond the belief that political representation is only possible for a territorially concentrated ethnic group, PR could introduce the idea that any ethnic group is entitled to political representation regardless of how concentrated or dispersed its population may be. Parties would this way be forced to lay out their policies and appeal to not only their own ethnic groups but also other voters, incentivizing their candidates and representatives to look beyond ethnic identities and attend to the needs of constituents at large (see Naw Gladys Maung Maung, 2020). PR also ensures that more voters feel that they have representation in parliament.

At the same time, in a country with over 90 political parties and significant diversity, a PR system manipulated to serve party interests alone—in the absence of proper research or evaluation—is going to impose harmful effects on the country in the long run, despite how appealing the short-term advantages may seem. Some of the noteworthy risks include:

1 Under PR, there would likely be a decline in parliamentary representation of ethnic minorities whose populations are territorially concentrated. What this means is that ethnic political parties with considerable popular support such as the Shan Nationalities League for Democracy (SNLD) and Arakan National Party (ANP) would lose seats (see Nu Tsen Mun, 2020). An impetuous adoption of PR could end up with a system that neither limits the authority of large parties nor ensures meaningful inclusion of smaller parties.

2 The larger size of constituencies under PR than FPTP would potentially weaken the connection between constituents and their elected representatives. Additionally, in order for candidates to get a seat in parliament, party-lists would be more important than constituents, incentivizing candidates to be more accountable to their parties rather than electorates. Since this problem already exists under the current FPTP system, it is possible that switching to PR would potentially aggravate it.

The risks of adopting PR mentioned above should not be taken lightly. Depending on which political forces adopt it and for what reasons, PR could either foster political stability on the one hand or exacerbate divisions and perpetuate instability on the other hand. Therefore, even if the military was to leave politics completely, PR is not the kind of system we should adopt imprudently.

Nonetheless, this is not to say that PR would never work in Burma. All electoral systems are flawed in one way or another. Fundamentally, choosing an electoral system should be based on the understanding that elections are held to foster a political system that serves the public interest and holds elected representatives accountable. In order for a strong multiparty democracy in Burma to emerge in the long run, the country's electoral system should level the playing field for all political parties by providing equal opportunities and, at the same time, promoting healthy competition.

In a country like Burma, with a history of political and social conflicts as well as significant diversity, an electoral system should create an all-inclusive political space (Reynolds, 2006). What is more, the journey of establishing a federal union that would respect the rights of its states and regions should begin by representing their voice at every level of government—and adopting an appropriate electoral system could be the means to do so.

Finally, it is crucial to remember that Burma cannot become a democracy solely based on electoral system changes. Democracy is about more than elections. It also requires respect for freedom of expression and other human rights, protections for minorities, rule of law, and civilian supremacy over the military—characteristics that the military in general and the current coup council in particular simply lack.

Conclusion

While it is the military coup council that is currently taking the initiative to change the electoral system, many political groups as well as a number of experts have previously claimed that the FPTP system is not suitable for Burma, for it limits political representation to merely a handful of groups. While one may decide to reject the adoption of a new electoral system because the process is considered to be illegitimate, it is vital to begin gathering information on which electoral system is going to ensure that all people of Burma get the representation they deserve. This way, the public will be ready for a fresh electoral system when the time comes to change it through legitimate means.

References

Lemargie, K., Reynolds, A., Erben, P. & Ennis, D. (2014). Electoral system choice in Myanmar's democratization debate. In N. Cheesman, N. Farrelly and T. Wilson (Eds.), *Debating democratization in Myanmar* (pp. 229–258). Singapore, Singapore: ISEAS Publishing.

Nay Chi. (2021, June 18). ဥပဒေပြုရေးဆိုင်ရာ လွှတ်တော်ရွေးကောက်ပွဲများအပေါ် လေ့လာခြင်း (ထိုင်းနိုင်ငံ) [Studying parliamentary elections (Thailand)]. *The Mirror Daily*. Retrieved from https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/KM_18.6.2021.pdf

Naw Gladys Maung Maung. (2020). *Getting ready for the 2020 general election: Ways to improve the campaign strategies of ethnic political parties in Myanmar*. Yangon, Myanmar: The Salween Institute for Public Policy.

Nu Tsen Mun. (2020). *Electoral system at a crossroads: Recalculation of the 2015 election results under the proportional representation system*. Yangon, Myanmar: The Salween Institute for Public Policy.

Reynolds, A. (2006). *Electoral systems and the protection and participation of minorities*. London, UK: Minority Rights Group International.

စစ်ကောင်စီ၏ ရွေးကောက်ပွဲကော်မရှင်နှင့်နိုင်ငံရေးပါတီ ၅၉ ပါတီတွေ့ဆုံ [Military council's election commission meets with 59 political parties]. (2021, May 21). Retrieved from <https://burma.irrawaddy.com/news/2021/05/21/242096>

ရွေးကောက်ပွဲ ကော်မရှင်နှင့် နိုင်ငံရေးပါတီများ တွေ့ဆုံပွဲ နိုင်ငံရေးပါတီ ၅၃ ပါတီ တက်ရောက် ဆွေးနွေးနေ [53 political parties attend a meeting with the Election Commission]. (2021, February 26). Retrieved from <https://news-eleven.com/article/205218>



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