Burma’s Pyidaungsu Hluttaw: a young legislature in a changing state

By Liam Allmark

Beginning in 2011, the inaugural session of Burma's Pyidaungsu Hluttaw (Assembly of the Union) has been the country's first experience of a functioning legislature for almost four decades. After General Ne Win's 1962 coup d'état abolished the post-independence parliamentary system, legislative power was exercised by the military through a succession of internal structures, appointed councils and single-party bodies. Tentative moves towards restoring an elected assembly in 1990 were quickly aborted by the ruling regime when the opposition National League for Democracy (NLD) secured a resounding majority of the vote. Consequently many of those who won seats spent the following years in prison or exile.

This picture finally began to change with the adoption of a new constitution in 2008 establishing today's system of 'disciplined democracy'. Elections were held to the new Pyidaungsu Hluttaw in 2010 and since members took their seats at a purpose-built complex in Naypyidaw the following year, this young legislature has become a focal point of Burma's shifting political landscape.

Parties and elections

Whilst the military no longer exercises direct and complete control over Burma's legislative system, it nevertheless retains considerable influence: 25% of members in the 440 seat lower chamber (Pyithu Hluttaw, or House of Representatives) and the 224 seat upper chamber (Amyotha Hluttaw, or House of Nationalities) are Defence Service personnel directly appointed by the Commander-in-Chief. This is particularly significant given the requirement for any constitutional amendments to be approved by more than 75% of the Pyidaungsu Hluttaw, effectively creating a military veto.

The other members of each chamber are elected through a First Past the Post system that naturally favours large national parties and those with a specific regional focus. The Pyidaungsu Hluttaw is currently dominated by the Union Solidarity and Development Party (USDP) which is closely aligned to the military and secured over half of all seats in 2010. The election fell short of international standards and was boycotted by the NLD, which won 43 out of 45 seats in markedly more open by-elections two years later. Provided that conditions remain largely free and fair for the 2015 general election, the opposition is expected to perform strongly and make significant gains at the USDP's expense.
More than fifteen smaller parties also hold a handful of seats each, predominantly organised along ethnic lines and in some cases maintaining links to armed resistance movements. Other parties with smaller representation include the National Democratic Force (NDF) which split from the NLD to contest the 2010 election, and the National Unity Party (NUP) which is aligned to the senior figures of a previous military regime. Both the NDF and the NUP have called for the introduction of Proportional Representation for the 2015 election, an aspiration that would almost certainly increase their influence. However there are currently no strong indications that any change to the electoral system will be considered in the foreseeable future.

Powers

Under Chapter 3 of Burma's 2008 constitution the Pyidaungsu Hluttaw is responsible for choosing the Executive though an electoral college system. Three Vice Presidents are selected from either inside or outside the legislature: one by elected members of the Pyithu Hluttaw, one by elected members of the Amyotha Hluttaw, and one by the appointed military members of both chambers. Collectively all members then vote for one of the three successful candidates to assume the presidency; in this first term selecting the USDP's Thein Sein, a retired general who served as Prime Minister during the last military government.

As well as selecting Burma's executive, the Pyidaungsu Hluttaw exercises national legislative power and, since it began sitting in 2011, has passed a number of historic laws to liberalise the media, legalise public protests and lift restrictions on the formation of trade unions. Whilst the reformist character of this legislation has been largely attributed to President Thein Sein's government, the independence of law makers has surprised many observers, with cross-party initiatives securing several amendments to government bills.

Other recent pieces of legislation attracting less international interest yet nevertheless extremely significant, have covered important issues such as wages, social security, schools and conservation. These too have been actively debated and amended, eroding early perceptions of a 'rubber-stamp' body likely to have little or no effect on public policy.

Beyond legislation, the government's budget is presented for approval by the Pyidaungsu Hluttaw and members recently voted to extend their powers over taxation policy. Meanwhile the committee system is subjecting Thein Sein and his appointed ministers to an unprecedented level of scrutiny, not least concerning highly sensitive issues such as the functioning of courts and the prevalence of land-confiscation by the military. Although reporting of its activities was initially hampered by various legal restrictions, these have since been eased and the Pyidaungsu Hluttaw now receives extensive coverage in domestic media, raising its profile amongst the general public.

All of these factors underscore the increasingly central role played by the Pyidaungsu Hluttaw in Burma's evolving political system. However in the broader context its powers remain limited and respected international organisations such as Freedom House have expressed concerns about its autonomy. The continually dominant military not only holds a significant number of seats but operates without executive or legislative oversight, and may "take over and exercise state sovereign power" if a State of Emergency is declared. Doubts
have also been cast regarding delays in implementing laws passed by the legislature, indicating that the powerful executive can still marginalise its influence.

**Descriptive representation**

During recent years the Pyidaungsu Hluttaw has facilitated an almost unprecedented degree of political pluralism in Burma, yet descriptive representation remains notably weak. Although more than 30% of the country’s population is not Burman, parties representing smaller ethnic nationalities hold only around 10% of seats across both chambers. Even after taking account of other ethnicities amongst Burman-dominated parties such as the USDP, there remains significant under-representation. This has been exacerbated by consecutive decisions to postpone elections in constituencies where armed ethnic groups are engaged in conflict with the military.

Somewhat ironically, considering that NLD leader Aung San Suu Kyi is by far Burma’s most well know parliamentarian, the gender imbalance in the Pyidaungsu Hluttaw is even more pronounced than the ethnic disparity, with just 6% of Pyithu Hluttaw seats and 2% of Amyotha Hluttaw seats held by female members. Comparatively this places Burma amongst the world’s lowest ranked legislatures for female representation, a situation that has been attributed to numerous factors including the lack of educational opportunities for young women and a political culture of gender discrimination emerging from decades of military-dominated rule.

**Power struggles**

Whilst an important institution in its own right, the Pyidaungsu Hluttaw is also serving as a forum for wider power struggles shaping Burmese politics, particularly in the run-up to next year’s elections. As these draw nearer, one of the most contested issues is the constitutional article that bars Aung San Suu Kyi from the presidency on the ground that her sons are British citizens. This has been a flashpoint in the legislature where in spite of pressure from NLD representatives, a joint committee dominated by USDP and military members recently recommended maintaining the ban, as well as protecting reserved seats for the Defence Services and immunity from prosecution for those involved in former military governments.

Given Suu Kyi’s exclusion, the current presidential front-runner is Shwe Mann, a former general currently serving as Speaker of the Pyithu Hluttaw. Despite being a member of the USDP, the Speaker has used his prominent position to publically criticise the performance of President Thein Sein’s government on numerous occasions. This has not only created periods of tension between the executive and legislature, but has also triggered heated scenes between various military and USDP members inside the Pyithu Hluttaw.

**The future**

Following a period of rapid change, the future of Burma’s political landscape remains unclear. However the Pyidaungsu Hluttaw’s role and prominence will almost certainly continue to grow. Though constrained by a powerful executive and a politically dominant military, its dynamism has been one of the most significant yet under-reported aspects of the country’s ongoing transition. Having been without an active legislature for so long, Burmese politics now seems unimaginable without one.
Liam Allmark is the author of “More Than Rubber-Stamps: The Consequences Produced by Legislatures in Non-Democratic States beyond Latent Legitimation” The Journal of Legislative Studies, 18(2), 2012. He is also the Burma advisor to the Catholic Bishops’ Conference on England and Wales.

Image: Pyidaungsu Hluttaw