

The 2020 Myanmar General Elections:

Democracy Under Attack

ANFREL International Election Observation Mission Report

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Foreword

This report was initially scheduled to be released mid-February 2021. After having observed the campaign period and polling operations for the 2020 general elections, ANFREL was monitoring two key components of the post-election period, namely the investiture of newly-elected members of Parliament (MPs) and the designation of election tribunals to address unresolved election complaints, when the *Tatmadaw* (armed forces of Myanmar) interfered and brought the democratic process to a violent end.

In the early hours of 1 February, as members of the *Pyithu Hluttaw* (lower house of Myanmar's national Parliament) were about to convene for their swearing-in ceremony, the *Tatmadaw* detained dozens of senior government officials, including President U Win Myint, State Counsellor Daw Aung San Suu Kyi, the chief ministers of all states and regions, and the chair of the Union Election Commission (UEC) U Hla Thein, as well as pro-democracy activists and politicians from several parties. The military then seized power, citing Article 417 of the 2008 Constitution which allows for a one-year state of emergency if Myanmar's Union or national solidarity are at threat of "disintegration", even though the procedures laid down in the article were not duly followed.

Since its illegal takeover of power, the military junta has violently cracked down on civil servants, media, activists, and peaceful protesters who have been bravely mobilising to defend their freedoms and demand the release of all those wrongfully detained. All over Myanmar, the largest demonstrations since the 1988 Uprising have been met with extreme repression. At the time of writing, at least 780 civilians have been killed by security forces and over 3,800 are currently detained in relation to the coup. Numerous allegations and evidence of crimes against humanity, including arbitrary detentions, enforced disappearances, and torture have been streaming out of the country despite frequent Internet and social media shutdowns.

Myanmar’s military has used alleged irregularities in the 2020 general elections as justification for its coup. During his statement on Myawaddy TV on 1 February, Senior General Min Aung Hlaing declared that “there was terrible fraud in the voter lists”. The junta has since appointed a new election commission that reportedly declared the results of last November’s elections invalid, and coerced election officials into signing affidavits confirming that instances of electoral fraud took place. These actions run contrary to international standards for the resolution of election disputes and ANFREL joined dozens of election observer groups worldwide in denouncing them.¹ It is indefensible for the *Tatmadaw* to, in a repeat of the events of 1990, renege its commitment to participate in free elections in good faith.

Although we understand that the ongoing crackdown and dire human rights situation in Myanmar warrant the most immediate action from the international community, ANFREL, as a signatory of the Declaration of Principles for International Election Observation², has a duty to display the integrity and transparency we aspire to see in all electoral processes. Therefore, in the spirit of disclosure, we have decided to release this report as it stood on 31 January 2021, just prior to the coup, with only minimal edits to further highlight the saddening developments that have been unfolding since in Myanmar.

ANFREL’s assessment and recommendations contained in this report have been left untouched. We believe that both the good and bad features of the 2020 general elections are presented here truthfully. We regret however that sufficient information has not been made available to independently verify the allegations of voter list fraud raised by the USDP and *Tatmadaw*. We hope this report illustrates the progress achieved by Myanmar as a democracy prior to the February 2021 coup, and that the country may soon return on the rightful path to an elected civilian government.

1 <https://anfrel.org/joint-statement-myanmar-stop-the-coup-let-election-tribunals-do-their-job/>

2 http://anfrel.org/wp-content/uploads/2005/10/declaration-of-principles_en.pdf

As our network’s former chair would say, “there are no elections made in heaven”, meaning there is always room for improvement in the eyes of experienced observers. Nevertheless, **it is ANFREL’s informed opinion that the results of the 2020 general elections were, by and large, representative of the will of the people of Myanmar.** Despite the raging COVID-19 pandemic, 27.5 million people voted thanks to the hard work of polling staff and election or health officials; their voices cannot be silenced.

ANFREL thanks the Norwegian Ministry for Foreign Affairs for its generous support through the Royal Norwegian Embassy in Yangon.

We stand in solidarity with our brothers and sisters in Myanmar as they continue to fight for their fundamental rights. As one protest chant heard across the country says:

ပြည်သူ့အာဏာ ပြည်သူ့ပြန်ပေး

Pyithuarnnar Pyithu Pyanpayy !

“Give the power back to the people!”

Chandanie Watawala
ANFREL Executive Director
10 May 2021

IEOM Profile



ANFREL's International Election Observation Mission (IEOM) to Myanmar's 2020 general elections is comprised of 13 long-term observers (LTOs) deployed for 24 days, eight short-term observers (STOs) deployed for 8 days, three additional Election Day observers, a core team based in Yangon, and four electoral analysts, one in Yangon and the rest working remotely. ANFREL was able to deploy international election observers to 13 out of 14 states and regions in Myanmar.

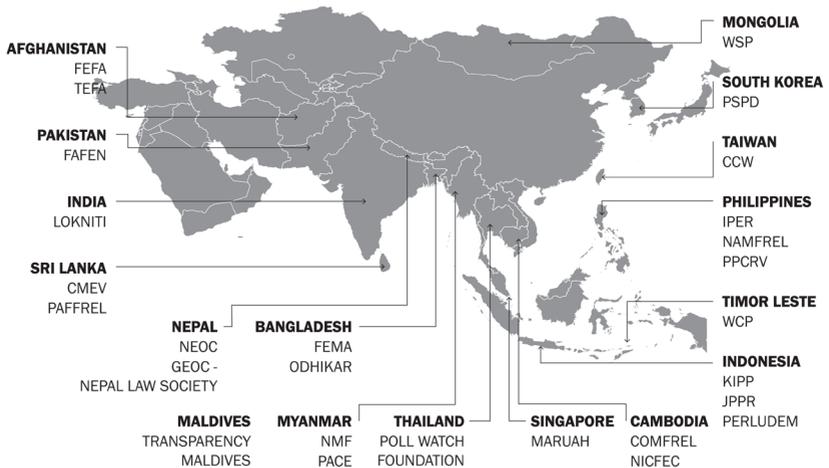
The IEOM team monitored the campaign environment, election preparations, in-constituency advance voting, the cooling period, and Election Day operations. Hundreds of in-depth interviews were conducted with a diverse range of electoral stakeholders across the country, including election officials at all levels, candidates, and representatives of political parties, voters, civil society organisations (CSOs), security personnel, polling staff, media, and domestic election observers.

ANFREL observers were able to visit 205 polling stations during the advance voting period, and an additional 225 on Election Day, covering all aspects of polling throughout the day from the opening of the polls to vote counting and tabulation.

All ANFREL observers and support staff (interpreters and drivers) followed stringent risk-mitigation measures and all applicable regulations throughout their deployment, including in some cases mandatory quarantine upon arrival in their coverage area. Each individual also underwent at least one COVID-19 test, all of which came back negative. Unfortunately, prior to their return from deployment, one observer and one interpreter tested positive for COVID-19 during their deployment and ANFREL cooperated with the relevant health authorities and took necessary action.

ANFREL's international election observation efforts follow a methodology based on international principles contained in documents such as the International Covenant on Civil and Political Rights, the Bangkok Declaration for Free and Fair Elections, and the Dili Indicators of Democratic Elections. ANFREL is a signatory of the Declaration of Principles for International Election Observation.

Organisation Profile



Formed in November 1997, the Asian Network for Free Elections (ANFREL) has established itself as the leading NGO in Asia working for the promotion of democratic elections. ANFREL's primary work is focused on election observation, developing and training civil society groups that are actively working on democratization in their home countries, and undertaking campaign and advocacy activities to address electoral challenges and foster democratic development in the region.

Since its formation and prior to the 2020 Myanmar General Elections, ANFREL has conducted 67 election observation missions across Asia, with over a thousand international election observers participating in these missions. ANFREL draws its observers from a network of member civil society organisations in Asia, all working on strengthening political processes through inclusion, accountability, transparency, and inter stakeholder collaboration. Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is locally developed rather than externally imposed. By engaging in elections in various countries, our observers develop a

strong understanding of best electoral practices, knowledge that can then be utilized to strengthen electoral processes in their respective home countries.

In addition to direct election observation programs, ANFREL also carries out training and capacity building programs for civil society, the media, and other institutions working on elections and democracy-related issues. Providing capacity building training, either directly or indirectly, to local organisations has been an integral part of most of our election observation missions to date. ANFREL believes that capacity building for local stakeholders is one of the most important elements in democratization efforts, which is why it regularly holds regional or country-specific workshops to develop the abilities of democracy advocates.

Finally, ANFREL also carries out election-related advocacy and campaigning, including the dissemination of information and publication of materials related to elections and other democratic processes, as well as lobbying for electoral reforms both on the national and international stage. Since 2012, ANFREL has also organized the Asian Electoral Stakeholder Forum (AESF), which brings together election-related civil society groups and election management bodies from across Asia and beyond to foster greater understanding and cooperation for addressing the remaining challenges to free and fair elections in Asia. By engaging diverse electoral stakeholders through our advocacy and campaign work and bringing together observers from across the region to participate in our observation missions, ANFREL seeks to create an environment conducive to democratic development in the spirit of regional solidarity.

ANFREL's three areas of work - election observation, capacity building, and advocacy - support and complement one another to further our mission of improving the quality of elections across Asia.

Executive Summary

Until the military coup of 1 February 2021 disrupted the final phase of a largely peaceful election process, ANFREL had meant to first congratulate the people of Myanmar, the Union Election Commission (UEC), and the hundreds of thousands of polling staff who made the 2020 Myanmar general elections a success despite difficult conditions. Most election stakeholders, and in particular civil society organisations, media groups, and the international community, contributed to a vibrant election environment and conducted much-needed education, advocacy, and observation activities.

However, the nefarious actions of the *Tatmadaw* halted the electoral process in its tracks and rolled back five years of tentative democracy for the country. While there are many concerns to voice about the situation in Myanmar since the coup, this report focuses on the election period up to 31 January, for the benefit of future civilian authorities willing to hold elections in accordance with international standards. ANFREL continues to strongly condemn the military coup in Myanmar and hopes for the safe return to a government elected by the people as soon as possible.

ANFREL observed that the campaign environment for the 2020 general elections was not quite as free or fair as in 2015, in part because of the unprecedented backdrop of the COVID-19 pandemic. As health guidelines and travel restrictions were adopted to flatten the curve of an active outbreak, the campaign could not display the same level of engagement overall. Parties had to rely on more local and small-scale events; online campaigning became more prevalent. Still, health regulations were routinely flouted and the policy of relying primarily on self-enforcement proved inadequate to address the problem. Political parties and candidates which complied with attendance ceilings, social distancing, and face mask wearing found themselves at a disadvantage against those who did not and were not sanctioned. The accountability

and responsibility of institutions that could then have served as duty-bearers were found wanting.

In addition, the campaign environment was negatively affected by the shutdown of internet service in parts of Rakhine and Chin states, which limited the free flow of information on both the elections and COVID-19 situation; the use of hate speech and misinformation against candidates from ethnic or religious minorities, both online and in person; a rise in the number of recorded instances of election-related violence; censorship of campaign speeches on state media; and persistent impressions that the UEC favoured the ruling party when arbitrating the campaign. All of these factors resulted in an additional advantage for bigger or incumbent political parties and candidates, which were able to mobilise their resources and offices in ways others could not.

While the election campaign and immediate post-election environment were peaceful in most of Myanmar, ANFREL was alarmed by the increase in violence related to the general elections. The number of violent incidents saw an important rise compared with 2015, with most of them taking place between the supporters of the two largest parties in central areas of the country otherwise unaffected by conflict. Steps should be taken to hold those responsible to account and prevent this scenario from repeating in the future. While the actions of security forces since the coup are obviously of much greater and more pressing concern, fair electoral competition cannot take place if the spectre of violence looms over voters, campaigners, and candidates.

Furthermore, the kidnapping of three candidates in Rakhine state and the unattributed assassination of a newly elected MP in northern Shan state, both areas with active ethnic armed organisations (EAOs), demonstrate the challenges of conducting elections in sufficient security conditions across the country. We call for all parties to armed conflicts to respect the rights of local populations who would like to express themselves through democratic electoral processes, which among other things require a campaign environment free from constraint or undue influence.

Myanmar's legal framework for elections continues to be fundamentally undemocratic, with 25% of all parliamentary seats reserved for the armed forces. Similarly, efforts to amend the Constitution have failed because of the veto power granted to the military. Furthermore, large sectors of the population remain disenfranchised, including ethnic Rohingya and the members of religious orders. Constituency boundaries also perpetuate representation imbalances and an unequitable distribution of parliamentary seats. Nevertheless, a few welcome revisions were made to election by-laws, for instance enabling internally displaced people, migrant workers and students to vote more easily in their area of temporary residence, and prohibiting polling stations located inside military compounds.

A total of 91 political parties and 5,643 candidates contested the 2020 general elections, thus providing Myanmar voters with a wide range of options. However, notoriously discriminatory citizenship laws were used to reject some candidates, with Muslims being once again disproportionately affected. Furthermore, the dissolution of the United Democratic Party (UDP) just three weeks prior to Election Day disenfranchised advance voters who had already cast their ballots for the party's candidates.

The decision to hold elections amid an outbreak of COVID-19 was divisive and much criticised, yet the UEC decided to push through, in part because the electoral calendar offered little room for manoeuvre. In hindsight, available data suggests that holding the elections did not contribute significantly to the spread of the virus, highlighting the steps taken by authorities to prevent such an outcome.

However, the resurgence of armed conflicts in several parts of Myanmar led to a greater number of security-related poll cancellations than in 2015, some of which were controversial because of the UEC's lack of consistency and transparency in deciding which constituencies should be postponed. Overall, the poll cancellations described above had a negative impact on the legitimacy of the 2020 Myanmar general

elections. The identification of townships and village tracts that were subjected to cancellations was conducted in an opaque, arbitrary, and inconsistent manner. The discretionary nature of these decisions led them to be perceived as partly targeted at ethnic political parties which were widely expected to win in these areas.

Therefore, we encourage the UEC to adopt in the future a more transparent and inclusive approach to decision-making in order to project neutrality and accountability. Electoral stakeholders, including political parties and civil society organisations, should at least have been consulted before over 1.5 million eligible voters were disenfranchised well into the campaign period. Election officials should resort to election postponements only when necessary because of security concerns, and then strive to use consistent and rational criteria. While some areas were without a doubt too dangerous to hold elections, many others could reasonably have conducted safe polling operations in order to ensure that as many voters as possible were effectively heard.

The situation was especially dire in Rakhine state, where three quarters of all registered voters were disenfranchised by election postponements in nine entire townships and parts of four others. This came in addition to around 600,000 Rohingya that are denied basic political rights because of Myanmar's discriminatory citizenship laws. Rakhine was also the starting point of the country's most recent COVID-19 outbreak, and the entire state had been under a stay-at-home order since August 2020. This obviously affected the opportunities of candidates to campaign, but also the ability of voters to access information in order to make informed choices, as no newspapers are being distributed. Prolonged restrictions on mobile Internet access and the kidnapping of three NLD candidates by the Arakan Army in Toungup township complete the picture of a precarious environment that could not result in democratic elections for Rakhine state.

Even before the military junta's recent attacks on independent media, press and internet freedom was declining in Myanmar as several news websites were blocked ahead of the elections, journalists faced

legal prosecution for reporting on sensitive issues and access to news subjects including government officials and obtaining information from state agencies like the UEC were limited. The COVID-19 pandemic also affected the media with some news outlets forced to reduce their workforce and movement restrictions which made it difficult for the media to do their job.

The media's coverage of the elections was observed to be mostly free and fair, yet there is a need for a more inclusive media reporting as the coverage tended to focus on the two major political parties³ in the country with little coverage for ethnic minority parties and other underrepresented sectors in society. Online disinformation campaigns were also rampant during the elections. Despite the difficulties journalists in Myanmar faced, the media did their best to perform their duties during the elections. The media's role in helping the electorate make informed decisions through timely and relevant news and analyses remains essential therefore press freedom and free expression should be protected and further strengthened.

ANFREL recognises the efforts of the UEC to promote voter education through electronic means, as COVID-19 had limited its ability to conduct activities on the ground. However, the level of voter education remains low, especially in rural areas and in areas where there is limited access to reliable internet. Voter education material from the UEC also gave little attention to ethnic or linguistic minorities, causing some of these communities to fail to understand the polling process. CSOs partly filled the gap with their own voter education efforts, offering alternatives such as online seminars and small-group meetings, and at the same time organised election observation efforts across the country to support Myanmar's continuing democratic transition.

CSOs are among the main actors supporting democratisation in Myanmar and yet the COVID-19 pandemic and other lingering issues

3 The National League for Democracy (NLD) and Union Solidarity and Development Party (USDP)

and challenges affected their participation in the electoral process and the implementation of their programs. Efforts to empower and strengthen CSOs and their work should be supported and sustained.

In the 2020 general elections, there were 902 women candidates out of a total of 5,641, or 16%. This proportion was higher than in the 2015 elections where 800 candidates out of 6,189 (13%) were women, but it remains low. The 2020 general elections saw attempts to increase diversity and achieve greater inclusion with an increase in women candidates, the emphasis placed by political parties on fielding ethnic candidates and reaching out to 5 million first-time voters, continued advance voting opportunities provided to elderly and PWD voters, and the first-ever openly LGBT candidates, among others.

However, much can still be implemented in pursuit of gender equity and genuine participation of marginalised groups, not just in the electoral process but also in decision-making arenas. The new administration can capitalise on the fresh mandate provided to them by increasing the number of women cabinet members; appointing women commissioners in the UEC; undertaking an accessibility audit of polling stations; and revising legal provisions discriminatory against marginalised groups and peoples of different religious affiliations. A multi-ethnic society like Myanmar deserves a government that recognises the participation of all citizens, regardless of gender, ethnicity and religious affiliation, in achieving inclusive governance.

Election Day was found to be peaceful and orderly across the country, with no major incidents reported. Strong turnout and a slower voting process due to preventive measures against COVID-19 sometimes led to long queues, but all voters were eventually able to cast their ballots. While ANFREL observers reported some inconsistencies in the implementation of polling procedures, the integrity of the vote was not found to be affected. Polling and counting operations were conducted diligently and transparently, and health guidelines were overall well-implemented, although social distancing could not be followed in many locations because of large crowds and/or a lack of available space.

In an attempt to increase voters' participation amid the COVID-19 pandemic, the UEC made some extraordinary changes to advance voting compared with previous elections, such as voting from home for elderly voters, polling stations in quarantine centres, and the expansion of out-of-constituency advance voting to people who were unable to return to their home constituencies because of travel restrictions. While advance voting guidelines were found to be unevenly implemented and advance voting remains the weakest part of the electoral process, especially when it involves members of the *Tatmadaw*, ANFREL found no reason to doubt the overall integrity of the advance voting process. The UEC took commendable steps to allow for greater participation in a challenging environment, although ANFREL recommends that more stringent procedures be implemented in the future to strengthen procedural safeguards and guarantee ballot secrecy.

The election results were released in a more timely manner than in 2015. The national average voter turnout was nearly 72%, slightly higher than in the 2015 general elections despite the COVID-19 pandemic. It is also encouraging that higher voter participation and lower number of invalid and missing ballots were observed in most of the states and regions. However, the openness of election results data can be improved by providing more granular data in bulk and in machine readable format in order to enhance the transparency of the elections.

After the announcement of results, the military-aligned USDP refused to accept the election outcomes and alleged irregularities in the voting process. The UEC received a total of 287 complaints compared to 45 in 2015, with 171 of them filed by the USDP. Before the UEC had a chance to nominate election tribunals to review these complaints, on February 1 the military staged a coup, thereby obstructing the election dispute resolution process supposed to take place under the law. Election dispute resolution is therefore not addressed in detail in this report.

ANFREL again denounces the military's attempts to rule by force and disregard the 2008 Constitution that it itself wrote, as well as

the fundamental freedoms of the citizens of Myanmar. We call for the return of power to a civilian-led government and urge all stakeholders to seek redress of election-related complaints through the due process of law.

Chapter 1:

Legal Framework

- **Undemocratic Foundations**

Any assessment of elections in Myanmar should immediately acknowledge the caveat that the country’s legal framework does not provide for a fully democratic régime. While the 2008 Constitution, a product of the junta’s so-called “roadmap to democracy”, enabled the country to elect in 2015 its first civilian leaders in over 50 years, it also introduced a power-sharing arrangement that has entrenched the power of the military.

Drafted by a National Convention that, in the words of UN Secretary-General Kofi Annan, was “lacking in credibility⁴” as it failed to include the National League for Democracy (NLD) and other opposition parties, the Constitution was then passed through a referendum plagued by voter intimidation and disregard for international standards on free and fair electoral processes⁵. State media at the time reported a questionable voter turnout of 98.1%, with 92.48% in favor of the draft document, despite the referendum being held only days after the devastating and deadly Cyclone Nargis made landfall in the Irrawaddy delta⁶.

Myanmar’s Constitution remains fundamentally undemocratic, as it reserves 25% of all seats in the national Parliament and the 14 state and regional parliaments for appointed members of the *Tatmadaw* (armed forces)⁷. This quota of unelected MPs undermines the power

4 <https://www.burmalibrary.org/docs4/CHR2005-SGreport-en.pdf>

5 https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs5/PILPG_Report_Burmese_Constitutional_Referendum_Neither_Free_Nor_Fair-11_May_2008.pdf

6 <https://www.reuters.com/article/us-myanmar-referendum/myanmars-charter-sails-through-referendum-idUSSP33290120080526>

7 Articles 109, 141, and 161 of the Constitution of Myanmar



A voter participates in advance voting in Kanpetlet, Chin state on 30 October.

ကြိုတင်ဆန္ဒမဲပုံး
မရုံအမှတ်(၂)
အကက

of elected lawmakers and the legitimacy of the legislature as a whole. It also provides for the possibility of minority rule since political forces aligned with the military would be able to form a government with only half as many seats, which goes against the principle dictating that the will of the people shall be the basis of the authority of government⁸.

Besides the infamous seat quota, there are more constitutional provisions that contribute to reinforcing the military's influence over a nominally civilian government. "Enabling the defense services to be able to participate in the national political leadership role of the State" is one of the Union's "consistent objectives"⁹, and the key positions of Defence, Home Affairs, and Border Affairs ministers need to be filled with *Tatmadaw* personnel¹⁰. Furthermore, anyone who has a close family member "owing allegiance to a foreign power" or holding foreign citizenship is barred from becoming President¹¹, a clause famously designed to prevent Daw Aung San Suu Kyi from accessing the office. The National League for Democracy (NLD) government established in 2016 therefore had to come up with the new position of State Counsellor in order for her to effectively govern.

While the Constitution recognises in its Article 354 the fundamental freedoms of expression, assembly, and association, as well as the right for one to freely practice his or her language, culture, religion, and customs, it undermines these rights at the same time by protecting them only "if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility". In other words, basic political rights are contingent on the rest of Myanmar's body of laws.

8 Article 21(3) of the Universal Declaration of Human Rights

9 Article 6 of the Constitution of Myanmar

10 Article 232(b) of the Constitution of Myanmar

11 Article 59(f) of the Constitution of Myanmar

These factors explain why the 2008 Constitution has been rejected since its inception by advocates of democracy and human rights. While a number of organisations have consciously decided to participate in the partial elections taking place under this restrictive legal framework, others have refused to engage in any way in a process they consider illegitimate. Long the main opposition party, Aung San Suu Kyi's NLD itself boycotted the first round of elections held in 2010¹², before taking part in the 2012 by-elections over the objections of many party members. Even after the breakthrough 2015 elections led to the installment of the first government not affiliated with the military since 1962, some groups still refuse to endorse the 2008 Constitution in any way, shape, or form. For instance, both the All Burma Federation of Student Unions and the All Burma Federation of Trade Unions called to boycott the 2020 general elections, arguing that any elections held under the current framework are pointless and devoid of substance¹³.

- **Malapportionment & Disenfranchisement**

Apart from the Constitution, the legal framework for elections in Myanmar is comprised of the Union Election Commission Law, the Political Parties Law, the Presidential Election Law, the *Amyotha Hluttaw* Election Law, the *Pyithu Hluttaw* Election Law, and the Region *Hluttaw* or State *Hluttaw* Election Law, as well as the relevant by-laws and a variety of announcements and notifications from the UEC. Together, they dictate the conduct of the three concurrent but distinct electoral processes that make up Myanmar's general elections, as explained in the table below.

12 <https://www.nytimes.com/2010/03/30/world/asia/30myanmar.html>

13 <https://www.youtube.com/watch?v=DrpMHPCM1Go>

Legislative Body	<i>Pyithu Hluttaw</i>	<i>Amyotha Hluttaw</i>	Region/State <i>Hluttaws</i>
Number of elected MPs	330	168	644 + 29 “ethnic minister” seats
Electoral system	First-past-the-post (plurality voting)		
Delimitation of constituencies	1 per township	12 per state or region	2 per township + 1 per eligible “national race”

Additional seats are created in state and regional parliaments for representatives of “national races”, or *thaingyintha*, a controversial term referring to Myanmar’s eight large ethnic categories. National races that reach the threshold of 0.1% of the country’s population (54,437 people in 2020¹⁴) in any given state or region are entitled to one seat in the corresponding *hluttaw*, except if that group makes up the majority population of that area or if it has been granted a self-administered zone or division¹⁵. Candidates for these “ethnic minister seats”, as they are commonly known, compete in a state-wide or region-wide constituency.

As with any electoral system which includes a mechanism to boost the representation of ethnic minorities, the criteria for allocation of seats can be contentious. In Myanmar, the threshold to obtain one seat is relatively low, and all of the state and region parliaments except one (Chin state) have ethnic ministers, for a total of 29 nationwide, unchanged from the previous term. However, the list of eligible *thaingyintha* is based on the 1982 Citizenship Law, which excludes and discriminates against several ethnic groups, most notably the Rohingya¹⁶. Furthermore, there is

14 https://www.idea.int/sites/default/files/news/news-pdfs/2020-General-Election-in-Myanmar-Fact-Sheet_14-July-2020.pdf

15 Article 3(b) and (c) of the Region *Hluttaw* or State *Hluttaw* Election Law

16 <https://www.icj.org/myanmars-discriminatory-citizenship-laws-can-and-must-be-immediately-reformed/>

great diversity within the national races that are recognised: “Chin” for instance comprises 53 distinct ethnic groups, and “Shan” 33, although these numbers are disputed¹⁷. The classification of Myanmar’s ethnic groups is arbitrary and inconsistent.

One aspect of Myanmar’s electoral system that ANFREL has long expressed concerns about is that constituencies are based on administrative units rather than population. For instance, constituencies for the *Pyithu Hluttaw* (lower house of the national Parliament) and region/state *hluttaws* are drawn from the boundaries of the country’s 330 townships, which vary widely in population, thus giving more weight to some voters over others.

According to the latest census data, the smallest township in Myanmar is Kachin state’s Injangyang with only 1,732 inhabitants¹⁸, while the largest is Bago township with 491,434¹⁹. Assuming that voter lists include the same proportion of the population in both areas, this results in a ratio of around 280 to 1 between the country’s most and least populated electorates. Yet, both get to elect one *Pyithu Hluttaw* MP and two MPs for their respective state/region parliament.

This unfair allocation of elected representatives, also known as malapportionment, undermines the principle of equal suffrage affirmed in documents such as the Universal Declaration of Human Rights. The issue also exists, although on a smaller scale, with *Amyotha Hluttaw* constituencies, since Myanmar made the political decision to provide each state or region, regardless of their population, with equal representation in the upper house of Parliament, as other countries do. However, within each state/region, population is taken into account

17 <https://asiatimes.com/2017/12/myanmars-controversial-135-ethnicity-count-needs-clarity/>

18 http://www.themimu.info/sites/themimu.info/files/documents/BaselineData_Census_Dataset_Township_MIMU_16Jun2016_ENG.xlsx

19 The largest township in Myanmar was previously Hlaingtharya in Yangon region, until it was divided in two in 2019.

by the election officials delimiting the constituencies²⁰, meaning that the structural imbalance between seats is most obvious in the *Pyithu Hluttaw*.

While each country has the sovereign right to adopt the electoral system of its choice, and many display some imbalances in the way they allocate parliamentary seats, the discrepancies displayed in Myanmar are extreme. ANFREL therefore reiterates its calls for a more equitable delimitation of constituencies in order to increase the fairness of elections and representivity of legislative bodies.

Another regrettable feature of the legal framework for elections is the continued disenfranchisement of large sectors of the population. First, Article 392(a) of the Constitution states that all members of religious orders are unable to vote. Their numbers are considerable: Myanmar's Buddhist clergy alone accounts for well over half a million people²¹. Christian or Hindu priests and nuns are also unable to vote, but not the clergy of other religious, most notably Muslim imams²², a loophole which causes resentment among Burmese nationalists.

ANFREL respects the cultural and religious traditions that have led to the exclusion of the clergy from the electorate in Myanmar. However, we believe there is enough space in a modern democracy to allow members of religious orders to exercise their universal suffrage as private citizens, which would contribute to making elections more inclusive and representative; other majority Buddhist countries, such as Cambodia or Sri Lanka, have long done so. Interviews conducted by ANFREL observers have also highlighted that some ministers or nuns do not register with the Ministry of Religious Affairs and Culture in order to retain their political rights.

20 Article 4(b) and (c) of the *Amyotha Hluttaw* Election Law

21 In 2016, there were 282,347 Buddhist monks, 252,962 novices, and 60,390 nuns in Myanmar. See <http://www.mahana.org.mm/en/religious-affairs/the-account-of-wazo-monks-and-nuns-in-1377-2016-year/>

22 Article 2(i) of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and Region or State *Hluttaw* Election Law

Another group that continues to be disenfranchised in Myanmar is of course the Rohingya. Long discriminated against by Myanmar's draconian citizenship laws, most Rohingya do not hold full citizenship or a national registration card (NRC). In the 2010 general elections, those who were in possession of temporary identity papers known as "white cards" were then allowed to vote by the military government, a move widely described as politically motivated to balance the votes of the ethnic Rakhine minority. In 2015, all Rohingya saw their white cards invalidated and were simultaneously stripped of their voting rights. An attempt to enfranchise Rohingya was thwarted by pressure from Buddhist nationalists²³.

Since then, the situation has not changed for the better. The heightened persecution and ethnic cleansing of Rohingya in Northern Rakhine state since 2016 has brought their plight to the attention of the world. However, the NLD government and other state agencies have continued to ostracise the Rohingya minority and deny their inclusion in Myanmar's political community. As a result, the 600,000 Rohingya of voting age still living in Rakhine state were once more disenfranchised, as were the estimated 1 million that have fled to Bangladesh in recent years.

On 3 September 2020, Rohingya associations published a joint open letter to the UEC demanding the inclusion of their community in the 2020 general elections²⁴. The statement reads as follows: "We are Myanmar nationals. Before the elections, the Myanmar government should restore our citizenship rights and uphold our rights to vote and participate in the general election." ANFREL stands firmly alongside the Rohingya in their pursuit of fundamental political rights and their fight against statelessness. The United Nations High Commissioner for Human Rights also expressed concerns about

²³ Article 2(i) of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and Region or State *Hluttaw* Election Law

²⁴ <https://progressivevoicemyanmar.org/2020/09/03/the-union-election-commission-should-recognize-the-voting-rights-of-rohingya-refugees-in-the-november-8-general-election-in-myanmar/>

these “violations of the right to political participation²⁵” ahead of the polls.

- **No Constitutional Reform**

One of the key criticisms of the 2008 Constitution is that the document’s military drafters made it especially difficult to modify. Amending the text indeed requires a supermajority of over 75% of all members of the national Parliament²⁶, effectively granting the *Tatmadaw* veto power over any potential changes. Even in the unlikely event that all elected MPs were to agree on a draft amendment, they alone could not revise the text, as they would need at least one more supporter from among the military-appointed MPs. This creates a “Catch-22” situation where getting rid of the military in politics requires constitutional amendments, which in turn need to be supported by the military. In addition, some protected constitutional clauses require a nationwide referendum where over 50% of all eligible voters vote in favor to be amended.

Despite these restrictions, the NLD attempted constitutional reform, which was one of its main campaign promises. Before taking office, the party published in 2014 a list of 168 tentative amendments²⁷ ranging from the symbolic to a comprehensive overhaul of the electoral system. For instance, it was suggested to lower the quota of military-appointed MPs gradually, instead of removing them altogether, similar to what Indonesia achieved between 1998 and 2004²⁸, in an attempt to garner support from the *Tatmadaw*.

25 <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=26431&LangID=E>

26 Article 436 of the Constitution of Myanmar

27 <https://www.irrawaddy.com/opinion/commentary/making-myanmars-constitution-democratic.html>

28 <http://www.ipsnews.net/2004/04/politics-indonesia-military-marching-out-of-parliament-for-good/>

In February 2019, the government formed a joint parliamentary committee to consider possible amendments to the Constitution²⁹. The committee submitted its report containing 3,765 recommendations in July 2019³⁰, and was then tasked with selecting which ones would be submitted to Parliament for a vote. In the end, only 114 draft amendments made the cut, all of them proposed by the NLD³¹, and largely overlapping the manifesto from 2014. They focused on democratisation over federalism, which was a core demand for ethnic-based parties. On 27 January 2020, two constitutional amendment bills were formally submitted by the joint committee to Parliament. MPs from USDP and the *Tatmadaw* submitted five competing bills of their own³², which had circumvented the joint committee process.

After weeks of heated debate, Myanmar's Parliament voted on all proposed amendments from 10 to 20 March 2020. Unsurprisingly, the vast majority of the motions were turned down, with votes closely following party lines despite a secret ballot³³. Only three articles passed, two of which slightly changing phrases relating to persons with disabilities (PWDs)³⁴, and the other removing a minor redundancy³⁵. Therefore, Myanmar's first attempt at constitutional reform ended without having achieved any significant change, evidencing the difficulty of the task. No amendments were made to the substance of the 2008 Constitution, which remains fundamentally undemocratic and still fails to safeguard fundamental rights.

29 <https://www.irrawaddy.com/news/green-light-charter-amendment-committee-despite-objections.html>

30 <http://constitutionnet.org/sites/default/files/2019-07/Amendment%20Annex%20English%20Translation.pdf>

31 <https://www.idea.int/news-media/news/looking-back-myanmar-constitution-amendment-process>

32 <http://constitutionnet.org/vl/item/myanmar-proposed-constitutional-amendment-bills>

33 <https://www.rfa.org/english/news/myanmar/constitutional-amendments-03122020171831.html>

34 http://constitutionnet.org/sites/default/files/2020-03/Myanmar%202008%20Constitution%20Amendment%20Proposals%20and%20Voting%20Results%20of%20Union%20Parliament_436%20A_Eng.pdf

35 http://constitutionnet.org/sites/default/files/2020-03/Myanmar%202008%20Constitution%20Amendment%20Proposals%20and%20Voting%20Results%20of%20Union%20Parliament_436%20B_Eng.pdf

- **Recent Changes to the Legal Framework**

The legal framework for the 2020 general elections was almost identical to the previous electoral cycle, with only a few changes to be found in the electoral by-laws. The first has to do with residency requirements for migrant workers or students within Myanmar. Voters who resided elsewhere than their constituency for at least 90 days, down from 180 days previously, could request their temporary inclusion on the local voter list. While this provision may have enabled large numbers of migrant workers to vote in a more convenient manner, it did not go unopposed by ethnic political parties, who said it would benefit most the political forces of the Bamar majority³⁶.

Election observers have also been divided about the move: Daw Zin Mar Oo, Executive Director of the Myanmar Network Organization for Free and Fair Elections (MYNFREL), welcomed any attempt to increase voter turnout: “We must think of how to get more people to vote. It is more convenient if local migrants have the right to vote in their current townships³⁷”. On the other hand, U Sai Ye Kyaw Swar Myint, Executive Director of the People’s Alliance for Credible Elections (PACE) declared that “a better system should be introduced. [...] Our suggestion is to repeal the 180-day residency requirement and allow advance voting. There is no problem with allowing people to cast their votes in a new place, on the condition that they move to the new places with their entire families. But individuals who will only stay temporarily in a place should not be allowed to cast their votes in local elections³⁸.”

Because of the COVID-19 crisis and the expansion of advance voting to a larger percentage of the population by the UEC, it’s difficult to assess the impact the change in residency requirements may have had in the 2020 general elections. Nonetheless, with official estimates placing the

36 <https://www.irrawaddy.com/news/burma/ethnic-parties-myanmar-worried-proposed-voter-registration-changes-will-hurt-election-chances.html>

37 <https://www.mmtimes.com/news/ethnic-parties-blast-poll-laws-change.html>

38 <https://www.irrawaddy.com/dataline/will-millions-myanmar-migrant-workers-vote-2020-election.html>

number of internal migrants at 9.2 million³⁹, any reform designed to better enfranchise migrant workers and students is a move in the right direction. Still, election stakeholders should strive to find a consensus on the preferred approach to increase voter turnout without affecting the perception of the integrity of the process.

The other significant change to election by-laws regards polling stations for the military. Starting with the 2020 general elections, members of the armed forces and their families would no longer vote on military premises⁴⁰. Instead, the estimated one million military-affiliated voters cast ballots alongside civilians in 635 “combined” polling stations, or in 127 polling stations reserved for the military because of remoteness from civilian populations. These polling stations were however still set up outside of military compounds, and election observers were able to monitor the process.

ANFREL welcomes this reform which aligns Myanmar with international standards on military voting and significantly reinforces transparency. ANFREL observers visited several polling stations where members of the military cast their ballots, both on Election Day and during inside constituency advance voting, and most presented no significant differences from normal polling stations. However, one polling station which only welcomed members of the military was found to be unsatisfactory, as officers would loiter inside instructing the voters in lieu of UEC personnel, and there was no ballot secrecy. While this polling station may not be an accurate reflection of the conduct of the polls in all locations frequented by the military, legal reform should obviously be accompanied by other measures in order to ensure a free voting environment for military personnel. Furthermore, ANFREL was unable to observe out-of-constituency advance voting for the military, which has long been an opaque area of the electoral process. Therefore,

39 http://www.dop.gov.mm/sites/dop.gov.mm/files/datamap-documents/excel_data_on_migration_and_urbanization.xlsx

40 <https://www.irrawaddy.com/news/burma/myanmar-election-commission-seeks-abolish-military-polling-stations-2020-election.html>

we hope that election officials and other stakeholders will take steps to further improve the polling process for military voters.

- **Weak Campaign Finance Regulations**

Because Myanmar’s democratic transition is so recent, campaign finance tends to be overlooked as an area of possible reform. Nonetheless, political authorities and election management bodies should consider devising a more comprehensive regulatory framework to improve the fairness and transparency of elections. Election laws in Myanmar are currently very weak when it comes to campaign finance.

Candidates are required to keep account books and report their expenditures to election sub-commissions by filing a financial statement (Form 20) within 30 days of the results being announced. On paper, all contributions received by candidates, including in-kind donations and contributions from political parties should be accounted for. All candidates are authorised to spend a maximum of 10 million kyat (around USD7,600) regardless of which *hluttaw* they run for and of the size or population of their constituency. In 2020, the maximum admissible amount for candidates to ethnic affairs ministers was increased to 15 million kyat (USD11,500) on the basis that they campaign in an entire state or region.

However, these declarations are usually taken at face value and there has been little scrutiny of candidates’ declared expenses in the past electoral cycles. While false reports can technically result in a disqualification, many election stakeholders interviewed by ANFREL stated that expenditures disclosed by candidates do not accurately reflect the actual amounts spent on campaigning. Furthermore, parties and candidates widely resort to “supporter buying”, that is, providing a cash stipend to people willing to join the campaign trail for a few hours. By the candidates’ own admissions, these expenses routinely go unreported, thereby showing the limits of a system relying mostly on self-declarations. On the rare occasions when campaign finance violations result in sanctions, they are usually revealed by competing

candidates, voters, or the media, rather than oversight from election management bodies.

There are no disclosure requirements for political parties, which only need to keep account books updated annually and provide them to the UEC upon request. While candidates' financial statements are available to the public against a fee, parties are not submitted to the same scrutiny. Political parties are also free to spend without limit on campaign activities, meaning they can host events on behalf of candidates and using party funds. This obviously tilts the playing field in favor of larger parties, which have much greater bankroll and fundraising potential than smaller formations.

It is ANFREL's opinion that campaign finance regulations in Myanmar are insufficient to guarantee a transparent and equitable campaign environment, especially in light of the country's international obligations. Indeed, Article 7(3) of the United Nations Convention Against Corruption (UNCAC) requires all signatories to "consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties". Myanmar ratified this treaty in 2012.

Following the 2020 general elections, ANFREL reached out to election officials across Myanmar to collect data on the filing of campaign expenditures by candidates. In total, there were 80 individuals who did not file a Form 20 prior to the legal deadline⁴¹, representing only 1.4% of all candidates. However, there are concerns that many of the declaration forms submitted do not provide an accurate representation of all campaign costs because of the loopholes aforementioned as well as expenses made by persons or businesses supporting on behalf of a party or candidate⁴².

41 These include 25 in Yangon, 12 in Kayah state, 8 in Bago, 7 in Tanintharyi and Mon state, 6 in Sagaing, 5 in Mandalay, 4 in Shan state, 2 in Ayeyarwady and Kachin state, 1 in Kayin state and Chin state, and none in Magway and Rakhine state.

42 <https://www.frontiermyanmar.net/en/holding-the-nld-to-account-the-money-behind-a-winning-election-campaign/>

- **Conclusion**

Myanmar's constitutional and legal framework for elections still fails to meet international standards. The quota of military-appointed members of Parliament, structural malapportionment, and entrenched disenfranchisement all affect the legitimacy of the country's institutions and undermine its democratic aspirations. Furthermore, campaign finance regulations are insufficient to guarantee a level playing field across all parties and candidates. The amendments introduced ahead of the 2020 general elections are overall positive, but extensive legal reform still needs to be pursued in order to consolidate the country's democratic processes and ensure that the will of people truly is the basis for its government.



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Vehicle used for campaigning
in Myitkyina, Kachin state,
on 1 November.

Chapter 2:
**Political Party
and Candidate Registration**

- **Political Parties**

In order to register with the Union Election Commission, political parties must adopt the objectives of “non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty⁴³”, meaning that formations with a secessionist platform cannot compete in Myanmar’s political arena. Applications also need to be supported by at least 15 individuals and accompanied by a registration fee of 300,000 kyat (USD230). Political parties needed to register by 30 December 2019 in order to be able to contest the 2020 general elections. To maintain their registration active, parties must contest at least three seats in each election cycle⁴⁴.

A total of 91 political parties contested in the 2020 Myanmar general elections⁴⁵. Of these, 49 were ethnic-based, and 18 active only in one state or region, while the other 73 operate at the national level. Five additional political parties were either dissolved or suspended by the UEC on procedural grounds, and therefore unable to field candidates:

- the 88 Generation Student Youth (Union of Myanmar) Party and the Union of Myanmar Federation of National Politics were both suspended for three years in July 2019 for failing to comply with legal requirements on finance reporting⁴⁶;

43 Article 404 of the Constitution of Myanmar

44 Article 12(a)(i) of the Political Parties Registration Law

45 <https://www.facebook.com/uecmyanmar/posts/3217881765004166>

46 <https://elevenmyanmar.com/news/5-parties-suspended-for-inter-party-dispute-fund-problems>

- the 88 Generation Brotherhood Party was dissolved on 6 July 2020 for failure to enlist the minimum number of members within 90 days⁴⁷;
- the People Democracy Party, which was already suspended for three years in 2017, was dissolved on 23 July 2020 for failure to nominate a chairperson and resolve the issues previously pointed out by the UEC⁴⁸; and
- the Union Democratic Party was dissolved on 13 August 2020 for failure to present candidates in at least three constituencies for the 2020 general elections⁴⁹.

However, the highest-profile dissolution was that of the United Democratic Party (UDP), also known as the “Rose Party” because of its symbol. On 17 October 2020, the UEC dissolved the party for allegedly receiving foreign funding in contravention of the Political Parties Registration Law⁵⁰, following an announcement by the President’s Office that UDP chairperson U Kyaw Myint had received 16 billion kyat (US\$12.4 million) from China in 2015, and spent 1.4 billion kyat (US\$1.1 million) to finance his party’s activities.

Suspicious arose when the UDP fielded 1,131 candidates across the country in the 2020 general elections, up from 80 in 2010 and over 40 in 2015⁵¹. This was a surprisingly large number, as only the ruling National League for Democracy (NLD) presented more candidates. Media reports then revealed that Kyaw Myint was convicted of money laundering in 1998 and escaped from prison in Mandalay the following year, prompting authorities to probe his past and finances.

47 <https://www.gnlm.com.mm/public-announcement-for-dissolution-of-political-party/>

48 <https://www.gnlm.com.mm/public-announcement-of-dissolution-of-political-party/>

49 <https://www.gnlm.com.mm/public-announcement-of-dissolution-of-political-party/>

50 https://uec.gov.mm/news_preview_detail.php?action=news_detail1&news_id=ZGxmxBIXM5fd4Orat1ILKNOZYEUjq9Mzz7EljkrCtHvA%3D

51 <https://myanmar-now.org/en/news/a-lexus-3600-cognac-and-ex-military-men-shining-shoes-arrested-party-leaders-lavish-lifestyle>



A Union Solidarity and Development Party (USDP) campaign poster in Magway region.

By late October, investigators had uncovered assets worth 52 billion kyat (US\$41.8 million)⁵². Kyaw Myint was arrested on 29 September 2020. On 12 November, he was convicted to two years in prison for absconding⁵³; a trial date for the money laundering charges had yet to be announced at the time of writing.

While the allegations against the UDP are serious and warrant the dissolution of the party under Myanmar’s election laws if true, the actions taken by the UEC raise several questions. First, no evidence was provided to support the claim that the party was funded by foreign sources, and the dissolution occurred before the UEC had conducted an audit⁵⁴ or a court had ruled on the matter, which goes against the principle of presumption of innocence. Although ANFREL understands

52 <https://www.myanmar-now.org/en/news/investigators-find-another-225m-in-assets-belonging-to-udp-chair-kyaw-myint>

53 <https://www.mmtimes.com/news/fugitive-myanmar-political-party-leader-gets-two-years-jail.html>

54 <https://www.mmtimes.com/news/rose-party-respect-poll-disqualification.html>

the intent was to prevent a potentially fraudulent organisation to tip the playing field in its favor, international standards dictate that a far-reaching measure affecting political rights like a party's termination should be grounded in the due process of the law. Another concern is the timing of the announcement, only three weeks before Election Day. The matter should ideally have been addressed prior to the start of the campaign through timely scrutiny by the UEC and other relevant government agencies. While it is true that some information only recently came to light, concerns about Kyaw Myint's fugitive status and the origin of his fortune were raised as early as 2009⁵⁵, which should have prompted authorities to exercise diligence earlier.

The direct consequence of the dissolution of the UDP is that the 1,131 candidates it had nominated were disqualified and unable to contest the elections. However, their names still appeared on the ballot papers as they had already been printed. Although the UEC posted an announcement in every polling station, this still resulted in some voters casting invalid ballots on Election Day. For instance, in most polling stations observed by ANFREL during vote counting, at least one ballot would be found to be cast for the UDP, highlighting the fact that voters were disenfranchised because of insufficient communication from election management bodies.

Although the number of registered political parties has remained stable since 2015, ethnic-based parties in six states (Chin, Kachin, Kayah, Kayin, Mon, and Shan) merged between 2017 and 2020 in a bid to be more competitive in their respective areas. This resulted in the creation of the Chin National League for Democracy (CNLD)⁵⁶, the Kayah State Democracy Party (KySDP)⁵⁷, the Kachin State People's Party (KSPP)⁵⁸,

55 https://www2.irrawaddy.com/article.php?art_id=15174

56 Formed from the Chin Progressive Party, Chin National Democratic Party, and Chin League for Democracy

57 Formed from the Kayah Unity Democracy Party and All Nationals' Democracy Party

58 Formed from the Kachin Democratic Party, Kachin State Democracy Party, Unity and Democracy Party of Kachin State, and Union Nationalities Federal Democracy Party



A Union Betterment Party (UBP) campaign poster in Gwa, Rakhine state.

the Karen National Development Party (KNDP)⁵⁹, the Mon Union Party (MUP)⁶⁰, and the Wa National Party (WNP)⁶¹. These mergers were a new development in the political landscape of Myanmar; by contrast, five of the six unification attempts that had taken place ahead of the 2015 general elections failed⁶².

Candidates

In order to compete for a legislative seat in Myanmar, a person must be a registered voter residing in the country for at least 10 consecutive years, and a minimum of 25 years of age or 30 years in the case of the *Amyotha Hluttaw*. In addition, both of the tentative candidate's parents

59 Formed from the Karen Democratic Party, Karen State Democracy and Development Party, and Karen Unity Democratic Party

60 Formed from the All Mon Region Democracy Party, Mon National Party, and New Mon National Party

61 Formed from the Wa National Unity Party, Wa Democratic Party, and Wa Liberal Democratic Development Party

62 https://www.iseas.edu.sg/wp-content/uploads/2020/04/TRS8_20.pdf

must have been citizens of Myanmar at the time of his or her birth⁶³. Civil service personnel and naturalised or associate citizens, as well as dual nationals, are unable to stand for election⁶⁴. A candidate can either represent a political party or run as an independent. In either case, a deposit of 300,000 kyat per candidate must be paid, refundable if his/her application is rejected, withdrawn, if the elections is postponed, if the candidate dies, or if he/she loses yet obtains at least one-eighth of the valid votes cast. In a country such as Myanmar, where a large part of the population remains impoverished, these fees constitute a barrier to entry into politics.

The registration period for candidates was from 20 July to 7 August 2020, and the UEC received 7,026 applications in total. On 30 August, the commission announced that 6,969 candidates had been approved to run in the elections, including 6,689 from 92 political parties and 280 independents. However, with the dissolution of the UDP and other withdrawals or rejections of candidacies, that number subsequently decreased to 5,639 candidates vying for seats in the 2020 general elections, 260 of whom were independent. 902 candidates, or 16% of the total, were women, a slight increase from 13% in 2015.

Although some candidates' rejections were made on procedural grounds, such as false information on the application forms, others related to the applicants' parents not being both Myanmar citizens at the time of their birth. Myanmar's 1982 citizenship law is notoriously discriminatory, as it ties one person's citizenship status to his or her membership of one of the recognised "national races" (*thaingyintha*)⁶⁵. As in 2015, rejections based on citizenship grounds, while ostensibly following the letter of the law, seemed to disproportionately affect Muslim candidates.

63 Articles 8(b) and 10(e) of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and *Region Hluttaw* or *State Hluttaw* Election Law

64 Respectively Articles 10(k) and 10(m) of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and *Region Hluttaw* or *State Hluttaw* Election Law

65 <https://www.icj.org/wp-content/uploads/2019/06/Myanmar-Citizenship-law-reform-Advocacy-Analysis-Brief-2019-ENG.pdf>

For instance, all six Muslim candidates in Rakhine state, five from the Democracy and Human Rights Party (DHRP) and one independent, were disqualified by district-level election sub-commissions. The first five, including DHRP chair U Kyaw Min, who ran and won a seat in the 1990 elections, saw their candidacies denied in August⁶⁶, while the last one, U Aye Win of Maungdaw township, was disqualified on October 2, well into the campaign period, after having initially been approved and issued a certificate of candidacy⁶⁷. All dismissed DHRP candidates filed unsuccessful appeals with the Rakhine and national election commissions.

Similar decisions were taken against an independent Rohingya candidate in Ayeyarwady region⁶⁸, an independent Muslim candidate in Mon state⁶⁹, and a Democratic Party for a New Society (DPNS) candidate, also Muslim, in Yangon's Thingangyun township. While there were also non-Muslim candidates to be disqualified for similar reasons, for instance a People's Pioneer Party (PPP) candidate in Yangon's North Dagon township⁷⁰ and a USDP candidate in Kayah state⁷¹, evidence seems to sustain the claim made by numerous stakeholders interviewed by ANFREL that election and citizenship laws were once again jointly used to suppress the fundamental rights of Myanmar citizens who are Muslim and/or Rohingya to stand for elective office and participate in their country's public affairs.

In an unrelated case in Rakhine state, an incumbent *Pyithu Hluttaw* MP from the Arakan National Party (ANP) also saw his candidacy, which was originally approved, rescinded because of his son's alleged role in the Arakan Army (AA) ethnic armed organisation. This decision, reportedly

66 <https://www.bnionline.net/en/news/dhrp-appeal-against-rejection-its-muslim-candidates>

67 <https://www.bnionline.net/en/news/muslim-candidates-bid-voided-late-stage-election-commission-reversal>

68 <https://www.fortifyrights.org/mya-inv-2020-08-19/>

69 <https://www.bnionline.net/en/news/mon-state-election-commission-rejects-independent-candidate>

70 <https://news-eleven.com/article/195435>

71 <https://www.rfa.org/english/news/myanmar/disqualified-candidates-10142020175119.html>



An Arakan National Party (ANP) campaign poster in Gwa, Rakhine state

imposed on the Kyaukpyu district sub-commission by the national-level UEC⁷², ran contrary to the internationally recognised principles of presumption of innocence and proscription of collective punishments.

Although the 2020 general elections featured a large variety of candidates, ANFREL remains concerned, as was the case in 2015, by seemingly selective enforcement of stringent registration criteria and overly restrictive citizenship laws that establish a hierarchy within Myanmar's voting age population with regard to civil and political rights. Furthermore, some candidates were disqualified as late as mid-October, long after out-of-constituency advance voting had started, which does not constitute timely scrutiny on the part of election management officials. We therefore encourage Myanmar authorities to enact legal reform in order to ensure a fairer, more timely, and more transparent registration and validation process for candidates as well as political parties in the future.

72 <https://www.irrawaddy.com/elections/rejected-candidate-myanmars-rakhine-state-says-hes-bullied-off-ballot.html>

Chapter 3: Election Postponements

- **Election Calendar & COVID-19**

The 2020 general elections were announced by the Union Election Commission (UEC) on 1 July, at a time when there were few active COVID-19 cases in Myanmar. However, with a new outbreak originating in Rakhine state in August, various political parties called for the UEC to delay the general elections in order to protect the public and guarantee a level playing field for all candidates. On 15 September 2020, 24 parties, including the military-aligned Union Solidarity and Development Party (USDP), issued an open letter to the commission, asking that the poll date of 8 November be reconsidered⁷³. Other formations like the People's Pioneer Party (PPP) or the Democratic Party for a New Society (DPNS) also called for a postponement separately, with the former proposing 27 December as an alternative date to hold the elections.

Although some ethnic parties, such as the Mon Unity Party (MUP) and Kachin State People's Party (KSPP), declined to endorse calls for a postponement, the main political force supporting the holding of the elections as scheduled was undoubtedly the ruling National League for Democracy (NLD). As NLD spokesperson Dr. Myo Nyunt put it: "We believe it is better to hold the election as planned when the situation is still not out of control. Postponing the election when it's uncertain how the situation might develop in the future will simply result in more problems, including a political crisis on top of the current public health and economic problems⁷⁴".

Indeed, while Myanmar's legal framework explicitly provides for the postponement of elections in the event of natural disasters or if

73 <https://apnews.com/article/aung-san-suu-kyi-myanmar-health-general-elections-elections-061b7bd307ee790335eca6958a694029>

74 <https://www.irrawaddy.com/elections/myanmars-nld-says-postponing-november-election-lead-chaos.html>



A campaign motorcade
in Ayeyarwady region
on 27 October.

warranted by local security situations⁷⁵, it also dictates that the new national legislature should be sworn in when the current Parliament's term expires on 31 January 2021. As there are no provisions to address what would happen in the event of a lapse in the legislature, a postponement of the elections by more than a few weeks would have led the country into uncharted territory. Given Myanmar's long experience with military rule, most stakeholders were unsurprisingly intent on avoiding a potential constitutional crisis.

On 19 September, U Myint Naing, a member of the UEC, told reporters the commission “[didn’t] have any plan to postpone the general election for COVID-19 reasons⁷⁶”, and the polls indeed proceeded as initially planned. However, in part because no efforts were made to seek a consensus among political parties, civil society, medical professionals, and other election stakeholders, the decision to push through despite the COVID-19 outbreak was widely depicted as political and most beneficial to the incumbent government, which no doubt affected the perception of legitimacy of the electoral process among the public.

- **Security-Related Postponements**

Because of Myanmar's many active conflicts, it was however impossible to hold elections everywhere in the country concurrently. On 16 October, the UEC issued a series of announcements cancelling the holding of the polls in 15 entire townships, nine in Rakhine state and six in Shan state, for security reasons⁷⁷. Additionally, partial cancellations were also announced in four townships of Rakhine state, 17 townships of Shan state, 11 townships of Kachin state, six townships of Kayin state, one township of Mon state, and two townships of Bago region.

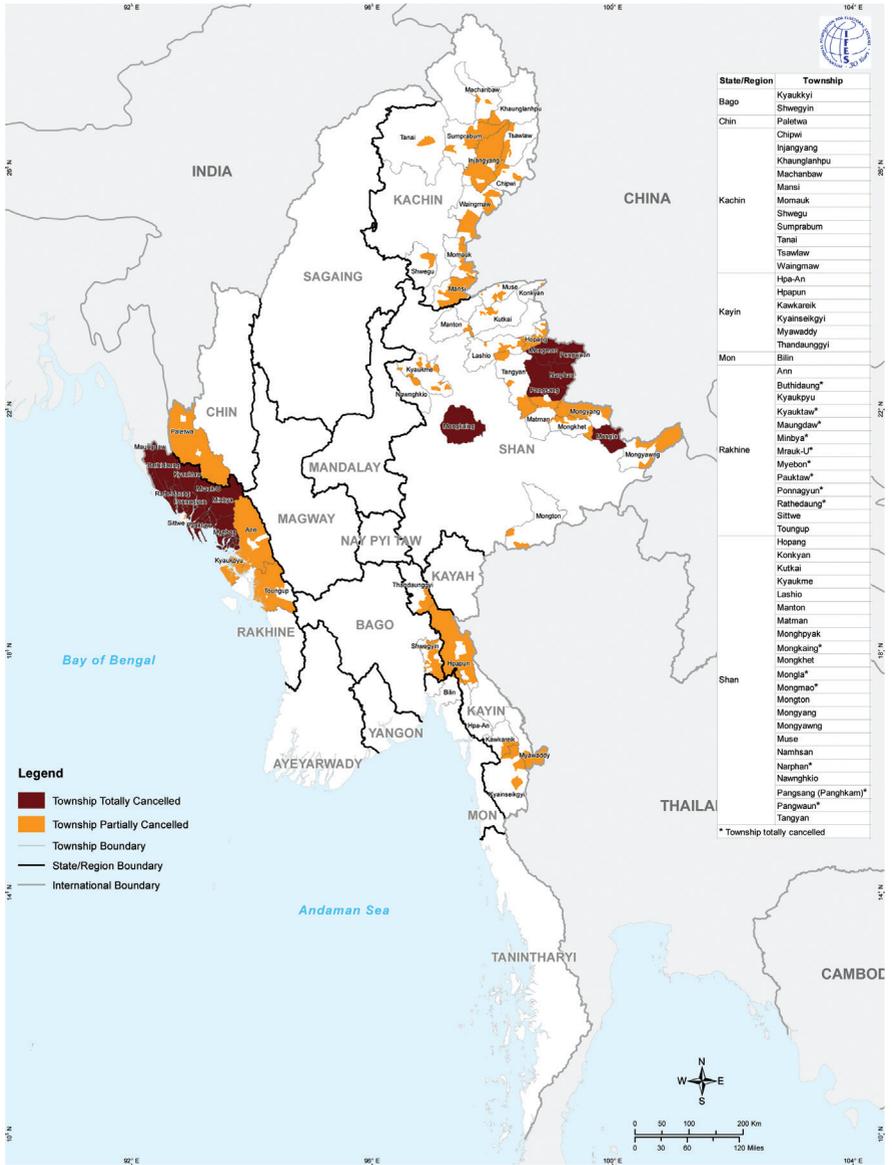
75 Article 399(f) of the 2008 Constitution of Myanmar and Article 50 of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and *Region Hluttaw* or *State Hluttaw* Election Law

76 <https://www.bloomberg.com/news/articles/2020-09-19/myanmar-won-t-postpone-november-polls-election-official-says>

77 The 15 townships are, in Rakhine state: Buthidaung, Kyauktaw, Maungdaw, Minbya, Mrauk-U, Myebon, Paktaw, Ponnagayun, and Rathedaung; in Shan state: Mongkaing, Mongla, Mongmao, Narphan, Pangsang, and Pangwaun.



Final postponements for the 2015 General Election. Map by IFES



Final postponements for the 2020 General Elections (based on the list from 27 October). Map by IFES

Altogether, the poll cancellations announced by the UEC affected a larger portion of the territory than during the 2015 general elections⁷⁸, a reflection of the resurgence of armed conflicts in recent years, especially in Rakhine state. About 95% of all constituencies were able to hold elections⁷⁹. It is estimated that over 1.5 million people, including 1.2 million in Rakhine (73% of the state's eligible voters), were disenfranchised as a result. Technically, the polls were postponed because conditions for free and fair elections were not met at the time, and by-elections could be held later during the term to fill vacant seats. However, in townships where polling was only partially cancelled, the remaining eligible voters would alone choose their members of Parliament, thus creating a legitimacy deficit.

This list of poll cancellations was met with widespread criticism from civil society organisations and political parties alike. In themselves, cancellations of the polls were not unexpected. Significant areas of Myanmar's periphery remain active conflict zones, while others are under the effective control of ethnic armed groups and militias. However, many stakeholders interviewed by ANFREL or media organisations were surprised by the extent of the areas affected, as well as the seemingly inconsistent criteria used by the UEC. The Executive Director of the Myanmar Institute for Peace and Security, U Min Zaw Oo, thus declared that “the UEC's procedures to cancel elections in conflict-affected constituencies [were] not transparent or consistent⁸⁰”. Moreover, *Tatmadaw* spokesperson Brigadier General U Zaw Min Tun confirmed that the no-voting areas delimited by the UEC were “greater than what the *Tatmadaw* recommended⁸¹”.

78 The 16 October 2020 announcements listed a total of 15 townships and 581 wards/village tracts, whereas five townships and 403 wards/village tracts saw polling cancelled in 2015.

79 Elections were held in 315 out of 330 *Pyithu Hluttaw* constituencies, 161 out of 168 *Amyotha Hluttaw* constituencies, and 641 out of 673 state/region *hluttaw* constituencies.

80 <https://www.aljazeera.com/news/2020/10/28/vote-cancellations-trigger-outrage-among-myanmar-minority-voters>

81 <https://mailchi.mp/frontiermyanmar.net/has-the-uec-gerrymandered-rakhine>

Five ethnic political parties, the Kachin State People’s Party (KSPP), Kayah State Democratic Party (KysDP), Karen National Democratic Party (KNDP), Chin National League for Democracy (CNLD), and Mon Unity Party (MUP), issued a joint statement on 18 October requesting the UEC to reconsider its decision. They further alleged that some of the affected areas were constituencies where the NLD would be unlikely to win, and that the decision to postpone the polls was politically motivated⁸².

In Rakhine, most of the nine townships that saw their polls cancelled entirely had elected MPs from the Arakan National Party (ANP) in 2015, while the NLD won in three of the four townships that were unaffected by postponements. According to *Pyithu Hluttaw* Arakan Front Party (AFP) candidate Daw Ma Tin Nyunt: “There are neither natural disasters nor fighting in Pauktaw township. It is totally peaceful now⁸³”. Similarly, the majority of stakeholders interviewed by ANFREL estimated that Ann, Kyaukpyu, and Toungup townships were peaceful areas with no serious security issues that could jeopardize elections. Yet, in all three townships, the voters of only a few wards or village tracts were invited to the polls. Election sub-commission officials in Toungup themselves said they could have held the polls everywhere in the township. There were also quiet islands in Pauktaw and Sittwe townships where no security concerns warranted election postponements. Both the AFP and ANP submitted letters to the Rakhine election sub-commission requesting a review of the poll cancellation order.

In Shan state, the secretary of the election sub-commission U Zaw Myint Win told Radio Free Asia postponements in several townships were unexpected as “there [was] no problem on the ground” and “the polling stations [were] all in place⁸⁴”. In Mongkaing township, the cancellation

82 <https://www.bnionline.net/en/news/kysdp-says-no-justice-declaration-some-constituencies-where-elections-could-not-be-held>

83 <https://www.bnionline.net/en/news/parliamentary-candidates-call-uec-reconsidering-pauktaw-township-polls>

84 <https://www.rfa.org/english/news/myanmar/election-cancellations-10202020102616.html>

of the polls was reportedly due to the Restoration Council of Shan State (RCSS) ethnic armed organisation allowing only ethnic Shan political parties to campaign, therefore barring the Ta'ang National Party (TNP). The TNP filed a complaint with the election management body, which then decided to cancel voting altogether in the area⁸⁵. Four political parties sent a petition of over 10,000 signatures to the UEC in an attempt to have the elections proceed in Mongkaing township, which they consider calm and peaceful⁸⁶. The area is incidentally a stronghold of the Shan Nationalities League for Democracy (SNLD), which also requested the holding of the elections in some cancelled constituencies in Muse, Lashio and Kyaukme districts, most of which were won by the SNLD in 2015.

More than anything else, however, it was the absence of Chin's Paletwa township, the most conflict-torn in Western Myanmar, among the areas affected by postponements that fuelled the perception that the UEC's decisions overlapped with the interests of the ruling party. 90 instances of armed conflict had already been recorded in Paletwa in 2020 alone, whereas no clashes were reported in Pauktaw and only one in Toungup⁸⁷. Furthermore, when the decision to hold elections across the township was later reversed and it was announced that only eight out of 102 village tracts would eventually vote, stakeholders interviewed by ANFREL again voiced dissatisfaction. According to them, the UEC selected areas favorable to NLD candidates while dismissing others that were equally safe. While such claims are very difficult to verify because of the precarious situation on the ground and the absence of granular election results, it is worth noting that accusations of election officials using their power to gerrymander constituencies were numerous, both before and after Election Day.

85 <https://www.irrawaddy.com/elections/myanmar-military-ready-work-arakan-army-rakhine-voting.html>

86 <https://myanmar-now.org/en/news/parties-protest-cancelation-of-vote-in-mong-kung>

87 <https://www.facebook.com/minzawoo/posts/10106247693194707>

The UEC initially defended its decisions, stating that the list of cancelled constituencies was drafted upon the advice of local election sub-commissions and the government, including two military-controlled ministries. However, on 27 October, it issued a new announcement amending the list of locations where polls would be postponed. In light of inputs from the respective sub-election commissions and ministries, election cancellations were rescinded for three village tracts in Kyaukpyu township and four village tracts in Ann township of Rakhine state, as well as one ward in Muse township, one village tract in Lashio township, and another in Kunlong township, all in Shan state⁸⁸.

Even so, these reversals did not go untainted by accusations of favouritism. In Southern Rakhine state for instance, candidates and other stakeholders interviewed by ANFREL reported that most areas where cancellations had been overturned were in the vicinity of military camps and had higher chances to see the NLD or USDP win over local ethnic parties. Similar complaints were also reported by media⁸⁹.

- **Inaccessibility-Related Postponement**

While most cancelled elections were justified by the local security situation, inaccessibility was cited as the reason for cancelling polls in Aye Mon Tharyar village (Chaung Chi) of Tanintharyi region. On 23 October 2020, the UEC sent a letter informing the Myeik district election sub-commission that due to the difficulty in transportation, the village would be excluded from voting in the 2020 general elections. U Hlaing Bwa, secretary of the Myeik district election sub-commission, explained that travel to remote Chaung Chi village could not be arranged without the help of the Thai government, but that this help was never requested because of the COVID-19 pandemic⁹⁰.

88 http://www.xinhuanet.com/english/2020-10/27/c_139471521.htm

89 <https://www.bnionline.net/en/news/usdp-takes-lead-ann-township>

90 <https://elevenmyanmar.com/news/aye-mon-tharyar-village-chaungchivillage-in-taninthayi-excluded-from-holding-election>

While this election postponement affected only 751 registered voters, it is nonetheless significant because there are no legal grounds in Myanmar to delay elections for logistical issues. The UEC had both a legal and moral obligation to find a way to allow these voters to exercise their franchise rights like any other. In some areas, election material and staff are carried by helicopter to remote villages; it is therefore disappointing that election officials were not able to find a suitable solution in this case. The cancellation was protested by NLD MP U Aung Kyaw Hein of Tanintharyi township, who said that inaccessibility and difficulty in transportation were not valid excuses to cancel the voting.

- **Post-Election Updates**

In Rakhine, election results indicate that despite the poll cancellations, the ethno-nationalist Arakan National Party (ANP) secured the largest block of seats in the state parliament, even flipping a number of seats previously held by the NLD. However, this is not enough to give the ANP a majority, and the Union government may again appoint a Chief Minister from the NLD, a scenario that previously happened in 2016 and would further marginalise ethnic Rakhine voters.

ANFREL also received reports that the Rakhine election sub-commission announced that cancelled areas will be considered for by-elections in two years. This development was countered by the Arakan Army (AA) issuing a statement on 12 November urging the government and military to conduct polls in the remaining nine Rakhine townships before 31 December 2020 to allow Rakhine representatives to actively participate in the formation of the new government⁹¹. The AA also stated that it had extended its unilateral ceasefire declaration in Rakhine to 31 December, a statement which was welcomed by the *Tatmadaw*, whose spokesperson also agreed to coordinate to hold voting in Mongkaing, Shan state⁹².

91 <https://www.narinjara.com/news/detail/5fae2f5933d33c18e02b2c2b>

92 <https://www.irrawaddy.com/elections/myanmar-military-ready-work-arakan-army-rakhine-voting.html>

At the time of writing, the UEC (including the junta-appointed UEC after the February 1 coup), has yet to offer an alternative date or means to cast ballots. Under Myanmar's election laws, by-elections cannot take place during the first and last years of the parliament's term⁹³, meaning that the affected seats will remain empty until at least 2022. If a coup were not staged, voters who live in areas affected by partial cancellations would have been represented for the entire 2021-2026 term by MPs they did not get to choose, thus undermining the legitimacy of those elected officials.

- **Conclusion**

Overall, the poll cancellations described above had a negative impact on the transparency and legitimacy of the 2020 Myanmar general elections. The identification of townships and village tracts that were subjected to cancellations was conducted in an opaque, arbitrary, and inconsistent manner. The discretionary nature of these decisions led them to be perceived as partly targeted at ethnic political parties which were expected to win in these areas, thereby marginalising them even more and fuelling resentment against the ruling party and the UEC.

Therefore, we encourage election management officials to adopt a more transparent and inclusive approach to decision-making in order to project neutrality and accountability. Electoral stakeholders, including political parties and civil society organisations, should at least have been consulted before disenfranchising over 1.5 million eligible voters well into the campaign period. Election officials should also resort to election postponements only when necessary because of security concerns, and then strive to use consistent and rational criteria. While some areas were without a doubt too dangerous to hold elections, many others could reasonably have conducted safe polling operations in order to ensure that as many voters as possible were effectively heard.

⁹³ Article 89 of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and *Region or State Hluttaw* Election Law (amended in 2019)



မဲပေးကြပါစို့

သင့်အခွင့်အရေးမဆုံးရှုံးစေဖို့
၂၀၂၀ပြည့်နှစ်၊ နိုဝင်ဘာလ (၈)ရက်
နံနက် (၆)နာရီမှ ညနေ (၄)နာရီအထိ



သင်၏အသံကို ညွှန်ကြားပေးပါ။
၂၀၂၀ ခုနှစ် အထွေထွေရွေးကောက်ပွဲ
အတွက် ဝင်ရောက် မဲပေးနိုင်စေရန်
အားပေးပါ။



UEC voter education poster and pamphlet.

မိမိမယျာဉ် သိစေရန်

- မဲခန်းသို့ ဝင်ရောက်ရာတွင် အထူးသတိပြုစေရန်
- မဲခန်းအတွင်းရှိ အထူးသတိပြုစေရန်

သင်၏အသံကို ညွှန်ကြားပေးရန် အခြေခံစည်းကမ်း

- မဲခန်းသို့ ဝင်ရောက်ရာတွင် အထူးသတိပြုစေရန်
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သင်၏အသံကို ညွှန်ကြားပေးရန် အခြေခံစည်းကမ်း

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- မဲခန်းအတွင်းရှိ အထူးသတိပြုစေရန်

Chapter 4: Election Administration

- **UEC Neutrality and Transparency**

The Union Election Commission of Myanmar (UEC) is a permanent institution tasked with handling all election-related matters in the country. It is composed of a minimum of five members (15 at the time of the 2020 general elections), all appointed by the President of the Union. The UEC is assisted in its duties by 15 state and regional sub-commissions (including one for the Nay Pyi Taw Union Territory), 82 district sub-commissions, 326 township sub-commissions⁹⁴, and 17,067 ward/village tract sub-commissions. Much of the staff required by the UEC around election times to conduct its duties is provided by other government agencies.

Following its post-election coup, the *Tatmadaw* illegitimately formed on 2 February 2021 a new Union Election Commission composed of six members and chaired by U Thein Soe, the former UEC chief who oversaw the 2010 general elections. Seven additional commission members were then appointed on 26 February. Because this report primarily covers the pre-coup period, any mentions of the UEC refer to the one chaired by U Hla Thein that managed the 2020 general elections. In order to avoid confusion, the subsequent election management body is always referred to as the “military-appointed” or “junta-appointed” UEC.

All members of the UEC that oversaw the 2020 general elections were appointed in or since March 2016, which means that the UEC’s entire composition had changed since the 2015 general elections. While the UEC is nominally neutral, the fact that its members are political

⁹⁴ Election sub-commissions in Pangwaun, Narphan, Pangsang, and Mongmao townships (in Wa self-administered division, Shan state) have yet to be constituted.

appointees of the incumbent President renders the institution vulnerable to accusations of bias. Such claims were common throughout the 2020 general elections, with many political parties or candidates accusing the election management body of some degree of preferential treatment for the National League for Democracy (NLD). Even some members and candidates of the NLD interviewed by ANFREL observers openly admitted that the UEC's decisions tended to favour them.

One often-cited example was the start of the campaign period: many parties and candidates reported that they were made aware the campaign would start on 8 September through an announcement made by the UEC only two days before. However, they claimed the NLD had been given a head start so that they would have enough time to organise flag-raising ceremonies across the country to mark the start of the election campaign. While such allegations are of course impossible to verify, they damage the perception of the UEC regarding its purported neutrality.

Other UEC decisions that have stirred criticism among opposition parties for their alleged pro-NLD bias include the late dissolution of the Union Democratic Party (UDP), the timing of the general elections amid a COVID-19 outbreak, and poll postponements in selected areas of the country,⁹⁵. ANFREL's review of these issues seem to indicate that at least some of the claims of bias by the election management body hold up against scrutiny and that the ruling party indeed seems to have enjoyed an edge over its competitors ahead of the polls.

However, it is also our belief that much of the criticism made against the election management body is fueled by a lack of transparency in its decision-making process. Although the UEC regularly held press conferences and published announcements through state and mainstream media, it has also provided little information as to how exactly those decisions were reached and on what basis.

⁹⁵ Addressed respectively in chapters 2 and 3 of this report.

The security-related election postponements mentioned above are a good example of this, as they were criticised not only for their lack of consistency but also because the UEC failed to consult local stakeholders ahead of its announcements. The UEC unfortunately does not have a practice of consensus-building, which would help in making its decisions more widely understood and accepted. Many civil society organisations interviewed by ANFREL also expressed their disappointment at the current election commission, which they consider harder to reach out to, and to obtain information from, than its predecessor from 2011 to 2016. Political parties have voiced similar concerns, as they were reportedly invited to meet with the UEC only three times over a span of five years⁹⁶. Journalists have also reported difficult access to election officials and information⁹⁷, and were even allegedly threatened by the commission's spokesperson for interviewing polling staff on duty⁹⁸.

In light of the ongoing coup, it is important to emphasise that despite the allegations of bias described above, all of the stakeholders interviewed throughout the election period recognised the legitimacy of the UEC. By contrast, since February 2021, a large number of political formations not aligned with the *Tatmadaw* have refused to acknowledge or engage in any way with the junta-appointed UEC. Being able to openly discuss the performance or accountability of the election management bodies is a cornerstone of a democratic system, whereas detaining without cause election officials and staff while setting up a rival institution is an unacceptable authoritarian practice.

Election management bodies worldwide have a duty to make their decisions as transparent as possible to foster trust in democratic processes. In this regard, the UEC's Facebook page, which had previously been disaffected for two years, was critical in releasing

96 <https://www.mmtimes.com/news/political-parties-myanmar-blast-uec-over-meeting-request-snub.html>

97 <https://www.frontiermyanmar.net/en/u-hla-thein-myanmars-divisive-election-chief/>

98 <https://www.frontiermyanmar.net/en/the-uec-and-the-abuse-of-power/>



Polling staff sanitizes the polling booths in Sagaing region. *Photo by Ben Small*

information quickly to the public throughout the election period, and ANFREL commends this practice. However, there is more that the UEC could do to increase transparency, for instance disclosing more comprehensive open election data in machine readable format and holding regular stakeholder consultations or outreach programs in order to implement more inclusive policies. Finally, we invite the UEC to communicate in a clear and timely manner, which would go a long way in getting election stakeholders informed and therefore likely more supportive of the commission's work.

Another issue that was evidenced by ANFREL's interviews with local election officials was inadequate information flow inside the UEC's structure. Communication within the election management body seemed poor at times, as some election sub-commissions were unaware of the decisions taken at the Union or state level. The lack of a comprehensive information sharing strategy could partly explain the inconsistencies observed in the implementation of guidelines throughout the campaign, for instance. Similarly, even though the UEC

count was 1,709 and would continue to rise to 61,377 on Election Day (8 November). Myanmar’s government and health authorities took measures in an effort to contain this second wave as the elections were looming. New lockdowns were enforced in Yangon and Rakhine as well as a number of other areas. Testing was increased with rapid antigen testing deployed nationwide on 29 September and a capacity of 10,000 daily tests was reached in early October¹⁰⁰.

	Cumulative COVID-19 Case Count
UEC the announced the date for 2020 General Elections (1 July 2020)	303
Election campaign started (8 September 2020)	1,709
Election day (8 November 2020)	61,377

Meanwhile, election and health officials jointly prepared a risk mitigation strategy to tackle the challenge of holding elections during COVID-19. On 7 and 9 September, the Ministry of Health and Sports (MOHS) issued standard operating procedures regarding the campaign period and Election Day, respectively¹⁰¹. They were able to benefit from the experience of their counterparts in other Asian countries such as South Korea, Sri Lanka, Singapore or Malaysia, that had organized their own elections earlier in 2020, and the new guidelines were largely based on social distancing, face masks, and hand sanitation. Advance voting was also greatly expanded and additional polling stations were planned in order to limit Election Day exposure.

Despite some hiccups in their implementation, the UEC’s efforts to mitigate the risk inherent to holding elections during a pandemic were widely appreciated among stakeholders. While a spike in COVID-19

100 <https://www.brookings.edu/blog/future-development/2020/12/01/myanmars-response-to-the-covid-19-pandemic/>

101 These documents, known as “SOP 1” and “SOP 2” are discussed further in the relevant chapters.



Overcrowding at an advance voting polling station in Lashio, Northern Shan state on 3 November.

cases was recorded in the weeks following Election Day, statistics suggest the impact remained moderate: indeed, the 7-day moving average for new cases nationwide culminated at 1,501 on 24 November, versus 1,139 on 8 November. The surge was reportedly greater in the regions of Ayeyarwady¹⁰² and Yangon, both areas that were already on a negative trajectory prior to the polls.

Overall, ANFREL commends the UEC and health authorities of Myanmar for minimising as much as possible the health risks posed by holding elections during the COVID-19 pandemic. They showed steady commitment to reconciling democracy and public health in a time of crisis, which is an extremely difficult task, especially with limited resources.

102 <https://www.irrawaddy.com/specials/myanmar-covid-19/covid-19-cases-ayeyarwady-spike-myanmars-election.html>

Election officials and polling staff also paid a heavy tribute for their dedication and hard work. In Yangon alone, over 60 of them were infected with COVID-19 and eight reportedly died, including the chair of Pazundaung township's election sub-commission¹⁰³. Election commission staff in Mandalay¹⁰⁴ and Bago were also found to be infected, while the Myanmar Teachers' Federation announced that 108 teachers who acted as polling staff tested positive after the elections, and two subsequently died¹⁰⁵.

- **Voter List**

One of the major activities for election management authorities ahead of polls is preparing the list of eligible voters. In Myanmar, this is a difficult task because there is no central citizen registry that could serve as a reliable basis for the voter list. Instead, the UEC needs to collect and compile data from different sources, including the Ministry of Labour, Immigration, and Population and the General Administration Department (GAD). An amendment to the election by-laws was also passed so that previous voter lists could be used as a data source as well.

Two voter list displays were conducted prior to the 2020 general elections, the first from 25 July to 17 August 2020, and the second from 1 to 14 October 2020. It is worth mentioning that election laws require only one voter list display, so it is a commendable initiative from the UEC to hold a second one in an attempt to identify and correct more errors. Each display was accompanied by the dissemination of voter education material by the UEC. Voters were able to submit requests for correction by submitting a Form 3(A) at their local election sub-commission within 14 days of the start of the display period.

103 <https://elevenmyanmar.com/news/pazundaung-uec-sub-commissioner-dies-from-covid-19>

104 <https://www.mmtimes.com/news/mandalay-election-commission-members-test-positive-covid-19.html>

105 <https://www.frontiermyanmar.net/en/teachers-stung-by-suite-of-usdp-lawsuits/>



Voters sift through the voter lists in Myitkyina, Kachin state, on 1 November.

During the first public display, it appeared that many voters found their names to be either missing, misspelled, or accompanied by wrong information¹⁰⁶, including even family members of Union Minister for Labour, Immigration, and Population U Thein Swe¹⁰⁷. This prompted State Counsellor Aung San Suu Kyi to personally intervene and ask for the voter list to be fixed¹⁰⁸. The display period was extended to accommodate the large number of corrections needed. Some voters and candidates interviewed by ANFREL said they found themselves deregistered even though their situation had not changed since the last elections, which were as recent as April 2019 in Yangon. However, all were able to request a correction to the voter list and subsequently able to vote.

106 <https://www.irrawaddy.com/elections/myanmar-election-officials-scramble-correct-error-riddled-voter-lists.html>

107 <https://www.rfa.org/english/news/myanmar/voter-lists-08072020183039.html>

108 <https://www.mmtimes.com/news/myanmar-state-counsellor-raps-error-filled-voters-list.html>

Simultaneously with the second voter list display, the UEC also launched a website (<https://findyourpollingstation.uec.gov.mm/>) so that voters could check their voter information and polling station, as was the case in 2015. Voters could not request corrections online but instead had to go in person to their local election commission office, which in the context of the COVID-19 pandemic and stay-at-home orders may have prevented some from doing so. A legal amendment would be welcome so that voters can request corrections online in the future. After the second voter list display, 38.27 million registered voters were eligible to vote in the 2020 general elections.

The UEC stated repeatedly that it believed the voter list for the 2020 general elections to mark an improvement over those used in the past. However, ANFREL's assessment of the quality of the voter registry remains inconclusive. While many of the stakeholders interviewed expressed the opinion that the final voter list was adequate, others disagreed. There were some reports on Election Day of missing voter names, but none were related to mass disenfranchisement, except for ethnic race minister seats in several areas of the country, where inaccuracies on the lists prevented eligible voters from casting ballots¹⁰⁹.

As a whole, it is difficult to gauge for certain how widespread issues with Myanmar's voter lists are without conducting an independent audit of the voter list. Unfortunately, election laws do not provide election observers or civil society organisations with the right to obtain and inspect a copy of the voter list. Political parties interviewed by ANFREL have also stated that despite their requests, they were not provided with a complete copy of the electoral register; instead, candidates and party officials needed to obtain and compile partial lists from local election sub-commissions, further complicating scrutiny.

109 <https://www.frontiermyanmar.net/en/ethnic-minister-election-woes-blamed-on-poor-voter-outreach/>

This lack of transparency and accountability of the voter list has fueled the numerous election complaints submitted by the Union Solidarity and Development Party (USDP) after the polls¹¹⁰. While ANFREL does not possess sufficient information to disprove the claims of widespread election fraud made by the USDP and *Tatmadaw*, we also have yet to receive any credible evidence that such massive irregularities did indeed take place.

Therefore, ANFREL once again encourages Myanmar's UEC and political authorities to align with international standards¹¹¹ and permit voter list audits in an effort to identify any shortcomings in the electoral register. We believe this would benefit greatly the integrity of future electoral processes as well as foster trust among the public. Without independent audits, controversies in relation to voter lists are bound to periodically arise.

Finally, election officials in 2015 distributed paper slips to voters so that they could present themselves at the correct polling station with their voter serial number ready and thus fluidify the polling process. While this policy was discontinued nationwide by the UEC at the time of the 2018 by-elections, some local election sub-commissions, for instance in Yangon or Magway regions, continued to issue these voter slips ahead of the 2020 general elections. ANFREL continues to recognise this as a good practice and a commendable effort to accompany voters in the exercise of their franchise.

110 See chapter 9.

111 For instance Article III(b)(2) of the Dili Indicators of Democratic Elections



An National League for Democracy (NLD) campaign motorcade in Monywa, Sagaing region, on 27 October. *Photo by Ben Small*

Chapter 5: **Campaign Environment**

- **Code of Conduct for Political Parties and Candidates**

One of the innovations of Myanmar's 2015 elections was the adoption of a Code of Conduct (CoC) for political parties and candidates to promote harmonious campaign practices. The CoC was a set of voluntary ethical guidelines to avoid or resolve disputes otherwise not covered in the law. The initiative was and remains supported by the Swiss Embassy in Yangon.

In the run-up to the 2020 general elections, Myanmar's Union Election Commission (UEC) formed a working committee with political party representatives to draft a new CoC from October 2019 to June 2020. The committee consulted all political parties in March and April 2020 before producing a new CoC, based on the 2015 document but more comprehensive, containing seven main voluntary obligations as follows:

- Commit to respect and promote the rights and freedoms of all political parties, candidates, and voters;
- Commit to cooperate with the UEC in resolving disputes through dialogue and electoral mediation mechanisms;
- Refrain from slandering other political parties/candidates and using religious or racial discriminatory messages in campaigns;
- Maintain peace and stability while campaigning;
- Promote a level playing field by not using state-owned resources, promoting a free media environment, and abiding with campaign expenditure regulations;
- Promote diversity and inclusion by providing equal opportunities for different groups such as women, youth, differently-abled persons and people from marginalised groups; and

- Establish a CoC monitoring committee to facilitate the implementation and take corrective action if necessary.

The new CoC was signed on 26 June 2020 at a ceremony held in Yangon. However, some 30 political parties, including the military-aligned Union Solidarity and Development Party (USDP), refused to sign the document, ostensibly because it did not include a ban on the use of the images of General Aung San, a hero of Myanmar's independence movement, and the father of NLD leader and State Counsellor Aung San Suu Kyi, in campaigning¹¹². The boycott marks a departure from 2015, when all contesting parties agreed to sign the CoC; this caused concerns that campaigning in the 2020 elections may be less civil and orderly than in previous years.

- **A Campaign Hampered by COVID-19**

Set against the backdrop of the COVID-19 pandemic, the 60-day campaign period for candidates for the 2020 Myanmar general elections started at 6 AM on 8 September 2020 and ended at midnight on 6 November. However, political parties were able to start campaign activities once the elections were announced on 1 July. All campaign activities had to cease during the cooling day, 7 November, to allow the elections to proceed peacefully and enable voters to cast their votes independently. During this time, political parties, *hluttaw* candidates and their representatives were also prohibited from using social networks, websites, and other media channels to post campaign-related materials and messages¹¹³.

On 6 September, the Ministry of Health and Sports (MOHS) issued standard operating procedures (SOP) on election campaigning to ensure that political parties and candidates would conduct their campaigns without compromising public health and safety. These

112 <https://www.frontiermyanmar.net/en/usdp-risks-disorderly-election-by-snubbing-code-of-conduct/>

113 <https://www.gnlm.com.mm/announcement-of-union-election-commission/>

As in the past, political parties and candidates also had to submit requests in advance to their local election commission to hold campaign events. Indeed, election officials coordinated the campaigning of different parties to avoid rallies coinciding with each other. Candidates interviewed by ANFREL admitted that this approach was generally successful in preventing tensions and said they did not feel hindered in their ability to campaign freely. However, in several locations, interviewees claimed that candidates from the ruling NLD received preferential treatment from the UEC, for instance by getting quicker approval of their campaign events or being granted the first chance to campaign in a specific location.

COVID-19 dealt a heavy blow to the traditional campaign strategies of political parties and candidates. In the 2015 elections, the campaign atmosphere was festive and lively, with mobile campaigns, music, handing of leaflets, public rallies, and door-to-door campaigns¹¹⁴. In comparison, the campaign for the 2020 elections was rather subdued.

A female candidate interviewed by an ANFREL observer reported that in areas with stay-at-home orders, her party was only able to reach out to voters by requesting friends and supporters to distribute party pamphlets and campaign materials to their neighbours on their behalf. In Northern Shan state, some parties said they were unable to conduct multi-stakeholder campaign events with the public (which they did in 2015), and instead were restricted to putting up billboards in downtown areas and in some village tracts. Some political parties, however, became creative in their campaign strategies. For instance, in Yangon's Thingangyun township, a candidate for the People's Pioneer Party (PPP) set up a mobile market stall which sold affordable groceries while carrying campaign posters to woo voters¹¹⁵.

114 <https://anfrel.org/anfrel-eom-2015-report/>

115 <https://www.channelnewsasia.com/news/asia/myanmar-election-candidate-grocery-truck-supporters-13439616>

ANFREL observers noted that political parties and candidates complied with the “no-campaign” policy on cooling day, 7 November. No campaign activity was conducted and no party symbol was visible in the streets, except in Patheingyi, Ayeyarwady region, where ANFREL observed a big red banner with Aung San Suu Kyi’s picture in front of the city hall, and in Magway where NLD sticker and flags and billboards of USDP, NUP, and UBP were still visible.

- **Poor Compliance with COVID-19 Guidelines**

The compliance and enforcement of the MOHS guidelines for safe campaigning were widely assessed to be inadequate. There was consensus among the voters and CSO representatives interviewed by ANFREL that most, if not all, political parties violated the limits on the maximum number of participants. Social distancing and usage of face masks were also rarely followed during campaign activities. However, sanctions were rare, in large part because the UEC relied primarily on self-enforcement from political parties and candidates. When asked about some of their larger events, candidates would often evade their responsibilities by claiming that many supporters were joining them out of their own initiative. Meanwhile, police interviewed across the country said they were not being tasked with monitoring campaign events in regard to COVID-19 guidelines. Their election-related duties were primarily focused on safeguarding polling stations.

In Bago township, an ANFREL observer witnessed a crowded NLD parade consisting of multiple trucks packed with people wearing political party shirts, carrying posters and campaign materials. The supporters did not wear masks or comply with social distancing. After complaints were filed by some parties, namely the USDP and Union Betterment Party (UBP), the campaign was moved to social media platforms. In small villages and townships, political parties reverted to more individualistic campaign strategies: door-to-door campaigns in the neighbourhood, distributing pamphlets, and



Campaign motorcade in Ayeyarwady region on 27 October.

using loudspeakers around the quarters. All observers reported similar violations of the MOHS orders in their areas. In Rakhine state, where a stay-at-home order was enforced since late August, campaign activities routinely took place although none should have been allowed throughout the entire campaign period, according to the guidelines mentioned above.

In Kayah state, while no stay-at-home orders were imposed because of the small number of COVID-19 cases, travel restrictions were set in place throughout the state. Still, MOHS guidelines were not followed, with many campaign events sporting 100 to 200 participants, and again few attendees wore face masks. In one instance, an estimated 20,000 supporters of the Kayah National Party (KNP) and Kayah State Democratic Party (KySDP) conducted a rally on trucks and motorcycles, but they, too, did not follow physical distancing rules. In Rakhine, after the NLD organised a “beach party” without physical distancing, other political parties followed suit and violated the guidelines as well.

The violations mentioned above and many others prompted the UEC to declare on 24 October that “it [was] found that political parties, *Hluttaw* representative candidates, their supporters are lacking in the observance of the guidelines issued by the Ministry of Health and Sports by over limiting 50 people and ignoring the social distancing rule¹¹⁶.” The announcement, which came only two weeks before the end of the campaign period, also prompted political parties and their supporters to follow the regulations published by the MOHS more often.

Overall, the poor reactivity of election officials and lack of accountability regarding violations of the health guidelines contributed to a hazardous campaign environment and an unlevel playing field. The few parties that would enforce social distancing and maximum attendance limits risked alienating their supporters and being eclipsed by parties conducting larger events. While appropriate regulations were drafted in order to ensure safe campaigning under COVID-19, ANFREL regrets that they were dismissed by most stakeholders, including the authorities which would have been able to best enforce them.

- **Vote Buying**

In the 2020 elections, examples of political parties providing favours to woo voters abound. For instance, some candidates took advantage of the COVID-19 situation to undertake campaign activities. Donations of personal protective equipment (PPE) such as face masks or face shields bearing the logos of political parties were commonplace.

In Northern Shan state, ANFREL was informed that a large party was possibly misusing government funds allocated for COVID-19 aid for campaign purposes. Party representatives allegedly gave 20,000 kyat to some households, prompting citizens to question whether the intentions were genuinely aimed for pandemic support or part of their

116 <https://www.gnlm.com.mm/request-to-political-parties-hluttaw-candidates-and-eligible-voters/>

campaign agenda. A second party allegedly offered people one lakh (100,000 kyat) to become party members, three lakhs to put up posters outside their house, and five lakhs for even larger campaign signs. Yet another party promised infrastructure development to villages that vote for them. Candidates were also said to regularly provide financial support to villages via proxy donors in order to bypass election officials, and at least one offered staple food like rice and oil to voters.

ANFREL also received several reports in different locations of NLD candidates presenting voters with government-funded relief aid or PPE which they misleadingly stated were provided by their party. Similarly, USDP allegedly provided 5,000 kyat to rally participants, some of them children, who rode on trucks, motorbikes, and cars.

In Kayin state, interviewees confirmed that political parties handed out t-shirts, branded items, small gifts, masks, and umbrellas. The NLD was said to be quickly implementing projects which they had pledged but not yet started to win voter support. In Myawaddy, Kawkaeik, and Kyainseikgyi, the government put out urgent tenders which were used to demonstrate NLD effectiveness and success. Meanwhile, the United Democratic Party (UDP) was alleged to have given out in several locations allowances of 10,000 kyat and a number of campaign goodies to voters. In Rakhine state, ANFREL received reports that an incumbent MP in Thandwe township, gave food and three batches of financial assistance (each between 20,000 and 26,000 kyat) to poor people, along with the narrative that NLD had provided the assistance.

- **EAO-imposed Rules on Campaigning**

According to a journalist interviewed by the ANFREL team, some ethnic armed organisations (EAOs) imposed rules for political parties to campaign in their territories. Political parties needed to seek permission from ethnic armed organisations to campaign in their areas. Ethnic parties were also at an advantage since they have connections with EAOs.

In Shan state, the Restoration Council of Shan State (RCSS), one of the largest insurgent groups in the country, required political parties to inform them before launching any activities in their territories¹¹⁷. The Chin National Front (CNF) and its armed wing in Chin state imposed a similar rule: political parties were required to seek permission from the group in order to campaign in CNF-controlled areas as precautionary measures to prevent the spread of COVID-19. In Mon state, the ethnic New Mon State Party (NMSP) armed group banned all political campaigns in its territories to prevent COVID-19 infections¹¹⁸. In a statement published on 2 November, the *Tatmadaw* (armed forces of Myanmar) invited EAOs to respect the rights for political parties to canvass¹¹⁹.

- **Online Campaigning & Hate Speech**

In the time of COVID-19, a majority of the political parties and contesting candidates shifted their campaigns and voter education activities to the virtual domain to reach out to voters. They increasingly used their Facebook pages to disseminate their campaign slogans, messages and manifestos; however, their online campaigns would reach primarily urban centres and regions with better Internet connectivity. Political parties also developed songs and jingles to woo voters. A majority of the content posted on Facebook by political parties exhibited cultural and regional diversity. Some campaign messages also focused on encouraging women to vote; however, less content focused on support for PWDs or other marginalised sectors.

According to an analysis of Facebook Ad Library, campaign advertising by political parties and candidates ramped up in the run-up to the elections. Opposition parties led by former military officers (USDP) and

117 <https://www.bnionline.net/en/news/rcss-recommends-political-parties-inform-them-election-cam-paigns-their-territory>

118 <https://www.bnionline.net/en/news/chin-national-frontcnf-and-its-armed-wing-declares-all-candidates-must-see-permission-order>

119 <http://dsinfo.org/node/630>

a former ruling party stalwart (PPP), among others, led in advertising spending on Facebook, Myanmar’s most popular social media platform with over 22 million users across the country. Pages affiliated with the USDP in particular spent a total of US\$18,280 (23.48 million kyats) during the 90 days from 4 August to 2 November¹²⁰. However, the methodology used by Facebook’s Ad Library is opaque and likely does not include all campaign-related expenses on the platform.

Online campaigning presented many challenges for political parties and candidates. Many areas of Myanmar, especially in the peripheral states, have low Internet connectivity. Several townships of Rakhine and Chin states have been affected by an Internet shutdown order, and only 2G network is accessible, which enables only voice calls and limited data transmission¹²¹. This unjust restriction obviously makes it more difficult for the people living in those areas to be well-connected and informed, and an alliance of civil society organisations have demanded the reopening of 3G and 4G Internet¹²².

Political campaigns over social media platforms were also vulnerable to misinformation and hate speech. Voters and CSOs interviewed by ANFREL observed that political parties attacked each other on social media platforms, particularly on Facebook. Most of the attacks were verbal, with parties calling each other “enemies”. Oft-cited examples include the USDP’s attacks on the NLD for the latter’s hiring of foreigners for development projects in the country, and alleged efforts “to turn Myanmar into a Muslim country”.

London-based rights group Burma Human Rights Network, in its report “Digital Hate: Free and Fair for Some: Discrimination and Hate Speech in Burma’s General Election Campaign¹²³”, recorded at least 39 cases of

120 <https://www.irrawaddy.com/elections/myanmars-opposition-parties-ramp-facebook-ad-spending-election-nears.html>

121 <https://www.mmtimes.com/news/rakhine-chin-internet-restored-only-2g.html>

122 <https://www.mmtimes.com/news/14m-people-will-be-affected-internet-shutdown-civil-society-groups-warn.html>

123 <http://www.bhrn.org.uk/en/component/edocman/digital-hate-free-and-fair-for-some/download.html?Itemid=>

election-related disinformation on social media, including anti-Muslim rhetoric. The posts focused on alleged conspiracies between the ruling NLD and Muslims or Muslim organisations; these included accusations that the NLD favoured Muslims, and mentioned they would allow construction of more mosques and the creation of a Muslim Affairs Ministry.

Discriminatory rhetoric from candidates and party members that sought to suppress Muslim voting were also recorded. Michel Kyaw Myint, the general secretary of Yeomanry Development Party, wrote an inflammatory post on social media saying “Dogs should not be allowed to wear a golden belt”, referring to Muslims attempting to take political positions. U Nyn Win, a USDP candidate in Zigone township, Bago region, posted on social media that “Human rights are only for those qualified to be called human beings, not those who do not know how to behave like human beings”. Sanctions have yet been taken by election officials or other authorities regarding these odious instances of hate speech.

U Sithu Maung, one of two Muslims candidates aligned with the ruling party, said he was worried that the spread of “fake news” would damage his chances to win. False claims hurled against him on social media include supposed plans to close Buddhist monastic schools and advocate for the teaching of Arabic¹²⁴. Ethnic parties were also affected by hate speech during the campaign. In Kayin state for instance, ANFREL observed a fierce competition among political parties, with a lot of hate speech and nationalistic rhetoric being used by the different ethnic groups in the area.

124 <https://www.channelnewsasia.com/news/asia/myanmar-election-facebook-hate-speech-rohingya-disinformation-13476412>

- **Campaign Censorship in State-owned Media**

The UEC, in a 23 July notification, allowed political parties to campaign on state-owned radio and televisions from 8 September to 6 November 2020¹²⁵. Each party was allocated 15 minutes to broadcast their message. The announcement also said that “the chairperson or the secretary of a certain party shall submit a manuscript for the campaign” and that the UEC will “review the manuscript to be presented as needed and will issue permit or will ask to edit the manuscript before permission”. Additionally, UEC stated that “before the date of shooting, the manuscript will be sent back to the applicant for editing with remarks and reasons, if necessary.”

The UEC set the following rules for campaigning on state-owned radio and television which political parties must not violate:

- a. no speech that can tarnish the non-disintegration of the union, the non-disintegration of national solidarity, or the perpetuation of sovereignty;
- b. no speech that can disturb the security, rule of law, and the peace and stability of the country;
- c. no speech that disrespects existing laws and the Constitution of Myanmar;
- d. no speech that defames the nation or tarnishes its image;
- e. no speech that brings about the disintegration of the *Tatmadaw* or defames it;
- f. no speech or incitement that can cause racial or religious conflict or that can harm dignity and morality;
- g. no speech that exploits religions for politics;

125 <https://www.gnlm.com.mm/permission-for-broadcast-campaigns-of-political-parties/>

- h. no incitement to obstruct the pursuance of peaceful education; and
- i. no incitement to civil service personnel not to perform their duty or to oppose the government.

Several political parties, however, alleged that they experienced censorship with their campaign speeches to be broadcast over state-owned channel MRTV. As a result, at least seven parties — the People’s Party, United Nationalities Democratic Party, Democratic Party for a New Society¹²⁶, Arakan Front Party, Union Danu League for Democracy, Chin National League for Democracy¹²⁷, Kachin State People’s Party¹²⁸ — decided not to broadcast their campaign speeches¹²⁹.

Parties said they were directed to remove references to “oppression”, “child poverty”, “second class citizens”, “electricity prices” and use of the term “nationality on citizen identity cards”, among others¹³⁰. MRTV, in a statement dated 18 September, said “campaign speeches of political parties were not edited” and that “state-owned dailies published the whole texts of campaign speeches from broadcasting without making any editing¹³¹”.

Human Rights Watch has urged the UEC to “amend rules governing political parties’ access to state-owned radio and television stations to ensure that all parties can present their position without undue interference¹³²”. NGO Article 19 further said UEC-issued Notification 138/2020 “contains highly problematic restrictions on political speech”

126 <https://mizzima.com/article/two-political-parties-accuse-uec-censorship>

127 <https://www.bnionline.net/en/news/cnld-boycotts-mrtv-over-censored-speech>

128 <https://kachinnews.com/2020/10/13/ksp-p-wont-air-policy-speech-on-mrtv/>

129 <https://mizzima.com/article/six-parties-decide-not-broadcast-election-campaign-speeches>

130 <https://mm.boell.org/en/2020/10/05/no-free-elections-without-free-media>

131 <https://www.gnlm.com.mm/campaign-speeches-of-political-parties-not-edited-for-broadcasting-on-mrtv-and-publishing-in-dailies/>

132 <https://www.hrw.org/news/2020/08/14/myanmar-revise-election-broadcast-rules>

and asked the UEC to “withdraw the notification and refrain from initiating prosecutions of individuals on grounds incompatible with international human rights laws¹³³”.

- **Conclusion**

ANFREL observed that the campaign environment for the 2020 general elections was not quite as free or fair as in 2015, in part because of the unprecedented backdrop of the COVID-19 pandemic. As health guidelines and travel restrictions were adopted to flatten the curve of an active outbreak, the campaign could not possibly display the same level of engagement as with the historic 2015 elections. Parties had to rely on more local and small-scale events; online campaigning became more prevalent. Still, regulations were flouted and the policy of relying on self-enforcement proved inadequate to address the problem. Political parties and candidates which enforced attendance ceilings, social distancing, and face mask wearing found themselves at a disadvantage against those who did not and were not sanctioned. The accountability and responsibility of institutions that could then have served as duty-bearers were found wanting.

In addition, the campaign environment was negatively affected by the shutdown of Internet service in Rakhine and Chin states, which limited the free flow of information on both the elections and COVID-19 situation; the use of hate speech and misinformation against candidates from ethnic or religious minorities, both online and in person; a rise in the number of recorded instances of election-related violence; censorship of campaign speeches on state media; and persistent impressions that the UEC favoured the ruling party when arbitrating the campaign. All of these factors resulted in an additional advantage for bigger or incumbent political parties and candidates, which were able to mobilise their resources and offices in ways others could not.

133 <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-violations-ramp-up/>

Chapter 6: Election-related Violence

Myanmar’s election laws criminalise the use of violence, threats, or undue influence to prevent a person from exercising the right to vote or run for office. Any political party or candidate found guilty of these offenses may be disqualified and punished by one year of imprisonment and/or a fine of up to 100,000 kyat¹³⁴. In addition, the Political Parties Registration Law requires parties to renounce campaign activities that could cause conflict between people of different religions or affect the “dignity and morals” of individuals or the public¹³⁵.

The campaign period for the 2020 general elections was found to be generally peaceful and calm. ANFREL observed few instances of election violence, and mostly minor ones. However, media reports indicate there was a rise in election-related violent incidents compared with 2015, which is a disturbing development. Even before the campaign started, various stakeholders interviewed by ANFREL expressed concerns about the heightened potential for violence due to a more competitive electoral environment. Those predictions unfortunately turned out to be correct.

According to the New Myanmar Foundation (NMF), as of 29 October, there were a total of 82 physical confrontations between supporters of various political parties since the campaign started. These incidents included the destruction of vinyl posters, defamation cases between candidates, damages to properties, injuries, and even death. In comparison, in 2015, there were only 28 reported instances of election-related violence¹³⁶.

134 Article 57 of the *Pyithu Hluttaw* Election Law, *Amyotha Hluttaw* Election Law, and Region or State *Hluttaw* Election Law

135 Article 6(d) of the Political Parties Registration Law

136 <https://www.irrawaddy.com/opinion/analysis/myanmar-election-violence-rise-november-vote-nears.html>



ပြည်သူ့လွှတ်တော်
ကြိုတင်မဲပုံး (မြို့နယ်)

အမျိုးသား လွှတ်တော်
ကြိုတင်မဲပုံး (မြို့နယ်)

An immigration officer
secures election materials in
Yangon, on 8 November.

POLICE

According to NMF’s Executive Director Daw Mya Nandar Thin, a different style of campaigning this year has also been a major factor in the amount of electoral violence, noting that: “Unlike with previous elections, this year’s election is occurring under a different set of circumstances. Because candidates and parties’ campaigns are largely restricted under COVID-19 related guidelines, the campaign convoys and rounds of parties’ supporters replaced the candidates’ campaigns. But there was a lack of specific rules for the parties’ supporters regarding campaign gatherings and security support at events.”

- **During the Campaign**

While specific rules should have been set for parties’ supporters regarding campaign gatherings, parties themselves were remiss in policing their own ranks. It has been observed that USDP and NLD supporters have clashed with each other in numerous states and regions, including Mandalay, Magway, and Ayeyarwady¹³⁷, as well as Sagaing and Nay Pyi Taw. In several constituencies, campaign posters were also damaged, many of which were for the ruling party¹³⁸.

One of the most serious instances of election violence happened in Toungup township, Southern Rakhine state, where the Arakan Army (AA) abducted three candidates from the NLD who were campaigning on 14 October. The armed group accused *Pyithu Hluttaw* candidate Daw Ni Ni May Myint, *Amyotha Hluttaw* candidate Daw Chit Chit Chaw, and Rakhine state *hluttaw* candidate U Min Aung of canvassing the area despite a stay-at-home order and thus endangering lives; it demanded the liberation of all ethnic Rakhine politicians and civilians arrested for affiliation with the AA and student protesters detained for demanding peace before the hostages would be released¹³⁹.

137 <https://www.frontiermyanmar.net/en/political-violence-a-threat-to-myanmars-election/>

138 <https://www.irrawaddy.com/elections/election-posters-myanmars-ruling-party-vandalized-dozen-locations.html>

139 <https://www.irrawaddy.com/elections/arakan-army-admits-abducting-three-myanmar-ruling-party-candidates.html>

As Election Day approached, NLD officials said they feared for the lives of the kidnapped candidates¹⁴⁰. On 18 November, the NLD issued a statement calling for the release of its candidates who were abducted as soon as possible¹⁴¹. The Arakan Army responded on 21 November by stating it was willing to release the abductees if the government complied with its demands¹⁴². The three candidates were eventually freed on 1 January 2021¹⁴³.

Another high-profile incident occurred on 22 October, when one person was killed and another injured during a confrontation between supporters of the USDP and the NLD in Karbo village of Kanbalu township, Sagaing region. In addition, seven bikes, a house, and COVID-19 inspection gates were damaged during the incident. Five people are being investigated for the incident¹⁴⁴. According to U Myo Nyunt, the NLD's spokesperson, this incident was one of three major clashes between USDP and NLD supporters during the campaign, with the other two taking place in Hinthada township, Ayeyarwady region, and Myaing township, Magway region. Myo Nyunt also said, however, that "other small conflicts [were] happening a lot of the time though¹⁴⁵".

On 3 October, a mob of around 100 people raided the house of the NLD's Myaing township executive committee member U Myint Naing after the latter argued with a villager over the playing of the party's campaign song. According to Myint Naing, a villager came to his house in Kan Ni village and told him to stop playing the song, before allegedly

140 <https://www.irrawaddy.com/news/burma/long-silence-abducted-nld-candidates-myanmars-rakhine-state-prompts-fears.html>

141 <https://www.mmtimes.com/news/nld-calls-release-abducted-candidates-voices-appreciation-over-election-win.html>

142 <https://www.mmtimes.com/news/myanmars-ruling-party-refuses-negotiate-aa-rakhine-hostages.html>

143 <https://www.irrawaddy.com/news/burma/aa-frees-three-abducted-nld-members-three-soldiers-myanmars-rakhine-state.html>

144 <https://www.myanmar-now.org/en/news/usdp-mob-beats-nld-supporter-to-death-during-clash-in-sagaing>

145 <http://mizzima.com/article/three-clashes-break-out-between-nld-and-usdp-supporters>



The Arakan Army released a photo of the three NLD candidates who were abducted on 14 October. *Photo by The Irrawaddy*

attacking him with a knife, causing a neck injury. A mob then gathered and attacked the house with projectiles and petrol bombs. A police car and street lights were also destroyed during the events. 32 people have since been charged under article 6(1) of the Public Property Destruction Act, 19 of whom have already been arrested, according to the latest reports¹⁴⁶.

The clash in Hinthada township, Ayeyarwady region, took place on 10 October, when a group of USDP supporters returning from a campaign rally allegedly attacked their counterparts from NLD in Tagwa village. Local USDP representatives said their campaigners were attacked first¹⁴⁷. 13 residents suffered minor injuries, while another had to be admitted into the local hospital for treatment. A car, a motorcycle, and

146 <https://myanmar-now.org/en/news/police-arrest-19-after-pro-usdp-mob-attacks-home-of-nld-member-in-magwe>

147 <https://www.irrawaddy.com/elections/fourteen-nld-supporters-injured-attack-pro-usdp-mob-myanmars-ayeyarwady-region.html>

several rooftops were damaged before the police officers present at the scene were able to calm the crowd. Charges were initially filed against 26 USDP supporters¹⁴⁸ before negotiations were conducted and an agreement to drop the charges was reached.

Another instance of violence took place on 16 September when USDP canvassers and teenage boys invectivated and attacked each other in Nay Pyi Taw's Poke Ba Thi Ri township, leading to injuries on both sides. On 19 September, USDP supporters were filmed throwing rocks at the house of an NLD supporter in Meiktila township, Mandalay region; at least six of them were arrested¹⁴⁹.

Also in September, undetonated hand grenades were found at the residence of Nay Pyi Taw election sub-commission chair U Thein Htwe. The two grenades were reportedly thrown into the compound from the street. The attack came shortly after the UEC announced that the 2020 general elections would not be postponed despite several political parties' requests to delay the elections due to COVID-19¹⁵⁰.

On 6 November, just two days before the elections, a bomb blast rocked the offices of Bago region's election sub-commission¹⁵¹. There were no casualties and the attack has not been claimed. Many polling stations in Bago and the surrounding regions/states were subsequently visited by bomb detection units to make sure the locations were safe.

In Southern Shan, ANFREL received reports that the Ta'ang National Party (TNP) had been receiving threats since 15 August from the Restoration Council of Shan State (RCSS) EAO warning them to campaign only in the Pa Laung Self-Administered Zone. The RCSS

148 <https://myanmar-now.org/en/news/26-usdp-supporters-face-charges-after-clash-with-nld-rivals-in-hinthada>

149 <https://www.irrawaddy.com/elections/violence-erupts-shortly-myanmar-political-parties-hit-campaign-trail.html>

150 <https://www.irrawaddy.com/elections/second-unexploded-hand-grenade-found-residence-election-official-myanmars-capital.html>

151 <https://elevenmyanmar.com/news/bomb-blast-hit-bago-election-commission-office-ahead-of-general-election>

also allegedly destroyed signboards and threatened the villages where the TNP was planning to campaign. In addition, the RCSS allegedly threatened the Ta'ang Women Organisation and prevented them from providing voter education in Mungkung villages.

- **Post-Election**

On 11 November, an NLD supporter was beaten to death in Kangyidaunt township, Ayeyarwady region. According to eyewitnesses, U Aung Zin Phyoo was celebrating the victory of his party in Tagongyi village when he was assaulted by three USDP supporters. One of the men is in police custody and has been charged with murder¹⁵².

On 21 November 2020, U Htike Zaw, the newly-elected *Amyotha Hluttaw* MP for Northern Shan state's constituency #1, was shot outside of his house in Pin Tain village, Kyaukme township, by two men on a motorcycle¹⁵³. He died shortly after while receiving treatment at Kyaukme district hospital. No group has claimed the attack and no arrests have been made.

Three EAOs active in Northern Shan state, the Restoration Council of Shan State (RCSS), the Shan State Progress Party/Shan State Army-North (SSPP/SSA-N), and the Ta'ang National Liberation Army (TNLA), have since denied responsibility for the killing. On 22 November, the SNLD and Ta'ang National Party (TNP) condemned the murder of Htike Zaw and expressed their condolences to his family. USDP spokesperson U Thein Tun Oo described the act as “unacceptable in an era of multiparty democratic systems¹⁵⁴”.

Unidentified gunmen had previously fired two shots at the home of Kyaume township election sub-commission chair U Soe Tun on 14 November. The attack occurred on the same day that election

152 <https://www.myanmar-now.org/en/news/nld-supporter-beaten-to-death-after-victory-celebration>

153 <https://www.mmtimes.com/news/nld-mp-elect-shot-dead-kyaukme.html>

154 <https://www.rfa.org/english/news/myanmar/shooting-death-11232020183542.html>

officials announced Htike Zaw had won by a margin of only about 450 votes¹⁵⁵, therefore flipping the seat from the Shan Nationalities League for Democracy (SNLD) to the NLD. Soe Tun stated that no official complaints had been filed regarding the results, but acknowledged discontent over the partial cancellation of the polls in Kyaukme township¹⁵⁶.

It is worth noting that Kyaukme had been the scene of escalating violence involving forced displacement of local populations and repeated instances of human rights violations by both the *Tatmadaw* and rival militias¹⁵⁷. In July 2020, over 10,000 people gathered to protest the abuse and killing of civilians by the military¹⁵⁸. Despite this violent background, the killing of an MP-elect is an egregious denial of democracy which ANFREL strongly condemns. The *Amyotha Hluttaw* seat Htike Zaw would have filled will now remain empty until a by-election is held, which by law would take a minimum of one year, but could also be postponed indefinitely because of the area's instability.

- **Conclusion**

While the election campaign and post-election environment were peaceful in most of Myanmar, ANFREL was alarmed at the increase in violence related to the 2020 general elections. The number of violent incidents saw an important rise compared with 2015, with most of them taking place between the supporters of the two largest parties in central areas of the country otherwise unaffected by conflict. Steps should be taken to hold those responsible into account and prevent this scenario from repeating in the future. A fair electoral competition cannot take place if the spectre of violence looms over voters, campaigners, and candidates.

155 <https://www.mmtimes.com/news/tension-high-shan-town-amid-winning-nld-bet-killing.html>

156 <https://english.shannews.org/archives/22141>

157 <https://thediplomat.com/2020/08/myanmars-ceasefire-falls-apart-in-shan-state/>

158 <https://www.bnionline.net/en/news/more-10000-people-protest-burma-army-violence-kyaukme>

Furthermore, the kidnapping of three candidates in Rakhine state and the unattributed assassination of an MP-elect in Northern Shan, both areas with active ethnic armed organisations (EAOs), demonstrate the challenges of conducting elections in sufficient security conditions across the country. We call for all parties to armed conflicts to respect the rights of local populations who would like to express themselves through democratic electoral processes, which among other things require a campaign environment free from constraint or undue influence.

The assessment above of course needs to be put in perspective with the *Tatmadaw's* violent takeover of power on 1 February 2021 and subsequent repression of peaceful protesters, media, activists and civil servants. Dozens have been killed and hundreds have been illegally detained without cause under the military régime, all but overshadowing previous instances of election-related violence. In retrospect, the escalation in violence between supporters of the two strongest political parties in central Myanmar (NLD and USDP) during the campaign of the 2020 general elections showed that tensions were high and that hard-liners were willing to resort to physical confrontation instead of settling disputes through the ballot box. Such a volatile environment is not conducive to a truly democratic environment where people are free to express their thoughts without fear of reprisals.



Polling staff collecting advance ballots in Thandwe, Rakhine state, on 31 October.

Chapter 7: Advance Voting

- **Legal Provisions**

Myanmar allows advance voting for people who are unable to vote in their constituencies on Election Day. Article 45 of the election laws establishes two types of advance voting: in-constituency advance voting, for voters who have to travel on Election Day, people with disabilities or who are seriously ill, the elderly, women who have recently given birth, detainees, hospital inpatients, and civil servants, military or police personnel on duty; and out-of-constituency advance voting for those residing abroad or who are otherwise away from their constituencies, including students, detainees, hospital inpatients, military personnel and their family members, and civil servants on duty.

As the 2020 general elections were held amid the COVID-19 pandemic, the UEC made some extraordinary changes to advance voting to increase voters' participation in the electoral process. On 10 October, it was announced that voters aged 60 years and above would be able to vote at their homes from 29 October to 5 November if they resided either in a township under a stay-at-home order or in a township with high population density¹⁵⁹. In other areas, elderly voters could cast advance votes at their respective ward or village tract election sub-commissions or request to vote from home if they were unable to go to the polling stations¹⁶⁰. In any case, voters over 60 could still decide to vote on Election Day, but the UEC took commendable steps to provide them with a presumably safer alternative and limit their exposure to the virus. Myanmar has an

159 Defined as above 5,000 people per square kilometer. There are 29 such townships in Yangon region and five in Mandalay region.

160 <https://www.gnlm.com.mm/announcement-for-advance-voting-rights-of-elderly-persons/>

estimated 5.1 million people who are 60 years old and above, nearly 10 percent of the population¹⁶¹.

The UEC also arranged advance voting for voters in quarantine centres across the country. All quarantine centres were responsible for providing the lists of quarantined voters for in-constituency and out-of-constituency advance voting to their respective local election sub-commissions. The polling process was then carried out at the quarantine centres at the fixed date and time between 25 October and 7 November.

Out-of-constituency advance voting was held throughout the country from 8 to 21 October. After local COVID-19 transmissions spiked, the UEC announced on 9 October the expansion of out-of-constituency advance voting to include people who were unable to return to their home constituencies because of travel restrictions designed to stop the spread of COVID-19¹⁶². These voters could request their inclusion in the process by submitting an advance voting application (Form 15) by 25 October to their local election sub-commission. It is noteworthy that such an arrangement is not prescribed in the election laws, but was a welcome initiative from the election management body to prevent the disenfranchisement of voters.

Advance voting was also supposed to follow the standard operating procedures (SOP) issued by the Ministry of Health and Sports (MOHS) to ensure safe polling operations. The SOP required all voters to properly wear a face mask, maintain a six-feet social distance, show their national registration card (NRC) in a plastic bag, and sanitise hands before and after casting their ballot. It also required poll workers who arrange advance voting for hospitalised COVID-19 patients to wear full PPE, discard the pen or stamp after every single use, and disinfect the envelopes containing advance ballots when they are taken out from the isolation room.

161 <https://www.irrawaddy.com/elections/election-2020-week-review-10.html>

162 <https://www.gnlm.com.mm/announcement-on-advance-voting-for-local-voters-outside-their-constituencies-in-2020-general-election/>



A voter in Patheingyi, Ayeyarwady region, participates in advance voting on 29 October.

- **Out-of-Constituency Advance Voting**

109,470 Myanmar nationals living overseas registered for advance voting, according to the Ministry of Foreign Affairs¹⁶³. It was a threefold increase from 34,697 in the 2015 general elections, which showed rising voter awareness among the migrant community living abroad. However, the proportion of registered voters remained extremely low when compared to the estimated four million Myanmar citizens living overseas¹⁶⁴. In Thailand and Malaysia, which have the highest numbers of Myanmar expatriates, only 39,000¹⁶⁵ out of nearly 3 million¹⁶⁶ and 6,000 out of 600,000¹⁶⁷,

163 <https://www.irrawaddy.com/elections/myanmars-election-body-faces-crisis-confidence-ahead-election.html>

164 <https://www.irrawaddy.com/elections/many-myanmar-migrants-in-thailand-to-be-denied-vote-as-extra-polling-stations-ruled-out.html>

165 <http://www.mizzima.com/article/situation-casting-absentee-ballots-foreign-countries-myanmar-nationals>

166 <https://www.mmtimes.com/news/embassies-urge-myanmar-expats-register-vote.html>

167 <https://www.mmtimes.com/news/advance-voting-malaysia-set-october-9-11.html>

respectively, registered to cast their ballots. Furthermore, nearly 8,000 applications were reportedly rejected by the UEC, many of which because they were not sent to their respective township election sub-commissions for approval¹⁶⁸. Proper investigations into the cause of these logistical errors should be conducted to prevent such incidents in the future.

Over 70,000 eligible overseas voters cast their ballots at 45 Myanmar embassies and consulates around the globe from 24 September to 27 October. In Thailand and Malaysia, demands to open more polling stations to accommodate migrant workers far away from their diplomatic representations were denied due to public health concerns amid the COVID-19 pandemic¹⁶⁹. Myanmar nationals residing in the southern provinces of Thailand and East Malaysia met difficulties to vote, since the only polling stations were located in Bangkok, Chiang Mai, and Kuala Lumpur.

Besides limiting the turnout among overseas voters, the small number of polling stations also led to long queues: advance voters in Bangkok interviewed by ANFREL reported waiting times of up to ten hours. Some embassies took measures in consequence to accommodate more voters. For instance, the embassies in Malaysia and South Korea extended advance voting by one day¹⁷⁰ and the embassy in Singapore extended voting hours by one hour daily¹⁷¹.

Within Myanmar, out-of-constituency advance voting for members of the military and their families, students, detainees, inpatients, and civil servants took place from 8 to 21 October. The voting process was conducted by the respective institutions instead of the

168 <https://www.irrawaddy.com/elections/myanmars-election-body-faces-crisis-confidence-ahead-election.html>

169 <https://www.irrawaddy.com/elections/many-myanmar-migrants-in-thailand-to-be-denied-vote-as-extra-polling-stations-ruled-out.html>

170 <https://www.irrawaddy.com/elections/myanmar-embassies-malaysia-south-korea-add-extra-voting-days.html>

171 <https://www.mmtimes.com/news/myanmar-embassy-extends-voting-hour-accommodate-more-voters-singapore.html>

UEC election sub-commissions. ANFREL was unable to observe the out-of-constituency voting process due to logistical constraints, but comments from the stakeholders interviewed by the mission confirmed that it remains the most opaque part of the electoral process. After the voting period ended, the election sub-commission in Yangon's Dagon township received 58 military personnel's ballots in unsealed envelopes and initially decided not to count these votes¹⁷². The UEC later overturned the decision and decided to include those ballots in the counting¹⁷³.

It has to be noted that, although advance voting for the 2020 general elections started as early as 24 September, the announcements of election postponements in certain areas of Myanmar only came on 16 and 27 October, which nullified the votes by advance voters from the affected areas. Additionally, the disqualification of nearly 1,200 candidates in October for various reasons also rendered any advance votes cast for them invalid, thereby disenfranchising voters after the fact.

- **In-Constituency Advance Voting**

Election observers and candidate agents were given the opportunity to observe advance voting across the country. ANFREL observers reported that advance voting procedures did not consistently adhere to UEC guidelines and polling staff did not always seem adequately trained. For instance, polling staff would sometimes hand out all three ballots at once to voters, ballot boxes were not always properly sealed, or glue was not provided for voters to seal the envelopes containing their ballots. There were also numerous complaints about the quality of the envelopes that were initially provided, which were too fragile and not opaque enough. However, the UEC promptly addressed some of these issues and announced on 30 October that ballots in unsealed

172 <https://www.irrawaddy.com/elections/myanmar-militarys-advance-votes-discounted-violating-electoral-law.html>

173 <https://elevenmyanmar.com/news/uec-decides-to-count-unsealed-envelopes>



A voter with a disability casts his ballot with the help of family members in Thandwe, Rakhine state, on 1 November.

envelopes, stained by glue, or accidentally damaged when opened would not be considered as invalid during counting¹⁷⁴.

As in previous elections, mobile ballot boxes were used to make door-to-door visits to the most vulnerable voters and allow them to cast their ballots at home. While ANFREL has long welcomed this initiative for expanding the franchise, these mobile polling stations were found to be the weakest part of the electoral process in terms of procedural safeguards. Indeed, some poll workers used unsealed ballot boxes or kept the envelopes containing marked ballots in bigger envelopes, plastic bags, or even canvas rice bags. In Tanintharyi region, a ballot box containing marked ballots was left unguarded on a truck while poll workers were conducting advance voting at a nearby hospital. Because advance voting was expanded on short notice to accommodate a much greater number of voters, polling staff were also routinely seen using

174 https://www.uec.gov.mm/news_preview_detail.php?action=news_detail1&news_id=ULw22%2FBwRaNX3REKjDtzzL19rUGF7An0u1iGS5ZyL8%3D

ballot boxes and supplies that were intended for Election Day in an attempt to cope with the large number of early votes.

In a few of the advance polling stations visited, issues were reported with regard to the secrecy of ballots cast. Some polling stations had arranged polling booths in a way that failed to provide sufficient privacy, or voters who were visited at home were not always offered the possibility to mark their ballots privately. Most concerning, however, were the voting procedures in quarantine centres and hospitals where COVID-19 patients were being treated. ANFREL observers in some areas were informed or witnessed first-hand that voters in quarantine centres were not allowed to cast their ballots themselves, but instead had to notify polling staff of the candidates of their choice so that ballot papers could be stamped in their place.

This procedure is obviously at odds with international election standards, and it is surprising that any election officials found it acceptable. While the desire to prevent transmission of COVID-19 is understandable, a better mechanism should have been implemented to enfranchise patients and voters in quarantine without compromising their privacy. It is however important to note that ANFREL observers each time reported that voters were still able to cast ballots for the



A poll worker (left) shows the ballot paper to a voter (right) in a quarantine center in Ingapu, Ayeyarwady region, on 2 November.



A poll worker prepares for an elderly voter to vote early in Lashio, Northern Shan state on 2 November.

desired candidates, and never seemed to be under undue influence from election officials or any other persons. Allowing COVID-19 patients and quarantined voters to vote is a challenging task for election management bodies, as ANFREL has previously seen in Sri Lanka, where those voters ended up being disenfranchised¹⁷⁵. Still, we believe a better ballot casting mechanism could and should have been implemented by the UEC in this case.

Despite the inconsistencies noted above, ANFREL has found no evidence to doubt the overall integrity of the ballots cast during the in-constituency advance voting process. Most voters were eager to vote and polling staff was often found to be helpful and accommodating, albeit sometimes unknowingly going against UEC and/or MOHS guidelines. Agents of political parties, and less frequently domestic election observers, were also present to monitor polling operations. Nonetheless, advance voting should be the cause for additional training

175 <https://anfrel.org/wp-content/uploads/2020/09/Sri-Lanka-Report-2020-FINAL-ol.pdf>



A voter participates in advance voting at a quarantine center in Dawei, Tanintharyi region, on 30 October.

of polling staff and heightened procedural safeguards in the future in order to reduce the risk of vote manipulation and increase the trust of the public in the process.

Unfortunately, several irregularities that may have led to voter disenfranchisement were observed during advance voting at ward/village election sub-commissions. In Tamu township of Sagaing region, an advance polling station opened only on 2 November, five days behind the original schedule. On a few occasions, mistakes by poll workers also led to voters being issued the wrong ballot papers or not given a ballot for the election of a national race minister although they were eligible.

Media also reported that in Yangon's Hlegu township, a USDP representative was found providing a fake stamp to elderly voters to mark their ballots, which resulted in four ballots being rejected¹⁷⁶.

176 <https://www.irrawaddy.com/elections/myanmar-party-poll-monitors-complain-of-election-law-violations-during-early-voting.html>

The offender was charged under Article 59 of the election laws. In a separate incident, two voters in Ayeyarwady region's Patheingyi township reportedly used their own fake stamps to mark their ballots on 31 October. They were given a chance to vote again before the incident was reported to the district sub-commission. Also in Ayeyarwady region, a school teacher was charged for casting her ballots twice in two different village tracts on 30 and 31 October, according to the UEC¹⁷⁷.

Many advance polling stations unfortunately failed to enforce COVID-19-related guidelines. Voters, poll workers, and police in most of the locations visited by ANFREL were not practising social distancing, sanitising their hands, or properly wearing face masks. Few polling staff wore hand gloves and face shields while on duty, as required in the SOP issued by the MOHS. Given that the rationale for extending advance voting to all voters over the age of 60 was to protect them from potential infection at polling stations on Election Day, it is dubious whether the polling process recorded by ANFREL observers actually helped to mitigate the risk of COVID-19 transmission after all.

Additionally, the conduct of advance voting from house to house was not always welcomed by voters due to fear of COVID-19, although the mechanism was supposed to reduce the risk of virus infection. For instance, many households in Northern Shan State's Lashio township refused to let poll workers visit their houses, leading to missed opportunities for elderly voters to exercise their voting rights from home.

Overall, ANFREL wishes to commend the UEC for implementing measures to allow advance voting for the elderly who are particularly vulnerable to COVID-19 infections in areas where stay-at-home orders were imposed, or with high population density. While the implementation of health guidelines in the advance polling centres

177 <https://www.gnlm.com.mm/announcement-on-legal-actions-taken-against-two-women-over-electoral-fraud-in-advance-voting/>



An elderly voter participates in the advance voting in Tamu, Sagaing region, on 2 November. *Photo by Ben Small*

was found to be inconsistent and raised some concerns, the UEC has continued and even expanded its efforts to reach out to the most vulnerable voters and enfranchise them to make the 2020 general elections as inclusive as possible. According to statistics from the UEC, around one-fifth of the 27.5 million voters who took part in the 2020 elections voted through advance voting, a much greater proportion than in previous elections¹⁷⁸. Advance voting represents a great logistical challenge for election officials, and although the process suffers from the uneven implementation of rules and regulations, sometimes from one village to another, it still served its purpose remarkably well and should hopefully improve in future electoral cycles if additional training and resources are made available.

178 In 2015, advance voting represented 6.1% of all ballots cast for the *Amyotha Hluttaw*; it was 21.3% in 2020.



A voter shows his ink marked finger after voting on Election Day in Kale, Sagaing region. *Photo by Ben Small*

Chapter 8: Election Day

- **Polling Stations**

On 8 November 2020, 38.27 million voters were invited to cast their ballots in the first national polls since the historic transition of power to a democratically elected government in 2016. Despite the challenge of the COVID-19 pandemic, voters came out in large numbers to their polling stations, with a voter turnout of 71.89%, slightly higher than 69.71% in 2015.

On Election Day, ANFREL visited a total of 225 polling stations across 13 of Myanmar's states and regions to monitor voting operations. Election Day was found to be peaceful and orderly with no major reports of irregularities or incidents that may have led to voting disruptions or doubts over the integrity of the polling process.

Classrooms and multi-purpose halls were the places most commonly used as polling stations on Election Day. The latter were especially suitable locations in the context of the COVID-19 pandemic as they could accommodate more voters, help with better crowd management, and provide good ventilation. Some of the classrooms used, however, were too small, which caused problems with social distancing and could even have compromised ballot secrecy. Additionally, a few polling stations visited by ANFREL were set up in Buddhist temples, which goes against UEC regulations.

Most polling stations were ill-equipped to accommodate persons with disabilities (PWDs). 79% of locations visited by ANFREL observers would have been inaccessible to wheelchair users without outside assistance, as they offered no entrance ramps or the terrain was too uneven. Therefore, we invite the UEC to enhance polling station accessibility in the future.

ANFREL observers noted that polling booth arrangements provided sufficient ballot secrecy the majority of the time, but there were instances where the polling booths would be set in front of open windows, which could have provided bystanders with a clear view of ballots being cast. However, some polling stations were simply not large enough to accommodate a sufficient distance between polling booths, which could have allowed voters to check on each other's ballots.

Election observers and agents of political parties or candidates were granted access to polling stations almost everywhere. Due to space limitations and social distancing regulations, a limited number of slots were allocated inside for observers, while some polling stations offered a designated space to observe voting procedures from the outside. There were isolated incidents of ANFREL observers being denied entry to a polling station for unknown motives, despite showing their credentials to the polling station officer in charge. We invite the UEC to address these shortcomings in the training of polling staff to ensure unhindered access to accredited election observers.

- **Polling Procedures**

Voters were invited to cast their ballots on Election Day from 6 AM to 4 PM. Most polling stations monitored by ANFREL opened on time; a few delayed by the late delivery of election paraphernalia opened by 6:10 AM at the latest. Essential polling materials had mostly arrived on time and were placed in their respective positions correctly. Procedures such as presenting empty ballot boxes and secure sealing of these boxes were found to be in accordance with the guidelines.

Most of the polling stations surveyed displayed the appropriate guidelines for voters and informational posters outside. Some documents would occasionally be missing, such as instructions on safe voting during COVID-19, the notice of dissolution of the Union Democratic Party (UDP), or Form 13, which contains the names of voters from the polling station who cast their ballots in advance. ANFREL also recorded two instances where the voter list was not being displayed outside at all.



An ANFREL observer monitors the polling process in Kale, Sagaing region.
Photo by Ben Small

Moreover, even when the voter list was posted, nearly half of the time it did not reflect the names of those who had voted in advance. This is an important procedural safeguard that should not have been overlooked; however, advance voters were always underlined in the copy of the voter list used by polling staff.

Another procedure that was perfunctorily implemented was the checking of voters' fingers for indelible ink when they entered the polling station to prevent repeat voting; however, polling staff were always careful to apply ink once voters had finished casting their ballots.

The rest of the polling procedures regarding the integrity and secrecy of the ballot-casting process were found to be uniformly followed across polling stations on Election Day, displaying the proper training received by polling staff, many of whom also had previous experience from at least the 2015 general elections. ANFREL wishes to commend the nearly half a million polling staff that were mobilised to successfully conduct polling operations.



UEC staff prepares face masks and shields for voters in Thandwe, Rakhine state.

While ANFREL did not witness egregious violations on Election Day, there were however accounts of ethnic voters unable to cast ballots for the elections of their ethnic affairs ministers as they were not issued ballot papers¹⁷⁹. In Rakhine state, a case of voter fraud was also reported¹⁸⁰. Such incidents should be investigated and appropriately addressed by election authorities.

On 19¹⁸¹ and 23 November¹⁸², the UEC issued two announcements on the legal actions that have been taken on those who violated election rules on Election Day. One voter in Yangon Region and eight voters in different locations in Ayeyarwady Region were charged for voting

179 <https://www.irrawaddy.com/elections/myanmars-minorities-claim-cannot-vote-ethnic-affairs-ministerial-races.html>

180 https://www.dmgburmese.com/%E1%80%9E%E1%80%90%E1%80%84%E1%80%B9%E1%80%B8/td_ayx.html

181 https://www.uec.gov.mm/news_preview_detail.php?action=news_detail&news_id=3%2FmpugNcTPpTQSAEp mAemx4MSDC5onr4vleaRhW%2B4c%3D

182 https://www.uec.gov.mm/news_preview_detail.php?action=news_detail&news_id=AnUvXc4Ek%2FC31xonGC X3e%2FIFIR%2FK6KBCxgHUpUZkxfM%3D



Polling staff checks the temperature of voters outside a polling station in Yangon.

on behalf of others or voting twice on Election Day. Three village-tract election sub-commission members and poll workers who were involved in the fraud were also charged. Besides, one person in Ayeyarwady Region and one in Shan State were charged for vandalising election equipment and voting using a fake stamp respectively.

- **Compliance with COVID-19 Guidelines**

The 2020 general elections were also affected by the health precautions dictated by the COVID-19 pandemic. In order to ensure a safe voting process, the Ministry of Health and Sports (MOHS) had released COVID-19 standard operating procedures and guidelines to be followed.

On Election Day, voters would encounter a polling staff conducting a body temperature check with a non-contact thermometer at the entrance of each polling station. If their temperature was higher than 38°C, voters would be asked to rest in a shady area for 15 minutes before being measured again. If the body temperature remained high in the second measurement, voters would be excluded from the regular

voting process and arrangements would be made for them to cast their ballots in a separate room or isolated area.

Regrettably, not all polling stations visited by ANFREL checked the voters' temperature as required in the guidelines. Many of the staff handling the temperature check were unclear about the steps to be taken if a voter was found to have a fever. Some polling staff told ANFREL that voters who displayed a fever would not be allowed to vote in person but had to let the polling staff stamp the ballots on their behalf, which violates their right to a secret ballot. In one instance observed in Yangon's Taikkyi township, a voter displaying a fever was given by the polling staff a cold water bottle to put on his forehead. He was then allowed to enter the polling station when the second body temperature dropped to 32.5°C. While this incident may not reflect the situation in all polling stations, it still shows that risk-mitigation measures were not always adequate.

Everyone in the polling stations, including polling staff, voters, party representatives and election observers, was required to wear a face mask at all times. According to the guidelines, the voters should be given a face mask if they did not wear one. Polling staff sometimes took extra steps by distributing face masks and face shields to every voter, even if they already had one. However, the compliance to the face mask rule was marred by a number of polling staff who were found not wearing a face mask or wearing it incorrectly while carrying out their duty in some polling stations.

While the majority of the polling stations visited by ANFREL clearly indicated the marks on the ground for a six-foot social distancing as stated in the MOHS guidelines, the real practice of social distancing was poorly enforced and maintained in many places. In many polling stations, the marks on the ground were not sufficient to accommodate the long queue of voters, and those who queued behind failed to keep a safe distance between each other. High turnout at some polling stations with a huge number of voters, especially in the morning, made



Ballots are sorted out after the polling process in Matupi, Chin state.

social distancing difficult or even impossible to practise. For instance, in Yangon's Mingaladon township, four polling stations with nearly 7,000 voters were located in a school compound, causing a massive overcrowding problem.

The MOHS guidelines also stated that hand sanitiser should be readily available inside the polling stations, and different doors should be arranged for entry and exit to avoid overcrowding. These measures were well implemented in nearly all polling stations visited by ANFREL on Election Day.

- **Counting & Tabulation of Results**

Polling stations closed at 4 PM, although in some locations, long queues of voters still waiting to cast their ballots delayed closing time by one hour or more. Closing was orderly, and polling stations were immediately converted into counting stations. Across the 22 locations visited by ANFREL observers, the counting of ballot papers

was found to be slow and sometimes disorganised, but overall highly reliable.

Record numbers of advance votes often delayed the process, as these ballots needed to be removed from their envelopes and assigned to the correct *huttaw*. Five hours after vote counting had begun, some polling stations were still processing advance votes and had not yet moved on to Election Day ballots. This explains why many poll workers were up counting ballots until the early hours of the morning, displaying impressive dedication and professionalism while doing so.

- **Vote counting process**

No substantial errors were reported by ANFREL observers during the counting process. Ballots were properly called and the few mistakes made by UEC staff in assessing ballots were usually corrected immediately by the party agents present. The corrections included in the UEC's 30 October announcement regarding issues with advance voting were also properly implemented, and no ballots were found to be unjustly discarded.

The incidence of invalid ballots was low overall, although it could be further reduced through voter education efforts. In the polling stations monitored by ANFREL, the main causes of invalid votes were ballot papers either not stamped at all or stamped for two or more candidates. Most polling stations also displayed at least one ballot paper cast for the dissolved Union Democratic Party (UDP). This shows that the announcements posted at polling stations were insufficient to inform voters, and the UEC should have undertaken greater communication efforts to avoid voters being disenfranchised.

A few procedural irregularities were reported: for instance, in several polling stations, the results (Form 16 and 16-A) were not publicly displayed outside as they should have been. In one polling station in Taungdwingyi township, Magway region, the advance voting ballot box contained a few more ballot papers than it should have, evidencing

an oversight on the part of election officials. Nonetheless, ANFREL expresses no concerns as to the integrity of the ballot counting process, which accurately reflected the will of the voters in the locations visited by the IEOM.

Once ballots were counted, they were brought to their respective township election office for tabulation. Tabulation operations were quick, and the UEC was able to certify the election results in many constituencies on 9 November.

However, ANFREL expresses concern about one incident reported in Myeik township, Tanintharyi region. Our observer present in the area was informed by election officials that around 300 out-of-constituency advance ballots from overseas and an unknown number of the 120 ballots from within Myanmar would be discarded because they had not arrived at the township election sub-commission office by 4 PM on Election Day. While these ballots were indeed inadmissible by law, it is regrettable that logistical delays resulted in the disenfranchisement of hundreds of voters.

- **Conclusion**

Election Day was found to be peaceful and orderly across the country, with no major incidents reported. While ANFREL observers reported a few procedural irregularities during the polling and vote counting processes, the integrity of the poll was not affected. Polling and counting operations were conducted diligently and transparently, and health guidelines were overall well-implemented, although social distancing could not be practised in many locations because of large crowds and/or a lack of available space. Polling station accessibility for wheelchair users remains a significant issue to be addressed.



Polling staff presents an advance voting envelope during the counting process in Kale, Sagaing region. Photo by Ben Small

Chapter 9:
**Announcement of Results
and Election Dispute Resolution**

- **Publication and Reception of Results**

Following Election Day, the Union Election Commission (UEC) announced the winners of the 2020 general elections gradually between 9 and 15 November. It then released the final count of MP-elects by political party and parliament on 17 November¹⁸³. Overall, the election results were released in a timely and faster manner than in 2015¹⁸⁴.

The ruling National League for Democracy (NLD) recorded another landslide victory similar to that of 2015 general elections, winning 920 (82%) out of the 1,117 seats up for grabs. Meanwhile, Myanmar's second-largest party, the military-backed Union Solidarity and Development Party (USDP), garnered 71 (6%) seats, while 17 ethnic political parties won 122 seats altogether, and independent candidates won a total of four seats.

In the *Pyidaungsu Hluttaw* (Union Parliament), the NLD ended up winning 396 of the 476 contested seats, compared with 390 seats in the 2015 elections, putting it in a stronger position than in the previous term. It also swept all seats in Ayeyarwady, Bago, Magway, Mandalay and Tanintharyi regions, as well as an absolute majority in all state and regional parliaments except for those in Shan and Rakhine.

In the Shan state parliament, the NLD swept 33 seats, while the Shan Nationalities League for Democracy (SNLD) and USDP won 26 and 24 seats respectively. Other ethnic parties and independent candidates

183 <https://www.gnlm.com.mm/announcement-on-the-final-list-of-elected-hluttaw-representatives-in-2020-multiparty-general-election/>

184 The last result in the 2015 elections was released on 20 November 2015, 12 days after Election Day.

took the remaining 22 seats, while the military will appoint 35 additional seats, which may result in a hung parliament¹⁸⁵.

Meanwhile, in Rakhine state, the Arakan National Party (ANP), the largest ethnic party in the state, won seven seats in the state parliament and the Arakan Front Party (AFP) won two seats. The NLD and USDP secured five seats and one seat respectively. With five additional military-appointed MPs, this means no party obtained an absolute majority in the state parliament¹⁸⁶.

Unlike in 2015, the election results were not accepted easily by all parties. After preliminary results indicated that the main opposition party suffered heavy losses nationwide, USDP leaders refused to accept the outcome of the elections because of alleged irregularities, and demanded fresh elections with the cooperation of the *Tatmadaw* (armed forces of Myanmar)¹⁸⁷. However, the UEC immediately rejected these calls, claiming that the elections were held successfully and most parties were satisfied with the outcome¹⁸⁸. *Tatmadaw* spokesman Major General U Zaw Min Tun then declared that there was no coordination between the USDP and the armed forces on the question and distanced himself from the stance of the party¹⁸⁹, although with hindsight we know now that the military was planning to overthrow the civilian government.

It is worth noting that the USDP's challenge of the election results shortly followed, and was likely emboldened by, United States President Donald Trump's own refusal to acknowledge his defeat in the 3 November 2020 presidential elections, in defiance of that country's long-established democratic traditions.

185 <https://www.frontiermyanmar.net/en/shan-states-controversy-filled-election-delivers-a-hung-hluttaw/>

186 <https://www.frontiermyanmar.net/en/rakhine-parties-fall-just-short-of-majority-in-state-hluttaw/>

187 <https://www.mmtimes.com/news/myanmar-opposition-demands-election-re-run-after-heavy-losses.html>

188 <https://www.frontiermyanmar.net/en/commission-shuts-down-usdp-call-for-fresh-election/>

189 <https://www.irrawaddy.com/elections/usdps-call-re-run-general-election-doesnt-reflect-military-view-spokesman.html>

On the other hand, a few days after the elections, the victorious NLD invited through an open letter 48 ethnic parties to join it in building a “democratic federal union”¹⁹⁰ and started negotiation talks with some ethnic parties. Fourteen parties, including the ANP and SNLD, expressed their interest in joining the proposed national unity government as of early January 2021¹⁹¹.

- **Voter Turnout and Invalid Ballots**

In early December, the UEC issued official statistics on the 2020 general elections, including voter turnout and number of invalid votes on its website and in the government newspaper^{192 193}. Voter turnout ranged from 71.06% for state/regional *hluttaw* races to 71.89% for the *Pyithu Hluttaw*, and was therefore higher by a couple of percentage points than in 2015 despite the COVID-19 pandemic. However, this should not obscure the fact that a greater number of voters were also disenfranchised due to election postponements in certain areas.

State/Region	Voter turnout for <i>Pyithu Hluttaw</i>	Difference with national average	Difference with 2015
Ayeyarwady	75.66%	+3.77%	+0.21%
Bago	71.85%	-0.04%	+0.12%
Chin	77.85%	+5.96%	-1.44%
Kachin	66.22%	-5.67%	-2.11%

190 <https://www.irrawaddy.com/elections/nld-reaches-myanmar-ethnic-parties-seeking-federal-union-end-civil-war.html>

191 <https://www.mmtimes.com/news/two-biggest-ethnic-parties-join-nld-unity-talks.html>

192 <https://www.gnlm.com.mm/announcement-on-figures-and-percentages-in-multiparty-democracy-general-elections-for-hluttaws>

193 <https://www.gnlm.com.mm/figures-and-percentages-of-2020-multiparty-democracy-general-election-to-be-published-in-newspapers/>

State/Region	Voter turnout for <i>Pyithu Hluttaw</i>	Difference with national average	Difference with 2015
Kayah	76.49%	+4.60%	+2.42%
Kayin	53.50%	-18.39%	+6.77%
Magway	77.87%	+5.98%	+1.27%
Mandalay	78.00%	+6.11%	+4.84%
Mon	57.83%	-14.06%	+6.49%
Rakhine	68.89%	-3.00%	+0.73%
Sagaing	78.58%	+6.69%	+3.82%
Shan	66.63%	-5.26%	+0.29%
Tanintharyi	66.51%	-5.38%	+3.69%
Yangon	68.25%	-3.64%	+3.24%

Furthermore, as the table above shows, there are also significant discrepancies in voter turnout across the country and, except for Chin and Kayah, participation tends to be lower in the states, where most of the population belongs to ethnic minorities, than in the Bamar-majority regions. On the other hand, Yangon and Tanintharyi are the only regions where turnout was lower than the national average. The lowest turnouts were recorded in Kayin and Mon states, both lagging far behind the rest of the country as they did in 2015. However, it is encouraging that the two states saw the biggest increase in participation, with a jump of over 6% in voter turnout.

Within each state or region, there are also variances in turnout between townships or constituencies, highlighting the differences in voter education, culture, geography or the influence of other factors. These fluctuations are especially important in the vast and diverse Shan state, where a turnout of only 32.19% (the country's lowest) was recorded in

Laukkaing, while more than 90% of voters in Ywangan and Pindaya cast ballots.

The underlying pattern that emerges is that border or remote areas tend to vote less because of their isolation, more precarious security situation, and weaker political, cultural, and economic ties with the rest of the country. Across the nation, only nine townships reported a turnout of less than 50%; two of them are located in Kayin state¹⁹⁴, and the remaining seven in Shan state¹⁹⁵.

State/Region	Invalid and lost ballots (<i>Pyithu Hluttaw</i>)	Difference with national average	Difference with 2015
Ayeyarwady	2.99%	-0.07%	-3.70%
Bago	2.57%	-0.49%	-3.52%
Chin	3.56%	+0.50%	-1.27%
Kachin	3.98%	+0.92%	-4.52%
Kayah	5.10%	+2.04%	-3.62%
Kayin	5.92%	+2.86%	-2.76%
Magway	2.28%	-0.78%	-2.76%
Mandalay	2.39%	-0.67%	-2.74%
Mon	4.16%	+1.10%	-4.27%
Rakhine	5.03%	+2.97%	-4.39%
Sagaing	2.32%	-0.74%	-2.79%
Shan	6.08%	+3.02%	-3.01%

194 Hlaingbwe and Myawaddy.

195 Mongkhet, Kutkai, Konkyan, Laukkaing, Kunhing, Monghsu, and Laihka.

State/Region	Invalid and lost ballots (<i>Pyithu Hluttaw</i>)	Difference with national average	Difference with 2015
Tanintharyi	3.93%	+0.87%	-3.46%
Yangon	2.22%	-0.84%	-2.61%

The number of invalid and missing ballots was also greatly reduced between 2015 and 2020: from 6.25% to 3.06% nationwide for *Pyithu Hluttaw* races. This remarkable decrease can partly be attributed to the fact that many voters had never cast a ballot prior to the 2015 general elections, while an informed and experienced electorate is fast emerging.

Even though Myanmar as a whole no longer records higher than average instances of invalid ballots, there were 29 townships where the proportion of invalid and lost ballots in the 2020 general elections was greater than 7%, which is high by international standards. The highest figure comes from Shan state's Mongkhet, where a staggering 19.53% of all ballots cast were considered invalid. We invite the UEC to conduct an in-depth examination of these areas in order to identify the reasons that led to these numerous rejected ballots and address them ahead of future elections.

Many of the areas with high incidence of invalid ballots also present lower than average voter turnout, thus reinforcing the need for further voter education, especially in the country's most remote and diverse areas. ANFREL believes that more can and should be done to ensure that the maximum number of voters mark their ballots correctly in the future.

- **Openness of Election Results**

Releasing election data as openly as possible is crucial for ensuring electoral transparency and promoting public trust in elections. It allows stakeholders to understand and analyse the elections, and hence to hold the election management body and electoral actors accountable. Although all election results since 2010, including those of the 2020 general elections, are still accessible on the UEC’s website¹⁹⁶, the data presented there does not meet all of the principles set out by the Open Election Data Initiative¹⁹⁷.

For instance, while election results are complete, they are not granular; while the UEC discloses the number of eligible voters, number of advance ballots, votes obtained by each candidate and invalid or lost ballots, these are only available at the constituency level. Ideally, vote counts at the polling station level should be released, which is the case in some Asian countries. Furthermore, disaggregating advance votes between those inside and outside the constituency would contribute to increase the transparency of that part of the electoral process.

The data published by the UEC is also not available for download in bulk, since election results for every parliament type were released in separate files. In addition, .PDF documents are not considered machine-readable by open data standards, unlike formats such as .CSV, .JSON and .XML which allow users to analyse the data readily. Despite these shortcomings, the UEC’s election result data complies with other open data principles such as timeliness and free online availability.

- **Election Dispute Resolution**

Election dispute resolution is a crucial part of the electoral process to address disputes and grievances raised by various election stakeholders. Different mechanisms are available to settle different types of disputes,

196 <https://www.uec.gov.mm/pages.php?pagename=၂၀၂၀ ပြည်နှစ်အထွေထွေရွေးကောက်ပွဲ>

197 <https://openelectiondata.net/en/guide/principles/>

including objections or complaints on the voter list, candidate nomination, violation during the campaign period, violation on Election Day, election results and election expenditures. The complaint procedure varies depending on the nature of the dispute.

The UEC took commendable steps to educate election stakeholders on the various election dispute resolution mechanisms. For instance, it published an election dispute resolution manual with the details of the procedures in October 2020¹⁹⁸ and held a briefing session for civil society organisations in December 2020.

- **Election Mediation Committees (EMCs)**

The UEC established election mediation committees (EMCs) ahead of the 2015 general elections as an alternative dispute resolution mechanism to resolve contentious situations that may arise in relation to the conduct of election campaigns and enforcement of the code of conduct for political parties and candidates. The same mechanism was adopted in the 2017 and 2018 by-elections and had worked well by settling many disputes at the township level.

The UEC included electoral dispute resolution as one of the strategic pillars in its Strategic Plan 2019-2022 with the goal to make the process more effective and transparent. EMCs were then codified in the election by-laws in early 2020 and became part of the formal election process. Their primary purpose is to help diffuse conflicts during the election campaign period in a peaceful manner through dialogue and consensus-seeking, even though EMC decisions are not legally binding.

EMCs were formed at the township, district, state/region, and national levels after the date of elections was announced. The stakeholders who can raise a dispute with the EMC are political parties and candidates involved in the dispute, relevant government departments or sub-

198 https://merin.org.mm/sites/merin.org.mm/files/publication/edr_manual_eng_version_v5_b5_size_10-11-2020.pdf

commissions, and election agents and voters involved in a dispute. EMC meetings were open to the public, and observers and voters were permitted to attend.

In preparation for the 2020 elections, the UEC published the Guide for Various Levels of Mediation Committees¹⁹⁹ to ensure a smoother process of handling disputes. Consistent online trainings were also held by the UEC for EMC members prior to the elections. On the other hand, the UEC published a video²⁰⁰ and a poster²⁰¹ to educate stakeholders on the mediation process.

According to reports collected by ANFREL, most campaign-related election disputes were solved promptly through the EMCs and few of them were escalated beyond the township level. EMCs are therefore a worthwhile initiative that successfully promotes discussion and compromise among stakeholders. However, some key informants mentioned that the mediation mechanism is also vulnerable to abuse. For instance, the UEC rarely imposes sanctions on candidates or parties which violate guidelines but instead will hold meetings to reconcile parties. Therefore, the effectiveness of EMCs could be reinforced if the UEC was more likely to mete out sanctions to those who violate election laws, which in turn would incite parties and candidates to engage in reconciliation in good faith.

- **Post-Election Disputes**

After the general elections took place, USDP chair U Than Htay alleged irregularities in the voting process, such as the establishment of the ward and village election commissions, election instructions and insufficient time for parties to campaign. He also called on the party's supporters to collect evidence of election offences and submit it to the party. As a

199 https://merin.org.mm/sites/merin.org.mm/files/publication/mediation_guide_en.pdf

200 <https://www.facebook.com/609520065840362/videos/919037571852278/>

201 <https://www.facebook.com/uecmyanmar/photos/a.609541812504854/2875207495938263/>

result, the USDP claimed to have lodged a total of 127 police complaints over election offences and another 1,164 complaints with the UEC²⁰². According to the Myanmar Teachers' Federation, lawsuits were even filed by USDP members against more than 10 teachers who served as polling staff in the regions of Mandalay, Bago, and Ayeyarwady²⁰³.

The USDP-aligned National Democratic Force (NDF) also said in a statement that it did not accept the elections as free or fair, claiming that the party faced obstructions in campaigning, and alleging incidents of electoral fraud²⁰⁴. Additionally, the USDP and the Democratic Party of National Politics (DNP), another military-linked party, filed applications for a writ of mandamus²⁰⁵ against President U Win Myint, three other government figures, UEC chairman U Hla Thein and 14 other election officials²⁰⁶.

While the military's commander-in-chief Senior General Min Aung Hlaing said he would accept the outcome of the general elections²⁰⁷, the *Tatmadaw* Information Team launched a review of the electoral process in the townships where military personnel and their family members cast votes²⁰⁸. It claimed that it had found 5.85 million suspicious voters among 28.18 million registered voters in 228 townships through 17 statements released from 23 December 2020 to 13 January 2021²⁰⁹. According to its findings, there are 2.27 million duplicate voters and 3.58 million voters that may cause vote rigging, which include voters

202 <https://www.facebook.com/UnionSolidarityAndDevelopmentPartyPeople/posts/1058775664592062>

203 <https://www.frontiermyanmar.net/en/teachers-stung-by-suite-of-usdp-lawsuits/>

204 <https://www.irrawaddy.com/elections/election-thrashing-myanmars-military-backed-opposition-casts-doubt-result.html>

205 A writ of mandamus is a written court order compelling government officials or departments to perform their duties.

206 <https://www.irrawaddy.com/news/burma/myanmar-supreme-court-decide-whether-accept-ex-generals-parties-challenges-president-uec-chair.html>

207 <https://www.irrawaddy.com/news/burma/myanmars-military-chief-agrees-accept-election-result.html>

208 <https://www.irrawaddy.com/elections/myanmar-military-launches-review-election-proxy-party-cries-foul.html>

209 <https://www.dsinfo.org/sites/default/files/All%20Total%20statement%20ENG-page-001.jpg> (page since taken down)

who are underage, centenarian and non-NRC holders. An insider from the USDP also told ANFREL that many candidates did not receive the final voter lists and therefore they are not able to identify the sudden increase of voters in certain areas.

The *Tatmadaw* later revised its allegations and claimed on 31 January that “the process of the 2020 election [was] unacceptable, with over 10.5 million cases of potential fraud, such as non-existent voters”.²¹⁰ As previously mentioned, ANFREL is unable to independently verify these claims because of a lack of access to the voter list. The military led by Senior General Min Aung Hlaing would then use these uncorroborated allegations as justification for the 1 February coup. No solid evidence supporting the claims of massive voter list fraud has been made public since the coup either.

After the announcement of results, voters and candidates may file complaints against the election results at the UEC within 45 days. The complainant is required to pay a fee of 500,000 kyat (about USD380) to file a complaint. Upon examining the complaint, the UEC may form an election tribunal comprising three UEC central commissioners, or one UEC commissioner and two independent legal experts to hear the case.

By the end of January 2021, the UEC had received a total of 287 complaints on the 2020 general election results, compared to 45 in 2015. They include 171 complaints from the USDP, 17 from the NLD and 94 from voters, as well as one each from the SNLD, the MUP, the Lisu National Development Party (LNDP), the Union Pa-O National Organisation (UPNO) and the Wa National Party (WNP). Over half of the complaints originated from Mandalay region (69 cases), Shan state (51 cases) and Bago region (33 cases) combined²¹¹.

210 <https://www.mmtimes.com/news/tatmadaw-reprimands-diplomatic-community-unwarranted-assumptions.html>

211 <https://bit.ly/3f7MR4t>

While election laws do not prescribe a deadline for the UEC to review and address election complaints, ANFREL believes that timeliness should remain an utmost concern for Myanmar's election tribunals; complaints must be resolved promptly and transparently to prevent polarization and resentment. Unfortunately, the Myanmar military staged its coup before any election tribunals were formed, thereby obstructing the post-election dispute resolution process supposed to take place under the law.

Chapter 10:
**Participation
of Marginalised Communities**

- **Participation of Women**

The National Strategic Plan for the Advancement of Women, 2013-2022 (NSPAW), published in 2013, called for the improvement of “systems, structures, and practices to ensure women’s equal participation in decision-making and leadership at all levels of society²¹².” Measures to achieve this aim included the application of quotas “to ensure women’s participation in decision-making in legislative, judicial, and executive bodies.” However, this being a non-binding commitment, the government took very little practical action to improve the gender equality of participation.²¹³ Nevertheless, the 2015 elections increased female representation in state and regional parliaments, with women taking 12.7 percent of elected seats, compared with only 3.8 percent after the 2010 elections.

In the 2020 general elections, according to International IDEA, there were 902 women candidates out of a total of 5,641, or 16%²¹⁴. The proportion was higher than in the 2015 elections where 800 candidates out of 6,189 (13%) were women²¹⁵, but it remains low. Out of the approximately 38 million voters, over 19 million are female.

In Myanmar, although there are no legal barriers to women’s participation in politics per se, there are still societal norms which confine women to their traditional roles. Key informants interviewed by

212 https://myanmar.unfpa.org/sites/default/files/pub-pdf/NSPAW2013-2022_0.pdf

213 https://asiafoundation.org/wp-content/uploads/2016/05/Gender_in_Equality_in-the-Governance-of-Myanmar_ENG.pdf

214 [http://stepdemocracy.eu/uploads/publications/election-sataglace-\(A4\).pdf](http://stepdemocracy.eu/uploads/publications/election-sataglace-(A4).pdf)

215 <http://www.dvb.no/news/2015-election-women-account-for-13-of-candidates-burma-myanmar/57024>



An elderly voter is being assisted in Tamu, Sagaing region, on 2 November. *Photo by Ben Small*

ANFREL opined that there are no such strategies to increase women's participation in political parties. Furthermore, some female candidates admitted that discrimination against women perdures, citing voter preference for male politicians. For instance, women politicians are said to be unable to go out at night to respond to emergencies or community concerns, and are criticised for attending to political tasks rather than to their duties as wives or mothers.

In Rakhine state, a female candidate for state *hluttaw* declared she was experiencing discrimination from voters, the incumbent party, and social media users. During the campaign, she had to convince people that she had a university degree. On Facebook, she received negative comments and was targeted by fake news (e.g. wrongly accused of being a supporter of the MaBaTha or the wife of a high-ranking military officer).

Civil society organisations advocating for the advancement of women in Bago noted the lack of institutional support for initiatives to empower women and attain gender equality. Further, respondents in Rakhine mentioned that informed voters tended to welcome female candidates better than less-informed communities. Safety is another challenge as disinformation over social media platforms such as Facebook could spur physical or verbal attacks.

One young female candidate said that most citizens do not have the mindset to recognize and appreciate women or support their participation of women in the public sector. According to her, women were targeted by hate speech more often in the 2020 elections than in 2015; she hopes this will change in the future.

Marginalisation was even greater for some women from ethnic minorities. A female Muslim campaign manager told ANFREL it is crucial for Muslim women to be active in politics to confirm that Islam does not restrict women from participating in public life.

Discrimination against women candidates does not come only from men, however. A female voter interviewed thought that women do not make good politicians as they are “soft-minded.” Likewise, a Muslim woman candidate in Mandalay region shared that she was facing discrimination from even among her party’s supporters.

Nevertheless, some political parties were serious in including more women in their line-up of candidates for the 2020 elections. For instance, 20% of the NLD candidates were women, up from about 13% in 2015.²¹⁶ The SNLD also implemented a policy encouraging women and youth to participate in politics, with 29% of female candidates, including 36 between the ages of 25 and 35 years old. Around 26% of Mon Unity Party (MUP) candidates were women, as well as eight of the Democratic Party for a New Society’s (DPNS) 16 candidates (50%). However, women represented only 15% of USDP and 8% of ANP (Arakan National Party) candidates. In Kachin state, the overall number of women candidates declined since 2015 and the KSPF fielded 13% of women.²¹⁷

On the bright side, the proportion of women elected to national and subnational legislatures increased in 2020. According to local CSO Phan Tee Eain, women accounted for 17% of all lawmakers and ethnic affairs ministers elected. Out of 1,117 seats, women won 194 — 25 in the *Amyotha Hluttaw*, 53 in the *Pyithu Hluttaw*, and 116 in state and regional parliaments — an increase of more than 4% from 2015, when women secured 152 of 1,150 seats²¹⁸.

216 <https://www.irrawaddy.com/news/burma/nld-selects-20-female-candidates-myanmars-november-election.html>

217 https://www.tni.org/files/publication-downloads/bpb23_def_26092020_highres.pdf

218 <https://www.irrawaddy.com/elections/proportion-women-myanmars-legislatures-rises-following-nov-8-election.html>



Women voters show their ink marked fingers after voting in Kale, Sagaing region. *Photo by Ben Small*

- **Ethnic and Religious Minorities' Participation**

Stakeholders interviewed by ANFREL estimated that ethnic or religious minorities faced an uphill battle to participate in the 2020 general elections compared to mainstream communities. For instance, in Bago region some Muslim and Hindu voters who possessed temporary National Registration Cards (NRC) faced challenges during the registration process. A Muslim candidate in Southern Rakhine state noted that when he submitted his application as a candidate to the concerned government agency, the process of confirming his identity and eligibility took longer than for non-minority candidates. As mentioned earlier, Myanmar's discriminatory citizenship laws are often used to disenfranchise Muslim voters or candidates in particular.

In Mon state, Muslim voters mentioned that “religion and ethnicity stand in the way of eligible candidates,” adding that minorities were also subjected to more online attacks and bullying. In Kyaikmaraw township, only 35,000 of 150,000 Muslims reportedly voted, ostensibly



Women polling staff prepare for the opening of a polling station in Thayarwady, Bago region.

because of a lack of NRCs and family registries. U Maung Maung, a Muslim candidate was disqualified by the UEC because his father was not a citizen, an allegation later disproved by the district's immigration service. Interviewed by ANFREL, he mentioned that national-level police allegedly overrode immigration's authentication of his documents and maintained its position on his disqualification. He added that he was refused a copy of his disqualification letter on more than one occasion; his appeal to the UEC remains unanswered to this day.

In Rakhine, a member of a political party noted that Rohingya candidates were discriminated against and disqualified because of their ethnicity and alleged lack of full citizenship status. He further opined that the cancellation of the polls in nine Rakhine townships was an act of discrimination against the state's ethnic minorities.

In Ayeyarwady, candidates interviewed by ANFREL mentioned that ethnic Karens are still marginalised even though they had expected the NLD government to enhance their rights. However, they say they

have not seen any progress so far and feel like they are “voiceless” in Myanmar. Some have recorded cases of Karen people who have submitted a Form 15 (application for out-of-constituency advance voting) but were still not included in the voter lists. Several ethnic parties like the Kayin People’s Party (KPP), Chin National League for Democracy (CNLD), and Shan Nationalities League for Democracy (SNLD) have complained about election cancellations in their respective states despite the lack of violence or security issues, which they claimed were politically motivated.

Ethnic voters represent a third of the electorate, and many ethnic-based parties went through mergers or alliances²¹⁹ ahead of the 2020 general elections in order to capitalise on this and gain more seats. This strategy was eventually unsuccessful as ethnic parties won far less seats than they were hoping for; only in Kayah and Mon states did they manage to increase secure more MP positions²²⁰. However, as the two major national parties (USDP and NLD) had also implemented policies to select more candidates from ethnic minorities to compete in the states, political affiliation is not an accurate indicator of ethnic representation.

While the NLD was criticized in 2015 for not fielding any Muslim candidates²²¹, the ruling party presented two in 2020, both of whom won²²². However, even such a small number from that religious minority angered nationalists and Buddhist hard-liners, who used petitions²²³ and hate speech²²⁴ against Mandalay MP candidate Daw Win Mya Mya.

219 See chapter 2.

220 https://www.tni.org/files/publication-downloads/myanmar_policy_briefing_24_for_website_open_sans_last_version_dec_23.pdf

221 <https://www.theguardian.com/world/2015/nov/03/no-vote-no-candidates-myanmars-muslims-barred-from-their-own-election>

222 <https://www.mmtimes.com/news/two-nld-muslim-candidates-win.html>

223 <https://www.myanmar-now.org/en/news/officials-investigating-after-hundreds-of-monks-sign-petition-against-muslim-nld-candidate>

224 <https://asia.nikkei.com/Politics/Myanmar-election-fought-on-Facebook-where-hate-speech-is-rife>

- **Participation of LGBTs**

The 2020 elections marked a breakthrough as U Myo Min Htun, Myanmar’s first openly gay candidate, ran for a regional *hluttaw* seat in Mandalay’s Aungmyaythazan township, where trans women and other LGBT people have long complained of wrongful arrests, beatings and abuse at the hands of police. He said that only “LGBT people know about the lack of LGBT rights, the problems with the police, and how police brutality have unlawfully arrested those from the LGBT community. I understand LGBT people because I’m one of them²²⁵.” Myo Min Htun ran under the banner of the People’s Pioneer Party (PPP), which vowed to prioritise young people and tackle gender discrimination.

Findings from a nationwide survey commissioned by Yangon-based NGOs Colors Rainbow and &PROUD indicate that Myanmar’s general public are in favour of greater equality for the country’s LGBT population, and that a strong majority of people do not support the current criminalisation of LGBT people. The study, conducted over mobile phone using the proprietary research panel of a locally contracted research agency, had a total of 1,554 respondents. 74% of respondents disagreed with the criminalisation of LGBT identities, including the dismantling of Section 377 and the relevant Police Acts, and 81% agreed with the statement: “I believe LGBT people deserve equality and equal treatment just like anyone else in Myanmar²²⁶.” Meanwhile, the Myanmar Men Who Have Sex With Men and Transgender Network (MMTN) conducted advocacy efforts to sensibilise candidates and newly-elected MPs on the issues of sexual orientation and gender identity and expression²²⁷.

225 <https://myanmar-now.org/en/news/myanmars-first-openly-gay-mp-candidate-vows-to-stand-up-to-police-abuse-of-lgbt-people>

226 <https://www.newmandala.org/understanding-lgbt-realities-in-myanmar-new-study-indicates-public-support-for-equality/>

227 <https://frontlineaids.org/moving-lgbt-rights-up-the-political-agenda-in-myanmar/>

Meanwhile, some 100 members from 25 LGBTQ organisations served as election observers. U Ko Saw Zin Maung Sae, founder of the NGO C.A.N-Myanmar said that LGBT groups already served as observers in the 2015 elections, as they have been encouraging LGBTQs to participate in political processes. The organisation's volunteers observed the 2020 elections in all regions and states except for Rakhine and Tanintharyi.²²⁸

- **Disability Inclusion in the Electoral Process**

In 2015, Myanmar adopted the Law on the Rights of Persons with Disabilities, which protects and promotes the rights of persons with disabilities (PWDs) across various aspects of public life, including the right to participate in the election process. Myanmar is also a signatory to the 2007 Convention on the Rights of Persons with Disabilities (CRPD), which states in its Article 29 that all fundamental political rights of PWDs must be fully enforced. According to the UEC's announcement over MRTV Radio in August 2020, there are about 80,000 voters identified as PWDs.²²⁹

The Myanmar Independent Living Initiative (MILI) organised civic education initiatives for PWDs, internally displaced people (IDPs), and other marginalised sectors. They provided technical and financial support to polling stations to ensure accessibility of polling places. Accessibility mechanisms included the installation of ramps and provision of braille and sign language interpretation. It is unclear, however, if an accessibility audit of polling stations was conducted by the UEC in preparation for the elections.

While there was CSO assistance for polling station accessibility, its implementation by the UEC was uneven. ANFREL observed advance voting for the elderly and PWDs, and noted that most of the polling

228 <https://www.mmtimes.com/news/lgbts-serve-observers-upcoming-myanmar-elections.html>

229 https://soundcloud.com/myanmar_radio/taawpisis25n

stations used would not have been accessible to voters who are wheelchair users. The same was also true on Election Day, when most polling stations had an entrance equipped with steps. ANFREL witnessed that assistance to PWD voters in polling stations was ad hoc and implemented on a case-by-case basis. However, social distancing was often incompatible with the assistance required by voters with disabilities.

In Magway, a voter cum volunteer for a PWD-focused NGO interviewed by ANFREL opined that the majority of the PWDs did not vote, just as some elderly, because the announcement to register or collect name slips did not reach them and they were unaware they were eligible for advance voting.

- **IDPs' Electoral Participation Hampered by Conflict and COVID-19**

Internally displaced people (IDPs) seemed to be the most affected by the COVID-19-related lockdowns imposed by authorities. While the UEC allowed IDPs stranded along Myanmar's borders to vote, most of them were unable to check in person the first or second displays of the voter lists.

In Kachin State, there are about 136 IDP camps²³⁰ due to the conflict between the KIO and the *Tatmadaw*. Around 20,000 of these IDPs are eligible to vote. According to a key informant interviewed by ANFREL, IDPs received scant information on the voting process. They live in crowded places and have scarce access to necessities such as water and soap, hand sanitiser, or face masks.

Prior to the elections, IDPs were worried about the crowds on Election Day because of COVID-19. They feared that infection could spread easily around the camps. This was also one of the prime reasons that political parties and CSOs were often unable to access IDP camps during the

230 <https://reliefweb.int/map/myanmar/myanmar-idp-sites-kachin-state-31-august-2020>

campaign period. Almost no CSOs had the chance to conduct voter education activities for IDPs because they were not granted access. Nevertheless, organisations like BadeiDha Moe tried to reach out to IDPs by providing voter education online.

- **Participation of Youth in Election Activities**

An estimated 5 million first-time voters were invited to participate in the 2020 general elections. To emphasise the important role of young voters, IFES organised the 2020 Youth Innovation Summit, where seven teams of young leaders collaborated on new approaches to engage, motivate and educate these first-time voters ahead of the elections²³¹.

Political parties have recognised the youth’s important role in promoting inclusion in elections. In a further bid to boost diversity and inclusion, some of the ethnic parties prioritised the selection of “youth” candidates, typically defined as under the age of 40. To address this, the SNLD in Shan State has said that at least 30% of its candidates would be young people and the Kachin State People’s Party (KSPP) in Kachin State aimed for a similar proportion.²³² This development was confirmed by key informants interviewed by ANFREL. The SNLD also utilised its youth young members to conduct house-to-house and sticker campaigns in Lashio for instance. Similarly, a key informant from a political party representing both minorities and the youth thinks that young people have an important role to play in politics and hopes that they would be more involved in the peace process as well after the elections.

In conflict-affected areas, youth participation was limited. According to a respondent from Rakhine state, “the youth are afraid and they don’t dare to speak up for the party they stand for. They learned this fear

231 <https://www.ifes.org/news/myanmar-youth-innovate-engage-first-time-voters>

232 https://www.tni.org/files/publication-downloads/bpb23_def_26092020_highres.pdf

from their parents as they themselves are afraid. As ‘political’ youth often ended up in jail in the past, if a young person is interested in politics, the parents stop them from pursuing this interest, even today.” Issues related to the youth are rarely discussed by candidates; most topics discussed during political campaigns focused on salaries and job opportunities.

- **Conclusion**

The 2020 general elections saw attempts to increase diversity and achieve greater inclusion with an increase in women candidates, the emphasis placed by political parties on fielding ethnic candidates and reaching out to 5 million first-time voters, continued advance voting opportunities provided to elderly and PWD voters, and the first-ever openly LGBT candidates, among others.

However, much can still be implemented in pursuit of gender equity and genuine participation of marginalised groups, not just in the electoral process but also in decision-making arenas. The new administration can capitalise on the fresh mandate provided to them by increasing the number of women cabinet members; appointing women commissioners in the UEC; undertaking an accessibility audit of polling stations; and revising legal provisions discriminatory against marginalised groups and peoples of different religious affiliations. A multi-ethnic society like Myanmar deserves a government that recognises the participation of all citizens, regardless of gender, ethnicity and religious affiliation, in achieving inclusive governance.

Chapter 11: **Civil Society Organisations**

Civil society organisations (CSOs) have been one of the main actors supporting democratisation in Myanmar. They have been instrumental in ensuring free and fair elections in the country through various engagements including election observation and voter education efforts, among others. CSOs, however, continue to face challenges which affect their work in empowering more citizens to participate in the electoral process. The COVID-19 pandemic has also made it more difficult for them to implement programs, even with some shifting to an online approach.

- **Election Observation**

The Union Election Commission of Myanmar accredited 7,232 observers from the 13 domestic election observation groups which applied for national-level observation, while 985 observers from 23 CSOs were accredited by state and region-level sub-commissions.

The accreditation of the People's Alliance for Credible Elections (PACE), one of the largest citizen observer groups in the country, was initially denied when it submitted an application in July 2020. According to a news report, the UEC cited the organisation's non-registration and alleged receipt of funding from international organisations as reasons for the rejection of their accreditation application to observe the 2020 polls²³³. PACE was previously accredited for the 2015 general elections and by-elections in 2017 and 2018.

After much pressure from the civil society and international community, PACE finally received approval from the UEC on 2 September. The group

233 <https://www.mmtimes.com/news/myanmars-largest-monitor-group-barred-observing-november-polls.html>



ANFREL fielded one of only two accredited international election observation missions to the 2020 Myanmar general elections.

later on considered the incident as a “delay” in their accreditation, and said in its campaign observation report:

“A significant challenge during this election compared with previous cycles — including the 2015 general elections and by-elections conducted in 2017 and 2018 — was the last-minute introduction of additional requirements to accredit citizen observers. Unlike in previous elections, civil society organisations interested in observing the process were asked to provide additional information on their legal registration status and funding sources. These requirements are not established in the laws, by-laws or regulations. In addition, the UEC’s initial decision to decline accreditation based on organisations’ lack of legal registration ignored that the Association Registration Law makes legal registration voluntary for civic groups. Tying accreditation to legal registration was one of the biggest challenges for domestic groups to participate in the electoral process.”²³⁴

International election observer groups as well the diplomatic community²³⁵ and other governments also monitored the elections. The Asian Network for Free Elections (ANFREL)²³⁶, the Carter Center²³⁷, the European Union²³⁸, and the government of Japan²³⁹ were among those international groups which launched election observation missions in varying capacities. The UEC accredited a total of 61 international observers, 182 diplomatic observers and 58 people from election support providers (IFES and International IDEA).

234 https://drive.google.com/file/d/1bX-8cm_Up-gs3_Tz6Adm_oe738gEPqkC/view

235 <https://www.irrawaddy.com/elections/thai-ambassador-praises-myanmars-election-handing.html>

236 <https://myanmar.anfrel.org/en/news/301>

237 <https://www.irrawaddy.com/elections/carter-center-launches-election-monitoring-mission-myanmar.html>

238 <https://www.mmtimes.com/news/eu-sends-four-monitors-myanmar-polls.html>

239 <https://elevenmyanmar.com/news/japan-to-send-special-delegation-to-observe-2020-election>

The COVID-19 pandemic has affected the deployment plans of observer groups which was quite evident in the reduced number of observers compared to the previous general elections. In the 2015 general elections, the UEC accredited 11,370 domestic observers and 764 international observers.

There were also limitations in the coverage areas or capacity of observers, especially in areas where restrictions on movement were imposed to curb infections. For international observers, for example, moving from one area to another was challenging as requirements included health tests and various clearances, and even the imposition of quarantine orders upon arrival in some areas. While such requirements were necessary to ensure public health and safety, they have affected observers and limited the areas observers were able to cover during their deployment.

- **Voter Education**

CSOs also conducted voter education programs which included information on the electoral process, democracy, disinformation, and hate speech on social media which benefitted voters, particularly youth and first-time voters with no prior experience of voting.

Domestic election observer groups like the New Myanmar Foundation (NMF)²⁴⁰, the Myanmar Network Organization for Free and Fair Election (MYNFREL)²⁴¹, and BadeiDha Moe conducted both online and offline voter education workshops for youth and first-time voters, IDPs, and others. Other CSOs like Women LEAD in northern Shan state conducted training of trainers on voter and civic education to women from their partner organisation. Phan Tee Eain conducted a series of voter education discussions, even produced a music video, which also focused on promoting the improvement of women participation in elections and politics.

240 <https://web.facebook.com/new.myanmar.foundation/posts/1491601844384064>

241 <https://www.mynfrel.org/en/civic-and-voter-education/>



The UEC collaborated with International IDEA to produce a romantic edutainment film for voter education.

There were also youth-led efforts like that of Kanbawza Youth Library in southern Shan state, which distributed booklets on democracy, the voting process, and voters’ responsibilities. The Peacock Generation, meanwhile, gathered small groups of people in villages to educate them about the voting processes.

Due to assembly restrictions amid the COVID-19 pandemic, CSOs tried new and creative approaches to put their messages across. To reach voters in areas with weak internet connection, organisations like MYNFREL went to villages to spread awareness using loudspeakers and pasting posters in public spaces. When possible, organisations such as the Peacock Generation gathered small groups of people in villages to educate them about the voting process.

ANFREL also led an online campaign called “Go Vote”²⁴² which aimed to raise civic and voter awareness in Myanmar. Other groups like

242 <https://web.facebook.com/govotemm>

The UEC conducted voter education campaigns mostly on state-owned media and social media through infographics and videos on the voting procedure and COVID-19 related guidelines. It produced multiple songs in Myanmar language to encourage voters to participate in the elections; the music videos were aired on the Myanmar Radio and Television (MRTV) and uploaded on the UEC’s Facebook page²⁴⁶. The UEC also collaborated with the International IDEA to produce a romantic edutainment film for voter education and awareness purposes which was aired on MRTV and streamed on Facebook as well.

The UEC, with the support of the STEP Democracy program funded by the EU and implemented by International IDEA and The Asia Foundation, launched a mobile application called “mVoter2020”²⁴⁷. The app, which aimed to improve voter awareness in Myanmar, contained profiles of contesting candidates, political parties, voting procedures, and frequently asked questions about elections. It was, however, quickly criticized for its use of “derogatory” labels for Rohingya Muslim candidates²⁴⁸ and supposedly inflammatory ethnic and religious nationalist rhetoric²⁴⁹. The app reportedly went offline²⁵⁰ but as of this writing, the web version of the app²⁵¹ is still live and the mobile application can be downloaded on the Google Play and Apple app stores.



246 <https://web.facebook.com/uecmyanmar>

247 <https://www.irrawaddy.com/elections/myanmar-launches-election-app-keep-voters-informed.html>

248 <https://www.reuters.com/article/us-myanmar-election-idUSKBN26S1M6>

249 <https://www.myanmar-now.org/en/news/activists-condemn-eu-funded-election-app-for-inflaming-ethnic-and-religious-nationalism>

250 <https://www.reuters.com/article/us-myanmar-election-idUSKBN26N2LL>

251 <https://web.mvoterapp.com/candidates>

International IDEA, in a statement²⁵², said:

“We understand that issues related to identity or ethnic and religious affiliation are sensitive, particularly in an electoral context. Numerous jurisdictions around the world however include ethnic identifiers in their electoral systems and practices, often with the aim to ensure fair and equitable representation and inclusion.”

ANFREL learned that despite the various efforts, the level of voter education remained low due to the weak internet access especially in rural areas as well as to the pandemic-related restrictions on travel and gatherings. The UEC also gave little attention to ethnic and linguistic minorities as voter education materials were prepared and presented overwhelmingly in official Myanmar language, thus marginalising large sections of the population.

- **Other Notable Efforts**

Aside from the efforts of CSOs in Myanmar to monitor the electoral process and educate the public about elections and democracy, there are other notable efforts which tried to fill the gaps in providing context and clarity on pressing election-related issues.

Rights group Free Expression Myanmar launched an online tool²⁵³ which allowed voters to scrutinise and compare the election manifestos of 21 political parties contesting in the 2020 Myanmar polls. The tool presented the campaign promises of political parties from the human rights lens looking into their commitments to free expression, media freedom, right to information, freedom to protest, hate speech, and digital rights²⁵⁴.

252 <https://www.idea.int/news-media/news/statement-mvoter2020-myanmar>

253 <http://freexpressionmyanmar.org/manifestos/>

254 <http://freexpressionmyanmar.org/new-manifesto-tool-to-compare-parties-on-human-rights/>

Organisations like the Myanmar ICT for Development Organization (MIDO)²⁵⁵ and the Myanmar Tech Accountability Network (MTAN)²⁵⁶ tried to address the problem of disinformation with their initiatives. MIDO’s fact-checking initiative “Real or Not”²⁵⁷, along with similar initiatives from media organisations, debunked false information spreading online. MTAN’s efforts, meanwhile, were geared towards mitigating “risks of social media induced violence and political instability in Myanmar.” Their election social media dashboard²⁵⁸ provided journalists, researchers, and the public a glimpse into election-related activities on Facebook while their data-driven weekly updates tried to make sense of the information landscape online.

- **Challenges**

Most of the CSO activities related to the 2020 Myanmar general elections were hampered by the restrictions imposed by the COVID-19 pandemic. In addition, CSOs’ attention and resources were also diverted somehow to address the more pressing humanitarian needs of communities affected by the pandemic. However, even prior to the pandemic, CSOs have already been facing challenges.

In a mapping and electoral observation needs assessment of CSOs in Myanmar’s ethnic states that ANFREL and Democracy Reporting International (DRI) conducted in March and June 2019, CSOs identified several issues including technical and financial constraints, lack of experience in doing election observation, the people’s lack of interest in election and politics, security threats, and the weak cooperation and support from local authorities and governments.²⁵⁹

255 <https://web.facebook.com/Myanmarido/>

256 <https://www.mmtan.org/>

257 <https://www.realomotmm.info/?lang=en>

258 <https://datastudio.google.com/reporting/4adfdc5c-3ef7-4794-87f7-f461e5838e70/page/deSeB?s=mqGx1SlnUc4>

259 https://democracy-reporting.org/wp-content/uploads/2020/04/DRI_MM_CSO-Need-Assessment-Report-ANFREL-DRI-report-format-v6-2020-03-13-1.pdf

ANFREL implemented several program activities to enrich and empower CSOs in Myanmar ahead of the 2020 Myanmar polls including the publication of a revised election observation handbook for domestic election monitoring groups²⁶⁰, capacity building training for long-term and short-term observers²⁶¹, and dialogues and fora²⁶².

Despite the challenges, the continuous engagement of CSOs in Myanmar helps fill the gaps in educating voters on election-related issues and concerns as well as in monitoring the electoral process from potential fraud and irregularities. Moving forward, efforts to empower and strengthen CSOs and their work should be sustained.

260 <https://anfrel.org/anfrel-releases-revised-myanmar-election-monitoring-handbook/>

261 <https://myanmar.anfrel.org/en/news/292>

262 <https://anfrel.org/tag/anfrel-webinar-series/>

Chapter 12:

Media Environment

A vibrant media landscape, where press freedom is upheld and ethical and professional standards are observed, is vital in ensuring free, fair, and inclusive elections.

In Myanmar, however, journalists still experience difficulties in accessing information and sources such as government agencies and political parties. While several news websites were blocked ahead of the 2020 Myanmar General Elections, restrictions set in place to curb the spread of the new coronavirus have affected media in performing their duties. These come on top of legal prosecution risks for members of the media who report on sensitive issues critical to the current administration.

Despite the challenges, the media in Myanmar did their best to perform their duties during the Myanmar polls. Election-related content by the media were the most engaging on Facebook with an average of 1.1 million daily interactions, according to data from the Election Social Media Dashboards²⁶³ of the Myanmar Tech Accountability Network²⁶⁴ (MTAN). The dashboards were based on the data from the Social Media Archive, which gathered 1,000 viral election-related public posts on Facebook daily from September 8 to November 17, 2020²⁶⁵.

263 <https://datastudio.google.com/reporting/4adfdc5c-3ef7-4794-87f7-f461e5838e70/page/IXFfB?s=mqGx1SlnUc4>

264 <https://www.mmtan.org/>

265 MTAN has gathered 142,000 election-related content (71,000 pages/verified accounts and 71,000 public groups) from 9,300 unique sources (5,503 pages/verified accounts and 3,797 public groups).

- **Reporting on Elections**

According to journalists and media outlets that ANFREL interviewed, there have been significant improvements between 2015 and 2020 as they were freer to cover election activities, had access to polling stations during advance voting, and were not subjected to harassment from local authorities during the election period.

Several media organisations, however, said in a statement that the media encountered limits in their reporting of the election including access to polling stations and interviewing polling officers on Election Day. They urged the UEC to review and reform rules and regulations to improve media access during elections.²⁶⁶

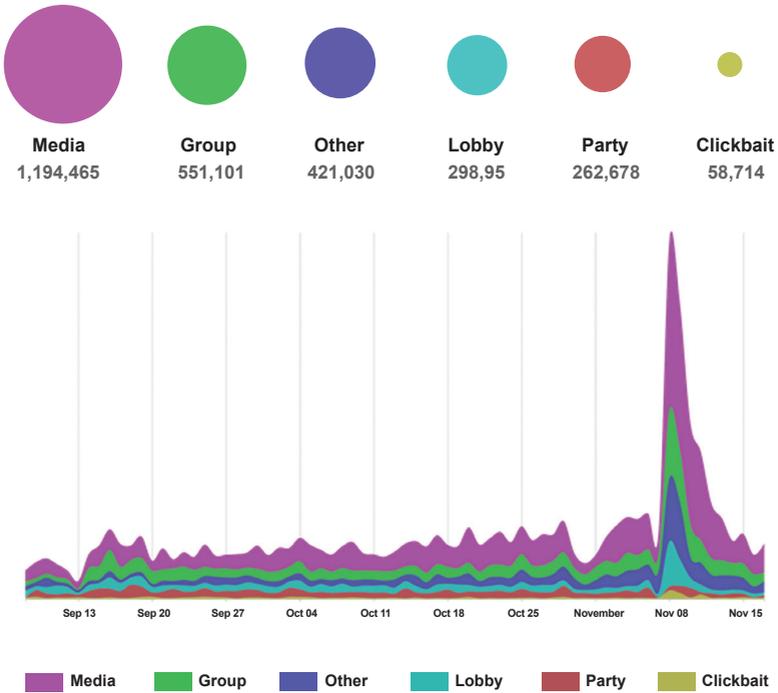
While ANFREL was told that access to information and transparency of election processes improved, journalists continue to face difficulties in gaining access to government officials and obtaining information from state agencies such as the UEC. People also remain hesitant to talk to media as they are afraid to say something wrong or provide information that might put them at risk.

Journalists in Myanmar were also observed to have a general appreciation of their profession's ethical standards and that they subscribe to in-house code of ethics and community-led guidelines. The Myanmar Press Council (MPC) updated its media guidelines for election coverage built on MPC's Media Code of Conduct and Media Ethics in time for the 2020 polls²⁶⁷.

However, initial findings from the Myanmar Network Organization for Free Elections' (MYNFREL) monitoring of media election coverage revealed that media focused primarily on the two major parties in the country: the National League for Democracy (NLD) and the Union Solidarity and Development Party (USDP). MYNFREL looked at the

266 https://web.facebook.com/permalink.php?story_fbid=4619677108106422&id=206380619436115

267 <https://en.unesco.org/news/myanmar-press-council-launches-media-guidelines-election-coverage>



Daily recorded interactions per source. Data from MTAN.

coverage of five newspapers, six television channels, five radio stations, and seven news websites. In both private- and state-owned daily newspapers, the NLD was mentioned the most, the USDP second and the PPP third; most of the NLD mentions in the media were found to be positive, while ethnic minority parties received less coverage.

Several political parties also told ANFREL that they felt the media coverage was tilted in favour of the ruling party. Minor parties were not widely covered by the media, while the competition between the NLD and USDP was often highlighted. In addition, MYNFREL told ANFREL that while the media generally reported the elections as free and fair, there was a need for more inclusive coverage in the media as vulnerable sectors like ethnic minorities, women, and the youth were under-reported despite some efforts to cover them.



ANFREL with the Myanmar Press Council conducted several workshops for journalists in Myanmar on election reporting ahead of the 2020 polls.

Recognizing the need for better media reporting and the importance of media's role in informing the public during elections, ANFREL, in partnership with MPC, released a media toolkit on election reporting for Myanmar journalists²⁶⁸ and conducted several training workshops²⁶⁹ for select media practitioners ahead of the elections. ANFREL also supported media monitoring efforts²⁷⁰ to help evaluate and encourage better media reporting of elections. Efforts like these should be further strengthened in the future to support the enhancement of the media's capacity to perform their duties in informing the public and monitoring irregularities in the electoral processes.

268 <https://myanmar.anfrel.org/en/media-toolkit/about-the-toolkit>

269 <https://myanmar.anfrel.org/en/news/283>

270 <https://myanmar.anfrel.org/en/news/285>

- **Impact of COVID-19**

The media were not spared by the adverse effects of the COVID-19 pandemic as travel restrictions in place to curb the further spread of the virus have prevented them from conducting their work. Under Myanmar's strict stay-at-home orders, the media were not among the sectors to be granted an exemption, which would have permitted them to continue informing the public²⁷¹. The ban on international commercial flights also made it difficult for international media to cover the 2020 elections adequately²⁷².

Several news outfits have also been hit by the economic effect of COVID-19, with some reducing their workforce and therefore their coverage of elections and other pressing issues. Several newspapers and magazines were also forced to halt print production and circulation²⁷³. In Rakhine state, ANFREL learned that the delivery of all newspapers stopped since August due to the COVID-19 outbreak. Limited campaign activities by parties and candidates also lessened media coverage prior to the elections.

- **Legal Harassment of Journalists**

The media also continue to face restrictions and roadblocks which affect press freedom in the country. Rights group Athan published a report detailing 67 cases of legal prosecution against journalists.²⁷⁴ Most cases were filed by the government or the military, and the Telecommunications Law was the most-often used legal text. Interviews conducted by the ANFREL mission highlighted that covering sensitive topics like land disputes, illegal drugs or timber trade, and ethnic violence remain challenging for the media in several parts of the country.

271 <https://www.nytimes.com/2020/09/28/world/myanmars-virus-restrictions-keep-journalists-at-home.html>

272 <https://www.mmtimes.com/news/foreign-reporters-cannot-enter-myanmar-cover-election-run.html>

273 <https://www.mmtimes.com/news/newspapers-under-lockdown.html>

274 <https://web.facebook.com/athan.foe.myanmar/posts/707268793165522>

Media have been cautious and sometimes resort to self-censorship in their reporting.

In 2020 alone, several cases were brought against journalists for their coverage of armed conflicts and related issues. Among them are Voice of Myanmar editor U Nay Myo Lin²⁷⁵ and Narinjara News chief editor U Khaing Mrat Kyaw²⁷⁶ for publishing an interview with the spokesperson of government-designated terrorist group the Arakan Army (AA), The Irrawaddy News editor U Ye Ni²⁷⁷ for the coverage of armed clashes between the military and AA, and Reuters²⁷⁸ for a story on the death of two Rohingya Muslim women as a result of shelling in Rakhine. Online news agency Dae Pyaw chief editor U Zaw Ye Htet was sentenced to two years in prison under Article 505(b) of the penal code for an article alleging that there had been a COVID-19 death in eastern Kayin State. The story later turned out to be false but the editor has since apologized for the error.²⁷⁹

- **Internet and Websites Blocking**

Internet freedom in Myanmar is also low and has been deemed “not free” by US-based think tank Freedom House in their 2020 “Freedom on the Net” report. The country scored 31 points out of 100, with the mobile internet blocking in several townships in Rakhine and Chin states and the blocking of news websites among other key developments²⁸⁰ as reasons for the country’s poor internet freedom score.

275 <https://www.irrawaddy.com/news/burma/myanmars-special-branch-police-sue-editor-counter-terrorism-law.html>

276 <https://cpj.org/2020/05/myanmar-editor-in-hiding-facing-terrorism-charges/>

277 <https://www.irrawaddy.com/news/burma/myanmar-military-case-irrawaddy-editor-move-ahead.html>

278 <https://uk.reuters.com/article/uk-myanmar-reuters/myanmar-army-sues-reuters-for-criminal-defamation-police-idUKKBN20W1ZO>

279 <https://rsf.org/en/news/myanmar-journalist-jailed-two-years-reporting-covid-19-death>

280 <https://freedomhouse.org/country/myanmar/freedom-net/2020>

The Ministry of Transport and Communications ordered to “stop mobile internet traffic” in nine townships in Rakhine and Chin states on 20 June 2019²⁸¹. The shutdown was lifted in Maungdaw township in northern Rakhine on 2 May 2020²⁸² but in the eight other townships, only 2G network was restored, which allows only voice calls and limited data transmission²⁸³.

The 2G network limitation was set to end on 31 October 2020 but telco Telenor said in a statement that the Ministry of Transport and Communications directed all mobile phone operators in Myanmar to extend the internet restrictions until 31 December 2020.²⁸⁴

In a joint statement²⁸⁵, several rights groups expressed “concern by government’s latest directive ordering telecommunications companies to extend the effective internet shutdown beyond the elections.”

News websites, meanwhile, were also affected by a website blocking order in March 2020 which included the Development Media Group, Narinjara News²⁸⁶, Mandalay In-Depth News, Mekong News, Voice of Myanmar, and Karen News²⁸⁷ for supposedly spreading “fake news” on COVID-19, among other reasons²⁸⁸. Mobile phone operator Telenor Myanmar said that the legal basis the authorities cited for the blocking was Article 77 of the Telecommunications Law, regarding “public interest”. On 9 September three unidentified websites were unblocked as “the sites [were] not found to spread misinformation or to violate media ethics²⁸⁹”.

281 <https://www.article19.org/resources/myanmar-one-year-on-internet-shutdown-imperils-human-rights-in-myanmar/>

282 <https://myanmar-now.org/en/news/internet-ban-lifted-in-maungdaw-township>

283 <https://www.mmimes.com/news/rakhine-chin-internet-restored-only-2g.html>

284 <https://www.telenor.com/network-restrictions-in-myanmar-1-august-2020/>

285 <https://web.facebook.com/FreeExpressionMyanmar/posts/3405547552892143>

286 <https://www.frontiermyanmar.net/en/operators-split-as-telenor-rejects-govt-order-to-block-fake-news-sites/>

287 <https://freedomhouse.org/country/myanmar/freedom-net/202>

288 <https://www.mmimes.com/news/telenor-follows-myanmar-orders-block-alleged-fake-news-sites.html>

289 <https://www.telenor.com.mm/en/article/blocking-websites-myanmar-updated-9-september-2020>

Further restrictions were imposed with a directive from the Posts and Telecommunications Department to mobile operators on 10 November 2020 ordering the blocking of three unidentified websites and keyword filtering related to the websites.²⁹⁰ Directorate of Telecommunications director general U Myo Swe said the request came from one of the military-controlled ministries but refused to provide further details.

Telenor, in a statement, said the directive was based on Section 77 of the Telecommunications Law citing circulation of “fake news” and rumors and copyright infringement as reasons for the order. The mobile operator said that they complied with the blocking order under protest but not with the request to filter based on keywords.²⁹¹

Internet blocking and limited mobile connectivity, especially during elections amid an ongoing crisis, raise concerns and undermine the people’s right to know which should not be compromised if only to address issues of mis- and disinformation. Ethical shortcomings in the media should be addressed through proper complaints mechanisms. The Telecommunications Law which has been often cited for orders to block internet access and websites should be reviewed to align with international standards on access to information and freedom of expression and of the press.

- **Disinformation**

Another issue affecting the information landscape in Myanmar, as in most countries around the world, is disinformation or the spread of malicious and false information. While the journalists and news outfits who the ANFREL mission talked to said they are not concerned about disinformation affecting the 2020 polls, they also said that there are people who still share wrong information on social media.

290 <https://www.mmtimes.com/news/myanmar-tightens-censorship-internet-post-election.html>

291 <https://www.telenor.com.mm/en/article/directive-block-websites-0>

There have been a number of disinformation incidents reported during the 2020 elections, including a fake graphic of a pre-election survey showing declining public trust in the NLD, which was shared hundreds of times in multiple Facebook posts and blogs²⁹², and a website spreading disinformation and hate speech while imitating the design of Radio Free Asia²⁹³.

UEC warned of disinformation spreading on social media, especially from political parties saying they were having problems with the advance voting process. UEC stated that “those information [sic] consist of not only correct information but also false facts, exaggerations, the facts that can mislead voters by concealing accurate information, and indirect facts.” The UEC further reminded that “saying, writing or sharing incorrect information and baseless information is disrupting the voting processes and the elections, so it is a violation of section 58(d) of the relevant *Hluttaw* Election Law²⁹⁴.”

To counter disinformation online, there are a number of fact-checking initiatives in the country, such as MIDO’s “Real or Not”²⁹⁵, AFP Myanmar Fact Check²⁹⁶, Boom Myanmar²⁹⁷, and Fact Crescendo Myanmar²⁹⁸, which have been working on exposing incidents of mis- and disinformation in the country.

MIDO told ANFREL that compared to the 2015 elections, disinformation is more pervasive in the 2020 elections as the abuse of the online platforms is more systematic with techniques evolving and more skillful. The number of online users have also grown.

292 <https://factcheck.afp.com/fake-survey-results-about-declining-public-trust-myanmars-ruling-party-circulate-facebook-ahead>

293 <https://www.rfa.org/english/news/myanmar/media-fake-10132020104123.html>

294 <https://www.gnlm.com.mm/announcement-about-spreading-election-disinformation/>

295 <https://www.mmtimes.com/news/mido-fact-check-facebook-news.html>

296 <https://factcheck.afp.com/afp-myanmar>

297 <https://www.boommyanmar.com/about-us/>

298 <https://myanmar.factcrescendo.com/english/>

MIDO said people are more aware of disinformation but as they know more, those who deliberately disrupt the information ecosystem change their tactics. For example, with abusive and erring accounts on Facebook being taken down, the disinformation from those accounts still circulate through screenshots which make it harder to trace the origin and identify who is doing the attacks.

Aside from their fact-checking initiative, MIDO has been doing media literacy training and campaigns to combat disinformation online. They recognize that there have been some improvements in the response of platforms like Facebook but as they are not enough, the approach should be more holistic and involve all stakeholders in the process.

For most people in Myanmar, Facebook is almost synonymous to the internet as they rely on the platform for news and information, entertainment, and connection with friends and family. An average of 2.2 million daily Facebook interactions were recorded daily from September 8 to November 17, 2020, according to the data that MTAN gathered. The highest interactions recorded were on Election Day and the day after with 15,276,444 and 12,695,634 interactions, respectively.

Facebook, however, has had a history of being weaponized to incite division, hate, and violence towards the minority sector through the rapid spread of disinformation.²⁹⁹ A UN fact-finding mission in 2018 found that Facebook played a significant role in fueling hate speech against the Rohingya minority which Facebook recognized for having failed to prevent the platform from being used as a tool to drive genocide.³⁰⁰

299 <https://www.wired.com/story/how-facebooks-rise-fueled-chaos-and-confusion-in-myanmar/>

300 <https://time.com/5197039/un-facebook-myanmar-rohingya-violence/>

Facebook shared updates on the work they did to address the misuse and abuse of the platform during the Myanmar polls³⁰¹. For instance, they expanded their policy to remove misinformation that could lead to voter suppression or damage the integrity of the electoral process, as well as remove content violating policies against hate speech³⁰².

While the spread of disinformation is not new, new technologies help amplify its proliferation at a rate and breadth that may be hard to contain. ANFREL agrees that it would take a holistic approach involving multiple stakeholders to address the issue and should rules and regulations be imposed to improve the information landscape, these should enhance freedoms rather than curtail them upholding access to information and free speech and expression.

- **Press Freedom**

With many press freedom-related issues still hounding the media landscape in Myanmar, civil society organisations raised concerns over the ruling party's omission of their commitment to support independent media, transparent public financial management system, and the enhancement of public's access to information in their 2020 manifesto.

A Myanmar Times article³⁰³ said: "Despite talks of creating a level-playing field between private and state-run media outlets in 2015, especially for TV channels where state operators still enjoy overwhelming dominance, no substantial progress has been observed. Ditching commitments to independent media and access to information only reinforced criticism that the NLD was not serious enough about their promises."

301 <https://techcrunch.com/2020/09/23/facebook-gives-more-details-about-its-efforts-against-hate-speech-before-myanmars-general-election/>

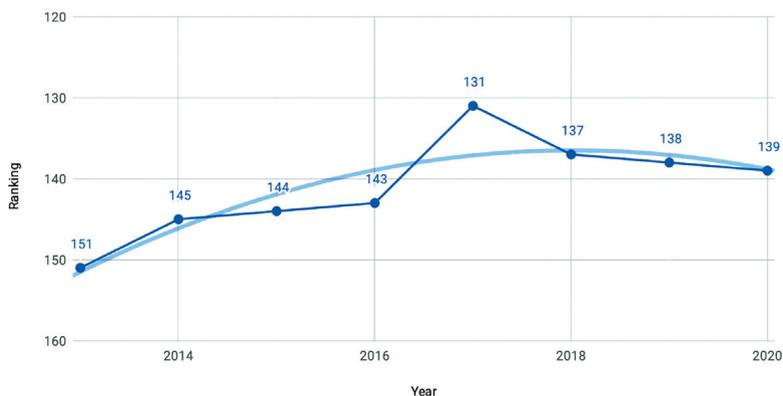
302 <https://about.fb.com/news/2020/08/preparing-for-myanmars-2020-election/>

303 <https://www.mmtimes.com/news/ruling-party-ditches-support-independent-media-election-manifesto.html>

Myanmar ranked 139 out of 180 countries surveyed in 2020 and was described to be in a “difficult situation” in the Press Freedom Index of Paris-based media organisation Reporters Sans Frontières (RSF, Reporters Without Borders). The country has been on a decline trend since 2018 when it dropped to 137 from its highest ranking of 131 in 2017³⁰⁴.

Press Freedom Index - Myanmar

SOURCE: RSF



Myanmar ranking in the RSF's Press Freedom Index (2013-2020)

Media practice under a repressive regime undermines the people's right to know. In order for the media to fully function as agents of truth, it needs to thrive in an enabling environment that allows for the critical monitoring of power without the unnecessary limits and repercussions balanced with the respect for and adherence to ethical and professional standards. ANFREL enjoins stakeholders to uphold, protect and strengthen press freedom and free expression.

304 <https://rsf.org/en/myanmar>

Recommendations

In light of the information presented in this report, ANFREL offers the following avenues for reform to improve future electoral processes in Myanmar. Some recommendations listed here are carried over from previous mission reports in 2015, 2017, and 2018 since they have yet to be implemented.

The recommendations listed hereafter have not been modified in any way since the *Tatmadaw*'s coup of 1 February 2021. We believe that they could help empower all election stakeholders, no matter their affiliation, to pursue reform in order to achieve freer, fairer, and more inclusive elections.

Once the military relinquishes its power to the legitimate civilian government, we hope that all stakeholders, including the rightful Union Election Commission, political parties, civil society organisations, media and voters, can rally around these proposals to secure further democratic gains and continue to promote free, fair, and inclusive elections in Myanmar.

On the legal framework for elections:

- Amend election laws and the 2008 Constitution to remove the 25% quota of military-appointed members of Parliament. A fully-elected legislature is an essential component of a representative democracy.
- Revise the 1982 citizenship law to align Myanmar with international standards and end the disenfranchisement of certain ethnic and/or religious groups, most notably the Rohingya. Members of these minorities should be provided with a pathway to full citizenship and the right to political participation.

- Address the malapportionment built into the electoral system and include population among the criteria upon which the drawing of electoral constituencies should be based, to distribute parliamentary seats in a more equitable manner.
- End the disenfranchisement of members of religious orders and ensure they have the same fundamental rights as all citizens. Other unreasonable restrictions on the right to vote and to participate in public affairs, such as Article 59(f) of the Constitution preventing an individual whose family members hold a foreign citizenship from becoming President, should also be removed.
- Draft and implement comprehensive campaign finance laws mandating full disclosure of donations and expenditures for both candidates and political parties, as well as defining clearly what constitutes misuse of state resources. The current campaign finance framework is insufficient in both scope and sanctions, and does not comply with Myanmar's commitments as a party to the United Nations Convention Against Corruption (UNCAC).
- Ratify the International Covenant on Civil and Political Rights (ICCPR).
- Recognise the value and contribution of election observers by addressing their rights and responsibilities in the election laws.

On the Union Election Commission:

- Consider a different appointment mechanism for election commissioners in order to safeguard the independence and neutrality of the UEC.
- Provide the UEC with fiscal autonomy and a steady budget allocation to shield it from political influence.
- Increase the representation of women and ethnic, religious, and linguistic minorities in election management bodies to promote inclusive decision-making.

- Communicate candidly and in a timely manner on important election-related decisions. The reasons for postponing elections or disqualifying candidates for instance should be clearly disclosed.
- Ensure even enforcement of regulations across all political parties and candidates and due process of UEC decisions.
- Strengthen coordination within the UEC as well as with other state agencies to enhance procedural consistency and fairness in the implementation of election rules.
- Conduct regular consultations between election officials and civil society organisations or political parties to promote information sharing and collaboration with these stakeholders, whose engagement is vital to a vibrant democracy.
- Disclose the calendar of election activities well in advance so that all stakeholders can take part in the process on a level playing field.
- Hold by-elections in constituencies where the 2020 general elections were postponed as soon as conditions allow to ensure that voters in the affected areas have a voice in the country's public affairs.

On voter registration:

- Allow voters to check their registration status or submit a correction form online for a longer period of time ahead of elections.
- Encourage voters to also check the additional voter list for the elections of ethnic ministers so as to ensure the integrity of these polls.

- Provide all candidates and political parties with copies of the voter list in digital format and including the latest revisions.
- Allow election observers to conduct independent audits of the voter list and identify ways to increase voter registration.

On voter education:

- Continue further voter education efforts to increase knowledge of the electoral process and lower the incidence rate of spoiled ballots. Digital and social media can be used to disseminate material to voters widely.
- Disseminate more widely election material in minority languages and engage with civil society organisations in joint voter education programmes in order to reach out to marginalised communities.
- Use uncontroversial language and culturally appropriate activities to promote inclusiveness and diversity in the electoral process.
- Ensure that internally displaced persons (IDPs) across the country are educated about their suffrage rights and included in election activities.

On election campaigning:

- Keep pursuing efforts to draft a code of conduct agreed upon by all political parties in good faith ahead of the start of the campaign period.
- Take steps to prevent a further escalation of election violence. Myanmar could consider implementing an early warning system to promptly identify and address potential instances of election-related violence.
- Lift restrictions on campaigning material for use in state media and ensure equal access of all parties and candidates to those platforms.

- Monitor campaign activities for instances of hate speech, incitement, or vote buying, and take swift punitive action when necessary.
- Reinforce collaboration with social media platforms to prevent misinformation and hate speech, improve compliance with the silent period and increase transparency of campaign expenditures.

On advance voting:

- Improve transparency of outside-constituency advance voting, which remains the part of the electoral process most exposed to fraud. If possible, move the casting of ballots for members of the armed forces to polling stations accessible for UEC staff and election observers.
- Provide additional training to poll workers responsible for conducting advance voting to ensure the process is done in a systematic manner.
- Ensure that sufficient ballot boxes and material are available for advance voting, and that ballot boxes used for mobile polling stations are sealed.
- Expand overseas voting to increase the number of enfranchised Myanmar migrant workers. There is a need for additional polling stations in Thailand and Malaysia especially.
- Conduct investigations into the cause of overseas voter applications not being sent to their respective township election sub-commissions for approval, and fluidify the process to prevent invalid ballots in the future.

On Election Day:

- Ensure that accredited election observers are granted unhindered access to all polling stations through greater training and sensibilisation of polling staff on the issue.
- Ensure that all important notices and material to voters are properly displayed outside every polling station, including the electoral roll with the names of advance voters underlined.
- Ensure that election results (Forms 16 and 16-A) are displayed outside all polling stations after ballot counting has been completed.

On electoral dispute resolution:

- Make information on election-related complaints and rulings easily available, for instance online, to increase public knowledge of dispute resolution processes and prevent misinformation.
- Hold election tribunals in the state or region where the complaints originate to reduce logistical constraints for public participation, when possible.
- Ensure the timely resolution of all election disputes and consider revising election laws to include a timeline for the adjudication of complaints.

On the inclusion of marginalised groups:

- Take further steps to promote the participation of women, youth, and minorities in the electoral process.
- Improve accessibility of polling stations to voters with limited mobility. Conducting an audit on the matter would be helpful in assessing needs and possible solutions.

On media and freedom of expression:

- Promote independent fact-checking, media literacy, and other solutions to address information disruption around elections.
- Continue initiatives such as the cooperation between the UEC and the Myanmar Press Council on media guidelines for election coverage, while improving media access to relevant election-related events and information.
- Encourage balanced media coverage beyond the two largest parties and provide opportunities for smaller parties and independent candidates to reach out to voters and help them arrive at an informed decision.
- Protect journalists from threats, attacks, and lawsuits designed to intimidate or punish them for accomplishing their mission. Policies and laws that unjustly affect the practice of journalism should be revisited and existing mechanisms for equitable redress of grievances against perceived biased and problematic media coverage and actions should be strengthened.

Photo Gallery



(Top) Participants in an NLD motorcade in Sagaing region. *Photo by Ben Small*
(Bottom) The office of the Shan Nationalities Democratic Party (SNDP) in Mongkung, Southern Shan state.



(Top) Advance voting ballot boxes in Hpa An, Kayin state, on 29 October.
 (Bottom) An envelope containing the ballot papers of an overseas voter in Namsang, Southern Shan state, on 7 November.



(Top) Training of polling staff on 27 October in Kanpetlet, Chin state.
(Bottom) Polling staff in Matupi, Chin state, prepare to deploy personal protective equipment (PPE) on 7 November.



(Top) A man goes through the voter lists in Hopong, Southern Shan state, on 1 November.

(Bottom) Voters queue to enter a polling station in Myitkyina, Kachin state, on Election Day.



(Top) Polling staff controls a voter's temperature in Kale, Sagaing region.

Photo by Ben Small

(Bottom) A polling station in Loikaw, Kayah state, on Election Day.



(Top) Polling officers counting ballots in Matupi, Chin state.
(Bottom) Polling staff count advance ballots in Seikphyu, Magway region, on 8 November.



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