

Interim Report



IEOM TO THE
2020 Myanmar
General Elections

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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.

This interim report contains the IEOM's preliminary assessment of all election-related activities up to Election Day (8 November 2020). ANFREL will issue a comprehensive Mission Report within two months after the elections, which will expand on the information contained in this interim report and include an assessment of the announcement of results, the post-election period, electoral dispute resolution, as well as a full set of recommendations to improve future electoral processes in Myanmar.

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.

Executive Summary

ANFREL wishes to congratulate the people of Myanmar, the Union Election Commission, and the hundreds of thousands of polling staff who made this electoral process a success despite difficult conditions. We further congratulate all election stakeholders, and in particular civil society organisations and the international community, for contributing to a vibrant election environment and conducting much-needed education, advocacy, and observation activities.

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 affected. Polling and counting operations were conducted diligently and transparently, and health guidelines were overall well-implemented, although social distancing could not be implemented 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, 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 campaign environment was generally peaceful and calm, with few instances of election violence and mostly minor ones. However, the death of a supporter in Sagaing region and the abduction of three NLD candidates in Rakhine state are serious incidents that ANFREL strongly condemns. The boycott of the revised code of conduct for political parties by 30 formations is also a concerning development that damages Myanmar's ability to promote a level and ethical playing field for election campaigning. As campaigns shifted online, large parts of the population with poor connectivity were alienated. Ad spending on Facebook ramped up, while issues of mis- and disinformation were prevalent on social media. Access to state media for campaigning was also restricted by alleged censorship from the Union Election Commission.

Campaign activities were also hampered by COVID-19, as political parties and candidates were required to follow guidelines issued by the Ministry of Health and Sports, including wearing face masks, keeping a six-foot social distance, using hand sanitisers, and limiting events to 50 participants. Campaigning was also prohibited in areas under a stay-at-home order. Compliance and enforcement of these guidelines were assessed to be inadequate, which contributed to both a hazardous campaign environment and an unlevel playing field.

Myanmar's legal framework for elections continues to be fundamentally undemocratic, with 25% of all seats reserved for the military. Similarly, efforts to amend the constitution have failed because of the veto granted to the military. Furthermore, large sectors of the population remain disenfranchised, including ethnic Rohingya and all members of religious orders. Constituency boundaries also perpetuate population imbalances and an inequitable 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 Myanmar general elections, thus providing Myanmar voters with a wide range of options. However, notoriously discriminatory citizenship laws were used to reject some candidates, and Muslims were 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.

The decision to hold elections amid an outbreak of COVID-19 was divisive and much criticised, yet the Union Election Commission of Myanmar decided to push through, in part because the electoral calendar offered little room for manoeuvre. Judgment on whether this was the correct choice should be withheld until the impact of electoral processes on the spread of the disease can be properly assessed. 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 perceived lack of consistency and transparency in deciding which constituencies should be postponed.

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 comes 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 has been under a stay-at-home order since August. 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 an environment not conducive to democratic elections in Rakhine state.

Press and Internet freedom in Myanmar continues to decline. While the media community tries to perform its duties to the best of its abilities, it faces ongoing issues of difficult access to information and sources, blocking of news websites, risks of legal prosecution for journalists who report on sensitive issues, and travel restrictions in place to curb the spread of the novel coronavirus. Initial findings of election coverage monitoring found that focus was primarily on the two major political parties, with less attention given to smaller or ethnic political parties. Online disinformation campaigns were also a problem in the lead-up to the elections.

ANFREL recognises the efforts of the UEC to promote voter education through electronic means, as COVID-19 has limited its ability to conduct activities on the ground. However, the level of voter education remains low, especially in rural areas. 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.

Women's participation in the elections increased marginally, with 16% of female candidates (902 out of 5,643) compared to 13% in 2015. Women candidates also continued to face discrimination during the election campaign. We hope that election stakeholders in Myanmar can enhance the participation of women in public affairs.

The 5 million first-time voters in the 2020 general elections are a testament to the interest of the youth in democracy. This electoral cycle also saw the first openly gay candidate run for office in Mandalay's Aungmyaythazan township. Unfortunately, persons with disabilities continued to be marginalised in the election process, with ANFREL observers reporting that the vast majority of polling stations were not wheelchair-accessible.

Election Day

Polling Stations

On 8 November 2020, 38 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 estimated to be nearly as high as in the 2015 general elections.

On Election Day, ANFREL observers 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.



Election Day in Sagaing Region.

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 the 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. 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 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.

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 papers¹. In Rakhine state, a case of voter fraud was also reported². Such incidents should be investigated and appropriately addressed by election authorities.

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.



Election Day in Yangon. The temperature of voters were checked before entering the polling station.

Regrettably, not all polling stations visited by ANFREL checked the voters' temperature as required in the guidelines. Many of the staff in charge of manning the thermometers also did not know the next steps to take 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

¹ <https://www.irrawaddy.com/elections/myanmars-minorities-claim-cannot-vote-ethnic-affairs-ministerial-races.html>

²

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

to put on his forehead. He was then allowed to enter the polling station when the second body temperature measurement 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 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 entrance 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 *hluttaw*. 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.

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 are indeed inadmissible by law, it is regrettable that logistical delays have resulted in the disenfranchisement of hundreds of voters.

As of this writing, a recount is taking place in Tonzang Township in Chin State after it was discovered that 4,600 more votes were cast than voters³.

³ <https://7day.news/detail?id=204846>

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 people who have to travel out of constituency on Election Day, people with disabilities, people who are seriously ill, elderly people, women who have recently given birth, detainees, inpatients, civil servants, military and police personnel on duty; and out-of-constituency advance voting for Myanmar citizens residing abroad and voters who are away from their constituencies, including students, detainees, 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 elderly 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 density⁴. In other areas, elderly voters could also 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 stations⁵. 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 estimated 5.1 million people who are 60 years old and above, nearly 10 percent of the population⁶.

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-19⁷. 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.

⁴ Defined as above 5,000 people per square kilometer. There are 29 such townships in Yangon region and five in Mandalay region.

⁵ <https://www.gnlm.com.mm/announcement-for-advance-voting-rights-of-elderly-persons/>

⁶ <https://www.irrawaddy.com/elections/election-2020-week-review-10.html>

⁷ <https://www.gnlm.com.mm/announcement-on-advance-voting-for-local-voters-outside-their-constituencies-in-2020-general-election/>



Polling staff visiting an elderly voter in Shan State for the advance voting.

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 requires all advance voters to properly wear a face mask, maintain a six-foot social distance, show their national registration card (NRC) in a plastic bag and sanitise hands before and after casting the ballot. It also requires polling staff 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.

Out-of-Constituency Advance Voting

109,470 Myanmar nationals living overseas registered for advance voting, according to the Ministry of Foreign Affairs⁸. 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 overseas⁹. In Thailand and Malaysia, which have the highest numbers of Myanmar expatriates, only 39,000¹⁰ out of nearly 3 million¹¹ and 6,000 out of 600,000¹², 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

⁸ <https://www.irrawaddy.com/elections/myanmars-election-body-faces-crisis-confidence-ahead-election.html>

⁹ <https://www.irrawaddy.com/elections/many-myanmar-migrants-in-thailand-to-be-denied-vote-as-extra-polling-stations-ruled-out.html>

¹⁰ <http://www.mizzima.com/article/situation-casting-absentee-ballots-foreign-countries-myanmar-nationals>

¹¹ <https://www.mmtimes.com/news/embassies-urge-myanmar-expats-register-vote.html>

¹² <https://www.mmtimes.com/news/advance-voting-malaysia-set-october-9-11.html>

approval¹³. 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 pandemic¹⁴. 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.

The limited 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 day¹⁵ and the embassy in Singapore extended voting hours by one hour daily¹⁶.

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 UEC election sub-commissions. ANFREL was unable to observe the out-of-constituency voting process due to logistical constraints. 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 votes¹⁷. The UEC later overturned the decision and decided to include those ballots in the counting¹⁸.

It has to be noted that advance voting for the 2020 general elections started as early as 24 September, but 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. Regrettably, the disqualification of nearly 1,200 candidates in October for various reasons also rendered any advance votes cast for them invalid after the fact.

In-Constituency Advance Voting

Election observers and candidate agents were given the opportunity to observe advance voting in 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 provided. However, the UEC promptly addressed some of these issues and announced on 30 October that ballots in unsealed

¹³ <https://www.irrawaddy.com/elections/myanmars-election-body-faces-crisis-confidence-ahead-election.html>

¹⁴ <https://www.irrawaddy.com/elections/many-myanmar-migrants-in-thailand-to-be-denied-vote-as-extra-polling-stations-ruled-out.html>

¹⁵ <https://www.irrawaddy.com/elections/myanmar-embassies-malaysia-south-korea-add-extra-voting-days.html>

¹⁶ <https://www.mmtimes.com/news/myanmar-embassy-extends-voting-hour-accommodate-more-voters-singapore.html>

¹⁷ <https://www.irrawaddy.com/elections/myanmar-militarys-advance-votes-discounted-violating-electoral-law.html>

¹⁸ <https://elevenmyanmar.com/news/uec-decides-to-count-unsealed-envelopes>

envelopes, stained by glue, or accidentally damaged when opened will not be considered as invalid during counting¹⁹.

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, 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 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.

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https://www.uec.gov.mm/news_preview_detail.php?action=news_detail1&news_id=ULw22%2FBwRaNX3REKtJDtzzLt9rUGF7An0u1iGS5ZyL8%3D



Polling staff showing the ballot to a voter in the quarantine centre before the polling staff marked it on his behalf.

This procedure is obviously against international election standards, and it is surprising that any election officials anywhere 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 desired candidates, and never seemed to be under undue influence from election officials or any other persons.

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 guidelines. Agents of political parties, and less frequently domestic observers, were also present to monitor the operations. Nonetheless, advance voting should be the cause for additional training 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 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 rejected²⁰. 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 UEC²¹.

Many advance polling stations 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 would have helped mitigating 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 was found to be inconsistent, 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. 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.

²⁰ <https://www.irrawaddy.com/elections/myanmar-party-poll-monitors-complain-of-election-law-violations-during-early-voting.html>

²¹ <https://www.gnlm.com.mm/announcement-on-legal-actions-taken-against-two-women-over-electoral-fraud-in-advance-voting/>

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 code 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 in Yangon. However, some 30 political parties, including the military-aligned 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 election campaigns²². The boycott marks a departure from the practice of 2015, when all contesting parties agreed to sign the CoC, and 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 electoral campaign period for the 2020 Myanmar general elections started at 6 AM on 8 September 2020 for candidates 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

²² <https://www.frontiermyanmar.net/en/usdp-risks-disorderly-election-by-snubbing-code-of-conduct/>

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 messages²³.

On 6 September, the Ministry of Health and Sports (MOHS) issued guidelines on election campaigning during the COVID-19 pandemic to ensure political parties and candidates conducted their campaigns without compromising public health and safety. These included the wearing of face masks, keeping a six-foot social distancing, using hand sanitiser, and limiting the number of participants in rallies and gatherings to 50 people, or 15 people for door-to-door canvassing. The guidelines also prohibited any campaigning in areas under stay-at-home order, which made social media, especially Facebook, essential for parties and candidates to reach voters ahead of these “new normal” elections.

Much of the campaign involved motorcades with trucks, cars, motorbikes, bicycles, and parades of party supporters. Because of limited gatherings, political parties also resorted to billboards and banners to display campaign messages. Members of political parties told ANFREL observers of the difficulties they encountered in following social distancing guidelines as there was a lack of space in campaign venues. As they could not use monasteries and other religious buildings, they resorted to reducing the number of people in gatherings or conducting activities in the open, which proved uncomfortable for attendees.

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 campaigns²⁴. 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 voters²⁵.

At times, candidates took advantage of the COVID-19 situation to undertake campaign activities. Personal protective equipment (PPE) such as face masks or face shields bearing the logos of political

²³ <https://www.gnlm.com.mm/announcement-of-union-election-commission/>

²⁴ <https://anfrel.org/anfrel-eom-2015-report/>

²⁵ <https://www.channelnewsasia.com/news/asia/myanmar-election-candidate-grocery-truck-supporters-13439616>

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 campaign agenda. ANFREL also received several reports of NLD candidates presenting voters with government-funded relief aid or PPE which they misleadingly stated were provided by the ruling party.

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.

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 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.

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 rule²⁶.” 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.

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

²⁶ <https://www.gnlm.com.mm/request-to-political-parties-hluttaw-candidates-and-eligible-voters/>

dismissed by most stakeholders, including the authorities which would have been able to best enforce them.

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 territories²⁷. 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 infections²⁸. In a statement published on 2 November, the *Tatmadaw* (armed forces of Myanmar) invited EAOs to respect the rights for political parties to canvass²⁹.

Election Violence

Myanmar election laws criminalise the use of violence, threats, or undue influence to prevent a person from exercising the right to vote or run in an election. In addition, the Political Parties Registration Law bans campaign activities that could cause conflict between people of different religions or affect the integrity of groups or individuals. Any political party or candidate found guilty of violating this ban may be disqualified.

The campaign period for the 2020 general elections was found to be generally peaceful and calm. ANFREL observers reported few instances of election violence, and then mostly minor ones. Nonetheless, there was a rise in election-related violent incidents. 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 incidents of election violence incidents³⁰.

One of the most serious instances of election violence occurred on 22 October, when one person was killed and another injured during a confrontation between supporters of the USDP and the NLD in Kar Boe village of Kanbalu township, Sagaing region. In addition, seven bikes, a house, and COVID-19 inspection gates were damaged during the incident. Five people were investigated for the incident³¹.

On 14 October, the Arakan Army (AA) abducted three candidates from the NLD who were campaigning in Toungup township, Southern Rakhine state. The armed group accused them of canvassing the area despite a stay-at-home order and thus endanger lives; it demanded the liberation

²⁷ <https://www.bnionline.net/en/news/rcss-recommends-political-parties-inform-them-election-campaigns-their-territory>

²⁸ www.bnionline.net/?url=https%3A%2F%2Fwww.bnionline.net%2Fen%2Fnews%2Fchin-national-frontcnf-and-its-armed-wing-declares-all-candidates-must-see-permission-order

²⁹ <http://dsinfo.org/node/630>

³⁰ <https://www.irrawaddy.com/opinion/analysis/myanmar-election-violence-rise-november-vote-nears.html>

³¹ <https://www.mmtimes.com/news/physical-confrontations-increased-during-2020-election-campaign-period-myanmar.html>

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 released³². As Election Day approached, NLD officials said they feared for the lives of the abducted candidates³³.

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 after UEC chair U Hla Thein announced that the 2020 general elections would not be postponed despite several political parties' requests to delay the elections due to COVID-19³⁴.

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 and told him to stop playing the song, before allegedly attacking him with a knife, causing a neck injury. A mob then gathered and attacked the house with projectiles and petrol bombs. According to the Magway region authorities, 19 people allegedly involved in the mob attack have been arrested³⁵.

On 6 November, just two days before the elections, a bomb blast rocked the offices of Bago region's election sub-commission³⁶. There were no casualties and the attack has not been claimed.

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 (the USDP) and a former ruling party stalwart (the 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 November³⁷. 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

³² <https://www.irrawaddy.com/elections/arakan-army-admits-abducting-three-myanmar-ruling-party-candidates.html>

³³ <https://www.irrawaddy.com/news/burma/long-silence-abducted-nld-candidates-myanmars-rakhine-state-prompts-fears.html>

³⁴ <https://www.irrawaddy.com/elections/second-unexploded-hand-grenade-found-residence-election-official-myanmars-capital.html>

³⁵ <https://www.irrawaddy.com/elections/19-arrested-mob-attack-nld-members-house-central-myanmar.html>

³⁶ <https://elevenmyanmar.com/news/bomb-blast-hit-bago-election-commission-office-ahead-of-general-election>

³⁷ <https://www.irrawaddy.com/elections/myanmars-opposition-parties-ramp-facebook-ad-spending-election-nears.html>

accessible, which enables only voice calls and limited data transmission³⁸. 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 Internet³⁹.

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 Campaign⁴⁰”, recorded at least 39 cases of 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 by 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 Arabic⁴¹.

Campaign Censorship in State-owned Media

The Union Election Commission (UEC), in a 23 July notification, allowed political parties to campaign on state-owned radio and televisions from 8 September to 6 November 2020⁴². 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:

³⁸ <https://www.mmtimes.com/news/rakhine-chin-internet-restored-only-2g.html>

³⁹ <https://www.mmtimes.com/news/14m-people-will-be-affected-internet-shutdown-civil-society-groups-warn.html>

⁴⁰ <http://www.bhrn.org.uk/en/component/edocman/digital-hate-free-and-fair-for-some/download.html?Itemid=>

⁴¹ <https://www.channelnewsasia.com/news/asia/myanmar-election-facebook-hate-speech-rohingya-disinformation-13476412>

⁴² <https://www.gnlm.com.mm/permission-for-broadcast-campaigns-of-political-parties/>

- 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;
- 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 Society⁴³, Arakan Front Party, Union Danu League for Democracy, Chin National League for Democracy⁴⁴, Kachin State People's Party⁴⁵ — decided not to broadcast their campaign speeches⁴⁶.

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 others⁴⁷. 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 editing⁴⁸".

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 interference⁴⁹". NGO Article 19 further said UEC-issued Notification 138/2020 "contains highly problematic restrictions on political speech" and asked the UEC to "withdraw the notification and refrain from initiating prosecutions of individuals on grounds incompatible with international human rights laws⁵⁰".

Conclusion

ANFREL estimates that the campaign environment ahead of the 2020 general elections in Myanmar was not entirely free and fair, 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

⁴³ <https://mizzima.com/article/two-political-parties-accuse-uec-censorship>

⁴⁴ <https://www.bnionline.net/en/news/cnld-boycotts-mrtv-over-censored-speech>

⁴⁵ <https://kachinnews.com/2020/10/13/kspp-wont-air-policy-speech-on-mrtv/>

⁴⁶ <https://mizzima.com/article/six-parties-decide-not-broadcast-election-campaign-speeches>

⁴⁷ <https://mm.boell.org/en/2020/10/05/no-free-elections-without-free-media>

⁴⁸ <https://www.gnlm.com.mm/campaign-speeches-of-political-parties-not-edited-for-broadcasting-on-mrtv-and-publishing-in-dailies/>

⁴⁹ <https://www.hrw.org/news/2020/08/14/myanmar-revise-election-broadcast-rules>

⁵⁰ <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-violations-ramp-up/>

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 Union Election Commission 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.

Election Postponements

Election Calendar & COVID-19

The 2020 general elections were announced by the Union Election Commission 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 reconsidered⁵¹. 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 problems⁵²".

Indeed, while Myanmar's legal framework explicitly provides for the postponement of elections in the event of natural disasters or if warranted by local security situations⁵³, 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 should a lapse in the legislature occur, a postponement of the elections by more than a few weeks, either voluntary or necessary, would lead 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 that the commission "[didn't] have any plan to postpone the general election for COVID-19 reasons⁵⁴", 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 not possible however to hold concurrent elections everywhere in the country. 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

⁵¹ <https://apnews.com/article/aung-san-suu-kyi-myanmar-health-general-elections-elections-061b7bd307ee790335eca6958a694029>

⁵² <https://www.irrawaddy.com/elections/myanmars-nld-says-postponing-november-election-lead-chaos.html>

⁵³ 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

⁵⁴ <https://www.bloomberg.com/news/articles/2020-09-19/myanmar-won-t-postpone-november-polls-election-official-says>

reasons⁵⁵. 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.

Altogether, the poll cancellations announced by the UEC affected a larger portion of the territory than during the 2015 general elections⁵⁶, a reflection of the resurgence of armed conflicts in recent years, especially in Rakhine state. It is estimated that over 1.5 million people, including 1.2 million in Rakhine (73% of the state's eligible voters) will be 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 reducing the legitimacy of these elected officials.

This list of poll cancellations was met with widespread criticism from civil society organizations 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 organizations 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 Union Election Commission's procedures to cancel elections in conflict-affected constituencies [were] not transparent or consistent⁵⁷".

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 motivated⁵⁸.

In Rakhine, most of the nine townships that saw their polls cancelled had elected MPs from the Arakan National Party (ANP) in 2015, while the NLD won in three of the four townships that went unaffected. 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 now⁵⁹." Both the AFP and ANP submitted letters to the Rakhine election sub-commission requesting a review of the poll cancellation order.

In southern Shan state, 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 peaceful⁶⁰. 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.

⁵⁵ The 15 townships are, in Rakhine state: Buthidaung, Kyauktaw, Maungdaw, Minbya, Mrauk-U, Myebon, Pauktaw, Ponnagyun, and Rathedaung; in Shan state: Mongkaing, Mongla, Mongmao, Narphan, Pangsang, and Pangwaun.

⁵⁶ 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.

⁵⁷ <https://www.aljazeera.com/news/2020/10/28/vote-cancellations-trigger-outrage-among-myanmar-minority-voters>

⁵⁸ <https://www.bnionline.net/en/news/kysdp-says-no-justice-declaration-some-constituencies-where-elections-could-not-be-held>

⁵⁹ <https://www.bnionline.net/en/news/parliamentary-candidates-call-uec-reconsidering-pauktaw-township-polls>

⁶⁰ <https://myanmar-now.org/en/news/parties-protest-cancelation-of-vote-in-mong-kung>

However, more than anything else, it was the absence of postponements in Chin's Paletwa township, the most conflict-torn in Western Myanmar, that fueled the perception that the UEC-announced cancellations largely overlapped with the interests of the ruling party. 90 instances of armed conflict had already been recorded there in 2020 alone, whereas no clashes were reported in Pauktaw and only one in Toungup, both Rakhine townships where elections had been postponed⁶¹. The NLD currently holds every elective position in Paletwa.

The UEC initially defended its decisions, stating that the list was drafted upon the advice of local election sub-commissions and the government, including two military-controlled ministries. However, on 27 October, it amended the list of locations where polls would be postponed. Due to reports 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 state. On the other hand, the UEC now included 94 village tracts of Paletwa township, the conflict-torn township in southern Chin State, in the list of no-voting areas⁶².

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

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 fueling resentment against the ruling party and UEC.

The UEC should strive to adopt a more transparent approach to decision-making in order to project neutrality and accountability. Electoral stakeholders, including political parties and civil society organizations, should 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 as many voters as possible were effectively heard. In fact, the no-voting areas delimited by the UEC were "greater than what the Tatmadaw recommended", according to Brigadier General U Zaw Min Tun⁶³.

Inaccessibility-Related Postponement

While most cancelled elections had to do with 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

⁶¹ <https://www.facebook.com/minzawoo/posts/10106247693194707>

⁶² http://www.xinhuanet.com/english/2020-10/27/c_139471521.htm

⁶³ <https://mailchi.mp/frontiermyanmar.net/has-the-uec-gerrymandered-rakhine>

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 pandemic⁶⁴.

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 Union Election Commission 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.

⁶⁴ <https://elevenmyanmar.com/news/aye-mon-tharyar-village-chaungchivillage-in-taninthayi-excluded-from-holding-election>

Political Party and Candidate Registration

Political Parties

A total of 91 political parties contested in the 2020 Myanmar general elections. 49 of these are ethnic-based, and 18 political parties are only active in one state or region, while the other 73 operate at the national level. Political parties needed to register by 30 December 2019 in order to be able to compete.

Five additional political parties were either dissolved or suspended by the UEC on procedural grounds, and therefore unable to field candidates⁶⁵. However, the highest-profile dissolution is that of the United Democratic Party (UDP), also known as the “Rose Party”, disbanded on 17 October 2020 for allegedly receiving foreign funding⁶⁶. Suspicions 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 2015, which made the party the second-largest by number of candidates⁶⁷. Media reports revealed that UDP chair U 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. Kyaw Myint was arrested on 29 September 2020 and, on 15 October, the President’s Office announced that Kyaw Myint had received 16 billion kyat (US\$12.4 million) from China in 2015, and used 1.4 billion kyat (US\$1.1 million) to finance his party’s activities.

While the allegations against the UDP are serious and warrant the dissolution of the party under Myanmar’s election laws if true, the actions of 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 audit⁶⁸ or a court had ruled on the matter, which goes against the principle of presumption of innocence. Although ANFREL understands the intent was to prevent a potentially fraudulent organization to tip the playing field in its favour, international standards dictate that a political party’s termination should be grounded in the due process of the law. Another concern is the timing of the announcement, only 3 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 2009⁶⁹, 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 may still have resulted in some voters casting invalid ballots on Election Day.

⁶⁵ They are the 88 Generation Student Youth (Union of Myanmar) Party, the Union of Myanmar Federation of National Politics, the 88 Generation Brotherhood Party, the People Democracy Party, and the Union Democratic Party.

⁶⁶

https://uec.gov.mm/news_preview_detail.php?action=news_detail1&news_id=TcBk7RvUKUlwmYfb0Tf0mBGOKIWsh1KRxEsbOpsDUj0%3D

⁶⁷ <https://myanmar-now.org/en/news/a-lexus-3600-cognac-and-ex-military-men-shining-shoes-arrested-party-leaders-lavish-lifestyle>

⁶⁸ <https://www.mmtimes.com/news/rose-party-respect-poll-disqualification.html>

⁶⁹ https://www.2.irrawaddy.com/article.php?art_id=15174

Candidates

The registration period for candidates was from 20 July to 7 August 2020, and the UEC received 7,026 applications. 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 5,643 candidates vying for seats in the 2020 general elections. 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 birth⁷⁰. Myanmar's 1982 citizenship law is notoriously discriminatory, as it ties one person's citizenship status to her membership of one of the recognised "national races" (*thaingyintha*)⁷¹. As in 2015, rejections based on citizenship grounds, while ostensibly following the letter of the law, seemed to disproportionately affect Muslim candidates.

Indeed, 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 August⁷², 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 candidacy⁷³. 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 region⁷⁴, an independent Muslim candidate in Mon state⁷⁵, 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 township⁷⁶ and a USDP candidate in Kayah state⁷⁷, 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 organization. This decision, which was reportedly imposed on the Kyaukpyu district sub-commission by the national-level UEC⁷⁸, ran contrary to the

⁷⁰ Articles 8(b) and 10(e) of the Pyithu Hluttaw Election Law, Amyotha Hluttaw Election Law, and Region Hluttaw or State Hluttaw Election Law

⁷¹ <https://www.icj.org/wp-content/uploads/2019/06/Myanmar-Citizenship-law-reform-Advocacy-Analysis-Brief-2019-ENG.pdf>

⁷² <https://www.bnionline.net/en/news/dhrp-appeal-against-rejection-its-muslim-candidates>

⁷³ <https://www.bnionline.net/en/news/muslim-candidates-bid-voided-late-stage-election-commission-reversal>

⁷⁴ <https://www.fortifyrights.org/mya-inv-2020-08-19/>

⁷⁵ <https://www.bnionline.net/en/news/mon-state-election-commission-rejects-independent-candidate>

⁷⁶ <https://news-eleven.com/article/195435>

⁷⁷ <https://www.rfa.org/english/news/myanmar/disqualified-candidates-10142020175119.html>

⁷⁸ <https://www.irrawaddy.com/elections/rejected-candidate-myanmars-rakhine-state-says-hes-bullied-off-ballot.html>

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.

Legal Framework

No Constitutional Reform

The 2008 Constitution of Myanmar remains fundamentally undemocratic, as 25% of all seats in the national Parliament and the 14 state and regional parliaments are reserved for appointed members of the *Tatmadaw* (armed forces)⁷⁹. This quota undermines the power of elected lawmakers and the legitimacy of the legislature. 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 government⁸⁰.

Furthermore, the Constitution requires the appointment of *Tatmadaw* personnel to the key positions of Defence, Home Affairs, and Border Affairs ministers⁸¹. It also excludes anyone who has a close family member “owing allegiance to a foreign power” or holding foreign citizenship from becoming President⁸², a clause famously designed to prevent Daw Aung San Suu Kyi from accessing the office. The National League for Democracy (NLD) government elected in 2015 thus created the new position of State Counsellor in order to overcome this barrier.

Amending the Constitution demands a supermajority of more than 75% of all members of the *Pyidaungsu Hluttaw*⁸³ (national Parliament), effectively granting the military veto power over any potential changes to the text. In addition, some protected clauses require amendments to be endorsed by a referendum with a minimum turnout of 50% of all eligible voters. Despite these restrictions, the NLD attempted to achieve constitutional reform during its first term in office.

From February to July 2019, a joint parliamentary committee considered possible amendments and published a report containing 3,765 recommendations⁸⁴. Starting in January 2020, Myanmar’s Parliament then debated two bills proposed by the NLD and containing 114 amendments which prioritised democratization over federalism, which was a core demand for ethnic-based parties. MPs from the USDP and military submitted five competing bills of their own⁸⁵. During the vote, which took place from 10 to 20 March 2020, the vast majority of the proposed amendments were unsurprisingly turned down, with votes closely following party lines despite a secret ballot⁸⁶. Only three articles passed, two of which slightly changing phrases relating to persons with disabilities (PWDs)⁸⁷, and the other removing a minor redundancy⁸⁸. No substantial change was achieved.

The first attempt at reforming the 2008 Constitution has therefore failed, evidencing the difficulty of the task. For the foreseeable future, Myanmar still has to deal with a legal system failing to uphold

⁷⁹ Articles 109, 141 and 161 of the Constitution of Myanmar

⁸⁰ Article 21(3) of the Universal Declaration of Human Rights

⁸¹ Article 232(b) of the Constitution of Myanmar

⁸² Article 59(f) of the Constitution of Myanmar

⁸³ Article 436 of the Constitution of Myanmar

⁸⁴ <http://constitutionnet.org/sites/default/files/2019-07/Amendment%20Annex%20English%20Translation.pdf>

⁸⁵ <http://constitutionnet.org/vl/item/myanmar-proposed-constitutional-amendment-bills>

⁸⁶ <https://www.rfa.org/english/news/myanmar/constitutional-amendments-03122020171831.html>

⁸⁷ http://constitutionnet.org/sites/default/files/2020-03/Myanmar%202008%20Constitution%20Amendment%20Proposals%20and%20Voting%20Results%20of%20Union%20Parliament_436%20A_Eng.pdf

⁸⁸ http://constitutionnet.org/sites/default/files/2020-03/Myanmar%202008%20Constitution%20Amendment%20Proposals%20and%20Voting%20Results%20of%20Union%20Parliament_436%20B_Eng.pdf

basic democratic principles. Instead, it deeply entrenches a power-sharing arrangement between the *Tatmadaw* and the civilian government. While most political parties have decided to contest elections despite the asymmetrical framework since at least 2012, there remain some civil society groups such as the All Burma Federation of Student Unions and the All Burma Federation of Trade Unions which continue to boycott all electoral processes held under the current legal framework, which they argue only serve to perpetuate the power of the military⁸⁹.

Recent Changes to the Electoral System

Beyond the Constitution, the legal framework for the 2020 general elections was almost identical to the previous electoral cycle, with only a few revisions to the 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 could request their temporary inclusion on the local voter list, down from 180 days previously. 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 majority⁹⁰.

Election observers have 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 townships⁹¹”. 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 elections⁹².”

With official estimates of 9.2 million internal migrants⁹³, any reform to voting mechanisms for migrant workers and students can greatly impact election outcomes. However, election stakeholders should strive to find a consensus on a way 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 no longer vote on military premises on Election Day⁹⁴. Instead, the estimated one million military-affiliated voters cast ballots alongside civilians in 635 “combined” polling stations. Some military locations were however too remote from civilian populations, so 127 polling stations still needed to be set up specifically for military voters, but outside of their compounds.

ANFREL welcomes this reform which aligns Myanmar with international standards on military voting and significantly reinforces the transparency of Election Day polling operations. However, a significant portion of *Tatmadaw* personnel still votes through out-of-constituency advance voting, which still

⁸⁹ <https://www.youtube.com/watch?v=DrpMHPCM1Go>

⁹⁰ <https://www.irrawaddy.com/news/burma/ethnic-parties-myanmar-worried-proposed-voter-registration-changes-will-hurt-election-chances.html>

⁹¹ <https://www.mmtimes.com/news/ethnic-parties-blast-poll-laws-change.html>

⁹² <https://www.irrawaddy.com/datetime/will-millions-myanmar-migrant-workers-vote-2020-election.html>

⁹³ http://www.dop.gov.mm/sites/dop.gov.mm/files/datamap-documents/excel_data_on_migration_and_urbanization.xlsx

⁹⁴ <https://www.irrawaddy.com/news/burma/myanmar-election-commission-seeks-abolish-military-polling-stations-2020-election.html>

takes place on military premises with little or no scrutiny. We hope this may be addressed in the future to further strengthen the trust of the Myanmar public in electoral processes.

Continued Malapportionment & Disenfranchisement

One aspect of Myanmar's electoral system that ANFREL has long expressed concerns about is the constituency boundaries following administrative units and disregarding population distribution. Because constituencies for the *Pyithu Hluttaw* and region/state *hluttaws* are based on the country's 330 townships, which vary widely in population, some voters effectively have more weight than others.

According to the latest census data, the smallest township in Myanmar is Kachin state's Injanyang with only 1,732 inhabitants⁹⁵, while the largest is Bago township with 491,434⁹⁶. Yet, both elect one *Pyithu Hluttaw* MP and two MPs for their respective state/region parliament. This imbalance and the 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.

While Myanmar has the sovereign right to adopt the electoral system of its choice, ANFREL reiterates its earlier calls for a more equitable delimitation of constituencies in order to increase the fairness of elections and representativity of legislative bodies.

Another unfortunate feature of the legal framework for elections is the entrenched disenfranchisement of large sectors of the population. First, Article 392(a) of the Constitution disenfranchises all members of religious orders, whose numbers are considerable: the Buddhist clergy alone accounts for well over half a million people⁹⁷. Christian and Hindu priests or nuns are also unable to vote, but not Muslim imams⁹⁸, a loophole which causes resentment among nationalists.

ANFREL respects the cultural and religious traditions that serve as the basis for excluding the clergy from the electorate. 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.

Another group that is disenfranchised in Myanmar is of course the Rohingya. Long discriminated against by Myanmar's draconian citizenship laws, most Rohingya do not hold full citizenship and identification papers. In 2010, those who were in possession of temporary identity papers known as "white cards" were allowed to vote by the then-military government, a move widely described as politically motivated to balance the votes of the Rakhine ethnic minority. In 2015, a similar attempt to enfranchise Rohingya was quickly thwarted by pressure from Buddhist nationalists⁹⁹.

⁹⁵

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

⁹⁶ The largest township in Myanmar was previously Hlaingtharya in Yangon region, until it was separated into two in 2019.

⁹⁷ 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/>

⁹⁸ Articles 2(i) of the Pyithu Hluttaw Election Law, Amyotha Hluttaw Election Law, and Region or State Hluttaw Election Law

⁹⁹ <https://edition.cnn.com/2015/02/12/asia/myanmar-rohingya-voting-rights/index.html>

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 ostracize the Rohingya minority and denied their inclusion in the political community of Myanmar. As a result, the estimated 600,000 Rohingya of voting age still living in Rakhine will be disenfranchised once more, as will the up to 1 million that have fled to Bangladesh since 2016.

On 3 September 2020, Rohingya associations published a joint open letter to the UEC demanding the inclusion of their community in the 2020 general elections¹⁰⁰. 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. The United Nations High Commissioner for Human Rights has also expressed concerns about such “violations of the right to political participation¹⁰¹”.

¹⁰⁰ <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/>

¹⁰¹ <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=26431&LangID=E>

Electoral Administration

Voter List

One of the major activities of election management authorities ahead of polls is preparing the list of registered voters. In Myanmar, this is a difficult task because there is no central citizen registry that could serve as a basis for the voter list. Instead, the Union Election Commission (UEC) had to collect and compile data from different sources, including the Ministry of Labour, Immigration, and Population and the General Administration Department (GAD), as well as existing voter lists.

Two voter list displays were conducted ahead of the 2020 general elections, the first from 25 July to 17 August 2020, and the second from 1 to 14 October. It is worth mentioning that the law requires only one voter list display, so it is a commendable initiative from the UEC to hold a second one in an attempt to 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. Six million corrections were done after the first display alone, on a total of approximately 38 million registered voters.

Simultaneously with the second voter list display, the UEC also launched a website¹⁰² so that voters could check their voter information and polling station, as was the case in 2015. However, 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.

In 2015, election officials nationwide distributed paper slips to voters so that they could present themselves at the correct polling station with their serial number on the voter list and thus fluidify the polling process. While this policy was discontinued by the UEC during the 2018 by-elections, local election sub-commissions in certain parts of the country, for instance Yangon and Magway region, continued to issue these voter slips this year in a commendable effort to assist voters.

The UEC stated it believes the voter list of the 2020 general elections marked an improvement over those used in the past. However, ANFREL's assessment of the quality of the voter list is inconclusive. Many of the stakeholders interviewed expressed the opinion that the voter list was adequate; many disagreed. There were numerous reports of voters who found themselves deregistered even though they had participated in previous elections, some as recently as April 2019 with the Yangon municipal polls. In a country of nearly 55 million people, it is impossible to gauge how widespread voter registration issues are without conducting an audit of the voter list. However, the UEC does not allow election observers or other neutral third-parties to obtain and inspect a copy of the voter list. Therefore, ANFREL invites Myanmar's authorities, including election officials, to align with international standards¹⁰³ and permit audits of the voter list in an effort to foster public trust in the electoral register and identify any shortcomings.

¹⁰² <https://findyourpollingstation.uec.gov.mm/>

¹⁰³ For instance Article III(b)(2) of the Dili Indicators of Democratic Elections

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 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 codified in the election by-laws earlier this year and became part of the formal election process. The primary purpose of the EMCs is to help diffuse conflicts during the election campaign period in a peaceful manner through dialogue and consensus, although EMC decisions are not legally binding.

The EMCs were formed at the township, district, state/region, and national levels after the date of election 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-commissions, and election agents and voters who are related to the dispute. EMC meetings are open to the public, and observers and voters are permitted to attend.

In the preparation to the 2020 elections, the UEC published the Guide for Various Levels of Mediation Committees¹⁰⁴ 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 video¹⁰⁵ and a poster¹⁰⁶ to educate stakeholders on the mediation process.

ANFREL's interviews with stakeholders found that election disputes during the campaign were solved promptly through the EMCs and rarely escalated beyond the township level. This is therefore a worthwhile initiative that successfully promotes mediation and compromise among stakeholders.

Campaign Finance

Myanmar's election laws set a spending limit of 10 million kyat (approximately USD7,770) for all candidates regardless of their *hluttaw* goals. For the 2020 elections, this amount has been raised to 15 million kyat (approximately USD11,660) for ethnic affairs candidates only. The standard spending limit across the board raised the concern of inequality as the size of each constituency varies. Each *Pyithu Hluttaw* constituency for instance is twice the size of region/state *hluttaw* seats in the same township, yet both candidates are bound to the same spending ceiling. On the other hand, the campaign finance regulations lack a clear distinction between political parties and candidates' expenses. It leads to an unlevel playing field which unfairly disadvantages small parties and independent candidates.

The regulations also require the candidates to submit their financial statements to the relevant sub-commissions within 30 days after the announcement of election results. Failure to submit the statement may lead to disqualification of the elected candidates. These financial statements will be made available for public inspection later against the payment of a fee. However, monitoring of election expenses by the UEC is weak, and compliance with campaign finance regulations is more assumed than enforced.

¹⁰⁴ https://merin.org.mm/sites/merin.org.mm/files/publication/mediation_guide_en.pdf

¹⁰⁵ <https://www.facebook.com/609520065840362/videos/919037571852278/>

¹⁰⁶ <https://www.facebook.com/uecmyanmar/photos/a.609541812504854/2875207495938263/>

Campaign finance laws in Myanmar remain insufficient. Even when strong campaign finance laws exist, election management bodies must ensure the laws to be fully and fairly monitored and enforced. While the election laws prohibit vote buying, some voters interviewed by ANFREL revealed that incidents of political parties giving out money in exchange for votes are frequent. Complaints related to vote-buying and excessive campaign spending should be thoroughly investigated.

UEC Neutrality & 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 (currently 15, all male), all appointed by the President. 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-commissions, 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.

All members of the current commission were appointed in or after March 2016, which means that the UEC's entire composition has changed since the 2015 general elections. While the UEC is nominally neutral, the fact that its members are all political appointees of the incumbent government makes the institution vulnerable to accusations of bias. Such claims were widespread throughout the 2020 general elections, with most political parties accusing the election management body of preferential treatment in favour of the ruling party.

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 2020 through an announcement by the UEC only two days before. However, they claimed that 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 timing of the general elections amid a COVID-19 outbreak, postponements of the polls in selected areas of the country, and the late dissolution of the Union Democratic Party (UDP). ANFREL's review of these issues seem to indicate that at least some of these claims hold up against scrutiny and that the ruling party indeed seems to have enjoyed an edge over its competitors ahead of the polls.

However, ANFREL also believes that much of the criticism against the election management body is fueled by a lack of consultation 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. The security-related election postponements 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.

Many civil society organisations interviewed by ANFREL considered the current election commission harder to reach out to, and to obtain information from, than its predecessor. Election management bodies worldwide have a responsibility to make their decisions as open as possible to foster trust in democratic processes. The UEC could also consider promoting open election data, regular stakeholder consultations or outreach programs in order to implement more inclusive and consensual 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 supportive of the commission's work.

Voter Education & Election Observation

Voter Education by the Union Election Commission (UEC)

The legal framework governing elections is silent on civic and voter education. The Constitution of Myanmar, along with the election laws, cover the voter registration aspects but do not explicitly mandate the UEC to conduct voter education. Although the UEC's Strategic Plan 2019-2022¹⁰⁷ (Strategic Pillar 5) warranted the UEC to expand its civic and voter education scope, the efforts were hampered due to the COVID-19 pandemic.

The pandemic confined the UEC to conduct its civic and voter education plans through the mass media, including television and radio, as well as billboard advertisements, SMS and social media. The UEC actively disseminated information for voters on its Facebook page with infographics and videos elaborating on the voting procedures and COVID-19 related guidelines. It also provided information for voters, such as how they can check their names on the voter list and its press statements and ongoing activities. The Facebook page, which was inactive for over two years before it was revived, has garnered over 970,000 followers as of November 2020¹⁰⁸.

The UEC also produced multiple songs in Myanmar language to encourage voters to participate in the electoral process. Music videos showing people from various regions in local ethnic outfits were aired on Myanmar Radio and Television (MRTV) as well as uploaded on the UEC's Facebook page. The UEC collaborated with International IDEA to produce a romantic edutainment film for voter education and awareness purposes, which was also aired on MRTV and Facebook. Aside from the state's media outlets, private news channels also aired dedicated programs for the elections.

To help voters make informed decisions, the UEC, with the support of the Asia Foundation, International IDEA, and the EU-funded STEP Democracy project, launched a mobile application named mVoter 2020 to provide information on candidates and electoral procedures¹⁰⁹. The app, which also came as a web form, contained the profiles of contesting candidates, political parties, voting procedures, and frequently asked questions related to election matters; According to the International IDEA, the application contains official data that the UEC collects and controls¹¹⁰. However, it faced intense criticism immediately after launch for inflaming ethnic and religious nationalism. Candidate information fields indeed included "race", "religion" and "parents' race"¹¹¹. The app was also criticised for labelling at least two Rohingya candidates as "Bengali", a discriminatory term that implies they are immigrants from Bangladesh and is rejected by the Rohingya community. International IDEA then withdrew their association with the application.¹¹²

Despite the efforts conducted by the UEC through the media, ANFREL interviews with stakeholders found that levels of voter education remain low, especially among the voters in rural areas. Impactful messages largely failed to reach rural communities due to the lack of Internet access, and little voter

¹⁰⁷

https://merin.org.mm/sites/merin.org.mm/files/publication/07032019_uec_national_strategic_plan_2019_2022_english_version.pdf

¹⁰⁸ <https://www.facebook.com/uecmyanmar>

¹⁰⁹ <https://www.idea.int/news-media/news/statement-mvoter2020-myanmar>

¹¹⁰ <https://www.idea.int/news-media/news/statement-mvoter2020-myanmar>

¹¹¹ <https://apnews.com/article/race-and-ethnicity-technology-religion-smartphones-myanmar-fa116850fa0c396508fc3bce475f4a6e>

¹¹² <https://www.idea.int/news-media/news/statement-mvoter2020-myanmar>

education activities were conducted on the ground by the UEC, partly because of the challenging situation brought by the pandemic.

On the other hand, the UEC's voter education efforts gave little attention to ethnic and linguistic minorities. Materials were mainly prepared and presented in the official Myanmar language, thus marginalising large sections of the population. For instance, in Northern Shan states, stakeholders interviewed by ANFREL mentioned that ethnic political parties were the ones providing voter education to the communities, and not election officials. Ethnic Kokang communities largely do not understand Myanmar language so they failed to understand the voting process and the need to check and update the voter lists. Similarly, in Kayin state, it was political parties such as the PPP that provided voter education to ethnic tribes such as the Pa-O and Mon, many of whom were reportedly not even aware of the existence of ethnic-based ballots.

All over the country, political parties educated voters on how to cast a ballot by using template ballot papers and teaching them how to recognise their logos. Of course, candidates and supporters would do this more out of self-interest than genuine desire to empower voters in making educated decisions, but this was still an important aspect of ensuring that votes would be cast properly.

Voter Education by Civil Society Organizations (CSOs)

Local CSOs played a critical role in educating voters through various outreach activities. However, due to the public health crisis, many CSOs shifted their focus and resources to providing aid, food, and shelter to those affected by the pandemic to the detriment of voter education activities. Limited efforts on voter education and awareness were pursued by the CSOs, a majority of which have only been limited to online mediums. The pandemic-induced restrictions hampered their civic and voter education plans, focusing on women, ethnic minorities, first-time voters, PWDs, and other marginalised sectors.

Even before COVID-19, local CSOs reportedly faced operational hurdles in and implementing their civic and voter education efforts as they had to acquire permissions from the local governments. Because of the lack of formal procedures on the application for permission and an unknown timeline for approvals, it was difficult for these groups to plan and implement their activities.

Before the elections, local CSOs across the country conducted voter education through small-scale face-to-face meetings. Many also utilised online meetings to reach out to voters. In contrast with voter education by political parties that mainly focused on the polling process with partisan interest, CSO's voter education initiatives also highlighted civil rights and awareness-raising to encourage informed choices.

Despite the unprecedented COVID-19 situation, CSOs came up with innovative solutions to promote voter education. New Myanmar Foundation (NMF), Myanmar Network Organization for Free and Fair Election (MYNFREL), BadeiDha Moe for instance utilised online video conferences to organise seminars for first-time voters, IDPs, etc. Women LEAD in Northern Shan state conducted training of trainers on voter and civic education to women from its partner organisations. Kanbawza Youth Library in Southern Shan state used booklets to reach out to the community. They distributed booklets with the content of democracy, voting process, voter's responsibilities, etc.

Other prominent voter education campaigns included MYNFREL's "check the voter list" and "go to vote" campaigns, where they went to the villages to spread awareness by using loudspeakers and pasting posters in public places; small group voter education by Peacock Generation, a youth-focused CSO, where they gathered small groups of people in villages to educate them about the voting processes.

Finally, ANFREL launched a Facebook page named “မဲပေးကြမယ် Go Vote” in August 2020 as part of its voter education campaign in the run-up to the 2020 elections. It aimed to improve the general public’s political literacy by publishing digital educational material in a variety of languages, and has gathered over 2,500 followers since then.

Election Observation

Domestic and international CSOs, as well as the diplomatic community and other governments, continued to monitor and support the democratic transition of Myanmar through various activities and programs including the observation of the 2020 general elections.

The UEC accredited 7,232 observers from the 13 domestic election observation groups which applied for union-level observation while 985 observers were accredited from the 23 organisations which applied for the state and region-level observation.

Aside from ANFREL, the Carter Center¹¹³, the European Union¹¹⁴, and the government of Japan¹¹⁵ mounted sent international election observers in varying capacities to monitor the 2020 Myanmar general elections. The UEC accredited a total of 61 international observers, 182 diplomatic observers, and 58 people from election support providers (IFES and International IDEA).

¹¹³ <https://www.irrawaddy.com/elections/carter-center-launches-election-monitoring-mission-myanmar.html>

¹¹⁴ <https://www.mmtimes.com/news/eu-sends-four-monitors-myanmar-polls.html>

¹¹⁵ <https://elevenmyanmar.com/news/japan-to-send-special-delegation-to-observe-2020-election>

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 society.” 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 of 2011-15 took very little practical action to improve the gender equality of participation.¹¹⁶ The 2015 elections, however, took a brighter turn resulting in the increase of female representation in state and region parliaments, with women taking 12.7 percent of elected seats, compared to just 3.8 percent in the 2010 elections.

For the 2020 elections, there were 902 women candidates out of 5,641 total candidates, which represents 16% of the total number of candidates as per International IDEA.¹¹⁷ . Therefore, which was higher than the 2015 elections which had fewer than 800 women candidates. Out of the approximately 38 million voters, among them 19 million are female voters.¹¹⁸



Women voters in Kachin State checking the voter list during advance voting.

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 ANFREL international observers opined that there are no such strategies to increase women’s participation in political parties. Further, some women candidates interviewed by electoral analysts

¹¹⁶ https://asiafoundation.org/wp-content/uploads/2016/05/Gender_in_Equality_in-the-Governance-of-Myanmar_ENG.pdf

¹¹⁷ [http://stepdemocracy.eu/uploads/publications/election-sataglance-\(A4\).pdf?fbclid=IwAR0IcqQKUiCMq5QmO1j-4kux7vjS5rrJlj7V94iAYBM6cv-QYEXRs_YBjg](http://stepdemocracy.eu/uploads/publications/election-sataglance-(A4).pdf?fbclid=IwAR0IcqQKUiCMq5QmO1j-4kux7vjS5rrJlj7V94iAYBM6cv-QYEXRs_YBjg)

¹¹⁸ [http://stepdemocracy.eu/uploads/publications/election-sataglance-\(A4\).pdf?fbclid=IwAR0IcqQKUiCMq5QmO1j-4kux7vjS5rrJlj7V94iAYBM6cv-QYEXRs_YBjg](http://stepdemocracy.eu/uploads/publications/election-sataglance-(A4).pdf?fbclid=IwAR0IcqQKUiCMq5QmO1j-4kux7vjS5rrJlj7V94iAYBM6cv-QYEXRs_YBjg)

admitted that discrimination against women candidates still exists, citing voter preference for male politicians. Women politicians cannot 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.

The civil society organizations advocating for women's empowerment in Bago noted the lack of institutional support for initiatives to empower women and attain gender equality. Further, Rakhine respondents mentioned that most informed voters are welcoming female candidates compared to less informed communities. In addition to that safety is another major challenge for female candidates. Hence potential physical and verbal attacks spurred by disinformation over social media platforms such as Facebook is real.

Ethnicity is also affecting marginalising their political activities, especially its affect for more marginalised ethnic communities. A Muslim woman campaign manager of a political party interviewed by ANFREL shared that its crucial for Muslim women to be active in politics to confirm and however Islam does not restrict women from participating in public life.

The discrimination against women candidates do not come from men alone, though. A woman voter interviewed by ANFREL shared that women do not make good politicians as they are "soft-minded." Likewise a Muslim woman candidate from Mandalay region shared that she is facing discrimination from even among their party supporters.

Ethnic Minorities' Participation

Ethnic minorities' participation in the 2020 general elections faced an uphill climb compared to mainstream ethnic communities, which was shared by the key informants. In Bago, some of the Muslim and Hindu voters who received temporary National Registration Cards (NRC) faced challenges in the registration process.

A Muslim candidate from Southern Rakhine state interviewed by an ANFREL observer noted that when he submitted his application as a candidate in 2020 to the concerned government agency, the process for validating his ID and those of his parents to verify citizenship status took longer than most of the non-minority candidates.

In Mon State, Muslim voters interviewed by ANFREL observers mentioned that "religion and ethnicity stand in the way of eligible candidates," adding that underrepresented minorities were also subjected to online attacks and bullying.

In Rakhine, a member of a political party noted that Rohingya candidates were discriminated upon and were disqualified because of their ethnicity and alleged lack of citizenship status that were traced back to the status of their parents. He opined that the cancellation of the polls in nine Rakhine townships was an act of discrimination against the ethnic communities.

In Ayeyarwady, candidates interviewed by ANFREL mentioned that Karen ethnic peoples are still marginalised even though they expect NLD to enhance their rights. However they did not see any progress has been made so far and they feel like they are "voiceless" in Myanmar. They have recorded cases of Karen people who have accomplished Form 15A but were still not included in the voter lists. KPP is unhappy about the election cancellations in their state despite the lack of violence or security issues.

Participation of LGBTQs

Myo Min Htun, Myanmar's first openly gay candidate, ran for a regional hluttaw seat in Aungmyaythazan township in Mandalay, 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 them.”¹¹⁹ Myo Min Htun ran under the People’s Pioneer Party which prioritises young people and tackles gender discrimination.

Disability-inclusion in Electoral Process

In 2015, the Hluttaw adopted the Law on the Rights of Persons with Disabilities, which protects and promotes the rights of persons with disabilities across various aspects of public life, including the right to participate in the election process. According to the UEC announced over MRTV Radio in August 2020, there are about 80,000 PWD voters.¹²⁰

The Myanmar Independent Living Initiative (MILI) organised civic education initiatives for PWDs, IDPs, and the marginalised sectors. They provided technical and financial support to polling stations to implement accessible polling places. Accessibility mechanisms included preparation 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 to polling stations to implement accessible polling places, its implementation by the UEC was uneven. ANFREL observed advance voting by the elderly and PWDs noted that most of the polling stations were not accessible to those who are wheelchair-users. Assistance to PWD voters in polling stations was ad hoc and implemented on a case-by-case basis.

IDPs’ Electoral Participation Hampered by Conflict and COVID-19

Internally displaced peoples (IDPs) seem to be the most affected due to the COVID-19 related imposed lockdowns. While the UEC had allowed IDPs stranded along the borders to vote, most of them were unable to check the first and second voter list displays.

In Kachin State, there are about 136 IDP camps¹²¹ 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, the IDPs received scant information on the voting process. The IDPs live in crowded places and have less access to necessities such as water and soap, sanitiser, and masks. Prior to the elections, the IDPs were worried about the crowd 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 unable to access the IDP. Almost all CSOs did not have a chance to conduct voter education because they have not been allowed to. Nevertheless, organisations like BadeiDha Moe tried to reach the IDPs by providing voter education online.

Participation of Youth in Election Activities

To emphasise the important role of youth 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 elections.¹²²

Political parties have recognised the youth’s important role in promoting inclusion in elections. For instance, the SNLD has been utilising its youth members to conduct house-to-house and sticker campaigns in Lashio. 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 is limited. According to a Rakhine respondent, “the youth are afraid and they don’t dare to speak up for the party they stand for. They learned this fear from their parents as they themselves are afraid. As ‘political’ youth often ended up in jail in the past, if a

¹¹⁹ <https://myanmar-now.org/en/news/myanmars-first-openly-gay-mp-candidate-vows-to-stand-up-to-police-abuse-of-lgbt-people>

¹²⁰ https://soundcloud.com/myanmar_radio/taawpisis25n

¹²¹ <https://reliefweb.int/map/myanmar/myanmar-idp-sites-kachin-state-31-august-2020>

¹²² <https://www.ifes.org/news/myanmar-youth-innovate-engage-first-time-voters>

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.

Media Environment

A vibrant media landscape is vital in securing free, fair, and inclusive elections. The media in Myanmar did their best to perform their duties during the 2020 Myanmar general elections, despite the challenges that they continue to face.

Journalists still experience difficulties in accessing information and sources such as government agencies and political parties; several news websites were blocked ahead of the elections; and the restrictions 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.

Legal Harassment of Journalists

In the Press Freedom Index compiled by Paris-based media organization *Reporters Sans Frontières* (RSF, Reporters Without Borders), Myanmar has been described to be in a “difficult situation”, ranking 139 out of 180 countries surveyed in 2020. The country has been on a decline trend since 2018 when it dropped to 137 from its highest ranking of 131 in 2017¹²³.

Rights group *Athan* published a report detailing 67 cases of legal prosecution against journalists.¹²⁴ 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. 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 Ko Nay Lin¹²⁵ and Narinjara News chief editor U Khaing Mrat Kyaw¹²⁶ for publishing an interview with the spokesperson of government-designated terrorist group the Arakan Army (AA), The Irrawaddy News editor U Ye Ni¹²⁷ for the coverage of armed clashes between the military and AA, and Reuters¹²⁸ 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 Thet 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 Karen state. The story later turned out to be false but the editor has since apologized for the error.¹²⁹

Internet and Websites Blocking

News websites have also been affected by a website blocking order in March 2020 which included the Development Media Group, Narinjara News¹³⁰, Mandalay In-Depth News, Mekong News, Voice

¹²³ <https://rsf.org/en/myanmar>

¹²⁴ <https://web.facebook.com/athan.foe.myanmar/posts/707268793165522>

¹²⁵ <https://www.irrawaddy.com/news/burma/myanmars-special-branch-police-sue-editor-counter-terrorism-law.html>

¹²⁶ <https://cpj.org/2020/05/myanmar-editor-in-hiding-facing-terrorism-charges/>

¹²⁷ <https://www.irrawaddy.com/news/burma/myanmar-military-case-irrawaddy-editor-move-ahead.html>

¹²⁸ <https://uk.reuters.com/article/uk-myanmar-reuters/myanmar-army-sues-reuters-for-criminal-defamation-police-idUKKBN20W1ZO>

¹²⁹ <https://rsf.org/en/news/myanmar-journalist-jailed-two-years-reporting-covid-19-death>

¹³⁰ <https://www.frontiermyanmar.net/en/operators-split-as-telenor-rejects-govt-order-to-block-fake-news-sites/>

of Myanmar, and Karen News¹³¹ for supposedly spreading “fake news” on COVID-19, among other reasons¹³². Mobile phone operator Telenor Myanmar stated that the legal basis provided by authorities for the block 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 ethics¹³³”.

In US-based think tank Freedom House’s 2020 “Freedom on the Net” report, Myanmar scored only 31 points out of 100 and was deemed “not free”, citing the mobile internet blocking in several townships in Rakhine and Chin states and the blocking of news websites among other key developments¹³⁴. The Ministry of Transport and Communications ordered to “stop mobile internet traffic” in nine townships in Rakhine and Chin states on 20 June 2019¹³⁵. The shutdown was lifted in Maungdaw township in northern Rakhine on 2 May 2020¹³⁶ but in the eight other townships, only 2G network was restored, which allows only voice calls and limited data transmission¹³⁷.

In a joint statement¹³⁸, several rights groups expressed “concern by government’s latest directive ordering telecommunications companies to extend the effective internet shutdown beyond the elections.” 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 2020.¹³⁹

Reporting on Elections

According to journalists and media outlets interviewed by ANFREL, there have been significant improvements between 2015 and 2020 as they are freer to cover election activities, have access to polling stations during advance voting, and have not been subjected to harassment from local authorities ahead of the 2020 general elections.

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

Journalists in Myanmar have a general appreciation of their profession’s ethical standards and they subscribe to in-house code of ethics and community-led guidelines. The Myanmar Press Council (MPC) has updated its media guidelines for election coverage built on MPC’s Media Code of Conduct and Media Ethics in time for the 2020 polls¹⁴⁰.

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 that are the National League for Democracy (NLD) and Union Solidarity and Development Party

¹³¹ <https://freedomhouse.org/country/myanmar/freedom-net/202>

¹³² <https://www.mmtimes.com/news/telenor-follows-myanmar-orders-block-alleged-fake-news-sites.html>

¹³³ <https://www.telenor.com.mm/en/article/blocking-websites-myanmar-updated-9-september-2020>

¹³⁴ <https://freedomhouse.org/country/myanmar/freedom-net/2020>

¹³⁵ <https://www.article19.org/resources/myanmar-one-year-on-internet-shutdown-imperils-human-rights-in-myanmar/>

¹³⁶ <https://myanmar-now.org/en/news/internet-ban-lifted-in-maungdaw-township>

¹³⁷ <https://www.mmtimes.com/news/rakhine-chin-internet-restored-only-2g.html>

¹³⁸ <https://web.facebook.com/FreeExpressionMyanmar/posts/3405547552892143>

¹³⁹ <https://www.telenor.com/network-restrictions-in-myanmar-1-august-2020/>

¹⁴⁰ <https://en.unesco.org/news/myanmar-press-council-launches-media-guidelines-election-coverage>

(USDP). MYNFREL looked at the coverage of five newspapers, six television channels, five radio stations, and seven 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 media were found to be positive, while ethnic minority parties received less coverage.

Several political parties also told ANFREL that they felt the media landscape 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.

Impact of COVID-19

The COVID-19 pandemic has also been challenging for the media 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 public¹⁴¹. The ban on international commercial flights also made it difficult for international media to cover the 2020 elections adequately¹⁴².

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. In Rakhine state, ANFREL learned that the delivery of all newspapers stopped since August due to a COVID-19 outbreak. Limited campaign activities by parties and candidates also lessened media coverage prior to the elections.

Disinformation

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 blogs¹⁴³, and a website spreading disinformation and hate speech while imitating the design of Radio Free Asia¹⁴⁴.

UEC has 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 Law¹⁴⁵."

Journalists and members of news outfits interviewed by ANFREL shared that they were not especially concerned about disinformation affecting the 2020 elections, but they also acknowledged that many people were sharing false information on social media. There were also numerous fact-checking

¹⁴¹ <https://www.nytimes.com/2020/09/28/world/myanmars-virus-restrictions-keep-journalists-at-home.html>

¹⁴² <https://www.mmtimes.com/news/foreign-reporters-cannot-enter-myanmar-cover-election-run.html>

¹⁴³ <https://factcheck.afp.com/fake-survey-results-about-declining-public-trust-myanmars-ruling-party-circulate-facebook-ahead>

¹⁴⁴ <https://www.rfa.org/english/news/myanmar/media-fake-10132020104123.html>

¹⁴⁵ <https://www.gnlm.com.mm/announcement-about-spreading-election-disinformation/>

initiatives that took place, such as MIDO's "Real or Not"¹⁴⁶, AFP Myanmar Fact Check¹⁴⁷, Boom Myanmar¹⁴⁸, and Fact Crescendo Myanmar¹⁴⁹, which have been working on exposing incidents of mis- and disinformation in the country.

According to MIDO, disinformation is more pervasive now compared to the 2015 elections, as the abuse of online platforms is more systematic with techniques evolving and becoming more advanced. The number of online users has also grown. MIDO recognised there had been some improvements in the response of platforms like Facebook, but these were not sufficient. Instead, MIDO recommends that social networks adopt a holistic approach and involve all stakeholders in the process of fighting disinformation.

Facebook shared updates on the work they did to address the misuse and abuse of the platform during the Myanmar polls¹⁵⁰. 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 speech¹⁵¹.

¹⁴⁶ <https://www.mmtimes.com/news/mido-fact-check-facebook-news.html>

¹⁴⁷ <https://factcheck.afp.com/afp-myanmar>

¹⁴⁸ <https://www.boommyanmar.com/about-us/>

¹⁴⁹ <https://myanmar.factcrescendo.com/english/>

¹⁵⁰ <https://techcrunch.com/2020/09/23/facebook-gives-more-details-about-its-efforts-against-hate-speech-before-myanmars-general-election/>

¹⁵¹ <https://about.fb.com/news/2020/08/preparing-for-myanmars-2020-election/>