

THE
CARTER CENTER



**Carter Center Interim Statement on Myanmar General Elections
October 13, 2020**

Executive Summary

On July 2, the Union Election Commission called elections to the national, state, and regional legislatures for Sunday, Nov. 8. These elections are a critical moment in the consolidation of Myanmar's ongoing democratic transition. They are taking place in the context of the COVID-19 pandemic, which has impacted every aspect of the process thus far.

While the Union Election Commission, with government support, has managed to keep the process on track, the pandemic has led to an imposition of restrictions on movement that have impacted the work of the election administration, election observers, and the media, and have made it difficult for political parties and candidates to get their messages to voters at the beginning of the campaign period.

With over 6,900 candidates from 92 political parties and independent campaigns, voters will have a wide range of choices. However, structural shortcomings continue to undermine the democratic character of the process, including quotas for unelected military appointees in all legislative bodies, restrictive eligibility criteria for the presidency, inequalities in constituency populations resulting in unequal representation, and the lack of the ability to appeal decisions of Union Election Commission to a court.

The Union Election Commission and its subcommissions have completed one voter list update exercise and are in the process of another round. In addition, they have organized candidate registration and are currently training election officials. With the support of election assistance providers and civil society organizations (CSOs), the election administration is carrying out extensive voter information activities, including through online facilities. However, the Union Election Commission has faced criticism for its handling of the accreditation of domestic observers, limited consultations with political parties, and censorship of political party speeches in free airtime slots on state media.

Citizenship requirements based on the 1982 Citizenship Law continue to lead to unwarranted restrictions of fundamental political rights. Former temporary citizenship certificate holders who were disenfranchised prior to the 2015 elections – the majority of whom are Muslim Rohingya – have not had their voting rights reinstated. In addition, most prospective Rohingya candidates have been denied registration as candidates on citizenship grounds.

The election campaign period began on Sept. 8. As the size of rallies and door-to-door campaigning has been restricted to limit the spread of COVID-19, political parties and candidates resorted to smaller-scale events and vehicle caravans, which have led to some interparty clashes. In addition, many parties and candidates have shifted much of their campaigning online via social media. Monitoring of public Facebook accounts has shown an increase in hate speech and disinformation about parties and candidates.

The Carter Center, which was accredited as an observer organization on July 30, has also been impacted by the COVID-19 pandemic. Election observation mission (EOM) core team experts are still in the process of deploying to Myanmar, and the EOM's 24 long-term observers — all of whom are Myanmar citizens due to the challenges of travel facing foreign nationals — are working remotely due to lockdowns in Yangon and domestic travel restrictions. Nevertheless, the mission continues to follow the election process and plans to deploy up to 12 foreign national short-term observers. In the coming weeks the EOM will focus observation efforts on the completion of the voter roll, the conduct of the campaign, decisions on holding elections in constituencies affected by conflict, advance voting, polling, counting, tabulation and announcement of results, and the resolution of election-related disputes.

The Carter Center thanks the Union Election Commission and the government of Myanmar for facilitating the work of the Carter Center EOM and thanks political parties, candidates, and CSOs for providing their ongoing perspectives on the election process.

Introduction

The Carter Center was accredited by the Union Election Commission (UEC) on July 30 as an international election observation mission (IEOM) to observe Myanmar's general election scheduled for Nov. 8, 2020. The mission is led by Sean Dunne and includes a core team of six international election specialists and 24 long-term observers (LTOs). Due to the COVID-19 pandemic, the Center has adapted its standard observation methodology, and Myanmar citizens have been recruited to serve as LTOs. The Center is planning to deploy up to 12 foreign national short-term observers (STOs) for the polling, counting and tabulation of results.

Prior to the announcement of the election date, The Carter Center conducted an interview survey of political parties to assess their intentions related to the election.¹ The IEOM has also analyzed public data on voter registration; candidate nomination, scrutiny, and appeals; the political and electoral environment in the pre-campaign period and the beginning of the campaign; as well as monitoring social media trends. LTOs were briefed in September and are working in teams of two to observe the process with additional attention being given to the openness of political space, women's participation, ethnic minorities, and persons with disabilities. However, the Center's ability to observe has been constrained by COVID-19 related travel restrictions, and the findings of this report are necessarily limited as a result.

The Center observes elections in line with the Declaration of Principles for International Observation and bases its assessment on a range of international and regional principles,

¹ Of the 94 registered parties contacted, 84 (just under 90%) participated in the survey.

commitments and best practices for democratic elections. The Center has observed more than 110 elections in 39 countries around the world. The Carter Center has had an office in Myanmar since 2013 and deployed an observation mission around the 2015 general election.

Background and Context

The Nov. 8 general elections are the second to be held since democratic reform efforts began in 2011. These elections therefore represent a critical moment in the consolidation of Myanmar's ongoing democratic transition. The 2015 general elections led to a victory for the then-opposition National League for Democracy (NLD). Subsequent by-elections in 2017 and 2018 to fill 32 vacant seats (2.8% of all elected seats) did not affect the balance of power in the Union parliament or in any state/region parliament.

Elections are being held for the upper and lower houses of the Union parliament and for the 14 state and regional parliaments. A total of 1,171 seats are being contested under a single-member, first-past-the-post electoral system. However, under the 2008 constitution, one-quarter of seats in each body are reserved for military appointees. With a 75% threshold necessary to pass constitutional amendments in the Union parliament, the support of the military is essential for the passage of proposals. Lacking the support of the military bloc, a 2019 initiative to implement constitutional reform led to no significant changes in the constitutional order.

The commitment of Myanmar to uphold fundamental and inclusive principles for political representation and universal suffrage is an ongoing concern in this election cycle. In addition to the military's reserved bloc of representatives in elected bodies, the 2008 constitution retains restrictive provisions for the eligibility criteria of the presidency, and there is no right of appeal of UEC decisions. Discriminatory legal regulations for citizenship effectively disenfranchise several ethnic minorities, particularly the Rohingya.²

However, political will has been manifest in advancing some aspects of the legal framework. Legal amendments passed in June 2020 included, among others, formalizing the role of election mediation committees for dispute resolution, requiring military personnel and their families to vote outside of barracks, requiring election subcommissions to ensure support for persons with disabilities, acknowledging the right of observers to be in polling stations, and providing for the replacement of a ballot if accidentally spoiled by a voter during polling. However, elements of the 2015 electoral process that were highlighted as important for reform, such as military out-of-constituency voting and the appointment of women as UEC commissioners, have not been addressed.

The election date was announced on July 2, with election preparations occurring amid the COVID-19 global pandemic and has been affected by an upsurge of infections in Myanmar. The situation has prompted a range of measures affecting all aspects of the elections, including the technical preparations by the UEC, campaigning by political parties and candidates, and the work of the media and election observers, national and international alike. COVID-19 was classified as a natural disaster by government authorities on April 16. Critically, a natural disaster is one of the

² In 2017, some 700,000 Rohingya were displaced to Bangladesh during a major operation by security forces.

legal grounds upon which elections may be postponed in select constituencies, along with conditions of insecurity.

Several areas continue to be affected by conflict within Myanmar involving government forces and ethnic armed organizations. In many conflict-affected areas, the work of UEC subcommissions, civil society, the media, political parties, and candidates has been hindered by events. These conditions and restrictions on internet access experienced in Rakhine State have been particularly problematic, not only for parties and candidates but also for election officials to engage and inform voters. Meanwhile, the onset of COVID-19 has added to the obstacles for internally displaced persons affected by conflict to participate in the election process, as well as for citizens returning from abroad and seasonal workers displaced by the pandemic.

The Election Landscape

Election Boundaries

On July 1, the UEC announced the constituency boundaries for the general elections as prescribed by the election laws. The 330 township level boundaries define the constituencies for the Union parliament's lower house, while for the upper house 12 seats are allocated to each of the 14 states and regions (commonly based around a combination of townships). State and region assembly constituencies are based on a division that permits two seats to be allocated to each township. This formulation leaves little discretion to the UEC and imparts a notable imbalance in the equality of the vote across constituencies. This results in an undermining of equitable suffrage in Myanmar's election process, i.e., when a representative in the same assembly may represent a constituency of either a few thousand or a few hundred thousand voters.

Voter Registration

To participate in the elections, an eligible citizen must be recorded on the voter roll. The UEC does not directly collect voters' information but receives the data from the General Administrative Department (GAD) and the Ministry of Labor, Immigration and Population. The UEC then allows individuals and communities the opportunity to verify and correct information through two rounds of public voter roll display that are scheduled to be conducted over two-week periods. The first period of display was held from July 25 and was extended by an additional week to Aug. 14. Of an estimated 38.1 million voters, a reported 6.6 million (about 17%) checked their records. The main correction that was reportedly requested was for the addition of eligible voters that had not appeared on the preliminary voter roll. The second round was originally scheduled to start in October but was announced to start early, on Sept. 20. A surge in COVID-19 cases and the ongoing development of online facilities for voters to check their details led to a delay. The exercise started on October 1 and is scheduled to be completed on October 14.

Out-of-country voting (OCV) is being conducted in October at Myanmar embassies under the supervision of the Ministry of Foreign Affairs. The Myanmar diaspora is estimated to be 5 million people. In 2020, over 100,000 citizens have registered for OCV, an increase of over 300% as compared to 2015, when approximately 34,000 voters registered for OCV. Within Myanmar, voters may vote in advance, both in-constituency (if they expect not to be able to access their

locally assigned polling station on election day) and out-of-constituency (if they are based away from their constituency of residence). Of note, one of the legal amendments adopted in June reduced the residency requirement from 180 days to 90 days, which has been a source of concern for some political parties based in ethnic areas.

Candidate Nomination and Registration

A total of 7,030 candidates submitted their nominations to election subcommissions from July 20 to Aug. 7. Of these, 26 candidates withdrew their nominations by the deadline of Aug. 10, while the remainder were subject to a period of one-week scrutiny by election subcommissions. Of those nominated, 6,969 candidates were registered, comprising 6,689 candidates from 92 parties and 280 independent candidates. There are 1,934 candidates running for a seat in the Union parliament's lower house, 976 for the upper house, 3,847 for the State/Region assemblies, and 212 for the election of 29 seats for ethnic affairs ministers.³ Compared to 2015, this represents an increase of 10% for the Union parliament's upper house, 11% for the lower house, slightly over 17% for the state/region parliaments, and 32% for the election of ethnic affairs ministers. There is a decrease of 9.7% in the number of independent candidates in comparison to 2015.

As identified by the Carter Center's baseline survey for political party intentions, most parties (97%) fielded candidates for the state/region assemblies and for the Union parliament's lower house (93%), with 64% vying for seats in the upper house. Three political parties, the National League for Democracy (NLD), the United Democratic Party (UDP), and the Union Solidarity and Development Party (USDP), have fielded candidates in all three levels of election and across all 14 states and regions. The number of female candidates (1,094) represents an increase of 37% over 2015. However, women candidates represent only 16% of all registered candidates.

Election subcommissions denied the registration of 35 nominees. The grounds included exclusion on the basis that the candidates' parents did not hold citizenship at the time of their birth, or that the nominee had not resided continuously in Myanmar for the past 10 years. Unclear changes in the classification of past citizenship documents has made the proof of parents' citizenship an opaque administrative barrier to determine eligibility. These difficulties have disproportionately affected Rohingya nominees and has led to the exclusion of Rohingya candidates in the general elections. While these decisions have been appealed, the UEC and its subcommissions have thus far upheld these rejections.

Voter Education and Information

The UEC, in cooperation with CSOs, launched a nationwide public outreach campaign targeted to several key demographics, including women, youth and first-time voters. The materials have included the distribution of pamphlets and posters, FAQs, educational and motivational videos, "how to vote" pamphlets, "countering false news" pamphlets, "how your vote counts" pamphlets, billboards, and online quizzes. In addition, voter education game boxes, street theater guidebooks, mock voting kits, easy-to-read cartoons, animated videos, and motivational video series have been produced in 22 ethnic languages and in Braille in three languages. Outreach materials are being

³ Ethnic affairs minister positions are reserved seats in state/region assemblies for the representation of ethnic communities that are a minority in the state/region but exceed a threshold of 0.1% of the national population.

distributed throughout the country under COVID-19 related movement restrictions. These efforts have been complemented by online facilities, including the UEC's dedicated website for voters to check their registration status and mobile apps.

Campaign Environment

While the 2008 constitution bans government officials from party activities during their term of office, the law allows the UEC to authorize “party organizational and territorial organizational work” by members of the government. On July 1 the UEC issued a directive allowing members of the government to undertake these party-related activities. In the absence of a clear definition of what “organizational work” entails, several political parties expressed public concern over the potential advantage for incumbent political contestants ahead of the official campaign period.⁴ The UEC clarified that the work could permit activities such as food distribution but could not allow for activities that explicitly sought to promote a voter's choice of candidate or party in the election.

The 60-day official campaign period was announced on Sept. 6, two days prior to its start. Strict COVID-19 preventive measures have imposed limitations on in-person campaigning in the first weeks of the campaign period. The UEC promulgated standard operating procedures on Sept. 7 for the conduct of the election campaign, with measures to prevent and control COVID-19 based on guidance from the Ministry of Health and Sports. These procedures limit campaign gatherings to 50 people, limit door-to-door campaign teams to 15 people, allow campaign vehicles to carry only half of their capacity, and impose strict social distancing and the use of personal protective equipment.

Campaigning (public rallies, door-to-door canvassing, and indoor gatherings) has been banned in locations affected by stay-at-home orders and travel bans imposed in Rakhine State, Yangon Region, and elsewhere. These restrictions have impeded parties and candidates on the campaign trail and have affected the activities of other stakeholders. Domestic election observer groups and journalists have had limited opportunity to train or to travel, and international media and election observers have faced obstacles to travel to Myanmar. Print media outlets have also faced increasing challenges to physically print newspapers, or, if possible, to manage their distribution.

The limitations on freedom of movement and association led several parties to raise concerns over their impact on political competitors to conduct their election campaigns. A letter from the main opposition party, the USDP, co-signed by 23 other parties, was submitted on Sept. 15 to ask the UEC to reconsider the date of the election. To date, however, the UEC has affirmed that the elections will continue as scheduled and has highlighted additional safety measures being used to mitigate the health risks during polling operations.

The restrictions imposed on traditional campaigning have given emphasis to the potential role and impact of the internet and social media in the election process. In seven townships in northern Rakhine State and one township in southern Chin State, the population has experienced one of the longest internet blackouts in the world. Access to 3G/4G networks remains halted until Oct. 31 under a directive from the Ministry of Transport and Communications. The blackout was partially

⁴ A similar situation arose in 2015, when government officials were permitted to undertake organizational work ahead of the official campaign period.

alleviated with access to the 2G mobile network on Aug. 2. However, the bandwidth restrictions of this technology make engagement on online platforms impractical.

A self-regulatory approach for in-person and online campaigning is in effect through the political party Code of Conduct, which was signed by 65 political parties on June 26. The behavior of these parties and candidates is actively monitored by a committee of the signatories, although it is not legally binding and offers no sanctions for noncompliance.

Political parties are entitled to free-of-charge 15-minute slots on state radio and television to present their campaign message and political platform. Scripts for these slots are subject to vetting by the UEC and the Ministry of Information for messages that may be deemed to be in contravention of constitutional and legal prohibitions. At this stage, six parties have withdrawn from exercising the entitlement due to elements of their scripts being amended and have accused authorities of undue censorship that limits the right to freedom of expression.

Social Media

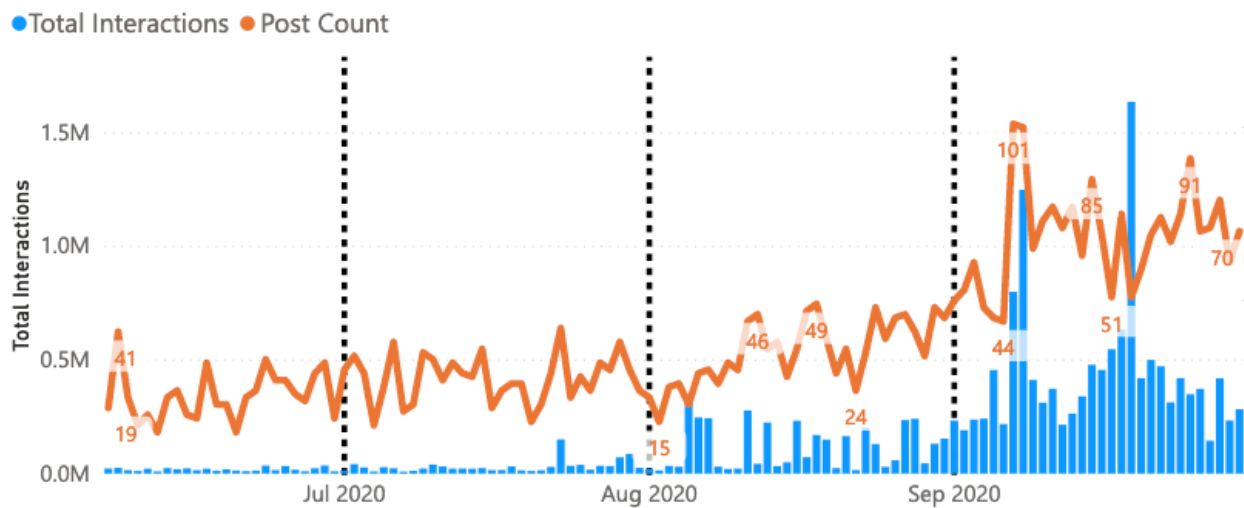
The Carter Center is observing the impact of social media on these elections, with a specific focus on Facebook as the primary social media platform used in Myanmar.⁵ In pre-election assessments conducted by the Center, the significant increase in Facebook users since 2015 (over 350%) escalated concerns among election stakeholders over potential abuse, including the use of fake accounts, misinformation, disinformation, hate speech, and speech that could increase the risk of violence.

In the monitoring of social media trends, The Carter Center has observed an increase in election-related activity on Facebook as the candidate nomination period ended and the official campaigning period began (Figure 1) and an increase in false or misleading content about parties and candidates. The number of posts, and interactions (likes, comments, shares) with posts, on political party pages grew as the official campaign period approached, with a peak in activity occurring on Sept. 8. As of Sept. 30, the Center was able to identify that 72 of the 92 political parties maintain a party page on Facebook, of which at least 41 are verified as authentic by Facebook.⁶

⁵ Facebook has [about 26 million users](#) and an estimated 97.8% of the [social media market share](#) in Myanmar. Facebook does not publish the exact number of users in Myanmar.

⁶ Facebook offers a mark verification process (a blue tick) on pages to indicate that the author's information has been verified through a process of due diligence.

Figure 1: Posts and Interactions Across 20 Political Party Pages on Facebook⁷



The legal framework does not contain specific provisions to regulate online campaign activities, although several election malpractice and offense provisions can be interpreted as applicable. As noted above, the voluntary political party Code of Conduct also covers online activities. Efforts to mitigate the abuse of social media have been the subject of joint endeavors among the authorities, civil society organizations and Facebook. Myanmar and international CSOs are working to identify and combat the impacts of disinformation and hate speech, for example by orchestrating counter-speech messaging to challenge hateful narratives and referring posts to Facebook for adjudication under its corporate policies and community standards.⁸

Facebook has introduced several measures in the leadup to the elections to identify and remedy posts that may constitute misinformation, hate speech and harassing content, including the use of artificial intelligence systems.⁹ Posts referred to Facebook by stakeholders may take time to address, as can requests to reinstate posts that have been erroneously removed. Facebook also implemented an ad library on Aug. 5 to strengthen transparency and accountability for paid or boosted ads relating to politics, elections and social issues, and has delivered training to election officials on its use.¹⁰

⁷ Source: data from CrowdTangle for the 20 political party pages with the highest number of interactions between June 1 and Sept. 30, 2020. State Counsellor Aung San Suu Kyi's campaign page, Chair NLD, received 11.1 million interactions – more than 1.5 times the number of interactions of all other party pages combined. The second- and third-highest number of interactions were with the USDP page (1.43 million) and USDP Women Committee page (1.57 million), followed by the NLD page (1.27 million), People's Pioneer Party page (1.12 million), Pa-O National Organization page (606,900), and Shan Nationalities Democratic Party (SNDP) page (386,600).

⁸ As defined by the [Dangerous Speech Project](#), "Counter speech is any direct response to hateful or harmful speech which seeks to undermine it."

⁹ See Facebook announcements on [Aug. 31](#) and [Sept. 23](#).

¹⁰ The Myanmar Ad Library can be found [here](#).

Observation

The UEC issued revised procedures for Domestic Election Observers (DEOs) and International Election Observers on July 7. The revised procedures removed rights under prior procedures that had afforded observers official legal protection and security. Additional amendments to the DEO procedures removed explicit permission to observe the printing of the ballots and the resolution of election disputes. DEOs are also required to preregister with subcommissions to observe in their area and to complete a form to be signed by polling-station presiding officers when they visit to observe. These amendments raise an important concern about the ability of observers to access key elements of the election process and to conduct their activities without fear of legal or security intimidation.

In July, CSOs were informed that additional accreditation requirements had been introduced, including registration under the Association Registration Law and compliance with recently enacted anti-money laundering requirements, for those CSOs receiving international funding to support their activities. These additional provisions affected the accreditation for the People's Alliance for Credible Elections (PACE) and other CSOs and spurred a public discourse on election observation and its role to enhance transparency, credibility and legitimacy of the election process.

The UEC subsequently accredited PACE and other affected CSOs, although several CSOs stated that the delays had impacted their ability to organize for observation of the preliminary stages of the election process. As of Sept. 2, the UEC had accredited 8,416 domestic observers from 12 civil society organizations and two international election observation missions (The Carter Center and the Asian Network for Free Elections).

Mission Priorities

The weeks leading up to the Nov. 8 election involve a number of critical activities that must occur in parallel to the ongoing campaign period while simultaneously addressing the challenges imposed by COVID-19. The second round of the public display of the voters' register is scheduled to conclude on Oct. 14, after which the voter roll will be prepared for use at polling stations. Decisions will be reached regarding potential cancellation of elections in townships in which security considerations do not allow for polling to take place. Advance polling for out-of-country voting will continue, and advance in-constituency and out-of-constituency voting will be conducted within the country. Voter education activities will be implemented. Poll workers must be trained and modifications made to procedures to allow for health and safety measures.

The elections are a nationwide event that must manage the logistics necessary to bring almost half a million poll workers and materials together at over 45,000 polling stations to offer approximately 38 million voters the opportunity to exercise their political right to choose their representatives. Throughout it all, the UEC must work to ensure a level playing field for political competitors to maintain confidence in the fairness of the process. The Carter Center's international election observation mission will be observing these developments closely and will deliver a statement on its preliminary findings before the polls, as well as further pre-election statements as warranted.