



## **ANFREL Interim Report on the 2015 Myanmar General and Local Elections**

### **1. Campaign Environment**

The overall campaign environment leading to Election Day was considered generally free and fair as observed in most of the states/regions monitored by ANFREL observers. It was largely free with isolated incidents of rioting and destruction of campaign materials.

Most voters find that the elections were more “free” given that more political parties contested which meant more choices of candidates for them. Voters across the country have expressed hope that the 2015 elections will bring change to Myanmar.

There has been a noticeable widening of democratic space in the country, especially if compared to the previous years. The seeming effort to make elections more inclusive and the growing rate of political participation by the people should be lauded. The presence of election observers, both domestic and international, is also seen as a contributing factor to the freer election environment.

The 60-day campaign period was characterized by the political parties’ mobile campaigns, music, handing out of leaflets, public rallies, music, and door-to-door campaigns. These activities created a lively and festive campaign atmosphere.

Still, some parties complained about what they perceived to be an overly burdensome process to get permission to have a campaign rally. Restrictions that forbid candidates from criticizing the military also limited the political space and freeness of the campaign to some extent.

The Code of Conduct, although non-binding in nature, was recognized by some stakeholders to have somehow guided political parties in carrying out their campaign activities. But many political parties found it challenging to campaign among voters with very low awareness about democracy and elections. The efforts of political parties to include voters’ education in their activities largely contributed to raising people’s awareness.

However, impediments to free campaigning should be taken into account by either correcting them or learning from them as Myanmar moves toward a more mature democracy. Reports and complaints related to vote-buying, violence, and use of government resources in campaign should be investigated and corrected. A more comprehensive campaign finance law, including regulations on donations and expenditures, will help level the playing field.

### ***Women Participation***

Interviews with stakeholders suggest that awareness among women is still very low and thus resulting to low political participation. The generally low number of women contesting the electoral exercise would make the sector under represented. However, lessons from the elections would pave the way for better mechanisms to remove obstacles and encourage their participation.

### ***Use of Religion in Campaigns and Use of Hate speech***

Reports were received about religious leaders having been involved in political activities either advancing a person's candidacy or campaigning against another party. Anti-Muslim speeches were also observed in states such as Rakhine during campaign rallies. Such practices should be controlled and not be repeated in the future. Hate speech and smear campaigns can incite hostilities and violence that could in turn affect the overall election process.

## **2. Security Situation**

The security situation during the pre-election period up to the Election Day was largely peaceful with no major incidents of violence or use of force reported. The situation provided for an environment favorable to holding free elections.

There were no major threats to security and no destabilization foreseen before Election Day. However, stakeholders in several states expressed concerns on possibilities of post-election conflicts. ANFREL urges all political parties, candidates, and supporters to accept results peacefully without resorting to violence.

Security forces, especially the police, have to be commended for performing their duty of securing election materials and maintaining peace and order. Security preparations were found to be adequate and remained on track before Election Day, including the recruitment and training of Special Police force.

### ***Police Monitoring and Surveillance of Election Observers***

Notwithstanding the reassuring security situation, security forces, specifically the Special Branch Police, have conducted monitoring activities and have followed observers in their daily activities and recorded their movements. Although they showed no signs of being aggressive, their constant trailing had, to some extent, affected the movement of observers. In some instances, the police would interrogate to people interviewed by the observers causing fear among respondents to speak freely. This practice should be re-evaluated, international observers and authorities can cooperate with each other's work without the need to closely monitor observers.

### ***Armed groups did not disrupt electoral process***

There are armed groups still found to be operating outside city centers where GAD is not present. Many armed groups have also signed the Nationwide Peace Agreement (NCA) with the government. Nevertheless, the armed groups have shown cooperation in holding peaceful elections while some of those who did not sign the National Ceasefire Agreement (NCA) vowed not to disrupt the process.

### **3. Voters List**

The accuracy of the voters' list is one among the areas of concern raised before Election Day. Inaccuracies and several errors on names of voters were found across the country. In some list, voters found their names to be in duplicate. Names of deceased persons were also found. Nevertheless, ANFREL was encouraged to find that it did not create serious problems for most voters arriving to vote.

The effort of UEC to make the list as inclusive and accurate has to be recognized in terms of providing mechanisms to allow voters to check their names and correct them. In the same light that on Election Day, there was flexibility to allow eligible voters not in the list to cast vote as long as identity can be proven.

However, the lack of voter awareness did not allow many of the voters to check their names. At the same time, the process of registration is considered to be a complicated process by many stakeholders that caused confusion to many voters.

In states with ethnic minorities, review of the lists has become a challenge as they were written in Burmese. But a number of ethnic minorities can only read and write in their own respective ethnic languages.

ANFREL hopes that the UEC will regularly review and update the list and ensure that it includes all eligible voters of Myanmar. Voters' education campaigns in cooperation with civil society would also help in raising awareness and encouraging people to register. A review of its rules in the registration of migrant workers eligible to vote will also be a significant undertaking as they have become an important part of the country's society.

### **4. Advance Voting**

While it is laudable to have a mechanism to allow advance voting, there also needs a review on the current set of procedures and their implementation. The observers saw a great deal of procedural variation, indicative of the need for more training, in the implementation of in-

constituency advance voting from one sub-commission office to the next. Timely release of pertinent information including schedule is helpful for the preparations at the sub-commission level and for those who intend to cast their votes in advance.

ANFREL teams observed advance voting in many areas with several variations in implementation. More training and additional control over some aspects of the process will increase confidence in the process and eliminate some of the existing shortcomings ANFREL's observers reported in those areas. It will also lead to more procedural uniformity to ensure regulations are strictly followed.

That said, ANFREL considers certain aspects of the out-of-constituency advance voting to be of even greater concern, in particular the advance voting of the military and police in some areas. While improved from 2010, the special privileges enjoyed by these institutions create opportunities for fraud and electoral misconduct and the general lack of access for observers magnifies those problems. Moving Polling Stations out of military camps and beginning a transition towards normalizing military voting in more ordinary Polling Stations will help protect the voting rights of individual soldiers and will remove one of the electoral system's lingering weaknesses.

Additional safeguards such as the application of truly indelible ink should also be considered to eliminate possibilities for those who would intend to cast vote again on Election Day. In those areas with late arriving Advance Ballots, investigations into the cause of the delay should aim to prevent such accidents in the future and/or prosecute any bad actors found to be attempting to manipulate the process.

## **5. Polling Procedures & Election Day Administration**

On Election Day, observers reported a generally peaceful environment with few incidents. Voter interest was high with voters reporting that they had begun queuing as early as 3:30-4:00am in some areas. As this suggests, voter turnout was especially heavy in the morning. Combining this fact with the relatively time consuming process of having to check the voter's name on each of the three voter's list for the different ballots made for a lengthy queue with significant numbers of voters patiently waiting well over an hour.

ANFREL's observers found the opening processes to generally adhere to the procedures laid out in the polling manuals provided to Polling Station Officials by the Union Election Commission. The teachers who made up most of the polling station staff nationwide showed patience and dedication to their task for the day. The layout of polling stations was generally suitable and again mostly in compliance with the regulations set out by the UEC. Observers did have frequent suggestions for better crowd management in polling stations where groups of perhaps too eager voters were often crowded around the first table inside the door. They also observed

a few polling stations where voting booths were side-by-side, touching in a way that could endanger the secret ballot of voters voting next to one other. The use of indelible ink was a generally very positive part of the process though observers sometimes reported that voters fingers should've been checked more carefully upon check-in and the chemical content or method of applying the ink should be more rigorously checked in the future thanks to some instances of the ink being relatively easy to wash off.

In some Polling Stations, voters from ethnic minority groups that due to their population in a particular area qualified to elect an Ethnic Affairs Minister found themselves unable to do so due to their assigned polling station missing its Ethnic Affairs/'national race' ballot box. Polling station officials in these cases were generally unable to provide an explanation or accommodation for these peoples' lost rights. Barring special accommodation to restore to these voters the opportunity to vote for their ethnic affairs representative, ANFREL hopes that the Election Commission can look into any failures that took place in these cases and avoid such errors in the future.

One consistent thread that observers reported throughout a number of the processes on election day was a certain amount of variation or lack of standardization in the procedures followed from polling station to polling station. Without the suggestion or implication of ill intent, observers found noticeable variation in the implementation of many parts of the process but in particular in the closing and counting procedures followed in each polling station. In some polling stations, ballots were not properly reconciled at the time of closing and unused ballots were not securely guarded or stored during the counting. In others, inconsistent criteria to invalidate ballots where ink had spread from folding the ballot caused high numbers of invalid ballots that were in other stations counted as valid. While such variation does not suggest any kind of fraud nor a significant impact on the election results, more training and standardization of Polling Station procedures will add to both the real and perceived integrity of the election.

ANFREL's observers are trained to observe every aspect of the election process and as such were eager to follow the consolidation of polling station results to the Township level Sub-Commission office. Those observers able to make it to the Township office were often disappointed when Township level results were not posted as had been expected. ANFREL hopes that such delays are not indicative of a larger trend and believes that the timely and transparent release of results from Polling Stations and all levels of consolidation can go a long way to build confidence in the electoral processes of the country.

## **6. Election Administration**

To begin, it is important to credit the Union Election Commission for much of the improved environment in this year's election compared to the past. The UEC's efforts towards greater transparency and openness set the tone for the election as a whole and enabled much deeper

engagement by a variety of stakeholders with the electoral process. This is not to say that the interlocutors interviewed by observers had no criticism of the UEC, it is simply a recognition of their broad contribution to the process.

As mentioned in the above section on the varying procedures found at the local level, ANFREL believes there is at times a disconnect or a failure to communicate between the UEC and its various sub-commissions. Such issues can likely be addressed through more capacity building for local sub-commissions and earlier decision making which would provide more advance notice for implementing and training of proper procedures.

Though it enjoyed generally higher levels of trust and credibility than other government departments, the election commission's neutrality was at times questioned by those interviewed by ANFREL. In particular, its reliance on staff from other government offices and the background of some of its leaders led some to accuse the Commission of being partisan.

For the future, ANFREL hopes that the commission can continue the rapid improvement it has shown over the last few years. One way it could do so is to continue and significantly expand its voter education efforts to help create an informed electorate that can more easily and more deeply participate in the process.

More Voter Education can be helpful in almost every country but it is particularly needed in Myanmar given the electoral context. Lack of voter awareness was one of the major concerns confronting the 2015 elections. Many voters did not have a clear understanding of the voting process. There are also voters found not to know about the election date. There is an apparent gap between rural and urban dwellers in terms of political awareness. This gap can be attributed to the voters' accessibility to information. Voters in rural areas tended to have lesser knowledge and lesser appreciation for political and democratic processes compared to those living in industrialized and urban areas where there is greater access to media.

## **7. Persons Unable to Participate**

While apparent well in advance of the election, ANFREL was nevertheless disappointed by the large number of people unable to exercise their voting rights this election. There were significant numbers of people in differing situations that were nevertheless unable to have their voices heard. ANFREL hopes that, as the country hopefully grows into democratic maturity, its elections will also grow more inclusive. The large numbers of potential voters who were excluded or unable to participate in the process is perhaps the elections' most significant shortcoming to date.

The exclusion of the vast majority of the Rohingya population was the product of the intentional expiration of the white cards previously held by a number of minority ethnic and religious peoples. Its impact was to exclude several hundred thousand possible voters that were able to participate in the last elections. This, ANFREL believes, is one of the few areas where the 2015

Election took a significant step backward as compared to previous years. This move to exclude Rohingya from the voter rolls broadened to create a defacto exclusion, using arbitrarily implemented criteria, of many religious minority candidates as well.

There were also several million citizens living outside Myanmar that unfortunately did not participate. While there is no international norm regarding voting for citizens abroad, ANFREL believes that better preparation and more outreach would have had led to a significant improvement in the turnout of people living abroad.

Significant numbers of citizens living in areas where elections were cancelled were also to participate. They are, for now at least, not part of the process of electing the country's next parliament. ANFREL believes that the UEC needs to be as transparent as possible about its criteria to cancel elections in some areas with fighting but keep the polling open in other areas with heavy fighting such as Kokang. Being open about its criteria and decision-making process, as well as its plans to hold by-elections in those areas as soon as the security situation allows, will help alleviate any suspicions of partisan cancellations.

As a diverse network of citizen monitoring organizations across Asia, ANFREL believes deeply in the importance of inclusive elections as they relate to gender, religion, race, and ethnicity. In this spirit of democratic inclusion, ANFREL hopes to see steps that enable a broader range of the people of Myanmar to participate. Elections can and should include all the people of Myanmar, no matter their race or religion or where they happen to live, in Myanmar or abroad.

## **8. Access and the Role of Civil Society, Election Observers, and Party Agents**

ANFREL's observers were welcomed at the vast majority of the Polling Stations visited on Election Day. Several observers were however denied entry at some polling stations on the election day due to what seemed like inadequate training of Security and Polling Station Officials. Analysis of those polling stations where our observers were denied revealed no apparent fraudulent intent however access for all accredited Observers, Monitors, and party agents is an important part of the process and one that we hope is fully protected and recognized in the future.

Looking more generally, Civil Society played an active role in the run up to the Election in terms of voter education and outreach about the election. Several large Citizen Monitoring Groups such as the People's Alliance for Credible Elections (PACE) and the Election Education and Observation Partners (EEOPS) monitored polling in significant numbers of stations around the country. More locally, many more organizations monitored polling in smaller numbers often times in the particular state or region where they were accredited. ANFREL is encouraged by their role in the election and hopes that they can carry their momentum from the observation of

the election into helpful engagement in voter education and electoral reform in the country on a more permanent basis going forward.

ANFREL was also encouraged by the presence of party agents at the polling stations where we observed. Most stations had at least two party agents representing the two major parties and some smaller parties fielded a substantial number of agents as well. These participating parties should be complimented for their efforts to recruit, train, and deploy Party Agents to play a helpful role in the polling stations and add credibility to the polling process.

## **9. Media's Role and Neutrality**

The media played a helpful role in disseminating information about the election and many of its parties and candidates. ANFREL's observers reported what they saw as a certain amount of favoritism among media outlets, both public and private, though in different directions depending on their ownership.

The Media in Myanmar, while much freer than in the recent past, must still censor itself to a certain degree and limit the scope of their reporting in some cases. Like ANFREL observers themselves, media faces scrutiny from security forces and must exercise extra caution as a result. The arrests of activists who'd shared political jokes via Facebook had a likely additional chilling effect on the media's reporting of certain sensitive issues related mainly to the military.

## **10. Constitutional & Legal Framework**

ANFREL believes that the electoral and legal framework that is the foundation for the election has several deficiencies that undermine the overall integrity of the election system. While there are several worth addressing, we will focus on the two that most directly relate to elections. Primary among what ANFREL sees as the current system's shortcomings is the continued 25% apportionment to the military of seats in the Pyidaungsu Hluttaw as well as the State and Region Local Parliaments. The military quota system lessens the elections' impact and could lead to situations where a party or parties receiving a minority share of votes is able to coalition with unelected members to form a rather unrepresentative government. In this way, the reserve military seats distort the votes and voices of the people. No modern democracy has such a set aside for the military and ANFREL believes that, over time, Myanmar would be wise to transition to a more democratic parliamentary makeup with 100% of its representatives elected by the people. Hopefully Myanmar can learn from the example of Indonesia, a country that once had a military block within its parliament but that has transitioned to a more representative parliamentary model as it has consolidated its own democratic gains. Following that example would be a significant step to realizing a fully-elected, civilian led government for the country.

Another issue that Myanmar may want to examine is how it determines the constituencies of its MPs, namely, the practical impact of giving townships of often times vastly different population equal weight in the lower house and each State & Region equal representation in the upper house. To some degree, there is a political calculation here which the people of Myanmar are of course free to decide for themselves. Still, ANFREL believes the imbalance built into the system is at least worth studying and exploring avenues for possible reform over the long-term. If more equitable divisions of constituencies and representatives can be agreed to, ANFREL believes such reforms would strengthen the underlying fairness in the system.

## **11. Electoral Dispute Resolution**

In every contest, it is inevitable for disputes to arise, therefore it is necessary to have procedures to resolve them. The UEC's effort to create electoral disputes resolution committees and issue a manual on how to handle disputes are commendable, however, there needs to be additional training for polling staff to ensure uniformity in the implementation. However, noting the lack of experience in elections in the past, polling officials at the township levels do not have adequate understanding on how to resolve the matter while maintaining the sanctity of ballots.

### **Recommendations**

1. To enhance procedural consistency and uniformity and to ensure that local sub-commissions reflect the UEC's policies, a strengthened coordination mechanism between the UEC and its offices in the sub-commission and township level offices is essential to ensure consistency, uniformity, and fairness in the implementation of election rules.
2. To build the capacities of UEC and sub-commission staff, additional trainings on the topics of Information and Technology, compliance with procedures, and the broader principles of free and fair elections will be of great benefit.
3. To enhance transparency mechanisms in the registration process, the conduct of advance voting should be better systematized and made uniform.
4. For out of constituency advance voting for the military, there's a need to convert that voting population to use standard Polling Stations and procedures wherever possible. No advance voting should be allowed in military camps/installations.
5. To undertake intensive voters education campaigns in cooperation with civil society organizations to raise awareness of voters.
6. The UEC should have fiscal autonomy via an automatic budget allocation mechanism that insulates it from the political influence of parliament.
7. Have the UEC conduct a more active voter registration effort in the process of doing voter education.