

2017 Myanmar By-Elections: A Path to Myanmar's 2020 General Election





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Final Report of the International Election Observation Mission (IEOM)
of the 2017 By-Elections in the Republic of the Union of Myanmar

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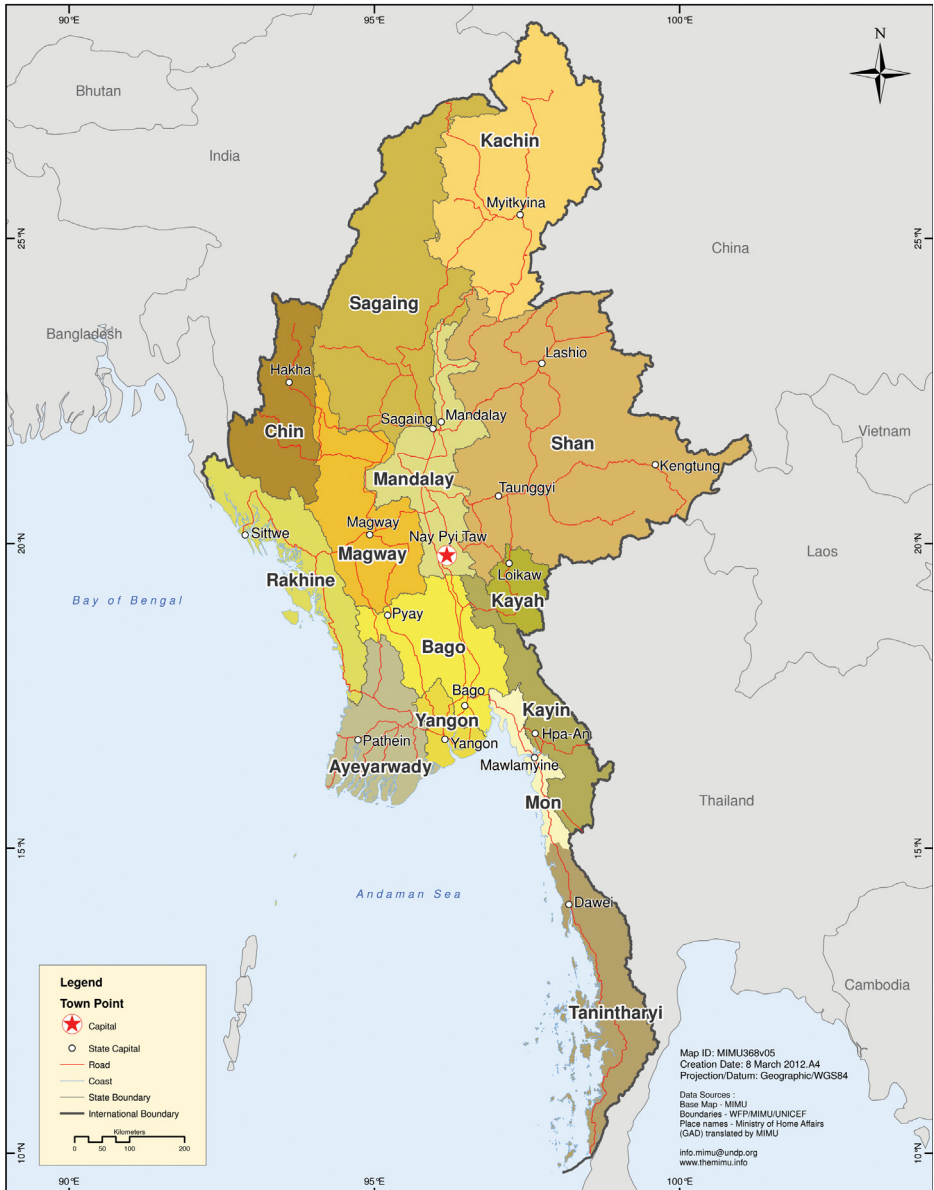
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Myanmar Country Map



Disclaimer: The names shown and the boundaries used on this map do not imply official endorsement or acceptance by the United Nations.

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Saving the best and most important for last, ANFREL would like to express its deepest gratitude to, and admiration for, Myanmar's voters, especially those from Election Related Organizations that contributed so greatly to the election's success. They should know that they will always have the support and respect of ANFREL and all freedom-loving people in Asia and around the world for their efforts.

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Abbreviations & Myanmar Specific Terms

AESF	Asian Electoral Stakeholder Forum
Amyotha Hluttaw	House of Nationalities
ANDP	All National Democratic Party
ANFREL	Asian Network for Free Elections
ANP	Arakan National Party
CNDP	Chin National Democratic Party
CoC	Code of Conduct
CSO	Civil Society Organizations
DRI	Democracy Reporting International
EEOPs	Election Education and Observation Partners
EMB	Electoral Management Body
EMOs	Election Monitoring Organizations
ERCB	Electoral Reform Coordination Body
FPTP	First Past the Post
GAD	General Administrative Department
IDEA	The International Institute for Democracy and Electoral Assistance
IEO	International Election Observers
IEOM	International Election Observation Mission
IFES	International Foundation for Electoral Systems
IRI	International Republican Institute
MOFA	Ministry of Foreign Affairs
MILI	Myanmar Independent Living Initiative
MNCP	Myanmar National Congress Party
MNP	Mon National Party
MOU	Memorandum of Understanding
MPs	Members of Parliament
NCA	Nationwide Ceasefire Agreement
NDF	National Democratic Force
NDI	National Democratic Institute
NEMGs	National Election Monitoring Groups

NGOs	National Government Organizations
NLD	National League for Democracy
NMF	New Myanmar Foundation
NUP	National Unity Party
PACE	Peoples' Alliance for Credible Elections
Pyithu Hluttaw	House of Representatives
SNDP	Shan Nationalities Democratic Party
SNLD	Shan Nationalities League for Democracy
SPDC	State Peace and Development Council
SSAN	Shan State Army-North
SSPP	Shan State Progressive Party
Swiss FDFA	Swiss Federal Department of Foreign Affairs
Tatmadaw	The Armed Forces of Myanmar
UEC	Union Election Commission
USDP	Union Solidarity and Development Party

ANFREL Profile

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

Since its formation, ANFREL has covered 48 election observation missions across Asia with over a thousand Asian election observers participating in these missions. ANFREL draws its observers from a network of partner civil society organizations in Asia.¹ Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is locally developed rather than externally imposed. Through observing election administration internationally, our observers develop a strong understanding of international best practices – knowledge that can then be applied to strengthen electoral processes in their respective home countries.

In addition to direct election observation programs, ANFREL also carries out training and capacity building programs for civil society groups working on elections and democracy-related issues. Providing capacity building training, either directly or indirectly, to local organizations, has been an integral part of each of our election observation missions to date. ANFREL believes that capacity building for local stakeholders is one of the most important elements in democratization efforts, and hopes that these efforts will receive continuous support from the international community to advance electoral reform and democratization in the Asian region.

Finally, ANFREL also carries out election-related advocacy and campaigning, including disseminating information and publishing materials related to elections and other democratic processes. Since 2012, ANFREL has also organized the Asian Electoral Stakeholder Forum (AESF), which brings together election-related civil society groups and electoral management bodies from across Asia to foster greater understanding and cooperation on addressing the remaining challenges to free and fair elections in Asia.

By engaging diverse electoral stakeholders through our advocacy and campaign work and bringing together observers from across the region to participate in our observation missions, ANFREL seeks to create an environment conducive to democratic development in the spirit of regional solidarity. ANFREL's three areas of work--election observation, capacity building, and advocacy--support and complement one another to further our mission of improving the quality of elections across Asia.

¹ Full list of ANFREL members available <http://anfrel.org/our-members/>

Foreword

Coming approximately 17 months after Myanmar's historic general election in 2015, the By-Elections of 2017 offered the country a chance to take stock and assess its electoral development since 2015 and the trajectory of its electoral progress looking forward to 2020. The General Election on November 8, 2015 set a helpful new benchmark for the country. Compared to the 2010 General Election which preceded it, remarkable electoral progress was noted in most parts of the country. For the first time in a generation, the people of Myanmar were able to exercise their political rights in a relatively free environment, marked by an enthusiastic campaign season, free polling, and an elected government taking power which reflected the general will of the electorate. Given the relative success of the 2015 election, the challenge for Myanmar's election stakeholders in 2017 was to consolidate some of the gains made in 2015 and build on the democratic momentum and progress coming out of those elections.

ANFREL's contribution to Myanmar's democratic development has taken a variety of forms. Over the last decade, ANFREL has conducted numerous capacity building activities for local Citizen Observers and journalists and carried out a country-wide Election Observation Mission of the 2015 General Election. Because of this, ANFREL was well-placed to again assess the country's electoral processes in 2017 and gauge where they have advanced since 2015 and where there is still a need for reform.

In 2017, ANFREL's observers hailed from countries across Asia and were deployed to those townships, States and Regions across the country holding by-elections. Their findings form the foundation of this report, offered humbly in the spirit of democratic goodwill and solidarity. By observing a by-election falling a number of years before the next General Election, we hope that this report serves as a useful and timely roadmap for the country's electoral stakeholders to deeply and thoroughly address the electoral system's remaining weaknesses before 2020.

For ANFREL, the mission and this report are a natural continuation of our sustained efforts to strengthen the capacity of election monitoring-focused civil society organizations [CSOs] in Myanmar who were working to build a democratic foundation for the country. We admire the country's progress to date and look forward to working together with our friends in Myanmar to ensure it continues.

Warm Regards,

Ichal Supriadi
Executive Director, ANFREL

Executive Summary

By-elections were held on 1 April 2017 for a total of 19 constituencies: 9 vacant seats of the Pyithu Hluttaw, three vacant seats of the Amyotha Hluttaw, and seven vacant seats from the Region or State Hluttaw. These constituencies represent parts of 8 States or Regions (Bago, Yangon, Chin, Mon, Sagaing, Shan, Rakhine, and Kayah), 13 districts, 22 townships, and 727 wards or village tracts.

A relatively new practice, by-elections are defined in the Political Parties Registration Law of the Union of Myanmar as *“elections designated and held by the Commission from time to time for constituencies which become vacant due to the postponement of election in any constituency or resignation, death, termination or revocation of duty from a Hluttaw representative in accord with law within a regular term of Hluttaw.”*²

The by-election observation mission and subsequent report has two primary objectives. First, this report offers a chance to compare and contrast the 2017 By-Election with the 2015 General Elections to evaluate any improvements or decline in the quality of the electoral process. This is helpful in order to gauge the progress of reform made since 2015. The UEC’s 2016 Post-Election Report revealed the election management body’s (EMB) sincere consideration of, and response to, recommendations from national and international stakeholders to improve their electoral system.³ The UEC’s effort is highly appreciated and is a valuable exercise for election management bodies in other countries to learn from.

The second objective is more common for ANFREL, but no less important. It is to examine the By-Election process based on international standards and comparative analysis with the electoral experiences of other Asian countries. The result of this second objective can be used to predict the current level of readiness for the 2020 General Elections and identify those areas requiring the most focused attention. Overall, this final report tries to include a combination of analysis between the previous General Election in November 2015 and the By-Elections on April 1, 2017 as a helpful tool to improve the quality of the next general election.

When compared with the 2015 General Election, a number of notable improvements were observed, among them: an updated voter list, improved transparency measures including better access to polling processes in military camps where domestic and international observers were allowed to observe officially, a better-managed inside constituency advance voting process, more knowledgeable and confident polling officers, increased number of women appointed as UEC staff and polling station officers, a committed and better trained EMB, more cogent valid vote guidelines regarding stamping which lowered the occurrence of mis-stamped ballots, faster and more transparent counting

² Political Parties Registration Law, Chapter 1, Article 2, Subsection h

³ Post-Election Report, Union Election Commission (UEC); 2016

and tabulation processes, successful elections in some areas with security concerns in 2015, and a pilot project to make some polling stations accessible to persons with disabilities.

However, there are still some aspects of Myanmar's election system which need improvement. Principally, the electoral framework has not changed much compared to 2015, especially with regard to the articles supporting a quota of appointed military in parliament, a weak and/or unclear advance voting regulations, especially for outside constituency voters, a continued lack of female candidates, insufficient voter education, some inconsistencies in election procedures especially in counting and aggregation processes in polling stations, insufficient campaign finance regulations adopted and implemented, and lower voter turnout in general.

There are no perfect elections, even in the most democratic and developed countries. But better progress towards free and fair elections is important, especially in a country that has suffered such undemocratic conditions for so long. This electoral progress was assessed by 11 international observers who over the course of 2 weeks relied on mobile observation to collect data from all 22 townships in the eight states/regions where by-elections were conducted. Two expert electoral analysts stationed in Yangon for one month provided further analysis. Primary data were gathered through observation and deep interviews with key stakeholders. The 2008 Constitution, legislations focused on the UEC and various Hluttaw, electoral procedures and manuals, printed and online media, and other literature related to the election provide some of the additional data used for analysis.

While acknowledging there is no perfect election, there are international standards that can be used as a benchmark for a free and fair election. For this report, the Bangkok Declaration on Free and Fair Elections⁴ and Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers,⁵ the Dili Indicators of Democratic Elections, & the Bali Commitments were used.

In general, the 2017 By-Elections showed continued progress and positive trend lines for electoral democracy in Myanmar. There were significant improvements compared with the 2015 General Elections. Nevertheless, there are still some principal aspects of the election system and its procedures that need to be improved in the near future, especially considering the 2020 General Elections coming soon. Highlights from ANFREL's observation of the by-election process are discussed below.

⁴ Bangkok Declaration on Free and Fair Elections available at <https://anfrel.org/wp-content/uploads/2013/04/The-Bangkok-Declaration-on-Free-and-Fair-Elections-Its-Endorsers-.pdf>

⁵ Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, NDI and the United Nations Electoral Assistance Division (UNEAD), 2005; Text available at <http://anfrel.org/declaration-of-principles-for-international-election-observation-and-code-of-conduct-for-international-election-observers/>

Constitutional and Legal Framework

Review of the constitutional and legal provisions on elections shows that, in general, there were no significant changes to the country's electoral framework but only mostly minor changes regarding timing and technical procedures. Many of those technical changes did not require parliamentary action because they fall under the UEC's authority and are consistent with the 2008 Constitution. However, such technical and procedural changes were helpful in increasing the clarity of election administration management and were quite effective during the election.

As indicated in ANFREL's report on the 2015 General Elections, the 2008 Constitution has several structural elements that diminish the democratic character of the electoral process. The most obvious among them is the reservation of 25% of the seats in the parliament for the military. Other concerns include concerns on the extent of independence and authority of the UEC, continued exclusion from participation of formerly eligible voters and candidates from minority/marginalized groups, and arbitrary restrictions on eligibility for the presidency. Not all of these issues pertain specifically to the 2017 By-elections, but they will all have a major impact on future general elections.

Addressing these concerns through carefully drafted constitutional amendments are important if Myanmar desires to become a fully democratic country following international and regional standards such as the International Covenant on Civil and Political Rights and the Bangkok Declaration.

Election Management Body

Actions taken by the Union Election Commission (UEC) to create an environment conducive to a democratic election were laudable and essential for the election's success. The UEC performed significantly better than it had just two years before, and the issues which did surface were generally not due to bias but to sometimes bewildering regulations.

While ANFREL commends the UEC for the improvements it observed, there are still some key recommendations that the UEC has not yet implemented. Further steps need to be taken to assure that the UEC's independence and impartiality are beyond reproach. In the upper structure, the president of Myanmar appoints the UEC chairman and local election sub-commissioners. Instead of the president having so much influence on the process, the UEC chairman and sub-commission members should be elected through a transparent process that is more insulated from politics. At the more local level, the sub-commission members at the ward/village level are often the same as those on the ward/village tract committee itself. ANFREL considers this lower structure quite vital since the main election operations in the field are in their hands. Ideally, there would be a clearer separation between the election sub-commission and the ward/village

tract committee. On a more general note, one interlocutor suggested the UEC law or regulations be amended to require certain standards of age, professional background, etc. be met before someone can become an Election Commission official, an idea worthy of further consideration.

Voter List

The Voter list and Voter Registration were one of the main problems in the 2015 General Election due to significant numbers of eligible voters not being included in the list. This was especially true in the earlier versions of the list released for the public to check, a fact which, while understandable, created concern and a lowered perceived respect for the outcome among some voters even if, thankfully, many of those concerns were remedied by Election Day. In general, the 2017 voter list was the subject of fewer complaints and problems. For the 2017 By-Elections, the main source of the voter list was extracted from the central database of the 2015 General Elections. One of the ambitious programs by the UEC is verification through visiting all houses within the by-election areas. This door-to-door voter list verification was conducted with the support of CSOs. Regardless of the critique that the UEC was not able to visit all houses/families, this method was appreciated by people living in rural and isolated areas where public/private transportation is difficult. In addition to that check, the voter list was displayed in ward/village tract offices twice in February and March 2017 allowing people to check and report any problem to be corrected. However, based on our observations, very few people checked their names, the most common reasons for failing to do so were a general lowered enthusiasm for the by-election and ward/village tract offices not being a favorable location for voter list display. One main concern is the absence of a voter list published in advance for advance voting. This was especially true for advance voters from the military voting outside constituency who don't have to follow the same procedures as civilian voters.

Security Situation

Among areas with by-elections, Monghsu, Kyethi, and Kengtung Townships in Shan State held particular security concerns. Monghsu and Kyethi had between them eight seats (2 Lower House and 6 State Assembly seats) vacant because elections were canceled in 2015.

The environment in some of these areas required entire villages of voters to vote in neighboring areas rather than their own because their area was still deemed unsuitable to host a polling station. Such a situation puts a serious limit on the freedom to campaign and has the effect of severely reducing turnout in the areas where voters are so burdened. Still, it is encouraging to see that some of the areas where the elections were cancelled in 2015 are now holding elections. Even after these elections, however, there remain sizeable numbers of people in other townships that face security challenges and are yet to vote.

Voter Education

The Union Election Commission (UEC) was more organized this time in preparing voter education materials. According to interviews with the UEC and some of its supporting organizations, the Commission managed to finalize its voter education posters and other materials in December 2016 and started distribution with the help of CSOs beginning January 2017. Most stakeholders interviewed on the topic agreed that this type of coordination with CSOs was also improved compared to 2015. Indeed, ANFREL found the UEC's posters to be by far the most prevalent type of voter education material, with posters on display at the majority of polling stations well in advance of polling.

Voters with Disabilities

One encouraging improvement made by the UEC in this 2017 By-Election is the trial provision of polling stations for voters with disabilities. ANFREL is encouraged by such progress, especially when considering that other more mature democracies in Southeast Asia still don't provide such resources, and hopes to see much broader adoption of accessible polling stations during the 2020 General Election. Identifying voters with disabilities and distinguishing them in the voter list as early as possible in order to provide the UEC more time to prepare will also improve the process going forward. In Sagaing Region, for example, observers witnessed a training for voters with vision impairment and the provision of Braille ballot papers for voters that need them. Such efforts were highly appreciated and helped to make the election more inclusive.

Campaign Period

The campaign period was calm compared to 2015 and trended towards more personal campaign approaches such as visiting house-to-house while distributing pamphlets, posters, and stickers. The fact that no significant incidents were reported during the campaign and cooling period indicates a better pre-election environment, though it must be acknowledged that such improvements are to be expected during a By-Election where control of the government is not at stake.

ANFREL was happy to find that the campaign, for the most part, adhered to the guidelines as laid down in the "Code of Conduct for Political Parties and Candidates" agreed upon by the political parties and the UEC in 2015. The campaign environment is peaceful including in the conflict areas in Shan state, with most candidates feeling more relaxed to campaign during this election compared with the previous 2015 General Elections. Most candidates and political parties reported that the UEC had a simpler and less bureaucratic approach to campaigning, with relaxed requirements regarding specific campaign plans, speakers, locations, etc.

In Shan State, a candidate from the National League for Democracy (NLD), Nan Sint Kham, was unable to campaign in some villages due to rejection by the local residents.

She followed up by filing a complaint to cancel the by-election in those villages (Goon-Jong, Nawtng-Et, Maw-Mayt and Wan-Loi) in Mongshu. But the media reported that Nan Sint Kham alleged that her campaign was threatened by the Shan State Progressive Party (SSPP) and the northern Shan State Army (SSA) during their election campaigning on March 29.

Meanwhile, in Kengtung, Shan state, parties felt no threat to campaign in remote areas compared with 2015. With the exception of the USDP, all parties complained that they were not permitted to campaign in military camps despite early pronouncements by the military that the parties will be given access.

Several infringements such as an indication of vote buying were found but they were very limited. There are reports of mudslinging and using religion in the campaign such as the use of the image of Buddha in pamphlets but these claims too were fairly limited.

Advance Voting

Compared to the 2015 General Election, advance voting in the 2017 by-election showed improvement. Advance Voting was in general more organized and transparent. This time, the in-constituency advance voting schedule was published earlier and implemented as scheduled at most of the places observed.

Despite the improvements for in-constituency advance voting, there are still some areas that need enhancement. Observers found several variations in the implementation of in-constituency advance voting: there are inconsistencies on the use of a pen or stamp for advance voting, the use of envelopes for in-constituency mobile voting in advance for voters with disabilities, and cases where some of the ballot boxes were kept at a private house and couldn't be accessed (such as that of the Ward Chief or Sub-Commission Member).

The improvements observed in the in-constituency advance voting do not apply to outside-constituency advance voting unfortunately. International and domestic election observers, as well as party agents, were not able to observe and monitor out of constituency advance voting due to unclear schedules and limited information published by the UEC. The mission was not able to capture a full picture and thus cannot give a comprehensive assessment of the conduct of outside-constituency advance voting due to this lack of clarity, transparency, and the complexity and difficulty in following the flow of the process.

An additional concern was that outside-constituency voting seemed to be often operated more by different government departments rather than the UEC. While out of constituency advance voting will probably not influence the shape of By-Election results given their small number, it will certainly be significant in the 2020 General Election and is something to address now before it's a problem.

The inclusion of vulnerable persons through mobile polling stations was inspiring to many of the observers. While ANFREL appreciates the UEC's sincere efforts to conduct advance voting for voters unable to travel to polling stations through mobile voting, improvements should be made to ensure the secrecy of the process.

One main cause of the advance voting confusion at some polling stations is the lack of regulations and manuals specific to advance voting. The only manual available (or accessible) is for the overseas advance voting. More training and additional control over some aspects of the process will increase confidence and eliminate some of the existing shortcomings. It will also lead to more procedural uniformity to ensure regulations are strictly followed.

Election Day

Polling Process

In the 22 townships observed, the polling was generally conducted smoothly despite some minor errors. Most polling station members have experience in conducting the 2015 election and therefore they are more confident this time. A crucial aspect which greatly contributed to the transparency of the day is that all aspects of polling day were open to be observed by observers and witnessed by party agents.

Where there were problems, they were mostly minor irregularities due to a lack of training, unclear regulations, and miscommunication between sub-commission levels.

The mission managed to observe 15 polling stations for the opening process, 166 polling stations for during polling, and 13 polling stations during the closing process in 8 states/regions. The process in most areas was held in accordance with the regulations. Only a few polling stations opened late due to slow preparation or the late arrival of staff, or both. Important steps in opening the polling station which were executed well include the presence of party agents (mostly from the NLD and USDP) and local observers in polling centers, materials arriving on time and being placed in their respective positions, the empty ballot box being shown before being sealed on four sides, and the display of Form 13 (list of advance voters).

Another main concern is inadequate voter education revealed by some voters' confusion about the voting procedure. This opportunity is used by party agents to "help" voters in the polling station. Variances in implementation were found in small number of polling stations, where some ballot papers were stamped at the back, some polling officers do not require voters to sign the voter list books, and slow operation of polling process which forced people to queue for extended periods of time. While such variances show a need for more training, they were thankfully the exception, and the polling process as a whole seemed satisfactory.

In comparison to the 2015 elections, domestic and international observers were given official access to observe the advance and election day voting. The mission covered 15 out of the 27 polling stations situated within military camps. The observers saw the implementation of the process within these polling stations as organized, efficient, and has greatly improved in transparency which are all laudable developments. However, some aspects still must be addressed such as the initial decision to put polling stations within military camps at all. Such locations are “controlled areas” not generally conducive to free elections. Given the decision to place polling stations in these camps, restricting access for parties and candidates to hold campaigns and voter education activities inside camps further compromises the openness and freedom of the campaign period and therefore the election itself in these areas.

Closing Process

For the closing process, most polling stations closed on time, voters in the queue at the time of closing were allowed to vote, the results were displayed outside the polling station, no significant incidents happened and no complaints were reported. Compared with the opening and polling process, the counting process is considered more problematic and needs more attention from the UEC. Several irregularities such as advance voting counted last rather than first, Form 16 being signed before results came out and not being posted at the polling station, and unused ballots not being reconciled before the start of counting were among the issues observed.

Counting and Tabulation Process

It’s important to note that, compared to the 2015 General Election, the tabulation process in 2017 was faster than expected and more transparent as the candidates and party agents observed the process in all townships without restrictions. Invalid ballots were mostly due to ballots not stamped correctly likely due to a lack of voter education as observed in some of the by-election areas.

Voter Turnout

Among the major concerns coming out of this by-election is the low voter turnout, which is hopefully not representative of a larger trend and should be addressed so as to avoid repeating. A culture of regular political participation should be cultivated. The importance of elections should be instilled in the minds of Myanmar’s people. Doing so will encourage the development of democracy in the country and undo the negative effects brought about by years of military rule.

A total of 747,450 ballots were cast from the 2,032,536 eligible voters in this 2017 by-election. The voter turnout is somewhat low, less than 50 percent, though the turnout in by-elections is usually lower than the general election turnout.

There are 94 candidates from 24 political parties and 7 independent candidates contesting the 19 vacant constituencies. For the 9 seats of Pyithu Hluttaw, there were 1,212,400 eligible voters but only 430,419 (34.80%) voted on April 1, 2017. For the Amyotha Hluttaw, there were 3 seats vacant and 699,965 eligible voters but only 243,590 (34.03%) came to vote.

As for the State Hluttaw, 7 seats were vacant and there were 226,153 total voters. 110,900 (49.03%) voted on election day.

More worrying than the general turnout was the substantially lower turnout in some areas and the great discrepancy between areas. The highest turnout was for the Amyotha seat in Chin State where 75.37% of the eligible population voted and the lowest was in Hlaing Thayar where only 12.25% of the eligible population voted.

Of the 19 seats, 8 saw turnout higher than 50% such as Ann (61.55%), Chin-Amyotha 3 (75.37%), Hpruso c1 (68.73%), Kawhmu (59.28%), Kyethi (50.67%), Kyethi c1 (55.6%), Monghsu c2 (51.65%), Nyaungshwe c1 (55.94%) and 4 seats saw turnout lower than 40% such as Chaungzon (38.45%), Dagon Myothit (Seikkan)(29.23%), Hlaing Thayar (12.25%), Yangon-Amyothar (27.15%).

Recommendations *(Complete Recommendations can be found at the end of this report on page 92)*

ANFREL recognizes the significant improvement of the electoral situation in Myanmar. The mission recommends the following actions in preparation for the 2020 General Elections:

There have been active moves by the different civil society groups to hold voter education both in remote and urban areas. The UEC should find a more assertive and effective strategy to reach voters. Encouraging greater participation and spreading more information about polling procedures will help to minimize delays in the voting process as well as the spoilage of ballots.

The UEC should find ways to further increase the veracity of the voter list and the inclusiveness of the elections. The development of active and passive approaches of registration such as the house-to-house methods used this year should be continued and expanded. The use of either alphabetical or household voter lists are acceptable, however the use of additional security features such as biometrics should be explored. More importantly, government should ensure the rights of migrant voters to be enfranchised and their rights recognized.

The process of inside and outside constituency advance voting should be revisited. The procedure to hold both processes should be simplified and publicized so interested parties can monitor. Overseas voting is another area where there are great opportunities

for more outreach to better include the many citizens living abroad. Most of these are in nearby countries where an expansion of overseas voting would be relatively inexpensive.

There are efforts needed to ensure a level playing field, especially during campaigns. Existing campaign finance regulations, their implementation and their effectiveness, should be revisited in order to improve transparency and deter any abuse of public resources.

To increase the transparency and integrity of the polling and counting process, the UEC should strengthen communication among the sub-committees as well as increase or refine the training of polling officers to deliver more uniformity in implementing polling rules. The use of information and communication technologies may also be explored to expedite the counting process and tabulation of results. To promote transparency and the freedom to campaign, ANFREL reiterates its position against putting polling centers in military compounds.

Finally, more support should be given in holding elections in areas where elections have still not been held. The UEC should cooperate and negotiate with the government and ethnic groups to achieve this aim. Only then can a government truly representative of the people be achieved.

Introduction and Mission Overview

Overview of Recent Elections

While serious challenges to Myanmar's continued democratic progress remain, the country has in the last decade experienced one of the world's most significant democratic transformations. Rapid progress has been made across a variety of democratic fronts, from greater freedom of expression to the release of many of the country's political prisoners. Change within the country's election system has been similarly encouraging. Looking back, the last 10 years of electoral progress would have seemed hardly possible in 2008. Improvements have been far reaching and across nearly every electoral area, the most obvious result of which is the 2015 election of many longtime members of the opposition. The election of so many opposition members would have been impossible were elections still of the quality of 2008's Referendum or 2010's General Election, both of which were tainted by the heavy influence of the ruling powers at that time.

2010's General Election was the first in 20 years after the drafting of a new constitution and its passing via a problematic referendum in 2008. These elections were stipulated in the military's "Seven Step Roadmap to Democracy". Due to the electoral framework and restrictions put into place via the 2008 constitution, military controlled parliament and Election Commission of that time, the primary opposition party, the National League for Democracy (NLD), boycotted the election citing an unequal playing field and some restrictions which seemed to be specifically targeted at their leadership. This boycott further lessened the perceived legitimacy of the election among the Myanmar citizenry, especially given that the NLD had won the last poll in 1990 - a result that was annulled by the ruling junta of the time. The 1990 polling saw the NLD win just under 60 percent of the vote and around 80 percent of the seats.

So with the NLD boycotting and its leader Aung San Suu Kyi still under house arrest, the military-backed USDP won 259 out of 326 (79%) of the elected seats in lower house or Pyithu Hluttaw and 129 out of 168 (77%) of the elected seats in the upper house or Amyotha Hluttaw. Though independent election observation was not allowed, the 2010 Election was judged by most independent analysts to have been badly flawed and not a legitimate representation of the people's will due to a variety of structural and procedural shortcomings as well as abuse of the advanced voting system and election day fraud.

Following the election, President Thein Sein was sworn into office in March 2011 at the head of a nominally civilian government that replaced almost 50 years of military rule. While he himself was a former high-ranking general, he formally left the military in order to take up the civilian role of President.

Aung San Suu Kyi was freed from house arrest soon after the 2010 election, and her party won by a landslide in limited by-elections in 2012 that foreshadowed what was to

come in 2015. A lingering question going into 2015 was how much improvement would be evident by the end of the electoral cycle and whether it would be enough to provide true integrity to the newly reformed electoral process.

With its election observers deployed all over the country, those questions were answered over the course of ANFREL's observation of the 2015 Election Cycle. While they identified areas still in need of improvement, observers reported back a broadly legitimate election the results of which seemed to accurately represent the will of the people. In the end, and for the first time in a generation, the people of Myanmar were able to exercise their political rights in a relatively free environment, marked by an enthusiastic campaign season, free polling, and the installation of an elected government which reflects the will of the electorate. As observed by ANFREL and as detailed in our reports⁶ from that time, the General Election on November 8, 2015 established a new election benchmark for the country, revealing remarkable electoral progress since 2010 in most parts of the country.

Among the many things learned, 2015 revealed that, while they may be relatively new in their field, the Union Election Commission (UEC) and its supporting organizations were more than capable of managing the elections well, a fact that was far from certain after 2010. The stark contrast between 2010 and 2015 in terms of UEC engagement, transparency, and professionalism cannot be overstated.

After the 2015 election, Parliament formed a government headed by President U Htin Kyaw, who then appointed people to fill the leadership positions in the various Union Ministries and other government bodies. Ten of those appointed were newly elected Hluttaw members, i.e. newly elected members of Parliament. Because of Section 232 (i) of Myanmar's 2008 Constitution, "(i) If the Union Minister is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as a Union Minister", their appointment left vacancies in their former seats.

One of the primary concerns ANFREL did have in 2015 was the de facto disenfranchisement of the people living in areas where elections were cancelled due to violence. However, improvement of security conditions were enough in two townships that did not hold elections in 2015 to allow them to finally elect their own representatives in 2017. These areas would elect six of the 19 representatives chosen on April 1.

The remaining three vacant seats were due to elected representatives that had passed away, leaving a vacancy in their former seat. These vacancies, from promotions ten (10), from areas without elections in 2015 six (6), and from MPs which had passed away three (3), accounted for the 19 seats chosen on April 1. Of these nineteen, nine (9) of the vacant seats are from the Pyithu Hluttaw (lower house), three (3) vacant seats

⁶ ANFREL EOM Report available at <http://anfrel.org/category/mission-reports> Asian Network for Free Elections (ANFREL), 2016

are from the Amyotha Hluttaw (upper house), and the remaining six (6) vacant seats are from the State Hluttaws of Kayah and Shan.

Given the clear improvement coming out of 2015, the challenge in 2017 for all of Myanmar's election stakeholders was to confirm that 2015 was not an aberration. 2015's success also created among the populace new expectations for the quality of elections possible in their country. The country needed to confirm the gains it had made and take another step on its path of electoral progress.

Coming between 2015's historic elections and the next big test in 2020, the By-Elections of 2017 offered the country a unique chance to take stock and assess its electoral development since 2015 and provide data about where it needed to improve before 2020.

ANFREL Mission Profile

ANFREL's observation of the 2017 By-Elections in Myanmar is another chapter in ANFREL's extensive, long-time support for democratization in the country. ANFREL is delighted to have once again returned to Myanmar and looks forward to continuing to support Myanmar's democratic development in the future.

The By-Election Observation Mission, led by ANFREL's Chairperson, Mr. Damaso G. Magbual, deployed an expert team of international election observers and worked with national election monitoring groups to strengthen their observation capacity. ANFREL believes in the crucial importance of monitoring elections in Myanmar to encourage the further development of the electoral process. Further believes that the presence of our observers helps to minimize election irregularities and election related human rights violations. The 2017 By-Election observation mission focused on assessing whether the by-elections meet international standards of free and fair elections and, in particular, the extent to which the recommendations offered by election observers such as ANFREL after the 2015 elections have been implemented. As the only international election observation mission that observed the by-elections, ANFREL is also proud to continue our enthusiastic support for Myanmar's democratic development.

To strengthen local election observation in the country, ANFREL provided additional trainings to National Election Monitoring Groups (NEMGs) which previously participated in the "Empowering Civil Society and Media" program implemented by ANFREL in 2014 and 2015.

As always, the IEOM follows the principles of international election observation and the code of conduct for international election observers.⁷ ANFREL is also guided by internationally recognized human rights and electoral principles, as well as regional standards such as the Bangkok Declaration on Free and Fair Elections and the Dili Indicators of Democratic Elections.⁸

ANFREL selected a gender balanced team of observers recruited from the independent Asian civil society groups that make up its network. The IEOM deployed two (2) election experts (election analysts, or “EA”) for a period of one (1) month to analyze the election preparation and political situation for progress measured against the report and recommendations issued by ANFREL after the November 2015 election. Eleven (11) international election observers (IEOs) deployed for twelve (12) days to the constituencies where elections were held to observe election-related activities from the pre-election period until after the votes are counted. An expert on Myanmar guided the mission team and a management team coordinated all efforts from a temporary office in Yangon. ANFREL spoke to the media and produced regular statements and reports during the mission. An Interim Report and a Press Statement were released at a press conference on the morning of the 3rd of April and this more comprehensive Mission Report builds on that interim report while including more detailed findings from the pre-election and election period and reporting on the post-election election developments since April 3rd.

ANFREL’s Mission Preparation

Mission preparation began at ANFREL’s Bangkok office and at a Field office in Yangon located at the MiCasa Hotel, Yangon. The Yangon field office relied on experienced national and international staff working on logistics administration, management and other logistical challenges. They identified and negotiated with NGOs for potential training activities and liaised with the UEC for accreditation of ANFREL and our observers. The Bangkok office took the lead to recruit observers and manage mission finances and accounting systems.



⁷ Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, NDI and the United Nations Electoral Assistance Division (UNEAD), 2005; Text available at <http://anfrel.org/declaration-of-principles-for-international-election-observation-and-code-of-conduct-for-international-election-observers/>

⁸ See more details at <http://anfrel.org/what-we-do/campaigns-advocacy/>

Following the Union Election Commission's 02/2016 announcement on the "procedures for international election observers observing the Hluttaw elections", ANFREL applied for accreditation to observe the elections. The organization was accredited by the UEC in early February and an operations room was set up from the last week of February in Yangon to speed up mission preparation.

Three full time staff were recruited for 4 months, an administrative/liaison officer, a logistics officer and a program associate. The Union Election Commission arranged for official visas on arrival for ANFREL's observers. The Observers and interpreters were each granted accreditation for observing and interpreting under the same procedures covering organizational accreditation, Procedure 02/2016.

The overall mission was strengthened by consultants who from time to time brought their expertise and knowledge of capacity building, mission operations, security, ELMO ODK reporting, logistics, and finance.

At various times both before and after the election, members of the team met with the Union Election Commission Chairman U Hla Thein and UEC Commissioners in Naypyidaw to assess the UEC's election preparations, to help push through ANFREL's observer accreditation, and to report and discuss preliminary findings with the Commission.

By-Election Law & Administration

Constitutional and Legal Framework

The 2017 By-Elections were based on laws left largely unchanged from the legal framework created for the 2010 election by the 2008 Constitution and the election related legislation that followed in early 2010.

Despite the significant transfer of power coming out of the 2015 Elections, the ruling government has not yet made, and in the case of the Constitution, cannot make, major changes to the Country's Electoral Framework. While Myanmar's electoral laws saw some amendments and updates after the 2010 & 2015 Elections such as those mentioned above, the Union Election Commission Law, the Political Parties Registration Law, the Pyithu Hluttaw (House of Representatives) Electoral Law, the Amyotha Hluttaw (House of Nationalities) Electoral Law, the President & Vice-Presidents Election Law, and the Region and State Assemblies Law have remained largely similar to their 2010 versions released by the then-ruling State Peace and Development Council (SPDC).

Myanmar's people foster growing expectations of continued democratic reform. For this to happen, deeper constitutional and legal reform is badly needed. While the few improvements that have been made should be encouraged, the electoral and legal framework of the country continues to include outdated artifacts of the country's military past that undermine the overall integrity of Myanmar's electoral system.

Primary among what ANFREL sees as the current system's shortcomings is the continued apportionment to the military of 25 percent of the seats in the Pyidaungsu Hluttaw, the combined Upper and Lower Houses of Parliament, as well as the State and Region Parliaments.⁹ To secure a permanent place in Burma's politics, the military reserves for itself a quarter of the total seats in parliament and every local assembly. These "representatives who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services" are directly antithetical to the ideas of civilian government and the transition to democracy the junta was supposedly bringing about. This serious flaw has been the subject of complaints and criticism from the moment the 2008 constitution was introduced. Despite this, this troubling privilege for the military remains in place.

This twenty-five percent set aside of seats reserved for persons appointed directly by the Military Commander-in-Chief results in there being one-hundred and sixty-eight (168) elected seats out of two-hundred and twenty-four (224) total seats in the Amyotha Hluttaw, or Upper House of Parliament and three-hundred and thirty (330) elected seats

⁹ Constitution of the Republic of the Union of Myanmar (2008) Chapter IV "Legislature" Sections 109 (b) & 141 (b).

out of four-hundred and forty (440) total seats in the Pyithu Hluttaw.¹⁰ The Commander-in-Chief appoints the remaining 56 members of the Upper House and the 110 military MPs in the lower house.¹¹

For as long as it remains in the constitution, the military quota muffles the voice of the people as expressed through the polling booth and which should be fully reflected in Parliament. While it was not as contentious of an issue as it might have been in 2015 because of the one-sided election results, it could in the future lead to situations in which a party or parties receiving a minority share of seats are able to coalition solely with unelected military members of Parliament to form what would be considered by most to be an unrepresentative government. Whether or not such a crisis ever occurs, military seats in Parliament run counter to democratic principles and should be eliminated.

Regardless of whether such a scenario ever occurs, the existence of the military bloc continually impacts the decision-making of elected political parties within parliament and the majorities they need to pass legislation, form committees, elect the president and amend the constitution when the military bloc is not voting with them. For each, they need at least a supermajority or greater of elected seats to conduct routine parliamentary business that would normally require a lower threshold.

The anti-democratic nature of the military bloc is clearest here when it comes to amending certain sections of the constitution. The military maintains what is effectively full veto power over amendments to key sections of the constitution thanks to their 25 percent quota and the 75 percent plus one requirement for amending these sections. On the matter of constitutional amending, Chapter XII of the 2008 Constitution lays out that, “It shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nationwide referendum only with the votes of more than half of those who are eligible to vote.”¹² In essence, the constitution that was drafted by a military government and approved via a problematic referendum, can never be amended without military approval. No matter the popularity of an amendment among the public and their elected MPs, no number of elected MPs can themselves amend the constitution without the support of some military MPs.

While it is unsurprising that a document drafted by military appointees would contain such a provision, the military’s veto power here is especially worrying over the long-term, as it keeps the military entrenched in the political decision-making of the country. While this is consistent with the ‘Basic Principles’ stated in Chapter 6 of the Constitution

¹⁰ Constitution of the Republic of the Union of Myanmar (2008) Chapter IV “Legislature” Sections 141 (a&b) & Sections 109 (a&b)

¹¹ Constitution of the Republic of the Union of Myanmar (2008) Chapter IV “Legislature” Sections 141 (b) & Sections 109 (b)

¹² Id. at Chapter XII “Amendment of the Constitution”, Section 436 (a)

which provides for a political role for the military, these sections and others like them contradict the basic principles of democracy and jeopardize the country's transition to becoming a modern, electoral democracy.¹³

Because of this, ANFREL believes that transitioning to a more democratic parliamentary makeup in which one hundred percent of its representatives are elected by the people should be a natural next step in the country's democratic progression. Hopefully, Myanmar can learn from the example of countries like Indonesia, which once had a military bloc within its parliament but has long since transitioned to a more representative parliamentary model as it has consolidated its own democratic gains. Following that example would be since transitioned to a more representative parliamentary model as it consolidated its own democratic gains. Following that example would be a significant step toward realizing a fully-elected, civilian-led government for the country.

Several other provisions within the electoral law proved controversial during the 2015 elections and are worthy of study for future reform. Section 59 of the Constitution relates to the Qualifications of the President and Vice-Presidents. Its subsection (f) proved to be particularly controversial due to it having the effect of barring NLD leader Aung San Suu Kyi from becoming president despite the landslide victory of her party. It states that the President "shall he himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country;"¹⁴ With little to no justification provided in the law, most analysts agreed that this section was written with the specific intent of barring Suu Kyi, who has children of British citizenship from her previous marriage, from the presidency.

Both before and after the election members of the opposition NLD tried to first amend and later suspend Section 59 (f) in order to allow for Suu Kyi's ascension to the presidency.¹⁵ Eliminating such a personally targeted clause that exists without relevance to a leader's ability to be an effective president would increase the public's freedom to elect the person of their choosing and bolster public confidence in the constitution's fairness and neutrality.

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 providing each State and Region equal representation in the Upper House.¹⁶ To some degree, this is a political

¹³ "The Union's consistent objectives are: (f) enabling the Defence Services to be able to participate in the National political leadership role of the State." Id. at Chapter I "Basic Principles of the Union" Section 6 (f)

¹⁴ Constitution of the Republic of the Union of Myanmar (2008) Chapter III "The President and Vice-Presidents" Sections 59 (f).

¹⁵ Id.

¹⁶ Id. at Chapter IV "Legislature" Sections 109 (a) & 141 (b).

decision which the people of Myanmar are of course free to decide for themselves. ANFREL however believes the imbalance built into the system, in particular that of the lower house, is at least worth studying and exploring avenues for possible future reform. Systems of boundary delimitation that result in dramatic imbalances of representation (voters per seat) have proven problematic in a number of countries and ANFREL would like to see Myanmar avoid such problems in the future. If more equitable divisions of constituencies and the number of voters represented by each MP can be agreed upon, ANFREL believes such reforms would strengthen the underlying fairness in the system.

With the celebrated momentum of Myanmar's transition to democracy, it is easy to forget that the Constitution of the Union of Myanmar and electoral laws originally written by the military regime that ruled the country remain highly problematic and fail several key democratic metrics. We believes in country's great democratic potential. It also believes that for the country to reach its full democratic promise, the Constitution and electoral laws of Myanmar need to be reviewed and amended via an inclusive, civilian-led process that results in a constitution and set of electoral laws that better reflect democratic principles and the hopes and desires of the people of Myanmar.

Electoral System: By-Elections in Myanmar

By-Elections were defined in the Political Parties Registration Law of the Union of Myanmar as *“elections designated and held by the Commission from time to time for constituencies which become vacant due to the postponement of election in any constituency or resignation, death, termination or revocation of duty from a Hluttaw representative in accord with law within a regular term of Hluttaw.”*¹⁷

On June 8, 2016, President U Htin Kyaw signed three bills amending provisions related to filling Hluttaw vacancies in each of the Pyithu Hluttaw, Amyotha Hluttaw, and the Region and State Hluttaw Electoral laws. These were the 4th Amending Laws to each and each originally had an identical Section 89 which stated simply, “If there is a vacancy for Hluttaw representative due to any reason in the Hluttaw, it shall be substituted by election in accord with law.” The amendments added more specificity to the filling of vacancies. Section 89 (a) of the 4th Amending Laws, for example, provided specific time limits before which By-Elections must be held based on when in the Hluttaw term the vacancy comes open.¹⁸

Observers documented the UEC's strong commitment to strengthen the electoral process before the 2020 elections. Recommendations from past-elections that are within the power of the UEC were carried out. The major outcome was the review of five key principles of legal and regulatory reform and then developing a consensus to apply some of the principles within the Myanmar context.

¹⁷ Political Parties Registration Law, Chapter 1, Article 2, Subsection h

¹⁸ “The Fourth Amending Law of Pyithu Hluttaw Election Law”; Law No 30/2016, passed on June 8, 2016; an example of 4th Amending Law changes made to Section 89 in each of Upper, Lower, & Region/State Hluttaw Election Law;

The April 1st By-Election highlighted some of the non-legislative changes the UEC made to regulations to improve the voter list, voting procedures, counting and consolidation procedures, and enhance the transparency of voting in military camps on election day. The UEC published the 2017 Myanmar By-Elections: Polling Station Officer, Deputy Polling Station Officer and Polling Station Member' Manual which was found to be very useful not only for polling officers but also for observers and party agents.

Despite this achievement, Myanmar needs adequate legislation creating a legal framework that allows for more electoral reform and more democratic elections. It is important for us to remind, again, that reforming the provisions on elections of members of parliament to create a fully elected parliament is a necessary and fundamental democratic step. Included with this is a need to define who the citizens of the country are and apply a fair standard to all in order to avoid the disenfranchisement of so many ethnic minority voters and candidates.

As in 2010 and 2015, Myanmar uses a first past the post (FPTP) system to elect representatives from single-member constituencies to the 3 types of Elected Bodies electing members on 01 April 2017. Two at the national level, the Amoytha Hluttaw, Myanmar's upper house of Parliament, the Pyithu Hluttaw, Parliament's lower house, and the local Parliaments in each Region and State.

In the upper house, all of Myanmar's Regions and States are represented equally with twelve representatives each, for a total of 168 representatives. Within each state/region, constituencies for the upper house seats are first determined based on that state or region's townships. But for the states or regions that had more or less than twelve townships, the UEC combined or divided the smallest or largest townships by population to ensure the necessary twelve constituencies. For example, in those regions or states that have less than twelve townships, the UEC divided the largest townships in that state/region into two constituencies. In the other states or regions that had more than twelve townships, it combined those townships with the least population into a single constituency until the region or state had the necessary twelve constituencies.

For the lower house, the Pyithu Hluttaw, this kind of adjustment is less needed as the allotment of the three hundred and thirty elected seats there are based on the three hundred and thirty townships alone, without any requirement of equal numbers of seats between the regions and states. This means large states like Shan State will send more MPs to Parliament because it has more townships than its smaller neighboring states and regions. Section 109 of the Constitution establishes that "the Pyithu Hluttaw shall be formed with a maximum of 440 Hluttaw representatives as follows: (a) not more than 330 Pyithu Hluttaw representatives elected prescribing electorate in accord with law on the basis of township as well as population or combining with an appropriate township which is contiguous to the newly-formed township if it is more than 330 townships; (b) not more than 110 Pyithu Hluttaw representatives who are the Defence Services

personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law.”¹⁹

At the region and state assembly level, the number of seats in each Assembly is determined by a number of factors. The largest number of seats comes from a simple calculation based on the number of townships in that region or state, where each township is split into two single-member constituencies with first past the post elections determining the winner.

Much like at the national level, the military here too holds a quota of seats appointed by the Commander in Chief that’s 1/3 of the number of elected seats, an amount that results in an approximate twenty-five percent of the total seats in the Assembly.

The last factor determining the makeup of local assemblies is the ethnic makeup and population of that particular region or state, thanks to the inclusion in the local Assembly of “National Race Representatives” or “Ethnic Affairs Ministers”, the number of which is determined by the numbers of ethnic minorities living in a particular region or state. Section 15 of the Constitution establishes the right that “for National races with suitable population, National races representatives are entitled to participate in legislature of Regions or States and Self-Administered Areas concerned.”²⁰

The UEC has shown a strong commitment to strengthen the electoral process before the 2020 elections. Recommendations from past-elections that are within the power of the UEC have been carried out. The major outcome was reviewing five key principles of legal and regulatory reform and then developing a consensus to apply some of the principles within the Myanmar context.

Electoral Administration & Union Election Commission (UEC)

The term "Electoral Management Body (EMB)" refers to the government agency specifically charged with conducting elections.²¹ Myanmar’s electoral management body, the Union Election Commission (UEC), was established by the 2008 Constitution of the Republic of the Union of Myanmar.²²

The UEC was created after the constitutional referendum held in May 2008. It now has almost a decade of experience and has shown steady progress since its origin. However, further steps are still needed in order to assure its independence and impartiality.²³ Taking such steps would help to ensure that Myanmar continues its progress in making

¹⁹ Id. at Section 109 (a&b)

²⁰ Constitution of the Republic of the Union of Myanmar (2008) Chapter I “Basic Principles of the Union” Section 15.

²¹ Gender Equality & Election Management Bodies: A Best Practices Guide, International Foundation for Electoral Systems, 2014.

²² Constitution of the Republic of the Union of Myanmar, 2008.

²³ Burma's by-elections: still short of international standards, Alternative Asean Network on Burma, 2012.

its elections free and fair and consistent with accepted international principles of democracy.

Under Myanmar law, the main duty of the UEC is to conduct elections for the non-military members of the National Assembly as well as each region/state assembly, including overseeing the right of every citizen of the Union of Myanmar to participate in the elections, and supervising political parties.²⁴ The UEC is responsible for holding, supervising and conducting the administrative functions for legislative elections during the pre-election, election, and post-election periods.

The UEC is a permanent, independent government agency overseen by commissioners appointed by the President and approved by parliament. There is a central secretariat headquartered in Naypyidaw, with sub-commissions at the State/region and township levels across the country. According to the applicable law²⁵, the UEC must have at least five commissioners (with no upper limit). The all-male UEC Commission that managed the 2017 By-Election was appointed on March 30, 2016 by President U Htin Kyaw, presumably in consultation with State Counselor Aung San Suu Kyi, the de facto head of government. Its members are: U Hla Thein (Chairman), U Aung Myint (Member), U Soe Yae (Member), U Tun Khin (Member), and U Hla Tint (Member).²⁶

In this year's by-elections, despite NLD allegations of irregularities in the registration and voting processes, foreign observers generally agreed that, while falling short of international standards, the elections were generally legitimate, free and fair – quite unlike the sham 2010 elections. In the 2015 general elections, although the election administration lacked legal and structural independence, the UEC appeared to have conducted its work in good faith.²⁷

Through its efforts to ensure that the by-election polling was well organized and transparent, the UEC appeared to gain the confidence of electoral stakeholders and substantially improve their management of the April 1 polls in a number of important areas. Among the visible achievements observed were improvements to poll officer discipline and knowledge in operating the elections. Transparency was also enhanced by providing greater access to information to the public and by opening up the polling process in military camps to scrutiny, which, in turn, improved the public's trust in the Commission. The UEC's cooperation with electoral stakeholders and observers, both national and international, was also commendable.

Despite all these achievements, the mission still found some room for improvement in the election management. One main concern was a lack of coordination and poor communication at the UEC sub-commission level. The UEC has several levels of sub-

²⁴ The Union Election Commission Law (the Pyidaungsu Hluttaw Law No: 3/2012), 2012

²⁵ Ibid 5 and Ibid 6

²⁶ <http://www.myanmarpresidentoffice.gov.mm/2015en/?q=briefing-room/news/2016/03/31/id-6500>

²⁷ Observing Myanmar's 2015 General Elections: Final Report, the Carter Center, 2016

national offices, including at the state/region, district, townships, and village tract/ward levels. Observers found there was generally no uniform information provided by UEC sub-commissions from one state or region to the next, and that created confusion.

Observer's Report:

In Yangon Region, observer received different information related with ... stated between the UEC sub-commission secretary in Yangon Region and the UEC sub-commission members in village tract/ward level. While in Thantlang Township (Chin State), miscommunication related with distributing election logistics among the UEC sub-commission township and village tract/ward.

Indeed, poor communications were noted in ANFREL's report on the 2015 elections but apparently remain a problem.²⁸

“ANFREL believes this stems from what seemed at times to be a disconnect or a failure to communicate between the UEC and its various sub-commissions. What the mission found was the decision from the UEC were not properly communicated to, or understood at, the lower level.”

The UEC is considered a mixed model EMB, composed of a constitutionally independent election commission with its own secretariat but supported with resources and personnel from the General Administration Department (GAD), the Ministry of Immigration and Population, and various other ministries with offices at the township and village tract/ward administrative levels. Therefore, most UEC sub-commissions are located in GAD offices and rely on their personnel, which raises some doubts about the independence and credibility of the UEC. Best international practices prescribe an independent and impartial body charged with implementing elections as the best means of ensuring the integrity of the electoral process.²⁹

Therefore, ANFREL reiterates the recommendation set forth in its report on the 2015 election that additional resources (human and financial) be committed for local election administration staff members. The objective is to ensure the independence of the UEC by reducing its reliance on GAD. Best practices from other countries indicate that structural and procedural independence can help to better insulate electoral management bodies from political influence and from charges of being partisan. ANFREL urges the government to make all UEC sub-commission members, including those at the village tract/ward levels, permanent election commission staff members detached from GAD.

²⁸ General & Local Elections Myanmar 2015: Asian Network for Free Elections (ANFREL) Election Observation Mission Report, pg.31

²⁹ Election Obligation and Standard: the Carter Center Assessment Manual, the Carter Center.

Observer's Report:

Observer found isolated cases of complaints related to the neutrality of the UEC sub-committee. One example is in a rural area, Min Kaung village in Kyethi Township (Shan State), where the neutrality of the UEC is being questioned as the village head who is handling the election including managing polling stations together with a group of people observed to be affiliated with SNLD party. Observer found SNLD stickers around their working area and cars. However, there is no proof of the village head influencing voters and he was facilitating all political parties during campaign period equally. In Hpruso Township (Kayah State), some of UEC sub-commissions in village tract/ward level have no base office so they kept the election logistic (in this case is Advance Voting ballot box) in their house while some candidates accused them being biased in favor of big political parties.

This situation was made worse by the lack of election knowledge among UEC sub-commission members, especially in village tract/ward levels, where they also lacked adequate financial resources. As a result, they were functionally and operationally dependent on local government administrative structures, particularly the GAD.³⁰ This is highly problematic, since election management mostly depends on the UEC sub-commissions at the village tract/wards levels, but the election officials at such levels are less supported by information and financial resources. This leads to a great deal of variation in the procedures followed, which can lower the perceived professionalism of the UEC and the fairness of the election itself. Training for UEC staff remains an urgent task to prepare for the 2020 general elections, though the UEC sub-commission members exhibited great confidence in operating the by-elections, probably because most had experience gained from working in the 2015 general elections.

Another concern is that none of the five (5) UEC members appointed by the current government are women or ethnic minorities.³¹ The UEC commissioners are appointed by the president and can only be rejected by parliament for failure to meet constitutional criteria but nowhere in the process is there a fit and proper test screening,³² potentially allowing politicization of the UEC. While the NLD expressed this concern when it was in the opposition to the government, claiming that UEC members were too close to the government led by the USDP³³, it has resorted to the same process now that it leads the government.

Finally, one report from Ann Township (Rakhine State) indicated that the UEC sub-commission at the district level was reluctant to provide the polling station list and number of voters, and further refused to show the outside-constituency advance voting

³⁰ Ibid 10

³¹ <http://www.myanmarpresidentoffice.gov.mm/2015en/?q=briefing-room/news/2016/03/31/id-6500>

³² Ibid 5 and Ibid 6

³³ <https://www.irrawaddy.com/election/news/senior-nld-leader-calls-uec-bias-over-election-complaints>

ballot box. Except for that single report, the UEC sub-commissions were viewed as being collaborative and communicative with observers. In general, the UEC seemed committed and worked hard to make sure the by-elections ran smoothly.

Pre-Election

Campaign Environment and Activities

Compared to 2015, campaigning by candidates and political parties in 2017 seemed less enthusiastic in most of the states and regions holding by-elections. Indeed, the 60-day campaign period set by the UEC starting January 30, 2017 was much more modest than 2015.

Putting aside the extent of campaigning, the general campaign environment leading up to the 2017 by-elections was an improvement over the 2015 campaign environment.

This is because, for the most part, campaigning adhered to the guidelines set forth in the “Code of Conduct for Political Parties and Candidates” agreed upon by the political parties and the UEC in 2015.

The campaign environment was generally peaceful, even in the conflict areas in Shan, with most candidates feeling more relaxed to campaign this year than in 2015. Candidates and political parties were not required to submit their campaign content to the UEC, but, in some townships, local authorities still required that they do so, suggesting a lack of understanding or awareness among some at local levels that this was not required as it had been in 2015.

Most of the candidates and political parties interviewed by ANFREL observers said that they appreciated the freer nature of campaigning in the 2017 by-elections, noting that fewer approvals were needed than in 2015.

A candidate of the National League for Democracy (NLD), Nan Sint Kham, claims that she was unable to campaign in some villages due to intimidation by the local residents. She followed up by filing a complaint asking to cancel the by-election in those three villages (Goon-Jong, Nawtng-Et, Maw-Mayt and Wan-Loi) in Mongshu constituency 2 of the state legislature.

The media reported that Nan Sint Kham alleged that her campaign was threatened by the Shan State Progressive Party (SSPP) and Shan State Army during their election campaigning on March 29. She said that, while explaining how to vote in the by-election, she and campaigners for the NLD heard the sound of gunfire and were afraid to continue their campaign activities in Maw Mae village.

Nan Sint Kham told The Myanmar Times that NLD candidates and campaigners had met with voters in Mongshu and were told that the villagers were afraid of voting for the NLD in the by-election.

ANFREL observers noticed that, in some areas, candidates and political parties still

engaged in vote buying, with voters receiving payments of around KYAT 4,000 -5,000/ person from the USDP (Shan-Kengtung, Chin-Thantlang “incentives by USDP” around KYAT 3,000/person). They also observed NLD providing t-shirts and pants in Chin-Thantlang and providing lunch in Bago. No complaints were filed concerning these accusations, but vigilance should still be observed to discourage such undue influence over voters.

In Chin, mission observed that the NLD was using the power of incumbency to try to influence the voters, with the president of Myanmar (February 6, 2017), the vice president (February 21, 2017) and 12 union level ministers visiting Thantlang to urge support for NLD candidates. The Code of Conduct [CoC] for political parties and candidates signed by most of the political parties including the NLD included provision 6.2 pledging that “...a senior government official must not campaign for a candidate using his/her position, authority and financial means.” Such campaigning by senior leaders would seem to violate at least the spirit of the CoC and, while it is not a legally binding document, it is a set of ethical principles that carries with it a moral obligation to follow.

In Mon state, all candidates and political parties complained of logistical problems in holding rallies and meetings before the cooling period, because all the parties wanted to campaign in the same place/area in Chaungzon at the same time. They chastised the UEC for failing to pay attention and not formulating a plan which would allow each party to conduct campaign activities, without one party infringing on another's campaign activities, even though they had given their plans in advance to the UEC.

Meanwhile, in the Kengtung constituency of Shan state, parties said that they did not feel threatened when campaigning in remote areas, in contrast to the situation there in 2015 and in contrast to the concerns raised elsewhere in Shan by Nan Sint Kham. With the exception of the USDP, all parties complained that they were not permitted to campaign in military camps despite early pronouncements by the military that the parties would be given access.

Most of the candidates and political parties employed a direct personal approach to campaigning, such as house-to-house visits and distributing posters, pamphlets and stickers. Other campaign activities included giving speeches and holding group meetings, staged shows and live concerts.

In general, while some violations such as indications of vote buying were found, these were very limited. There were also reports of hate speeches from candidates and political parties and using religion in the campaign such as use of the image of Buddha in a pamphlet but these claims too were fairly limited.

ANFREL was happy to find that the campaign for the most part was conducted in keeping with the guidelines adopted in the Code of Conduct (CoC) agreed upon by the political parties and the UEC in 2015.

Voter List Update

An accurate voter list ensures eligible voters' right to vote and adds credibility to the electoral results. Heading into the 2017 by-elections, one of the critical issues was correcting the list of voters compiled by the UEC prior to the 2015 general elections. This was necessary because the 2015 voter list was widely considered one of the most problematic aspects of the 2015 elections, with the UEC receiving considerable criticism for it in the media. Not only did the voter list contain numerous and substantial errors regarding the names that were on the list, it also failed to include many eligible voters who thought they had properly registered to vote.

The UEC therefore made considerable efforts in the run-up to the 2017 by-elections to prepare an accurate, current and complete voter list. Information gathered describe a three-step process used by the UEC to update the voter list in time for the 2017 by-elections:

1. Beginning in August 2016, relevant data from the database containing the 2015 voter list was distributed to all townships (8 states/regions) holding by-elections for printing;
2. Door-to-door voter list verification was conducted in November 2016 with the support of civil society organizations, an ambitious UEC program with the aim of visiting all households in the areas holding by-elections. However, according to the domestic observation group, the Peoples' Alliance for Credible Elections' (PACE) pre-election quantitative survey which covered all 22 townships, only 55% of respondents indicated that they had been visited by the UEC;
3. Each local voter list was displayed twice (the first two weeks of February 2017 and again on March 2), allowing people to check and report any problems to the UEC.

Based on IFES's preliminary report, approximately 10.3% of names were added and up to 1.83% of names were removed from the voter list, resulting in an official number of 2,032,536 registered voters in the constituencies holding by-elections. Moreover, based on ANFREL's observations, the 2017 voter list was considerably more accurate than the lists used in previous elections. Indeed, ANFREL observers did not report any major complaints about the 2017 voter list.

Township	2015 Voter List	2017 Voter List	Variation
Ann	73,693	75,828	2.82%
Chaungzon	126,629	126,225	-0.32%
Dagon Myothit East	111,835	99,631	-12.25%
Dagon Myothit Seikkan	84,228	89,807	6.21%
Hlaing Thayar	443,998	378,516	-17.30%
Hpruso*	8,693	9,570	9.16%
Kawhmu	92,528	94,698	2.29%
Kengtung*	56,217	56,136	-0.14%
Kyethi	51,480	53,415	3.69%
Monghsu	53,703	43,964	-22.15%
Monywa	234,936	250,040	6.04%
Nyaungshwe*	62,254	62,705	0.72%
Amyotha Bago 4	321,061	320,338	-0.23%
Amyotha Yangon 6	349,757	343,600	-1.79%
Amyotha Chin 3	27,902	28,027	0.45%

Looking back at ANFREL’s recommendations from its final report on the 2015 general elections, ANFREL believes that the UEC has largely achieved its intention of having an accurate voter list, which, of course, boosted the credibility of the election and public confidence in the UEC. Key to the success was the door-to-door verification effort, which resulted in a cleaner and more credible voter list. ANFREL observed that the door-to-door verification strategy was particularly appreciated by people living in rural and isolated areas where transportation is difficult. Indeed, the majority of voters live in poor rural areas with challenging geographic conditions. For these people, door-to-door verification showed that they were appreciated by the government and that their rights were being protected. After years of military dictatorship, this pro-active strategy by the UEC was a positive step to try to gain people’s trust.

Still, one must keep in mind that the 2017 by-elections were held for only a small portion of the electorate compared to the nationwide general elections two years earlier. Whilst the door-to-door campaign showed good intentions by the UEC, this strategy required huge amounts of manpower and challenging logistics, and even for this relatively modest slice of the nationwide electorate voting in 2017, the UEC did not manage to visit all houses. ANFREL’s observers noted of comments that the conduct of the door-to-door data gathering was uneven, which had the effect of leaving some households unvisited. That raised a question about the ability of the UEC to do the same prior to the 2020 General Elections. Election management cannot rely only on good intentions, but it must use more effective and efficient methods in light of the amount of time, manpower, and money available to improve the voter list. The UEC is fortunate for now to have ample help with voter list management from Electoral Assistance Organizations

such as IFES but they will inevitably need to grow more self-sufficient as such support decreases in the future.

Meanwhile, the other main UEC strategy – making corrections during the periods when the voter list was publicly displayed - was not very successful. As noted above, the UEC displayed the voter list twice at UEC sub-commission offices at the village tract/ward levels, but very few people showed up to check their names or raise complaints. Worse, there were some isolated cases where ANFREL observers found that the voter list had not been displayed at all or had been displayed carelessly, where it was subject to rain or sun damage. This strategy depends for success on people taking the initiative to come to the sub-commission offices, but there was a low level of political interest, perhaps a legacy of years of suppression of civil rights by the military regime. For nearly fifty years, the government was associated with the military and, today, displaying the voter list in a government office will not help much, as many people still think it best to keep a safe distance from the government/military.

One possible alternative is to display the voter list in more friendly public spaces like markets, schools, and parks. That might encourage people to check their names. That strategy has worked in several other Asian countries. In the long term, there is a huge need to increase people's political interest, which goes hand in hand with increasing electoral education nationwide.

In addition to allowing voters to manually check their names at the UEC sub-commission village tract/ward level offices, the UEC also provided for checking online (<https://checkvoterlist.uecmyanmar.org/>), a mechanism launched in 2015 to allow voters to check whether other biodata tied to their voter registration is correct. The website is Unicode-compliant and low-bandwidth friendly, making it more accessible for most Burmese internet users. There is no statistical data yet on the effectiveness of this website in the voter list verification process, and it may be that only a relatively small number of people used it due to limited internet access and knowledge in the country.

Tied to updating the voter list is the voter identification slip, which is given to registered voters in order to make it easy for them to find their polling station and to make it easier for polling officers to find their names when they show up to vote. ANFREL observers found the slips had generally been distributed days before election day. While other observers expressed the concern that some voter identification slips were being misused, ANFREL observers did not witness any such misuse. ANFREL observers and other international representation from some embassies did witness a number of cases where there are individuals distributing voter identification slips in front of polling stations on E-day. While this raised some initial concerns as a potential avenue for fraud, the polling station distribution ANFREL observed, while not ideal, seemed to be the product of pragmatism rather than an attempt to commit fraud. Still, ANFREL believes that identification slips should be distributed completely before E-day and only by UEC officials.

Although improved this year, the voter list still had some errors such as missing names, duplications, and mistaken voter information, but it was a considerable improvement from the listed used in 2015. However, language barriers are still a problem and should be further addressed by the UEC, since many ethnic minorities are unable to read Burmese, for example in Monghsu of Shan state and Thantlang of Chin state. This applies not only to voter registration/list materials but also to other materials related to the elections.

Registration of Parties & Candidates



Figure 1: Voter identification slip distribution on election day in Pengtauk Village in Kengtung, Shan State

Compared to ANFREL's 2015 findings on that year's registration of parties and candidates, which were not very positive, this year's registration process during the by-election has seen tremendous improvements on transparency and fairness.

During the 2015 General Election, ANFREL's interlocutors were critical of the procedures used to register parties and candidates due to the biased and inconsistent application of qualification criteria which favored certain groups over others.³⁴ In particular, the very stringent rules for candidate eligibility and their selective enforcement were often criticized. In particular, ANFREL's 2015 observation found that the authorities applied the eligibility criteria more strictly to Muslim candidates and were more lenient and flexible when assessing the registration of candidates with Chinese or other non-Muslim ancestry.

Only minor issues surfaced during the registration of political parties and candidates

³⁴ General & Local Elections Myanmar 2015: ANFREL Election Observation Mission Report, 2016, pg. 47

for the by-elections. Interviews with candidates and political parties revealed them to be quite satisfied with the registration process being applied in what they believed was a more democratic manner. All that said, the smaller number of candidates and the particular areas voting in the by-election may have allowed the UEC to avoid the constituencies from 2015 that had the most contentious registration processes.

According to data from the UEC, a total of 87 candidates from 24 political parties and 7 independent candidates competed for the 19 seats that were vacant. The contested seats included 9 seats in the Pyithu Hluttaw (Lower House), 3 seats in the Amyotha Hluttaw (Upper House) and 7 seats in the State/Region Assemblies.

The primary political parties contesting in the 2017 by-election are the National League for Democracy (NLD), the Union Solidarity and Development Party (USDP), the Arakan National Party (ANP), the Shan Nationalities League for Democracy (SNLD), the Mon National Party (MNP), the National Unity Party (NUP), the National Democratic Force (NDF), the All Nationalities Democratic Party (Kayah State) (ANDP) and the Myanmar National Congress Party (MNCP).

A sizeable number of the total candidates were affiliated with either the USDP (19 candidates) or the NLD (18 candidates, with the other main political parties such as the NUP (3 candidates), SNLD (7 candidates), ANP (2 candidates), SNLD (7 candidates), MNP (1 candidate), NDF (5 candidates), ANDP (1 candidate) and MNCP (1 candidate) fielding significantly fewer candidates.³⁵

Voter Education

Successful voter education ensures that voters are well informed about the election process as well as about the contestants so they are ready, willing, and able to participate fully in the election process and make informed decisions at the polling station. Voters must understand how to exercise their right to vote on Election Day, the risks of their ballot being disqualified for being improperly marked, or issues that may restrict or eliminate their ability to participate. Effective Voter Education campaigns begin well in advance of Election Day. Inclusive voter education campaigns that take into account minority languages, concerns related to visually impaired and handicapped voters etc. are essential aspects of a genuine voter education process prior to an election.

Voter education during the pre-election period is therefore considered to be a vital element of a free and fair election and a prerequisite for a country to become a thriving democracy. It helps the public make informed decisions at the polling center, and better understand how to exercise their right to vote and be more aware of the electoral process as a whole. While Myanmar's people have learned a great deal about participatory

³⁵ Can refer the Registrations of Candidates and Political Parties at the Annex.

democracy in recent years, the country still has comparatively less exposure to democratic elections. More intensive voter education activities are therefore a must to ensure that the people are well aware of the electoral process and the importance of their active participation in it.

ANFREL's observers noted the Union Election Commission's (UEC) improved effort to ensure that the people of Myanmar are aware of the by-election process. The UEC, with assistance from the International Foundation for Electoral Systems (IFES), distributed voter education materials to educate the voters on the 2017 by-election. They distributed 228,000 voter list pamphlets and 23,000 voter list posters with the help from local Civil Society Organizations (CSOs) in the areas related to the by-election. One pamphlet is distributed for every 10 voters while one poster is distributed for every 100 voters.

The voter education materials were also made available in 5 ethnic languages and 28,000 such pamphlets were distributed to areas with large numbers of voters from a minority ethnic group. UEC-IFES with the help from local CSOs distributed 217,000 pamphlets and 23,000 posters on voter education. There were 23,500 motivational posters also distributed in the by-election related areas with the help from local CSOs. 5,750 posters in 5 ethnic languages were distributed as well.

The mission witnessed a variety of methods used for voter education. Among them, the use of a loudspeaker, display banners (tarpaulin), posters, pamphlets, motivational posters in different languages (Shan, Mon, Rakhine, Lai and Kareni), and also the use of social media were all common. Depending on the type and medium used for the voter education, distribution ranged from online to door-to-door.

There were workshops on voter education held by CSOs such as EEOPs, PACE, Hornbill, Justice Drum, Bago Observers Group, KBI, iSchool and the New Myanmar Foundation NMF in all the constituencies and townships involved in the by-election. Political parties and candidates were also involved in educating the voters to ensure they had basic information about how and when to vote. Publication materials and the methods used to educate voters on the election process were quite satisfactory, though ANFREL hopes to see these methods and materials provided in a more widespread and intensive way before 2020.

In Hlaing Thayar (Yangon), the Myanmar Independent Living Initiative (MILI), a CSO for persons with disabilities, encouraged voters with disabilities to vote in the 2017 by-election. In Chaungzon (Mon), ANFREL observed CSOs such as EEOPs, the PACE and the Carter Centre conducting voter education workshops.

While ANFREL observed a variety of well-organized and effective voter education events coordinated by the Government as well as CSOs, the level of awareness at the ground level revealed a need for even more determined and expansive voter education

campaigns. ANFREL observers and some domestic election monitoring groups reported that the lack of voter education and voter awareness was very noticeable.³⁶ It was noted that voter education information did not reach certain areas where the by-elections were held, particularly in areas such as Kyethi and Monghsu where the General Election was cancelled in 2015. A lack of awareness about the importance of voting rights and the expression of one's political will was noticeable at the polling stations. This was reflected in the low voter turnout and the confusion seen at some polling stations about polling procedures. For example, in Hlaing Thayar Township, voter turnout decreased 24% from 153,092 in 2015 to 46,418 in 2017.

When interviewed by ANFREL during the pre-election period, the NLD candidate U Win Min complained that he had to visit most of the by-election areas to explain to the voters even basic information about the by-election. It should also be noted that Myanmar's inexperience with democratic elections is a primary reason why more voter education is so necessary.

In Chin State, our observer noted little voter education from the UEC and what was done was limited to distributing small banners and leaflets to the villagers. Materials in ethnic languages were also insufficient. Except for one small banner which was distributed in town and at the village level, all the voter education materials were in the Burmese language. Therefore observers noted that CSO voter education activities were also very minimal at the village level in Chin State.³⁷

In the Nyaungshwe constituency in Shan State, there were many voters who didn't know much about the election in terms of any specific dates of the by-election calendar or any specific party policies, let alone anything about the candidates themselves. They did however have a general sense of the political parties and their allies, certain knowledge about the ruling party and about the leaders of the larger parties. The ANFREL observation mission noted relatively little voter education coming from the UEC other than a few banners and flyers up near the roadside, mainly those that were posted at ward office locations where voting was scheduled to take place. While such materials were helpful, voters expressed the need for a more proactive approach. This was reflected in interviews with voters and CSOs, where inadequate voter education programs were the primary complaint about the UEC.

In Monghsu (Shan State), many voters didn't really understand how to vote or properly use the voting stamp. Some of the people did not have any knowledge about the process. In Yangon, lengthy discussions between the polling staff and the voters at several polling stations was at least a partial reflection of the inadequacy of voter education in those areas.

³⁶ <https://www.pacemyanmar.org/portfolio-item/press-release-pre-election-period-overview/>

³⁷ Based on ANFREL observer report from Chin.

The relatively high number of invalid votes, 2.28% in polling station 1 at Kamayut Ward in Yangon, was due to voters voting for more than one candidate, voters not stamping the ballot (meaning they did not vote for anyone) and voters marking the wrong box, all indicators that more voter education is necessary.

Of course, the expectation of adequate voter knowledge must be tempered by an understanding about the lack of experience with elections in this newly reformed country. While ANFREL appreciates the commendable work done by many groups working on voter education, there is still a need for a sustained, extensive effort before the 2020 General Elections to reach and educate even more people in whatever language and by whatever method is most suitable for them.

Election Environment

Role of Military and Security Situation

Civil security concerns have long been a problem in Myanmar. General Nay Win's 1962 coup that marked the end of constitutional democracy and the nearly fifty years of military rule that followed were often justified on national security grounds.

While the military governed the country, the degree of repression was considerable, with the military banning assemblies of more than five people, censoring the media and attempting to control many potential opposition groups. What opposition remained was often led by generations of students, Burma's diverse ethnic nationalities, clergy of all faiths, principled democratic reformers, and committed citizens that continued the struggle against dictatorship and oppression even in what were often dire circumstances.

The seeming return to civilian government in March 2011 did not signal the military's full retreat from politics. The generals' transition to "disciplined democracy" ensured a return to nominally civilian rule without relinquishing *de facto* military control of the government. Arguably, the retreat from direct rule brought with it a further institutionalization of the military's role in politics, since the military was able to safeguard its interests by designing the new electoral regime to guarantee its continuing role in running the country.

There were a number of elections throughout the era of direct military rule that did little to reverse or soften military rule in Myanmar, with the 1990 election being perhaps the most emblematic of this era, where the opposition won huge majorities in parliament but were never allowed to take power. Even under the 2008 Constitution adopted to begin a transition away from strict military rule, the first elections held in November of 2010 failed to meet minimal standards for free and fair elections and, not surprisingly, the military's political party won massive majorities, thereby keeping the military in power under the guise of civilian leadership.

Positive improvements were noted by ANFREL in its report on the 2015 general elections in comparison with the 2010 general elections, even though both were conducted under the same flawed 2008 Constitution. According to the report, the 2015 elections showed remarkable progress and were considered to be generally credible. However, given the long history of military rule, there remain concerns among the populace about the integrity of elections. Given this, there are two main issues discussed below, the first is the military's role and the second is the security situation during the 2017 by-elections. Since these two issues are interconnected, the discussion about them is difficult to separate.

Democracy has four key attributes: free and fair elections, universal adult franchise, protection of the civil liberties of freedom of speech, press and association, and the absence of non-elected guardians or “protectors” such as security forces whose power is outside of or beyond civilian control.³⁸ In a democracy, the state must not interfere with voter registration, engage in intimidation, or coerce potential voters. Under military regimes, one or more of these attributes of democracy are lacking.

In Myanmar, the military formed its own political party, the Union Solidarity and Development Party (USDP), as a civilian vehicle to contest elections. In 2010, the USDP won nearly 80% of elected seats (not including the quota of 25% seats for military-appointed parliament members). It is not a coincidence that Thein Sein, a former military general and head of the USDP, was elected president in 2010 through a parliamentary electoral college. Furthermore, the UEC as part of the government ruled by the military, was seen by many as a tool of the military that would intervene in elections to help secure military wins at the polls.

However, by 2015, the political landscape had changed. That year, the NLD won three quarters of all elected seats, including 95% of seats in the regions and 45% of the seats in the states, while the USDP suffered a crushing defeat. By 2017, the NLD was able to choose the members of the UEC, leaving the USDP “limited” power to intervene, although it remained one of the wealthiest parties (if not the wealthiest) backed up financially by the military.

As noted in previous chapters, the 2017 by-elections were held in 8 states or regions. Of those 8 states/regions, there is a strong military presence in Shan and Rakhine States due to security issues. Elections were cancelled in 2015 in Shan State due to the ongoing warfare with local armed groups. Indeed, the internal conflict in Myanmar between the Tatmadaw (Myanmar Armed Forces) and active resistance groups has been ongoing in at least parts of the country practically since independence in 1948 and is still continuing in five states: Kachin, Kayah, Kayin, Rakhine, and Shan, where ethnic groups have been fighting for autonomy.

It is a sign of progress that by-elections could be held in some areas in 2017 where they had been cancelled in 2015. ANFREL hopes that other areas will similarly be able to hold elections as soon as the security situation permits, and certainly for the 2020 general elections.

Perhaps even more important is that the security situation during the campaign period, on election day and after the election was peaceful. ANFREL observers did not observe any major security issues. This could be an indication that “slowly but surely” there has taken root a political commitment to the transformation from military rule to civilian

³⁸ Myanmar under the Military Rule 1962-1988, Konsam Shakila Devi; available at <http://manipuruniv.academia.edu/konsamShakilaDevi>

control through elections. Of course, civilian control is not yet complete, since the military can still prevent amending the 2008 Constitution which bars Aung San Suu Kyi from becoming president and which reserves three key ministerial positions (ministers for defense, home affairs, and border affairs) for the military.

In Rakhine State, the vacant seat was not due to previous security concerns as was the case in Shan State but the situation in Rakhine is still tense due to ethnic and religious conflict between the Rohingya population there and other ethnic groups backed up by military and security forces. Recent fighting has been in northern Rakhine State, with most clashes occurring in Maungdaw District, which borders Bangladesh. Rakhine had only one by-election contest, a Pyithu Hluttaw seat, in Ann Township, Rakhine State. While this is fortunately far enough away from the conflict zone to hold a vote, the recent conflict in Rakhine has resulted in a heavy military presence throughout much of the state

Security Concerns in Shan State

Based on ANFREL's observations, security challenges are most prevalent in Shan State, where tensions exist in Monghsu, Kyethi, and Kengtung Townships. On 21 January, fighting broke out in Monghsu between the Tatmadaw and the Shan State Army-North (SSA-N)—the armed wing of the Shan State Progressive Party (SSPP) in Monghsu and Mongsan. The SSA-N was one of the insurgent groups that did not sign the nationwide ceasefire agreement negotiated in 2015.

In Shan State, especially in Monghsu Township, six polling stations in four village tracts (Goon Jong, Wan Loi, Nawng Et, and Maw Mayt villages) were moved to new locations after a Shan armed group objected to the police providing security, and this decision to relocate the polling places was agreed to by all parties. Pursuant to UEC regulations, each polling station is supposed to have at least two persons responsible for security, one at the entrance and another at the exit of the polling station. This was one of the differences with the 2015 general elections, where there was only one security person at each polling station. As most of the security personnel came from the Police Union, a Shan armed group refused to allow their presence. Based on observer's interview, there was agreement among the parties that there would be no security personnel from the Police Union and no one from armed forces like the Shan State Army-North (SSA-N) at the above mentioned polling stations.

It should be noted that, due to the ongoing conflict, several townships in Shan State are controlled, at least in part, by local armed groups and others by the Myanmar military. It is normal to see areas guarded by each armed group. Sometimes there are checkpoints and gates which serve as borders. Even though the decision to move the location of polling stations was agreed by all parties, it still created problems, especially for villagers. Based on interviews by observers, people complained about the last-minute decision since they were not informed of it and were not aware of and not familiar with

the new polling station locations, which were located quite far away from their villages, thereby creating a transportation problem. Since most of them live in poverty, they did not have their own vehicles and they were not served by public transportation.



Map of Shan State
Source: asiapacific.anu.edu.au

While appreciating the UEC prompt action to provide transportation on election day for villagers who had to travel long distances to vote at the relocated polling locations, the UEC will need to carefully decide on polling station locations in the future, especially in conflict areas, to avoid the last-minute problems that cropped up this year. In addition to the confusion created for voters and the need to obtain transportation to more distant polling stations, such late changes potentially provided space for fraud to be perpetrated. To avoid repeating this problem, the UEC should well in advance of the election choose neutral locations for polling stations that are agreed by all parties involved in the conflict.

Observers also learned that the NLD and the USDP were denied permission to campaign in these same areas. An ANFREL observer was informed that these two parties were instructed to submit a letter seeking the permission of the village head in order to coordinate with the armed groups. Another party, the SNLD, had no difficulties campaigning there because the SSPP and SSA-N had issued a statement saying that the SNLD could campaign in SSA-N controlled areas. Prohibiting two parties from campaigning while allowing another party is clearly contrary to UEC regulations and violates the principle of free and fair elections. Hopes that such a blatant violation of election norms is never repeated and urges the UEC to address the issue and take steps to make sure that all areas are open to all parties in future elections.

There were several townships where observers noted security worries from villagers but where no incidents were reported this year. The concerns raised were probably based mostly on previous experience where, for example in Kengtung, there were concerns that the USDP might threaten villagers to vote for that party because, in 2015, the military threatened to burn entire villages if they withheld support for the USDP. In Pan Kyu village, voters had been victims of harassment in the previous election. Military groups threatened them with reprisals if the USDP lost. While noting these cases of heightened concern or tension, ANFREL believes that they had little or no influence on the results given the high voter turnout in these villages compared to the voter turnout in other townships where no such concerns were raised.

Polling Station in Military Camps

Polling stations inside military camps is also an issue that needs to be considered as part of the larger concern of whether the military was still trying to influence the elections. There were 27 polling stations in military camps this year, distributed in Shan, Yangon, Rakhine, Mon, Bago, and Sagaing states/regions, of which 13 were located in Rakhine.

State/ Region	Township	Polling Station Location	Ward/Village Tract	Polling Station Code
Shan	Kengtung	Hta Wa Ya (932), Supply and logistic unit	Ward No. (1)	6
Shan	Kengtung	Ka Ma Ya (529), Light Infantry Division (LID)	Yan Law Village tract	5
Shan	Kengtung	Ma Sa Kha (909), Artillery Operation Command	Mine Khun Village tract	5
Yangon	Hlaing	Military Police (1)	Ward No. (14) Oakkyinn, Thamane	5
Yangon	Hlaing	Military Police (3)	Ward No. (15) Oakkyinn, Thamane	3
Yangon	Hlaing	Military Police (Crime Identification Support Unit)	Ward No. (15), Oakkyinn, Thamane	4

Yangon	Hlaing Thayar	Ka Ma Ya (532)- Light Infantry Division (LID)	Naung Village	11
Rhakhine	Ann	Sa Ah Ya (919), Signal Engineering Unit	Zay Ward	4
Rhakhine	Ann	La La Sa (757), Electrical and Mechanical Engineering Corps/Unit	Ann Taung Village Tract	4
Rhakhine	Ann	Ka Ma Ya (370), Light Infantry Division	Ann Taung Village Tract	5
Rhakhine	Ann	Na Pa Kha, Western Command	Ann Myauk Village Tract	5
Rhakhine	Ann	Ah Sa Ya (8)	Ann Myauk Village Tract	6
Rhakhine	Ann	Ah Ma Ta (374), Artillery Operation Command	Ann Myauk Village Tract	7
Rhakhine	Ann	Sa Na Kha (345), Ammunition Unit	Ann Myauk Village Tract	8
Rhakhine	Ann	Sa Ya Pha (Na Pa Kha), Intelligent Unit, Western Command	Ann Myauk Village Tract	9
Rhakhine	Ann	Ta Sa Ya (2/300) Regional Operation Unit	Ann Myauk Village Tract	10
Rhakhine	Ann	Kha Ma Ya (373) Light Infantry Division (LID)	Ann Myauk Village Tract	11
Rhakhine	Ann	Hta Pa Kha (926), Supply and Logistic Unit	Lone Kout Village Tract	6
Rhakhine	Ann	Kha Ma Ya (372), Light Infantry Division (LID)	Lone Kout Village Tract	7
Rhakhine	Ann	Sa La Ah sub-unit (946), Engineering Unit	Lone Kout Village Tract	8
Mon	Chaungzon	Naval Ship Unit - (46)	Chaungzon East Ward	2
Bago	Naung Lay Bin	Ka Ma Ya (20), Light Infantry Division (LID)	Ward - 3, Middle School	2
Sagaing	Monywa	Ka Ma Ya (16), Light Infantry Division (LID)	Aung Chan Thar Ward, Primary School (19)	2
Sagaing	Monywa	Ta Sa Kha - Regional Operation Unit	O Bo Taung Ward, Primary School (37)	1
Sagaing	Monywa	Na Ma Kha (Northwestern Command)	Bandoola Ward	2
Sagaing	Monywa	Na Ma Kha (Northwestern Command)	Bandoola Ward, Gymnastic Hall	3
Sagaing	Monywa	Ah Sa Ya (12)	Bandoola Ward	4

Unlike 2015, the international and domestic election observers and party agents were officially allowed by the UEC to monitor the polling process in the military camps for both advance voting and on election day. ANFREL observers were able to see that the polling stations in 15 military camps were well organized and conducted efficiently. Despite the markedly improved transparency with respect to military polling stations,

there are some matters that need to be addressed. First, the decision to provide polling stations in military camps, which are considered “controlled areas”, does not conform to international standards for free and fair elections. Second, some election administrators depended on the decision of the commanding officer for permission to campaign or do voter education inside the camps, which compromises and restrains election freedom.

Another angle from which to analyse the role of the military is through a comparison of by-election outcomes in areas where the military has a heavy troop presence and those with a smaller presence of troops. Some analysts predicted that the military allied USDP would win in those areas where the military has a concentration of troops. Of the 19 total vacant seats, 11 seats were previously occupied by the NLD, 2 seats by the USDP, with the remaining 3 seats vacant due to security matters. The two vacant seats previously won by the USDP were a Pyithu Hluttaw seat in Rakhine and a State Hluttaw seat in Kengtung Township in Shan State. In 2017, the USDP maintained their seat in Kengtung Township by again winning the State Hluttaw seat and, contrary to many expectations, won a Pyithu Hluttaw seat in Mon State (Chaungzon Township), an area without a heavy military presence but where there was recent controversy about the NLD’s plan to name a bridge in the region after General Aung San.

SNLD won all six seats in state parliament by-elections in Kyethi and Monghsu townships, giving it a landslide victory over candidates from the ruling NLD party. The SNLD has good relationships with ethnic armed groups that have signed a nationwide ceasefire agreement (NCA) with the Myanmar government as well as those that have not. In Ann Township, the voting public favored the Arakan National Party (ANP) and they accordingly won one seat in Ann.

In conclusion, the general situation was conducive to holding free and fair by-elections, with the military abstaining from intervention in the election process, a clearly positive sign for democracy in Myanmar.

Women’s Participation

For almost half a century, Myanmar suffered under the rule of an oppressive military junta. Since Aung San Suu Kyi (reverently referred to as “The Lady”) became State Counselor and her party, the NLD, won an absolute majority of parliamentary seats in 2015, a huge expectation has developed that more women would participate in elections and politics. It is critical that both women and men be full, active participants in a country’s political and decision-making processes. The equal rights of men and women in all aspects of political, economic and social life and non-discrimination are fundamental human rights principles.³⁹

³⁹ 1948 Universal Declaration of Human Rights (UDHR)

Comparing the percentage of female candidates in 2017 vs 2015 in the By-Election constituencies, there is a decrease from 22.5% in 2015 (18 female candidates and 62 male) to 20.5% (16 female candidates and 78 male). One woman ran for the Amyotha Hluttaw as an independent in the Yangon Region, while the NLD fielded only two female candidates, one in the Yangon Region for the Pyithu Hluttaw and the other in the Bago Region for the Amyotha Hluttaw. The SNDP put up five female candidates, all in Shan State (see Table).

Of the 16 total female candidates in 2017, only two won, a seat in the Amyotha Hluttaw from Bago (Daw San San Myint - NLD) and in Monghsu Township (Daw Nan Kaung Kham - SNLD). From the preliminary data of IFES, male candidates in these constituencies also increased from 62 male candidates who competed in the 2015 general elections to 78 male candidates in the 2017 by-elections. In contrast to the large gender imbalance in candidates, there are more registered female voters (52.9% of the total of registered voters) than registered male voters (47.1%).

While this indicates many female voters also choose male candidates, these numbers show alarming facts for women's participation in politics. The NLD in particular came in for criticism for nominating only two females among the 18 candidates that it chose to compete in this year's by-elections. The fact that the NLD only nominated two female candidates, despite being led by a woman, accounts for part of the overall poor showing for female candidates.

Low rates of female participation can also be found in the military quota seats in parliament, where there are only 3 women appointed as military-appointed representatives after the 2015 General Elections. Military institutions have a strong history of patriarchy, even in more developed democracies and countries with greater gender equity.⁴⁰ Based on interviews with women's rights activists, the explanation that Myanmar women lack the capacity to run as candidates is not a fairly applied standard given that, according to one interviewee, there are many male parliament representatives that also lack of capacity but are still accepted as candidates and elected. Women within some classes have traditionally enjoyed high social and economic status, but women remain underrepresented in the government and civil service. ANFREL sees the fuller involvement of women in all of the country's institutions as a logical next step for Myanmar's democracy. To do so, a strong commitment from the Myanmar government and Civil Society will be needed.

Myanmar uses the first-past-the-post (FPTP) system to elect representatives. In general, proportional electoral systems are more conducive to the election of women, and the application of gender quotas, than FPTP systems.⁴¹ According to IFES, the reason is

⁴⁰ Gender and Military Sociology, Donna Winslow, Swedish National Defence College or the Department of Leadership and Management

⁴¹ UN Department of Peacekeeping Operations, "Joint Guidelines on Enhancing the Role of Women in Post-Conflict Electoral Processes."

that in a winner-take all system, where only one seat is available for each electoral constituency, political parties are more likely to view the nomination of a man as a safer bet than choosing a woman to run.⁴² Indeed, increasing the number of female candidates in a FPTP electoral system does not necessarily increase the chances for women to be elected. This was true in the 2017 by-elections, where the major parties preferred male candidates and the increase in the percentage of women candidates to 17.7% resulted in only two of them winning: Daw San San Myint (NLD) for Amyotha Hluttaw in the Bago Region and Daw Nang Kaung Kham (SNLD) for Pyithu Hluttaw in Monghsu Township, Shan State.⁴³

Name	Party/Independent	State/Region	Hluttaw	Constituency
Daw Khin Marlar	National Democratic Force	Yangon	Pyithu	Dagon Myo Thit (East)
Daw Ohnmar Tin	Democratic Party (Myanmar)	Yangon	Pyithu	Dagon Myo Thit (East)
Daw Khin Khin Lin	Myanmar Farmers' Development Party	Yangon	Pyithu	Kaw Hmuu
Daw Sein Kyawt Nu	Democratic Party (Myanmar)	Yangon	Pyithu	Kaw Hmuu
Daw Nilar Soe Tint	Myanmar National Congress Party	Yangon	Pyithu	Kaw Hmuu
Daw Nan Tin Oo	SNDP (Shan National Democratic Party)	Shan	Pyithu	Keythi
Nan Kham Yin Aung	SNDP (Shan National Democratic Party)	Shan	Pyithu	Monghsu
Daw Za Tlem (Pi Za Tlem)	CNDP (Chin National Democratic Party)	Chin	Amyotha	Constituency No. (3)
Daw San San Myint	NLD (National League Party)	Bago	Amyotha	Constituency No. (4)
Daw Nilar Ohn (aka) Daw Htiike Eaindreya Oo	Independent	Yangon	Amyotha	Constituency No. (6)
Nan Nway Nway	SNDP (Shan National Democratic Party)	Shan	State	Keythi Constituency (1)
Nan Moon Aung	SNDP (Shan National Democratic Party)	Shan	State	Keythi Constituency (2)
Nan San Oo	SNDP (Shan National Democratic Party)	Shan	State	Monghsu Constituency (1)
Daw Nan Kaung Kham	SNLD (Shan National Democratic Party)	Shan	State	Monghsu Constituency (2)
Nan Sint Kham	NLD (National League Party)	Shan	State	Monghsu Constituency (2)
Daw Natalina (aka) Yarmi	Akha National Development Party	Shan	State	Kengtung Constituency (2)

⁴² Gender Equality & Election Management Bodies: A Best Practices Guide, International Foundation for Electoral Systems, 2014

⁴³ http://uecmyanmar.org/images/stories/photo/news_photos/27-4-2017/amyothar.pdf

There are several options to increase the possibility of electing women. One way is to guarantee that a certain proportion of women will be seated in the legislature through the use of “Reserved Seats” for women. Another is to use a proportional representation system and require parties to field a minimum percentage of women candidates on their candidate lists. These two options are generally embedded in a country's constitution and/or electoral laws and enforced by the national EMB. Meanwhile in a country that lacks such electoral legal requirements, such as Myanmar, applying “voluntary quotas” may be the best that can be achieved. Use of voluntary quotas would see political parties employing quotas in filling out their candidate lists, with each political party’s internal regulations deciding on its minimum number of women candidates.

Looking more broadly, making improvements to the electoral system that provide more opportunities to women will be a good start. Such reform must be accompanied by the political will to guarantee women's representation in parliament and a commitment to empower women throughout society.

That is probably not surprising, given the abundant discrimination against women in the prolonged period of military rule. Even Aung San Suu Kyi admitted in an interview by international media that women are underrepresented in the government.⁴⁴ The problem is that a country dominated by the military will always look down on women. Military officers and ruling party politicians often attack Suu Kyi with sexist comments such as referring to her as “the foreigner’s wife” or sneering at her “fancy dress, flowers, and perfume,” ridicule that women politicians and activists often experience. Unsurprisingly, of the 166 military-appointed parliamentarians, only 3 are women (about 2.5%).

Sometimes, women involved in the public sphere suffer worse reactions than sexist responses. Based on our interviews, it seems that women activists have faced serious threats against them and their families. Attempts to intimidate women who speak out are too common and such abuses contribute to the low levels of women’s participation in politics. Naturally, those hoping for greater gender equality expected that the country’s most influential leader, Daw Aung San Suu Kyi, would be their champion on such issues. She has however remained disturbingly quiet on allegations of rights abuses against women in Rakhine State, as well as in Kachin State and other parts of the country. Theories abound as to why this is the case. It has been suggested that Aung San Suu Kyi believes she would be risking too much if she were to speak out and that she may feel women’s issues are not that important to her wider goals.

Observer’s Report:

“There is not a single female minister appointed under the leadership of Daw Aung San Suu Kyi. Many other strategic positions that can and should be filled by women such as the “Women Affairs Committee” ironically have a majority of male committee members.

⁴⁴ Freedom House, Freedom in the World 2012 - Burma, 22 March 2012

ANFREL believes that it is a sign of progress that there have been more public discussions of gender equality and women's rights since the 2015 general elections. However, a clearer and more expansive commitment to women's rights is still required from the government.

Meanwhile, the UEC has shown an impressive commitment to women's participation in the electoral process. More women were recruited by the UEC to work as poll workers. In fact, about 56% of the UEC's staff were women for this year's by-elections, a huge increase when compared to

the 2015 general elections. Our observers noted that in all 8 states/regions, women appeared to have equal roles with men during the polling process and were often the ones in charge as polling officers. Polling officers are mostly recruited from the ranks of teachers, and the majority of teachers are women. Unfortunately, the gender balance observed at the polling station level does not exist in the upper levels of the UEC, as all five Commissioners appointed on 30 March 2017 by the NLD government are men.

Prospectively, the degree to which women are able to participate in elections can be strongly influenced by the policies and programs of the UEC. It is, therefore, important that the UEC proactively take gender into account in the analysis, planning and implementation of all its activities, as well as in UEC interactions with other electoral stakeholders.



Figure 2: This picture shows that some positive steps of women inclusiveness even in Mongshu constituency



Another positive observation made by ANFREL observers in several states/regions was the number of women actively participating in campaign activities. Enormous numbers of women participated in various campaign activities. However, cautions that the foregoing observation is based solely on witnessing activities

in public spaces, so is unable to gauge the overall participation by women. In many countries - especially less developed Asian countries - women are still disadvantaged in the electoral process. Cultural practices, an unfair playing field or running for office

in a male dominated area all tend to disadvantage women. Relatedly, it is not surprising to find in many societies that women are instructed on who to vote for by a male in their family.

Observer's Report

In Rakhine State, participation by women and youth is more visible among the NLD campaign teams, with an estimated participation up to 30-50%. Women in Choungzon Township (Mon State) were free to talk and participate and take leading roles in the election preparation as well.

In the future, the UEC and other electoral stakeholders need to make sure that election laws do not disadvantage women or discourage them from fully participating in the electoral process. Indeed, the UEC and other electoral stakeholders should take positive steps to encourage women to participate fully in the electoral process. In doing so, they need to consider the type of electoral system, the possible use of quotas and UEC enforcement of laws respecting women's participation so that more progress can be made in this area.



Voters with Disabilities

One major improvement from the 2015 General Election was the UEC's implementation of steps to facilitate electoral participation by voters with disabilities, especially during election day.

First, the UEC provided accessible polling stations in several states/regions for voters with disabilities (see next table). However, ANFREL does not know how the UEC decided to target the particular polling stations for this pilot program, though it notes that Ma Gyi Dan Taung Ashae Ward in Yangon Region had the highest number of voters with special needs, with 69 voters. Hopefully, this program will be expanded nationwide for the 2020 general elections though, unfortunately, efforts to remove barriers to participation by voters with disabilities are still not a priority for most Asian governments.

State/ Region	Parliament Seats	Constituencies	Township	Location of Polling Station	Ward/ Village Tract	Polling Station No (Code)	Disable Voters
Yangon	1 Lower House Seat	Kawmhu Constituency	Kawmhu	Primary School	Taung Pine Ward	1	5
Yangon	Lower House	Hlaing Thayar	Hlaing Thayar	Primary School (37)	Ward No.(19)	15	20
Yangon	Lower House	Hlaing Thayar	Hlaing Thayar	Middle School (10)	Ward No.(9)	6	24
Yangon	Lower House	Hlaing Thayar	Hlaing Thayar	High School (37)	Ward No.(20)	7	38
Yangon	Upper House	Constituency (6)	Kyimyindine	Kyinmyindine School for blind	Ma Gyi Dan Taung Ashae Ward	1	
Yangon	Upper House	Constituency (6)	Kyimyindine	Kyinmyindine School for blind	Ma Gyi Dan Taung Ashae Ward	2	69
Sagaing	Lower House	Monywar	Monywar	Primary School(15)	Myothit Ward	2	21
Chin	Upper House	Constituency (3)	Thantlang	High School	Ward No.(1)	1	2
Chin	Upper House	Constituency (3)	Thantlang	High School	Ward No.(1)	2	5
Chin	Upper House	Constituency (3)	Thantlang	Town Hall	Ward No.(2)	1	8

Moreover, even if the UEC wanted to do so, it may find it impossible to change all polling stations to be disability-friendly in time for the 2020 general elections, since that would require more money than may be available to the UEC, and trying to target areas

that are home to people with disabilities may be difficult unless the voter list is modified to include the collection of such information, as Indonesia has done.



Second, the Myanmar Independent Living Initiative (MILI) provided voter education on disability awareness. MILI is an NGO for disabled people that has received support from the International Foundation for Electoral Systems (IFES). Among its other efforts, it encouraged voters with disabilities in Hlaing Thayar and other parts of the country to vote in the by-election. MILI conducted voter education in areas inhabited by informal

settlers, at markets and in housing areas from 6.00 am to 6.00 pm.

Another outstanding activity was in Sagaing Region, where ANFREL witnessed training for blind voters. The UEC also provided Braille paper ballots there on election day. Based on an interview with the UEC sub-commission in the Yangon Region, the printing of Braille paper ballots was supported by the Japanese government. Our observer managed to witness blind persons voting on election day without difficulty due to the training that had been conducted previously.



Voters with disabilities are considered a marginalized group, together with women and ethnic minorities. In the 2015 general elections, many voters with disabilities were effectively disfranchised, so ANFREL has recommended several efforts to include them in the electoral system:

1. A legal review of election laws and regulations should be conducted to determine how to make sure that all stakeholders can fully participate in the electoral process;
2. UEC sub-commissions should include staff who are women, ethnic minorities, and persons with disabilities;
3. Voter education materials should emphasize the inclusion of women, ethnic minorities, and voters with disabilities.



The laws respecting the UEC include no specific provisions related to persons with disabilities, a shortcoming which should be addressed in the future. Interestingly, however, the Polling Station Officer, Deputy Polling Station Officer and Polling Station Member's Manual used in 2017 included sections aimed at facilitating voting by persons with disabilities. Hopefully, the 2010 Polling Station Manuals include expanded information on the topic.



In recent years, UEC sub-commissions have seen an increasing number of women on their staffs but so far ANFREL observers have not met any person with a disability serving on a sub-commission staff.

Role of Civil Society, Access and Work of Observers, and Party Agents

Despite the smaller scale and stakes of the by-elections, civil society organizations, specifically election monitoring organizations (EMOs) proved to be energetic and eager to participate in these elections through multiple programs -- from voter education,

election observation and other tasks related to the elections. While there was some noticeable decrease in participation and interest among CSOs and the public at large, ANFREL was still encouraged by the general turnout, capability, and participation of Myanmar Civil Society. The EMOs in Myanmar have grown tremendously and were able to use observation tools utilizing surveys, election monitoring apps, and random sampling observation. In terms of quantity, less organizations engaged in the elections but CSOs were still present in and observing in all 8 states/regions. CSO engagement also played a significant role in educating voters. Several domestic CSOs have coordinated with the UEC on conducting voter education rather than monitoring and observing election process. Such efforts were largely seen as a success through some questions were raised on the independence of domestic organizations, more specifically on how to develop close coordination with the UEC and at the same time ensure impartial observation of the election.

ANFREL delivered support to the EMOs in the form of trainings to advance observation skills and knowledge and direct mentoring of field observation. ANFREL observers deployed in different townships/divisions engaged with local CSOs for this by-election and could carry out observation activities together in most of the deployment areas. Through this engagement, both international and domestic observers could learn from each other and, more importantly, support the growth of sustainable domestic observer organizations since they play a more prominent and vital role in the political and democratic development of the country than foreign observers. ANFREL has been engaged with multiple Myanmar groups on trainings and electoral observation activities and shared the experiences observing the elections in many Asian countries since 1999.

ANFREL's observers were generally welcomed at the Polling Stations visited on Election Day. This was also the case for the other large Citizen Election Monitoring Groups such as the PACE and EEOPs that monitored polling in significant numbers of stations around the country. More locally, many more local or regional organizations monitored polling, often in the state or region where they were accredited. ANFREL is encouraged by the role of these citizen monitors 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 proud to play a part in training a number of these observers, especially those in Myanmar's states, and was pleased to see they were generally successful at carrying out their observation missions. As a network of Citizen Monitoring Organizations, ANFREL believes that effective citizen monitoring can and should be the backbone of a country's electoral oversight.

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. The observers encountered several civil society organizations that are local to a region or township, many of which were working on voter education campaigns and preparing for domestic monitoring

in their local area. International NGOs such as the IFES and International IDEA also played helpful roles providing electoral assistance to the UEC.

ANFREL was also encouraged by the presence of party agents at most of the polling stations 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. Many of these agents were static, posted to a single Polling Station all day, while a few were mobile agents that roamed. ANFREL thinks the effort of these participating parties is commendable. Their hard work to recruit, train, and deploy Party Agents to play a helpful role in the polling stations and add credibility to the polling process is worthwhile and, hopes, repeated in the future.

Role of Media & Freedom of Expression

Media freedom is an indispensable element in any democratic society, and as such is a vitally important part of a democratic election. Freedom of the media is important during the election process not only to raise the awareness of the public about the election process and about the contestants but also for the public to participate in healthy debates on policies of the proposed contestants and parties to make informed choices at the polling booth. The media also plays a vital role as a watchdog during the pre and post-election process to ensure transparency, fairness, accountability and the fully participatory nature that's a hallmark of a democratic election. Therefore, an election where media freedom is curtailed and manipulated raises serious concerns about the genuineness of the election.

The media in Myanmar were generally free to cover and report on the 2017 by-election activities but it was noticed that they were less enthusiastic compared to reporting about the 2015 general election. Observations of the English and Burmese newspapers from early March 1, until one week before April 1, revealed that little news related to the by-election was reported.

According to the Deputy Editor in Chief of The Voice, Zaya Thu, the media gave less attention and coverage for the 2017 by-election because they did not consider the election as significant since the by-election would not change the landscape in Parliament where the NLD was sure to hold its strong majority gained in the 2015 general election. The same view was also shared by the Editor in Chief of the Myanmar Times, Kavi Chongkittavorn.

However, the news coverage of the by-election in newspapers and other outlets became more intense approximately one week before the by-election. During the campaign period in Kyethi, Shan State, for example, the only media covering the election was DVB (Democratic Voice of Burma). They sent over a field broadcast journalist responsible for documenting the election process. Also in Shan State, the Nyaungshwe Township

election had no local media coverage of the by-election though ANFREL's observer did report that one television crew and a journalist from MRTV were reporting on the by-elections. In Chin, reporters met by ANFREL said they only sporadically post news about the by-election since there was no special edition or coverage in their newspapers.

But the media, especially television and radio, still played a significant role in disseminating information about the by-election and its many parties and candidates. Most voters ANFREL spoke to said that, in addition to directly from candidates and political parties, they got their information regarding the 2017 by-election from television and radio.

Journalists expressed to ANFREL observers that, compared with past elections, they were now freer to report by-election related news. At the same time however, they still didn't think that the media in Myanmar is adequately free due to Article 66 (d) of the Telecommunication Law. The 2013 Telecommunications Law consists of 19 Chapters and 80 Sections. Article 66 (d) of the Telecommunications Law provides for up to three years in prison for "extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening any person using a Telecommunications Network."⁴⁵ This Article is also viewed as running contrary to section 354 of the Constitution, which protects the freedom of expression unless found to undermine "law and order, community peace and tranquility or public order and morality".

Several editors of top newspapers in Myanmar shared with ANFREL their worry over the use and abuse by the government of Article 66 (d), Telecommunication Law and its negative impact on media freedom. The Telecommunication Law was enacted by the previous Thein Sein government but the current government led by the National League for Democracy (NLD) still retains it and it is seen by many in the media as a tool to silence the media.

Since the enactment of the Act in 2013, there have been around 70 cases filed under Article 66 (d), seven under the previous government and more than 60 under the 2015 NLD government.⁴⁶ U Than Htut Aung, the CEO of Eleven Media Group, and its Chief Editor U Wai Phyo are facing charges under Article 66 (d) of the Telecommunications Law over an article that implied corrupt dealings involving Yangon Region Chief Minister U Phyo Min Thein. The article, which appeared under U Than Htut Aung's by-line, appeared to suggest a link between a "US\$100,000 Patek Philippe watch" worn by U Phyo Min Thein and one of the tender winners for a Yangon expansion project.

⁴⁵ The Telecommunications Law (The Pyidaungsu Hluttaw Law No. 31, 2013); October 8, 2013; available at http://www.mcit.gov.mm/sites/default/files/Telecom%20Law%20English%20Version_0.pdf

⁴⁶ PEN Myanmar report by former prisoner Maung Saung Kha, a poet jailed under the same Article in 2016 <https://www.irrawaddy.com/news/burma/three-magwe-based-journalists-charged-article-66d.html>

Abuse of the law impacts not only those charged under it but also creates a chilling effect on all those who use telecommunication tools—emails, messaging services and social media—in Myanmar. If individuals want to criticize the government or military leaders, it must be without using insults, dirty language, and attacks on their personal lives. Without taking these precautions, individuals are at risk of prosecution. They must carefully review the news they share before doing so. Posts on social media can be recorded and used as evidence to open a legal case against someone. Such chilling effects impair both the freedom of the media and freedom of expression more generally. Given the vital role the news media plays in ensuring free and fair elections, if the media cannot play fulfill this role and the freedom for them to do so is not protected, Myanmar will fall far short of its peoples' democratic aspirations.

Election Day

Voting in Advance

Advance voting is a process by which voters in a public election can vote prior to the scheduled election day. While not obligatory under international standards, advance voting promotes universal suffrage, the right and opportunity to vote, and the participation of voters who would not otherwise be able to vote on election day.⁴⁷

In previous elections, the abuse of advance voting was a particularly troubling aspect of the election process in Myanmar. Manipulation of the advance vote, in particular the votes of military personnel, was commonly perceived to have been a primary method for fraud in the 2010 election.⁴⁸ While advance voting was much better in 2015, there remains lots of room for improvement.⁴⁹

In Myanmar's Electoral System there are two types of advance voting:⁵⁰

1. In-Constituency Advance Voting consists of voters who are registered to vote where they live but, for a variety of reasons, are unable to get to the polling station on Election Day. Groups commonly relying on this kind of advance voting include the elderly, persons with disabilities, and government staff working on the actual Election Day such as teachers, military, police officers, firefighters etc. As teachers are commonly assigned as polling station officers with the police and military often assigned to maintain security throughout Election Day, in-constituency voting in advance is a helpful option for them. The specifics of in-constituency advance voting vary depending on who the voting group is: advance voting for government staff was held 10 days before the election day while for civilians is took place two days before election day. All ballot boxes for in-constituency advance voting were to be kept in sub-commission offices at the ward/village tract level and on election day to be displayed inside the respective polling station. Inside constituency advance votes were to be counted on election day after the close of polling, just before counting Election Day votes.
2. Out-of-Constituency Advance Voting consists of voters that are outside the constituency in which they are registered to vote on election day. Students, prisoners, hospital patients, Tatmadaw members and their families stationed outside their constituency and voters staying outside the country, such as foreign service officials, migrant workers and students studying abroad all fall into this category of voters needing to take advantage of out-of-constituency advance voting.

⁴⁷ Observing Myanmar's 2015 General Elections: Final Report, the Carter Center, 2016

⁴⁸ Ibid 75

⁴⁹ General & Local Elections Myanmar 2015: Asian Network for Free Elections (ANFREL) Election Observation Mission Report, 2016

⁵⁰ The UEC

Voters that fall under this category need to register for advance voting (stating the reason for needing to vote in advance and providing their current address) using Form 15 as soon as the date of election day is announced. The nearest township election commission (for outside constituency) and the nearest embassy (for outside country) will return the completed Form 15 to the voter's home ward or village which will confirm that the voter is registered there and list him/her as an advance voter. This process generally occurs about one month before election day. However, this procedure does not apply to the Tatmadaw and their families. In the case of the military, the commanding officer will list the officers and their family members who will be outside their registered constituency on polling day to be handed over to the sub-commission at the township level. All votes will be sent through the postal service to their respective sub-commission township and placed into the ballot box until 4 pm on election day. After that, no further advance votes will be accepted, and any that arrive thereafter will be declared invalid. These votes will be counted in sub-commission township office after the closing of the polls.

For the 2017 by-elections, ANFREL was pleased to find that many improvements were made to the advance voting process. While advance voting was drastically improved from the 2010 General Election, ANFREL still noted many problems surrounding advance voting in the 2015 General Election: unclear advance voting activity schedules, lack of information, little access for observers or party agents, and inconsistent procedures (e.g. advance voters' name not always checked, ballots not being properly signed, voting using ballpoint and stamp, secrecy of vote not always guaranteed). Generally, ANFREL observed a more organized and transparent process of in-constituency advance voting. This time, the in-constituency advance voting schedule or electoral calendar was published earlier and implemented as scheduled at most of the places observed.

As mentioned previously, in-constituency advance voting is divided into two groups. For the first group-government staff, the UEC provided 10 days for them to vote in advance at the sub-commission ward/village tract office from 8 am till 6 pm. In general, the process was carried out as intended however observers found some weaknesses, the main issue being that there is no advance voter list available. Anyone can come and is able to vote in advance as long they provide a letter from their employer or institution.

Observer's Report:

In Yan Law Village (in Kengtung Townhsip, Shan State), the advance voting is held on GAD office which covers many villages with total population of 5,000 voters. When asked about the excessive number of advance voters, the Sub-commission officers responded that they were not able to form another polling station due to lack of preparation. Meanwhile some of the advance voters explained the reason they are voting in advance is because there is a wedding ceremony, attending a festival, or because they work in a mine near the border of China and it will be difficult for them to vote on election day.

Verification of advance voters relies on the sub-commission staff's judgement. The main answer observers received when asking about this method is that "everyone knows everyone here in the village/ward". While ANFREL truly understands where the tendency to rely on this social verification comes from, the UEC still needs to provide a firm method to verify advance voters nationwide.

Secondly, the structure of the sub-commission at the ward/village tract level itself is problematic. The sub-commission members at these local levels are often the officers or members of the ward/village tract committee. There is often no clear separation between these roles and most of the time observers found the same person holding two positions, one with

the ward/village tract office and one with the Election Sub-Commission. This raises questions about the real and perceived neutrality and independence of such members. ANFREL understands that the Election Commission faces human resource challenges finding capable staff at the village/ward tract level and recognizes that recruiting from the ward/village tract committee is likely the easiest way to fill those positions. ANFREL hopes that, in future elections, more training will enable different people to be recruited to work for the Election Sub-Commission. A clearer division of staff and labor will also benefit from, and be benefited by, a clearer separation in the space used by the sub-commission. Observers found many ward/village tract sub-commissions to be located in the same building with the ward/village tract office. More concerning were cases where the election materials (e.g. advance voting ballot box and ballot papers) were stored in the homes of ward/village tract officials because they didn't have an office. Such arrangements were largely uncontroversial among the local population but it's hoped that secure, neutral storage areas can be identified soon.

Observer's Report:

In general, significant variation was observed in advance voting processes depending on the area, a fact suggesting more training would be helpful to ensure a uniformity of implementation. For example, in Quarter No. 3 in Mongnawng (Shan State) the advance voting was poorly carried out with outdoor voting booths arranged in a way that did not ensure the secrecy of the voting process. The ballot box was also kept in a house belonging to a member of the quarter's committee.

The observers also noted the poor set up of polling station during advance voting. The quality and consistency of polling station set up during advance voting was lower than that observed on Election Day. Shortcomings noted by the observers include arranging ballot booths facing the wrong way or near an open window in such a way so as to deny the voter's right to a secret ballot, ballot boxes placed on the floor, providing both ballpoint pens and stamps inside ballot booths, ballot papers not being securely accounted for, etc. Observers also reported cases of inconsistencies in the use of a pen or stamp for marking the ballot papers.

Our analysis of the current situation and available resources led us to believe that it would be difficult to find a budget for the huge investments necessary to make all the above-mentioned changes. But certain priorities need to be set to ensure the quality of

election results. Eliminating the dual roles played by election sub-commission members at the ward/village tract level that are also on the ward/village tract committee should be among the top priorities. A permanent or contract system can be adjusted based on the need and budget availability to provide for separate staff and facilities for the ad-hoc election subcommittee to have space and the human resources necessary to function independently and without relying too heavily on the GAD or local committee.

For the first group of advance voters, government officials, our observers reported that providing 10 days for such a small number of voters was not particularly effective or efficient. Observers found many days where there were no advance voters coming to vote. These longer periods of time with polls open with no voting open greater room for fraud. Believes that shortening this voting window to perhaps 3-5 days will not only save time and money, but will also be easier for the UEC to manage and control.

The second group of advance voters includes all those civilian voters who are in their constituency but physically unable to travel to the polling station, including the elderly, person with disabilities, and nursing mothers. The mobile voting process for these voters was scheduled two days before election day and was found to be quite effective and efficient. Our observers monitored this process in all 8 states/regions. Party agents



Figure 3 : A sick senior citizen casting his vote during the advance voting process

and local observers were usually present and following the process as well. Members of the local sub-commission visited the houses where advance voters in this category lived and had registered for advance voting. Together with party agents, they went house to house with all the election materials including ballot papers, ballot box, advance voting envelope, documents etc.

While ANFREL highly appreciates the UEC's sincere efforts to conduct advance voting for voters unable to travel to polling stations, improvements should be made to ensure the secrecy of the process. Secrecy here includes party agents "helping" ward tract/village sub-commission by carrying the ballot papers, ballot boxes, and assisting voters with marking ballot papers. Suggesting that the UEC formalize procedures and staff for mobile voting in the future including allowing only sub-commission members to help with mobile voting logistics transport and only sub-commission members or family members being allowed, if necessary, to assist voters with voting.

Observers also found inconsistent procedures in the use of advance voting envelopes. The



UEC provide two different sized envelopes for advance voting and, from observers' interviews with sub-commission staff, there was confusion and inconsistent use and understanding of which envelope is to be used for which purpose. It is observed that envelopes being used for outside constituency advance voting since the votes are sent by post mail. Some sub-commissions used both envelopes, some used

only one, others didn't use either one, and there were cases where the name of the voters was being written on the envelop. The UEC needs to provide clearer and more detailed procedures and training for advance voting in order to avoid this type of inconsistent implementation in the future.

While inside constituency advance voting was, in general, more acceptable and transparent compared to previous elections, outside-constituency advance voting showed less progress. International and domestic election observers, as well as party agents, were not able to observe and monitor out of constituency advance voting due to unclear schedules and limited information published by the UEC. An additional concern was that outside-constituency voting seemed to often be operated more by the government department hosting the polling station rather than the UEC. This was often the case for voting in military camps and in certain government departments despite recommendations made by ANFREL and other observer organizations after 2015 General Elections that the UEC avoid such delegation of polling station management. No information was published about the number of requests by voters to advance vote or their names, the exact location or time. Generally speaking, this part of the advance voting process remains closed off to observation and one of the areas most likely to be subject to abuse since, in addition to it not being observed, it is less controlled and regulated by the UEC. While the small number of out of constituency advance voters likely did not influence the shape of any by-election results, it will most certainly be significant for 2020 General Election and should be reformed in a way to make such advance voting more consistent with normal voting procedures and normal polling stations. Doing so will make this type of voting more trusted, more transparent, and less subject to abuse.

More information was available about overseas advance voting in 2017 than was released during the 2015 General Elections. English versions of the overseas advance voting procedures were made available by the UEC with information that a total of 339 advance voters from 29 countries met the criteria set up by the UEC to vote in advance while living in another country. Singapore had the largest number of such voters,

117, while other countries such as Malaysia that are known to have many potential voters from Myanmar living there had zero. All of these advance votes were openly counted together in the sub-commission township office on election day after 4 pm with observers and party agents able to observe. This represents a change from the past, when no list of advance voters was posted, no special ballot box was set aside for advance voters, and votes themselves were usually not sealed.

To conclude, the main cause of remaining advance voting confusion is the lack of regulations, training, and manuals. More training and additional control over some aspects of the process will increase confidence and eliminate some of the existing shortcomings. It will also lead to more procedural uniformity to ensure regulations are strictly followed. As recommended after the 2015 Election, ANFREL believes that advance voting should have as many of the Election Day safeguards in place as possible. By normalizing the system to more closely mirror the Election Day process, the UEC and all stakeholders can proudly claim that they have fully responded to strengthen one of the system's lingering problem areas.

Election Day

This Election Day section will cover election-day operations and events, including polling station operations and management, the secrecy of the ballot, and issues such as the procurement of ballots and establishing alternatives means of voting.⁵¹ The effective process or recording of votes on polling day is a key component of a democratic election. The manner in which voting operations are conducted, and the degree to which they are transparent, can help ensure public confidence in the electoral process and its results.

ANFREL managed to observe the opening of 15 polling stations on Election Day morning, 166 polling stations during polling, and the closing process at 13 polling stations in all 22 townships in 8 states/regions. Compared to the 2015 General Election Process, ANFREL observers found election day to be improved in terms of procedural consistency, with polling officers that were more knowledgeable and more confident about their work. ANFREL is happy to find these improvements, though there were of course still some occasional incidents that need attention before the 2020 General Elections. More detailed observations, divided into the various stages of Election Day, are below.

Preparation

The 2017 By-Elections had 24 political parties and 96 candidates, 17 of which were women, competing to fill the 19 vacant constituency seats. In preparation, the UEC provided 6,370 ballot boxes, 5,740 posters about how to correctly mark the ballot,

⁵¹ Election Obligation and Standard: the Carter Center Assessment Manual, the Carter Center

20,000 polling staff, 24,000 polling manuals, 21,646 seals, 4,544 bottles of Indelible ink, 3,890 voter education posters, planned for 2,000 polling stations, and 2,472,600 ballot papers, with more than 2,032,536 eligible registered voters.⁵²

During the two weeks before election day on 1st April 2017, ANFREL observed the UEC to be better generally well prepared. It is safe to conclude that in all 8 states/regions, election materials arrived well-secured and on time. Given the smaller number of polling stations and the fact that some of the most remote areas were not holding elections, the logistics of transporting election materials was considerably easier for the UEC compared to 2015. Still, some challenges were noted by observers in Mon State where materials were transported by boat and in parts of Shan State that lack a good road network.

Another major issue in 2015 was the quality of ballot papers. ANFREL found many reports of ballot books that were incomplete (less than the 50 ballot pages they should be) or had quality printing. In the 2017 By-Election however, there were no such reports related to the quality of the election materials or of ballot books missing ballots. This improvement should be applauded and hopes the same quality control process is applied for the 2020 General Elections.

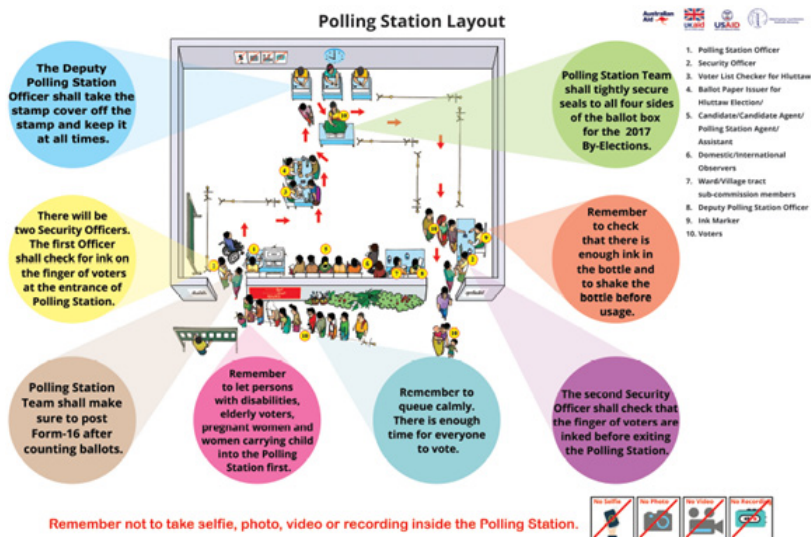
Credit should be given to the UEC regarding the transparency and handling of already cast advance voting ballots on Election Day. Therefore, again pleased to see the in-constituency advance voter list consistently (Form 13) displayed outside polling stations on Election Day. The advance voting ballot boxes were sealed and stored in a visible place inside the polling station as regulated in the manual.⁵³ This consistency is a significant difference compared with the 2015 General Elections when the advance voters list was often not published and the advance voting ballot boxes were not visible or, if they were present at the polling station, they were often found to be missing their seals.

The general setup and apportionment of polling stations is the same as previous elections, where in areas with especially high numbers of eligible voters, the UEC provided several polling stations in one compound to create a polling center. Areas with fewer number of voters usually had only one polling station rather than a polling center.

ANFREL also observed the distribution of accreditation cards for observers and party agents. Observers received their accreditation cards on time following what were reasonable application procedures from the UEC. Local observer organizations praised the UEC this time for becoming more flexible in providing accreditation cards. Previously, the UEC required specific forms with original signatures from each observer needed to be submitted to the UEC. Due to the difficulty of collecting all observers'

⁵² The UEC

⁵³ 2017 Myanmar By-Elections: Polling Station Officer, Deputy Polling Station Officer and Polling Station Member's Manual



signatures nationwide before the submission deadline, the UEC this year provided accreditation cards while allowing the form with the original signature to be submitted later. Publication of the list of polling stations was also positively noted. Observed the polling station locations one day before election day and was quite satisfied with the preparation at most polling stations.

The most significant area of concern about the preparation period of the 2017 By-Elections were the isolated cases in Shan State where, due to security concerns, polling locations were moved with very little notice shortly before Election Day. A more detailed discussion of these can be read in the Election Environment Chapter above. Hopefully, lessons can be learned from these cancellations and extra care and planning can go into selecting polling station locations for the 2020 General Election, particularly in areas with security concerns. Similar problems as those faced this year will likely occur in 2020 and steps to lessen the number of cancellations and minimize the impact of those that are cancelled will save voters in those areas from being disenfranchised.

Opening

Based on the opening of 15 polling stations observed by ANFREL observers, the opening process in most areas was held in accordance with the regulations. Based on the UEC's manual, each polling station generally had at least 7 members: 1 person as the Polling Station Officer, 1 person as the Deputy of the Polling Station Officer, 1 person checking the Voter List, 1 person issuing Ballot Papers, 2 people acting as Polling Station Security, and 1 person marking voters' fingers with indelible ink. An

additional person to check the voter list and issue ballot papers can be appointed if there are more than 1,000 voters. All of these members are appointed by the township sub-commission. All of these polling station members must arrive early since the polling stations are to open at 6 am sharp. ANFREL did observe a few polling stations opening late due to slow polling station setup or the late arrival of staff. There were also some cases where all the polling station staff was present but they waited for party agents or local observers to arrive before opening the station.

The number of party agents, mostly from the NLD and USDP but also representing some smaller parties or independent candidates, and local observers in polling station, mostly from PACE and EEOPs, was very encouraging. Party agents and observers in 2017 were also more often in compliance with the regulations regarding displaying/wearing their accreditation cards than in 2015. Just before opening, polling station staff proudly displayed the empty ballot box before sealing it on all four sides. Additionally, Form 13 (list of advance voters) was already put up for display by staff and advance voting ballot boxes were visible inside each polling station, except for those stations in areas without any advance voters. Queues at opening were much smaller than in 2015, a reflection of the lower turnout and decreased voter interest in the by-election.

Voting

With 15 international observers, ANFREL managed to observe voting in 166 polling stations in all 22 townships. The polling was generally conducted smoothly despite some minor errors. Based on ANFREL's observation of the 2015 General Election, there were three key areas of concern in the voting process: 1) inconsistency in the implementation of voting procedures due to a lack of training and voter education among polling officers and voters, 2) overcrowded and chaotic polling stations where the queue and the crowd inside were not well managed; and 3) many eligible voters being rejected because they were not listed in the voter list.

ANFREL observed improvement on these issues in the 2017 By-Elections. Most polling station staff had experience in conducting the 2015 election and therefore they were more capable and confident in 2017. However, there were still some observed cases of inadequate voter education with voters confused about the voting procedure. In such cases, party agents often attempted to "help" voters in the polling station, which some stakeholders construed as meddling in the governance of the polling station. While voter education posters provided by the UEC were displayed near the polling stations, these alone were often not effective enough to educate voters on how to vote. The problem was exacerbated by the still high number of people unable to read the posters, either for reasons of illiteracy or because they are only able to read their ethnic language while posters were written in Burmese. The same challenge also applies to the polling station signage (enter, exit, ballot box, etc.) written in Burmese.

Perhaps because of the decreased voter turnout, did not observed overcrowded polling

stations. The issue was helped however by the improved arrangement of polling stations done by the polling station officers. Variances in the implementation of voting procedures were found in a small number of polling stations, where some ballot papers were stamped on the back, some polling officers did not require voters to sign by their name in the voter list books. The voting process was slower in a few stations, resulting in a rather long queue outside those polling stations.

Observers noted that the use of the voter identification slip helped polling station officers more quickly find voters' name in the list and shortened the line by lessening the time it took to move voters through the line. ANFREL supports the use of this voter identification slip, not as a requirement to vote, but, with the proper safeguards, as a tool to help the voting process run more smoothly.

The UEC in 2017 was more prepared to handle cases of voters arriving at the polling station were not listed on the voter list. In addition to the significant effort to update and correct the voter list beforehand, the UEC provided Form 12 to facilitate correction of the voter list on Election Day. As long as voters were able to show their documents as citizens living in their respective Hluttaw constituency, they were able to vote. The problem of voters being rejected or not listed on the voter list was significantly reduced were progressive effort of the UEC need to remark.

All aspects of polling day were open to be observed by observers and witnessed by party agents. Such access greatly contributed to the transparency of Election Day. Where there were problems with access, they were mostly minor irregularities due to a lack of training, unclear regulations, and miscommunication between sub-commission levels.

No major incidents were reported during polling except for several minor incidents in Yangon. There were a few reported incidents of voters being caught voting on behalf of others such as those in East Dagon Myothit Township and Hlaing Thayar Township. Based on the news and online media, similar cases also happened in Kyauktagar Township, where police filed a case against two voters for casting ballots for the Upper House seat for Bago Region constituency no.4 on behalf of others.⁵⁴ On the issue of security concerns in areas such as southern Shan State and Rakhine State, the voting on Election Day was, thankfully, smooth and undisturbed.

Closing, Vote Counting, and Tabulation

ANFREL observed the closing process in 13 polling stations and found that most polling stations closed on time at 4 pm, with an exception for voters still in the queue being allowed to vote.⁵⁵ Observers also found that some polling stations closed early with Polling Station Officers declaring that all voters had cast their vote, even though

⁵⁴ <http://elevenmyanmar.com/politics/8610>

⁵⁵ Ibid 81

there were still small numbers of eligible voters that had not yet voted. This practice of closing early is allowed as long as all voters have voted. Polling Officers/members claimed the remaining voters who had not yet voted were not around to vote. Although there were no complaints reported on this issue, the UEC should compel Polling Officers to apply the regulation more strictly.

Before starting the counting process, there are many steps that need to be carried out immediately after voting stops. As explained in the manual, extra ballot papers must be cancelled by the Polling Station Officer, and the number of used and unused ballot papers must be counted and reconciled. Based on the experience from the observers, these steps were not systematically implemented from one polling station to another, with some stations beginning to count before carrying out the important steps listed here.

The next phase of closing is the actual vote counting, which includes all counting, aggregation, and tabulation processes through to the final announcement of results. While vote counting and tabulation processes vary in detail from country to country, accuracy, honesty, and transparency are universal principles that guide the process.⁵⁶

Compared with the opening and polling processes, the counting process is considered more problematic and needs more attention from the UEC. The result of counting should be written on Form 16 (consolidation form) before being signed by 12 people (4 polling members, 4 party agents, and 4 public witnesses), and displayed outside the polling station. The observers encountered a number of irregularities or areas needing improvement. Among them were cases of the advance votes being counted last instead of first, Form 16 being signed before the results were written on it, not displaying the correct results forms outside some polling stations, and unused ballots not being reconciled before the start of counting. Fortunately, there was no sign of ill intent and no significant incidents or complaints were reported. Still, it is important that the counting process follow the regulation consistently in all polling stations nationwide. This phase of the process should be one of the UEC's priorities when conducting training for polling station officers in the future.

One of the significant changes between the 2015 election and the 2017 by-elections is the criteria for valid and invalid ballots. In 2015, a voter stamping more than once on the ballot invalidated the ballot. As one would expect, such strict criteria for invalidation was the cause of a substantial number of invalid ballots. Based on feedback from 2015, the UEC changed the regulation and this time allowed ballots stamped more than once to be counted as valid if the multiple stamps reflected a voter's clear voting intent.⁵⁷ The loosening of this regulation resulted in a lower percentage of invalid ballots compared with the 2015 General Elections. The 2015 General Election saw 5.38% of votes

⁵⁶ Ibid 79

⁵⁷ Ibid 81

invalidated while according to IFES' Preliminary Data, this 2017 by-election saw that number cut in half.⁵⁸ The invalid ballots that remained were mostly due to ballots not being stamped correctly due to a lack of voter education. Kyethi and Mongshu in Shan State saw the highest levels of invalid votes, over 10%, and it is perhaps unsurprising that these areas also had no General Elections in 2015 due to security concerns. The high invalid vote total in these areas reflects not only the need for more voter education but also their relative inexperience with the voting process.

After counting and consolidation, the Polling Officers must send the final tamper proof bags filled with the bag for ballot papers, advance ballot papers, invalid votes, unused ballot papers, receipts and Form 16, the voter list, and Form 17, to the township sub-commission office. All results from each polling station are sent to the township sub-commission that then compiles these totals with the outside constituency advance voting results. After the aggregation of all polling stations results in a constituency, the township sub-commission filed Form 19 and announced the results.⁵⁹ These results, down to the polling station level, were posted at the Election Commission office and published and made accessible at <http://uecmyanmar.org/results>

Compared to 2015, the tabulation process was faster and more transparent as the candidates and party agents observed the process in all townships without restrictions. The UEC officially announced the results on 2 April 2017, the day after the election. Several observers in certain areas were not able to see the tabulation process in 2015 whereas in 2017 it is accessible and transparent. The presence of observers and party agents during the aggregation and tabulation process is an integral part of ensuring the transparency and integrity of an election.⁶⁰

There is no clear manual or detailed regulations related with the tabulation process as Myanmar's existing legal framework does not sufficiently regulate the procedure for counting and tabulating. The UEC should give more detailed guidelines for the closing process, as they do for the polling station opening and voting processes. Above that, a stronger legal framework must regulate these processes in the future.

Voter Turnout

As analysed in the pre-election observation report, there was a prediction of low voter turnout for the by-election. There were two reasons for this prediction. First, the election day was on Saturday, 1 April 2017 which was a working day for many people and the day was not declared as a holiday. In areas such as Yangon where many eligible voters are low paid laborers and therefore need to work on that day, concerns were raised by local observers and the media. Responding to these concerns, the UEC made an announcement days before the election for factories and companies to grant permits for

⁵⁸ Preliminary Data Analysis of Results from Myanmar's April 2017 By-Elections, IFES, April 2017

⁵⁹ Preliminary Data Analysis of Results from Myanmar's April 2017 By-elections, IFES, 2017

⁶⁰ UDHR, Article 21

their employees to vote on that day. While this is a well-intentioned announcement, it did not seem to have a major influence on turnout in such areas.

The second explanation given for the low turnout was the simple reason that people are less interested in the by-election. Many factors could explain this decrease in voter interest, the most primary being that the election's stakes were lower because control of the parliament was not in question given the small number of seats and the NLD's sizeable majorities in both Hluttaw. A series of in-depth interviews with voters in both rural and urban areas provided consistent responses from those voters that were less interested. They explained that, because the by-election will not affect the governing party in Parliament, voters such as themselves paid less attention to the election. Others expressed opinions that people are disappointed (if not frustrated) with the lack of significant progress since the NLD took power and this disappointment is the reason that people are apathetic. In general, people are more focused on other prominent issues such as the conflict in Rakhine, the ceasefire with local armed groups in several states/regions, and the slow economic growth. Another reason given for the lower interest regarding the by-election were poor dissemination and the lack of information from media so most people interviewed did not know many details about it. Voters' interest is naturally lower due to the minimal electoral activities and publicity in the media (especially the local media).

The relatively low voter enthusiasm was also reflected in the low levels of voter awareness and fewer people checking their names on the electoral roll. Compared to General Elections, by-elections around the world typically see lower voter turnout and awareness.⁶¹ Of the total 2,032,536 eligible voters in the 2017 By-Election, only 747,450 ballots were cast, resulting in a 36.77% voter turnout. The 2015 General Elections had 69.82% turnout from the 23.9 million eligible voters, with 34,295,334 voting. While significantly lower turnout was expected, the eventual turnout being below 50% was still considered surprisingly low.

⁶¹ Preliminary Data Analysis of Results from Myanmar's April 2017 By-elections, IFES, 2017

Comparison Table of Voter Turnout Between the 2015 General Election and the 2017 By-Elections

State/ Region	Constituencies	Turnout % in 2017	Turnout % in 2015	Gap
Rakhine	Ann	61.55	67.97	6.42
Bago	Bago Amyotha 4	40.33	65.12	24.79
Mon	Chaungzon	38.45	44.46	6.01
Chin	Chin Amyotha 3	75.37	84.79	9.42
Yangon	Dagon Myothit East	41.65	71.63	29.98
Yangon	Dagon Myothit Seikkan	29.23	47.63	18.4
Yangon	Hlaing Thayar	12.25	36.71	24.46
Kayah	Hpruso	68.73	83.35	14.64
Yangon	Kawhmu	59.28	80.46	21.18
Shan	Kengtung	40.54	50.22	9.68
Shan	Kyethi*	50.67	-	-
Shan	Kyethi C1*	55.6	-	-
Shan	Kyethi C2*	47.74	-	-
Shan	Monghsu*	47.98	-	-
Shan	Monghsu C1*	44.76	-	-
Shan	Monghsu C2*	51.65	-	-
Sagaing	Monywa	47.71	77.26	29.55
Shan	Nyaungshwe	55.94	80.26	24.32
Yangon	Yangon Amyotha 6	27.15	61.89	34.74

* No comparison of turnout number available due to election was cancelled in 2015

Source: IFES Preliminary Data 2017

Among the 19 constituencies, the Amyotha seat in Chin State had the highest turnout with 75.37% voting and the Pyithu seat in Hlaing Thayar Township in Yangon had the lowest turnout with only 12.25% of registered persons voting. Overall, only 8 of the 19 constituencies had voter turnout above 50%. The election for the Amyotha seat in Yangon had the largest decrease in voting, with a total of 61.89% voters turning out in 2015 and only 21.15% in 2017. The smallest decrease was in Chaungzon constituency in Mon State that saw only a 6.01% decrease in voter turnout compared to 2015.

Areas with security concerns had encouragingly high turnout. The 6 constituencies in Shan State where elections were cancelled in 2015 saw quite high turnout compared to other states/regions, especially considering the security concerns that continued through the election. Ann Township in Rakhine State, another area where security is a concern, experienced higher than average voter turnout, 61.55%.

The opposite was the case in Yangon's 5 constituencies where only Kawhmu had voter turnout above 50%. Among the total 19 constituencies, the three with the lowest voter turnout were all in Yangon: Hlaing Thayar (12,25%), the open Yangon seat for Amyotha (27.15%), and in Dagon Myothit Seikkan (29,23%). These very low voter turnout totals in Yangon demonstrate an alarming trend. Hlaing Thayar and Dagon Myothit Seikkan are industrial areas with a high density of voters who chose not to vote rather than take leave from work. To ensure higher turnout, more outreach to workers as well as employers is needed in the run up to 2020.

More generally, very low turnout can be a sign of voter frustration and/or cynicism about the system where voters believe that it does not matter which party is in government and that, in general, the government does not make a real difference in their lives.

Another contributing factor to the low turnout could be low rates of voting among members of marginalized groups in society - the poor, people with lower levels of education, minorities, and individual living in remote settings. There is not yet data of the socio-economic background for those eligible voters who did not vote but if a consistent pattern of non-voting is found among marginalized groups, the UEC needs to target voter and civic education at the groups in question.

That said, the limited data available to ANFREL reveals no discernible pattern. Generally speaking, eligible voters are able to vote freely and polling stations are accessible to all. Low levels of education and being a member of an ethnic minority group is likely not a major influence on turnout since turnout in the city was often lower than in rural areas even though income and education levels are lower in rural areas.

Regardless of the reason for it, low voter turnout is bad for democracy and very bad for governing. Voter turnout is an important part of every election in every country but, in Myanmar, where they are still slowly transforming from an authoritarian system to democracy, high voter turnout is especially vital. When fewer people vote, it becomes less certain that the winning party actually represents the interests of the majority of the governed and thus, by extension, less clear that the policies being chosen actually have majority support.

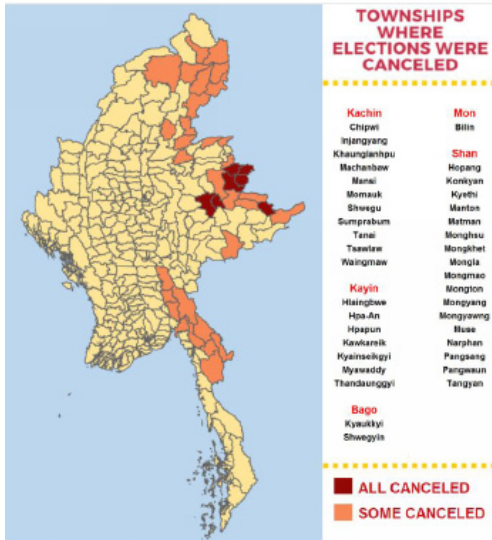
There is a clear need to rethink what factors could encourage the voters to come and cast their votes.

To prepare for 2020, now is the time for the UEC, CSOs, the media, as well as political parties and candidates to plan their steps to increase voter turnout going forward. They must ensure not only simple things like Election Day being a holiday but should also plan for aggressive voter education campaigns that are done in a way that is appropriately tailored for each segment of the voting population.

Disenfranchisement of Eligible Voters

ANFREL was encouraged by the areas of Kyethi and Mongshu finally voting after being unable to hold elections in 2015 due to security concerns. Their holding of elections in these areas shows the sincere intent of the UEC to hold elections when there are peaceful enough conditions to do so. ANFREL hopes that the other areas that have still not held elections are able to do the same as soon as possible.

While applauding the holding of elections in these two places, there were still questions



raised by some of ANFREL's interlocutors regarding why elections were possible here but not other places and about why they were cancelled in some places but not others in 2015 (See Map of 2015 Cancellations).⁶² To remedy these types of accusations, 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. While hoping that there is no longer fighting anywhere at the time of the next General Election, it's better to plan ahead and be transparent about the criteria used to determine any possible cancellations. Being open

about its decision-making process, as well as its plans to hold additional by-elections in those areas as soon as the security situation allows, will help assuage suspicion of partisan cancellations.

In addition to the disenfranchised living in areas still without elections and representatives, there are many other individuals across the country that, beginning before the 2015 elections and continuing through 2017, are still unable to have their voices heard. Hoping that far-reaching reform is considered regarding the exclusion of the vast majority of the Rohingya population in Myanmar. Their recent history of electoral exclusion is tragically consistent with their worsening plight in the country in general. Therefore, believes, is one of the few areas where the 2015 and 2017 elections have regressed compared to prior polls.

⁶² Source: EMReF, MyPILAR REPORT: "Townships Where Elections Were Canceled", Published September 06, 2016; Report retrieved May 31, 2017 from <http://www.mypilar.org/en/publication/townships-where-elections-were-cancelled>

While they did not enjoy full recognition as citizens, many Rohingya and other ethnic and religious minority groups were able to vote in 2010 and 2012 using white cards, a form of temporary identification. Unfortunately, in the run-up to the 2015 Election, the intentional expiration of the white cards excluded several hundred thousand possible voters that were previously enfranchised. Aside from the case of the Rohingyas, other minority cultural and religious groups were also adversely affected by the arbitrary and unreasonable criteria, which resulted in their exclusion.

The policy of disenfranchisement mentioned above should be reconsidered both substantively as well as procedurally. While this is in many ways less of an electoral issue and more of a broader political and human rights issue, the mission strongly believes that the policy of widespread disenfranchisement implemented against certain minority groups in Myanmar has a critically negative impact on the Election Process, its inclusiveness, and its ability to properly represent the desires of the people of Myanmar.

From a strictly technical standpoint, with an attempt to temporarily look past what are very serious human rights concerns, if the Government wants to apply very strict citizenship standards for voting eligibility, it should at the very least have a proper process and equal enforcement of that harsh law. This will be even more crucial for the next general election because in 2015 such a process was not followed. There were reports on unequal enforcement and different degrees of investigation into the backgrounds of citizens and candidates taking place, often along ethnic and religious lines, before ruling them ineligible. Upon Some groups complained that their citizenship were questioned to discourage nomination of minorities, especially the Muslims. The next parliament should consider enacting a measure to define/clarify who the citizens of the country are and apply a fair standard to all. Furthermore, Myanmar should adopt a criteria for citizenship closer to the minimum standards other countries use, where, quite often, having one parent who is a citizen at the time of a child's birth, not necessarily from the time of the parent's birth, is enough to confer that citizenship to the child.

Similar to the situation in 2015, there is still a sizeable number of internally displaced persons (IDPs) and migrants that face challenges to participate. This will remain a pervasive issue in 2020 if better policies and mechanisms are not identified on how to better reach them. Economic migrants and IDPs were among the groups with the lowest voter turnout. The flexible voter registration and ID rules were often still not enough given this marginalized lack of proper identification documents and their absence of adequate means for other people to verify their identity accurately.

Elections should be inclusive, and democratic processes should not be discriminatory to gender, religion, race, and ethnicity. In this spirit of democratic inclusion, steps enfranchising a broader.

Post-Election

Election Day Results

A total of 747,450 ballots were cast by the 2,032,536 eligible voters in this 2017 by-election. The voter turnout is very low, less than 50 percent, though the turnout in by-elections is usually less compared to general elections in most of the countries around the world.

There were 94 candidates from 24 political parties and 7 independent candidates contested in the 19 vacant constituencies. For the 9 seats in the Pyithu Hluttaw, there were 1,212,400 eligible voters but only 430,419 (34.80 %) voted on April 1, 2017. Of those 9 seats, the NLD won 5, the SNLD won 2, and the USDP and ANP won one seat each.

In the Amyotha Hluttaw, there were 3 vacant seats and 699,965 eligible voters. Of these, 243,590 (34.03%) voters came to vote and the NLD won all 3 seats.

As for the State Hluttaw, 7 seats were vacant and there were 226,153 total eligible voters, of which 110,900 (49.03%) voted on election day. The SNLD won 4 seats while the NLD, USDP and ANDP won one seat each.

While the general voter turnout was low, there was great variation between areas such as the Amyotha seat in Chin State where 75.37% of the eligible population voted while in Hlaing Thayar township only 12.25% of the eligible population voted. Hlaing Thayar had the biggest decrease in terms of voter turnout, down 24% from 153,092 in 2015 to 46,418 in 2017.

By-Election Results & Turnout Statistics can be accessed online from the UEC's website at: <http://uecmyanmar.org/results/index-en/index.html>. The following table provides an overview of turnout:⁶³

⁶³ Data from UEC

Constituencies	Voters turnout	Eligible voters	Percentage of the turnout
Ann	46,669	75,828	61.55%
Bago-Amyotha4	129,187	320,338	40.33%
Chaungzon	48,535	126,225	38.45%
Chin-Amyotha3	21,124	28,027	75.37%
Dagon Myothit (East)	41,490	99,617	41.65%
Dagon Myothit (Seikkan)	26,250	89,807	29.23%
Hlaing Thayar	46,353	378,451	12.25%
Hpruso c1	6,286	9,146	68.73%
Kawhmu	56,141	94,698	59.28%
Kengtung c2	22,758	56,132	40.54%
Kyethi	27,077	53,438	50.67%
Kyethi c1	14,328	25,772	55.6%
Kyethi c2	13,208	27,666	47.74%
Monghsu	21,076	43,931	47.98%
Monghsu c1	10,731	23,974	44.76%
Monghsu c2	10,268	19,880	51.65%
Monywa	119,290	250,033	47.71%
Nyaungshwe c1	35,075	62,703	55.94%
Yangon-Amyotha6	93,279	343,600	27.15%

The results announced by the UEC after the April 1 by-election revealed that the ruling NLD won nearly half, 9 out of 19 contested seats in the national parliament and state/regional Assemblies.

Following the November 2015 Election, the NLD finally formed a government one year before the 2017 by-election. With it still being so early in their term, it is difficult to know to what degree voters held them accountable for their single year of governing. What is known is that they experienced losses in some remote areas such as Chaungzon (Mon) and in some ethnic minority regions experiencing conflicts such as Kyethi Constituency 1, Kyethi Constituency 2, Monghsu Constituency 2, Monghsu Constituency 1 and Kengtung Constituency 2 where ethnic violence has continued despite Suu Kyi's promise to bring peace after decades of strife.

Despite the NLD winning a smaller percentage of the total seats than in 2015, the results of the by-elections did not significantly impact the sizeable majorities enjoyed by the NLD in the national parliament, and the existing governing majorities that the party held in the various State/Region Assemblies. The following tables shows the results of the 2017 by-elections:

Pyithu Hluttaw

Constituency	Previous MP			2017 Winner	
	Name	Party	Reason for vacancy	Name	Party
Ann, Rakhine State	Thein Swe	USDP	Incumbent was selected as Cabinet Minister	Dr Aye Maung	ANP
Chaungzon, Mon State	Khin Htay Kywe	NLD	Incumbent joined the Constitutional Tribunal	U Aung Kyi Thein	USDP
Dagon East, Yangon	Myo Aung	NLD	Incumbent appointed as Head of Naypyidaw Council	U Nay Kyaw	NLD
Dagon Seikkan, Yangon	Kyaw Win	NLD	Incumbent selected as Cabinet Minister	U Mya Sein	NLD
Hlaing Thayar, Yangon	Than Myint	NLD	Incumbent selected as Cabinet Minister	U Win Min	NLD
Kawhmu, Yangon	Aung San Suu Kyi	NLD	Incumbent selected as State Counsellor	U Kyaw Swe Win aka U Ar Luu	NLD
Kyethi, Shan State	No election	No election	Security Concerns	Sai Aung Kyaw	SNLD
Monghsu, Shan State	No election	No election	Security Concerns	Sai Win Aye aka Sai Tun Aye	SNLD
Monywa, Sagaing	Thant Sin Maung	NLD	Incumbent selected as Cabinet Minister	U Nyunt Aung	NLD

Amyotha Hluttaw

Constituency	Previous MP			The current Winner	
	Name	Party	Reason for Vacancy	Name	Party
Bago Amyotha Hluttaw 4	Win Myat Aye	NLD	Incumbent selected as Cabinet Minister	Daw San San Myint	NLD
Chin Amyotha Hluttaw 3	Henry Van Thio	NLD	Incumbent selected as Second Vice President	Pu Bawi Khing	NLD
Yangon Amyotha Hluttaw 6	Aung Thu	NLD	Incumbent selected as Cabinet Minister	Dr Maung Maung	NLD

Region/State Hluttaw

Constituency	Previous MP			The current Winner	
	Name	Party	Reason for Vacancy	Name	Party
Kyethi Constituency 1	No election	No election	Security Concerns	Sai San Mine	SNLD
Kyethi Constituency 2	No election	No election	Security Concerns	U Khin Maung Nyunt	SNLD
Monghsu Constituency 2	No election	No election	Security Concerns	Daw Nan Kaung Kham	SNLD
Hpruso Constituency 1	Thoe Ral	NLD	Incumbent MP passed away	U Thel Rel	ANDP
Nyaungshwe Constituency 1	Tin Yin	NLD	Incumbent MP passed away	U Khin Maung Win	NLD
Monghsu Constituency 1	No election	No election	Security Concerns	U Sai Lin Myat	SNLD
Kengtung Constituency 2	Peter Thaug Sein	USDP	Incumbent MP passed away	U Shar Mwe La Shan	USDP

Voters' Views: Party Support in the 2017 By-election

The 2017 by-election carried with it some unique challenges for the NLD owing to the extremely lofty expectations many of its voters held for the one-year-old government led by Aung San Suu Kyi. Most voters interviewed by ANFREL acknowledged that they expected a lot of change in their daily lives after the NLD came to power via the 2015 General Election. As the first civilian, popularly elected government to rule in decades, the citizenry was right to be excited, even if that excitement carried with it expectations that would be difficult to satisfy. Whether one believes that voters are correctly disappointed or had expectations that were unreasonably high, the NLD matching its landslide 2015 results seemed unlikely.

Looking at the actual results, of the 18 seats contested by the NLD in the April 1 by-election, the party won 9, or 50%. Compared to their winning 79% of the seats they contested in the 2010 general election, this is a significant decrease.⁶⁴ As mentioned in the preceding section, the results of the by-elections will not affect the NLD's significant majority in the national parliament. This may, however, be a harbinger of growing frustration with the current government administration, especially among ethnic minority voters. Many voters interviewed expressed some, though for now often minor, degree of disappointment about the party's failure to make significant headway in ending ethnic strife and propelling economic development.

Of the Pyithu Hluttaw seats, the NLD won in Dagon East (Yangon), Dagon Seikkan (Yangon), Hlaing Thayar (Yangon), Kawhmu (Yangon) and Monywa (Sagaing). As for Amyotha Hluttaw seats, the NLD managed to grab all 3 seats contested which are Bago Amyotha Hluttaw 4, Chin Amyotha Hluttaw 3 and Yangon Amyotha Hluttaw 6. Of the Region/State Hluttaw seats, the NLD won one seat in Nyaungshwe in Shan state.

Of the seats that flipped, the NLD lost a seat in Chaungzong to their main rival, the USDP, that they had held since the 2015 General Election. At the Region/State level, the NLD lost a seat in Hpruso (Constituency 1) in Kayah state to the ANDP because they failed to register their candidate.⁶⁵ As for Kyethi and Monghsu seats in Shan State, a direct comparison cannot be done because these townships had no elections in 2015.

Political observers and the media said that the NLD led government should take the 2017 by-election results as a "wake up call".⁶⁶ They said the results of the April 1 by-election were the most telling sign for the ruling NLD party of whether it still enjoys the popular support it received in the 2015 general election.

The Irrawaddy reported that, shortly after results were announced on April 2nd, NLD spokesperson U Win Htein blamed the public for the low voter turnout. The paper

⁶⁴ <https://www.irrawaddy.com/opinion/nld-take-election-results-wake-call.html>

⁶⁵ <https://www.irrawaddy.com/news/burma/nld-to-discipline-karenni-state-party-heads-for-late-candidate-registration.html>

⁶⁶ <https://www.irrawaddy.com/opinion/nld-take-election-results-wake-call.html>

speculated that people did not show up to the polls for the NLD as they did in 2015 because, in all likelihood, their faith in the NLD has declined in the past two years.

Most political observers agreed that voters in the 2015 general election did not care who the candidates were, instead caring about the party they represented above all else. When large numbers of voters of all ethnicities got behind the NLD, they believed that the elected candidates would support them in return even if they did not know or care very much about their local candidate.

With the NLD having now been in office for a year, each time the party failed to listen or is even perceived as not listening to its supporters, voters feel betrayed and are more likely to pull their support when elections come around again. This appears to explain some of what happened to the NLD in many of the ethnic regions during the 2017 by-elections.⁶⁷

The clearest example of the NLD being accused of not listening to the wishes of locals is in Mon State's Chaungzon Township, where the NLD won the 2015 general election despite competition from the local ethnic parties and its main opposition, the USDP.

Before the election, many voters claimed to be unhappy with the NLD government's recent decision to name a local bridge after independence hero Gen. Aung San, despite local objections and a desire for a name more representative of the local Mon population.

According to the electoral statistics, only 38 percent of eligible voters participated in that area. But the votes of those that did participate appear to reflect local's feelings about the bridge issue. When the by-election results were announced by the UEC, to the NLD's embarrassment, the USDP was victorious.

The results from the April 1 by-election do appear to suggest a softening of support for the NLD among ethnic minorities, who make up a third of the population and have long struggled under the rule of the Bamar majority to which Aung San Suu Kyi belongs.

Ethnic politics certainly seemed to be a deciding factor in the result of the by-elections. Local media reports indicated that the SNLD improved on its 2015 result thanks in part to voters' growing unhappy with the NLD government's failure to bring an end to clashes in majority ethnic areas.

The NLD also came up short in a race in Rakhine, a western state embroiled in ethnic and religious conflict. That lower house seat was taken by Dr. Aye Maung, the chairman of the local party, the ANP. Dr. Aye Maung is a politician known for his hardline stance against the Muslim Rohingya.

⁶⁷ <https://www.irrawaddy.com/opinion/nld-take-election-results-wake-call.html>

According to statistics, up to one million Rohingyas live in Rakhine State. Differences in religion and culture and intolerance among local ethnic groups led to violence and repression which was demonstrated most notably in 2012. Since then, the last five years have seen periodic outbreaks of brutal communal and ethnic violence which UN investigators labeled as crimes against humanity.

The crisis has posed a major moral challenge to Aung San Suu Kyi, who must contend with both international pressure to defend the Rohingya and hostility towards the group internally. She faced international criticism for not speaking out against the alleged abuses, and was accused by domestic opponents of being sympathetic to the Rohingya.

As alluded to above, an ethnic Shan party, the SNLD, won six races held in areas where voting had been cancelled in 2015 because of unrest. The NLD and USDP each also took one regional parliament seat in Shan State where the incumbent MP passed away.

In the two townships of Shan State, Kyethi and Monghsu, where by-elections were finally held to fill seats left open when previous elections were cancelled due to violence, it is worth noting that the NLD lost to the SNLD for every one of the area's six seats.

The failure of the NLD to convince the ethnic leaders to join the union peace process likely added to the frustration among the local populace in Shan State. When they got an opportunity to cast their votes for the first time in seven years, it was unsurprising that they showed their support for the Shan Nationalities League for Democracy (SNLD) rather than NLD candidates and officials who experienced difficulties connecting with locals, and often must depend on translators for interaction.⁶⁸

NLD spokesperson U Win Htein admitted that the party faced language barriers and problems with armed groups in the Shan State districts where they contested. Instead of engaging with local politicians, Win Htein said: "We are still improving in Shan state. The local people don't understand Burmese, so we have to translate our policies into the Shan language."⁶⁹

One additional reason for the NLD's electoral under performance is Suu Kyi's absence from party activities ever since she became Foreign Minister and assumed responsibility as the State Counsellor.

Section 232 (k) of the 2008 Constitution states that ministers cannot participate in party activities. Hence, the NLD's election campaign was led by other NLD leaders whose popularity does not equal Suu Kyi's. This resulted in much less-crowded rallies in and around Yangon and might have had an impact on voters and the popularity of the party.

⁶⁸ <http://frontiermyanmar.net/en/ethnic-politics-looms-large-in-by-election>

⁶⁹ <http://www.reuters.com/article/us-myanmar-politics-idUSKBN17336D>

The 2017 by-election results show that, if the NLD wants to maintain its current control in parliament, the NLD government will need to do as much as possible to engender trust among ethnic minorities. A successful peace process and peace negotiations will likely be one vital aspect of it. In addition, the NLD will benefit from more regular interactions with everyday people living in conflict areas and more efforts to understand their problems.

The NLD still has a strong hand to play because, despite all the hurdles and criticisms, Suu Kyi remains the most revered political leader in the country and the NLD is still the best recognised political party and holds a majority in parliament for several more years.

But the NLD and Suu Kyi need not be over-confident that most of Myanmar is ready to give the one-year old civilian government more time before it begins to resolve problems ranging from the economy to ethnic conflict to narcotics to governance. Hence, prompt and pragmatic actions to ameliorate the ethnic divisions and mistrust are required urgently.

Electoral Dispute Resolution (EDR)

Election disputes are a common occurrence in the context of electoral democracies which is why an impartial and independent Electoral Dispute Resolution (EDR) system is a prerequisite for a democratic election. Such mechanisms provide a foundation and a safeguard through which to implement the rule of law in the election realm. They help ensure that the people's voices are heard and that the election results represent the people's true preferences. A just and effective dispute resolution mechanism must provide for the right to a fair trial or hearing held by independent adjudicators that are able to provide effective remedies. As noted by the experts on the subject, complaints to election dispute tribunals should not be considered a weakness of the electoral system, but a sign of its openness and strength.⁷⁰

In Myanmar, electoral complaints are handled at various levels, with the most local electoral dispute resolution performed by township-level mediation committees made up of representatives of political parties and candidates. The improved performance of the Committees in 2017 was marked by more efficient troubleshooting and better facilitation by the UEC sub-committee. Stakeholders expressed appreciation for the committees' ability to settle the problems and disputes in their initial stages. They believed that doing so helped to maintain the calm election environment and streamlined the process by resolving some complaints before they ever reach the higher levels of the Election Commission's mediation committee system.

⁷⁰ Denis Petit, *Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System* (Organization for Security and Cooperation in Europe Warsaw 2000)

While interlocutors praised the system's effectiveness in this election, they also questioned whether it would continue to be as effective in the upcoming General Election. While adequate attention could be given to these systems and to each case during the by-election, legitimate doubts remain about whether the committees will perform as well during general elections with so many more seats being contested. These concerns should be responded to by acting now to build up more efficient systems and clearer procedures that will strengthen the committee system going forward.

For national level disputes, the UEC announced the deadlines for candidates and political parties to submit their complaints and register their disputes. The deadline for national level candidates and political parties to submit their complaints was May 15, 2017 while region/state level disputes could be filed until May 16, 2017. The authority for the adjudication depends on the type of allegation. Post-election complaints pertaining to the results are adjudicated by an election tribunal established by the UEC under the 2014 Election Law.

According to article 70 of the Pyithu Hluttaw Election Law of 2014, the Election Tribunal is like a normal court and open to those interested in witnessing the proceedings.⁷¹ The election tribunal will hold an investigation and public hearing for each claim. The tribunal will then respond adhering to the deadlines set out in the election laws.⁷² The Election Tribunal has wide-ranging powers, article 72 (a) of the same law empowers them to dismiss the case or annul the election result and declare the complainant the winner, if there's enough evidence in the case for such a ruling.⁷³ The most common penalty for candidates found guilty is to declare them ineligible to run in future elections. Article 88 (a) of the law lays out how candidates who are caught violating election related laws like this would, for example, not be eligible to contest in the 2020 General Election or any future elections.⁷⁴ The Tribunals receive technical support from representatives in the Attorney General's Office.⁷⁵

According to article 74 (a) of the Pyithu Hluttaw Election Law of 2014, the Tribunal's decisions must be made available to the public by posting them for public viewing at the appropriate local office and uploading a consolidated report to the UEC website to ensure the transparency of the adjudication process. If an allegation pertains to a Criminal Act, the cases are resolved in local courts.⁷⁶

On May 18, 2017, the UEC issued a statement regarding the complaints that they received for the 2017 by-election. They received objection letters from 13 political parties and 14 individuals regarding alleged violations of the electoral law.

⁷¹ Pyithu Hluttaw Election Law 2014.

⁷² Article 70, Pyithu Hluttaw Election Law 2014

⁷³ Article 72 (a), Pyithu Hluttaw Election Law 2014.

⁷⁴ Article 88 (a) Pyithu Hluttaw Election Law 2014.

⁷⁵ Pyithu Hluttaw Election Law 2014.

⁷⁶ Pyithu Hluttaw Election Law 2014.

According to the press statement, the UEC will analyze, discuss and review all the complaints. As explained by the UEC, most of the complaints focused on the decision to hold the by-election on Saturday, April 1, 2017. The specific complaint is that the date was decided based on the government's request because that date was the one-year anniversary of the NLD forming their government in 2016.

The UEC denied that they chose April 1 for the by-election due to any pressure from leaders or political parties and maintained that they complied with all laws while selecting the date. The UEC explained that Saturday, the 1st of April was chosen because many people from different ethnicities suggested that the election not be held on a Sunday. Furthermore, the UEC stated that April 1 is the same date as the by-election that was held on 2012.⁷⁷

On June 12, 2017, the Tribunal heard 6 cases, with most of the complaints being filed against NLD candidates. Only one complaint was against a USDP candidate.⁷⁸

On June 13, 2017, the tribunal conducted two first hearings on electoral expenses. The first hearing on electoral expenses was heard by the Tribunal Members U Aung Myint (Chairman), U Soe Rel (Member) and U Tun Khin (Member). The complainant is from Yangon Region in the Southern Yangon District. The defendant for this complaint is independent candidate U Zaw Tun from the Kawhmu Constituency.

During the hearing, the defendant stated to the Tribunal that he couldn't submit Form (20) because around ⅓ of his original receipts were lost while relocating his office. The defendant also stated that he did not want to lie therefore he didn't create fake receipts and did not submit Form (20). The tribunal stated that their decision will be made later.⁷⁹

The second case on electoral expenses was heard by Tribunal Members U Aung Myint (Chairman), U Soe Rel (Member) and U Tun Khin (Member). The complainant is from Sagaing Region at Monywa District. The defendant is the NLD candidate U Nyunt Hlaing for Monywa constituency. During the hearing, the defendant stated to the Tribunal that he could not submit Form (20) due to illness. The Tribunal examined the Medical Certificate, dated March 30, 2017, that the defendant submitted as evidence and asked what the Candidate was doing before March 30, 2017. The Candidate answered that he was focusing on doing farming in March and that he fell ill on March 28, 2017. The Tribunal again stated that their decision will be made later.

At the time of writing, the electoral dispute resolution process is still ongoing and no cases have yet been completed.⁸⁰

⁷⁷ <https://www.facebook.com/uecmyanmar/posts/1194937103965319>

⁷⁸ Document was given to ANFREL from International IDEA.

⁷⁹ Document was given to ANFREL from International IDEA.

⁸⁰ <http://uecmyanmar.org/index.php/2014-02-11-08-31-43/1170-12-6-2017tribunalnews>

Since 2015, there have been no changes in the election laws related to electoral dispute resolution. ANFREL recommended in its 2015 Observation report that UEC decisions which affect fundamental rights should be subject to appeal before a court of law, including decisions on the rights to participate in the process and the adjudication of the challenges to election results. None of ANFREL's recommendations on EDR have been incorporated into election law by the authorities concerned. Hopefully, policy makers in parliament and in the UEC will take lessons learned from the dispute resolution process of the 2015 General and 2017 by-election and apply them in time for the 2020 General Election.

Recommendations

ANFREL has generated several key recommendations based on its observation of the 2015 General Election and the 2017 By-Election. These recommendations are grouped by subject in the sections below. Towards the end, there is a list of technical recommendations to be taken as a direct proposal for preparation for the 2020 General Elections.

Constitution Reformation

ANFREL maintains the same position urgently recommending changes to the Constitutional Framework in order to provide a legal foundation for a free and fair electoral system. ANFREL understands that this is a huge step that will require the commitment of many stakeholders including the Union Parliament and the Tatmadaw. These challenges should not however distract or discourage us from the goal of having a democratic constitution. However, long journey will start with a single step and an official statement to reform the Constitutional Framework will be a very good early step. These legal reformations appertain with:

- All members of parliament to be directly elected through election or to say that all reserved seats for military must be removed;
- The mechanism of appointing the EMB member should undergo a transparent and independent procedure rather than based on the prerogative of the president;
- Universal franchise should be respected, and discrimination for eligible voters and candidates' due to religion and race background should be amended following the basic right that every citizen should be able to vote or to become candidate. The legal status of habitual residents of Myanmar, especially former Temporary Registration Certificate holders should be resolved. This recommendation inclusive religious leaders and prisoners to have the opportunity to vote;
- Providing number of quota for women seat in the parliament in order to raised their representation by applying "Voluntary Quotas" - each political party's internal regulations decide quota number of women candidates;
- The greater participation of women and minorities in the UEC is highly desirable even if this requires increasing the number of commissioners from the current five to as much as 15 as they had in the last UEC;
- Role of election observers should be inserted in the constitution including their right to observe anyone and anywhere equally;
- Eliminate any article that provide special treatment for military in the election process since every citizen should have equal right and obligation under the law;
- Publish regulations within main ethnic languages to ensure that the policies are widely understood and are evenly implemented;
- Abolish Article 66 (d), Telecommunication Law against the media by the government as protecting for media in expressing their opinion.

Voting in Advance

While there are improvements in the Advance Voting compared with 2015 General Elections, much more remains to be done. Basically, voting in advance should be conducted with the same free and fair principle as in regular voting. These recommendations covered both, voting in advance inside and outside constituency. More particularly:

- The UEC should take charge as the main organizer and implementer of the advance voting process. Other stakeholders may assist and be given opportunities to ensure that the process remains free from direct and undue influence of any interest group. ANFREL recommends crucial decisions which affect the credibility of the process like placing polling station in controlled areas such as military camps, as well as government officials directing election management decisions be reconsidered and limited.
- Fall under the same recommendation with previous one, the UEC sub-commission should be independent and clearly separated with Ward/Village Tract Committee. In the case of advance voting inside constituency wherein operated by the UEC sub-commission in Ward/Village Tract level, ANFREL found out mostly overlapped or were actually the same person with Ward/Village Tract Committee. Independency not only by the representation of members but also infrastructure aspects (i.e. Sub-commission office and advance voting polling station);
- Publish earlier a separate advance voters list both for inside and outside constituency;
- Announce in advance the schedule of advance voting both for inside and outside constituency including information of the neutral venue;
- Produce an accessible advance voting manual book both for inside and outside constituency;
- To have at least minimum number of witness from party agent, media, and election observer during advance voting;
- Provide more efficient process for abroad (outside constituency) advance voting with the introduction of ‘alternative voting procedures’ such as postal voting. It is simply too expensive to require the citizens abroad to cast their votes at embassies and diplomatic posts. The high cost of travel and permit to leave the job are reasons enough to discourage many voters;
- Shorten the period of advance voting for civil servant/officer on duty (inside constituency) due to small number of voters. Rather than 10 days, and would proposed it to maximum 3 days. The days allotted is too long (lengthy) with low voting activities found which provide room for fraudulence;
- Decide a different method of marking the advance ballot paper from regular voting such as strictly using ballpoint pen (since regular voting use stamping method) and ensure to be an official regulation nationwide;

- Determine the use of envelope only for abroad advance voting (outside constituency) and mobile voting (inside constituency) with advance voter's name should not be written on it;
- Impose a different color or sign code of advance voting ballot paper in order to easily distinguish it from regular voting ballot paper during counting;
- Print less number of advance voting ballot papers due to low number of advance voters. Not only for more efficient budgeting but also avoiding misuse of many of unused advance voting ballot papers;
- Ensure that all officials, especially election management officers both in local and national level are well aware of the new procedures and regulations regarding advance voting.

Voter List

An update and accurate voter list is one of the main indicator for a fair election. This could be the most expensive component in election activities especially for a country who just start to conduct one. Based on the experiences, the investment is worth although will need huge efforts (physically and financially) in the beginning. Voter list has been improved during 2017 By-Elections, however several recommendations can be considered:

- To facilitate easier and more convenient way of identifying a voter at the Polling Station is to depart from the current practice of preparing the voters' list from 'family books'. An alphabetical or numeric system based on the Identity Number of the voter is recommended as the part of long term planning;
- Door-to-door voter list verification should be planned in adequate time before election day systematically and highly recommend to cooperate with a statistic unit together with the Ministry of Population or Internal Affairs and encourage potential volunteerism groups such as NGOs and university students.
- The UEC should maintain and improve the transparency of the registration processes by publishing the number of household covered. Marginal ethnic/religious groups and IDPs should be included in voter list, and the final voter list be displayed in public friendly venue such as public markets, schools, and public parks encourage direct voter list verification by voters;
- Provide a transparent process during voter list verification including the process of voter list correction submitted by eligible voter. Time to time status of the process should be informed also the reason of decision to reject or to accept the correction request;
- Access and visibility of the voter lists should be ensured by displaying it in public friendly areas, as well as other alternative means like online posting.

Campaign

ANFREL observed that campaign period is the most less problematic during 2017 By-Elections. Some highlight recommendations propose:

- Campaign finance is one of the processes which need crucial improvements as most regulations were not seriously followed. The UEC should demonstrate their commitment in applying this regulation. Transparent campaign finance should be accessible in public and punishment should be imposed for the offender.
- Clarify and craft regulations on the maximum expenditure per position to ensure fair a campaign;
- As a measure of transparency, campaign activities of each party and/or candidates including time and venue should be published;
- Ensure every party and candidate have equal opportunity to conduct campaigns in all areas as some reports say that in military camps and ethnic armed groups have been selective on which party can campaign in the areas they control;
- Impose stricter punishments and enforce an effective campaign audit mechanism to curb the practice of vote buying.

Election Day Process

Election day process is the main process determining the success of an election. Election day process contain many activities in a very short period of time (opening, voting, closing, counting, and tabulating mostly in one day - except for tabulating could take more than one day). These are list recommendations in order to improve this important process:

- Ascertain all polling station is located in a neutral place instead of a controlled environment such as inside military camps. Voting in a controlled environment is never ideal on the voter's right of free choice. Hence, polling stations in military camps should be avoided. Transparency and free choice take precedence over convenience. After all, they can always locate the polling station outside the gate of the camp;
- There is an urgent need for more aggressive voter education activities through more innovative methods. Lack of voter knowledge regarding electoral processes are widespread not only among voters, but also among candidates. ANFREL recommends that concerned government should conduct a research or survey on the level of understanding of the election procedures before and after voter education activity in order to assess the effectiveness of methods and the dissemination of election knowledge. Based on ANFREL observation, the UEC mostly transferred this activity to the Civil Society Groups which it is possible. However, it should bear in mind that the UEC still hold the main responsible for educating voters;
- The alarming low voter turnout reflects minimum people's enthusiasm, or availability to participating. Creative effort need to be design to motivate people

to participating, and the election day shall be held on the holiday or a day which declared as holiday;

- Add more training in term of frequency and quality especially for the UEC Sub-Commission in Ward/Village Tract level;
- It is recommended that a “Mock Election” be conducted in the training of poll workers. A mock poll is a simulation of what happens on Election Day. Hence, the new poll workers will have a first-hand experience of what has to be done on polling day. The variations on the manner the vote count was done showed the need for this proposal;
- Miscommunication and misinformation among the UEC Sub-Commissions levels happened both in 2015 General Elections and 2017 By-Elections. The UEC should tackle this problem so that does not exist in 2020 General Elections. One simple solution is having a detailed and comprehensive election regulation/procedures handbook as the one main source of references among the UEC Sub-Commissions. Any additional or revised regulation during election should be published as soon as possible nationwide;
- Continue effort to provide accessible polling stations for Person with Disabilities (PwDs) voters nationwide, and encouraging to continue the effort in conducting training and voter education as well providing tools (e.g., braille template);
- Among the rest of election day process, counting is the most problematic. The UEC should emphasize training in this phase. Different procedure being applied from one polling station to another still obviously found and must be avoided. A clear and detail step by step procedures must be produced and officially socialized;
- The UEC produce a complete Election Calendar Activities earlier officially starting from voter registration or verification until Electoral Dispute Resolution;
- The UEC publish the tabulation process through social media and other types of media such as public and private television and radio;
- The UEC provide a special unit or position or person-in-charge that focusing for minority/ethnic groups differ in each state that need one. The objective is to have a unit/person dealing with minority ethnic groups related with election especially for voter registration and voter education. This is part of the efforts to guarantee the participation of minority ethnic groups in the election process. This special unit/position as a response from the UEC facing challenges of existing many ethnic groups in Myanmar;
- There is a need for more public participation during the EDR process which could be compulsory to be monitor at least by media and domestic observation groups.

Elections in Conflict Areas

Looking at Myanmar’s political condition, there are conflict areas and possibility of ongoing conflict in the next coming years. It is proven conflict area increased the challenges in conducting election even could end up in election cancellation. Therefore, ANFREL propose to provide a specific regulations in overcome these challenges. This

kind of specific regulations considered new in the concept of electoral laws hence it is necessary to gain many inputs as possible. In general, ANFREL propose to conduct a workshop to list specific regulations in overcome election in conflict areas. These are some recommendations as preliminary analysis:

- The UEC must negotiate with parties and other stakeholders including those considered hostile by the government to ensure elections are held regularly. It is recommended that the UEC should establish a neutral unit to negotiate during election process and other matters related suffrage in conflict areas, or can strengthen the Negotiating Committee which already exists in the UEC;
- The UEC should ensure that the location of polling places is acceptable to everyone, as it is among the contentious issues faced in the last elections. This could take time and therefore must be decided/negotiated in a reasonable time prior to the election period.;
- Providing free transportation by the UEC to new polling stations was found to be very helpful in 2017 By-elections. ANFREL supports this activity as long the UEC can ensure the neutrality of the transportation process. The UEC must be ready to provide this facility in conflict areas;
- The presence of security inside and outside polling station is a sensitive matter in conflict area. ANFREL does agreed the need of a neutral security forces near polling stations. Based on election experiences in Asean countries, security forces can vary from police unit until firefighters. Importance that security matters during election should be solely as government responsible. The institution can be flexible depends on the conflict situation;
- Inform in public the decision of election being cancelled as soon as possible together with the reason behind. There should be a systematic phases that able to be monitor by public for any decision of election cancellation since the UEC is hold responsible for this.

2015 General Elections and 2017 By-Elections

This section goals is to provide a quick and brief comparison point-to-point between 2015 General Elections and 2017 By-Elections. The comparison is summarised in a table based on issues found in 2015 General Elections, previous recommendations suggested by ANFREL responding those findings, related issues found in 2017 By-Elections, and lastly analysis of any improvement in a specific column.

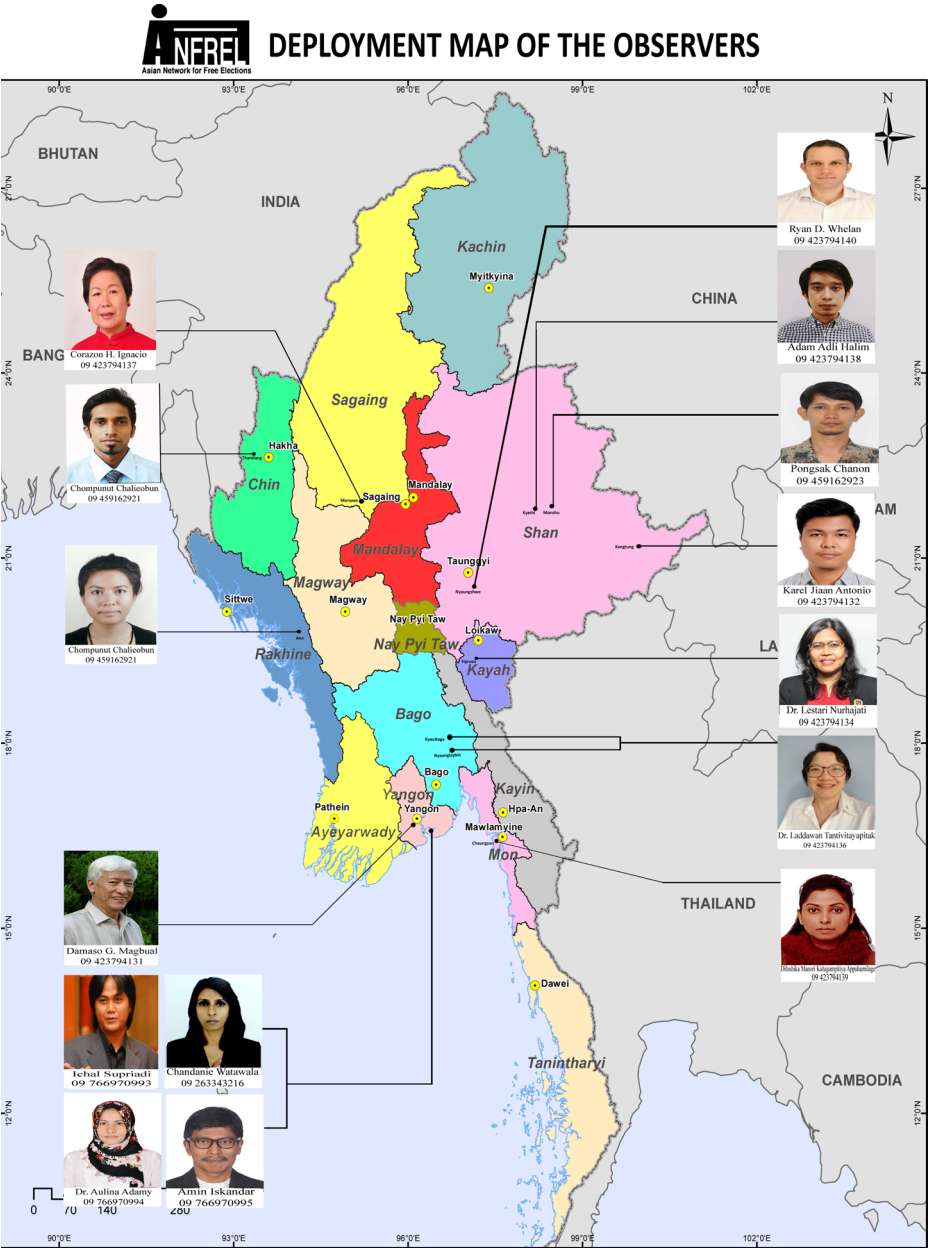
Through the table, it shows that in general there are less improvement. There is still a lot need to be done in order for Myanmar's election to be inline with international standards of free and fair elections. Some principle recommendations by ANFREL from 2015 General Election Observation Mission have not been follow up. For example: 2008 Constitution that allows the military to appoint 25% member of parliament and several important position of ministers are still harming the structure of democracy in Myanmar. The legal framework still didn't guaranteed the independence of UEC. Disenfranchisement of many ethnic minorities voters and candidates predictable still happen in this upcoming 2020 General Elections. Marginal including women, disability, religious leader, prisoner, and ethnic group is not protected in the laws as well freedom of expression for media. Problematic procedures in advance voting still happening. Lack of transparency from Military voters as they don't apply the same procedure for civilians. Additional challenges found based on experiences from 2017 By-Elections such as conducting election in high tension of conflict areas should also be considered by the UEC.

However, these ideal recommendations does not means that both previous elections are not successfully held. It is clear, ANFREL conclusion that 2015 General Elections and 2017 By-Elections: "While there of course remains rooms for improvement, the election process exceeded the expectations and certainly provided the country a means through which to have their voices heard".

The Daw Aung San Suu Kyi's government has yet to prove that they are really sincere to implement democracy in Myanmar as what they have been fighting for all this while. Recent Myanmar politic condition provide a gold opportunity to create a foundation for better democracy which should be optimized. ANFREL still committed in supporting free and fair election in Myanmar based on Bangkok Declaration on Free and Fair Elections and will always stand with Myanmar people in order to achieve it.

ISSUES IN 2015 GENERAL ELECTIONS	PREVIOUS RECOMMENDATIONS	ISSUES IN 2017 BY ELECTIONS	ANALYSIS
CONSTITUTIONAL AND LEGAL FRAMEWORK			
Weaknesses in the electoral law from the military-drafted constitution which impact the democratic character of the electoral and political process, such as: <ul style="list-style-type: none"> 25% of the members of each house of parliament is appointed by the military; The military appoints the minister of defense, home affairs and borders affairs; Distrust on the independence and impartiality of the Union Election Commission (UEC); Disenfranchisement of voters and candidates from ethnic minorities. Legal provisions are not available in a majority Burmese ethnic language; The role of the election observers is not mentioned in the parliamentary election law. 	<ul style="list-style-type: none"> Power of the military to appoint 25% of the Parliament should be abolished to pave the way for a more democratic legislative system; The appointment mechanism for the UEC should be reviewed to ensure that it guarantees independence and impartiality; Laws which effectively result to the disenfranchisement of many minorities should be amended in line with international standards. The next parliament should consider enacting a measure to define/clarify who the citizens of the country are and apply a fair standard to all; Unreasonable restrictions on the right to vote should be removed including the Article 392; The prohibition of anyone with a parent, spouse or child with foreign citizenship from holding the post of president should be reconsidered; Legal provisions should be translated into the languages of ethnic nationalities; The role of election observers should be addressed in parliamentary election laws; Myanmar should take into account international laws and principle of democracy; <p>Myanmar should sign and ratify the International Covenant on Civil and Political Rights and other international human rights documents setting out of the standards for democratic elections, political participation, and other rights and freedom.</p>	The laws on each of the issues highlighted still hasn't changed.	Despite the successful transfer of power after the 2015 Elections, the ruling government has not yet made major changes to the country's electoral framework. While Myanmar's electoral laws has some amendments and updates after the 2010 & 2015 Elections, the Union Election Commission Law, the Political Parties Registration Law, the Pyithu Hluttaw (House of Representatives) Electoral Law, the Amyotha Hluttaw (House of Nationalities) Electoral Law, the President & Vice-Presidents Election Law, and the Region and State Assemblies Law have remained largely similar to their 2010 versions released by the then- ruling State Peace and Development Council (SPDC).
ELECTORAL MANAGEMENT BODY (EMB)			
<ul style="list-style-type: none"> The election administration lacked legal and structural independence and were dependent on the local General Administrative Department (GAD) - duplication with Ward/Village Tract Committee; The UEC lacked of credibility among local election stakeholders due to the subjectivity of appointment system; Lack of capacity and a great deal of variation in the procedures followed across the country which can lower the perceived professionalism of the UEC and fairness of the election itself; A disconnect or failure to communicate between the UEC and its various sub-commissions. 	<ul style="list-style-type: none"> Laws which contributed to the disenfranchisement of many minorities should be revisited, and amended in line with international standards. The next parliament should consider enacting a measure to define/clarify who the citizens of the country are and apply a fair standard to all; Unreasonable restrictions on the right to vote should be removed including the Article 392; 	<ul style="list-style-type: none"> There are no changes in the laws to ensure that all citizens have voting rights; The UEC made every effort to have an accurate, current and complete voter list including validation through door-to-door although its implementation is rather poor. 	<ul style="list-style-type: none"> The door-to-door verification strategy was appreciated by many people, especially those living in rural and isolated areas where transportation is difficult. While door-to-door shows a good intention by the UEC, this strategy required huge amounts of manpower and logistics. Since there are no major changes in the electoral law, migrants and displaced persons will still experience disenfranchisement. Similarly, religious people, convicted prisoners still cannot vote.
CANDIDATE ELIGIBILITY AND REGISTRATIONS			
<ul style="list-style-type: none"> Restrictive requirements, selective enforcement, and lack of procedural safeguards and transparency on candidate eligibility calls into question the credibility of the scrutiny process 	<ul style="list-style-type: none"> Laws which contributed to the disenfranchisement of many minorities should be revisited, and amended in line with international standards. The next parliament should consider enacting a measure to define/clarify who the citizens of the country are and apply a fair standard to all. Unreasonable restrictions on the right to vote should be removed including the Article 392; Enfranchise all eligible voters, election day voter identification requirements should be clarified and communicated to the public well in advance of election day. 	No changes on this.	Since there are no major changes in the electoral law, migrants and displaced persons will still cannot run for office. Similarly, religious people, convicted prisoners still cannot run.
POLITICAL SPACE AND THE CAMPAIGN PERIOD			
<ul style="list-style-type: none"> The legal framework in Myanmar does not adequately protect freedom of expressions and associations. Restrictive and vague media laws remained in place including reporting sensitive issues can results in retaliation and journalist enjoyed little protection; The content of party's campaign platform presentations on televisions had to be approved in advance by the UEC; Incidents of alleged vote-buying in the form of providing of gifts, donations, or through directly distributing money to voters were reported to ANFREL observers across the country. 	<ul style="list-style-type: none"> Election laws should be amended to regulate parts of the electoral process including: The timeline for elections and campaigning; To ensure an environment conducive to the conduct of democratic elections, the freedoms of association, assembly and expression enshrined in the constitution should be guaranteed and practiced; Candidates and political parties should be permitted to campaign without undue limitations or burdensome requirements like prior approval; No prior approval of the content of speeches should be required for contestants to use free media time; Protection that allow civil society and journalists to work free from fear harassment, obstruction or retaliation should be elaborated in legislation. 	<ul style="list-style-type: none"> The current legal framework still does not protect freedom of expressions and associations; Based on interview with key persons, in this 2017 By Election political parties no longer need to submit their campaign material and get approval from UEC. However, observers found this practice still happened in certain area; The Negotiating Committee called all the political parties to discuss the schedule; The UEC has published Election Activity Calendar at the local newspapers only it is not comprehensive enough; The overall campaign environment leading up to the 2017 by-election was rated as improved even know it was not really "colorful" compared to the 2015 general election; The campaign for the most part adhered to the guidelines as laid down in the "Code of Conduct for Political Parties and Candidates" agreed upon by the political parties and the UEC in 2015; The campaign environment is generally peaceful including in the conflict areas in Shan; No case of vote buying found. 	<ul style="list-style-type: none"> The current legal framework still doesn't protect freedom of expressions and associations (there is no mentioned in the electoral law on the role of media). Based on interviews, media felt more freedom now compared to the previous junta government, as long as the media didn't criticize the government or its leaders openly. Article 66 can be used to pressure media; ANFREL noted that the campaigning activities for the 2017 by-election by the candidates and political parties are less enthusiastic compared to the 2015 general election in most of the states and region and confirmed by low number of turnout; Most candidates felt more relaxed to campaign during this election compared with the previous 2015 general election.
PARTICIPATION OF WOMEN AND ETHNIC GROUPS			
<ul style="list-style-type: none"> Lacked of equal participation of women and ethnic groups; More traditional male-dominated systems reigned and fewer female candidates including gender imbalance in the parliament from the military quota. 	<ul style="list-style-type: none"> Encourage Myanmar's parliament, political parties and civil society to make significant progress toward the international standard of equal participation, in the particular that more women become candidates and that greater numbers of women be elected. This could include measures such as incentives for campaign finance for women candidates and incentives for political parties to support training of women candidates; There should be consideration of introducing gender quotas in appointments of election commissioners at all levels. 	<ul style="list-style-type: none"> Women participation in politics is very limited in Myanmar. In general, there is improvement in women's participation as candidates in 2017 (17.7 %) compared to 13.2 % in 2015 and 4.13 % in 2010 but still very small number of women representation with majority women as eligible voters; 56.5 % women working with UEC; All the five Commission members including chairman appointed on 30 March 2017 under the NLD government are all male. 	<ul style="list-style-type: none"> The Myanmar government should encourage more women participation in election. Not much improvement related to the participation of other ethnic groups in the election; Providing number of quota for women seat in the parliament in order to raised their representation by applying "Voluntary Quotas" - each political party's internal regulations decide quota number of women candidate.
CAMPAIGN FINANCE			
<ul style="list-style-type: none"> Campaign finance regulation needs to improve on oversight and transparency. There is no mechanism for monitoring campaign income and expenditures. 	<ul style="list-style-type: none"> Allegations of the misuse of religion in the campaign should be promptly addressed. <p>The effectiveness of campaign-finance regulations can be enhanced through the introduction of a monitoring mechanism, regulation of spending by political parties and candidates in the pre-campaign period, limiting the size of individual donations, disclosure of donors who contribute amounts about a certain threshold, the publication of campaign-finance reports, and introduction of a range of sanctions for violations of campaign-finance regulations;</p> <ul style="list-style-type: none"> The supervision and audit of campaign expenditures. 	<ul style="list-style-type: none"> There are no improvements on the campaign finance regulation and implementation. 	<ul style="list-style-type: none"> The transparency of campaign finance in Myanmar still far from international standard. However, the UEC published Campaign Finance for Candidates and Parties Frequently Asked Questions booklet, specifically for 2017 By Election; Campaign finance regulation is not being applied seriously. A more comprehensive campaign finance law, including regulations on donations and expenditures will help.
VOTER EDUCATION			
<ul style="list-style-type: none"> The UEC did not consider proactive voter education as part of their mandate, they relied heavily to the civil society on this aspect. 	<ul style="list-style-type: none"> Voter education outreach should be increased in future elections, building on the positive cooperation with civil society; The UEC should ensure that the civil society organizations have accurate and updated information on electoral rules and procedures. The UEC should be more proactive in reaching out to voters directly. 	<ul style="list-style-type: none"> The UEC still depended to media and civil society to do the voters education (around 15 CSOs signed MoU with the UEC for voter education program); The UEC displayed a few posters on voter education. (228,000 voter list pamphlets, 23,000 voter list posters, 217,000 how to vote pamphlets, 23000 how to vote posters, 23,500 motivational posters and 5750 posters in 5 ethnic languages: Shan, Mon, Rakhine, Lai, Kareni printed. 	<ul style="list-style-type: none"> To ensure that the election in Myanmar is free and fair and abides by international standards, the UEC must play more serious role on voter education. <p>For this 2017 By Election, UEC still relied on the CSOs</p>
ADVANCE VOTING			
<ul style="list-style-type: none"> In comparison to the 2010 elections, advance voting in 2015 was much improved while problematic parts still persist. Lack of transparency both in the out and inside constituency advance voting process especially for military personnel; A great deal of implementation variation. 	<ul style="list-style-type: none"> Posting of the list of voters requesting to vote in advance, including the military personnel; Accounting measures for the ballots sent out and received; Allowing for auditing of the advance voting request; Publicizing the number of requests and places where advance voting will take place; Inking of in constituency advance voters; <p>Enforcement of the requirement that advance voters be crossed off the voter list used on election day;</p> <ul style="list-style-type: none"> All advance voting, including the casting of ballots, should be opened fully to observation by accredited observers and party/candidate agents; Provision for election observation of advance voting including military voting. 	<ul style="list-style-type: none"> Still no changes in the legal framework except improvement in advance voting regulations; There is no clear schedule and procedures of the advance voting; A complete advance voter list is not available; Implementation variation is still found; Inside constituency advance voter list was published at polling station on election day; Observers were allowed to observe advance voting except for outside constituency due to unclear place and time. 	<ul style="list-style-type: none"> Advance voting still considered most problematic. There is no changes in the legal framework and most importantly the implementation is dissimilar nationwide; A review of advance voting procedures should be conducted to make the process less vulnerable to fraud and increase public confidence; Lack of transparency still obvious for military voting in advance.
ELECTION DAY			
<ul style="list-style-type: none"> Disenfranchisement of hundreds of thousands of temporary registration certificates (TRC) holders; Overcrowding or disorder in election day causing delays in voting and in some places potentially compromising the secrecy of the votes; Mistakes in polling procedures due to poor training of officers Polling stations often not easily accessible for voters with disability; Laws regarding vote counting were too vague, which resulted in a lot of mistakes in appreciation of ballots; Invalidation of ballots in more than half of vote counts caused by stringent instructions to invalidate double stamped ballots; Observers and party agents are not entitled to copies of results. <p>Inability to observe out-of-constituency advance voting;</p> <ul style="list-style-type: none"> Election administrations lacked adequate transparency including explaining the decision of election cancellation in some areas. 	<ul style="list-style-type: none"> Election regulations should provide for election observation and should guarantee access of observers to the entire electoral process; Promoting accessibility of polling station to persons with disabilities should continue. Locations identified as having limited or no access should be reconsidered or appropriate accommodations made; To build the capacity of polling station staff and make the process more efficient, authorities should consider an enhanced training program to provide an opportunity for polling station staff to seek clarification on the procedures; Clear guidelines on the appreciation of votes; The use of voter slip procedures should be formalized and uniformly applied; 	<ul style="list-style-type: none"> Same as in 2015, the UEC published 2017 Myanmar By Election: Polling Station Officer, Deputy Polling Station Officer and Polling Station Members Manual that contain the changes in election procedures; Still no changes in the legal framework except improvement in technical/election regulations, such as: Accepted double stamped as long as there's clear intention on who they are voting; The UEC tried to tackle the overcrowded voters in the polling stations, but the actual result was not conclusive due to low voter turnout; Several disabled-friendly polling stations were opened; Aside from huge efforts in updating and correcting voter list, the UEC also provided Form 12 to facilitate correction of voter list. As long as voters were able to provide proof of their residence in their respective Hluttaw constituency, they were allowed to vote; Counting found most inconsistent. 	<ul style="list-style-type: none"> Except no reform of a firm regulations, new technical procedures released by the UEC has proven influencing a better election day process; The election day process shows improvement in terms of procedures consistent implementation, polling officers are knowledgeable regarding their tasks and they look more confident doing their duties. However more intensive training is required especially for the UEC Sub-commission in Village Tract/Ward level; Signage and voter education materials were not effective with the illiterate and non-Burmese speakers.
TABULATION AND ANNOUNCEMENT OF RESULTS			
<ul style="list-style-type: none"> Some inconsistencies during tabulation of results due to ambiguity in the procedures 	<ul style="list-style-type: none"> To increase the transparency of the tabulation process, procedures for the township subcommission tabulation should be elaborated; The procedures should require full access for observers and party agents to observe the whole process; Results should be immediately posted at the polling station and township levels; Results should be made available online by polling station. 	<ul style="list-style-type: none"> Tabulation is considered more transparent and faster. 	<ul style="list-style-type: none"> Observers were allowed to monitor the complete process starting from counting till tabulation in every level even though it's not been stated clearly in the electoral framework
ELECTION DISPUTE RESOLUTION			
<ul style="list-style-type: none"> The UEC does not guarantee complainant an effective and timely remedy for violations of their rights because of lack of provisions for appeal to an independent judicial authority, the lengthy deadline for filing cases, the absence of deadline for resolving cases, the inability to challenge results based on the misconduct of election officials, and excessive filing fees. 	<ul style="list-style-type: none"> Decisions of the UEC affecting fundamental rights should be subject to appeal before a court of law, including decisions on the rights to participate in the process and the adjudication of challenges to election results; There should be a review of the post-election dispute resolution system. Accessibility could be improved by providing a forum for new disputes that is convenient for the participants, eliminating the filing fee, and minimizing participant travel. 	<ul style="list-style-type: none"> On June 12, 2017, the Tribunal heard 6 cases where most of the complaints towards NLD candidate. Only one complaint towards USDP candidate; Same problem in 2015 General Elections still found in 2017 By-Elections; Minimal public participation and interest. 	<ul style="list-style-type: none"> There are no changes in the electoral laws related to election dispute resolution; The Election Tribunal must be independent, and must have members possessing legal knowledge and expertise; There should be great public participation in the process and better information dissemination.

Annex I: Deployment Map



Annex II: Registrations of Candidates and Political Parties

Party/ Independent Candidates

No.	Party/Individual	Pyithu	Amyotha	State/ Region	Total
1.	National Unity Party	2	1	-	3
2.	La Hu National Development Party	-	-	2	2
3.	Democratic Party (Myanmar)	3	1	-	4
4.	All Mon Regions Democracy Party	1	-	-	1
5.	Shan Nationalities Democratic Party	2	-	5	7
6.	Chin National Democratic Party	-	1	-	1
7.	Inn National Development Party	-	-	1	1
8.	Phlone-Sqaw Democratic Party	1	-	-	1
9.	Union Solidarity and Development Party	9	3	7	19
10.	National Democratic Force	3	2	-	5
11.	People Democracy Party	1	-	-	1
12.	National League for Democracy	9	3	6	18
13.	Myanmar National Congress Party	1	-	-	1
14.	Shan Nationalities League for Democracy	2	-	5	7
15.	Mon National Party	1	-	-	1
16.	Myanmar Farmers' Development Party	1	-	-	1
17.	All Nationals' Democracy Party (Kayah State)	-	-	1	1
18.	Arakan National Party	2	-	-	2
19.	Public Contribute Students Democracy Party	1	-	-	1
20.	New Society Party	1	-	-	1
21.	Akha National Development Party	-	-	1	1
22.	National Development Party	3	2	1	6
23.	Union Farmer and Labor Force Party	-	1	-	1
24.	'Wa' Liberal Democratic Development Party	-	-	2	2
25.	Independent	6	1	-	7
		49	15	31	95

Pyithu Hluttaw Candidates

No.	Constituency	Candidate Name	Party/Independent	Date of Submission
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Sagaing Region

1.	Monywa Constituency	1.	U Sein Maung	National Unity Party	5.12.2016
		2.	U Nyunt Hlaing	National Development Party	7.12.2016
		3.	U Nyunt Aung	National League for Democracy	1.12.2016
		4.	Dr. Win Myint Aung	Union Solidarity and Development Party	5.12.2016
		5.	Dr. Than Htike Oo	People Democracy Party	2.12.2016

Mon State

2.	Chaungzon Constituency	1.	U Tint Wai	National Unity Party	5.12.2016
		2.	Naing Sein Mya Maung (aka) Naing Mya Maung	Mon National Party	6.12.2016
		3.	U Win Htut (aka) U Mya Win	All Mon Regions Democracy Party	7.12.2016
		4.	U Aye Win	National League for Democracy	7.12.2016
		5.	U Aung Kyi Thein	Union Solidarity and Development Party	5.12.2016

Rakhine State

3.	Ann Constituency	1.	U Zaw Lin Aung	Independent	4.12.2016
		2.	U Zaw Win Myint	National League for Democracy	4.12.2016
		3.	U Thauang Nyein	Union Solidarity and Development Party	1.12.2016
		4.	Dr. Aye Maung	Arakan National Party	4.12.2016

Yangon Region					
4.	Hlaing Tharyar Constituency	1.	U Kyarr Gyi	Democratic Party (Myanmar)	1.12.2016
		2.	U Kyaw Than	Independent	29.12.2016
		3.	U Tin Yu	Union Solidarity and Development Party	6.12.2016
		4.	U Nay Lin Oo	Public Contribute Students Democracy Party	5.12.2016
		5.	U Maung Win	Independent	7.12.2016
		6.	U Win Min	National League for Democracy	7.12.2016
		7.	U Thet Tun Maung	National Democratic Force	30.12.2016
		8.	U Aye Kyaw	Arakan National Party	6.12.2016
5.	Dagon Myo Thit (East) Constituency	1.	Daw Khin Marlar	National Democratic Force	6.12.2016
		2.	U Zaw Aung (aka) U Nyo Tun	New Society Party	6.12.2016
		3.	U Nay Kyaw	National League for Democracy	5.12.2016
		4.	U Nay Lin	Union Solidarity and Development Party	5.12.2016
		5.	Daw Ohnmar Tin	Democratic Party (Myanmar)	6.12.2016
6.	Dagon Myo Thit (Seikkan) Constituency	1.	U Khin Win	Union Solidarity and Development Party	4.12.2016
		2.	U Mya Sein	National League for Democracy	2.12.2016
		3.	U Thel Maung Maung Htet	National Development Party	30.12.2016
		4.	U Aung Zin	National Democratic Force	6.12.2016
		5.	Dr. Aung Myo	Independent	4.12.2016
7.	Kawhmu Constituency	1.	U Kyaw Swe Win (aka) U Ar Luu	National League for Democracy	5.12.2016
		2.	U Kyaw Zin Hein	Union Solidarity and Development Party	6.12.2016
		3.	Daw Khin Khin Lin	Myanmar Farmers' Development Party	5.12.2016

		4.	U Saw Win	Phlone-Sqaw Democratic Party	30.12.2016
		5.	Daw Sein Kyawt Nu	Democratic Party (Myanmar)	5.12.2016
		6.	U Zaw Tun	Independent	7.12.2016
		7.	Daw Nilar Soe Tint	Myanmar National Congress Party	6.12.2016
		8.	U Myo Maung Maung Soe	National Development Party	3.12.2016
		9.	U Myo Thiha Tun	Independent	7.12.2016

Shan State

8.	Kyethi Constituency	1.	U Sai Kyaw Khaing	Union Solidarity and Development Party	5.12.2016
		2.	Sai Aung Kyaw	Shan Nationalities League for Democracy	4.12.2016
		3.	Sai Owm Kham	National League for Democracy	2.12.2016
		4.	Daw Nan Tin Oo	Shan Nationalities Democratic Party	1.12.2016
9.	Monghsu Constituency	1.	U Kyaw Tin Shwe	Union Solidarity and Development Party	4.12.2016
		2.	Sai Win Aye (aka) Sai Tun Aye	Shan Nationalities League for Democracy	4.12.2016
		3.	Nan Kham Yin Aung	Shan Nationalities Democratic Party	30.12.2016
		4.	U Win Naing	National League for Democracy	4.12.2016



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