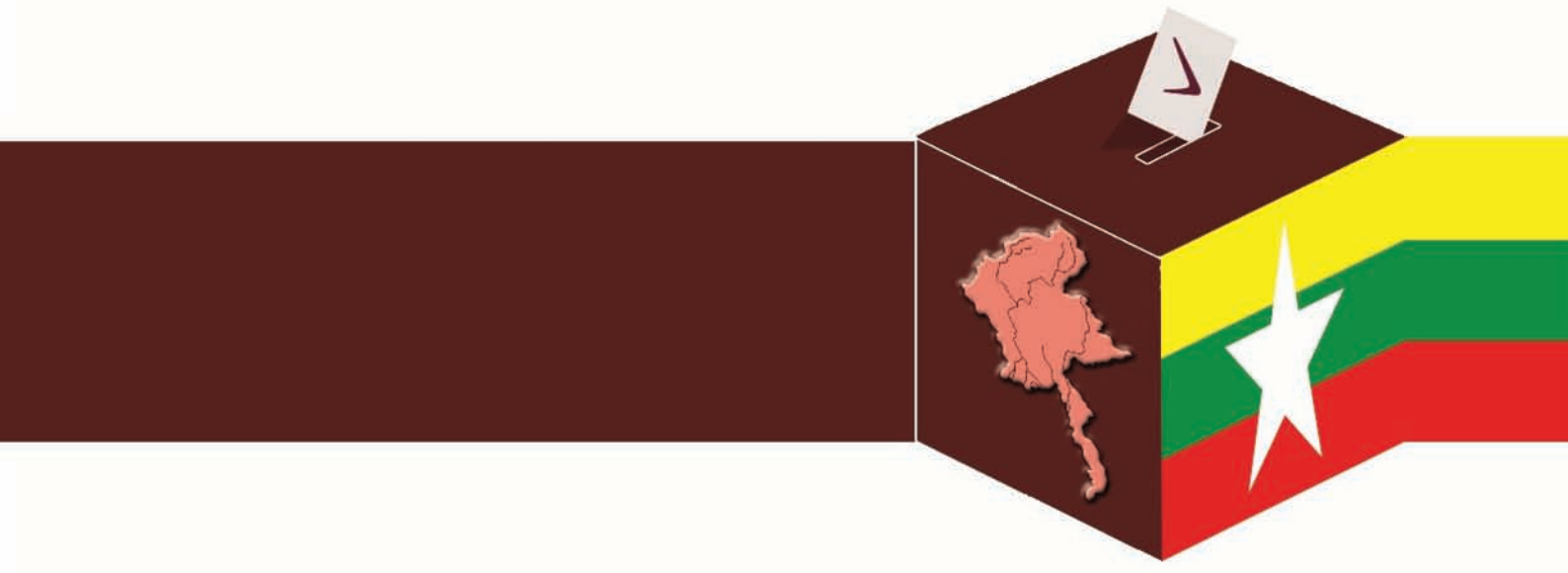
Observation Report

2010 MYANMAR GENERAL ELECTIONS

Learning and Sharing for Future



April 2011

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PREFACE

This is an invaluable document. It provides the only independent view of the 2010 elections, based on the observations of people who were on the ground in many different parts of the country. It also presents a comprehensive analysis of the legal and administrative framework, and a detailed and thoughtful set of recommendations. Given the constraints the team was working under, this is a remarkable achievement.

It enables the report to make two important contributions: highlighting the many flaws in the process, while at the same time demonstrating the efforts of parties, candidates, voters and the observers themselves, who sought to overcome the various constraints imposed on them. Free and fair these elections were not, but dismissing them out of hand, as many in the international community have tended to do, is not helpful – it does a disservice to those opposition parties who made the difficult decision to contest, and to those few of their candidates who managed to win against the odds. These parties and candidates are committed to using the small space they have carved out to push a reform agenda, and those who stand on the side of democracy should give them their encouragement.

But more than this, the report provides a reference point, and indeed a model, for future election observation. This is critical if many of the issues identified by the observers are to be addressed. Thus, the biggest contribution of this report will hopefully not be in documenting the past, but in influencing the future. In this regard, if future elections are to have credibility in the eyes of the Myanmar people and the world, it is essential that the Myanmar government allow such observation activities to be freely conducted.

For me, two important qualities of this report make it stand out: its rigorous analysis, and its careful balance and objectivity – characteristics that are unfortunately often lacking in reporting on Myanmar.

Richard Horsey
April 2011

BURMA OR MYANMAR?

The name of the country officially changed from Burma to Myanmar by the State Law and Order Restoration Council (SLORC) in 1989. *Burman* describes one of the largest ethnic groups in the country and is known as *Bamar* in spoken Burmese language, and the country was initially named Burma. *Myanmar* is a term that has been used since the time of monarchy in formal Burmese language to describe people residing in the kingdom. The name change was in part an attempt to include ethnic groups, as the name Burma was associated with the Burman ethnic group. However, many ethnic representatives feel they were not adequately consulted on the name change. Despite the official name change, the use of both terms has become highly politicized, with many opposition groups and some countries and regional groupings with sanctions against Myanmar, like the US and the European Union (EU), using the term Burma exclusively. Other countries and organizations like the United Nations (UN) use the term Myanmar. We have chosen to use the term Burma when describing events before 1989, and the term Myanmar for events after the name change. This choice does not represent a political stance.

ABBREVIATION

ALD	Arakan League for Democracy
AMRDP	All Mon Regions Democracy Party
Amyotha	*National in Burmese*/Myanmar language
ANFREL	Asian Network for Free Elections
AFPFL	Anti-Fascist Peoples' Freedom League
ASEAN	Association of South East Asian Nations
BGF	Border Guard Force
BSPP	Burma Socialist Programme Party
BCP	Burma Communist Party
COMFREL	Cambodian Committee for Free Elections
DKBA	Democratic Karen Buddhist Army
EC	Election Commission
EOT	Election Observation Training
GONGO	Government Organised NGO
Hluttaw	*Legislature* in Burmese/Myanmar language
KIO/A	Kachin Independence Organisation/Army
KNPP	Karenni National Progressive Party
KNU	Karen National Union
KSPP	Kachin State Progressive Party
Kyat	Myanmar currency
LTO	Long Term Observers
MRTV	Myanmar Radio and Television
NDAK	New Democratic Army (Kachin)
NDF	National Democratic Front
NDI	National Democratic Institute
NEEDS	Network for Enhanced Electoral and Democratic Support
NEC	National Election Commission
NGO	Non Government Organisation
NLD	National League for Democracy
NMSP	New Mon State Party
NSSPP	Northern Shan State Progressive Party
NUP	National Unity Party
OSCE	Organisation for Security and Cooperation in Europe
PDC	Peace and Development Council
PSB	Press Scrutiny Board
Pyidaungsu	*Union* in Burmese/Myanmar language
Pyineh	*State* in Burmese/Myanmar language
Pyithu	*People* in Burmese/Myanmar language
RNDP	Rakhine Nationalities Development Party
SLORC	State Law and Order Restoration Council
SNDP	Shan Nationalities Democratic Party

SNLD	Shan National league for Democracy
SPDC	State Peace and Development Council
STO	Short Term Observers
Tatmadaw	*Armed Forces* in Burmese/Myanmar language
UEC	Union Election Commission
USDA	Union Solidarity Development Association
USDP	Union Solidarity Development Party
UWSA	United Wa State Army

ACKNOWLEDGEMENT

The Core Team would like to thank the Long-term and Short-term Observers, whose hard work informed the production of this report. The team would also like to thank the donors who supported the observation mission, who were politically neutral and did not impose any bias on the process. Furthermore, we would like to extend our gratitude to the observation organisations from Southeast Asia for their generosity in sharing their observation experiences, techniques and frameworks.

EXECUTIVE SUMMARY

This report details observation of the 2010 election process in Myanmar: the period leading up to the election, election day itself, and subsequent events. The first sections cover the main findings and the methodology. The following chapters provide an overview of the legal framework and the pre-election phase, including the election campaign and the media. The next section describes the election day and the counting and consolidation of results – including a special analysis of advance voting. Later sections explain the political and historical context of Myanmar, and other annexes referred to in the text.

While this election clearly fell short of international standards, it marks an important step forward towards a more democratic state. Political parties and voters were well aware that the playing field for this election was not level – but many have decided to take advantage of the small window of political space that has opened to participate in the process.

It is important to acknowledge that while the campaign environment was highly constrained and some irregularities were observed on election day– and the process of advance voting was especially open to abuse – this does not necessarily fatally undermine all of the results of this election.

The administration of the vote on election day proceeded in a smooth and peaceful way in most places observed. However, there were several notable irregularities. There was a lack of secrecy around the casting of ballots with almost half of the observers noting irregularities, crowded booths and some interference from polling booth staff and authorities. The voter rolls were often poorly managed and polling station staff members were frequently confused about how to handle non-standard cases. Election Commission lower level staff often behaved in a politically partisan way and were badly informed about the election law and regulations, which impacted on their ability to make key decisions on the ground. There were few agents from smaller political parties and they were not comprehensively briefed on their roles. Vote buying was prevalent in the pre-election period in ethnic areas – but on election day very few cases were observed. Advance voting was used to subvert election results, and because of a possible costly fine and imprisonment for unsuccessful complaints, most parties decided not to lodge formal complaints with the authorities..

There were a range of critical issues during the campaign. The Union Solidarity and Development Party (USDP) enjoyed access to state resources and coerced voters into supporting the party, especially civil servants, the armed forces and private sector companies. The Elections Commission was politicised and lower-level staff reported a lack of clarity around electoral procedures. Voter registration and voter lists procedures

were manipulated in many cases. The media is state-controlled and all publications (both private and public) were rigorously censored through the process. Voter education was very limited, and rarely provided in ethnic languages, which left many voters confused about how to vote and who they were voting for. These factors had an effect on some voters, particularly those in more rural areas and some employees of the state who did not feel that they could exercise their vote freely. But many Myanmar people have resisted such pressure and voted for the party of their choice – just as did voters in the 1990 election expressed their desire for change in a politically constrained environment. Dismissing the results of this election underestimates the potential for increased participation in the future.

Swathes of ethnic areas were deemed unsafe for voting, leaving tens of thousands of ethnic citizens disenfranchised. Violence was limited, confined to a few small areas in Karen, Mon and Shan States on election day. Areas of Kachin and Kayah states were tense on election day because of widespread fear of potential conflict between ethnic forces and the state's armed forces.

The constitution, elections laws and other directives and rules created a restrictive election environment, particularly for the campaign period. The Political Parties Registration Law in particular contained new provisions that limited the activities of political parties. This law and associated regulations contained provisions that made it expensive for parties to register, and that left little time for smaller ethnic parties to organise, register and campaign. These pieces of legislation, and those covering censorship and the right to associate freely, also limited the ability for smaller parties to present platforms and policies to the public. The constitution ensured that 25 percent of seats in each of the legislatures were reserved for armed forces, which obviously does not conform to international norms.

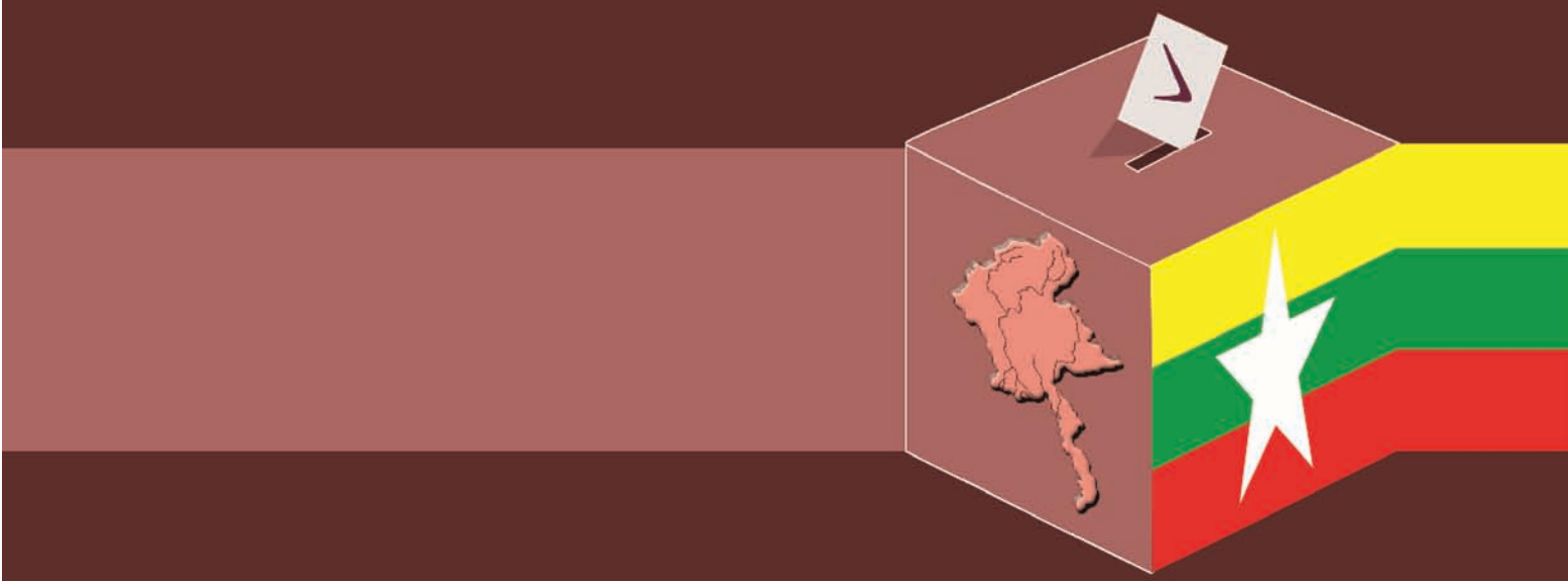
But to conclude simply that this election was not free and fair misses the point. Those who voted and participated as candidates and parties knew this even before the election took place. The more pertinent question is whether this election represents an opportunity for those who wish for a more democratic and plural Myanmar. Though parties not aligned with the government faced several kinds of constraints during their campaigns, they have begun to prise open the space for political debate in Myanmar. Their representation in parliament may help this trend to continue. While the USDP won almost 80 percent of seats in national legislatures, in four of the state legislatures ethnic parties control more than 25% of the seats, enabling them to exercise some influence on proceedings. In short, there are grounds for very cautious optimism.

The many flaws of this election, which our observers have helped bring to light, should be understood and criticised – but not exaggerated either. The lessons learned from this election have enabled us to provide recommendations for future elections. The

international community should understand that this election has been a highly imperfect process but also that new voices are emerging and that the political landscape is shifting in important ways. This election has not brought democracy to Myanmar overnight. But the Burmese people have expressed their desire for change and this election represents an opportunity for engaging with the country and its people in new ways.

Chapter 1

OBSERVATION TEAM



1. OBSERVATION TEAM

1.1. Overview

The plan for this observation mission was made prior to the elections and the release of the elections laws. A series of workshops were held to analyze the 2008 constitution from ethnic perspectives. In the seminars, the participants identified a number of strategic options to enable them to better participate in the 2010 election process, despite many restrictions and challenges. The inspiration for the mission came out of these workshops.

Moreover, months before the elections, some of the core team members received training from regional and international elections observation groups like the Asian Network for Free Elections (ANFREL), the Cambodian Committee for Free Elections (COMFREL), and Network for Enhanced Electoral and Democratic Support (NEEDS). Although the team was equipped with the technical know how to organize an election observation mission, the team sought experts advice on the implementation strategy. COMFREL also advised the development of the curriculum for training observers and the overall strategy of the mission. After this consultation process the mission was established.

1.2. Methodology

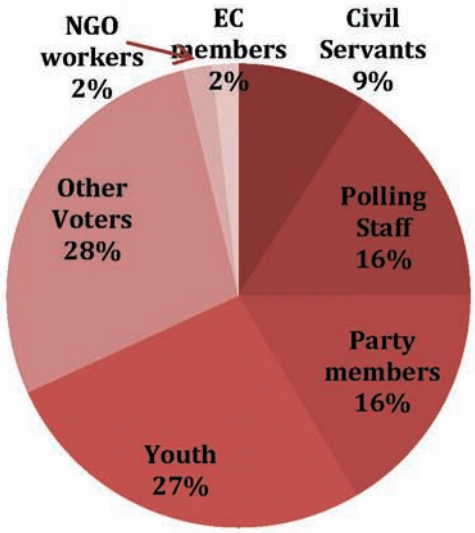
The elections observation was carried out by an independent and politically neutral local association based in Myanmar. Observation covered the preelection period, election day itself and the post election period in seven States, and are supplemented with anecdotal reports from the Yangon Region.

The mission followed a 13-step plan including: recruitment of the core team in charge of organizing the mission; curriculum development for training the Long Term Observers (LTOs); two training workshops for LTOs on international standards for observation methodologies; field work for LTOs; LTOs' recruitment and training of Short Term Observers (STOs); election day observation; debriefings of LTOs and STOs; release of preliminary findings report (*see Annex: 1*), and release of the final report.

Table 1: **13 STEPS OF THE ELECTIONS OBSERVATION PROCESS**

STEP –13	Report Translation and Publication
STEP –12	Presentation Meeting for Stakeholders
STEP –11	Debriefing Meeting in Yangon and Report Writing
STEP –10	Data/Information Compilation Meeting (LTOs)
STEP – 9	Post Election Meeting with STOs
STEP – 8	Observation on Cooling and Election Days
STEP – 7	Multiplier Training for STOs for E-Day
STEP – 6	Election Observation Training (EOT)-2 & Report Back
STEP – 5	Data Collection
STEP – 4	Election Observation Training (EOT) -1 for LTOs
STEP – 3	Observation Group Formation: LTOs
STEP – 2	Training preparation with Core Team and Consultants
STEP – 1	Project Team Formation

Chart 1: **BACKGROUND OF OBSERVERS**



A core team was established to coordinate the mission, train observers, determine nationwide trends based on observer reports, and observe macrolevel issues. Each member of the core team was given responsibility over a certain aspect of the election (e.g. political parties) as well as a state-level geographical focus. Some of the core team had received training from regional and international elections observation groups like the Asian Network for Free Elections (ANFREL), the Cambodian Committee for Free Elections (COMFREL), and Network for Enhanced Electoral and Democratic Support (NEEDS). This gave the team the technical knowledge to organize an election observation mission, which was supplemented with experts advice on implementing the mission. A particular organization also offered advice on the curriculum for training observers and the overall strategy of the mission. After this consultation process the mission was established.

For training observers, the core team trainers used materials from the Asian Network for Free Elections (ANFREL), Cambodian Committee for Free Elections (COMFREL), the National Democratic Institute (NDI), , and the Organization for Security and Cooperation in Europe (OSCE) to inform checklists and formats that they designed and tailored to monitor the campaign and election day.

There were a total of 803 observers, 64 of whom were LTOs, 732 of whom were STOs and 7 of whom were core team members. Their backgrounds are shown in the chart above. Some observers were recruited as lower level EC members after committing to the observation mission. In the long-term, this gave us more insight into the elections process. Particular attention was paid to selecting politically neutral observers. In addition, all observers made a verbal agreement to adhere to a code of conduct committing themselves to non-partisanship.

64
Long Term Observers
732
Short Term Observers
7
Core Team Members
803
Total Observers

The observers reported from 758 polling stations from 75 different townships between 27th September and 26th November 2010. The chart below shows the areas observers covered.

The core team prepared a preliminary findings report which was released on the early morning of the 8th November 2010 based on extensive pre-election observation, and initial reports from election day. It was disseminated to key stakeholders in country and abroad, and received positive feedback for its nonpartisan and independent stance.

After the election, LTOs were extensively debriefed by the core team and further information was secured from STOs. For three months following the election, the core

team analysed this information and continued to document complaints lodged against parties and candidates.

Table 2: **OBSERVATION SCOPE**

State/Region	No. of Township	No. of Polling Station	No. of Observer
Kachin State	10	168	147
Kayah State	4	57	57
Kayin State	7	134	142
Chin State	6	93	93
Mon State	8	54	86
Rakhine State	9	81	103
Shan State	13	109	139
Yangon Region	18	62	29
Project Team			7
Total	**75**	**758**	**803**

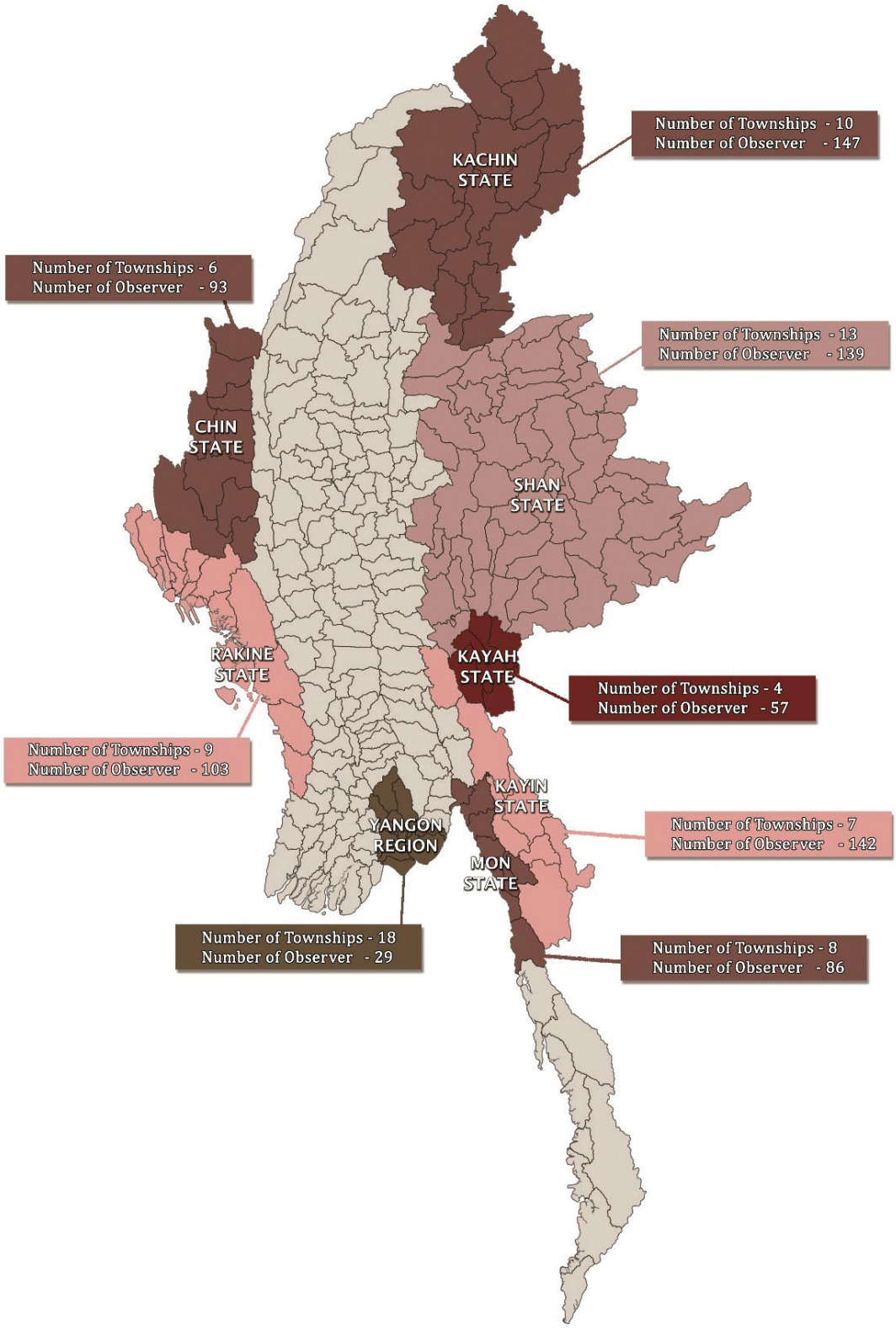
----- A Reflection from a Female LTO -----

"I found quite easy to finish this task because my father is a civil servant and has good contacts in government offices. But, when I had to actually talk to people about the election and related information, I had to pretend that I was not aware of the political environment, as it might have created some complications to this work, as especially a woman - in our society, most women are not aware of politics. I only let my parents know, but no one else, about exactly what I was doing."

"I did not give out any materials to my Short-Term Observers; I just gave the multiplier information orally, as it was safer that way."

"Honestly, I was quite nervous as this was my first time to do a job like this. I was also frustrated as the travels gave me a lot challenges as a woman."

Figure 1: **MAP OF MYANMAR:** *AREAS OBSERVED*



1.3. Advantages and Challenges

Advantages

A domestic election observation mission using observers based inside Myanmar enjoyed several advantages. Observers worked in the areas they were from and so had a deep knowledge of the local context and issues. Despite the security risks, they were committed and enthusiastic to conduct an observation mission. Moreover, the team was able to utilize existing networks of contacts on the ground.

---- A Reflection of a Mon Female LTO ----

"At first, I thought I wouldn't be able to complete this task because I am a woman. But when I started doing it, I became really committed, and have become very interested in politics now. I have some challenges along the way of course, especially when I have to travel. So, I have to bring someone from home with me - my brothers or sisters."

"It was ok to ask for information and data as I have close friends in AMRDP, we also participated some trainings together. I did not let my parents know what exactly is what I was doing until the last minute on election day, as otherwise they may have worried."

Security and Operational Challenges

The regime announced that it would allow neither international observation nor domestic observers. International community criticized this announcement recognizing that the presence of observers is important to establishing the credibility of an elections process and the results. This decision was incompatible with international standards. As a result, this mission could not follow standard mission protocols and was not able to be transparent about its operations to the respective authorities.

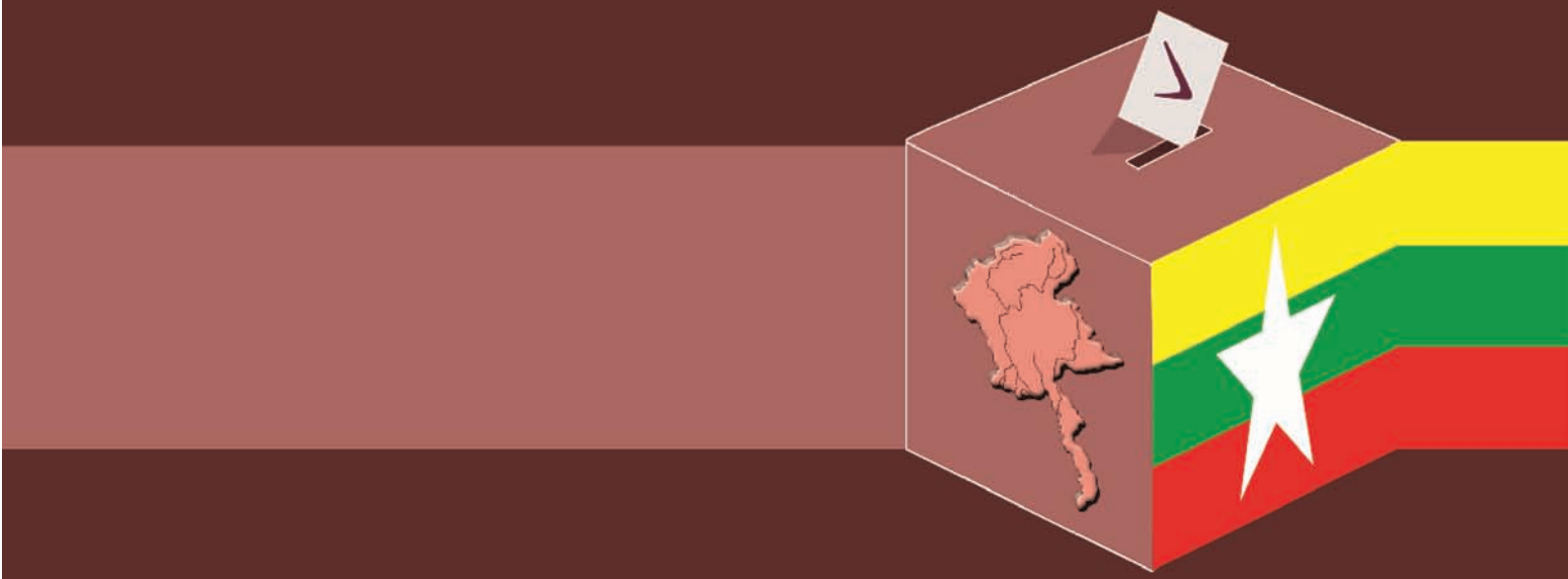
Before 2010, there had only been one election over the last quarter century, in 1990, at which time no election observation missions were allowed either. This resulted in a very limited pool of people who had experience or knowledge of election observation, which the training given to observers had to account for.

The observation mission faced many challenges in both operations and maintaining security for the observers:

- Core team members had to maintain confidentiality and could not even tell family members of their involvement.
- Imparting technical knowledge to the observers was challenging because most had little experience and knowledge of elections processes.
- Observers had no prior experience observing an election in an unbiased manner. Many had experienced discrimination against ethnic groups by the government. It therefore took time to instill the core values of non-partisan and unbiased observing.
- The time-frame for planning observation was difficult to manage as announcements and laws were released without notice and workshops and activities had to be organized quickly in order to meet the election schedule.
- As election observation was not allowed by the government, it was extremely important that LTOs could be trusted to maintain confidentiality. Because of this, LTOs were recruited from known associates rather than based on their background in and knowledge of international standards of election observation.
- As the LTOs were not allowed to operate openly, it was difficult for some of them to cross-reference information with the respective authorities. Where information could not be triangulated, it was not used for the report.
- In some areas where there was conflict or heave security around the vote, LTOs faced challenges in recruiting and communicating with STOs.
- As there is a poor telecommunications infrastructure and low access to internet in ethnic states, communications between team members was challenging.
- Transport to and from ethnic areas was in some cases difficult to arrange as multiple modes of transport were required and some areas were far from main transport routes.
- It was risky for team members to record information in public and to keep documentation.
- As international elections monitoring and observation teams were not given permission to work in country, training had to be sought in other countries.

Chapter 2

THE LEGAL FRAMEWORK



2. THE LEGAL FRAMEWORK OF 2010 ELECTIONS

2.1. 2008 Constitution and the Election

The 2008 constitution was drawn up as part of the seven point 'road map to democracy' designed under the then Prime Minister and Secretary 1, General Khin Nyunt. Part of this road map was the National Convention, implemented in 1993, which was designed to be a consultative process that would allow ethnic groups and opposition parties to contribute to the design of the new constitution. However several groups left the Convention and boycotted the process including the National League for Democracy (NLD) that walked out in protest in 1993. The process was dominated by the SPDC and several political party and ethnic representatives complained privately and publically that the process was not inclusive and that their inputs were not taken into account in the drafting of the document.

The final version of the constitution drew heavily on the 1947 and 1974 constitutions with some new provisions including the section outlining the elections process. The SPDC presented the new constitution to the public in 2008 for a referendum. The referendum process was criticized by the international community and Myanmar organizations as being marred by irregularities that cast into very serious doubt that credibility of the result: 92.48% in favour of adopting the constitution and a turnout of 98.12% despite the impacts of Cyclone Nargis and the vote being held in affected areas. These alleged irregularities included vote rigging with civil servants voting on behalf of their staff, rewards for voting in favour of constitution, and suspicions of falsified figures on voter turnout and results. This flawed referendum process reduced the trust between the public and the regime.

The constitution covered the set up and basic functions of the Elections Commissions. It also covers the qualities and capacities of the EC chairman, who was appointed by the SPDC rather than the 'president' as stipulated by article 398 (a) and (b). SPDC announcement no. 1/2010 was released on March 11 2010 and appointed 17 members of the national Election Commission. The Election Commission law and other bylaws further defined the roles and duties of the EC at its various administrative levels. The Constitution also covers the broad aspects of political party formation and party deregistration upon which the Political Parties Registration Law (SPDC Law no.2/2010) is based.

The Constitution came into force following the 2010 elections and the first regular session of the People's Assembly (Pyithu Hluttaw). It establishes the structure of the legislatures as a national bicameral Union Assembly (Pyidaungsu Hluttaw)

comprised of a People's Assembly (Pyithu Hluttaw) and a National Assembly (Amyotha Hluttaw). It also establishes the 14 State and Regional Assemblies (Pyineh and Taing-dethagyi Hluttaws). All legislation issued for the elections was designed in line with the constitution's electoral provisions. The electorate voted for each of the upper, lower and regional assemblies. Voters from specified ethnic groups in specified regions and states were allowed to select a separate ethnic representative to the regional legislatures in line with section 161 (b) & (c) of the constitution (also included in article 44 of the Regional Assembly or Hluttaw Election Law – SPDC Law No. 5/2010). Key security ministries like Defence, Home Affairs and Border Affairs are reserved for military personnel appointed by the Commander in Chief.

The introduction of the 14 regional assemblies as a new provision in the 2008 constitution is an area that may allow more opportunities for participation from ethnic parties. The powers devolved to these assemblies are only briefly outlined in the constitution and appear limited. However, the establishment of these assemblies may enable ethnic groups to have more say over affairs that impact on their constituencies. Furthermore, political space at the regional level will probably be less constrained at the national level and elected representatives at the regional level may be more likely to be representative of their own ethnic communities. This is the first time since ethnic councils that were established under the 1947 constitution, and subsequently abolished in 1962, that ethnic regions have been given any form of autonomy. Although these opportunities may not address the range of grievances felt by ethnic groups in Myanmar, regional assemblies could be an entry point to build social contracts between ethnic communities and the government. A political settlement to the ethnic question and prolonged conflict in country is essential to socio-economic progress in future, and its importance cannot be underestimated.

Under the constitution, 25% of the seats in all three legislatures are reserved for members of the Tatmadaw (armed forces) and were appointed by Senior General Than Shwe. The elections are to determine representatives for the remaining 75% of the seats. The elections are for the legislatures and do not determine a new government. The Union Assembly functions as an electoral college and has chosen a new president, former General Thein Sein, out of three candidates. The elected members of the upper house, lower house and military appointees were responsible for choosing these candidates. The remaining two candidates, former General Thiha Thura Tin Aung Myint Oo and Dr. Sai Mauk Kham, a Shan physician, former business person and a Shan Literature and Culture Association leader, have been appointed as Vice Presidents. The new members of the government were selected and announced on March 30, 2011. As several ethnic candidates saw the

opportunity for ethnic representation at a high level in the new government, the appointment of a Shan, non-military Vice president may alleviate some tensions around ethnic representation.

The new constitution contains several objectionable provisions that are difficult to amend unless the military and its supporters agree with the proposed changes (see articles 433-436 of the 2008 Constitution). However, it has enabled a small and embryonic opposition to be voted in to the legislatures. Although many of these representatives may not be chosen for high level government positions in Ministries, it lays the foundation for a greater degree of inclusion in the future, particularly looking to the next elections slated for 2015.

2.2. Electoral Laws Overview

There were five main laws released in March 2010 covering election procedures and these were in the areas of the functions of the election commission, political parties registration and how representatives would be elected to the legislatures or *hluttaws*. The Election Commission was also appointed in March and they issued bylaws on the 17th March that govern the procedural aspects of the five main elections laws. These laws provide a similar framework for the conduct of the vote as the laws passed to govern the 1990 elections.

The first batch of election laws were released on the 8th of March 2010. These were the 'Union Election Commission Law' (SPDC Law no. 01/2010) and the 'Political Parties Registration Law' (SPDC Law no. 02/2010). These laws specified the mechanics of two key electoral institutions, the electoral commission and political parties, and were key in defining the credibility of the electoral process.

These laws were released eight months prior to the election, which gave political parties little time to organize and campaign. By comparison for the 1990 election, laws were released 20 months ahead of the vote. Parties had little time to reach out to their electorates and to prepare and present their platforms, exacerbated by the fact that there have only been two multi-party elections over the last 50 years in 1960 and 1990. Other elections during this period were under socialist single-party system and did not include other political parties (in 1974, 1978, 1981 and 1985). This situation, coupled with the reality of decades of authoritarian rule, little space for public discussion and debate of political issues, and hardly any practical experience and knowledge of the practice of democratic politics, left political parties and the public scrambling to prepare and understand the political process that they were about to participate in.

Other important laws included the Pyithu Hluttaw (Lower House), Amyotha Hluttaw (Upper House) and Thinededagyi Hluttaw and Pyineh Hluttaw (Region/ State Assembly) Election Laws which were released on the 8 of March 2011. These govern the behavior of political parties and party candidates in these three assemblies, and the Pyithu Hluttaw Election Law codifies the nullification of the 1990 elections.

Laws Governing Nullification of the 1990 elections

The promulgation of the Election Commission Law 2010 law is tantamount to a nullification of the 1990 elections, and some parties such as the National League for Democracy sought clarification on this matter from the authorities. The Pyithu Hluttaw (lower house) Electoral Law 3/2010, released later on the 8 of March, also officially nullifies the results of the 1990 elections with Article 91[1]. The result of the multi-party general elections [in 1990] in accord with the repealed law is invalid because the result does not conform with the [2008] constitution'. Although expected, this law revoked the mandate of the NLD and SNLD to rule – the opposition parties that won the most seats in 1990 (this also impacted on the Arakan League for Democracy, another ethnic opposition party that won seats, but this party was deregistered prior to the release of these laws).

The Election Commission Law

The SPDC appointed the 17-member Election Commission on March 11th 2010. The regime also released the 2010 Election Commission Law, which was based on the 1988 law with most of its provisions remaining the same[2]. The Law draws on Article 398 of the 2008 constitution and requires that members of the electoral commission are drawn from 'legal professional backgrounds' and meet other basic requirements. In Article 398 this clause states that members of the Electoral Commission will be composed of individuals 'deemed by the president as eminent persons', yet the Election Commission Law states that State and Order Restoration Council (SPDC) has the right to select members of the Commission. This gave the ruling regime, the SPDC, the power to select the members of the Commission with few chances for further consultation. This also meant that the Commission, under the strict instructions of the SPDC, could shape political party development as it had the power to de-register (or not register at all) political parties and to censure their actions during the campaign period and following the election.

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[1] Article 91:
a) The Pyithu Hluttaw Election Law (The State Law and Order Restoration Council law No. 14/89) is hereby repealed.
b) As the Multi- party Democracy General Election held under the law repealed by this Law is no longer consistent with the Constitution, the results of the said election shall be deemed to be invalidated automatically.

[2] The elections commission administration was divided according to national, region/state (and selfadministered divisions and zones), district, township and ward/village levels.

The Commission released bylaws on the 17th of March that provided the guidelines for the implementation of the elections laws. These include notifications 1/2010, 2/2010, 3/2010 and 4/2010. According to the Constitution, the term of the Electoral Commission ended when the newly elected president formed a new UEC.

The Political Parties Registration Law

The 2010 Political Parties Registration law is more detailed than the preceding 1988 law which provided a more parsimonious framework in its provisions. It received widespread criticism internationally for being repressive and restrictive in terms of the new clauses. The following analysis of these new provisions examines the implications of these:

The 2010 law excludes the participation of 'persons currently serving a prison term as a result of a conviction in a court of law' [see sections 392b; 2(1), 4(e), 10(e)]. While the law does not exclude former political prisoners, it has implications for smaller parties whose leaders were imprisoned or are under house arrest as it means that in order for those parties to run they would have to appoint or elect new leaders (or expel them) unless an amnesty for affected prisoners was announced which did not occur. The law also stipulates that these leaders cannot be retained by the parties. In the case of the National League for Democracy, Daw Aung San Suu Kyi was serving a suspended sentence at the time of the release of the election laws, and it was not clear whether she would qualify as 'currently serving a prison term' and therefore eligible. It would be up to the discretion of the Election Commission to decide. However in this case it was a moot point as Daw Aung San Suu Kyi and the NLD refused to take part in the elections. This provision also had ramifications for ethnic parties such as the Shan NLD (SNLD) that had several leaders serving lengthy prison terms for political crimes. For example, the Chairman of the SNLD, Khun Htun Oo, and its General Secretary, Sai Nyunt Lwin, were sentenced in 2005 to 93 and 85 years respectively. In order for the SNLD to contest the election they would have to expel these leaders or ask them to forfeit their positions in order for the party to participate. Again this was a moot point as the party later refused to contest the election. However it did initially create a difficult dilemma for these parties, undermining the credibility of the elections and inviting international criticism.

- Parties that were registered for the 1990 elections had to apply to the Electoral Commission to continue their registration according to form E-1 attached to the Political Parties Registration Bylaws. If these parties did not apply using this form they would be deregistered. They also had to field candidates in at least three constituencies at any of the three legislative levels (as opposed to one constituency from each level). This favoured national

parties like the USDP in most cases and was more difficult to achieve for ethnic parties whose constituencies were confined to an ethnic area or even two areas. In order to boycott the election parties that still had registration from the 1990 election like the NLD and SNLD had to choose not to legally register for the 2010 plebiscite. The law also stipulates that party funds and properties must be returned to the state after a party is deregistered or dissolved, even when the state did not provide for these materials. This part of the law could impact on parties like the NLD and could be a potential area of conflict between deregistered parties and the authorities in the post-election period.

- Another new provision of the 2010 law made it difficult for smaller political parties to participate in sub-national elections. The law stipulates that at national level parties must recruit 1000 members and at subnational level 500 members. They were required to recruit these members within 90 days of registration. Within this short time frame, and a restricted environment in terms of communications, logistics and association, this task proved very difficult for smaller and ethnic parties.

- Article 4 of the law provides for wider recognition of citizenship for those eligible to run in the elections than the 1990 law. The law now includes'guest nationals, [and] foreign nationals who have been granted national status or temporary ID holders', as well as 'nationals'. This enabled people of Chinese and Indian descent who had been granted citizenship, as well as ethnic individuals from border areas formerly in conflict with the central government who had been recently nationalized to participate. In several cases people from ethnic areas under conflict over the last twenty years had the first opportunity in their lives to vote. However the parents of these 'guest nationals' must have been citizens. According to estimates based on the last national census of 1983, Chinese and Indians made up approximately 5% of the population, and since another estimated 5% could be previously unregistered eligible ethnic voters, approximately 10% of the population could vote whereas previously they were ineligible[3]. An estimate of 5-10% of the population voting whereas they could not previously would probably have had an impact on the results, but without figures publically available on voter registration in terms of ethnicity, it is difficult to characterize this impact.

- Section 3, Article 12a, criteria point 3, of the law states that if a party violates a set criteria that it can be deregistered for 'having been in contact

[3] International Crisis Group Briefing #105, May 2010, p.5.

with or received support either directly or indirectly from members of armed rebel groups opposing the state or groups defined as terrorist organizations or that have been declared illegal organisations'. There was initial concern from ethnic ceasefire groups and individuals who had been involved in opposition groups that had been declared illegal that this would impact on their participation, however this article was not applied against candidates by the EC during the campaign period. However, there is still concern that this provision could be initiated against ceasefire groups that refused to transform into Border Guard Forces as they could be declared as 'illegal organisations'. Furthermore, this could used against any political party having 'direct or indirect' links with these organizations, and they could subsequently be deregistered on this basis. For example, Kachin State Progressive Party (KSPP) was never been granted registration without any reason from UEC until it dissolved itself.

- Criteria point 5 of the same article above describes how organizations could not use money, land, buildings, vehicles and materials belonging to the state, except for party members who the state supports with salary and expenses for civil service, and party members who are granted permission to use or rent these materials. This provision favoured the Union Solidarity and Development Party (and the National Unity Party to a lesser degree) in that they could legally use state resources which gave these parties a distinct advantage during the campaign period.

- Article 24 of the law granted unprecedented power to the EC as it empowers the Commission to suspend political parties' registration. This article enables individuals to lodge a complaint against a party about the party's 'internal affairs' that the EC can respond to by initiating an investigation and can give a set period of time to rectify the issue, a suspension or deregistration. This could affect political parties in the campaign period and after the elections, and gives the EC new powers to control the activities of political parties in the parliament if it chooses.

Other Elections Laws

The Laws of the three assemblies (lower, upper and region/state level assemblies) – especially that of the Pyithu Hluttaw or lower house, are important also for political parties who contested the election. For example, registration costs for political parties were covered by this latter law and at approximately USD 500 were expensive for independent candidates and smaller parties in the Myanmar context. Even for larger national parties contesting the election, the total cost can be prohibitive – for example if the party ran in all 498 national constituencies

the cost could be around a quarter of a million US dollars[4]. This registration fee is non-refundable.

The Hluttaw Election Laws also stipulate the procedures for drawing up and managing the electoral rolls. The 2010 election rolls were drawn up based on the rolls prepared for the 2008 constitution (*see* Annex: 3), and individuals could add their names to a published list to determine eligibility, with provisions to appeal at Township level. Irregularities in the voter roll are described later in the report. With the announcements of UEC on September 12 and 17, 2010, via the state media, large areas of ethnic areas – Kachin, Kayah, Karen, Mon and Shan States (33 constituencies) – were excluded from holding elections due to a lack of security that would hampered UEC to conduct *'free and fair'* elections. The states worst affected by these announcements were Karen State (47.25 % of village tracts excluded) and Kachin State (16.60 % of village tracts excluded). *See* 3.3, Table 5 and Figure 4 for further details. Article 64 of the Law of the Three Assemblies states that 'whoever dishonestly and fraudulently lodges any criminal proceedings against any person regarding offences relating to the election, if convicted, shall be punishable with imprisonment for a term not more than three years or with fine which may not exceed 300,000 Kyat or with both'. The law is ambiguous, but if interpreted harshly could mean that a party lodges a complaint and if the complaint is unsuccessful, that the individual lodging the complaint can be imprisoned for 3 years and/or pay a fine of approximately USD300. Opposition candidates certainly considered this a credible risk.

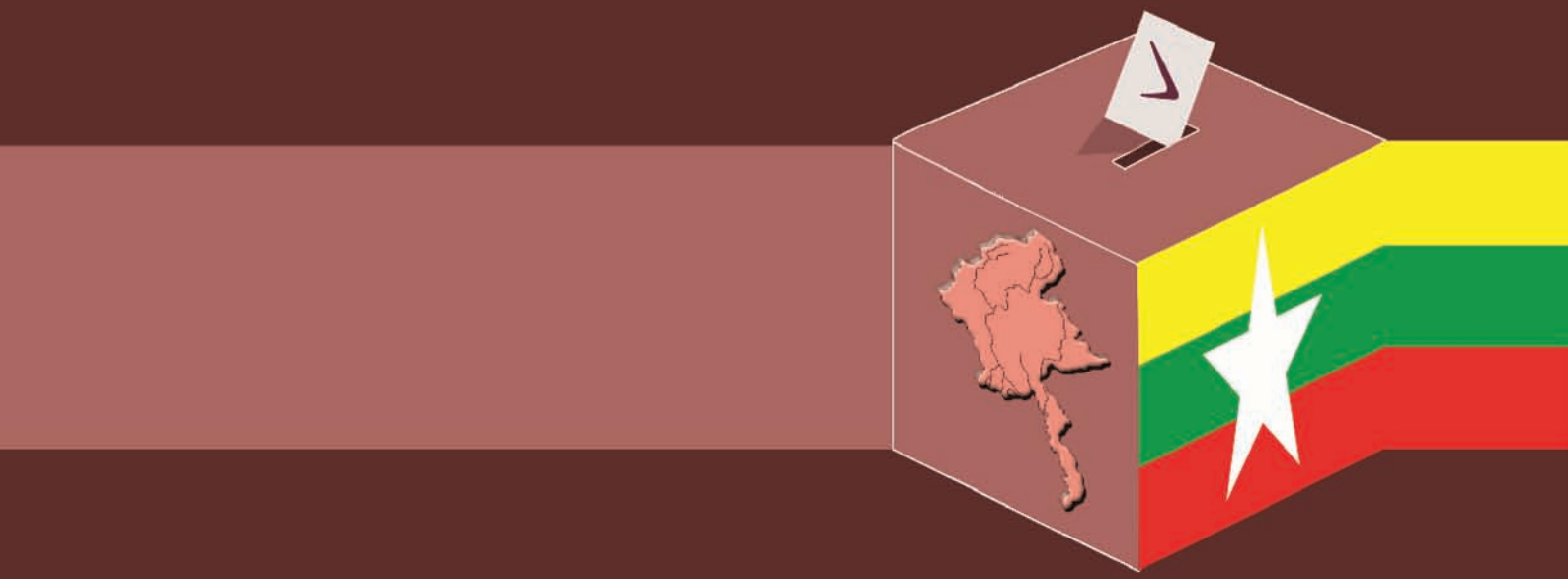
2.3. Conclusion

The election laws created a restrictive environment, particularly for the campaign period. The Political Parties Registration Law in particular contained new provisions that marked a departure from the 1988 law and proscribed the activities of political parties participating in the process. This is hardly surprising considering the regime was determined to secure a leading role for the military in the new system. Independent candidates, smaller parties and ethnic parties contested the elections despite the restrictions imposed on them by these laws. Although the candidates elected and their parties will face difficulties in the new environment and restrictions due to these pieces of legislation, most have managed to navigate the environment according to the law and have taken their positions in the new legislatures.

[4] International Crisis Group Briefing # 105, May 2010, p.5

Chapter 3

PRE-ELECTION PERIOD



3. PRE-ELECTION PERIOD

In general the pre-election environment was constrained in significant ways: through a restrictive legal framework, by a politicised Union Election Commission (UEC), and within a state controlled media environment. But at the same time, the election represented an opportunity for candidates to try to voice alternative political views which parties are now taking advantage of.

3.1. Election Commission

The SPDC issued Law No. 1/2010, the Union Election Law, in order to set up the Union Election Commission on 8th March 2010.

According to this law, "the SPDC shall form the Union Election Commission to enable the holding of elections to the first *Hluttaw* (legislatures or parliament) and to supervise the registration and conduct of political parties and voters". The law stated that five "…UEC members, including the chairman of the Commission, may be appointed and assigned duty thereof". The UEC was formed on the 11th of March, with eighteen members appointed to it (including the Secretary). The Commission is led by former Major-General Thein Soe, who has served as a military judge advocate-general and deputy chief of the Supreme Court. The others were drawn from those with academic and legal backgrounds, however, most were in the employment of the regime at the time of their recruitment. This led to questions regarding their neutrality as many suspected that they would automatically support the state-sponsored party, the USDP.

The UEC set up an election system based on the regime's administration levels to manage the process, which enabled the EC to oversee the pre-election administration fairly competently. However in this phase, instructions were passed down from the UEC through the administrative levels of ECs to ensure that staff could adjust the number of votes in favour of the largest party. Almost all staff, except at the highest levels, remained unaware of this plan until election day. In many areas observed, the Deputy Directors of the General Administration Department and the clerks of Peace and Development Councils (PDCs) were appointed as EC secretaries from region/state down to ward/village levels. Most observers reported that these staff were responsible for deciding advance vote eligibility and manipulating voter lists when this occurred before the elections. Several observers reported that as the system was set up in this way, it prevented the EC staff from discharging their duties with neutrality.

The EC staff were given a very short timeframe to set up the administrative framework for the elections and to train other lower-level EC and polling station staff. As many had little experience or knowledge of the elections process, it was difficult to fully train them within the time limit. This also impacted on their ability to act in accordance with the laws.

3.2. Political Parties and Candidates

The UEC issued announcements governing the Rights of Formation and Registration of Political Parties, and on the Rights of Continued Existence and Registration of Political Parties. Although in some cases these provisions were difficult for smaller parties to follow, they were implemented according to the legislation in most cases.

Despite the challenging environment for the 2010 electoral process, a number of political parties formed and contested. Several ethnic political parties were amongst those who took part. The number of parties that registered was significantly lower than in 1990 election, with 93 parties registering then, and 19 ethnic parties contesting. Among the 47 parties that filed to register for this election, 28 were ethnic parties wanting to raise issues of concern to their ethnic communities in the future parliament.

Only three months after Senior General Than Shwe's Independence Day Statement on 4th January, 2010 hinting at the election date, the Political Party Registration Law was announced on 8th March, 2010. Several political party members expressed disappointment with this law and the process, especially regarding confusing registration procedures. Political party candidates also found the stipulation that 15 persons were required to form a political party to be restrictive, as it was difficult to recruit qualified persons within the limited timeframe. Furthermore, several representatives were reluctant to sign the mandatory and restrictive Article 6 of the Political Parties Registration Law, stating that candidates had to 'safeguard' the constitution of the country, as they felt this prevented the possibility of constitutional reform.

The Union Solidarity and Development Party (USDP) enjoyed a distinct advantage in the election. Its origins lie in the Union Solidarity and Development Association (USDA), was a mass mobilization movement established by the State Law and Order Restoration Council (SLORC) in 1993. The USDA set up as a type of government organized NGO (GONGO) to assist the state in service delivery and public works. However, the organization became unpopular with many sectors of the public as it was seen as a branch of the state. It transformed itself into the Union Solidarity and Development Party (USDP) and high ranking government officials such as Ministers were registered as their candidates. This was controversial because the Ministers remained in their public posts while campaigning for the party. They enjoyed full access to state resources for the USDP campaign, which created an uneven playing field. As the USDP could draw on the former USDA membership and State Peace and Development Council (SPDC) representatives for membership, it was easier for this party to recruit the necessary number of members for registration.

The National Unity Party (NUP), established in 1988 and comprising of Burma Socialist Programme Party (BSPP) members and former military figures. This party lost the 1990 elections to the NLD and other parties. Although the NUP attempted to distance themselves from the SPDC and USDP during the 2010 elections, according to observers most of the public perceived the NUP as a close ally of the SPDC.

The short campaign period, the restrictions on public gatherings, and the censorship of public information around the elections created a situation in which voter education by the smaller parties was very limited. The impact of this was that in many cases voters were confused about how to vote and about how to ensure that the parties they supported were those that they wanted to vote for.

The smaller parties in most cases could only advocate to the electorate to vote for them, but could not educate voters beyond this. Much of the public have not voted before, especially the youth and some ethnic groups, and with little information available on how to vote, they were unable to ensure that their votes were filled in correctly. Due to some people's fear of the authorities due to past repression, in the 2010 elections several cases were recorded that showed that people were afraid that if they did not vote USDP that the authorities would find out and would punish them. Some of these fears could have been allayed if there had been sound voter education.

Party Registration

According to candidates interviewed by the observers who had participated in the 1990 and 2010 elections, the 2010 Political Parties Registration Law contained provisions that were more restrictive on the number of parties that formed[5]. In 2010, a total 47 parties filed to register, 42 were approved and only 37 were able to recruit the required numbers of party members. A total of 36 parties contested the 2010 Elections.

According to the Political Parties Registration Law, there were three steps that parties had to take in order to compete in the elections. The first step is that three persons wanting to form a party must submit a written request to form a

[5] Article 6 (c) safeguarding the constitution of the Republic of the Union of Myanmar.
3. Any political party desirous of contesting the elections shall apply in the prescribed manner for registration to the Commission. The following organizations, however, shall not have the right to apply for registration:--
(a) an organization declared to be an unlawful organization under any existing law;
(b) an organization in revolt with arms against the State;
(c) an organization that uses or accepts directly or indirectly money, buildings, vehicles and other assets owned by the State;
(d) an organization that uses or accepts directly or indirectly money, assets or other aids from a religious organization or government of a foreign country;
(e) an organization that misuses religion for political purposes.

political party. Once approved, the second step is that at least 15 persons must apply to the Union Election Commission (UEC) for the party to be allowed to register. The third step entails recruiting 500 party members to contest state/ regional level, and 1000 members for national level.

Those applying had to sign Party Registration Law Section 6 promising to safeguard the constitution, which many believed prevents future constitutional reform. All non-USDP candidates interviewed expressed concern over signing off on this as this makes it very difficult for them to support any amendments to the constitution in future.

The registration process was handled efficiently in terms of administration – but was severely undermined by the fact that in most cases, parties which had their applications refused were not given explanations or reasons for their applications being declined. Furthermore, non-USDP political party candidates interviewed expressed concern that the UEC allowed the USDP to register, despite their uneven access to state budget and resources.

There were often differences of opinion between different levels of ECs about enforcement of regulations. For example, in Sittwe in Rakhine State, a candidate from the Rakhine State National Force of Myanmar (RSNFM) had his application for candidacy rejected at District EC level, but was later accepted by the national level UEC.

Table 3: Registration Details of Political Parties

NO.	Name	Applied to Form	Applied to Register	Reg. No.	Remark
1	88 Generation Student Youths (Union of Myanmar)	22-3-2010	9-4-2010	17	
2	All Mon Region Democracy Party	30-4-2010	14-5-2010	13	
3	Chin National Party	7-4-2010	15-9-2010	21	
4	Chin Progressive Party	23-4-2010	24-5-2010	26	
5	Democracy and Peace Party	4-5-2010	13-5-2010	14	
6	Democratic Party (Myanmar)	30-3-2010	11-5-2010	6	
7	Ethnic National Development Party	6-5-2010	8-6-2010	34	
8	Inn National Development Party	29-4-10	24-5-2010	27	
9	Kaman National Progressive Party	25-5-2010	16-6-2010	37	
10	Kayan National Party	26-4-2010	11-5-2010	7	
11	Kayin People's Party	31-3-2010	12-5-2010	9	
12	Kayin State Democracy and Development Party	12-8-2010	19-8-2010	41	
13	Khami National Development Party	17-5-2010	21-6-2010	38	
14	Kokang Democracy and Unity Party	30-4-2010	30-4-2010	4	
15	Lahu National Development Party	23-4-2010	29-4-2010	3	
16	Modern/New Era People Party	6-4-2010	20-5-2010	23	
17	Mro or Khami National Solidarity Org.	9-4-2010	28-4-2010	1	
18	National Democratic Force	27-5-10	24-6-2010	29	
19	National Democratic Party for Dev't	26-4-2010	27-5-2010	32	
20	National Development and Peace Party	16-7-2010	24-8-2010	42	
21	National Political Alliances League	1-4-2010	19-5-2010	19	
22	National Unity Party	29-3-2010	29-4-2010	2	
23	Pa-O National Organisation	2-4-2010	6-5-2010	5	
24	Peace and Diversity Party	6-4-2010	24-5-2010	25	
25	Phalon-Sawaw Democratic Party	23-4-2010	25-7-2010	31	
26	Rakhine Nationalities Development Party	4-5-2010	24-5-2010	28	
27	Rakhine State National Force of Myanmar	28-4-2010	10-5-2010	8	
28	Shan National Democratic Party	8-4-2010	18-5-2010	15	
29	Taaung (Palaung) National Party	8-4-2010	14-5-2010	12	
30	Union Democratic Party	8-4-2010	20-5-2010	24	
31	Union of Myanmar Federation of National Politics	22-3-2010	29-4-2010	18	
32	Union Solidarity and Development Party	29-4-2010	1-6-2010	33	
33	Unity and Democracy Party of Kachin State	2-7-2010	23-7-2010	40	
34	United Democratic Party	3-5-2010	17-5-2010	16	
35	Wa Democratic Party	9-4-2010	25-5-2010	30	
36	Wa National Unity Party	29-4-2010	12-5-2010	10	

NO.	Name	Applied to Form	Applied to Register	Reg. No.	Remark
37	Wunthanu NLD (The Union of Myanmar)	9-4-2010	19-5-2010	22	
38	Kachin State Progressive Party	5-4-2010			Denied
39	Northern Shan State Progressive Party	23-4-2010			Denied
40	United Democracy Party (Kachin State)	30-4-2010			Denied
41	Myanmar New Society Democratic Party	5-4-2010	19-5-2010		Dissolved on 16 May
42	Myanmar Democracy Congress	12-5-2010	18-6-2010		Dissolved on 16 May
43	Mro National Party	19-5-2010	23-6-2010		Dissolved on 16 May
44	Regional Development Party (Pyay)	21-5-210	6-7-2010		Dissolved on 16 May
45	Union Kayin League	8-4-2010	21-5-2010		Dissolved on 16 May
46	People's New Society Party	21-7-2010			Dissolved on 28 September
47	All National Races Unity and Development Party (or) National Unity and Development Party (Kayah State)		20-7-2010		Dissolved on 28 September

Political parties and candidates that were denied registration by the UEC were not given reasons for their rejection. According to observers in Kayah State, a party was initially allowed to form, however once they filed for registration, a military commander 'suggested' that they should not bother proceeding with their registration. The Kachin State Progressive Party (KSPP) suffered a similar fate when they established the party and tried to register, but received no response regarding on the success of the registration, even after the deadline. Upon receiving no response, the KSPP submitted several appeal letters and the party leader even went to the capital to appeal in person. He was told that the registration was still under consideration. Party leaders believed that the delay was due to the fact that the Kachin Independence Organisation had not accepted the SPDC's demand to join the Border Guard Force (BGF). Under the 2009 BGF deal, armed ethnic ceasefire groups were expected to accept *Tatmadaw* officers as leaders of their armed wings. Following the deliberations over their application to register, KSPP members tried to register as independent candidates at Township level, but their applications were later rejected by the UEC without explanation and the party was dissolved. Other parties were dissolved as they could not recruit enough candidates and members in time.

Political Party Platforms and Policies

Political parties had little experience in drafting political party platforms and policies, as they had had little experience in political engagement since 1990. They could not conduct open research and gather statistics on issues of importance to their constituencies, without SPDC permission. Most had to rely on word of mouth from their members and voters. Furthermore, political parties had to rush to complete the administrative procedures for registration and building their parties, so that they had little time to focus on detailed and wellresearched platforms.

Most of the parties were not able to freely voice their platforms and policies to the public. They were permitted to use state media to present messaging in Direct Public Access programming on state media, but these messages were subject to censorship, and according to several non-USDP party candidates interviewed were heavily censored in many cases. Direct Public Access (DPA) gave each party 15 minutes of TV and radio airtime twice before the elections on state TV and radio stations. Both the Press Scrutiny Board and the UEC restricted parties from criticizing the government or the constitution, however how the interpretation of these provisions were not clear. In the private print media in Myanmar, parties were able to present some of their platforms and policies but according to editors several major journals, these articles were also heavily censored.

In some areas of the country, especially in rural and ethnic areas, the majority of the observers noted that the public only knew about the USDP platform, and knew little about the platforms of other smaller parties as they could not access this information easily. Furthermore, no information on political party platforms was provided by the UEC in ethnic languages, and very little was provided by ethnic parties, media and civil society organizations.

Political Party Financing

Political parties, according to *Chapter IV of the Political Parties Law*, were obliged to systematically record their funding and expenditure. A party upon registration according to this law, shall surrender its property to the state or to an organization of the state's choosing. Each party was allowed to spend a total of 10 million Kyat (approximately USD 10,000) per candidate. This expenditure was allowed to be drawn from the legal income of the candidate or the legally obtained funds of the party for example donations and 'party owned business.'

Political party funding sources and methods were not declared in the public record, which did not enable public scrutiny of these records. Of particular concern to the public was the USDP's source of funding. Many questioned whether the

party was using the state budget during its campaign period when it conducted activities like upgrading roads, lengthening the period of available electricity, and constructing tube wells in some areas to win votes. According to the Political Party Registration Law, Article 12 (A), clause **v**[6], state resources cannot be used by parties for campaigning purposes – but in many of the areas where the USDP had conducted social welfare activities, all of the observers noted that the party had advertised that they had sponsored these activities. As the USDP grew out of a state-sponsored mass organization, there were suspicions among voters about the origins of their funding for social services during the campaign period. Furthermore, USDA members were in many cases USDP campaign organizers. This is another example of the lack of clarity around use of state resources, as the USDA is a state-sponsored body and its resources were used to support a political party campaign. There is perhaps some ambiguity in the law in that clause 5 of the law there is a 7-point proviso that allows the use of state resources to be used by persons designated by the state, a loophole which should be closed in the future.

Strikingly, not a single observer reported that the use of state resources (finance and materials) were equally distributed to political parties and candidates' campaign activities. Over two-thirds of observers reported that the state's human resources were not equally distributed. The limited funding available to smaller parties for their campaigns also impacted on the ability of parties to form, register and run a campaign. A candidate from a northern region revealed that he had few funds available to produce campaign materials on a home computer. He explained that he received the exact number of votes as pamphlets he distributed. He mused that if he had been able to afford to produce more pamphlets, he would have received more votes!

In contrast, the former chairman of the National Democratic Army of Kachin (NDAK), an armed group under ceasefire that subsequently transformed into a Border Guard Force, won in Kachin State and was able to use large amounts of funds. Some members of observation team documented reports from the public that these funds were given by the SPDC to the candidate as an incentive because the group agreed to transform into a Border Guard Force in late 2009.

Some parties were caught misusing funds in other ways. For example, the National Democratic Force, the party that had split with the NLD to contest the 2010 elections and won the second most seats after the USDP, admitted that their Deputy Chairman had received funds from abroad, which contravened the law. He later resigned.

[6] 12(A),v: Being found that the organization obtained and used directly or indirectly money, land, house, building, vehicle, property owned by the State

Figure 2: **A campaign flyer of a Rakhine Ethnic Party (Rakhine Nationalities Development Party)**

Party Campaign

The UEC released legislation that governed political party campaigns: Directive 2/2010 on the 23rd of June 2010, and announcement 91/2010 on the 18th of August 2010 by UEC.

The above mentioned announcement lays out rights for hluttaw candidates to assemble and canvass, which outlines procedures for how party representatives could conduct public meetings and present and disseminate their platforms and other information. The application for permission to hold these events included questions about the venues; date; start and finish times; the name, national registration certificate number and address of speakers and applicants, which most candidates that observers spoke to found reasonable. However, the forms also included questions that were considered excessive and restricted their campaigns such as the number of attendees that would attend a campaign event. Candidates could not allow more attendees than were noted on their original request.

Candidates also reported finding other provisions to be unwarranted, for example, carrying flags and shouting slogans in a procession en route to the assembly place were prohibited after they had passed a specified distance from the booth. Furthermore, parties had to coordinate with local authorities including the relevant Peace and Development Councils (PDCs) for permission to hold meetings. The UEC stated that this was in order to safeguard the assembly of people at these public talks, and to take necessary preventive measures against any threats to security, the rule of law and peace. However, according to information gathered by some observers, several smaller parties felt that their parties were designated meeting places and time in a biased way. For example, in Wine Maw township in Kachin

State, the USDP was given first priority to campaign in a particular place such as a town or village hall or place of worship. Smaller parties had to campaign in these places only after the USDP had, with few audiences interested in attending a campaign event for a second or third time.

Figure 3: ***A cartoon on the state own printed media making fun of too many promises made by candidates during campaign (The Mirror).***

On paper, the provisions in the laws around the campaigning process were found to be fair by political party representatives interviewed by observers. However, in practice the UEC discriminated against many smaller parties, especially those with members with a history of opposition to the state. For example, the USDP were allowed by the local authorities to campaign first and in more areas than smaller parties. The USDP candidates were also given longer speaking periods and more support by the PDCs according to information gathered by observers. Smaller party events received more restrictions and scrutiny of their events from the authorities than did the USDP. The time given for overall campaigning (less than two months) was short in the Myanmar context because many parties did not exist beforehand and there was a restrictive political environment. Furthermore, the campaign completion deadline was unclear, for example, in several areas

where observers were posted, party members believed that the campaign had to end on October 31st.

According to observers, the USDA offered multi-sectoral development projects, and in some cases financial incentives, to the electorate during the campaign in many areas the observers were placed. For example, 60% of observers recorded cash payment from the USDP for votes and 67% documented in kind contributions or rewards from the USDP in exchange for votes. The USDP was also allowed to campaign earlier than the proscribed start date of the campaign, whereas smaller parties were not. There were also other misunderstandings about voter education, for example in Kayah State, several voters feared that if they did not vote for parties that were close to the USDP, ongoing development projects in their villages may have been compromised.

The USDP were able to influence local PDCs and other authorities that in most cases enabled the campaign processes to proceed in their favour, and in 40% of cases documented by observers, the authorities intimidated voters to vote for the USDP. Moreover, in 31% of cases documented, there was intimidation against political parties and candidates to behave in line with the authorities' wishes.

Candidates

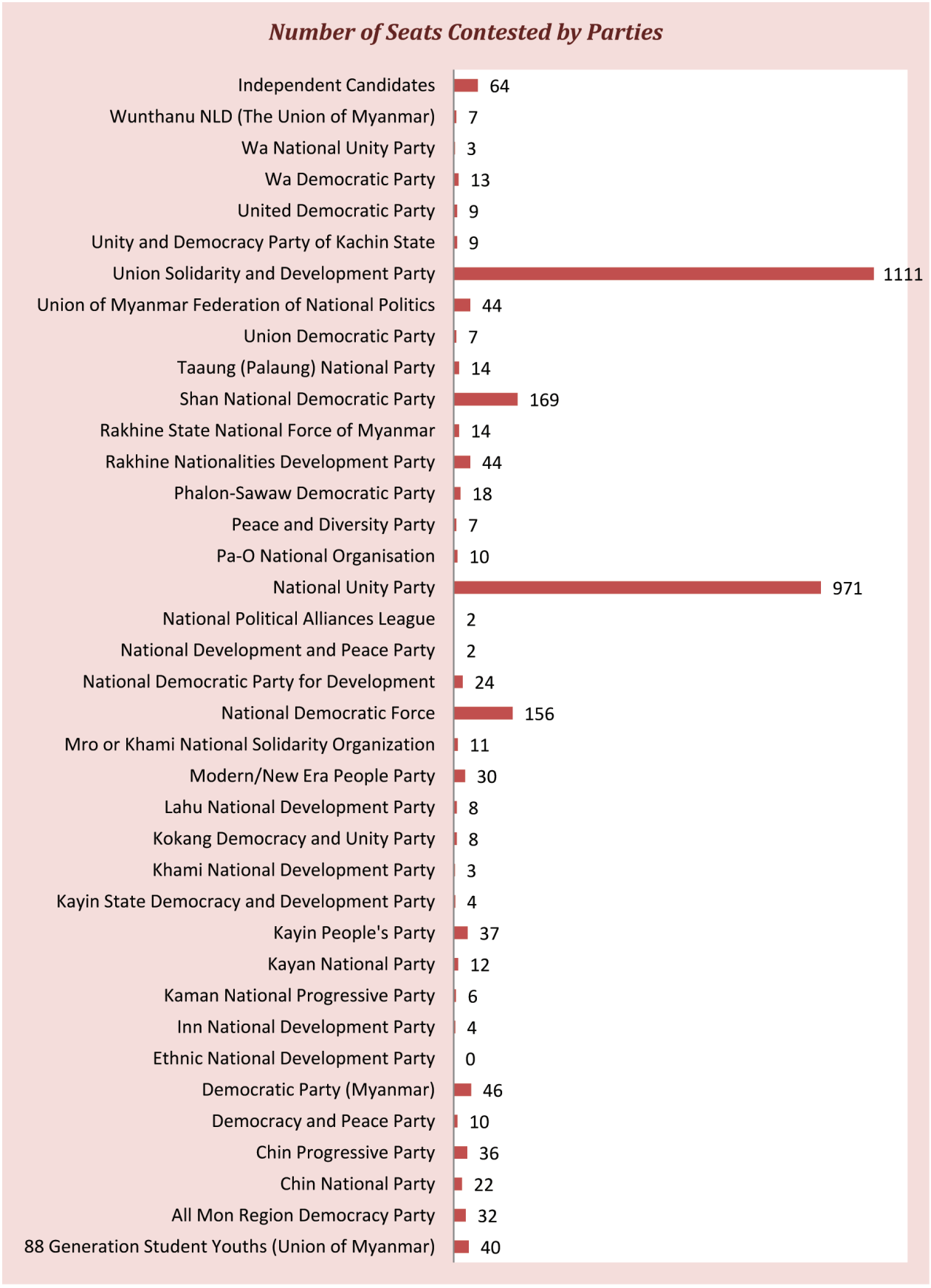
On the 14th of August 2010, the UEC set a deadline for the submission of candidate lists for the respective legislatures. The USDP could recruit these numbers of candidates easily, drawing on the former USDA membership and civil servants, but for smaller parties this task proved difficult.

Table 4: Candidate List

No	Party	Candidate Contested				Total Seat Contested
		P	N	R/S	E	
1	88 Generation Student Youths (Union of Myanmar)	29	6	5	0	40
2	All Mon Region Democracy Party	8	9	15	0	32
3	Chin National Party	6	7	9	0	22
4	Chin Progressive Party	8	12	16	0	36
5	Democracy and Peace Party	9	1	0	0	10
6	Democratic Party (Myanmar)	22	9	15	0	46
7	Ethnic National Development Party	0	0	0	0	0
8	Inn National Development Party	2	0	2	0	4
9	Kaman National Progressive Party	2	1	3	0	6
10	Kayan National Party	3	3	6	0	12
11	Kayin People's Party	5	5	22	5	37
12	Kayin State Democracy and Development Party	0	2	2	0	4
13	Khami National Development Party	0	3	0	0	3
14	Kokang Democracy and Unity Party	3	1	4	0	8
15	Lahu National Development Party	2	0	6	0	8
16	Modern/New Era People Party	7	4	19	0	30
17	Mro or Khami National Solidarity Organization	1	3	7	0	11
18	National Democratic Force	99	35	22	0	156
19	National Democratic Party for Development	5	7	12	0	24
20	National Development and Peace Party	0	2	0	0	2
21	National Political Alliances League	6	5	5	0	2
22	National Unity Party	298	147	518	10	971
23	Pa-O National Organisation	3	1	6	0	10
24	Peace and Diversity Party	3	2	2	0	7
25	Phalon-Sawaw Democratic Party	5	4	9	0	18
26	Rakhine Nationalities Development Party	12	8	23	1	44
27	Rakhine State National Force of Myanmar	2	2	10	0	14
28	Shan National Democratic Party	45	14	106	4	169
29	Taaung (Palaung) National Party	4	1	9	0	14
30	Union Democratic Party	3	4	0	0	7
31	Union of Myanmar Federation of National Politics	25	10	9	0	44
32	Union Solidarity and Development Party	314	155	625	17	1111
33	Unity and Democracy Party of Kachin State	2	3	2	2	9
34	United Democratic Party	4	3	2	0	9
35	Wa Democratic Party	4	1	8	0	13
36	Wa National Unity Party	2	1	0	0	3
37	Wunthanu NLD (The Union of Myanmar)	4	0	3	0	7
38	Independent Candidates	37	6	21	0	64

P = People's Assembly (or Pyithu Hluttaw) : **R/S** = Region/State Assembly
N = National Assembly (or Amyutha Hluttaw) : **E** = Ethnic

Chart 2: **Number of Seats Contested by Parties**



An EC member from the National Democratic Force party explained that their party had to follow EC procedures to the letter, but that USDP and other party candidates with close relationships with the SPDC administration did not have to follow the law so strictly. For example, in Karen, Mon and Rakhine states, smaller party members tended to have stronger connections with EC members and staff, and therefore could expedite procedures.

Smaller parties were limited in recruitment of candidates and members by time constraints, and could therefore sign up people with desired capacity and experience and then in some cases just people they knew. The USDP on the other hand could recruit members more easily from their ranks and in some cases reported, through coercion.

Another issue with provisions in the Legislatures (*Hluttaw*) Directive (March 17th, 2010), in particular clause 18c, reported by smaller party candidates was the registration fees, which at 500,000 Kyat (approximately USD500) were considered expensive. The parties had to cover these costs and in some cases covered half of this fee, and asked candidates to match their contribution. Others funded their whole registration cost from their own pockets. This was largely due to parties having little time, a total of seven months from party registration to the election day, to draw up fund-raising strategies and legal restrictions on implementing them, given that most of the parties were new and had little political experience in the past

Although the Political Party Registration Law lays out the registration process for candidates relatively clear, several decisions made by the UEC during this process were biased, according to many observers. For example, it was unclear on what grounds the Election Commission decided to allow current SPDC ministers to run for office. The SPDC ministers did not have to officially or fully step down from office to take up their candidacies, as stipulated by the law

Smaller parties also faced challenges in the recruitment of party agents in terms of the amount of time available and concerns over security. A candidate from the Shan National Democratic Party (SNDP) explained that he could not find a party agent until November 4th, three days prior to the election, because people in his constituency in northern Shan State feared reprisals from the authorities if they joined an opposition political party. He also explained how his agent's wife requested him not to recruit her husband as party agent. A Kachin candidate from the NDF party similarly reported that they could not locate a willing party agent until election eve on the 6th of November, as the candidate was being constantly followed by special branch police, and potential recruits were afraid for this reason. Some cases were reported to the observer team where there

were attempts by the EC to interfere in the process of recruiting party agents. For example in Kawkareik in Karen State, a Karen ethnic candidate faced difficulty in recruiting his agent even until the 6th November, one day before elections, as he was repeatedly told by the ward EC that his proposed agents were not on the voter list, which they claimed was impossible to change.

3.3. Delineation of Constituencies

On the 12th of August the UEC announced the election constituencies in the state media. These constituencies were originally larger than in the 1989 law, including ethnic areas that had since come under ceasefire agreements. The main difference with the 1989 law was the demarcation of four new constituencies in the new capital Naypyidaw, an area mostly inhabited by SPDC staff and families.

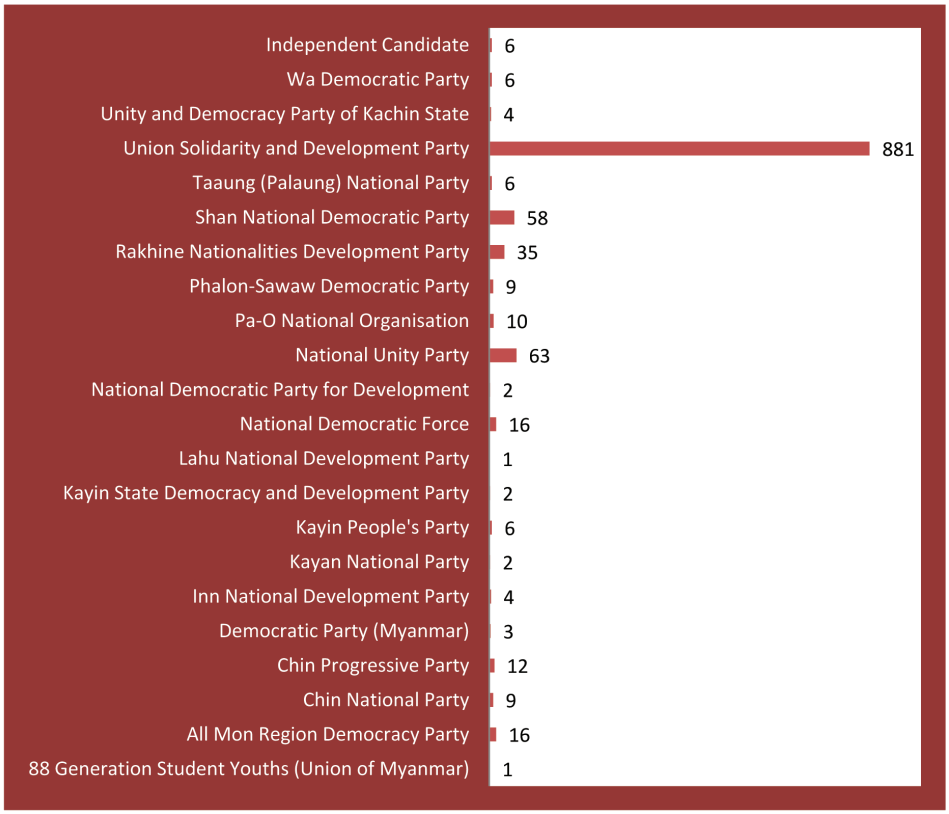
Constituency Cancellation

On September 12 and 17, 2010, the UEC announced via the state media that in 33 constituencies in ethnic states that elections would not be held due to a lack of security in those areas. Most of these regions had been conflict or were contested areas between the state and armed ethnic groups. Observers noted that many local people from these constituencies felt that the areas were secure enough to host elections but that the SPDC worried that votes would go to smaller parties due to years of conflict and repression by the *Tatmadaw*. In Some areas where elections were cancelled, particularly in Kayah State, advance votes were still collected despite no announcement being made to this effect. This occurred in Loikaw city, Kikaw and Tawtahey villages – but only advance votes were taken in those areas. In these areas, 100% of the advance votes were for the USDP, according to the observers placed in those areas.

Table 5: **Cancelled Constituencies in Ethnic Areas**

Area	Township	No. of Village Group	% of Village Tracts Excluded
Kachin State	Waimaw	2	16.60%
	Njang Yang	15	
	Saw Law	5	
	Chihpwe	1	
	Tanai	1	
	Sumpra Bum	15	
	Man Si/Man Je	17	
	Moe Mauk	9	
	Shwe Gu	3	
Kayah State	Phruso	4	11.93 %
	Phar Saung	5	
	Loi Kaw	2	
Kayin State	Pha-An	11	47.25 %
	Hlaing Boy	17	
	Pha Pon	27	
	Than Thaung Gyi	36	
	Mya Wadi	4	
	Kawkareik	14	
	Kyar Inn Seik Gyi	46	
Mon State	Bee Linn	6	4.8 %
	Kyaite Hto	3	
Shan State	Pang Sang	Whole constituency	10.69 %
	Narr Phann	Whole constituency	
	Pang Wine	Whole constituency	
	Mine maw	Whole constituency	
	Ho Pan	2	
	Mine Khat	4	
	Mine Yen	16	
	Mat Men	17	
	Mine Larr	9	
	Mine Yaung	8	
	Mine Tone	1	
	Mine Sat	2	

Figure 4: **Cancelled Constituencies**



Changes in Polling Station locations

In several ethnic areas, where there was ongoing conflict and/or tension between ethnic armed groups and the state, polling booth locations were either not announced until elections day, or the location changed without announcement. This led to some further disenfranchisement of voters according to observers in Tanai and Waingmaw Townships in Kachin State; and Papun, Kyayinseikkyi, Hlaingbwe Townships in Karen State. In Rakhine State polling station locations were changed at the last minute without prior notification due to areas being destroyed by Cyclone Giri a week before the elections.

3.4. Voter education

The Election Commission Voter education was provided to the public by different administrative levels of the Election Commission (EC). The public was provided information on how to vote, but not on parties and candidates that they were voting for. In addition, the UEC disseminated no voter education in ethnic languages. This resulted in many cases of voters having scant knowledge of the electoral process and as a result many lost confidence in it, according to observers in those areas. Not only were voters provided with insufficient and in some cases, confusing voter education, but EC staff themselves in many areas were reported by observers as demonstrating low understanding of the elections process. Capacity building trainings were given to higher level EC positions, but very little was given to the lower level staff.

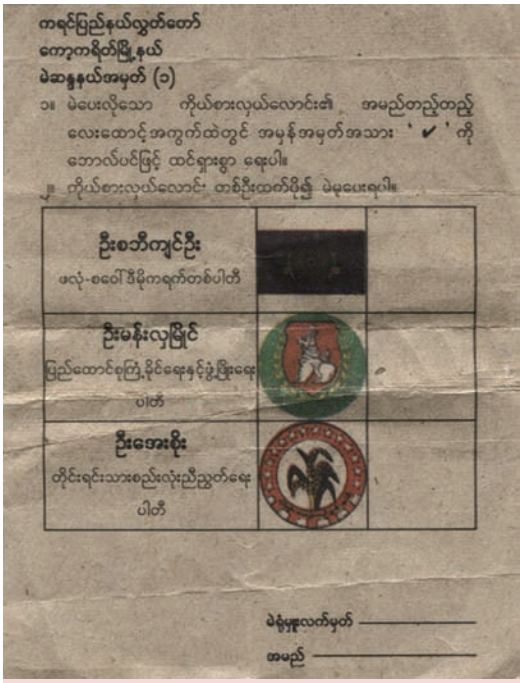

ကရင်ပြည်နယ်လွှတ်တော်
ကော့ကရိတ်မြို့နယ်
မဲဆန္ဒနယ်အမှတ် (၁)
၁။ မဲပေးလိုသော ကိုယ်စားလှယ်လောင်း၏ အမည်တည်တည်
လေးထောင့်အကွက်ထဲတွင် အမှန်အမှတ်အသား ' ✔ ' ကို
ဘောလ်ပင်ဖြင့် ထင်ရှားစွာ ရေးပါ။
၂။ ကိုယ်စားလှယ်လောင်း တစ်ဦးထက်ပို၍ မဲမပေးရပါ။
ဦးစာဘီကျင်ဦး
ဖလုံ-စဝေါ်ဒီမိုကရက်တစ်ပါတီ
ဦးမန်းလှမြင့်
ပြည်ထောင်စုကြံ့ခိုင်ရေးနှင့်ဖွံ့ဖြိုးရေး
ပါတီ
ဦးအေးဝိုး
တိုင်းရင်းသားစည်းလုံးညီညွတ်ရေး
ပါတီ
မဲရုံမှူးလက်မှတ် _____
ဒေသည် _____

Figure 5: **A Ballot Paper from Karen State**
The logo of a Karen Ethnic Party was blacked out!

Many observers placed in remote rural areas reported cases where the EC's slogan *"one vote from your heart"* as part of voter education was confusing for the public. For example, many people from Minbya Township in Rakhine State interpreted this as meaning that they would be required to cast one ballot paper only for one legislature (when they were eligible to vote for three legislatures, and in some cases four – in self-administered zones/divisions). In Kyaukphyu Township in Rakhine State, people from the city center had some knowledge about the process despite the fact that Cyclone Giri had struck this area causing widespread destruction and displacement, and there was little voter education disseminated. However, that was not the case in surrounding rural areas where voters could only identify the party of their choice via the logo due to the dearth of voter education. In Karen State, all observers reported that the Karen party, *Phalon Sawaw*, logo was blacked out from the ballot paper (*see* Figure 5 above).

The party found this out on election day and had to respond quickly be telling voters that they should tick the blacked out box if they wanted to support the party.

The late announcement of regulations defining the rules for the validity of votes confused election officials and staff and in some cases, they were not even aware of the announcement. For example, a private journal released sample pictures of valid ballot papers that were partially incorrect which were different from valid sample ballot papers later presented by the state media. The majority of observers identified this confusion as one of the main factors that complicated the vote counting process on election day, resulting in invalid ballots being counted and valid votes not being counted. Therefore, this part of the process was left open to manipulation.

Civil Society

Some Civil Society Organizations were able to provide voter education trainings, however, they did so at risk of possible censure by the authorities. They also were heavily criticized for providing this *"Think and Vote"* education by some supporters of an election boycott within the country (like the National League for Democracy) and by some groups and media based in exile that supported this political line. Most international donors refused to fund projects that they saw as supporting the elections as they deemed the process illegitimate or questionable once the election laws had been released.

3.5. Voter registration and Voter Lists

Although the UEC set the date for the release of the voter lists for the 20th of September, including details for complaints for those not on the lists or away from their place of registration, most observers reported that lists were released up to weeks after this date. One of the most egregious violations of was reported from Kayah State where the voter list was not released at all in some areas. The six long-term observers in Kayah State reported that the EC offices did not display voter list publicly prior to the elections as required by law. When requests were made for the voter lists, the observers were told that the lists were not to be made available to the public. These late releases of voter lists made it difficult for the public to lodge complaints in time for redress causing further disenfranchisement of voters.

All observers reported that the voter registration process and the arrangement of the voter list were manipulated by PDC clerks who were assigned positions as general secretaries at the ward and village level EC (*see* 3.1 and 6.2 for further details).

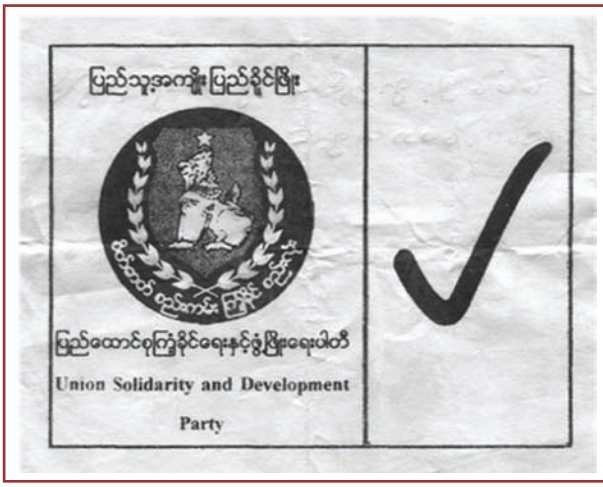
Observers reported the following irregularities: deceased persons not being removed from the roll; Voters listed on several rolls in different locations; spaces left on voter rolls that were later filled in; and names remaining on the roll of people who had left the country. These gaps gave more room for manipulation by the EC on the election day.

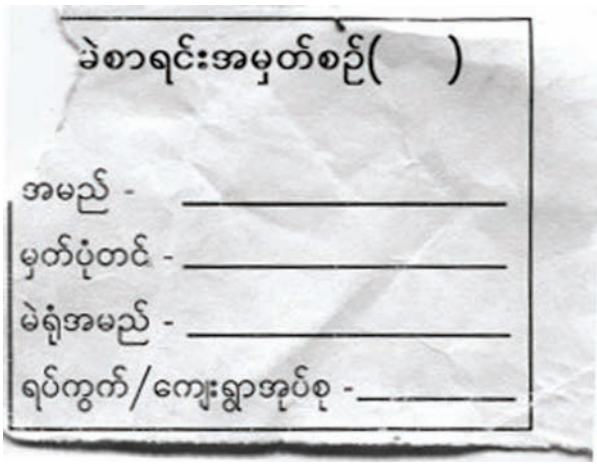
Observers in Karen and Mon States identified that in most cases disenfranchised people were those who supported, or were likely to support parties other than the USDP – thus this may have been an attempt at local levels of the PDCs to influence the outcome of this elections.

Voter Registration Vouchers Distribution

Observers reported a tendency for the EC to discriminate against some of the electorate in the distribution of the voter registration vouchers. Many eligible voters did not receive these vouchers guaranteeing the right to vote. In many cases reported by observers, the newly printed vouchers were delivered to the EC offices and voters only a few days before Election Day, making it too late for voters to lodge complaints with the ECs. In some cases, these vouchers were attached to USDP campaign papers, which confused many voters who thought that the USDP materials were the actual vouchers. In other cases, the public misunderstood and thought that they could not vote if they did not have the vouchers, whereas in actual fact they could request the polling station staff to allow them to vote.

Figure 6: **USDP Campaign Voucher**





USDP Campaign papers or vouchers that confused voters

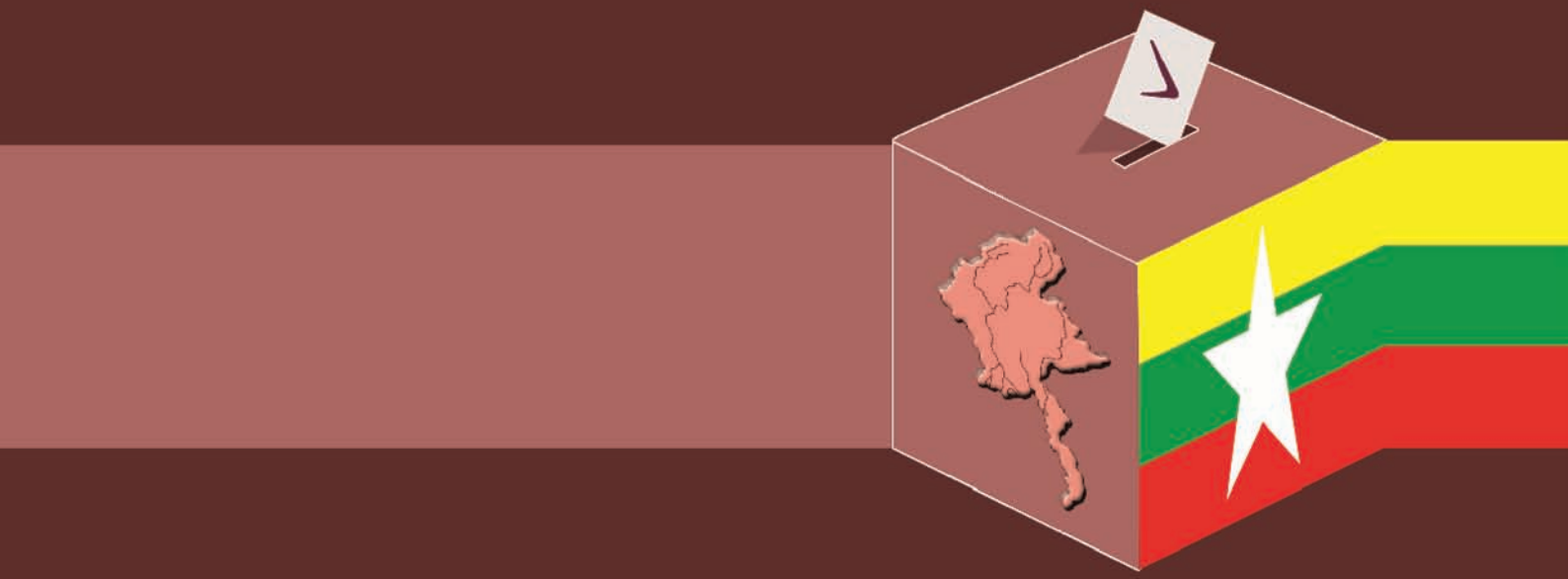
Voter Roll Number ( )
Name - _____
NRC - _____
Name of
Polling Station - _____
Ward/Village - _____

Recommendations

- **For International Community**
  - Capacity development of UEC
  - Development of political parties
  - The civil society organizations to promote civic engagement
  - National and international observation missions
- **For the Election Commission**
  - Review and reform of some election law
  - Allow public scrutiny of political party funds so that they are used in accordance with the Political Party Registration Law.
  - Enable more streamlined and fair procedures for the dissemination of party platforms and policies to the public via the media.
  - Allow candidates in each constituency to receive political party capacity building from civil society organizations during the establishment of political parties.
  - Include anti-corruption training for political party candidates
  - To be able to recognize and document electoral misconduct and fraud, party candidates and Elections Commission staff should study the elections legislation.
  - To allow and to cooperate with civil society organizations and the media to present accurate voter education to the public.
- **For Political Parties**
  - Enable the formation of political research sections to support smaller parties in formulating platforms and bills for consideration by the legislatures, and/or for civil society organizations to support this process.
  - Party candidates should be able anticipate as many issues and scenarios as possible so that they can record and present evidence of irregularities in a systematic and well-informed way.

Chapter 4

ELECTION CAMPAIGN



4. THE ELECTION CAMPAIGN

Election campaigns were conducted in a restricted environment due to the elections laws and general constraints on non-regime political activity. The requirements for holding public gatherings organized by political parties were challenging particularly for smaller parties in that all campaign materials had to be approved by the UEC, and numbers of those attending rallies had to be defined in advance to match the capacity of the areas. See below figure 4 for an example of a refusal from township level EC to allow an ethnic party to put up posters advertising rallies with no reason given. As a result, many observers reported that some smaller parties did not campaign at all, or less than they had hoped. Another example occurred in Mrauk U Township in Rakhine State where an ethnic party, the Rakhine Nationalities Development Party (RNDP), held a campaign rally on the 15th of October that over a thousand people attended, more than were initially expected. Subsequent applications for rallies to the UEC were refused, and those that were already approved were postponed. Supporters of the party believed that this was because the SPDC were worried by the party's large following in that state. The USDP on the other hand, due to their connections with the SPDC as many were drawn from the regime, and some UEC bias, did not face as many challenges.

Observers also reported that in many ethnic areas, ward authorities of the SPDC recorded political party speeches for either Township authorities or Special Branch, intimidating smaller parties. This occurred in Moekaung and Putao Townships in Kachin State and Thandaung Township in Karen State. In Moe Kaung and Putao Townships, the presence of USDP candidates at smaller party rallies scared off scores of the public in Sarmaw and Taikyekone villages from Kachin State.

In the areas observed, 40% of observers reported threats or intimidations against political parties during the campaign period. In some areas, observers reported seeing few campaign activities in public due to these threats – usually against ethnic or smaller parties. For example in Loikaw, there were hardly any campaign activities only a distribution of pamphlets in fuel stations and shops. In Demoso and Pruso Townships in Kayah State, both former conflict areas between state and an ethnic armed group the Karenni National Progressive Party (KNPP), USDP candidates refused to spend the night while on the campaign, as from mid October, the KNPP issued a death threat to members any party attempting to campaign in those townships.

As mentioned earlier in this report, in many areas the observers reported that the EC was not clear in its communications to political parties and the authorities about the date that the campaign period was to end, which had never been defined clearly. In many ethnic townships rumors circulated that the campaign

period ended on 31st of October, but that USDP would be allowed to continue their campaign past this date. However, some ethnic parties like the Rakhine Nationalities Development Party (RNDP) were able to continue their campaign in Rakhine State because they followed the same campaign trail as the USDP – having campaign events at the same locations and in the same order. A National Upper House Candidate from Rakhine Ethnic Party said of electoral process,

> "The scenario is like the EC is owned by them [SPDC] and their authorities – without the people'. That's why they (USDP) were totally defeated in Rakhine State. Although the process was not totally fair, our people voted for us following [Rakhine] nationalist sentiment. We were also allowed to speak to our people in Rakhine language during the campaign period. **And we followed the USDP campaign place by place – where they held an event so did we!** I think the people have very high expectations of us now, but I am not really sure what we will really be able to do in the upper house legislature."

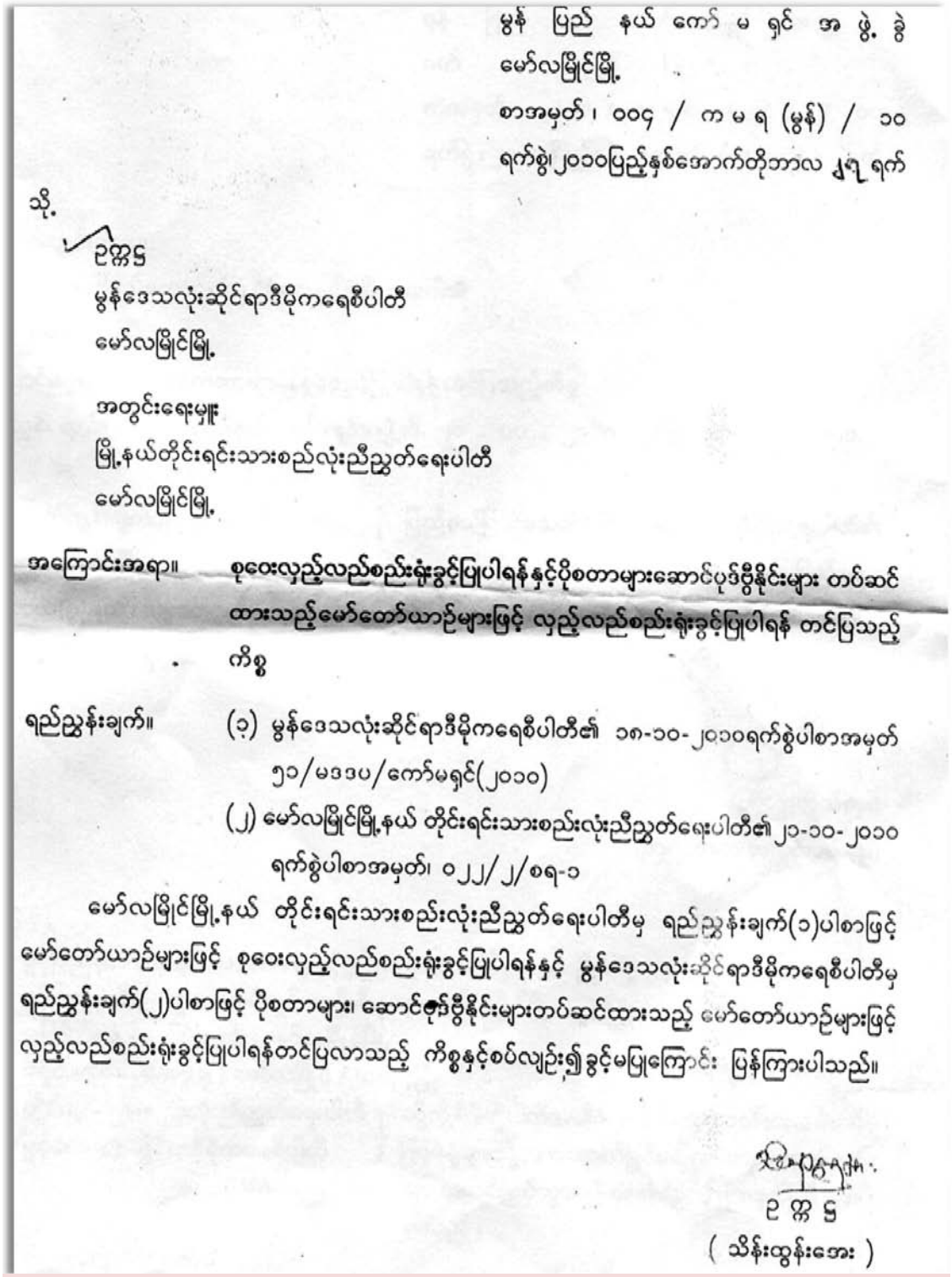
In Hpa An Township in Karen State, the ethnic parties decided to conduct their activities and applied for permission after the events, as the Karen party candidates had strong relations with the EC members and authorities in several areas, and therefore avoided censure. These parties were allowed to campaign until November 3rd and 4th.

However, in other areas within ethnic states, the environment was less threatening and restricted. For example, in Sittwe, the capital of Rakhine State, the campaign environment was not limited by the authorities provided political parties acted within the law. The USDP and other smaller parties such as the RNDP and NUP were able to conduct their campaigns with few limitations. The RNDP conducted their campaign activities in areas where USDP had previously campaigned, even in areas which had higher security due to ethnic tensions.

Observers, particularly in Chin, Karen, Rakhine and Shan States, documented cases in which the USDP campaigners were provided with 8 to 10 million Kyat (approximately 8,000 to 10,000 USD) to mobilize votes as an incentive. Furthermore, if the USDP won, remaining funds need not be returned to the party office. There is a lack of clarity about whether these funds were from the state or from finances raised by the party. According to one case study after a discussion with USDP campaigners, the incentive to campaign was purely monetary. These financial resources, gave the USDP a distinct advantage over smaller parties during the campaign period.

The neutrality of SPDC civil servants working on the election (mostly village and ward level chairmen) was also questionable in many cases. As the USDA

membership was drawn mainly from government staff, and there were many pre-existing connections and relationships between the SPDC and the USDA. In most cases this favoured the USDP. 58 % of observers reported that civil servants and security forces acted as if they were active members or a candidates of the USDP, and a further 79 % of the observers stated that civil servants, local authorities and armed forces participated directly or indirectly in campaign activities of specific political parties and candidates. As stated above in the electoral section, the Legislatures Law (*Pyithu, Amyodha, and State/Region Hluttaw*) clause 10K prohibits civil servants from running as candidates in the elections, with a proviso exempting defence services and civil service personnel.



မွန် ပြည် နယ် ကော် မ ရှင် အ ဖွဲ့ ခွဲ
မော်လမြိုင်မြို့
စာအမှတ်၊ ဝဝ၄ / က မ ရ (မွန်) / ၁၀
ရက်စွဲ၊ ၂၀၁၀ပြည့်နှစ်အောက်တိုဘာလ ၂၇ ရက်

သို့

ဥက္ကဋ္ဌ
မွန်ဒေသလုံးဆိုင်ရာဒီမိုကရေစီပါတီ
မော်လမြိုင်မြို့

အတွင်းရေးမှူး
မြို့နယ်တိုင်းရင်းသားစည်လုံးညီညွတ်ရေးပါတီ
မော်လမြိုင်မြို့

အကြောင်းအရာ။ စုဝေးလှည့်လည်စည်းရုံးခွင့်ပြုပါရန်နှင့်ပိုစတာများဆောင်ပုဒ်ဒွိုနိုင်းများ တပ်ဆင်ထားသည့်မော်တော်ယာဉ်များဖြင့် လှည့်လည်စည်းရုံးခွင့်ပြုပါရန် တင်ပြသည့် ကိစ္စ

ရည်ညွှန်းချက်။ (၁) မွန်ဒေသလုံးဆိုင်ရာဒီမိုကရေစီပါတီ၏ ၁၈-၁၀-၂၀၁၀ရက်စွဲပါစာအမှတ် ၅၁/မဒဒပ/ကော်မရှင်(၂၀၁၀)

(၂) မော်လမြိုင်မြို့နယ် တိုင်းရင်းသားစည်းလုံးညီညွတ်ရေးပါတီ၏ ၂၁-၁၀-၂၀၁၀ ရက်စွဲပါစာအမှတ်၊ ဝ၂၂/၂/စရ-၁

မော်လမြိုင်မြို့နယ် တိုင်းရင်းသားစည်းလုံးညီညွတ်ရေးပါတီမှ ရည်ညွှန်းချက်(၁)ပါစာဖြင့် မော်တော်ယာဉ်များဖြင့် စုဝေးလှည့်လည်စည်းရုံးခွင့်ပြုပါရန်နှင့် မွန်ဒေသလုံးဆိုင်ရာဒီမိုကရေစီပါတီမှ ရည်ညွှန်းချက်(၂)ပါစာဖြင့် ပိုစတာများ၊ ဆောင်ပုဒ်ဒွိုနိုင်းများတပ်ဆင်ထားသည့် မော်တော်ယာဉ်များဖြင့် လှည့်လည်စည်းရုံးခွင့်ပြုပါရန်တင်ပြလာသည့် ကိစ္စနှင့်စပ်လျဉ်း၍ ခွင့်မပြုကြောင်း ပြန်ကြားပါသည်။

ဥက္ကဋ္ဌ
(သိန်းထွန်းအေး)

Figure 7: A "NO" reply letter from township EC chairman on the request of AMRDP for campaigning activity with vehicles with party logo and slogan.

On paper, the laws covering the campaign aim for equal opportunities for all parties or a level playing field, but due to the extra resources provided to the main party, and the lack of clarity around the origins of their funding, in reality this was not the case.

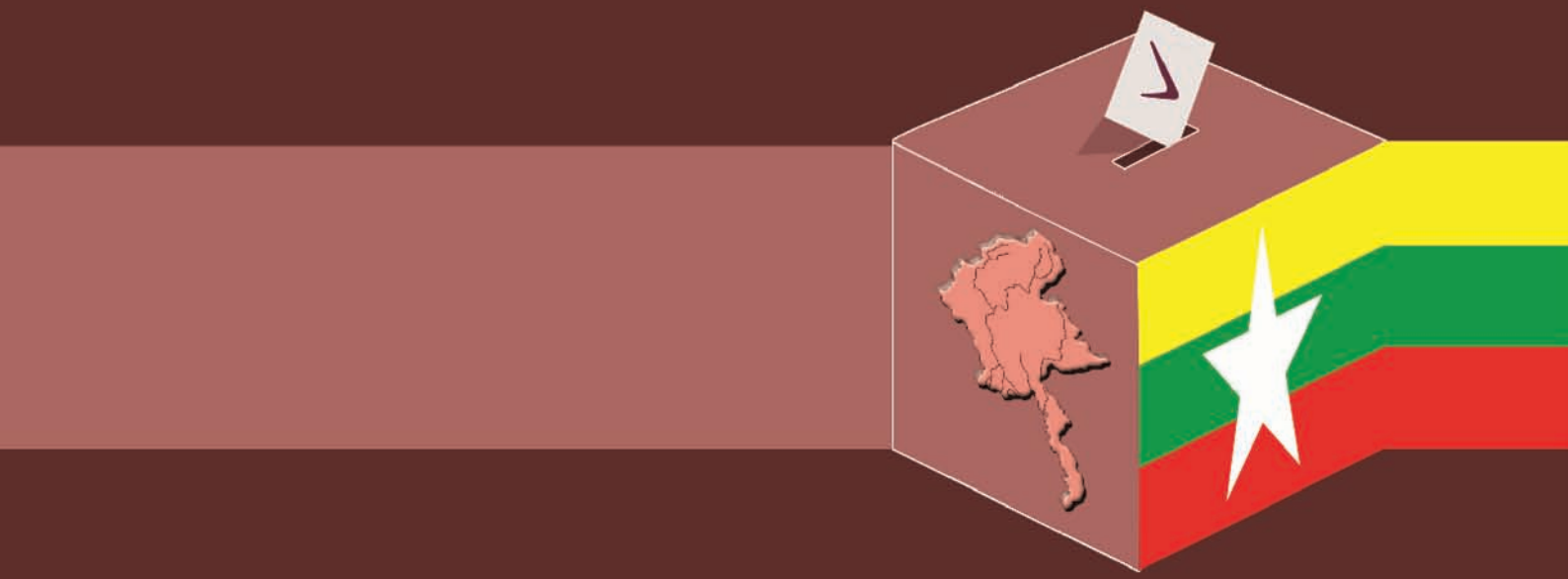
During the campaign, most of the smaller parties felt they were unable to properly present their party platforms, and therefore voter education was not completed. They told observers that this may have resulted in a high number of invalid votes cast. The smaller parties also expressed disappointment that due to funding and legal/administrative limitations, most of the smaller parties, could not campaign in all of the villages in their constituencies. Observers reported that the smaller party campaigns were restricted by the authorities and security forces, for example, in Yanbye Township in Rakhine State, ward authorities were instructed by an army general to make the smaller parties feel unwelcome during the campaign which was followed by the authorities.

Recommendations:

- **Election Commission**
  - To amend the law to remove the limitations imposed on audience numbers attending a campaign.
  - To amend the law to enable parties to freely choose the places for campaigning
  - Ensure transparency and public scrutiny of party financial records, and use of state resources, to enable a more level playing field.
  - Allow support and time for parties to prepare their platforms using evidence informed research and expert advice where needed.
  - Support the production of voter education materials in ethnic languages
  - Allow more time for voter education and the preparation for materialsfor dissemination.
  - Should intervene only if they find that the production and circulation of campaign materials is conducted not in accordance with the law
  - Decriminalize Article 64 of the Three Assemblies Laws regarding EC decisions on 'untruthful' complaints, in which individuals can receive up to three years imprisonment for lodging complaints
  - Allow public opinion and elections polls to be conducted by independent and reliable organizations
  - Allow the media more access to covering and disseminating stories that can inform and educate the public about the election process

Chapter 5

MEDIA AND 2010 ELECTIONS



5. MEDIA AND 2010 ELECTIONS: *An Overview*

Part of a transparent and accountable elections process is the ability of the media to report the process and to provide information for the public to be able to make informed choices. Two major daily newspapers, all internally broadcast radio and TV are controlled by the state. These outlets ran elections announcements but few articles on party platforms and policy.

There is a burgeoning private print media that publish weekly and monthly. These publications were able to run some elections stories. The private media is tightly controlled in Myanmar with all articles being censored before publication by the Press Scrutiny Board. They cannot be critical of the government or constitution according to laws and directives issued by the Ministry of information. These newspapers are mostly accessed in urban hubs but have some distribution in rural areas.

Radio, TV and internet media from outside the country (also known as 'exile media') were also available during the elections period and ran elections programming that was critical of the state, and often of parties and individuals participating in the elections. These radio stations and one TV station do not have to pass government censorship as they are produced outside the country.

The core team examined the coverage of state, private and exile media. Its findings are as follows:

State Daily Newspapers

Voter Education was disseminated on September 10 and 11, approximately two months before the elections. These newspapers produced basic information on how to vote in Myanmar language. The voter education then started again on 24 October until election day.

Parties

Direct Access speeches made for state TV and radio were published in the state media once after September 27th, 2010.

The state media did not publish USDP advertising or that of other parties, and did not show a bias to any single party. Only after the election, the state newspapers congratulated the winning party.

Election Commission

The EC used the state media only to disseminate voter education and other related elections information like elections laws. The EC also used the state media to announce the trainings that they had given to the ECs in various areas. From

October 24 to November 6th, the EC also disseminated information (including cartoons and poetry) on how to vote and messages designed to inspire people to vote.

5.1. Private Print Newspapers

There are about 170 private newspapers (also known as journals in Myanmar) published in the country, which are weeklies or monthlies – not dailies. Approximately 20 of these journals publish news and current affairs stories, and the core team looked at six of these journals that are most widely read, available in the states and regions, and carried information and news about the elections process, including the following:

- The Voice,
- 7 Day News,
- Weekly Eleven,
- Bi weekly Eleven,
- People's Age
- The Myanmar Times.

These journals have a distribution of between 50-100,000 copies for each publication. However, in Myanmar it is estimated that each newspaper is read by 5-10 people which creates an even wider distribution of the newspapers. Although these publications can reach the main towns in ethnic states, in remote areas people tend to rely on state and exile radio stations for their information.

These weekly newspapers were allowed to print stories with some elections and voter information. Trusted newspapers or those that had strong relationships with the Press Scrutiny Board or other government officials, were allowed to publish elections articles before other journals were. These journals were regularly censored by the scrutiny board during the campaign period.

The Yangon Media Group, a group of private newspapers including Flower News and the Yangon Times, published a voter guide called "The Election Times" prior to the election. This was published and distributed in urban centers around the country and was aimed at educated and middle-class readers. The paper published information about the policies and platforms of 14 larger political parties, while other smaller parties were mentioned but not in detail. The paper also featured the larger party candidate lists for the constituencies that would be represented in each legislature, as well as the voting process.

Different journals displayed different biases towards parties and blocs of parties For example, 'The Voice' gave more space and favourable coverage to the National Democratic Force (the NDF), that had a membership comprising of former NLD

members who had decided to contest the elections. Most private journals did not cover the activities of the USDP, yet The Voice published paid USDP party advertising. Interviews with NDF candidates were featured, as well as NDF advertisements and campaign materials. Another newspaper 'The People's Age' featured weekly political party updates but did not cover activities of the USDP. Most of the other private journals tended to favour stronger Burman and ethnic, rather than the USDP and other smaller parties. Coverage tended to depend on editors', owners and publishers personal relationships with the particular parties and individuals.

Ethnic Media

In Myanmar, the state media produce some ethnic language programming for radio, however not for print and TV. The state media did not produce voter information and education in ethnic languages utilizing the existing ethnic programmes. However, some smaller local ethnic organizations produced media for the public around the elections to provide basic elections information to ethnic people in ethnic languages. Exile radio and TV produce some programming in ethnic languages, but this was more news orientated than educational.

The team noted that there were two ethnic media publications that included elections coverage in ethnic languages and were disseminated in two ethnic states, in Chin and Mon States. In Chin State, a journal is disseminated called 'The Chin' published by a Chin civil society organization. This periodical carried voter education materials and information about the elections process in the *Hakha* Chin dialect. The *Hakha* Youth Fellowship, Christian organization, also published elections and voter education in its bi-weekly pamphlet printed in Chin language. In Mon State, a journal called *'A Mat Dain'* (named after a knowledgeable and respected Mon Minister from Mon history) was distributed by a religious organization and included information for the public about the elections process in Mon language. The observation team noted, for example, that voters in Mon State were better informed in Mon language by the media on the basics of how to vote.

Voter Education

Most journals educated voters through a range of presentations, such as news stories and feature articles. The articles included information on the elections system and the voting process. The journals also printed excerpts of the elections laws, and some included constituencies of each state and region, such as Weekly Eleven journal. This journal also took a very proscriptive line towards encouraging the public to vote. In contrast, 7 Day news journal did not include direct voter education during the elections period. Some of these journals published incorrect information as it was difficult for them to access or question the EC in order to get accurate information.

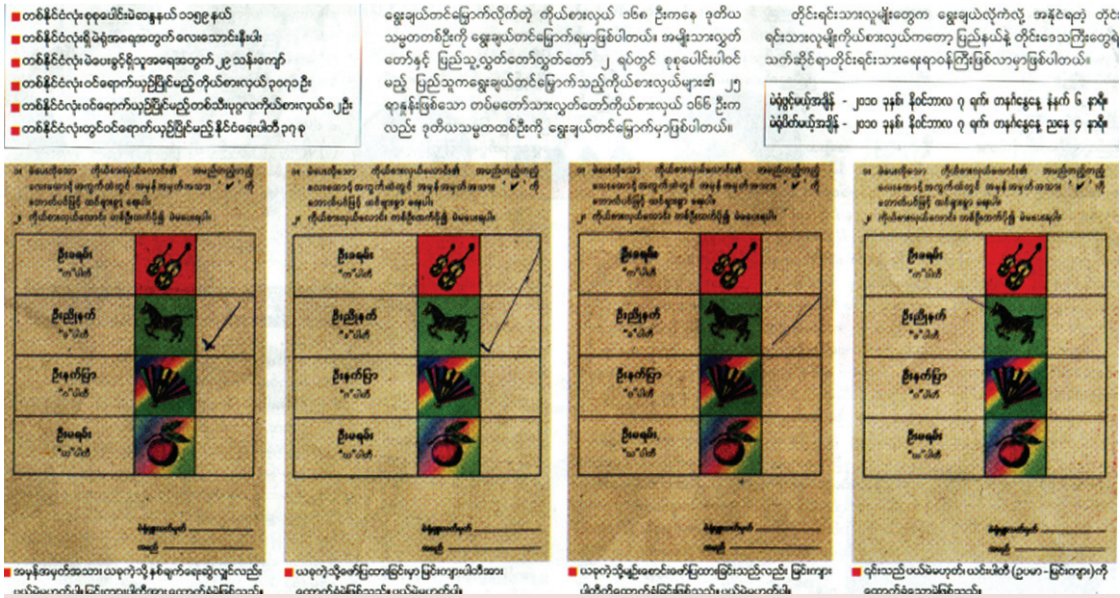


Figure 8: Seven Day News Journal incorrectly gives information on 'valid votes' with sample ballot papers **(Above)** ; and the correction was made in its subsequent edition, which also appeared on the state news papers **(Below)**.

No.33 · NOVEMBER 4, 2010

အမှားပြင်ဆင်ဖော်ပြခြင်း

၁။ ၂၈-၁၀-၂၀၁၀ ရက်နေ့ထုတ် 7Day News ဂျာနယ် အတွဲ(၉)၊ အမှတ်(၃၂) အချပ်ပို A တွင် မဲဆန္ဒရှင်လမ်းညွှန် (Voter Guide) ခေါင်းစဉ်ကဏ္ဍဖြင့် ပြည်သူလွတ်တော်၊ အမျိုးသားလွှတ်တော်၊ တိုင်းဒေသကြီး/ပြည်နယ်လွှတ်တော်များတွင်ပါဝင်မည့် ကိုယ်စားလှယ်အရေအတွက်ဆိုင်ရာ အကြောင်းအရာများ၊ မဲဆန္ဒရှင်များ မဲထည့်ရာတွင် ပယ်မဲမဖြစ်စေနိုင်သည့် မဲလက်မှတ်ပုံစံများအား ပုံနှိပ်ဖော်ပြခဲ့ပါသည်။

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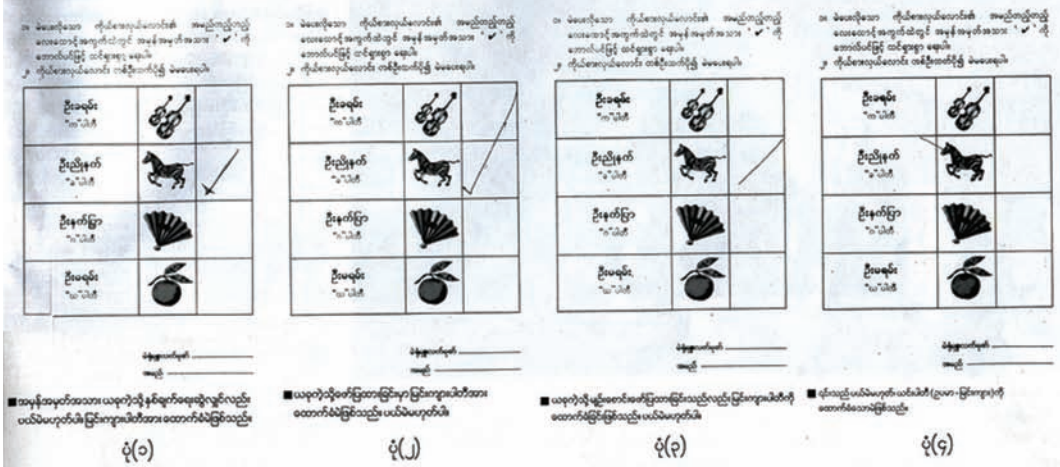

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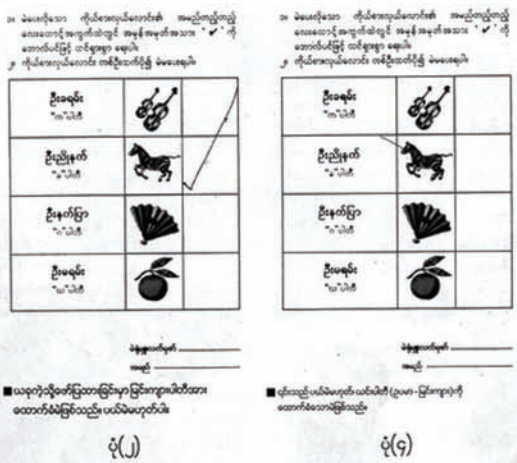

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စာတည်းအဖွဲ့
7Day News Journal

The typical audience for all of the journals observed is educated and middle class, and the publications are more easily accessible in cities and urban centers. The journals observed reach a total audience of up to a million people in Myanmar, and some have started websites, although only approximately 1-3% of the population can access internet or use it regularly.

On the 18th of October the Union Election Commission (UEC) held a press conference for local and international media and diplomats. UEC news was channeled through the state media (print, TV and radio) but was not directly released to private or international media other than in a few exceptional cases. The observation team collected information from the ground and case studies in the knowledge that if these stories involved election irregularities, that they would not pass the press scrutiny board for publishing.

Most of the private print journals introduced each of the political parties and key candidates to the public through one-on-one interviews with them. For example Weekly Eleven journal (and its bi-weekly version) and 'The Voice' regularly featured interviews of these types. Other journals published the ideas and basic platforms of several parties and candidates on a weekly basis like The Peoples' Age. These two journals also featured news on the parties' campaigns.

State TV, including the Myanmar Radio and Television Channel 4 (MRTV-4) and Myawaddy channels, as well as many new FM radio stations carried voter education programming. On state television at least two stories were aired every night, and these programmes were launched by a group of movie stars in late September 2010. Political parties were twice allowed 15 minutes each of direct access TV to the public between the 26th of September and the 30th of October, but their speeches had to be submitted for censorship weeks before they were given. One candidate from an ethnic party showed a speech he had prepared for the Direct Access before and after censorship, and the final version bore little resemblance to the original speech. Party policies on various key issues were the main parts of speeches that were removed – even non-sensitive policies. Even the form of presentation is subject to censorship, for example, gestures and tone must be modified in some cases to suit political and cultural sensitivities. However, in some cases ethnic parties were able to produce popular songs for parties encouraging people to vote for them like the Mon party, the All Mon Regions Democracy Party (AMRDP).

The Ministry of Information issued a directive on March 17th 2010 that states that political parties must apply within 90 days of registration to the UEC obtain exemption allowing publication of campaign materials without clearance from the Press Scrutiny Board (Central Supervisory Committee for Printers and Publishers Registration and Press Scrutiny and Publishing, Directive No.42). A

fee of 100,000 Kyat (approximately USD100) and 500,000 Kyat (approximately USD500) deposit must be given for the exemption. This made it time consuming and expensive for small political parties to implement their communications strategies unimpeded.

Recommendations

- **For Election Commission**
  - Set up a 'Party Movement' TV Programme for 15 minutes per week – and enable versions in ethnic languages for ethnic areas.
  - Encourage a TV programme that announces candidates lists for certain areas and introduces candidates– and enable versions in ethnic languages for ethnic areas.
  - Establish voter education TV programmes - – in ethnic languages for ethnic areas as well as in Myanmar.
  - Direct Access Programmes should be aired twice during the day, and not only in the evenings, to ensure that as many people as possible can view the presentations.
  - Make information available to the private and international media, and not only the state media.
  - Encourage state radio and radio production houses to air songs and voter education programming in ethnic languages for ethnic areas.
  - Widen the ethnic publications producing voter education in ethnic languages and increase their distributions
- **For Media**
  - Establish inserts on political parties and candidates and their platforms in Myanmar and in ethnic languages for ethnic areas.
  - Encourage print journalists from the private media to cover the campaigns of different political parties – and in ethnic areas publish these in ethnic languages
  - Encourage state TV and DVD production houses to produce entertaining voter education programmes for airing up until the slated date for the next elections in 2015.

Chapter 6

ELECTION DAY

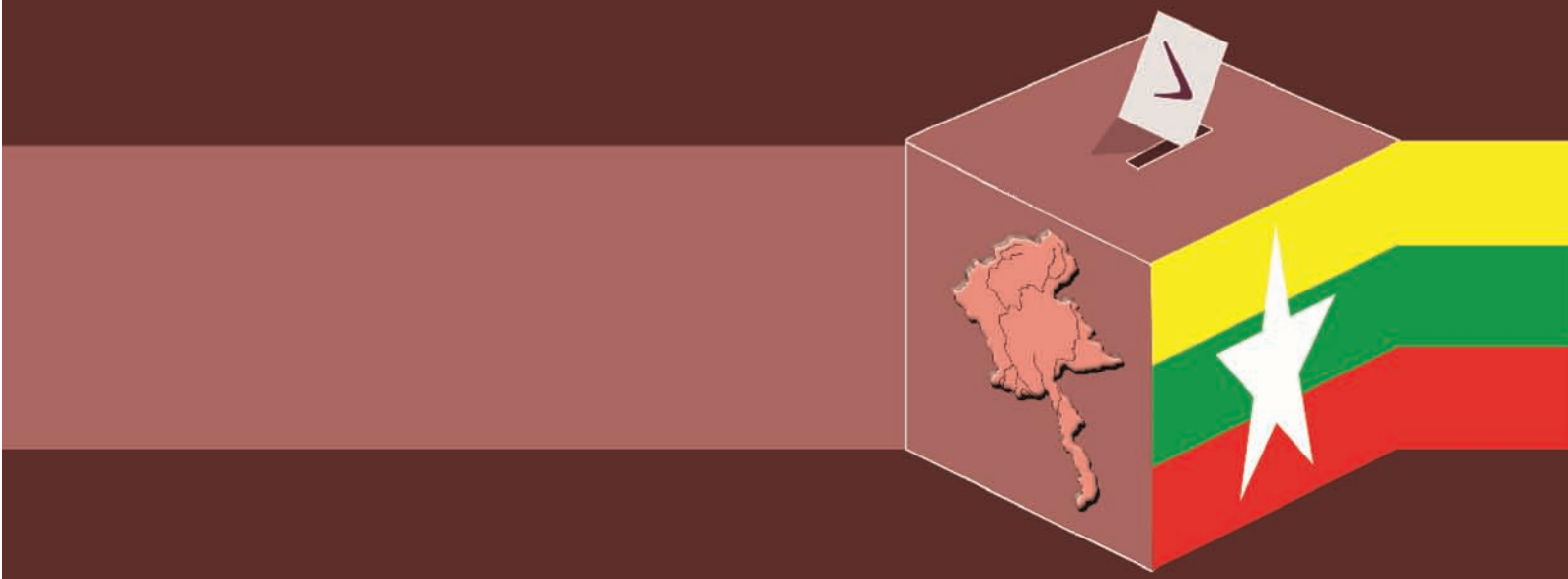


Figure 9: A member of the public casts a cautious look for his name on voter roll! *A Polling Station in Yangon*

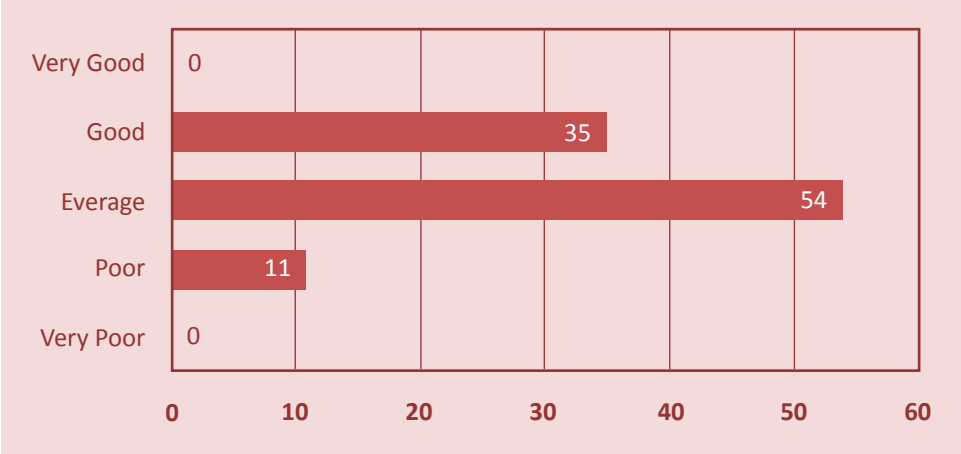
6. ELECTION DAY

Election day proceeded in a smooth and peaceful manner. Some of the observers were concerned that there would be conflict or coercion that would prevent people from leaving their houses to vote, however in most ethnic areas people did cast votes.[7] The exception was Kayah State where the highest amount of advance votes were recorded at state level at around 60%, whereas in most other states advance votes totaled approximately 15% of total eligible votes (see Chart 3).

The observers' overall first impression of the administration of the polling booths on election day was generally smooth. As shown in the graph below, 54% of the observers rated the election day process as follows: 54% as "average", 35% as "good", and 11% as "poor" (see also the preliminary findings report in Annex 1). However, after the closing of the ballot booths, the observers began to learn of how the election system had been set up to subvert the results of the vote.

[7] In Kayah State an armed ethnic group at war with the state, the Karenni National Progressive Party, issued death threats against those voting, and there was a very low voter turn-out reported by observers in this state.

Chart 3: **Overall Impression of Observers of LTOs (%)**



6.1. Polling Booth Management and Procedures

The opening of polling stations was generally on time with very few opening late. In most polling stations standard advance votes were properly listed and ballot boxes were displayed publicly, and there were sufficient electoral materials like ballots and stationery. The polling station staff worked competently. The polling stations were generally set up properly and were in the places advertised. The secrecy of polling booths was conducted in most cases as demonstrated in voter education programming on state television. However, of the observers noted that the secrecy of the vote was not protected in 39% of polling booths observed in ethnic states.

There were some cases reported where polling station staff marked ballots for voters when people were illiterate, had poor eyesight or low knowledge of how to vote and requested assistance. There were also some cases reported in Yangon Division where polling booth staff advised voters on who to vote for. In Myitkyina, the capital of Kachin State, polling booth staff forbade family members to help a Kachin voter who could not understand the Myanmar language instructions. Instead, security staff were called to assist the man in casting his vote, and an argument then broke out between the family members and booth staff. In, Natgyikone Ward in Mogaung Township, a ward level PDC secretary entered the polling booth and told a group of people who were having trouble understanding the Myanmar language instructions to put a put a tick beside the *'chinthe'* (lion) picture (the symbol of the USDP). Furthermore, in this ward, polling booth staff took a sheaf of ballot papers that had already been completed and used a correction pen to erase votes for parties other than the USDP, and then ticked the box for the USDP.

Figure 10: In many polling stations, secrecy of the vote was not protected. A Security officer looks on while people vote in Kachin State

Observers reported some cases where polling booths were set up in a way that did not fully guarantee the secrecy of the vote in some cases, but only observed a handful of incidents where booth staff tried to check on who voters had chosen. These events were reported in downtown Yangon townships such as Kyauktada, Lanmadaw, La Tha and Pabedan. A similar event occurred in Myitkyina, the capital of Kachin State,where the security forces tried to look at ballot papers as the public were voting, and 'advised' them on who to select which annoyed and intimidated these people. In polling station No 67, the actual booths were too close to where the administrative staff had been seated, which voters felt uncomfortable with and threatened by. In polling station No 13, Du Kahtawng Ward, Myitkyina Township, the polling station was so crowded that there were often more than one voter at a time filling out ballots in each booth. In fact, 44% of observers reported polling booths that were occupied by more than one person at a time on election day.

Recommendations

- **Election Commission**
  - Rules and guidelines for the establishment of polling stations and the placement and set up of polling booths should be enforced to ensure the secrecy of the vote.
  - Ballot boxes should be separated by colours that correspond to each of the legislatures or *hluttaws* and separated to clarify for voters which parliament they are voting for.
  - The election times, dates and locations of polling stations should be released at least two weeks prior to the election and publicized widely through various media.

Figure 11: A Polling Station in Namhkam (Shan State) set up in an open space that raised the issue of secrecy of the votes.

- Polling stations should be situated in buildings that have sufficient space to accommodate the number of voters in the area.
- Voter identification cards must be properly checked and documented so that a single vote for each person is cast.
- Voter lists should be placed in front of polling stations and township and ward EC offices for public viewing and the EC should enforce this rule so that people can check the list well in advance of election day.
- Sufficient electricity, food, water for the Polling station staff should be ensured and provided.
- Ballot boxes should be displayed publically before the opening of polling stations 4 days before the election, according to the law.
- Allow observation of the process on days 4 and 5 before the election.

6.2. Advance voting

All observers reported that manipulation of advance voting was the main method of fraud used to alter the result of the election. The ECs diverged from procedures when counting and managing advance votes. The methods by which advance votes were collected by the EC were varied.

In most areas observers reported that EC and SPDC staff went door-to-door collecting these votes together, which is in accordance with the law (Directive 51b-1, 17/3/2010), though this is not standard international practice as it is susceptible to abuse. In some of these cases, our observers reported that during this vote collecting process SPDC and EC staff advised and/or coerced voters to vote for a particular party – usually for the USDP. For example in Waingmaw Township in Kachin State, ballot boxes were set up in SPDC offices days prior to the election, rather than EC offices, in contravention of the law. Advance votes were collected from industrial zones and mining areas in Kachin State from large numbers of workers who were not eligible to cast advance votes.

Observers found it unusual that in several places the advance votes went **100%** *in favour of the USDP*

When results for advance votes made available, the high numbers of votes for the USDP gave cause for concern. For example, at a small polling station in Kengtung Township in Shan State all 200 advance votes were for the USDP. Observers found it unusual that in several places 100% of the advance votes were for the USDP. One observer in Yangon was told that she could vote in advance only if she cast her vote for the USDP. However, some examples of advance vote counting in other places showed a very different trend – in Mrauk-U and Minbya Townships in Rakhine State the advance votes were for a wide range of parties. On the night before election day, our observers noted that many party candidates expressed serious concerns over the potential for fraud in advance voting as the secrecy of these votes had not been guaranteed and nor had procedures for managing these votes been made clear.

Flaws in the process

Advance votes were coerced in all ethnic states observed. Many smaller political parties claimed that the results given at the polling stations had significantly changed by the time votes were counted at township level. Observers collected scores of written complaints made by candidates and representatives who witnessed the vote consolidation process at the township level, were bundles of advance votes were added to the count by the township level Election Commission. The EC refused to clarify where these votes had been gathered and by which process.

23% *of observers also reported that in many polling stations officials were lax in their handling of voter lists and in several cases staff manipulated advance votes.*

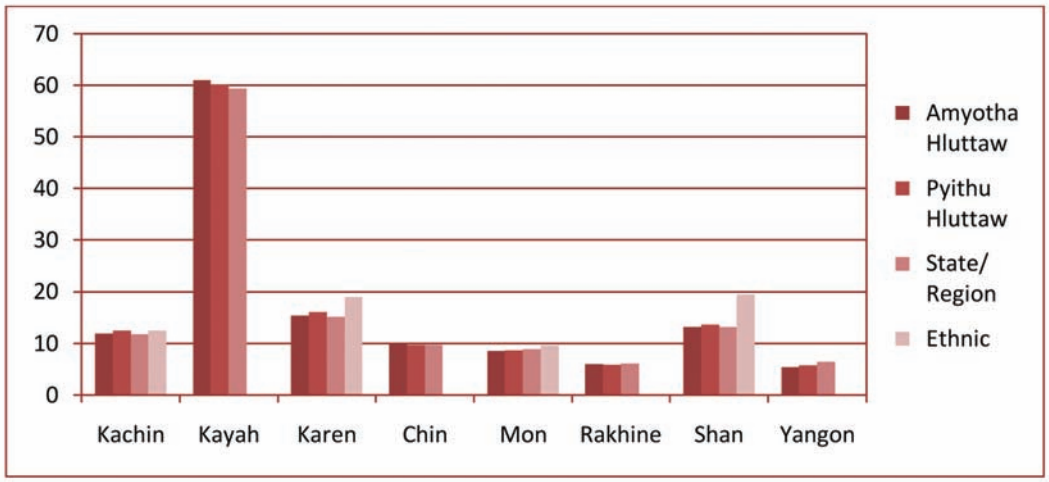
There were also several cases reported by our observers where civil servants who had already cast advance votes, voted again on election day. For example, In Phekhon Township in Kayah State, the education officer, after voting in his home village, voted again in another area. The secretary of a village EC and a PDC staff member were witnessed by an observer marking 100 advance votes for the USDP, and some of the votes marked were supposed to be votes from outside the country. On the 6th of November, election eve, the state/regional Assembly candidate from the Karen Phalon- Sawaw Party, went and met with the village EC to request a viewing of the advance voter list. The next day, a representative of the candidate went to the village and again requested a completed copy of Form 13 which contained the advance voter list and numbers to make a copy. The EC staff responded that they did not have the list of advance voters. Finally, the EC revealed that all the advance votes were for the USDP – but the EC staff agreed with the party representative that this was unfair and then decided to split the advance votes evenly between the three main parties running in the area!

An interesting case occurred in Hpakant township in Kachin State where the staff members of private gem-mining companies and massage parlours insisted on casting their advance votes before the EC in that area had received instructions on how to accept advance votes.

The most dramatic subversion of the advance voting process occurred through legal loopholes concerning the eligibility of advance voters. The majority of the observers reported that during the pre-election period, advance votes were collected from voters who were not necessarily eligible for advance voting. The definitions of categories of those given permission to cast advance votes included armed forces and civil servants on authorized travel duty and *"other voters"* (Directives 51A, B & 54) and were used interchangeably. Most civil servants and armed forces personnel were asked, and in other cases forced, to cast advance votes although they were not on travel duty, and therefore could be defined as 'others'. These included families of civil servants and armed forces personnel, as well as staff residing in military compounds and government buildings. Furthermore, in many cases advance votes arrived at the township EC office after the designated time of 4pm which meant that advance votes were arriving during the counting process (See Directive 71). This could suggest that advance votes were introduced when the results of initial counting were not in favour of the USDP. In other cases, pre-prepared advance vote bags were seen at the township EC offices before the count began, and in many cases, these bags arrived unannounced during the counting process.

This enabled electoral officials to manipulate township level results, which impacted the overall outcome of the elections. For example, there was a pattern of notable cases in which candidates who appeared to be winning according to public count on election day, woke up the next morning to find they had in fact lost. The following chart shows the impact of advance votes on final results for each legislature. See, for example, the percentages of results for Karen and Kayah States, and the percentages for advance votes in favour of the USDP. These percentages show unusually high amounts of advance votes going to the USDP than in other states.

Chart 4: **The Impact of Advance Votes on Final Results for each Legislature (%)**



The *Hluttaw* (legislatures) Elections Directive governs the procedures for people residing in their home constituencies but who are unable to go to the polling booth (see article 51), and categories of people who were eligible to vote in a place other than their residency including people residing abroad (see chapter 11). In practice, this directive was not understood and exercised properly by many EC staff, and was also used by the EC and some PDC staff to manipulate the vote mainly between village/ward and township levels (*see* diagrams below).

All the observers reported that most military personnel and families gave advance votes. Many votes from the armed forces were sent directly to township ECs, which contravened Directives 51B and 51C (defining categories of eligible persons for advance voting) as these personnel were not outside their area of work as stipulated in these pieces of legislation (*see* diagrams below).

According to observers, many advance votes that were sent to the township ECs were not made known to political parties by the time that polling stations closed, as they should have been in accordance with the directives. The directive enabled ECs to manipulate the stipulation that keep the advance votes secret, for example, the township ECs had been given no receipts for the ballot papers for these advance votes and therefore could not make further inquiries about the origin of the votes and from which cohort they came from. In many cases reported by observers, advance votes were collected from groups of people in public places and not in a private booth or space. In cases reported in Rakhine State, advance votes were cast at the home of the EC officer in full view, at the invitation of the staff member.

Diagram 1: **Advance Voting Process for Voters in their Constituencies unable to go to Polling Booth on the Election Day**

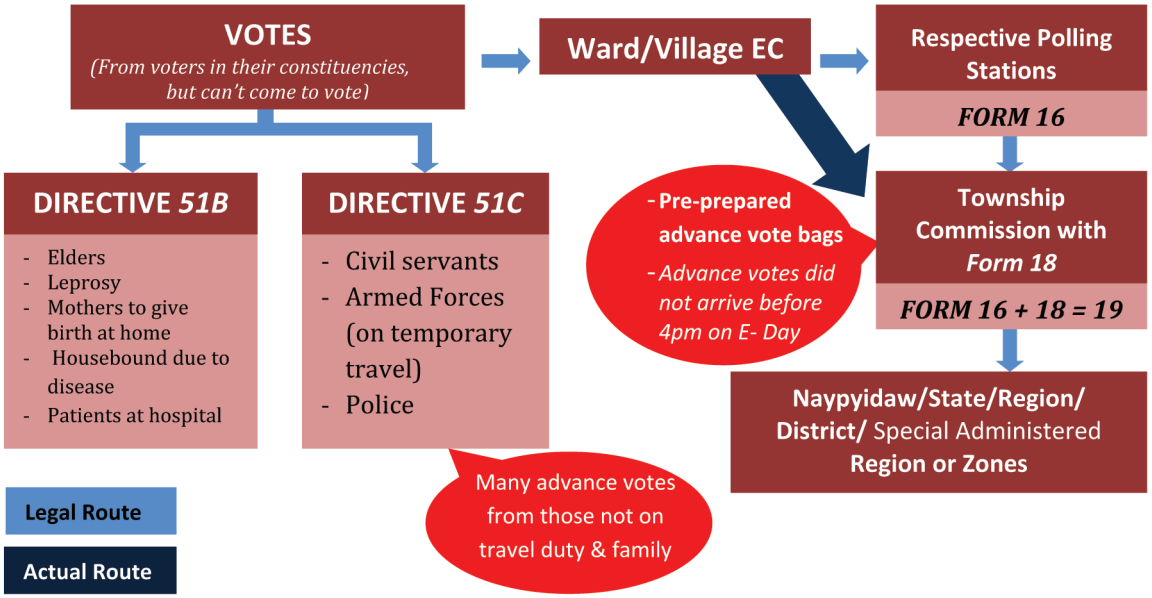
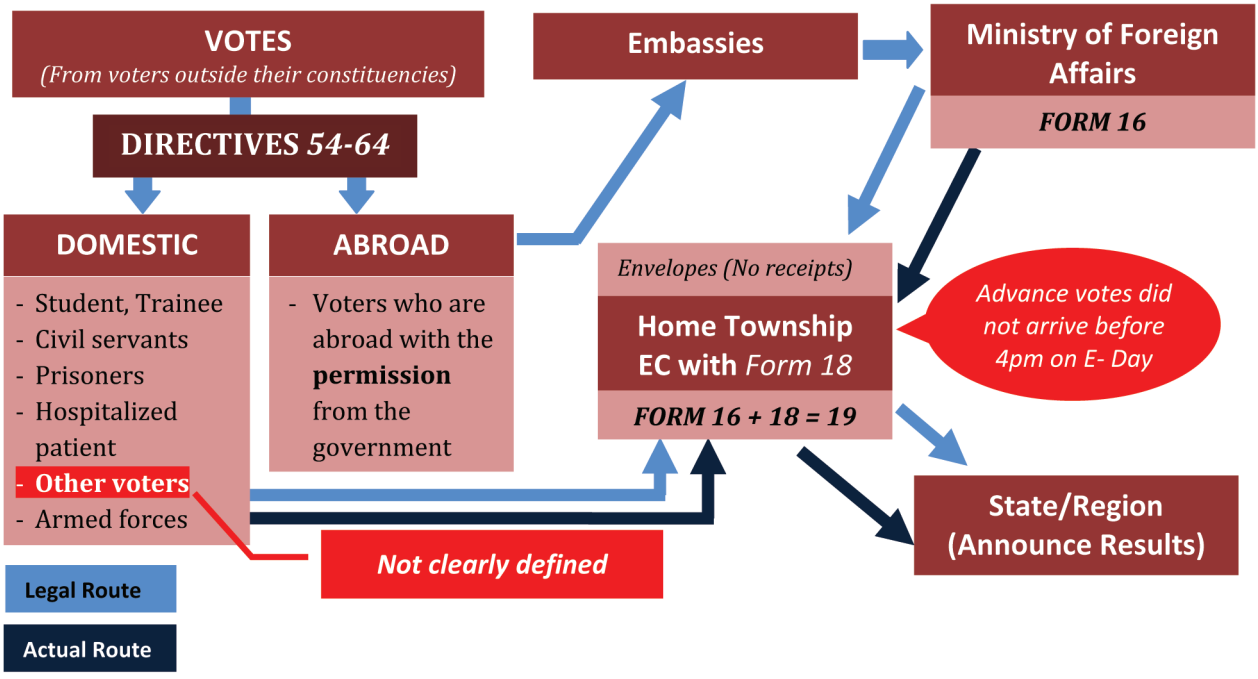


Diagram 2: **Advance Voting Process for Voters outside their Constituencies**



Furthermore, in most ethnic areas the advance votes recorded by observers at township ECs were for USDP, and these were rarely invalidated. This enabled the EC staff to shape the election outcomes in favour of USDP candidates according to observers in Kayah, Kachin States and some areas in Shan State areas. According to advance vote documentation received by observers in Kayah State, the signatures on the advance votes list were all very similar, suggesting that they were signed by one person. However, in most areas observed in Rakhine, Mon and Chin States, advance votes were not automatically assigned to USDP, and several were assigned to ethnic parties. In some areas of these states such as Paukttaw Township in Rakhine State and Mudon Township in Mon State, ethnic parties had a decisive majority of votes, and even if advance votes were assigned to the USDP, the advance votes were too low in number to change the result.

However, in some cases documented, advance votes were collected according to proper procedures outlined in the directive. For example, in Chaungzone and Thanphyuzayat townships in Mon State and others in Yangon Region where advance votes were all received by the closing of the polling stations.

Recommendations

- **Election Commission**
  - Advance votes collected before the election should be declared according to the Directives.
  - Allow party members and/or the public to check lists of advance votes on election day and for several days following.
  - The Directive clause 58c should be implemented so that each advance vote is stamped and properly listed on arrival at
  - Township ECs. This clause should be amended to that receipts for advance votes are collected that stipulate their origins.
  - EC and other civil service staff should receive further training to maintain the secrecy of advanced votes.
  - Given the potential for abuse in advance votes, the extent of advance voting and associated voting patterns should be carefully scrutinised.
  - Armed forces personnel and civil servants should not be allowed to cast advance vote unless they are on authorised travel duty or fit match the other criteria stipulated in Directive 51C.
  - The *'others'* category of eligible advance voters stipulated in Directive 54 should be clearly defined

6.3. Voter rolls

Most of the irregularities with the voter rolls on elections day appear to be administrative in nature rather than a political attempt to systematically disenfranchise a particular group of voters.

Those who work in one state, but whose permanent residence is in another, faced particular difficulties, as did others who wished to cast a fourth ballot for their ethnic representative in ethnic states with self administered zone. According to observer reports, this impacted on ethnic nationals Rakhine State working or living in Yangon, and in ethnic states such as Shan nationals iving in Kachin State. For example, an observer reported that in polling station No. (19), in Namati Township in Kachin State, some Shan people could not vote as their names were not listed on the voter roll. Another example was when one of the observers was told she could not vote for a Rakhine candidate in Kyauktada Township in downtown Yangon as her name was not on the voter roll. Furthermore, in Namati and Mogaung Townships in Kachin State, there was no ballot box provided for Shan ethnic candidates although there were Shan people in those areas.

Voters were confused after they received the election roll vouchers that enabled people to vote, and USDP campaign information cards according to some observers in Karen and Mon States and Yangon Division, as it did during the preelection phase. Observers reported several cases in which the ECs and the station staff found that votes for USDP were fewer in number than those of candidates from other parties, voters without election roll slips were allowed to vote – but only for the USDP.

In Karen, Mon and Rakhine States, many observers reported that the polling station staff marked absent voter forms on behalf of absentee voters without their knowledge, in the hours after the booths closed.. In one state, militia groups were allowed to vote two times as they received vouchers enabling them to vote on election day, despite the fact that they had already cast advance votes. According to observer documentation, cases of double voting seemed to be related to the insufficient levels of voter and EC staff education, but in some cases was deliberate.

Recommendations

- **Election Commission**
  - Staff should properly check identification cards and vouchers of voters before marking the voter roll.
  - Publish voter rolls one month in advance of election day and allow individuals the opportunity to correct any mistakes;
  - Consider the use of indelible ink applied to voters' fingers to prevent double voting.

6.4. Voter Coercion

EC and PDC staff's desire for a high turnout led to particular pressure to vote being exerted on those working for the state such as civil servants. Observers reported that in some areas of Kachin, Karen and Shan States people expressed greater fear of the consequences of not voting due to past oppression and conflict, and due to a lack of contact with the authorities. Observers reported many cases across ethnic states where threats were made both implicitly and explicitly against civil servants who feared losing their jobs should they not support the USDP.

Observers in Rakhine State reported some cases where local authorities granted identity cards to Rohingya nationals in exchange for support for the USDP party. Under Myanmar law, Rohingya people are recognised under lesser categories of citizenship, depending on how long they have resided in-country.

Recommendations

- **Election Commission**
  - The roles of the EC and PDC staff should be clearly separated in practice to avoid bias and partisan behavior.
  - Ensure fair complaints mechanisms for alleged cases of voter coercion, and enable legal procedures, as outlined in the *Hluttaws* (legislatures) Electoral Laws chapter 13, against coercion of voters by individuals or parties.
  - Advance votes should only be accepted in strict accordance with the
  - *Hluttaws* (legislatures) Electoral law.
  - Extend the time allotted for EC staff training.

6.5. Vote buying

Vote buying, both cash and in-kind, was quite widespread in the ethnic areas observed prior to the election, however on election day there were fewer reports with only 2% of observers reporting this. However there were reports of vote buying in other urban centres perpetrated by government organisations. For example, on the day before election day, in Hlaing Bwe Township in Karen State, an observer witnessed a USDP candidate buying advance votes for 5000 Kyat each, obtaining a total of 47 votes.

Recommendations

- **Election Commission**
  - A new law should be drafted to prevent vote buying and the unlawful and unequal use of state resources.
  - Launch clear voter education materials about how vote buying is illegal.
  - The EC should be responsible for reducing vote buying where possible.

6.6. Security and Election-related Violence

Election-related violence appears to have been generally limited, however tension and armed conflict were reported from specific ethnic areas. According to observers, tensions rose in Mawlamyaing and Kyaikmayaw townships in Mon State in when the EC refused to allow those wearing Mon traditional dress to vote. Angry voters marched in parts of these townships but a potential demonstration was warded off by the EC through its decision to repeal this decision. In Chiphwe Township in Kachin State which lies on the border of Kachin Independence Organisation and SPDC controlled territory, a polling booth was planned for the KIO side of the demarcation. Due to prior tensions between the two sides over the border guard force issue, where SPDC pressured KIA troops to operate under SPDC command, the KIO refused to allow the polling booth to be placed in their area. Soldiers on both sides of the ceasefire were on alert for possible conflict. However, tensions were cooled when the SPDC placed the polling booth in SPDC controlled territory, and brought voters from KIO areas to vote.

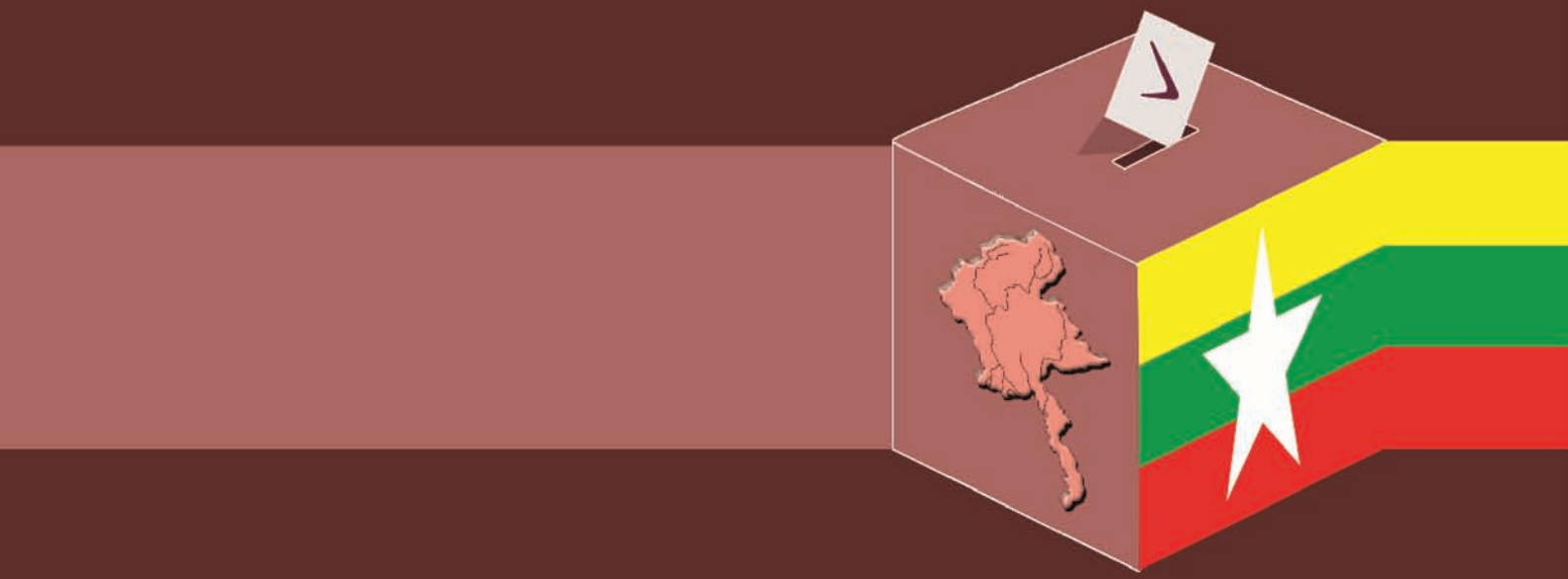
In Myawaddy township in Karen State, widely internationally reported conflict broke out between Democratic Karen Buddhist Army (DKBA) troops and SPDC forces. The DKBA broke away from the armed Karen opposition group, the Karen National Union in 1994, and subsequently different factions of the DKBA made ceasefire agreements with the SPDC. In this case, the ceasefire agreement broke down when a polling station supervisor who was the father of a USDP candidate, gave temporary national registration cards to hundreds of villagers in Minlatpan village and surrounding areas, on the condition that they would vote for the USDP. An unidentified person cut the throat of the supervisor, killing him on election day. DKBA soldiers retaliated at 8.30am by attacking the police station and SPDC soldiers stationed at the Myawaddy Bridge at the border with Thailand, killing thirteen SPDC soldiers. At approximately 3pm, the DKBA soldiers warned occupants to leave the town causing an exodus of thousands of refugees to Thailand. The battle between DKBA and SPDC soldiers lasted several days with shells hitting Thailand and killing Thai villagers. This conflict disenfranchised thousands of voters from Karen State.

Recommendations

- **Election Commission**
  - International and independent national observers and monitors should be allowed to monitor the elections especially in areas of potential conflict.
  - The EC should not disenfranchise voters by banning voting in various ethnic constituencies for unreasonable security reasons.

Chapter 7

COUNTING AND CONSOLIDATING RESULTS



7. COUNTING AND CONSOLIDATING RESULTS

The station staff at ward/village and township levels was generally competent in conducting counting process in urban areas. However, there was not full compliance with some procedures that are key to the integrity of the election process, for example, the counting process in ethnic areas. There were many cases of questionable counting reported in these areas such as fraudulent advance votes, absentee votes and misappropriated votes from voters absent from the roll. Furthermore, 27% of observers stated that votes were not counted in front of the public as stipulated by the EC Polling Booth Manual (2010). At 81% of polling stations observed, counted votes were properly sent and delivered to township ECs, except for in a few remote areas where transportation was already difficult dues to environmental factors.

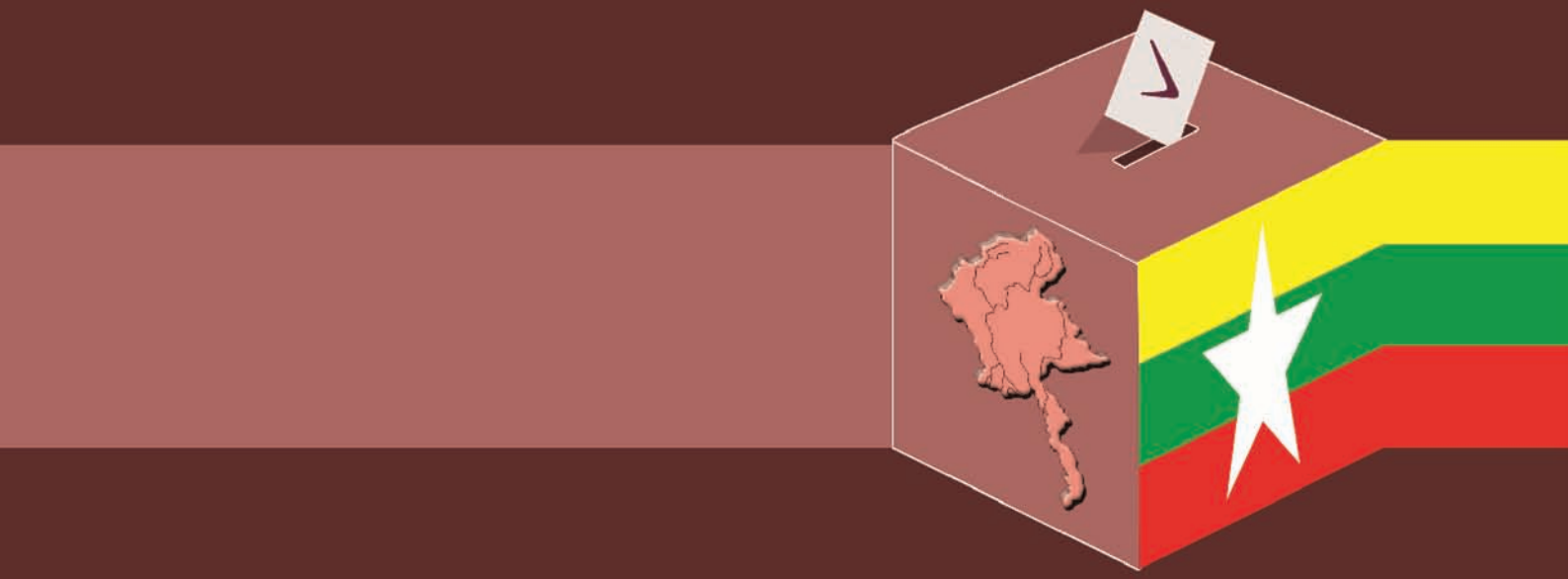
Where the counting was conducted in view of the public, one third of the observers reported that the public viewing the vote count were pre-selected by EC officials, when it is supposed to be random. To some extent this problem was mitigated by the presence of party agents in polling stations, according to some observers.

Recommendations

- **Election Commission**
  - Polling staff should be properly trained on how to manage the public vote counting and consolidation processes to ensure neutrality.
  - Allow local and international elections monitors and observers to watch the counting process.

Chapter 8

POST ELECTION ENVIRONMENT



8. POST ELECTION ENVIRONMENT

8.1. Election Results

The results were announced in the state media between November 11 and 17, 2010. The USDP won by a landslide majority with 76.8% of seats in the upper house, 79.4% of seats in the lower house, and a total of 78.5% across both houses. In the new system defined by the constitution, the President (chosen by the national bicameral legislature or *Pyidaungsu Hluttaw*) appointed the new government on 30 March 2011, rather than the parties with the most seats. The State Peace and Development Council (SPDC) was abolished on the 30th March 2011. The majority won by the USDP gives the party control over passing legislation. In the seven Burman dominated regions the USDP has 80% of the elected seats, as well as 80% majority of overall seats.

Chart 5: **Number of Seats Won by Parties and Independent Candidates**

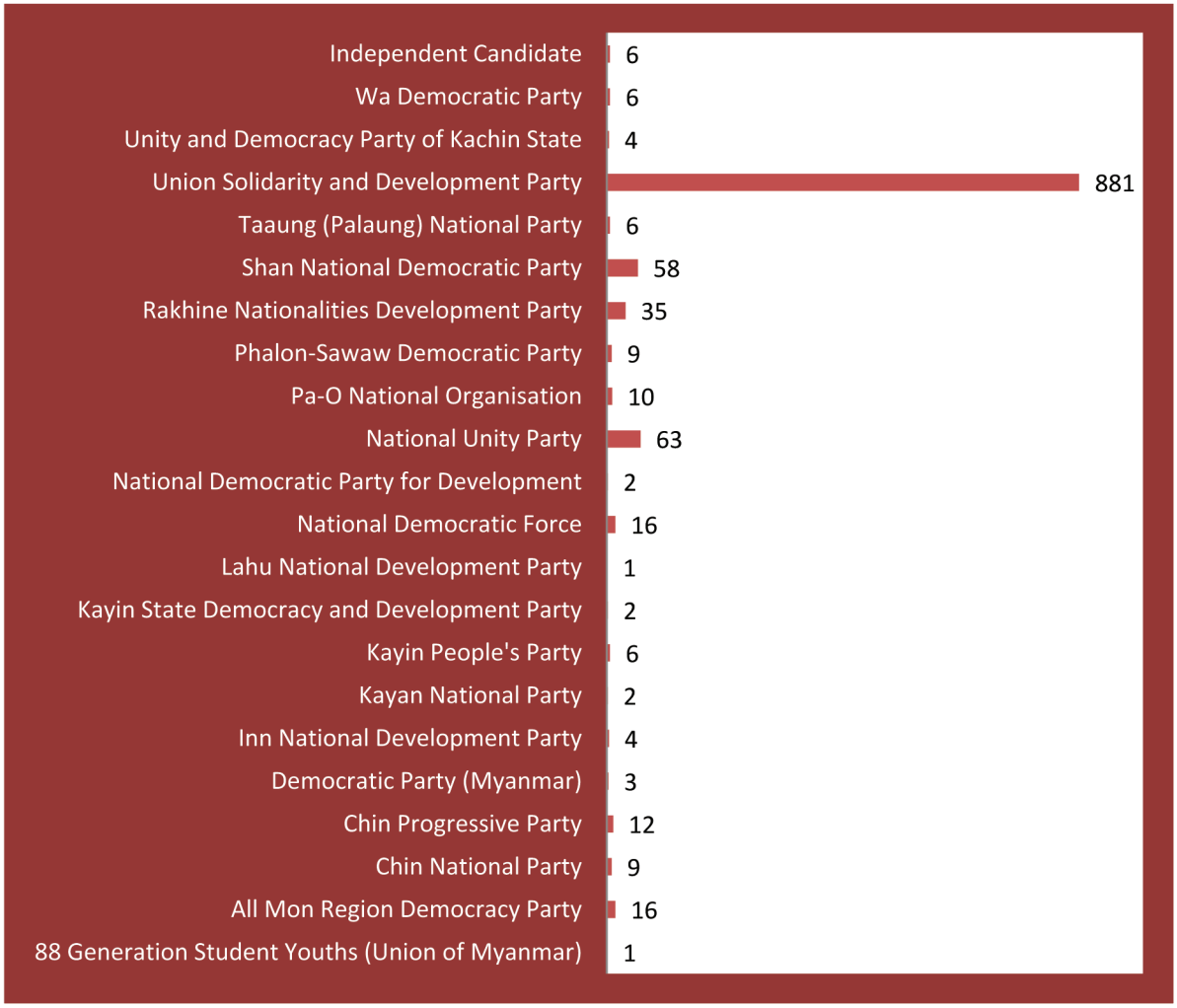


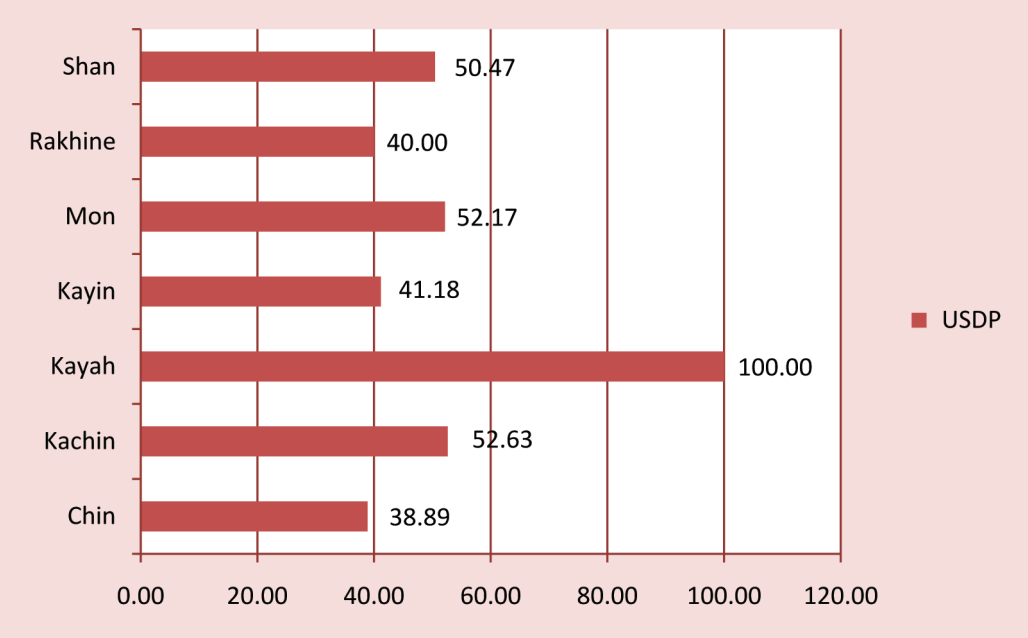
Table 6: Total Seats Contested and Won by Parties/Independent Candidates

No.	Party	Total Seats Contested	Candidates Won			Total Seats Won
			P	N	R/S	
1	88 Generation Student Youths (Union of Myanmar)	40	0	0	1	1
2	All Mon Region Democracy Party	32	3	4	9	16
3	Chin National Party	22	2	2	5	9
4	Chin Progressive Party	36	2	4	6	12
5	Democracy and Peace Party	10	0	0	0	0
6	Democratic Party (Myanmar)	46	0	0	3	3
7	Ethnic National Development Party	0	0	0	0	0
8	Inn National Development Party	4	1	0	3	4
9	Kaman National Progressive Party	6	0	0	0	0
10	Kayan National Party	12	0	0	2	2
11	Kayin People's Party	37	1	1	4	6
12	Kayin State Democracy and Development Party	4	0	1	1	2
13	Khami National Development Party	3	0	0	0	0
14	Kokang Democracy and Unity Party	8	0	0	0	0
15	Lahu National Development Party	8	0	0	1	1
16	Modern/New Era People Party	30	0	0	0	0
17	Mro or Khami National Solidarity Organization	11	0	0	0	0
18	National Democratic Force	156	8	4	4	16
19	National Democratic Party for Development	24	0	0	2	2
20	National Development and Peace Party	2	0	0	0	0
21	National Political Alliances League	2	0	0	0	0
22	National Unity Party	971	12	5	46	63
23	Pa-O National Organisation	10	3	1	6	10
24	Peace and Diversity Party	7	0	0	0	0
25	Phalon-Sawaw Democratic Party	18	2	3	4	9
26	Rakhine Nationalities Development Party	44	9	7	19	35
27	Rakhine State National Force of Myanmar	14	0	0	0	0
28	Shan National Democratic Party	169	18	3	37	58
29	Taaung (Palaung) National Party	14	1	1	4	6
30	Union Democratic Party	7	0	0	0	0
31	Union of Myanmar Federation of National Politics	44	0	0	0	0
32	Union Solidarity and Development Party	1111	259	129	493	881
33	Unity and Democracy Party of Kachin State	9	1	1	2	4
34	United Democratic Party	9	0	0	0	0
35	Wa Democratic Party	13	2	1	3	6
36	Wa National Unity Party	3	0	0	0	0
37	Wunthanu NLD (The Union of Myanmar)	7	0	0	0	0
38	Independent Candidate	64	1	1	4	6

P = People's Assembly (or Pyithu Hluttaw) : **R/S** = Region/State Assembly
N = National Assembly (or Amyutha Hluttaw) : **E** = Ethnic

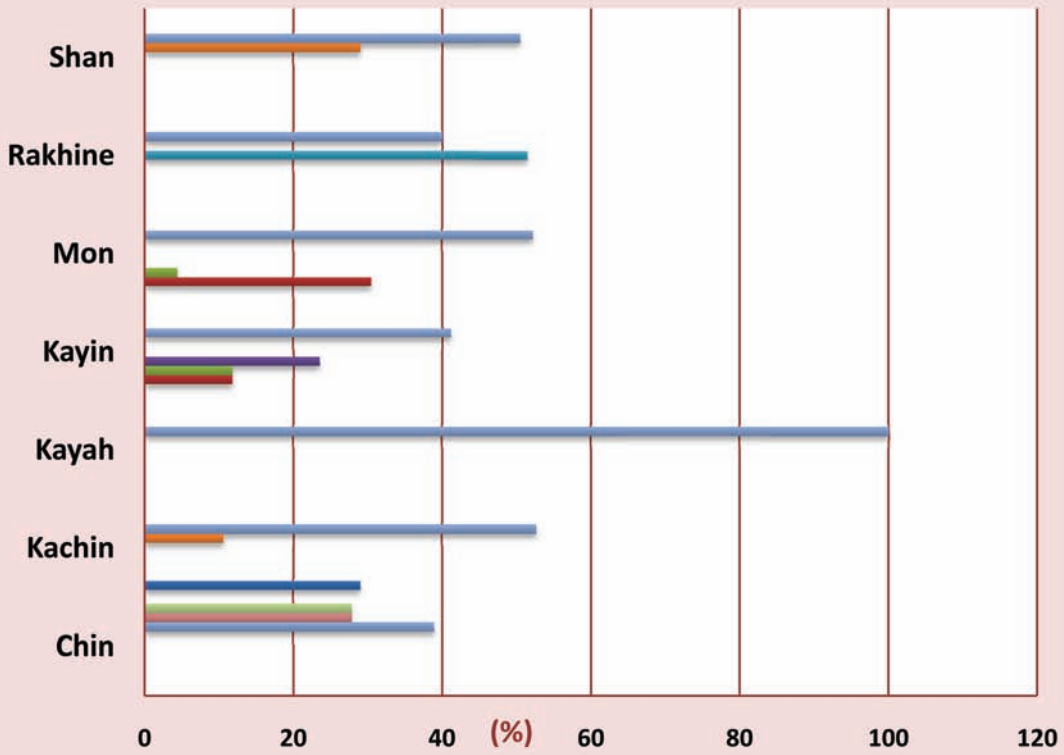
However in ethnic regions, the USDP has less of a majority with ethnic parties controlling significant numbers of seats in some regional legislatures (see Charts 5 & 6). This enables ethnic parties the potential and power to impeach public officials; to block the impeachment of public officials, and to call special sessions of the legislatures. This is why ethnic representatives reported to observers prior to the election that their key interest was in gaining some control of state legislatures.

Chart 6: **Percentage of USDP Seats in State Parliaments**



Overall at national level ethnic parties do not have direct legislative influence, however they have the opportunity to voice their views. Of the 22 parties winning seats, 17 of those were ethnic parties. In four of the state *hluttaws*, Chin, Karen, Rakhine and Shan States, the ethnic parties control more than 25% of the seats (see Chart 6).

Chart 7: **Comparison of Dominant Parties in State Parliaments (%)**



	Chin	Kachin	Kayah	Kayin	Mon	Rakhine	Shan
CNP	27.78						
CPP	27.78						
USDP	38.89	52.63	100.00	41.18	52.17	40.00	50.47
SNDP		10.53					28.97
RNDP						51.43	
PSDP				23.53			
KPP				11.76	4.35		
AMRD				11.76	30.43		
NUP		28.95					

The results of the election were highly questionable because of the way results changes in many areas following the counting of advance votes. This impacted on the final result and brought the legitimacy of the elections into question. Ethnic representatives and other candidates expressed extreme disappointment with the fraudulent nature of the vote. Most smaller party candidates reported to observers that they did not anticipate advance voting as being an issue and were therefore unprepared to manage this problem as it arose and initially were not sure how to respond. For example, it was challenging for smaller parties to document

and present findings on areas where the initial count totally changed following the advance vote count, as these cases were difficult to prove. Parties were also reluctant to complain unless they could prove a case due to the possibility of a USD1000 nonrefundable deposit and the potential 3 years of imprisonment should they lose the case.

8.2. Complaints

Most observers reported that most polling booth staff, particularly in larger towns and cities, appeared to carry out their duties competently and in a neutral way. However, when complaints arose from voters, parties, and candidates regarding problems with the voter roll or interference by larger parties, the staff appeared unwilling or unable to manage these. For example, according to observers the EC chairman in a township in Kachin State unfairly rejected the appeals of voters who had been left off the voter roll. Polling officers in Hpakant and Lunghkang Townships in Kachin State did not prevent the USDP in interfering in the electoral process there, where a smaller party candidate had clearly won following the public counting, and the following day the candidate had lost. The candidate verbally complained to the EC, and the chairman responded that this was the final result and that the candidate had no right to complain. Observers reported that there were many complaints from the ethnic parties after the counting process at polling stations and at the township level during the tabulation process, particularly in Karen, Mon and Rakhine States. Smaller parties have made few complaints due to the punitive provisions should they lose these cases (see above).

မြို့ နယ် တ အောင်း (ပလောင်) အ မျိုး သား ပါ တီ
နမ့် ခမ်း မြို့
စာအမှတ်၊ ၁၈ / တအောင်း (ပလောင်) ပါတီ ၊ နမ့်ခမ်း
ရက် စွဲ၊ ၂၀၁၀ - ခုနှစ်၊ နိုဝင်ဘာလ ၊ ၉ ရက်

သို့

ဥက္ကဋ္ဌ
ခရိုင်ကော်မရှင်အဖွဲ့ခွဲ
မူဆယ်မြို့

အကြောင်းအရာ။ ။ <u>တရားမျှတသည့် ရွေးကောက်ပွဲရလဒ်များ ရရှိနိုင်စေရန် တင်ပြခြင်း။</u>

အထက်အကြောင်းအရာပါကိစ္စနှင့်ပတ်သက်၍ (၇-၁၁-၂၀၁၀)ရက်နေ့၌ ပြည်ထောင်စုရွေးကောက်ပွဲကော်မရှင်မှ ဦးစီးကျင်းပပြုလုပ်သည့်ပါတီစုံ ရွေးကောက်ပွဲမှ တရားမျှတသည့်ရလဒ်များရရှိနိုင်စေရန်အလို့ငှာ

(၁) မန်အောင် ၊ ဖာလင် ၊ ဆာလု နှင့် ပန်ခါးကျေးရွာအုပ်စုတို့မှ ဆန္ဒပြုထားပြီးဖြစ်သည့် ကြိုတင်ဆန္ဒမဲလက်မှတ်များ၌ မြို့နယ်ကော်မရှင်ဒုတိယဆိပ်မပါရှိသည့်အတွက် မဲရုံကိုယ်စားလှယ်အချို့မှ လက်မှတ်မထိုးပဲ ကန့်ကွက်သည့်ကိစ္စ။

(၂) မန်းပူးကျေးရွာအုပ်စု၊ မဲရုံအမှတ်(၁)၌ ဆန္ဒပြုရန်ရောက်ရှိလာကြသည့် မဲဆန္ဒရှင်အချို့မှ ဆန္ဒမဲမပေးရပဲ ၎င်းတို့၏ကိုယ်စားကြိုတင်ဆန္ဒမဲအဖြစ် ဆန္ဒပြုခံရပြီးဖြစ်ကြောင်း မဲရုံတာဝန်ကျရပ်/ကျေးကော်မရှင်အဖွဲ့မှ ပြောပြသဖြင့် မကျေမနပ်ဖြစ်နေကြသည့်ကိစ္စ။

(၃) မဲရုံအများစု၌ တုံ့ကင်ပြားပြပြီး မဲလက်မှတ်များ ထုတ်ယူခွင့်ပြုသော်လည်း မန်စပ်ကျေးရွာအုပ်စု၊ မဲရုံအမှတ်(၁)၌ တုံ့ကင်ပြားဖြင့်လက်မခံပါ။ မှတ်ပုံတင်ကတ်ပြား သို့မဟုတ် ယာယီသက်သေခံကတ်ပြား (သက်ဆိုင်ရာမှ ထုတ်မပေးပါ) ပြနိုင်မှသာ မဲလက်မှတ်များ ထုတ်ယူခွင့်ပြုပြီးစစ်ဆေးမေးမြန်းမှုများ ထူပြောခြင်းကြောင့် မဲမပေးရပဲ လှည့်ပြန်ရသည့်မဲဆန္ဒရှင် တစ်ဝက်နီးပါးခန့်ရှိသည့်ကိစ္စ။

(၄) ပန်းဆေးကျေးရွာအုပ်စု မဲရုံအမှတ်(၁)၌ အသက်(၁၈)နှစ်မပြည့်သေးသည့် ကလေးငယ်များလာရောက်ဆန္ဒမဲပေးခွင့်ပြုခြင်း၊ အချို့သောမဲဆန္ဒရှင်များမှ တစ်ဦးလျှင်(၂)ကြိမ်၊ (၃)ကြိမ် ဆန္ဒမဲပေးခွင့်ပြုခြင်းနှင့် မြို့နယ်ကော်မရှင်အဖွဲ့ခွဲမှ တာဝန်ပေးအပ်သည့် ပုဂ္ဂိုလ်များကိုယ်တိုင် ကိုယ်စားပြု၍ ဆန္ဒမဲပေးခြင်းများတွေ့ရှိရသည့်ကိစ္စတို့အပေါ် ခရိုင်ကော်မရှင်အဖွဲ့ခွဲမှ အရေးယူဆောင်ရွက် ပေးနိုင်ပါရန် လေးစားစွာတင်ပြအပ်ပါသည်။

(ရွှေမောင်) (ကျော်ဆွေး) (ထွန်းကျော်) (ညီစိန်)
ပြည်သူ့လွှတ်တော် အမျိုးသားလွှတ်တော် အမှတ်(၁)ပြည်နယ်လွှတ်တော် အမှတ်(၂)ပြည်နယ်လွှတ်တော်
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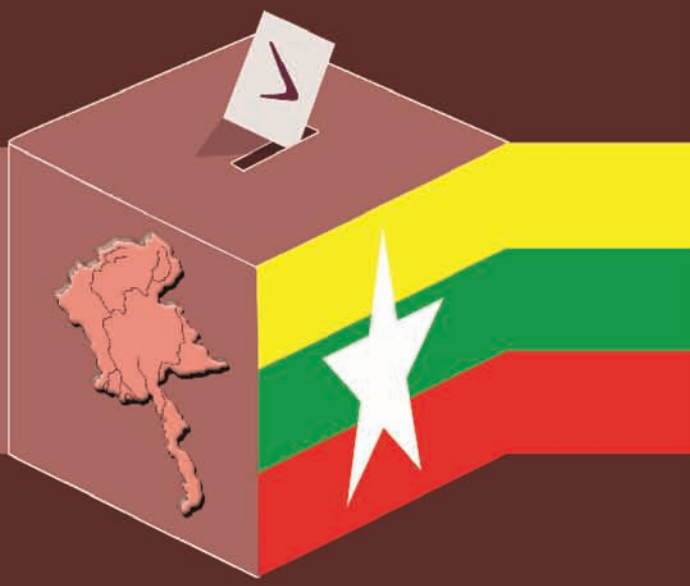
မိတ္တူကို -
- ဥက္ကဋ္ဌ၊ ပြည်ထောင်စုကော်မရှင်အဖွဲ့၊ နေပြည်တော်။
- ဥက္ကဋ္ဌ၊ ရှမ်းပြည်နယ်(မြောက်ပိုင်း)ကော်မရှင်အဖွဲ့ခွဲ၊ လားရှိုးမြို့။
- ဥက္ကဋ္ဌ၊ မြို့နယ်ကော်မရှင်အဖွဲ့ခွဲ၊ နမ့်ခမ်းမြို့။

Figure 12: **Almost all complaints were not taken action by EC at different levels.**
Above is an official complaint letter from Taaung (Palaung) National Party to district level EC (Muse, Shan State) to produce fair election results. Observation Team has obtained copies of many complaints from individual candidates as well as from parties.

Recommendations

- Amend the EC Law to establish an independent tribunal to hear complaints at township and village/ward level.
- This tribunal should be able to accept complaints up to 20 days after the election to give parties time to collect evidence and prepare their cases.
- The tribunal should be staffed by competent lawyers.
- Decriminalize the provision in the law stating that complainants can be imprisoned for up to three years should they lose their cases, so that parties can more feasibly lodge complaints without risk.

ANNEX



Annex 1:

PRELIMINARY FINDINGS REPORT

8th November 2010

Methodology

This report was produced by an independent and politically neutral local association based in Myanmar. These preliminary findings are drawn from sources on the ground during the pre-election period and election day itself in 8 states and regions across the country. 803 volunteer observers were trained in international standards on observation methodologies[8]. This preliminary findings report is based on reports from 175 observers who were able to report back their findings at short notice. These observers have reported from 75 townships[9] between 27th September and 8th November 2010. On election day itself, observations were drawn from 159 polling stations. All statistics in this report are based on reports provided from these sources on the ground.

Executive Summary

The Election in Context

While this election clearly fell short of international standards, it marks an important step forward towards a more democratic state. Political parties and voters are well aware that the playing field for this election was not level – but many have decided to take advantage of the small window of political space that has opened.

It is important to acknowledge that while the campaign environment was highly constrained and some irregularities were observed on election day – and advance voting was especially open to abuse – this does not necessarily fatally undermine all of the results of this election. The Union Solidarity and Development Party (USDP) enjoyed access to state resources and attempted to coerce voters into supporting the party. This had an effect on some voters, particularly those in more rural areas and some state employees who did not feel that they could exercise their vote freely. But the majority of the Burmese people have resisted such pressure and voted for the party of their choice – just as voters in the 1990 election expressed their desire for

[8] The trainers used materials from the National Democratic Institute (NDI), Asian Network for Free Elections (ANFREL), Cambodian Committee for Free Elections (COMFREL), and Organization for Security and Cooperation in Europe (OSCE) to inform checklists and formats that they designed and tailored to monitor the campaign and election day. Particular attention was paid to selecting politically neutral observers; in addition, all observers made a verbal agreement to adhere to a code of conduct committing themselves to non-partisanship.

[9] This was adjusted from 81 townships to 75 townships following the release of the preliminary finding report because some of the observers were unable to conduct complete observation of 6 townships.

change in a politically constrained environment. Dismissing the results of this election underestimates the potential that this election holds.

To conclude simply that this election is not free and fair misses the point. Those who voted and participated as candidates and parties knew this even before the election took place. The more pertinent question is whether this election represents an opportunity for those who wish for a more democratic and plural Myanmar. Though parties not aligned with the government faced several kinds of constraints during their campaigns, they have began to prise open the space for political debate in Myanmar. Their representation in parliament may help this trend to continue. There are grounds for very cautious optimism.

The many flaws of this election, which our observers have helped bring to light, should be understood and criticised – but not exaggerated either. The international community should understand that this election has been a highly imperfect process but also that new voices are emerging and that the political landscape is shifting in important ways. This election has not brought democracy to Myanmar overnight. But the Burmese people have expressed their desire for change and this election represents an opportunity for engaging with the country and its people in new ways.

Key Findings:

- The administration of the poll was generally smooth and most regulations were followed: 71% of observers reported that the voting process was efficiently handled. Infractions were observed in many polling stations, though probably not on a scale that would significantly shift the overall result of the election.

- Regulations on the counting process were not strictly adhered to. At 30% of polling stations the counting process was not conducted in front of the public, though to some extent this problem was mitigated by the presence of party agents, who provided some measure of oversight.

- Some polling officials carried out their duties competently and neutrally, more so than expected. However, when complaints arose from voters, parties, or candidates, they appeared unwilling or unable to handle such problems.

- Concern about the conduct of advance voting is widespread. How it has been carried out varies significantly from place to place. Voters have expressed worry that the secrecy of their advance votes was not guaranteed.

- Election-related violence appears to have been very limited, both on election day and during the pre-election period.

- In general the pre-election environment was constrained in significant ways: through a restrictive legal framework, by a politicised Union Election Commission (UEC), and within a government controlled media environment. But at the same time, the election represented an opportunity to voice more alternative political views which parties took advantage of, particularly in urban areas.

- The abuse of state resources was one of the most widespread problems during the campaign period. 97% of observers reported that the state's financial and material resources were not equally used by political parties and candidates for campaign activities. This is primarily a reflection of the longstanding close relationship between USDP and the government. The extent to which voters were actually swayed by the USDP's greater resources is not yet known.

- Voter education was severely lacking. The average voter in Myanmar was not at all well informed about parties and candidates, how to vote, what they were voting for, or what their rights as voters are. The UEC's voter education materials were politically neutral but their campaign was far too short to be effective. This contributed to the disengagement of some voters and also left them more susceptible to coercion.

Election Day

- The administration of the poll was generally smooth, particularly in urban areas. Election materials such as ballot papers and ballot boxes were provided in sufficient numbers. Polling stations were set up correctly in most cases. 80% of polling stations opened and closed on time.

- Most procedures were followed: 71% of observers reported that the voting process was efficiently handled. Infractions were observed in many polling stations, though probably not on a scale that would significantly shift the overall result of the election.

- However, there was not full compliance with some procedures that are key to the integrity of the election process, such as the counting process. At 30% of polling stations, the counting process was not conducted in front of the public (observers gave such examples from Hpa-an Township in Karen State, Tachileik Township in Shan State, and Kamaryut Township in Yangon). And of those counting processes that were conducted in view of the public, limitations were placed on one third of these counting witnesses (observers in Kayin State noted examples of where counting witnesses had been pre-selected by EC officials). Compliance was especially poor in Shan State and in Yangon Region. To some extent this problem

is mitigated by the presence of party agents (a measure of oversight that was lacking in the 2008 constitutional referendum) in most polling stations. Observers also noted many cases where counting was conducted professionally, such as in Tamwe Township in Yangon Region.

- Advance voting is a serious concern, as no common procedures appear to have been adhered to. The method by which advance votes have been collected has varied: EC officials have gone door-to-door together with USDP members (for example in Wai Maw Township in Kachin State), set up ballot boxes in the middle of government offices, and visited industrial zones to sign up large numbers of workers. In some cases, the authorities have taken advantage of voters' lack of knowledge about how to cast their vote and what their rights are. Advance voting patterns give some cause for concern: for example in Keng Tung Township in Shan state, the 200 advance votes were all for the USDP; one observer in Yangon was told that she could vote in advance only if she cast her vote for the USDP. But some other examples buck this trend, such as advance votes counted in Mrauk-U and Minbya Townships in Rakhine State which were for a wide range of parties. Given the potential for abuse, the extent of advance voting and associated voting patterns should be carefully scrutinised.

- At least within polling stations themselves, intimidation does not appear to have been a major issue. Only 13% observers reported that there voters had faced any intimidation or disturbance while voting.

- How advance votes were counted varied significantly. In 64% of polling stations observed, advance votes were counted separately - but together with votes cast on election day in the remaining 36% of stations.

- The way in which polling booths were set up did not fully guarantee the secrecy of the vote in some cases – but only a handful of incidents were observed where polling staff or others actually took advantage of this to look at which parties a voter had chosen. This was even observed in downtown Yangon townships such as Kyauktada.

- Problems with the voter roll on election day appear to be administrative in nature rather than a political attempt to systematically disenfranchise a particular group of voters. Those who work in one state but whose permanent residence is in another faced particular difficulties, as did those who wished to cast a fourth ballot for their ethnic representative. Such cases have emerged regarding Rakhine in Yangon, and Shan in Kachin State. Some voters were allowed to vote despite not being in the voter roll (for example in Yambye and Mrauk U Townships in Rakhine state) but this problem does not appear to have been widespread.

- Some polling officials, particularly those in larger towns and cities, appeared to be carrying out their duties competently and neutrally. However, when complaints

arose from voters, parties, and candidates – regarding problems with the voter roll or interference by larger parties – they appeared unwilling or unable to handle such problems. For example, the EC chairman in a township in Kachin State rejected the appeals of voters who had been left off the voter roll. Polling officers in Hpakant and Lunghkang Townships in Kachin State did not prevent the USDP in interfering in the electoral process there.

- 33% of observers reported that campaign activities were taking place within 500 yards of the polling station on election day. In Mrauk U Township in Rakhine State, for example, both the USDP and Rakhine Nationalities Development Party (RNDP) campaigned up until 2pm on election day. In Myaybon Township in Rakhine State, a minister instructed people to vote for the USDP inside some polling stations. Vote buying was observed around 13% of polling stations.

- Election-related violence appears to have been very limited. Tensions rose in Mon State in Mawlamyaing and Kyaikmayaw townships following the EC's refusal to allow those wearing Mon traditional dress to vote. Angry voters paraded in parts of the township but a potential demonstration was warded off by the EC reversing its initial decision.

- Anecdotal evidence suggests that voters did not have a sophisticated understanding of the voting process or electoral regulations. The number of invalid ballots will give greater insight into the extent of this problem.

Pre-election Period

Restrictive Campaign Environment and the Security Environment:

- While there was some space for opposition parties to campaign in this election, particularly in urban areas, in general the pre-election environment was constrained in significant ways.
- 75% of observers reported that political parties and candidates did not have an equal opportunity to campaign, with the government affiliated parties having more time and resources to communicate their messages.
- Part of this problem stems from the power that government affiliated parties can exercise over other parties (obstructing or disturbing their campaigns) and local government officials.
- But it is also the result of the bias of the UEC. The requirement to seek permission from the UEC for standard campaign activities has been used to limit the freedom of speech and campaigning – the USDP and National Unity Party (NUP) are frequently given priority when requests to hold campaign meetings in public places are made. Speeches were vetted by the UEC to limit criticism of the government or constitution. The UEC has not taken any significant action against violations of the election law.

- A longstanding fear of government authorities and security services has also contributed to a lack of voter engagement. A fifth of observers reported that the presence of security forces at campaign events has deterred the public from attending them.
- Threats and intimidation have been used as tools to pressure voters and parties much more than overt violence, which has been limited. Nevertheless, there have been a small number of violent incidents. For example: a village chief who campaigned for the USDP was reported killed in Nam Lan village in Shan State (close to Shan State Army-North controlled territory) allegedly for buying votes; and there have been clashes between the Chin Progressive Party and the USDP in Falam Township in Chin State.
- Several armed groups oppose the election and some have threatened to disrupt the elections and even kill election officials. For example, the KNPP (Karenni National Progressive Party) in Kayah State has publicly threatened to kill EC officials and elections administrative staff such as school teachers causing fear amongst potential voters.

Abuse of State Resources

- 97% of observers reported that the state's financial and material resources are not equally accessible by political parties and candidates for campaign activities. This is primarily a reflection of the longstanding close relationship between USDP and the government. They are so intertwined that the USDP can readily drawn upon the funds and support of municipal committees to deliver or promise public services, resources which smaller or ethnic parties do not have. Observers reported that the USDP's advantage has even prompted complaints from the other major government-affiliated party, the NUP.
- The same can be said of the state's human resources – 94% of observers reported that they are not equally distributed, and are predominantly used by the USDP.
- Over 50% of observers reported that authorities who are required to remain neutral in the election had actively participated in campaigning for a candidate or political party.
- Observers have reported large numbers of cases where public services such as improved roads and street lighting have been offered, particularly by the USDP, in order to encourage people to vote for them. Other cases include offering access to mobile phones or financial loans in exchange for support.
- Vote buying has been quite widespread. Over 30% of observers reported that either cash or in kind contributions had been given to buy votes. Both local authorities and ordinary voters are targeted. For example, in Karen State a USDP candidate paid village heads and authorities 200,000 Kyats each to gain their support. In Rakhine State a USDP candidates gave elderly people reading glasses and 50,000 Kyat for patients in the local hospital.

Lack of UEC Independence:

- The method by which the UEC leadership was appointed does not in any way guarantee their independence. Their composition and key decisions they have made suggests a strong pro-government bias.
- There is a need to distinguish, however, between the UEC leadership in the capital Naypyidaw and officials at a state or township level. While observers have reported concerns that the local EC officials are former members of the USDA, partisanship is most pronounced at senior levels of the UEC.
- Lower levels of the UEC lack decision making power or are overruled by the more politicised higher levels of the UEC. A case in point is the attempt by Kachin candidates to register as independents, which was initially approved by local ECs but then subsequently overruled by the UEC in Naypyidaw in September 2010.
- There have also been some reports of the EC abusing its power for financial gain. For example, some EC authorities in Shan state have conducted "fundraising events", demanding 3000 Kyat (about USD 3) per household. Similar reports have emerged from Rakhine State, where families were asked to contribute 500-1000 Kyat per household.
- A poor understanding of election laws and regulations by local EC officials also leaves them susceptible to undue pressure, which has primarily been exerted by the USDP.

Political Parties:

- The short time period between when the election date was announced and the election itself has proved a real challenge for political parties. Everything from the selection of candidates to developing party platforms has been very difficult, particularly given the lack of political space to organise in Myanmar. This timeframe has favoured those parties with established nationwide networks such as the USDP.
- Parties not aligned with the government face the additional challenge of limited funds and high barriers to entry (such as the deposit of 500,000 Kyat that each candidate must put up, much higher than the norm in the region), which naturally leaves those parties that can access state resources at a distinct advantage. There is very limited transparency with regard to political party's finances. Over 90% observers reported that there was no publically available information about funding sources and expenditure of political parties and candidates.

Very Limited Voter Education:

- The average voter in Myanmar was not at all well informed about how to vote, what they were voting for, or what their rights as voters are.
- Voter education efforts by the authorities were insufficient and started far too late: the UEC's voter education program began in earnest in the print media only on 24th October, and on state television a week prior to this.

- Given the low levels of voter education and the fact that some rural areas lack media access, there was a strong need for door-to-door voter education, which was not systematically carried out.
- The lack of voter education has contributed to voters' fears that the secrecy of the vote will not be ensured. For example, observers report than many voters believe that the voter registration number assigned to them will be matched to their ballot papers and that authorities will therefore be able to trace how they voted. This means that pressure exerted on voters to support government affiliated parties is likely to be effective.
- Those voter education efforts that have taken place have focused on government staff and EC officials, not ordinary people. Even polling station officials lack a clear understanding of the election.
- The fact that local government officials work together with EC officials on voter education is problematic. Observers have reported cases of government officials specifically instructing voters to select the USDP during mock voting demonstrations
- Voter education materials in ethnic languages have been lacking.
- The fact that there is limited space for civil society to operate has also contributed to voters' poor understanding. Some local organisations have carried out discreet voter education activities but they have not been able to operate freely, which has limited how much outreach they can do.

Coercion of Voters:

- The authorities desire for a high turnout led to particular pressure to vote being exerted on those working for the state such as civil servants. In general, those in rural areas expressed greater fear of the consequences of not voting than those in the cities. Threats are made both implicitly and explicitly against civil servants who feared losing their jobs should they not support government affiliated parties.
- Observers have also reported the granting of identity cards by the authorities in exchange for support for government affiliated parties, such as for the Rohingya in Rakhine State.
- Reports of verbal threats to coerce voters into supporting the USDP have emerged from a number of states/regions. For example, in Rakhine State, the owners of salt fields were told that their land would be confiscated should they not support the party. In Hpekon Township in Kayah State, voters were told that development programmes and public services would not be continued unless they voted for the party.

Voter Disenfranchisement:

- While there has not been a nationwide disenfranchisement of those the government suspect of supporting the opposition, some voters in the areas in which polling has been cancelled believe that the UEC has unfairly disenfranchised them.

- The UEC has made a series of announcements about where the election would not take place, beginning on 16th September, justifying the cancellations on security grounds. In some cases, where armed groups oppose the election, the UEC's decision can be justified. But other decisions warrant close scrutiny. For example, several people in 14 villages in Kawkareik Township in Kayin State believe that they were denied their right to vote because the authorities suspected them of not supporting the USDP.
- There have also been administrative problems that do not appear to target any particular group, where voters have not found their names on the voter roll or, alternatively, appear to be registered in more than one location.

Media Constraints:

- Limited coverage of the campaign of political parties (as opposed to announcements from the UEC about the election) in the state media has contributed to voter apathy.
- Political parties that oppose the government have had some space in the media to convey their views but such opportunities are limited. All parties have had two slots of 15 minutes on state television to convey their platform, but these speeches have been censored (and ethnic party representatives have had difficulty travelling to Naypyidaw to broadcast their messages).
- In the state media, the USDP has benefited less from any explicit coverage of their campaign, and more because state media focuses on senior government officials, all of whom are running for the USDP. There is little in-depth coverage of ethnic parties. Though some limited space for other parties not affiliated with the government has opened up as the election has approached, media coverage of them is limited and superficial. Interviews with candidates focus on very basic facts rather than a discussion of any issues.
- The law ensures that certain topics remain taboo. It is illegal to criticise the constitution or political process. The campaign to boycott the election has not been mentioned in anything but exile media.

Annex 2:

HISTORICAL AND POLITICAL CONTEXT

The Union of Burma came into existence, after centuries of monarchical rule followed by around 60 years of British colonialism, in 1947. The country is one of the ethnically most diverse in the world with eight majority ethnic nationality groups and 135 recognized smaller and sub groups. The country has experienced complex and protracted conflicts between the central government and ethnic groups seeking their rights and autonomy since independence, and since the beginning of the monarchy centuries prior to that. The independence leader general Aung San had held meetings with many key ethnic leaders to bring them into the political process prior to independence that culminated in an agreement at the second meeting of several ethnic representatives at Panglong, that established a framework for including several frontier areas in an independent union of Burma. A constitution was drafted by independence leaders that was federal in nature and tried to ensure ethnic inclusion.

However, Burma as an independent country was born into conflict with communist factions and ethnic groups taking up armed struggle against the central government in the fifties and sixties. The independence government became embroiled in longstanding ethnic conflict and failed to address ethnic grievances and enable political settlements. The period of parliamentary democracy between 1948 and 1960 was beset with conflict and it was on this basis that the military took over the reins of power in a coup d'etat in 1962 led by General Ne Win. The coup ushered in a period of socialist single party rule under which historical agreements with ethnic groups such as the Panglong Agreement and constitutional rights for ethnic groups were abrogated. A new constitution was promulgated in 1974 that further failed to satisfy ethnic aspirations and flamed the conflicts.

Most of the major ethnic nationality groups fought against the Burma Socialist Programme Party (BSPP) for their rights and autonomy, and some even demanded independence from the Union. In 1988, following a poorly managed demonetarization instigated by the BSPP which led many to lose their savings, which was exacerbated by general mismanagement of the economy, students led largely peaceful protests against one party rule demanding democratic elections and a multi party system, that culminated in a nation-wide strike. Following a brutal crackdown on demonstrators around 10,000 students fled to ethnic army controlled areas, or liberated zones, to join the ethnic struggle against the central government and to push for democratic reform.

In response to the demonstrations, a coup d'etat was instigated by General Sein Win that led to a new government being formed in 1988, the State Law and Order Restoration Council (SLORC), that promised multi-party elections in 1990. The SLORC changed the name of the country from Burma to Myanmar. This is a different name for

the country in Burmese language, but the name change has now become a political issue with opposition groups and some of the international community choosing to use Burma to protest the continued grip on power by the military. Ethnic conflict with the central government and in some cases between ethnic groups, continued unabated. The daughter of independence hero General Aung San had returned to Burma from England to nurse her dying mother, and joined the demonstrations and subsequently formed the National League for Democracy (NLD), a political party made up of former high ranking military leaders, intellectuals and left-wing activists. In the run up to the elections the NLD made alliances with ethnic parties including the Shan NLD and the Arakan League for Democracy (ALD). The NLD won a landslide victory taking 492 seats, with the smaller ethnic parties taking SNLD 23 seats and the ALD 11 seats. The National Unity Party, or the former Burma Socialist Programme Party representing the political establishment only won 10 seats.

1990 election, which was never recognized by the military regime, has also led to a new political landscape of conflict between the military government and largely Burman opposition. In regards to Myanmar, the world's attention then turned to the struggle between the military government and the opposition NLD party and its leader, Aung San Suu Kyi) over ethnic conflict that represent a more fundamental obstacle to peace, development and democracy.

Myanmar, especially after 1990 elections, has been ensnared in two political struggles: the democratization of the country or the re-establishment of democracy and the resolution of ethnic issues. The SLORC did reach ceasefire and peace agreements with several ethnic armed groups but failed to follow up with development projects and peace-building initiatives. Following the election, the SLORC also convened a national convention to garner opposition and ethnic ceasefire groups' inputs into the constitution drafting process. The National Convention was suspended between 1993 and 2004 due to disagreements over procedures and disputes within government over whether the process was necessary. Several groups and individuals walked out of the process including the NLD citing a lack of genuine participation as the key reason.

In August 2003, the State Peace and Development Council (SPDC) government launched the 7-Step Political Roadmap towards what is termed *'disciplined democracy'* in the 2008 Constitution. International pressure, particularly from the Association of South East Asian Nations (ASEAN) of which Myanmar is a member state, has also been among the factors that drove the military government to take steps towards political transformation. However, the Roadmap has widely been seen and criticized as a process that has institutionalized and legitimized the armed forces' role in politics. After the National Convention process, a referendum was held in April and May 2008 in order to promulgate the constitution. The document presented to the public hardly addressed ethnic grievances or rights. The referendum was widely condemned, with allegations leveled against the SPDC of electoral fraud. The results came out at 92.48%

of voters in voting in favour of accepting the document, and a 98.12 voter turnout despite the vote being held in townships badly affected by Cyclone Nargis.

The new constitution set out the framework of the first general elections for 20 years and the date was set for November 11, 2010. The document entrenches military power particularly through its stipulation that 25% of seats in the legislature will be reserved for the armed forces, and through its institutionalization of a security and defence council that is controlled by the Commander in Chief. Furthermore, the new structure gives the Commander control over important security ministries and other extraordinary powers.

Following the referendum in 2008 the SPDC instituted a new Border Guard Force (BGF) proposal which was designed to bring ethnic ceasefire armed wings under the command structure of the *Tatmadaw* or armed forces. Some ethnic armies refused to join like the United Wa State Army (UWSA), and others split into factions supporting the move and those that did not like the New Mon State Party. Some of those that chose to participate in the scheme, like factions of the Democratic Karen Buddhist Army (DKBA), have changed their minds about being involved and in some areas fighting has broken out between these groups and the army. The new constitution stipulates that there will only be one armed force allowed in the country – the *Tatmadaw*.

The international community and civil society organizations from inside and outside of the country expressed concerns that the 2010 elections would not be free or fair, and urged the SPDC to ensure that the elections would be held under genuine democratic conditions. On the 29th of March after the release of the elections laws the NLD opted not to run and boycott the elections, by not applying to the Elections Commission for continuation of the party. The elections laws were widely criticized for being restrictive and being not inclusive. Other small ethnic parties were not allowed to register such as the Kachin State Progressive Party (KSPP) presumably because the Kachin Independence Army were demanding conditions be met prior to their participation the Border Guard Force programme. Others decided not to apply to continue their parties such as the Shan NLD, the Shan State Kokang Democratic Party, the Union Pa-oh National Organisation and the Wa National Development Party. These all resulted in an electorate that was divided over whether to participate or not. Armed groups still in conflict with the government were not surprisingly also excluded from participation in the election.

Despite the constrained environment, the elections went ahead, and were deemed not free and fair by organizations inside and outside of the country and by most of the international community. The manipulation of the vote was worse than opposition parties that participated expected. The results of the fraudulent advance votes have been low representation of ethnic and opposition candidates in the legislatures and low credibility of the new government. However, ethnic and other opposition

groups realized before the elections that there would be issues like these, but also acknowledged that opportunities were to be sought in the shifts that the new system may bring in terms of opening the door to further ethnic voice and participation in political structures and processes.

Myanmar Governments

The Parliamentary Government (1948-1962)

The Union of Burma, following independence, instituted a parliamentary democracy, with a bicameral system with one house representing what was known then as 'Burma proper', and a second house representing the ethnic states. However, after the assassination of the independence hero Aung San with members of his cabinet, the new government soon found itself embroiled in armed conflict and other disagreements with the main ethnic groups. The first general elections in 1951 – 1952 did not fulfill the promise of the first constitution of 1947, with the then Prime Minister U Nu refusing to allow ethnic winning parties to take their seats in parliament. The then ruling party, the Anti-Fascist Peoples Freedom League (AFPFL), split into two factions the clean AFPFL and the stable AFPFL that rarely agreed. Communist political parties went underground to fight the government and formed the Burma Communist Party (BCP) which subsequently split into two factions – one supporting the Chinese model and the other supporting the Soviet way.

In 1958, Prime Minister U Nu found the government was unable to resolve ethnic and communist conflict, and handed over power to the military for a 2-year caretaker period to manage what was becoming a civil war. General Ne Win and the military moved against several ethnic groups, arresting leaders and taking territory through battles. This exacerbated tensions between the ethnic groups and the Burman majority army and effectively ended the period of parliamentary democracy. The 'Caretaker Government' as it became known, increased its military operations against armed ethnic and communist groups in an attempt to bring them under control before the two year period was over.

In 1960, elections were held to determine the next government, and U Nu and his clean AFPFL party won a decisive victory. The new government exacerbated tensions with ethnic and communist groups by promoting Buddhism as the state religion. Some Christian, Muslim, Animist and ethnic groups of other religions who were not fighting the government took up arms over this decision. It did not please the Communist parties either. Some Buddhists were also upset by the Prime Ministers support and promotion of Nat or spirit worship. The military under General Ne Win ended this short period of troubled democracy through coup d'etat in 1962.

The Burma Socialist Programme Party Government (1962-1988)

In 1962, General Ne Win ousted U Nu government and seized power in a military coup d'etat. Ne Win then abolished parliamentary democracy and the federal system, replacing it with a single party socialist system that was led by the Burma Socialist Programme Party (BSPP) which ostensibly represented the military. The guiding policy framework of the country was embodied in the Correlation of Man and his Environment, a confusing document that drew on socialist and Buddhist teachings. General Ne Win, the party's chairman, nationalized the economy, banned all independent media and continued the war against ethnic and communist armed groups. The resulting fighting led to an escalation of ethnic revolution across the country.

To appease domestic and international discontents, the BSPP drafted the 1974 constitution, which was promulgated that year and transferred power from the armed forces to a People's Assembly, which was headed by Ne Win and other former military leaders. The referendum for the passing of the contained some provisions for ethnic rights, however some ethnic groups criticized it for excluding ethnic people and this prompted armed ethnic groups to unite against the new government and to form the National Democratic Front (NDF) in 1975. NDF forces remained at war with the *Tatmadaw* up to the present day. Student and labour strikes against the BSPP also started that year and culminated in the former Burmese Secretary General of the United Nations, U Thant's body on its return home after his death in New York, being taken by students demonstrating against the Party. The military strengthened and expand its intelligence service to gain better control over its people and arrests and torture became more commonplace.

The sole authority of Ne Win and strong influence of military in the political sphere with his isolationist and xenophobic policies gradually led the country into complete isolation from the world, leading to its then nickname - 'hermit nation'. The economy worsened and poverty became rife. The education and health systems were mismanaged and deteriorated. The BSPP held elections under socialist oneparty rule for BSPP candidates in 1974, 1978, 1981, and 1985. The conflict between the central government and ethnic and communist armed groups was in stalemate with open conflict ongoing.

By 1987, demonitorizations led much of the citizenry to lose their savings, and coupled with economic mismanagement created a tinder box for conflict. Student organizations led protests against one-party rule and for a multi-party democratic system. The 1988 protests culminated in a general strike which paralysed the country, encouraged Ne Win to step down, and irrevocably changed the future directions of the country. Over 10,000 students left Yangon to join armed ethnic groups, following the crackdown on their movement and a change of power from Ne`Win to a military party. Thousands were killed by the military in the uprising and hundreds of other imprisoned in the years following 1988 and the scenes were televised around the world.

State Law and Order Restoration Council or SLORC (1988 – 1997)

The 1988 uprising resulted in the collapse of the BSPP and Ne Win's autocratic rule. However, the *Tatmadaw* remained in power and Ne Win continued to pull the strings from behind the scenes. The new regime changed their name to the State Law and Order Restoration Council (SLORC) and the 1974 constitution was abolished. Genral Aung San, the independence hero's daughter, joined the demonstrators as a leader in late September of 1988 and had become an important symbolic political figure. She promoted a return to democracy and the achievement of human rights. Soon after the uprising, the SLORC imposed martial law, arresting thousands and placing Aung San Suu Kyi under house arrest. The SLORC changed the country's name from Burma to 'Myanmar' and city names from the British spelling to Burmese spelling, for example Rangoon was changed to 'Yangon'. Civil and political rights were severely curtailed as the SLORC attempted to manage dissent from within Burman areas and conflict with armed ethnic groups on its periphery.

1988 nationwide uprising and the house arrest of Aung San Suu Kyi caught the attention of international community including the UN and western countries, due to media coverage of the event. However, these began to dominate the discussions on the country and ethnic issues started to take a back seat compared to Burman concerns in the eyes of many ethnic groups. Most ethnic opposition groups, including armed groups have expressed their support for the struggle for democracy, seeing this as a way to ensure that their voices are included on the national agenda and that their grievances are addressed. However, their primary concern remained - to secure their autonomy or independence; to promote their political and administrative dominance;; to maintain their cultures, religions and languages; and to have control their land and its resources. Pressure from international community mounted for democratic transition in the country and support for Aung San Suu Kyi grew inside and outside of the country.

The SLORC organized multiparty general elections that were held on May 27th 1990 and promised to call on elected representatives of the assemblies to write a new constitution, in SLORC announcement 1/90. The National League for Democracy won the 1990 election by a landslide, however elected representatives were not able to take their positions in the legislatures and were not invited to draft a new constitution. The SLORC refused to hand over power to the winning parties. International pressure increased and the US and EU issued sanctions against theregime. As an international lobby grew against engagement with the regime, and governments and international institutions eschewed dealings with it, the country again became isolated.

In 1991, Aung San Suu Kyi, the leader of NLD was awarded the prestigious Nobel Peace Prize and soon after was placed under house arrest until 1996. In 1993, under increasing international and domestic pressure to hand over power, convened the National Convention, a consultative constitution drafting process. Later that year the NLD and Shan National League for Democracy (SNLD) walked out of the Convention

deeming the consultations 'not in accordance with the law'. The National Convention was then suspended without a date set to reconvene the consultations. The process lost internal and external credibility. Aung San Suu Kyi was released from house arrest in 1995 and this event shifted international attention to the power strugglebetween the SLORC and the NLD. The ethnic issue received some sporadic attentionespecially in Karen State which was close to the international media hub of Bangkok.

State Peace and Development Council or SPDC (1997 – 2011)

In 1997, Myanmar was admitted to the Association of Southeast Asian Nations (ASEAN), and this started to drive political transformation within the country. The SLORC changed its name to the State Peace and Development Council (the SPDC). Secretary 1, and head of the Miliatry Intelligence, General Khin Nyunt, was appointed Prime Minister and began repositioning the country in the region as well as on the world stage through a strategy of economic engagement. Khin Nyunt was also the architect of the ceasefire agreements with key armed ethnic groups. to the SPDC also released several political prisoners, and political dialogues were opened with Aung San Suu Kyi, following visits of UN's Special Envoys to Myanmar to discuss the situation with the key stakeholders.

Aung San Suu Kyi held discussions with the SPDC and it seemed like a resolution to this conflict could be possible. However, then these talks broke down in early 2002, and as Aung San Suu Kyi and the NLD started to tour the country that year, the military attacked their convoy in a town called Depayin. NLD leaders were beaten, injured and arrested following the attack. Aung San Suu Kyi was placed under house arrest again.

In 2003, the SPDC was under further international pressure due to the attack on Aung San Suu Kyi's convoy and her continuing house arrest. It announced the '7-Step Political Roadmap of Myanmar' which was a strategy for a process of democratization in Myanmar. The National Constitutional Convention was reconvened in May 2004 without the winning party of the 1990 elections, the NLD, and with its leader Aung San Suu Kyi remaining under house arrest., Later in 2004, in a surprise move, the SPDC removed Genral Khin Nyunt from his post and dismantled the Military Intelligence placing many of them in detention. The National Convention process ended in January 2006 without the participation of the main opposition groups and of armed ethnic groups. In August 2007 Buddhists monks began a movement in response to the abysmal economic situation in the country and a perceived attack on the Sangha. The military brought a swift end to the movement through detentions and arrests of participating monks and their followers. This event increased the distrust between the public and the armed forces.

The SPDC completed the draft constitution and put it to referendum in May 2008 under highly questionable circumstances with widespread vote manipulation reported. Cyclone Nargis hit the Ayeyarwaddy Delta process resulting in the deaths of over a

hundred thousand people and the displacement of hundreds of thousands of people. The Cyclone hit just after the referendum process had started, and the SPDC continued the voting despite the massive damage incurred. The plebiscite was delayed for the worst affected areas of the Cyclone for a few weeks, but delays in enabling access to the Delta for humanitarian aid organizations also angered people affected and assisting victims of the cyclone.

The SPDC continued moving forward with the steps of the Roadmap, and implemented step five by holding general elections in November 2010 for regional, state and national legislatures. The 2008 Constitution has received widespread international criticism and the referendum and national elections were deemed not inclusive and not free and fair. There have been two prevailing and contentious views on the elections inside and outside the country. Many people, both ethnic and Burman, based inside the country and in exile, as well as many in the international community, see the elections as purely as a process of legitimizing and entrenching military's political role and boycotted the process. On the other hand, many others in Myanmar regard the elections as an opportunity to seek political space for future political inclusion after over 50 years of military domination and ethnic conflict. They hope that the elections will create considerable political shift that will bring more chances to influence the future political direction of the country, and as a result several new parties, especially ethnic-based, emerged to contest in the elections. The NLD chose not to participate in the elections on March 29th and many externally and internally supported a 'no vote' campaign. Others supported a pro-vote stance.

The elections went ahead on November 7th despite the withdrawal of several popular parties and the restrictive environment. The elections were deemed not free and fair by the international community and there were widespread accusations of a manipulation of ballots, particularly through advance voting. The regime's Union Solidarity and Development Party (USDP) won most of the seats in the legislatures and is in control of selecting the government and the key security ministries. Opposition and ethnic parties and candidates won some seats in all legislatures, and although their activities will be constrained, they are determined to attempt to push for voice and influence over decisions made by the Burman majority.

Ethnic Conflict and Election

Myanmar is one of the most ethnically diverse countries in the world, but successive governments since independence have failed to address ethnic grievances and afford ethnic people their rights. Attempts to build a united union that embraces its ethnic groups had ended in conflict and civil war. Where peace has been made there have still been no political settlements. Democratic elections in the era of parliamentary democracy and in 1990 also failed to provide for the interests of minority ethnic nationality groups. They have been denied their constitutional rights under successive constitutions and have had few opportunities for meaningful participation in the government.

Many ethnic groups responded to this lack of political inclusion by taking up armed struggle for greater autonomy. These conflicts represent discontent with deeper issues, such as: the abrogation of the Panglong Agreement and the 1947 constitution; and continued discrimination against minority ethnic nationality groups by the majority Burman population. Economic marginalization and a lack of control over national resources, as well as suppression of their rights, exacerbated this situation. Ethnic groups accused governments of adopting policies that encouraged *'Burmanisation'* – where ethnic groups were forced to assimilate into Burman culture, religion and ways.

In the past, many of the ethnic groups originally fought for independence, but today almost all have turned from their previous revolutionary aspirations to seeking ethnic rights and equality within a new state structure. Over the nineties many ethnic groups entered into ceasefire agreements with the SLORC, and later the SPDC, in the hopeof finding solutions to the conflicts through a series of political dialogues. There was a shift in national politics from the battlefield to the political arena. Most ethnic armed groups publically supported a democratic multi party system, viewing this as a chance to use their voices to participate in and influence national politics, and press for redress for their long-standing grievances. Ethnic political parties were formed to contest the 1990 election to represent local and ethnic interests, however as the results were not recognized, and a new constitution and election laws nullified the results, ethnic political inclusion was not achieved before 2008.

Ethnic groups and other parties like the UN and international civil society groups have called for tripartite dialogue between the government, main political opposition groups and ethnic groups, to seek solutions to the longstanding ethnic conflict and political stalemate. The SPDC has not yet allowed thee trpratite dialogue process to move forward. Furthermore, the ceasefire agreements have enabled peace but have not continued the dialogue further to ensure political settlements. At the invitation of the government, ethnic armed groups under ceasefire participated in the National Convention, but most felt that their views and concerns were not taken into account enough through the constitutional consultation process. When the 2010 election was announced, some ethnic groups remained at war against the regime, some decided to boycott the vote, but some participated in the elections by forming or endorsing political parties with the belief that, regardless of the limited political space that the constitution would offer, they should position themselves to take advantage of this inclusion and to ensure that they are not left out of future political negotiations of the country.

Some ethnic ceasefire groups that formed political parties such as the Kachin State Progressive Party (KSPP), and Northern Shan State Progressive Party (NSSPP) were refused permission to register for the 2010 elections. This is most likely because the armed groups behind these ethnic parties attempted to put conditions on their participation in the Border Guard Forces, that will effectively bring armed groups under central armed forces control.

The conflict since independence between the military and ethnic groups has created a situation of suspicion and mistrust between them and has made the military resistant to a decentralization of power to ethnic groups. It has also created mistrust between the majority Burman ethnic group and other ethnic groups. Some local organizations have attempted to understand ethnic grievances and political demands, and to work on peace-building. In future there will be much work to be done to rebuild trust and reconcile these groups.

Ethnic groups have expressed their desire for greater influence on the political process and decisions that affect their lives. One of the major challenges for the SPDC has been to resolve ethnic conflicts in order to achieve political stability. The 2008 constitution ensures the military a place in politics, however on paper it devolves some powers to the regional governments and enables ethnic groups a seat at the table at the national level. How the new system works in practice will most likely have a crucial impact on the ethnic question. As many armed groups – both those under ceasefire and those who are not - are supporting an ethnic movement known as the *'Second Panglong'* or *'Panglong 2'*, which is in favour of ethnic autonomy in administration of ethnic affairs. This is a reaction to the 2008 constitution which several ethnic leaders believe does not contain provisions for this autonomy. Practice in the new legislatures and by the new government will show whether the new political system will be able to open better political space and discussion of ethnic demands, interests and grievances. Otherwise further tension and violence is inevitable.

Civil Society

Burma boasted a strong civil society movement and a flourishing private media in the parliamentary period from 1947-1962. However, after the takeover of the country by General Ne Win in 1962, civil society was constrained by the new government and their political space was limited, with only state controlled organizations being allowed to operate and international organizations expelled. Trade Unions were banned. Some civil society organizations continued their operations under the radar, but risked imprisonment or censure if found out. Others were shut down and their members detained if they continued activities.

After the 1988 uprising and the elections of 1990, some smaller civil society groups started to re-emerge and start up activities to fill in gaps in government service delivery. This was encouraged in the mid to late nineties by several INGOs that were given MoUs to operate and UN agencies. With the Military Intelligence watching their activities, these civil society organizations operated under tightly controlled circumstances, and few were allowed to register.

A resurgence of civil society was seen in response to the devatstion caused by Cyclone Nargis in May 2008 when it hit large swathes of the Ayeyarwaddy Delta and Yangon Division. Over 100,000 people were killed and millions were displaced. Hundreds of

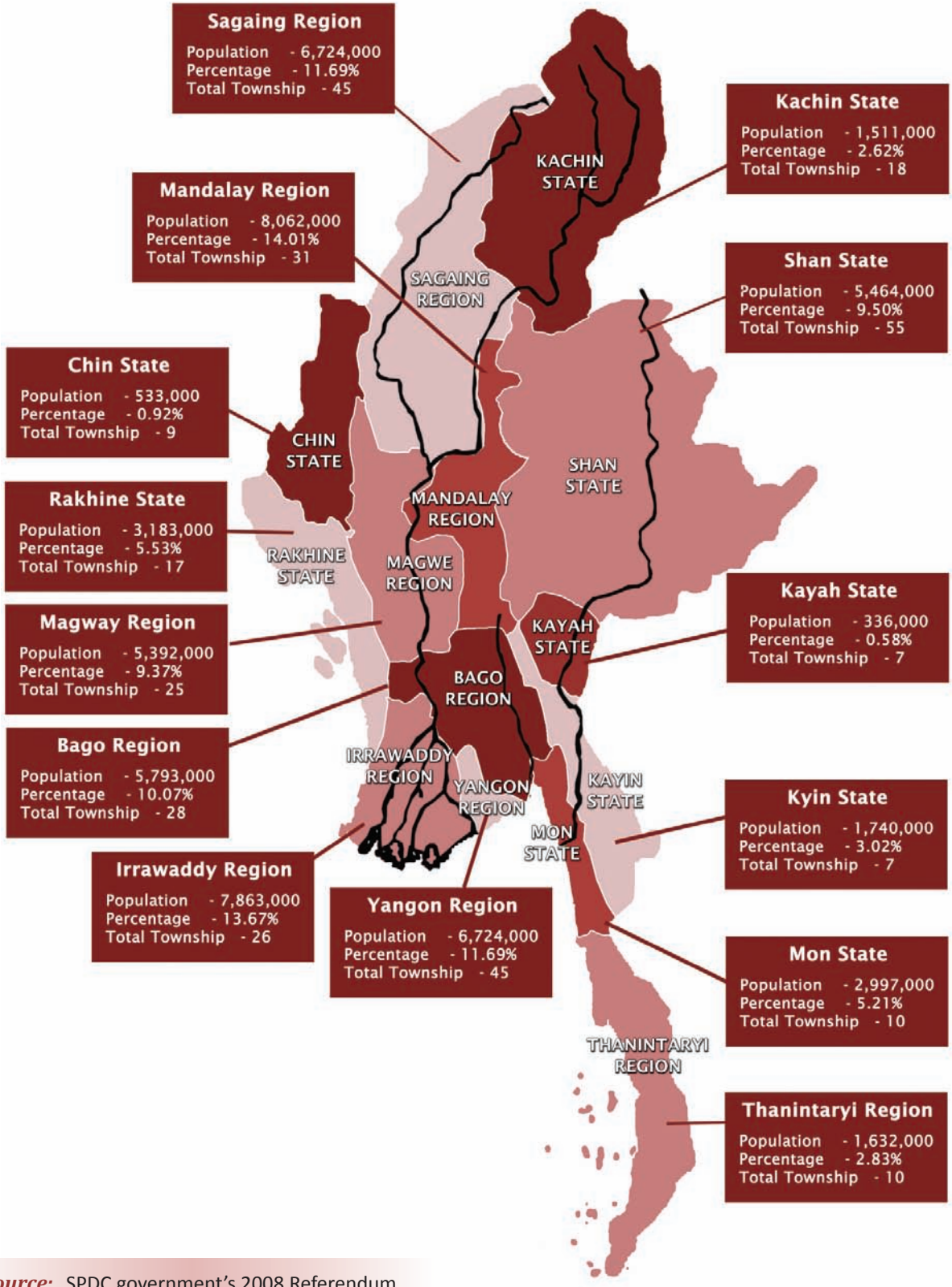
small organizations including youth groups emerged to deliver humanitarian aid to the affected areas. Many of these groups decided to continue to work in humanitarian and development sectors following the recovery period and were able to establish reputations and recognition from the authorities. A handful of these organizations decided to involve themselves in civic education and the promotion of the participation of Myanmar's people in the political processes. Although there was increased political space for civil society to operate after the Cyclone, there was little space for civil society to become involved in the delivery of information and messaging from political parties and independent candidates to the general public.

After the NLD decided not to participate in the elections, with some other ethnic parties, civil society groups in country were divided over whether to vote, and whether to promote the vote. Some chose not to participate and to actively convince others to boycott. Other groups chose to vote, despite the uneven playing field and questions over the credibility of the vote with strong international criticism of the legal framework. these organizations and individuals chose to participate in the process in order to attempt making their voices heard. Most exiled civil society groups chose to support the NLD's boycott of the elections and actively campaigned on exile radio, TV and websites for others not to participate.

Public interest in the elections in the preceding months was low, and was exacerbated by limitations on what the private media could cover. The crackdown on the sangha movement of 2007, the failure of the government to efficiently respond to the devastation caused by Cyclone Nargis, and the lack of credibility of the referendum in 2008 had reduced already waning trust between the public and the SPDC. This was exacerbated by an unstable economy and a restricted political environment.

Several civil society organizations in Myanmar chose to participate in the elections as they believe that there may be some opportunities to take under the new system. The changes that will be put in place to the system and processes may not create fast or satisfying results, yet many believe these changes could lead to small openings that can be leveraged in future. There are potential opportunities for civil society groups to further influence political processes and governance in Myanmar, and several organizations have decided to take advantage of these.

Annex 3: Population and Eligible Voters



Source: SPDC government's 2008 Referendum Population and Eligible Voters

Annex 4: Code of Conduct for LTOs and STOs

Respect International Human Rights

The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognized human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect human rights and fundamental freedoms of people.

Respect the Laws of the Country and the Authority of Electoral Bodies

Observers must respect the laws of the country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

Respect the Integrity of the International Election Observation Mission

Observers must respect and protect the integrity of the election observation mission. This includes following this Code of Conduct and any verbal instructions from the observation mission's leadership.

Maintain Strict Political Impartiality at All Times

Observers must maintain strict political impartiality at all times. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, or in relation to any contentious issues in the election process.

Do Not Obstruct Election Processes

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after Election Day. Observers may ask and answer questions of political party members and voters but may not ask them to tell for whom or what party or referendum position they voted.

Maintain Accuracy of Observations and Professionalism in Drawing Conclusions

1. Observers must ensure that all of their observations are accurate (*i.e; eye witness or observer's direct observation*)
2. Observers must note positive as well as negative factors,
3. Observers must Distinguish between significant and insignificant factors
4. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing emotional factors from factual evidence.

5. Observers must not draw conclusions prematurely – do not make assumptions
6. Observers also must keep a well documented record of where they observed, the observations made and other relevant information according to the forms and return these documents to the supervisors.

Refrain from Making Comments to the Public or the Media

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public.

Maintain Proper Personal Behavior

Observers must maintain proper personal behavior and respect others, including exhibiting sensitivity for other national cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times and in some cases, including leisure time (i.e, if election day is on holiday)

Pledge to Follow This Code of Conduct

Every person who participates in this election observation mission must read and understand this Code of Conduct and must make a pledge to follow it.

Annex 5: Pre – Elections Checklist

No.	Pre – Elections Checklist	Yes	No	No. of cases
I	***Equality (Place and Safety)***			
1	Are there any problems such as not allowing a party to hold a meeting and to post a party sign board in private place?			
2	Is there any problem in accessing to Campaign location (cinema, sport centre, public garden, and other public places) of the political party?			
3	Is there insecurity problem for the candidates or the political party who already asked for permission?			
4	Is there any problem of not helping coordinate the time for a party that desire to do the election campaign joined by more than one ward/village?			
5	Is there a case of obstructing the candidate or party not to hold the campaign at the private places: private areas, offices, or houses?			
6	Is there any contestant obstructs or interferes the party, the candidates, or supporters from doing the campaign?			
II	***Neutrality***			
	a- Civil servants b- Local authority c- Military d- Police e- EC members f- Village chief, deputy chief and members g. Militias h. G-O a- Civil servants b- Local authority c- Military d- Police e- EC members f- Village chief, deputy chief and members g. Militias h. G-O			
7	Does anyone (***among a to h***) act as active member or a candidate in a political party?			
8	Does anyone (***among a to h***) participate the campaign and parade of a candidate or a political party?			
9	Does anyone (***among a to h***) participate political party in doing political survey?			
10	Does anyone (***among a to h***) drive a particular political party's vehicle?			
11	Does anyone (***among a to h***) participate in distributing any materials to the voters in purpose of supporting a particular political party and/or a candidate?			
12	Does anyone (***among a to h***) conduct a public statement, play music, and sing a song in a support of a particular political party?			
13	Is there the arm force in uniform participate the campaign for a political party?			
14	Are there any party sign board and any campaign related materials pasted on the state building?			
III	***Activities Resulting in Conflict***			
15	Is there verbal or written threat to life, physical body, or an attempt to destroy property?			
16	Is there verbal or written threat with the meaning of torture?			

17	Is there slight or serious physical beating?			
18	Is there any verbal swearing to physical injury?			
19	Is there an incident where a person orders his/her supporters to remove or overplace the propaganda of other parties or candidates?			
IV	***Violation, Intimidation and Violence (Causing fear)***			
20	Is there violence or intimidation posed against political parties or candidates?			
21	Is there direct or indirect threat or intimidation posed against an individual or a group of people to gain personal support or posed with the purpose of discouraging parties or candidates?			
22	Is there any display of weapon (i.e; knives, bricks, stones, etc.) for the purpose of intimidation (including throwing things at the house roof, vehicles and/or areas around the person)?			
23	Is there verbal or written reference to a past event where a person was executed or beaten or raped or whose property was destroyed or damaged?			
24	Is there placing any yadayar and cast a spell or any objects or signs in front of a person's house, which can cause the person to fear for his/her life or his/her relative's?			
25	Are there financial threats such as to dismiss a person from his/her job, to take away his/her land/properties or house (including to close down businesses)?			
V	***Vote Buying***			
26	Are there contributions, gifts or rewards in cash of any form provided to any institution, organization or individual in order to buy votes?			
27	Are there contributions, gifts or rewards in kind of any form provided to any institution, organization or individual in order to buy votes?			
28	Is there oppression or intimidation or force to take an oath or to thumbprint to support party which a person does not like?			
29	Is there collection, retention or damage of voting documents (i.e; ballot papers, voter registration list, irregular ballots, etc.)?			
VI	***Disenfranchisement***			
30	Do officials at any level use their power or roles to violate the decision of citizens to participate in political activities, access to information, political affairs and polling?			
31	Under any circumstances, is there any withdrawal of citizens' identity documents?			
32	Is there interference into the voter's free and fair decision to support any political parties or candidates?			
33	Is there any detention or dissemination of information which discriminates the party supporters?			
VII	***Serious Case (Special case: Intimidation to voters)***			
34	Is there a threat to life or physical body or destruction to the property of the candidate, activist, or party agent during the electoral campaign?			
35	Is there a threat where a weapon being pointed to the candidate, activist, or party agent during the electoral campaign?			

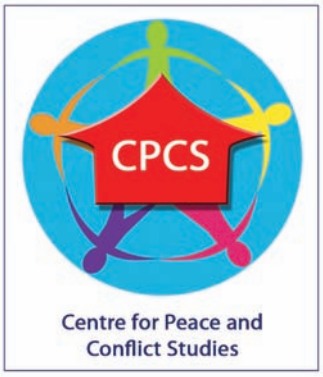
36	Is there a threat including arrest or detainment of candidate, activist, or party agent during the electoral campaign?			
37	Is there an incident where the candidate, activist or party agent is injured from shooting during the electoral campaign?			
38	Is there an incident where the candidate, activist or party agent is shot dead during the electoral campaign?			
39	Is there any shooting of gun at the place of campaign, parading or candidate's gathering or the party members' gathering?			
40	Is there any bombing during the candidate or party campaign?			
VIII	***Checking Financial and Resource Aspects***			
41	Is information publicly available about funding sources and expenditure of PPs and candidates?			
42	Is the use of state resources; finance and materials) equally distributed to PPs and candidates' campaign activities?			
43	Is the use of state resources; media access and news coverage equally distributed to PPs and candidates' campaign activities? (direct access messages)			
44	Is the use of state human resources equally distributed to all PPs and candidates' campaign activities?			
45	Do the PPs and candidates have equal time (period) to campaign?			

Annex 6: Election Day Checklist

No	Election Day Checklist	Yes	No
I	***Cooling day***		
1	Is the Polling Station situated within 100 yards around the Police station or security forces offices?		
2	Are there any campaign activities conducted by any parties?		
3	Have you heard any cases of vote buying?		
4	Are there cases of being coerced to vote?		
5	Are there changes in Voter List?		
6	Are there any blockades or any disturbances prepared in advance to prevent the voters' way to the Polling stations?		
7	Are there any rumors around security issue?		
II	***Polling day***		
8	Are there any blockades or any disturbances to prevent the voters' way to the Polling stations?		
9	Is the polling station situated at the designated area?		
10	Is the secret booth situated in the polling station?		
11	Is the secret booth arranged in secret and secured setting?		

12	Is the opening time accurate? Is the polling station open in a timely manner?		
13	Are the voting materials efficiently used by the voters? (eg., ball pens, tables)		
14	Are the polling staff members present more than enough?		
15	Are the security forces present in a polling station?		
16	Are there more than THREE security staff in one polling station?		
17	Are any of the polling officers or staff members wearing party represented materials (Party Logo, T-shirts, materials)		
18	Are there any cases of vote buying in the Polling station compound?		
III	***Voting process***		
19	Does the Polling authority proved in front of the public that the ballot boxes are empty?		
20	Are the ballot boxes properly checked to make sure that there are no substances inside the ballot boxes which can destroy the ballot papers?		
21	Are the ballot boxes sealed in front of the public in order for the boxes not to be able to be opened easily?		
22	Are the agents of candidates present inside the polling stations?		
23	Are the ID cards properly checked?		
24	Are the ballot papers included the signatures of the polling officer and the EC's seal before the ballot papers are handed to the voters?		
25	Are there any one present more than one voter in the polling booth?		
26	Are there any intimidations and disturbances towards the voters while voting?		
27	Are there any repeated voters?		
28	Are there any unauthorized persons in the polling station?		
29	Are there any cases of complaints and disagreements in regards of voting?		
30	Are the voters who had to wait until the Polling station is closed allowed to vote?		
31	Is the voting process efficient?		
32	Are there any voters who went home as they couldn't wait?		
33	Are there any case of absence or replacement of designated polling officers?		
34	Are there any voters allowed to vote who are not in the voter list?		
35	Are there any cases of intimidation and arrests outside or around the polling station?		
36	Are there any campaign activities around the polling station (within 500 yards)?		
37	Are there any attempts of influencing the voting process inside the polling station (or) around the polling station?		

38	Are there any original ballot papers spread around the polling station?		
IV	***Closing process***		
39	Is the polling station closed in a timely manner?		
40	Are the polling officer and the staff properly keep the ballot boxes and voting materials?		
41	Are the unused ballot papers and spoiled ballot papers kept properly?		
42	Are the unused ballot papers and spoiled ballot papers marked and removed properly?		
43	Are there any original ballot papers spread around the polling station?		
V	***Counting process***		
44	Is the counting process conducted in front of the public?		
45	Are there any limitations imposed on the counting witnesses?		
46	Are the invalid votes allowed to be observed by you or others?		
47	Are there any interventions in the counting processes and procedures from other organizations (armed groups, Parties, and candidates) except polling staff?		
48	Are the advance votes counted during the counting process?		
49	Are the advance votes counted separately?		
50	Are the counted votes transferred directly (right away) to the Township Commission?		
51	Are the counted votes brought into any buildings which are unrelated to Election authority, while transporting?		
52	On the way of transporting the counted votes, are there any one else or anything else being brought along on the way?		
53	Are the counted-votes envelopes sealed in front of the public?		



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