



**ELECTION OBSERVATION MISSION  
MYANMAR, GENERAL ELECTION, NOVEMBER 8, 2020**

**PRELIMINARY STATEMENT**

**Nov. 10**

*The Carter Center's international election observation mission was accredited by the Union Election Commission (UEC) on July 30. The mission is led by Sean Dunne and includes a core team of six international election specialists, 24 Myanmar nationals serving as long-term observers (LTOs), and 14 foreign short-term observers (STOs). Together, mission members came from 14 countries. Because of COVID-19 restrictions, mission members observed remotely during much of the preelectoral period, holding online meetings with stakeholders across the country. One week prior to election day, 12 teams of LTOs deployed to eight states and regions. On election day, a total of 43 observers visited 234 polling stations in 10 states and regions to observe voting and counting. The Carter Center continues to assess the conclusion of vote tabulation and to observe the postelection environment, including the complaints and appeals process. A statement on the social media environment for the election will be issued later this month. The Center assesses elections based on the national legal framework and international principles and commitments for democratic elections, and conducts its activities in accordance with the Declaration of Principles for International Election Observation. The Center has had an office in Myanmar since 2013 and also observed the 2015 general election.*

***This statement is preliminary; a final report will be published after the conclusion of the electoral process.***

### **Executive Summary**

On Nov 8, 2020, the people of Myanmar reaffirmed their commitment to democracy by turning out to vote despite the challenges posed by the COVID-19 pandemic. Although important aspects of the electoral process were impacted by restrictions imposed to

found that voters were enthusiastic and able to freely express their will at the polls and choose their elected representatives.

At the same time, the quality of democracy in Myanmar continues to be undermined by serious deficiencies in the legal framework, including the reserved seats for military appointees, highlighting the need for reform to bring the country in line with international obligations. Ongoing conflict in many areas of the country and the exclusion of more than

two million people from the electoral process because of violence or discrimination further undermine the democratic character of the election process.

The efforts of the Union Election Commission (UEC) and Ministry of Health and Sports to overcome the challenges presented by COVID-19 are commendable. Following a sometimes-contentious preelection period, election day itself occurred without significant incidents or major irregularities being reported by mission observers.

In polling stations visited by Carter Center observers, election procedures were widely adhered to, with the conduct of voting assessed positively in 94% of polling stations visited. In polling stations where counting was observed, the process was conducted according to procedures and in the presence of party agents. Tabulation proceeded smoothly in tabulation centers observed by the mission, although access for mission observers was limited or denied in three cases. The Carter Center will continue to monitor the tabulation of results and the postelection complaint process.

***Key preliminary Carter Center findings and conclusions include:***

**Legal framework:** The legal framework for elections requires reform in order to be in line with international obligations for democratic elections. Problematic aspects of the constitution include reserved seats in elected bodies for the military, inequality of the vote across constituencies, undue restrictions on who can be president, appointment procedures for the UEC that undermine its independence, and the lack of the ability to appeal UEC decisions. In addition, discriminatory provisions on citizenship continue to disenfranchise members of some ethnic minorities, particularly hundreds of thousands of Rohingya who lost the right to vote prior to the 2015 elections.

**Election administration:** The election administration has demonstrated resilience in adjusting to the challenges posed by COVID-19. The UEC exercised wide discretionary powers to regulate the process and has undertaken laudable efforts to update the voter roll, train election officials, and adapt procedures for voters vulnerable to COVID-19. However, the UEC's decision-making lacked transparency and openness in some instances, and it did not provide public access to timely election data. The UEC decisions on election cancellations and postponements, which disenfranchised some 1.4 million voters and will leave 22 seats in the national parliament vacant, were not supported by transparent criteria set out in advance. Given these postponements, the military should fully respect the constitutional provision that says they may only hold a number of seats equivalent to one-third of the elected members in state and regional parliaments.

The administration of advance voting raised a number of concerns. Management of advance out-of-constituency voting lacked safeguards to ensure the secrecy and integrity of the vote. The expanded use of homebound voting, while facilitating participation, also attracted criticism because of unclear or inconsistently applied procedures.

**Voter registration:** The majority of mission interlocutors positively evaluated the quality of voter rolls, although some concerns over possible exclusion of vulnerable groups persisted. On election day, the mission did not find significant issues with the voter rolls in polling stations visited, although the media reported that voters were missing from voter rolls for the ethnic affairs minister races in Mandalay and Yangon.



**Election observation:** Despite initial accreditation issues, citizen observers were able to observe most aspects of the election process. Their work in the preelection period, as well as the widespread presence of party agents and citizen observers on election day, contributed to enhancing transparency. Some observers, including Carter Center observers, reported being closely monitored by security forces and faced additional reporting requirements on deployment plans. Such restrictions are inappropriate and reduce the ability of observers to ensure transparency.

The work of the Carter Center mission has also been affected by COVID-19 prevention measures. The mission adapted its approach to enable observation activities while maintaining its core principles of independence, impartiality, and fact-based reporting. The mission could not access the process fully because of travel restrictions and therefore conducted hundreds of meetings remotely. As the mission was not able to observe the campaign and election preparations directly, it was not able to evaluate all claims made

recruiting Myanmar citizens to serve alongside foreign nationals as election observers. During the preelectoral period, the mission carried out its observation work remotely and held over 1,000 online meetings with election, security, and government officials; political parties and candidates; civil society organizations (CSOs); and media outlets across the country. The work of the mission was augmented by a social media monitoring unit. observe the process directly has been constrained by the COVID-19 restrictions, and the findings of this preliminary statement are necessarily limited as a result. This preliminary statement builds on two earlier interim statements published in October.<sup>2</sup>

## **Electoral System and Legal Framework**

These elections were held to elect three-quarters of the members of the two houses of the Union Parliament as well as of the 14 state and regional parliaments. All candidates are elected in single member constituencies under a first-past-the-post electoral system. At the union level, 168 of the 224 upper house members and 330 of 440 lower house representatives are directly elected. The commander-in-chief of the Defense Services appoints one-quarter of the members of each chamber at both the union and state/region level, allowing the military to prevent changes to the constitution. The appointment of unelected military members is at odds with fundamental democratic principles, which specify that the will of the people as expressed in genuine elections is the basis for government authority.<sup>3</sup>

Each state and region has 12 members in the upper house of the Union Parliament. Constituencies for the upper house are drawn by combining or dividing townships. Each Self-Administered Zone or Self-Administered District corresponds to one constituency, guaranteeing these units upper house representation. For the lower house and state and regional assemblies, constituencies are ba

To facilitate representation of ethnic minorities, 29 ethnic affairs ministers are elected to state and regional assemblies in areas where the ethnic population is equal to or greater than 0.1 percent of the total

The UEC is a permanent body appointed by the president and approved by the parliament. Members serve five-year terms. Parliament has limited discretion to confirm the appointments.<sup>8</sup> Five UEC members, the minimum number set by the constitution, assumed office in 2016, and an additional 10 members were appointed in 2019. The authority of the executive to appoint UEC members does not provide a mechanism that ensures the impartiality and independence required by international principles.<sup>9</sup>

Subcommissions at the region/state, district, and township levels are appointed by the UEC and are generally composed of volunteers and civil servants from government departments at the respective level. Meanwhile, polling station staff are appointed by the respective township subcommissions. Gender-disaggregated data on the composition of

However, there are no women among the UEC commissioners or in the leadership of its secretariat. According to the UEC, women make up over 20 percent of commissioners at the state/regional level and over 15 percent at district/level and township level. Women do appear to be well represented among polling staff at managerial level. Observers noted that some 75 percent of polling station officers in locations visited were women.

#### *Transparency and Consultation*

The legal framework gives wide discretion to the UEC to regulate the election process. Since the announcement of elections on July 2, the UEC has issued public updates on key election dates and activities via 83 announcements and notifications. Despite past recommendations, the UEC did not publish an electoral calendar, and as a result, uncertainty over the election schedule continues to detract from the transparency and predictability of the framework for all stakeholders.

The election law does not require the UEC sessions to be public or that the UEC publish the records of its meetings.<sup>10</sup> Throughout the process, interlocutors

*Election postponements and cancellations*

Constitutional and legal provisions allow the UEC to postpone or cancel elections because of natural disaster or insecurity.<sup>11</sup> On Oct.16, the UEC postponed elections in 15 full townships and cancelled elections in parts of 41 townships located in Bago Region and Kachin, Kayin, Mon, Rakhine and Shan states. The UEC decisions were criticized as opaque by a range of political parties and stakeholders. Criticisms emphasized the failure to explain inconsistencies in the assessment of security conditions and the disproportionate effect on voters and contestants in ethnic minority areas. Subsequently, additional cancellations were announced





interlocutors in Rakhine State, 50% in Mon and Kayin states, and 67% in Chin and Kachin states

ability to check the voter roll.

The legal amendments made in 2020 reduced the residency requirement for voters from 180 to 90 days. This change was especially important for seasonal workers, migrant workers returning from abroad, and IDPs. However, several ethnic communities raised concern over the potential influence of seasonal workers on election outcomes in their areas. Moreover,

gradual increase in the percentage of women candidates since 2010. While the number of women nominated by most political parties remained low, several parties have implemented internal equity policies and fielded 25% to 50% women candidates for the lower house of the national parliament. Interlocutors pointed to negative stereotypes, cultural and social factors, and structural disadvantages as challenges affecting the participation of women, with some highlighting the need for the adoption of special measures as a remedy.

#### *Data Privacy and Protection*

Information about candidates published by the UEC via an app listed religious affiliation and ethnic identity. While a form annexed to bylaws required prospective candidates to identify their religion and ethnicity, this information is not listed among the eligibility criteria for candidates in either the constitution or election laws. Meanwhile, the election laws make the use of religion and race in campaigning an election malpractice.<sup>16</sup> The publication of this information could facilitate such malpractices. Further, the collection and publication of these measures

NLD and USDP parties, while others

Electoral security committees (ESCs) were formed in all townships in each state and region. However, several stakeholders

Figure 1: Posts and Interactions Across 20 Political Party Pages on Facebook<sup>23</sup>

From Aug. 1 to Nov. 8, t

## **Civil Society and Election Observation**

Positively, the 2020 amendments give observers a legal right to observe the electoral process. However, several changes to the UEC procedures in the runup to the elections raised concerns about the ability of citizen observers to access key aspects of the process and to conduct their activities freely. This included the removal of guarantees of protection and security, the withdrawal of permission to observe the printing of ballots and the resolution of election disputes, and the introduction of a requirement for citizen observers to preregister with subcommissions to be able to observe.

Additional accreditation requirements imposed on civil society organizations receiving international funding caused delays in accreditation and the beginning of observation activities by PACE and other organizations. The requirement communicated to international observers and diplomatic missions to disclose precise plans for election day deployment constitutes an unjustified limitation on the work of observers and undermines the transparency provided by independent election observation.

The UEC accredited 8,416 domestic observers from 12 CSOs and two CSO networks, and 137 observers from two international election observation Network for Fr expert mission from the European Union, plus observers from diplomatic missions and service providers.

The Carter Center spoke with 176 interlocutors from 32 CSOs, and 83% of them stated that COVID 19 restrictions had impacted their activities and access to the process. Nevertheless, the majority reported having participated in voter roll updates, observed candidate registration, engaged in voter education and information activities, and continued to observe the campaign.

## **Electoral Dispute Resolution**

The law grants the UEC extensive powers to adjudicate complaints and appeals on all matters pertaining to elections. Contrary to international standards guaranteeing the right to an effective remedy, the decisions of the UEC are final and conclusive, and are not subject to judicial review.<sup>26</sup>

Allegations of minor campaign violations and breaches of the political party code of conduct were addressed by election mediation commissions established by the UEC. As an additional self-regulatory oversight mechanism, the campaign behavior of the 65 parties that signed the political party code of conduct was monitored by a committee of its signatories. Although decisions were not binding, parties and candidates found both mechanisms effective for diffusing tensions, building consensus, and addressing issues of

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<sup>26</sup> The UDHR states, "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations

minor misconduct and accusations.<sup>27</sup> Alleged or established perpetrators were asked not to repeat the behavior addressed by the complaint.

The UEC published an election dispute guide with templates for filing complaints and discussed dispute resolution with civil society and political parties, contributing to transparency



that administrative errors and the poor quality of materials would not impact the validity of advance votes.

### **Voting, Counting, Tabulation**

#### *Silence Period*

A campaign silence period began at midnight on Nov. 6 and continued through election day. It required silence on social media as well as the removal of publicly displayed campaign materials. The mission observed that the silence period was nearly universally

team identified infractions on Facebook pages apparently managed by two parties and 20 candidates.

#### *Election Day*

