

**ELECTION OBSERVATION MISSION
MYANMAR, GENERAL ELECTIONS, NOVEMBER, 2015**

PRELIMINARY STATEMENT

Nov. 10, Yangon

The Carter Center has had an office in Myanmar since 2013 and established an election observation mission in August 2015 at the invitation of the Union Election Commission. The Carter Center mission was led by Jason Carter, chairman of the board of trustees of The Carter Center; Mary Robinson, former president of Ireland; and Bhojraj Pokharel, former chairman of Nepal Election Commission. Six long-term observers and four core team experts were deployed throughout the country in advance of election day to assess election preparations. On election day, a total of 62 observers visited 245 of polling stations in all states and regions to observe voting and counting. Together, mission members

- x **Campaign:** Observers found that the electoral campaign was initially subdued, although it became more vibrant as election day approached. The main opposition party held large and open rallies throughout the country, as, to a lesser extent, did the ruling party. Despite the overly restrictive campaign regulations, the election administration applied the rules in a

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chamber of the Union Parliament, each state and region is represented by 12 members.³ For the lower chamber of the Union Parliament and for state and regional assemblies, constituencies are based on administrative boundaries of townships.⁴ While this creates a direct link between constituencies and parliamentary representatives, the number of voters varies widely among townships.⁵ Constituency sizes range from 1,408 voters to 521,976 voters. The system therefore does not ensure the equality of the vote, an essential element of genuine democratic elections.⁶

General elections in Myanmar are governed primarily by the constitution (adopted in 2008), a set of three election laws,⁷ the Law on the Union Election Commission, and the Political Parties Registration Law, all of which were adopted in 2010. These are supplemented by by-laws, rules, and regulations issued by the UEC. The legal framework contains gaps, in some instances lacks clarity, and gives overly broad rule-making authority to the UEC.

foreign citizenship from holding the post has not changed.⁹ This provision, which is widely perceived as having been enacted to prevent the candidacy of opposition leader Aung San Suu Kyi (whose sons are British citizens), is an unreasonable restriction on the right to be elected.¹⁰

The electoral legal framework also does not provide sufficient guarantees for important steps of the electoral process, giving overly broad authority to the UEC to regulate aspects of the process for voter and candidate registration, the formation of election sub-commissions, campaign rules, access of election observers, transparency of ballot printing, advance voting, and procedures for tabulating results. The election laws do not establish clear procedures for resolution of electoral disputes.

Local elections planned for 2016 provide an opportunity for the further empowerment of the people at Myanmar to review and amend election laws and other legislation affecting this fundamental level of governance.

ELECTION ADMINISTRATION

The UEC is a permanent body currently composed of 15 members, all directly appointed by the president. It enjoys broad authority in performing its mandate. However, its decisions are not subject to parliamentary or judicial supervision or appeal.¹¹ Carter Center observers found that the current appointment system and the dependence of the election administration on executive structures (the General Administration Department at the sub-national level) contributed to a lack of trust in the process. In accordance with international standards, election management bodies should be independent and impartial.¹²

Sub-commissions at the region/state, district and township levels generally are composed of 15 members, nine from government departments at the respective level and six (commonly referred to as volunteer members).¹³ Though members are formally appointed by the UEC as a practical matter, nominations come more or less exclusively from local government officials. While commissions generally exhibited a commitment to conducting their activities efficiently and impartially, they suffered from a lack of credibility with local election stakeholders, including political parties, civil society, and the media.

The law gives the UEC the power to regulate the electoral process and take decisions on the implementation of legislation, but it does not stipulate how decisions should be taken within the commission. Further, there are no requirements for transparency of UEC meetings; the meetings are not open to media or observers; and the minutes of proceedings are not published. In practice,

⁹ Article 59(f) of the 2008 Constitution.

¹⁰ ³ ⁵ ^W ^U ^X ^V ^W ^H ^G ^S ^H ^U ^V ^I ^W ^L ^F ^O ^H ^R ^I ^W ^K ^H , & & ³ ⁵ ^V ^W ^D ^W ^H ^V ⁱ ^g ^h ^t ³ ^{and} ^{the} ^o ^p ^p ^r ^t ^u ⁿ ⁱ ^t ^y ^w ⁱ ^t ^h ^o ^u ^t ^u ⁿ ^k ^d ^o ⁿ ^e ^K ^D ^Y ^H ^W ^I ^G ^L ^V ^W ^L ^Q ^F ^W ^L ^R ^Q ^V ^P ^H ^Q ^W ^L ^R ^Q ^H ^G ^L ^Q ^D ^U ^W ^L ^F ^O ^H ^D ^Q ^G ^Z ^L ^W ^K ^R ^X ^W ^X ^Q ^U ^H ^D ^V ^R ^Q ^D ^E

¹¹ See Article 2.3 of the ICCPR and Article 8 of the Universal Declaration of Human Rights. See also the Declaration on criteria for free and fair elections unanimously adopted by the Inter-Parliamentary Union (IPU) on March 26, 1994, para. 4(9). Myanmar has been a member of the IPU since 2012.

that individuals are entitled to have decisions affecting fundamental rights taken by a competent, independent, and impartial tribunal in a fair and public hearing.²⁸

with representatives of political parties. These committees were effective in resolving some disputes and resulted in the withdrawal of multiple criminal complaints.³³

FREEDOM OF EXPRESSION AND THE MEDIA ENVIRONMENT

While space for political reporting has opened up since 2010, The Carter Center noted a number of limitations on the freedom of expression in the pre-election period. This included arrests of journalists, the filing of criminal defamation cases, and a tightening of media access to information.³⁴

SECURITY

Though communal tensions did not feature prominently in the pre-election period, anti-Muslim rhetoric was common, and leaders of minority religious communities expressed fear that the communal tensions could increase in the post-election period and give rise to conflict. In northern Rakhine state, unannounced household searches by police in Muslim communities exacerbated an already tense environment.

The National Ceasefire Agreement was signed on Oct. 15 by eight of the ethnic armed groups active in the country as part of the effort to bring an end to ongoing armed conflict. In some areas, however, conflict

The UEC accredited 31 civil society organizations that collectively planned deployment of nearly 12,000 observers, a significant number for a country where there was virtually no prior experience in observation activities. In an inclusive process, accreditation was granted to all domestic organizations that applied and the UEC only rejected two individual observers for not being citizens.

For the most part, Carter Center observers were welcomed by election bodies, party representatives, civil society, and community leaders. Although police surveillance rarely impeded WKH & HQWHU¶V ZRUN 6SHFLDO %UDQFK & RIGL FH FRQV and on several occasions, intervened to seek information directly from staff, or insisted on attending meetings. Monitoring by police or military intelligence was particularly acute in Bago, Magway, and Tanintharyi regions, surprisingly more so than in areas identified as conflict-prone.

ELECTORAL DISPUTE RESOLUTION

The legal framework for the resolution of election disputes does not guarantee complainants an effective and timely remedy for violations of their rights. The UEC worked to address this by educating political parties about the mechanisms for raising disputes and introducing conflict mitigation bodies (mediation committees).

The law provides for appeals of decisions regarding inclusion in the voter list, candidate registration or deregistration, and observer accreditation, but it does not provide a mechanism to complain about other violations during the pre-election period. Allegations of violations can be reported to the UEC or its sub-commissions, which can investigate on their own initiative, but there is no requirement to respond and no timeline for review. The UEC did not disclose the

ADVANCE VOTING

The election laws allow voters who are unable to come to their assigned polling station on election day to obtain an advance ballot. There are two forms of advance voting: 1) *within constituency* voting for homebound voters, those in hospitals and detention centers, and those traveling on election day, and 2) *out-of-constituency*

the respective state and regional sub-