



Asian Network for Free Elections (ANFREL Foundation)

Registered Under Civil and Commercial Code Act of Thailand, Registration

No.1690105 Sutthisarnwinichai Rd., Huaykwang Samsennok, Bangkok 10310 Thailand

Tel: +66-2-2773627 Fax: +66-2-2762183

Email: anfrel@anfrel.org Website: www.anfrel.org

Statement on Myanmar by-elections (April 1, 2012)

The by-elections in Myanmar marks a historic phase in the country's transition towards democracy and ANFREL-Foundation takes this opportunity to congratulate the people of Myanmar. The by-elections were extremely significant to sustain the reforms process in Myanmar and strengthen the process of democratization in the future.

Notwithstanding the results of the elections and the generally peaceful polling process, a lot remains to be done to make elections completely free and fair or at least credible. A number of concerns came to the fore during the electoral process, which were described as "irregularities" by a number of groups including Anfrel-Foundation, which was not allowed to observe the elections as an independent body.

Large discrepancies in the voters' list, attempt to misuse official machineries at the village and district levels by some ruling party candidates, lack of voter education all added to the list of apprehensions, which puts a question mark on the efficiency and management of the electoral process.

Moreover, despite the presence of international observers irregularities still occurred. This indicates the importance of a full-fledged and well-prepared "independent" international observation mission in 2015 general elections. This time, the government's last minute decision to invite external election observers is 'too little, too late' to ensure adequate, effective, and independent monitoring of the electoral process. Presence of independent international observation groups would only help to provide legitimacy to any electoral process that is well intended and managed efficiently.

However, what also cannot be denied is that the election authorities have attempted to respond to the challenges that they were faced with during the entire process. They were found wanting on a number of occasion, but given the fact that the election system is still new and taking shape, such inconsistencies are bound to happen, especially in a country that is in a transitory phase.

Afghanistan – FEFA; Bangladesh – FEMA, ODHIKAR; Cambodia - COMFREL, NICFEC; East Timor - Women Caucus; Indonesia - KIPP, JPPR; India – Lokniti, Japan – InterBand; Malaysia – NIEI; Mongolia - Women for Social Progress (WSP); Nepal - NEOC, NEMA; Pakistan – FAFEN; Philippines - IPER, PPCRV, NAMFREL; South Korea – PSPD; Sri Lanka – PAFFREL; Thailand - Poll Watch Foundation

The election results have also provided a window of opportunity for the quasi-civilian government in Myanmar to continue the reforms agenda. It also gave a chance to the people of the country to express their choice more freely (though voter intimidation and pressure from various vested interest groups were reported) as compared to the previous election in November 2010. The results, which at this point of time appear to favour the Nationalist League for Democracy (NLD) led by Nobel Laureate Aung San Suu Kyi is a reflection of the people's mandate and that needs to be respected by everyone.

The official results will be announced in a week's time and it is hoped that the Union Election Commission (UEC) and the government would honour the results and the counting process. So far there are no indications to suggest why the results should not be accepted barring investigation of complaints or allegations against the winning candidates from their rival parties.

The high-turn out of voters is an indication of the desire for change towards complete electoral democracy, which the people of Myanmar want. Though no long queues could be seen in any polling stations, voters' kept trickling in throughout the day. Most of the polling stations opened at 6 am and closed at 4 pm as is stipulated by the law.

Whether the outcome of the results would have an impact on the western countries and if it would be used as a benchmark to lift the economic sanctions are concerned remains to be seen. The by-election was only a step and it certainly cannot be the only criteria for lifting sanctions or engaging with the military backed ruling USDP coalition government.

Right now what is important, from an electoral point of view, is the manner in which the UEC handles the cases of irregularities arising out of a number of issues. It is generally expected of any impartial election commission to handle the cases of irregularities in a way that it makes the whole process more credible in the future. The road ahead for Myanmar is obviously 2015 when the country would have its next general elections.

Cases of threats, intimidation and violence, especially the death of a political party worker in Pale in Sagaing constituency on election day, violence in Kyaukpaduang constituency (under Magway division) and stone pelting incidents in Napidaw, Bago and Mandalay division needs to be thoroughly investigated by the UEC applying the highest standards that conform to international norms and principles.

The UEC must also set up an independent investigation into the complaints of irregularities, which took place during the advance voting on the scheduled days that is 30 and 31 March. There are reports of advance voting having been conducted as early as March 16 in some villages in Yangon

and nearby Bago constituencies. Reports in the media regarding possible disenfranchisement of voters owing to inappropriate management of advance vote raises serious concern. It must not be forgotten that advance voting caused a major worry in the 2010 November elections.

Reports from independent researchers and local observers suggest that the polling process as is laid down in the polling manual was not followed and different polling stations (ward/village offices) where advance voting was supposed to take did not follow a uniform procedure. In some places the ward offices opened later than the scheduled opening time and in others local election officials went from house to house to collect advance votes even from people residing in the constituency. Advance votes are strictly meant for those that would be engaged/on duty on the Election Day and are residing outside the constituency.

Earlier this month, the UEC announced the list of people eligible to cast early votes, which included election officials, civil servants, elderly citizens, residents with poor health and prisoners.

Proper procedures like sealing on advance voting envelopes and storing them in a secure place such as the police station were not followed in a good number of places. The UEC needs to ensure that all cases pertaining to advance irregularities are subjected to an extensive complaint dispute resolution process and the anomalies are investigated and justice delivered with any bias or favour towards any one or party.

The Myanmar by-election is a good case for the ASEAN community to consider starting an “ASEAN electoral reforms” process. The ASEAN secretariat would be best placed to put together various stakeholders from the ASEAN region with involvement of independent and well-trained election observer groups to use the lessons learned from Myanmar for strengthening democratization in the region.

Following are some of the recommendations to prepare for a better-managed system for the future elections in Myanmar.

Recommendations for improving the electoral process in Myanmar

1. General suggestion for overall electoral reforms

- Sufficient budget must be allocated by the State to conduct and manage elections at different levels

- The Election Calendar must be announced well in advance to allow stakeholders to prepare for a credible process
- There must be a proper security assessment all over the country and effort must be made to include every state/region in the election process.
- The State must initiate attempts to call for a ceasefire or hold peace-talks with opposition (armed) groups in conflict areas.
- Attempt must be made to ensure that all hostilities from all sides end well before the election date is announced.
- All stakeholders must be fully conversant with the idea of free, fair and credible elections, secrecy, transparency, monitoring, democracy and human rights etc.
- Election Day is usually a holiday for all sectors. However, in cases where the Election Day is a working day employees must be allowed to go out for voting.
- The Election Commission should conduct voter education by engaging local organizations and the media. The Election Commission must ensure that advertisements regarding elections laws and regulations are published in all the local media reaching out all areas of the country so that people of all ethnic backgrounds are well informed about the processes.

2. Union Election Commission

- The current electoral laws need to be amended to accommodate representatives from all professions as commissioners for a more broader and accountable system. All representatives must go through a proper selection process.
- The Election Commission must be totally neutral and independent from the government and the armed forces.
- A clean and accurate voter list is a must to ensure credibility, which may be possible using a population census.
- The UEC should provide voters' outreach and solicit media cooperation for disseminating information effectively amongst the people.
- The Election Commission must ensure a level playing field for all contesting political parties by providing them access to public places and space in the media to campaign and announce their policies and election manifestoes.
- The Election Commission must strictly monitor and control campaign finance. Political parties found violating the laws on campaign finance must be dealt with according to the law without any bias or favour.

3. Registration process

- The Election Commission should have an effective mechanism to regularly update the voters' list every year. A process of revision of the voters' list by deleting names of dead voters and enumerating new voters' as well as avoiding duplication must be started to ensure that discrepancies in the voter's list do not allow for cheating and fraud.

- Sufficient time must be provided supported by adequate information dissemination about the registration process. Voters' should get adequate time to check the list and file for correction wherever necessary.
- There should be proper official announcement regarding publication of the voter list. The Election Commission should ensure that voters are allowed to file complaints regarding anomalies in the voters' list. The commission should also provide sufficient clarification/justification if names are not included in the voters' list.

4. Campaign

- All political parties and candidates must be allowed to campaign freely without unreasonable restrictions, obstruction, threat or censorship.
- The Election Commission must enforce the law against perpetrators of violence and against those who violate the election laws with out any bias.
- The law must be used equally against those who misuse resources, especially against those who use government resources for campaigning during elections. The Election Commission must carefully monitor campaign finance regulations and ensure that the ruling parties use their own resources for campaigns.
- All campaign material must be removed during the advance voting days and on the Election Day.
- No campaign materials should be allowed within 500 meters of the polling station.

5. Advance Voting Days

- The advance voting process must be consistent in all the electoral constituencies
- Mobile voting (house to house) must be done away with and instead proper polling stations must be set up in designated places for voters to come and vote
- Voters' secrecy must be given top priority during advance voting with any form of intimidation or exertion of influence on the voters.
- Proper information must be sent out and on time to people registered as advance voters.
- To prevent multiple votes, only one voter list must be used during advance and voting and on the Election Day. Names of advance voters' must be ticked off to show that they have already voted.
- There must be sufficient voter education so that voters are well informed about the processes that are involved, especially about valid and invalid ballot papers and how to vote.
- Use of the tick mark as the only acceptable impression of a "valid vote" must be reconsidered and other marks such as a cross should be also allowed. It is often seen in the case of Myanmar that the tick mark is made outside one square, making it "invalid."
- Indelible ink should be used to prevent cheating/manipulation arising out of inaccuracies in the voters' list.
- All overseas voters must be informed by Embassies or Consular's regarding advance voting. The Election Commission should consider allowing international observers to observe the election at the Embassies.

6. Election Day

- The Election Commission must ensure that the Polling Stations are arranged in a uniform manner, which provides full secrecy to voters.
- Accredited local observers and political party agents should be allowed to observe the process inside the polling stations.
- All international observers should be allowed to observe in any polling station without any official escorts. International observers either from the ASEAN secretariat or from the civil society must be allowed to talk anyone they want to and there should be no restrictions on people to share information with these observers.
- Priority must be given to a certain type of voters' such as pregnant women, elderly and the disabled people.
- Polling stations must be set up in places, which is accessible to all groups of people.
- Voters' list (same copy) must be given to party agents for parallel checking.
- Impersonation should not be allowed inside polling stations.
- All sensitive material inside the polling station must be properly stored.
- The total number of ballots must be read out loudly during the poll opening process. During closing the total amount of used ballot paper, spoiled ballots and unused ballot must be announced and written in the counting sheet to prevent misuse (or missing) of any single ballot during the polling process

7. Counting

- Counting should be done publicly using a visible tabulation paper.
- During counting the ballots should be showed to all the persons present inside the polling station, especially observers and party agents and the last 10 voters. The names of the candidates and the parties voted must be read out loudly.
- Media and observers should be permitted to observe the counting process.
- Recounting is a must if the ballot papers are reported missing or there is power failure or any other forms of disruption during the counting process.
- The total number of ballot papers from advance voting must be checked before counting. The ballot should be counted separately and no mixed with the Election Day votes.
- Result must be announced publicly with signatures of all political party agents present.
- Any misconduct by polling officials during polling or the counting process must be dealt with strongly.

Issued by:

Bidhayak Das
 Coordinator
 ANFREL-Foundation
 Bangkok, Thailand