



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

INTERIM REPORT

IEOM Profile: The ANFREL International Election Observation Mission (IEOM) is composed of fifteen (15) international election observers, which include two (2) electoral analysts (EA) deployed for four (4) weeks and thirteen (13) short term observers deployed for 2 weeks. The IEOM covered 194 polling stations in 19 constituencies and 22 townships.

This interim report is an assessment of the pre-election activities (more specifically advance voting within constituency for civil servants and vulnerable persons), the campaign and cooling period, the election day, as well as the counting and tabulation of the results. ANFREL conducted desk research, in-depth interviews with key election stakeholders, and field monitoring and random checking of polling stations during the advance voting period (22-31 March 2017) and on election day (1 April 2017).

ANFREL will issue a full-length report a month after the polls which will expound on the information included in this Interim Report and will include post-election assessments focused on electoral dispute resolution and recommendations.

SUMMARY:

When compared to 2015, ANFREL observed a number of notable improvements during the by-elections. Among them, the updated voter list, increased transparency including better access to polling processes in military camps where domestic and international observers were allowed to observe officially, better voting procedures (advance and on Election Day), and the creation of a few polling stations accessible to persons with disabilities as a pilot project in several areas that held by-elections.

The inclusion of vulnerable persons through mobile polling stations was exhilarating. The efforts of the Union Election Commission (UEC) to conduct a free and fair election were crucial and laudable. Door-to-door voter list updates were appreciated by people living in rural and isolated areas where public/private transportation is difficult.

The campaign period was calm compared to 2015 and trended towards more personal campaign approaches such as visiting house-to-house while distributing pamphlets, posters, and stickers. The fact that no significant incidents were reported during the campaign and cooling period indicates a better pre-election environment.

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

There remains a need for more voter education. Women's participation has also increased with a higher percentage of women candidates and they enjoy campaign activities freely.

It is encouraging to see that areas where elections were cancelled in 2015 are now holding elections. Even after these elections however, there remain sizeable numbers of people in other townships that face security challenges and are yet to vote.

REPORT DETAILS:

1. Legal Framework

The UEC has shown a strong commitment to strengthen the electoral process before the 2020 elections. Recommendations from past-elections that are within the power of the UEC have been carried out. The major outcome was reviewing five key principles of legal and regulatory reform and then developing a consensus to apply some of the principles within the Myanmar context.¹

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

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

2. Electoral Administration:

Election Commission

The UEC, through its sincere effort to ensure organized and transparent polls, gained the confidence of electoral stakeholders and greatly improved the conduct of the April 1 polls. Among the visible achievements observed are the structured coordination among the UEC

¹ Union Election Commission: Report from the Roundtable on Comparative Legal Review Processes (June, 2016)

levels, and improvements to poll officer discipline and knowledge in operating the elections. Transparency was also enhanced by providing greater access to information for the public and by opening up of the polling process in military camps to scrutiny, which in turn improved the public's trust in the Commission. Cooperation with electoral stakeholders, both national and international, added supportive engagement with the UEC. Despite all these achievements, the mission still found miscoordination and miscommunication in some UEC sub-commissions in village tracts/wards in terms of election information, data presentation, and isolated cases of complaints related to the neutrality of the UEC sub-committee. Generally speaking however, these incidents do not hamper the overall impression of a well-run election.

Voter Registration and Voter List

The UEC made every effort to have an accurate, current and complete voter list. The voter list was updated through two main strategies: door-to-door verification and by providing voter list correction opportunities within two periods of displaying the voter list in sub-commission offices.

The door-to-door verification method utilized in 2017 is a helpful way to make a cleaner and more credible voter list. That said, the quality of the data collection is a critical determination of the success of such an effort. ANFREL's observers heard complaints from some of those interviewed that the conduct of the door-to-door data gathering was uneven, which had the effect of leaving some households unvisited. The door-to-door verification strategy was appreciated by many people, especially those living in rural and isolated areas where transportation is difficult. The challenge of this door-to-door strategy is the need for huge amounts of manpower and the logistics constraints which follow. Display of the voter list in public spaces such as markets would probably make it more accessible for people to check their names since our observers' reports indicate that few people came during the two periods of voter list correction.

There are still some errors found in the voter list, such as missing names, duplications, and mistaken voter information but not as much as in the 2015 General Election. There are some isolated cases of voter identification slips that were not distributed that created for voters extra difficulties to vote. Language barriers were still found and should be further addressed by the UEC since many ethnic minorities were unable to read in Burmese, for example in Monghsu of Shan state and Thantlang of Chin state. This applies not only for voter registration/list but also for other materials related to the elections.

Voter Education and Voter Awareness

While some groups again conducted extensive voter education, the observation noted that many areas do not receive adequate information related to the by-elections, especially the areas where the general election was cancelled in 2015.

The mission witnessed different styles of voter education varying from the use of a loudspeaker, display banners (tarpaulin), posters, pamphlets, motivational posters in different languages (Shan, Mon, Rakhine, Lai and Kareni), and social media. The method of distribution ranged from online to door-to-door.

There are workshops on voter education held by CSOs in all the constituencies and townships involved in the by-election. Political parties and candidates are also involved in educating the voters to ensure they get the basic information. The publication materials and methods were very convincing in number and methods.

Unfortunately, the impact was not convincing. Observers found a lack of voter education and voter awareness to be very noticeable. Its symptoms include low voter turnout and confusion about polling procedures on election day. Of course, the expectation of adequate voter knowledge must be tempered by an understanding about the lack of experience with elections in this newly reformed country.

3. Women's Participation

The percentage of female candidates increased from 13.2% in the 2015 General Election to 17.7% in the 2017 by-election areas. More women were also recruited by the UEC to work as poll workers in most of the townships, ward and village tracts. Women appeared to have an equal role during the polling process and were much more often the ones in charge as polling officers. In several states/regions, observers witnessed women actively participating in campaign activities.

However, based on interviews with key persons involved in women's engagement in Myanmar, there are still cases where outspoken women in politics are attacked by the community. Such abuses contribute to the low levels of women's participation in politics.

4. Campaign

The overall campaign environment leading up to the 2017 by-election was rated as improved despite the low level of campaign activities in most of the states and region compared to the 2015 general election. ANFREL was happy to find that the campaign for the most part adhered to the guidelines as laid down in the "Code of Conduct for Political Parties and Candidates" agreed upon by the political parties and the UEC in 2015. The campaign environment is peaceful including in the conflict areas in Shan, with most candidates feeling more relaxed to campaign during this election compared with the previous 2015 general election. Candidates and political parties don't need to submit their campaign content to UEC but in some townships, they still need to do so.

A candidate from the National League for Democracy (NLD), Nan Sint Kham, was unable to campaign in some villages due to rejection by the local residents. He followed up by filing a complaint to cancel the by-election in those three villages (Goon-Jong, Nawtng-Et, Maw-Mayt and Wan-Loi) in Mongshu. But the media reported that Nan Sint Kham alleged that his campaign was threatened by the Shan State Progressive Party (SSPP) and Shan State Army during their election campaigning on March 29².

Meanwhile in Shan (Kengtung), parties felt no threat to campaign in the remote areas compared with 2015. With the exception of the Union Solidarity and Development Party (USDP), all parties

² <http://www.mmtimes.com/index.php/by-election/25547-nld-campaign-team-threatened-by-armed-group.html>

complained that they were not permitted to campaign in military camps despite early pronouncements by the military that the parties will be given access.

Most of the candidates and political parties applied direct personal campaign approach such as house-to-house and distributing posters, pamphlets and stickers. Other campaign activities include giving speeches, group meetings, stage shows and live concerts.

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

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

5. Polling, Counting, and Consolidation

Advance Voting

Comparing with 2015 General Election, advance voting in this 2017 by-election shows some improvement such as more organized and transparent. This time, in-constituency advance voting schedule was published earlier and implemented as schedule at most of the place observed. However, this positive progress does not apply for outside-constituency advance voting.

International and domestic election observers, as well as party agents, were not able to observe and monitor out of constituency advance voting due to unclear schedules and limited information published by the UEC. An additional concern was that outside-constituency voting seemed to often be operated more by a different government department rather than UEC. Given the small number, out of constituency advance voting will probably not influence the shape of by-election results, however it will definitely be significant for 2020 General Election.

Despite the improvements for in-constituency advance voting, there are still many areas that need enhancement. One strong pattern, observers found several variations in the implementation of advance voting: there are inconsistencies on the use of a pen or stamp for advance voting, the use of envelopes for in-constituency voting in advance, cases where some of the ballot boxes were kept at private house (such as that of the Ward Chief or Sub-Commission Member).

While ANFREL appreciates the UEC's sincere efforts to conduct advance voting for voters unable to travel to polling stations through mobile voting, improvements should be made to ensure the secrecy of the process.

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

to ensure regulations are strictly followed.

Voting in Military Camps

Compared to 2015, the international and domestic election observers and party agents are officially allowed by UEC to monitor the poll process at the military camps for both advance voting and election day. ANFREL observers were able to see how the polling stations in the 15 military camps are well organized and been conducted efficiently.

Despite improved transparency, there are some aspects that need to be addressed. First of all, the decision to provide polling station in military camps, which is considered as “controlled area”, does not conform with international standards for a free and fair election.

Second, some election administrators depended on the decision of the commanding officer for permission on campaigning or voter education activity inside the camps which compromised and restrained election freedom.

Access for Persons with Disabilities

One major improvement that the UEC should be credited for is the provision of 12 accessible polling stations in several states/regions for persons with disabilities. ANFREL is pleased with this pilot project and hopes it can be extended nationwide for the 2020 General Election. Identifying disabled voters and distinguishing them in the voter list as early as possible in order to provide the UEC more time to prepare will also improve the process going forward. In Sagaing state, observers witnessed the training for blind voters and providing Braille ballot papers are highly appreciated, therefore ANFREL encourages to continue this program in the future.

Polling on Election Day

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

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

We managed to observe 15 polling stations for opening, 166 polling stations for polling, and 13 polling stations during closing process in 8 states/regions. The process in most areas was held in accordance with the regulations³. Only a few polling stations opened late due to slow preparation or late arrival of staff. Important steps in opening the polling station which were executed well include representations of party agents (mostly from NLD and USDP) and local

³ 2017 Myanmar By-Elections: Polling Station Officer, Deputy Polling Station Officer and Polling Station Member’s Manual

observers in polling centers, materials arrived and were placed in their respective positions, the empty ballot box was shown before sealing on four sides, and Form 13 (list of advance voters) was displayed.

Another main concern is inadequate voter education revealed by some voter's confusion about the voting procedure. This opportunity is used by party agents to "help" voters in the polling station. Variances in implementation were found in small number of polling stations, where some ballot papers were stamped at the back, some polling officers do not require voters to sign at the voter list books, and slow operation of polling process which forced people to queue quite long. Except from that, polling process is adequate.

Meanwhile for closing process, most polling stations closed on time, voters still in the queue were allowed to vote, the results were displayed outside the polling station, no significant incidents happened and no complaints were reported. Comparing with opening and polling process, the counting process is considered more problematic and needs more attention from the UEC. Several irregularities such as advance voting counted at the last, Form 16 was signed before results come out were not being displayed outside polling station, and unused ballots was not being reconciled before counting start.

Important to note, comparing with 2015, the tabulation process this time was faster than expected and more transparent as the candidates and party agents observed the process in all townships without restrictions. Invalid ballots were mostly due to ballots not stamped correctly due to lack of voter education as observed in some of the by-election areas.

6. Voter Enthusiasm and Turnout

There was relatively low voter enthusiasm, as indicated by less voter awareness and fewer people checking their names on the electoral roll. The number of voters who cast their ballots on the morning of April 1 appeared low compared to the large queues that formed at polling stations before the opening of polls for the 2015 general election.

Voters' interest in the 2017 by-election is lower compared to the previous 2015 general elections as there are not many electoral activities and publicity in the media (especially the local media). A series of indepth interviews with voters in both rural and urban areas showed a similar response from voters who were less interested, their main argument was that the by-election will not affect the governing party in Parliament and recent political constellation.

Among the areas which registered very low voter turnout are Yangon, with as low as 12.26 % in Hlaing-Tharyar, 29.23% in Dagon Myothit (Seikkan) township for Pyitthu Hluttaw seats, and Yangon Region (Amyotha Hluttaw) with 26.15%⁴ demonstrates an alarming trend. Hlaing-Tharyar and Dagon Myothit are industrial areas with a high density of voters who chose not to vote instead of take a leave from work. Worse could have happened if there were no aggressive voter education effort from different stakeholders. This raises questions on whether voter education alone is efficient to increase the people's interest. There is a need to rethink what factors could encourage the voters to come and cast their votes. This perhaps to serves an

⁴ Data from IDEA unofficial translation on statistic/turnout and valid votes.

interesting lesson learned for future consideration. Another issue is the UEC's decision in conducting the by-election on a Saturday rather than on a Sunday, or not announcing the by-election day as a non-working holiday.

7. Security Concerns

ANFREL is glad to observe that some areas where elections were cancelled in 2015 were able to hold elections. We hope that other areas will similarly be able to hold elections as soon as the security situation permits. In general, the security situation during pre-election, election day and post-election is peaceful.

However, in Shan state, especially in Monshu township, six polling stations in four village tracts (Goon Jong village and Wan Loi village – total 2 polling stations, Nawng Et and Maw Mayt villages – total 4 polling stations) were removed after the Shan armed group objected to police provisions of security and this decision was agreed to by all parties. Observers found out that NLD and USDP were denied permission to campaign in these areas and had to submit a letter of permission to the village head in order to coordinate with the Shan armed group.

In another township in Kengtung (Shan state), there were concerns of USDP threatening villagers to vote for them. Based on interviews and media reports in 2015, the military threatened to burn entire villages in the hills if they withheld support for USDP. In Pan Kyu village, voters were victims of harassment in the previous election where military groups threatened them if USDP loses. While in Kyethi township in Shan state, there are security concerns in the remote areas near Mongnawng. Based on reports, additional police support from nearby townships was required not only in Kengtung but also in Ann (Rakhine state).

Caution is necessary when the security responsibility for the polling stations is delegated between many agencies and groups of people. Case in point, 5 quarters in Mongnawang were guarded by government agencies (GAD and police), meanwhile 14 village tracts were taken care by village heads and the community (Kyethi and Mongnawng townships).

8. Civil Society Organizations (CSOs) Engagement

The civil society organizations, specifically election monitoring organizations (EMOs) are very vibrant and were able to participate in these elections with multiple programs -- from voter education, observation activities and other tasks related to the elections. The EMOs in Myanmar have grown tremendously and were able to use observation tools utilizing surveys, election monitoring apps, and random sampling observation. In terms of quantity, less organizations engaged in the elections but were still able to manage deployment in all 8 states/regions. CSO engagement also played a significant role in educating voters (several domestic CSOs signed an MoU with the UEC to conduct voter education) rather than monitoring and observing the UEC and by-election process. Questions were also raised on the independence of domestic organizations, more specifically on how to develop close work coordination with the UEC and at the same time ensure impartial observation of the elections.

ANFREL delivered support to the EMOs in the form of trainings to advance observation skills and knowledge and direct mentoring of field observation. ANFREL observers deployed in

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

RECOMMENDATION

Primary Recommendations:

1. While there are improvements in the Advance Voting compared with 2015, much more remains to be done. More particularly:
 - a. Outside Constituency Advance Voting for military Personnel: Greater transparency can be achieved in advance voting among military personnel outside-constituency when the specific date and venue for the advance voting is announced ahead of time. This way the other election stakeholders such as the media and election observers can perform their role.
 - b. A neutral place is always preferred over a controlled environment such as inside military camps. Voting in a controlled environment is never ideal on the voter's right of free choice. Hence, polling stations in military camps should be avoided. Transparency and free choice take precedence over convenience. After all, they can always locate the polling station outside the gate of the camp.
 - c. Overseas voting can be made much more efficient with the introduction of 'alternative voting procedures' such as postal voting. It is simply too expensive to require the citizens abroad to cast their votes at embassies and diplomatic posts. The high cost of travel is reason enough to discourage many voters.
 - d. Providing a clear and accessible regulation of advance voting procedures for both in and out-side constituency.
 - e. The days allotted to inside constituency advance voting for civil servant / officer on duty on polling day is too long. The number of advanced voters in 2015 and now point to a need to shorten the period.
2. To facilitate easier and more convenient way of identifying a voter at the Polling Station is to depart from the current practice of preparing the voters' list from 'family books'. An alphabetical or numeric system based on the Identity Number of the voter is recommended as the part of long term planning.
3. The alarming rate of invalid ballots has to be addressed by a more aggressive if not

effective voter awareness campaign. Traditional, social media can be intensified, and innovative approach can be initiated to reach the voters.

4. The alarming low voter turnout reflects minimum people's enthusiasm, or availability to participating. Creative effort need to be design to motivate people to participating, and the election day shall be held on the holiday or a day which declared as holiday.

General Recommendations

1. There is a need to take a look at the law on by-elections. For a vacancy or vacancies that have no adverse effect on the working of the legislatures at all levels, more efficient alternatives to by-elections can be explored.
2. The greater participation of women and minorities in the UEC is highly desirable even if this requires increasing the number of commissioners from the current five to as much as 15 as they had in the last UEC.
3. It is recommended that a "Mock Election" be conducted in the training of poll workers. A mock poll is a simulation of what happens on Election Day. Hence, the new poll workers will have a first-hand experience of what has to be done on polling day. The variations on the manner the vote count was done showed the need for this proposal.
4. Continue effort to provide accessible polling stations for Person with Disabilities (PwDs) voters nationwide, and encouraging to continue the effort in conducting training and voter education as well providing tools (e.g., braille template).

More comprehensive recommendations will be included in a final report issued later.