



International Election Observation Mission (IEOM) of the Republic of the Union of Myanmar 2018 By-Elections

INTERIM REPORT

IEOM Profile

ANFREL's International Election Observation Mission (IEOM) to Myanmar's November 3, 2018, by-elections is composed of eleven international election observers, which include two electoral analysts (EA) based in Yangon for three weeks and nine short-term observers (STOs) deployed for ten days in the country's different states and regions.

The IEOM team was able to monitor the by-elections by conducting campaign monitoring, in-depth interviews with key electoral stakeholders, and random sampling of polling stations across all 13 constituencies. In total, 25 polling stations were observed during the advance voting period (24 October to 2 November 2018) and 118 more on election day (3 November 2018).

This interim report contains an assessment of pre-election activities, including the inside-constituency advance voting process, the electoral campaign and the cooling period, as well as election day operations, from the opening of the polls to the counting, consolidation and publication of results.

ANFREL will issue a comprehensive Mission Report a month after the by-elections, which will expand on the information included in this Interim Report and include an assessment of post-election electoral dispute resolution and recommendations.

ANFREL observation follows the Declaration of Principles for International Election Observation, the Bangkok Declaration for Free and Fair Elections, and the Dili Indicators of Democratic Elections.

SUMMARY

On November 3, 2018, the ANFREL mission observed peaceful and credible by-elections with no significant incidents that could have negatively impacted the results. The electoral campaign was generally peaceful and in line with that of the 2017 by-elections. Few complaints were made, and the main subject of criticism was related to the use of images of government officials in campaign materials of the ruling party.

However, many inconsistencies were noted in the level of preparedness of polling staff and the setup of polling stations. Overall, the performance of the UEC and its sub-commissions was deemed to be good but marginally lower than that observed during the 2017 by-elections. Positive developments like the reversion of the voter list to household order or the computerization of tabulation operations were offset by negative ones such as the non-issuance of voter identification slips, a perfunctory attitude of poll workers towards election observers or the absence of a comprehensive electoral calendar.

There remained problematic areas where improvements were needed, among which were the advance voting mechanisms, the polling stations in military camps, or the updating process of the voter list.

ANFREL offers recommendations to overcome weaknesses evidenced in the 2018 by-elections, with the expectation that the national elections of 2020 will be more organized and better managed, such that the people of Myanmar may trust a rigorous and transparent democratic process satisfying the requirement for periodic, free, and fair elections.

REPORT DETAILS

1. Electoral Campaign

The campaign leading to the 2018 by-elections was generally very peaceful, with few incidents reported, and built on the improvements made during the 2017 by-election campaign. The guidelines laid down in the Code of Conduct for Political Parties and Candidates were agreed upon by all stakeholders and helpful in preventing tensions from arising.

Across the country, the electoral campaign was of low intensity, with a small number of public events and few voters engaging in activities offered by candidates and political parties. Nevertheless, in most constituencies, local election commissions took it upon themselves to coordinate with different political parties to ensure their campaigns would not conflict with one another or run contrary to the Code of Conduct.

Few complaints were made throughout the duration of the campaign period. The most recurrent subject of criticism regarded the use of images of government officials in campaign materials of the ruling party. Also, opposition parties complained about the number of official visits made by top officials, both at the national and the state/regional levels, to by-election constituencies during the campaign period. These complaints stemmed from vague wording in the electoral legal framework, and at least one of them remains to be solved by the UEC at the national level.

2. Election Day Operations

On November 3 our observers were present in 118 polling stations in 10 townships, including 15 for the opening process, 93 during voting hours and 10 for the closing process. Voting operations were conducted smoothly, despite minor errors in a number of polling stations, which did not

compromise the integrity of the ballot.

However, high variances were seen in the level of preparedness of polling staff and the set up of polling stations. Even some of the most basic regulations, like checking for ink on the voters' fingers or the requirement for voters to sign the voter list books, were not properly implemented in a few cases. ANFREL attributes these inconsistencies to the uneven training of polling staff, some of which had no prior experience in electoral management.

To address this, the UEC must focus on conducting intensive trainings for all staff to resolve these minor issues and guarantee the uniformity of the voting process. ANFREL also encourages the UEC to reiterate the use of tools such as the booklet "2017 Myanmar By-Elections: Polling Station Officer, Deputy Polling Station Officer and Polling Station Member' Manual", which was still distributed this year but not used often enough by polling staff.

Crowd management is also an area we felt could be improved, especially considering the low voter turnout, to prepare ahead of the 2020 general and local elections. ANFREL regrets the discontinuation of the voter identification slips, which were distributed in 2015 and 2017 and contributed both to educate voters and facilitate election day operations. In the few areas that issued voter slips for the 2018 by-elections, voters and polling staff were able to find names on the voter list much easier and faster, improving fluidity of the process.

Counting and tabulation were conducted in a transparent manner, with only minor mistakes to report, but sometimes took too long, which could be improved through increased training of poll workers. On this note, ANFREL welcomes the initiative to computerize tabulation operations which makes for a faster and more secure publication of final results.

Overall, many electoral procedures were not implemented in a uniform manner across the polling stations open on November 3, unlike what ANFREL observed in the two prior elections. In this regard, the 2018 by-elections fail to deliver any substantial improvement. Such stagnation feels like a missed opportunity in a fragile democratic context. Extra steps should be taken to ensure preparedness of all electoral stakeholders, sufficient voter education, and proper enforcement of the necessary safeguards.

3. Advance Voting

Advance voting remained a problematic area during the 2018 by-elections. While the system is generally transparent, it is undermined by complex timelines and eligibility criteria which rendered observation efforts difficult, and created confusion even among some of the best-informed election officials.

Reports from ANFREL observers evidenced the lack of uniform implementation for in-constituency advance voting mechanisms, with several instances of polling stations opening at a later date than they should have, to a point where it might have led to possible disenfranchisement.

In a significant improvement over last year, there were no reported occurrences of stamps being used instead of pens for advance voting ballots, and only two cases where the secrecy or integrity of ballots were compromised. Nevertheless, the level of preparation of poll workers with regards to advance voting procedures was still noticeably lower than the polling day.

ANFREL recognizes the efforts taken to provide persons with disabilities (PWDs) and the elderly with mobile voting if they registered with their local election subcommission, and encourages the UEC to increase communication on this process so that it could enfranchise more fragile voters in the future. However, this should not be a substitute for PWD-accessible polling stations.

The concerns we emitted in 2017 with regards to outside-constituency advance voting remain valid, with little available information and a limited grasp for the UEC over the procedures.

Electoral management bodies should consider taking steps to ensure a more harmonized and successful advance voting process, which could consist in publishing a manual on the subject, conducting specific training for polling staff, or alternatively simplifying existing regulations to make them more accessible to both voters and election officials.

4. Electoral Administration

Overall, the performance of the UEC and its sub-commissions was lower when compared to the 2017 by-elections. First, the UEC did not announce a comprehensive calendar for the 2018 by-elections, which significantly affected transparency of the electoral process. Second, while most of the regulations were, in principle, the same as last year, they were implemented in a more discretionary manner by electoral management bodies at all levels, resulting in an electoral process where rules were inconsistently implemented from one polling station to another, as pointed out above.

Polling staff did not always seem to have received enough information or instructions about election day procedures. While poll workers indicated that they received two days of training, some displayed perfunctory knowledge of their responsibilities. Therefore, ANFREL recommends sustained training for polling staff and encourages the UEC to publicly announce the electoral calendar for the 2020 national elections well in advance so that electoral stakeholders may properly prepare themselves.

There were no significant voter education efforts that were highlighted by ANFREL observers, apart from isolated endeavors from local election commissions, civil society organizations (CSOs) or village chiefs.

In total, the Union Election Commission accredited 1173 domestic observers, 256 international observers and 220 media representatives¹. Yet, polling staff were sometimes unaccommodating

¹ the 256 international observers are comprised of 159 diplomatic observers from 22 embassies, 70 observers from 8 electoral assistance providers (EAPs) and 27 from international election observation organizations (i.e. ANFREL)

towards election observers. There were cases where poll workers were unaware of observers' role or even unwelcoming until election commission officials would intervene.

As observers are essential in ensuring that voting processes are transparent, ANFREL suggests to the UEC to communicate on the subject and increase awareness of the rights and responsibilities of election observers. Regular and constructive dialogue between electoral management bodies and CSOs is essential to maintain a healthy democracy.

5. Voter List

Voter lists were displayed twice before the by-elections to allow for anyone to check their names and request corrections if necessary, but few voters seized this opportunity. Display of the lists in public spaces, such as markets, instead of the village/ward administration offices would make them more accessible, and may increase the number of people checking their information. A few election commissions also undertook efforts to update the list through door-to-door verification, an effective strategy appreciated by many people, but most did not. As a result, the 2018 voter list was only marginally improved over that of 2015.

ANFREL observers found a number of errors and inaccurate information in voter lists, which ranged from incorrect addresses to deceased individuals still present on the list. Only in a few isolated cases did these errors result in disenfranchisement of voters. Overall, the integrity of the voter list remains a prominent issue for Myanmar and there is significant room for improvements, but it did not negatively affect voters' ability to vote.

Language barriers also remain in remote areas where ethnic minorities are unable to read the Burmese script or to register with their proper name. For instance, one remote village in Shan state was reported to have only one name for all male voters and another for all female voters.

One positive development this year is that the voter lists were reverted back to household order, instead of the alphabetical order used in 2017. This allowed many voters to find their names more easily, a step that was however undermined by the absence of voter identification slips. Ideally, both should be used to ensure all Myanmar citizens are able to utilize the voter list effectively.

For the upcoming 2020 elections, the UEC ought to conduct an extensive overhaul of the voter lists so that they contain accurate information and ensure that every citizen is able to cast their vote. Door-to-door verification should be favored to update voter lists comprehensively. Furthermore, voter education efforts should be increased for voters to understand how to report their family's information to the UEC in time for the national elections.

6. Legal Framework

The electoral legal framework remained the same as during the 2017 by-elections. While it has contributed to the consolidation of the rule of law in Myanmar, it needs further reforms to allow a

fairer playing field and more open elections. For instance, the establishment of a fully elected parliament remains a fundamental step towards democratic governance.

Regarding the aforementioned complaints on constituency visits by top officials and the use of their image, the legal framework fails to address exactly what constitutes campaigning or party activities. As a result, electoral management bodies have to adjudicate disputes according to an interpretation of the law instead of clear regulations they can refer to.

Many stakeholders met by the ANFREL mission, of various affiliations, have expressed the desire for more regulation in order to fill such gray areas, lay basic ground rules to ensure fairer political competition, and prevent possible misuse of state resources.

7. Military Voting

Like in 2017, international and domestic election observers, as well as party agents, were able to monitor polling stations located inside military camps. While these generally showed good levels of efficiency, ANFREL needs to emphasize that even placing polling stations within military camps, which are controlled areas, run contrary to international standards for free and fair elections.

In one instance, ANFREL observers visited a military polling station displaying poor quality of crowd management and cluttered queues, as well as an insufficient number of booths for the huge number of voters, causing polling irregularities.

8. Security Situation

Across all 13 constituencies observed, members of the ANFREL mission had no significant incidents of violence to report. This was an achievement brought about by the cooperation of all stakeholders, especially the UEC and security-related branches of government.

However, some polling stations were located in villages where sporadic fighting would occur between ethnic armed groups and the military. There are many camps for internally displaced persons (IDPs) spread across Kachin and Shan states. In these unstable locations, problematic issues such as missing names in the voter list or the lack of voter education and political inclusion would often arise. ANFREL recommends finding a new location for polling stations in these critical areas, or another solution to provide full political rights for the local population.

9. Voter Education

Voters had a low level of awareness of the by-elections, especially in rural areas. They often heard about them from candidates who would come to campaign in their villages. This was aggravated by the little amount of coverage of the by-elections by national media. It was generally observed that voters lack information about the programs and backgrounds of candidates and therefore cannot make an informed decision on whom to vote for.

While there were great efforts in voter education by CSOs and media during both the 2015 and 2017 elections, very little was done in this aspect in 2018. Elections are an inclusive process of political participation that need active contribution from all stakeholders in order to be successful. The UEC should not be the sole provider of voter education, as the media, CSOs, religious leaders, and community at large also should take their part of responsibilities to ensure a thriving democratic environment.

10. Participation of Women

During the campaign period, women were seen participating in activities from all political parties. Unfortunately, women rarely play important roles in campaign teams or political party structures which remain dominated by men. In Myanmar, the participation of women in decision-making capacities in the political, administrative and economic spheres is very limited.

The proportion of women taking part as candidates has sharply decreased from 2017 and 2015, with only 7 female candidates out a total of 69, running in 4 of the 13 disputed constituencies. Similarly, all of the five commissioners newly appointed in the UEC are men. The selection process should be improved to accommodate and encourage the participation of women, reflecting Myanmar's commitment to inclusiveness.

A welcome development is the high number of women participating as polling staff. In comparison to the 2017 by-elections, our observers noticed they were more numerous and held more often the position of polling station officers. In this regard, ANFREL commends the UEC in taking steps to favor the inclusion of women in all stages of election day operations.

RECOMMENDATIONS

In light of our assessment, the ANFREL Mission would like to issue the following recommendations to improve the electoral process, specifically in preparation for the 2020 elections:

- Using the booklet “2017 Myanmar By-Elections: Polling Station Officer, Deputy Polling Station Officer and Polling Station Member’ Manual”.
- Publishing other appropriate manuals or guidelines as seen fit, and continuing training efforts for polling staff to ensure smooth voting operations.
- Considering changing advance voting procedures to make way for an easier, more manageable and more transparent process.
- Reintroducing the voter identification slip to reduce confusion among voters and help them find their names in the voter list.
- Giving priority to voter education efforts to increase voter turnout to reduce the number of invalid ballots. Voter education should be comprehensive and cover all aspects of the electoral process, from voter list registration to ballot casting.

- ❑ Announcing the electoral calendar in advance for future elections, as a guiding document to facilitate election management and appropriation of the process by all stakeholders.
- ❑ Reforming the legal framework to reduce the number of non-citizens and disenfranchised and fill any gaps in existing regulations.
- ❑ Taking steps to increase and encourage the participation of women in all areas of electoral process.
- ❑ Establishing regular communication between the UEC, election observers and other CSOs to advance democracy through sustained involvement from the civil society.