

A VOTE WITH NO CONFIDENCE

Myanmar's 2020 General Elections
and Rights of Ethnic and Religious Minorities



About Us

“Progressive Voice,’ or in Burmese, ရှေ့ပြေးအသံ ‘Shay Pyay Athan,’ was born out of Burma Partnership, a network of organizations throughout the Asia-Pacific region, advocating for and mobilizing a movement for democracy and human rights in Myanmar that was established in 2006.

Progressive Voice is a participatory rights-based policy research and advocacy organization rooted in civil society, that maintains strong networks and relationships with grassroots organizations and community-based organizations throughout Myanmar. It acts as a bridge to the international community and international policymakers by amplifying voices from the ground, and advocating for a rights-based policy narrative.

Contact Information



<https://progressivevoicemyanmar.org/>

info@progressive-voice.org

A VOTE WITH NO CONFIDENCE
**Myanmar's 2020 General Elections and Rights of
Ethnic and Religious Minorities**

October 2020

Contents

I. INTRODUCTION	1
II. UNION ELECTION COMMISSION.....	4
III. NATIONALISM AND CITIZENSHIP	4
RISING ULTRANATIONALISM AND HATE SPEECH.....	4
1982 CITIZENSHIP LAW	7
2010 ELECTION LAWS.....	8
INSTITUTIONALIZED DISCRIMINATION AND CITIZENSHIP DOCUMENTATION	9
DISENFRANCHISEMENT AND PARTICIPATION	11
IV. CIVIL WAR AND DISPLACEMENT	14
OVERVIEW OF CURRENT STATE OF CONFLICT	14
SECURITY CONCERNS AND PARTICIPATION	15
IDPs, REFUGEES AND PARTICIPATION	18
IMPACT ON THE PEACE PROCESS.....	19
V. COVID-19.....	20
VI. FREEDOM OF EXPRESSION.....	22
VII. MYANMAR MILITARY	23
VIII. CONCLUSION.....	24
IX. RECOMMENDATIONS TO ENSURE POLITICAL RIGHTS IN 2020 AND ALL FUTURE ELECTIONS.....	27

I. Introduction

In less than two weeks, on 8 November 2020, the Myanmar public will take to the polls and cast their vote in a national election. The 2020 general elections are the second to be held since reforms under Myanmar's military-drafted 2008 Constitution were implemented in 2011, after an election in 2010 brought the Constitution into effect. Although not touted with the same 'historic' or 'landmark' status as the 2015 general elections, this year's electoral process remains an important event given the troubled context of Myanmar's post-independence history, the majority of which was served under the repressive rule of consecutive military regimes dominated by the country's Bamar Buddhist majority.

Fanfare aside, the 2015 general elections, which saw Daw Aung San Suu Kyi and the National League for Democracy (NLD) win a landslide 79.4% of the vote,¹ were largely regarded by international and domestic observers as peaceful and free from irregularities. However, arbitrary and discriminatory decisions concerning the implementation of Myanmar's flawed citizenship legal framework and ongoing armed conflict and insecurity had in fact left hundreds of thousands of people from ethnic and religious minorities disenfranchised, while the absence of an independent election commission with sufficient capacity, cancelled voting in ethnic areas, inconsistencies with voting lists, soldiers voting within barracks, and other issues all raised serious questions over the credibility of the vote.

Five years on, and the NLD government has failed to deliver on structural reform of key institutions such as the military and judiciary; repealing repressive laws that curtail freedom of expression, association and assembly; resolving root causes of decades-long armed conflict; and ending the discrimination and violent persecution of Myanmar's ethnic and religious minorities. The role of civil society continues to be undermined, federal rights of ethnic nationalities are not being recognised, hate speech, intolerance and incitement to violence continue to circulate at dangerous levels, and the country is facing charges of genocide at the highest court in the world. The democratic space in Myanmar remains stifled and confined within the provisions of the military-drafted 2008 Constitution, under which 25% of seats in parliament are reserved for the military - a fundamental violation of democratic norms. Under these circumstances, the 2020 general elections cannot be considered fully democratic.

Under these circumstances, the 2020 general elections cannot be considered fully democratic.

¹ The Carter Centre, 'Observing Myanmar's 2015 General Elections,' 1 February 2016. Available at: <https://reliefweb.int/report/myanmar/observing-myanmars-2015-general-elections-final-report>



Photo 1 Unelected Myanmar military MPs in the Parliament (screenshot of Myanmar Union Parliament Meeting)

International human rights standards for democratic elections derive from the Universal Declaration of Human Rights (UDHR):

Everyone has the right to take part in the government of their country, directly or through freely chosen representatives; the will of the people will be the basis of the authority of government; this shall be expressed in periodic and genuine elections which will be by universal and equal suffrage and held by secret vote or by equivalent.²

The International Covenant on Civil and Political Rights (ICCPR) elaborates:

Every citizen, without discrimination, has the right to vote and to be elected at genuine periodic elections, by universal and equal suffrage and held by secret ballot, guaranteeing the free expression of the will of the electors.³

Myanmar is one of very few countries in the world not to have ratified the ICCPR, which is a central pillar of the international human rights framework. Despite persistent efforts and advocacy by Myanmar civil society and members of parliament calling on the government to sign the ICCPR, military members of parliament and their allies have consistently voted to obstruct the motion.⁴


The conditions needed for individuals to fully exercise their right to vote in line with the UDHR and ICCPR also requires realization of the rights to freedom of

² Article 21, Universal Declaration of Human Rights.

³ Article 25, International Covenant on Civil and Political Rights.

⁴ Constitution Net, 'Myanmar parliament rejects motion to join ICCPR amid claims that proposal process was unconstitutional,' 13 September 2019. Available at: <http://constitutionnet.org/news/myanmar-parliament-rejects-motion-join-iccpr-amid-claims-proposal-process-was-unconstitutional>

expression, association and assembly, freedom of movement and information, and freedom from coercion. There should be no discrimination with respect to the right to stand for election, such as on the basis of education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of their candidacy. Finally, an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly and impartially.⁵



There should be no discrimination with respect to the right to stand for election, such as on the basis of education, residence or descent, or by reason of political affiliation.

There are many context specific factors in Myanmar that are severely undermining these standards. Institutionalized discrimination coupled with vigorous advocacy by extreme Bamar Buddhist ultranationalist movements are denying vast numbers of Myanmar's ethnic and religious minorities their right to vote or stand for election. Ethnic communities plagued by armed conflict and displacement are also at risk of losing their right to vote, while ethnic political

parties and candidates are being marginalized. These issues are being compounded by the second wave of COVID-19, tight restrictions on freedom of expression, limitations on access to information and the role of the Myanmar military in subverting votes, all of which are disproportionately impacting on the political rights of ethnic and religious minorities and call into question the credibility of the 2020 general elections. Despite these serious shortcomings amounting to violations of political rights, there has been no response from the Myanmar National Human Rights Commission (MNHRC), which speaks to the inadequacy of the MNHRC as an independent and impartial body entrusted with promoting and safeguarding the fundamental rights of citizens in accordance with the Principles relating to the Status of National Human Rights Institutions (Paris Principles).

The purpose of this briefing paper, which is drawn predominantly from secondary research and interviews, is to provide an overview and background on some of these key issues undermining the integrity of Myanmar's 2020 general elections. There are many issues of concern to human rights that warrant further analysis and discussion, such as the poor representation of women and LGBTIQ+ political candidates, or candidates with disabilities, for example. However, the focus of this paper is on several overriding, interconnected and egregious challenges to human rights in Myanmar and their subsequent impact on the political rights of ethnic and religious minorities. Those challenges are broadly categorised as relating to nationalism and citizenship; conflict and displacement; COVID-19; freedom of expression; and the Myanmar military. These are followed by a conclusion and recommendations.

⁵ Human Rights Committee, General Comment 25.

II. Union Election Commission

Myanmar lacks an independent election commission, which is a requirement under international human rights law. The Union Election Commission (UEC) was established under the Union Election Commission Law, which was enacted by the previous military regime, State Peace and Development Council (SPDC), in 2010. It is the responsibility of the UEC to conduct general elections, register political parties and supervise their activities. The Commission is based in Nay Pyi Taw with sub commissions located at state/regional, district, township, and ward/village tract levels. At the national level, the UEC is a permanent body appointed by the president.⁶ This system favors the ruling party and lacks guarantees for pluralism, fair representation and impartiality in the composition of Commission members.⁷ The UEC operates without judicial or parliamentary oversight, with decision making mostly done behind closed doors. The UEC's lack of transparency and accountability undermines the credibility of Myanmar's election process.

III. Nationalism and Citizenship

Contentious issues surrounding nationalism and citizenship in Myanmar are amongst the most challenging to human rights and democracy development in the country. Pressure from extreme Bamar Buddhist ultranationalists, a highly discriminatory citizenship legal framework from the time of military rule and the arbitrary denial of citizenship documentation led to the disenfranchisement of almost the entire Rohingya population prior to the 2015 general elections, along with members of other ethnic and religious minorities. Ahead of the 2020 vote, ultranationalism, populism and extreme discrimination are once again decisive themes, and despite international condemnation the government has made no move to reform the laws and rules applying to citizenship, leaving large numbers unable to obtain citizenship cards and completely excluded from the democratic process as a consequence.

Rising Ultranationalism and Hate Speech

Fifty years of military rule characterized by totalitarianism and xenophobia, where divide and rule tactics were used to stoke fear and hatred between communities and justify the military's brutal suppression of non-Bamar Buddhist identity, have left

⁶ 2010 Union Election Commission Law.

⁷ The Carter Centre, 'Observing Myanmar's 2015 General Elections,' 1 February 2016. Available at: https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar-2015-final.pdf

deep scars in Myanmar's significantly diverse society.⁸ Following the political reforms of 2011, Myanmar experienced a surge in extreme Bamar Buddhist ultranationalist movements. The rapid uptake of new technology and social media, primarily Facebook, provided a platform for the mass circulation of hate speech, rumours, disinformation, defamatory and incendiary material targeting minorities, which was exploited by the military, powerful religious organizations, ultranationalists, including from the 969 movement⁹ and the Ma Ba Tha,¹⁰ and other maligned actors.¹¹

These movements have fuelled hatred, violence and human rights violations against ethnic and religious minorities across the country, with Myanmar's Muslim population most acutely targeted. In 2012 extreme violence was incited against Rohingya as well as Kaman Muslims in central Rakhine State. Muslim neighborhoods were razed to the ground forcing around 120,000 people into camps where they are still confined today. The following year, deadly violence was incited and committed against the Muslim community in Meiktila, central Myanmar. Hundreds of homes were destroyed and among those killed were 36 boys and teachers slaughtered at an Islamic boarding school. After the violence in Meiktila, attacks against Muslims broke out elsewhere in central Myanmar, including Okpho, Gyobingauk, and Minhla Townships of Bago Region.¹² There have also been increasing incidents of intimidation and violence against Christian and Hindu communities, albeit not to the extreme extent that have been experienced by Muslims, with places of worship destroyed or prevented from being constructed, and worshippers physically and verbally abused.¹³

Under the NLD, extremist groups such as Ma Ba Tha have been forced to operate more covertly, but they remain organized and able to disseminate their ultranationalist ideology. Meanwhile, the government has done nothing to address the root causes of hatred and racism. When the military and security forces inflicted

⁸ Nick Cheesman, 'How in Myanmar "National Races" Came to Surpass Citizenship and Exclude Rohingya,' *Journal of Contemporary Asia*, 15 March 2017. Available at: <https://www.tandfonline.com/doi/abs/10.1080/00472336.2017.1297476>

⁹ The 969 movement is a Buddhist extremist movement that portrays itself as a grassroots association dedicated to "promoting and protecting religion." However, it's overriding message is that Islam is threatening to overrun Myanmar, and that Buddhists must stand up and defend the nation. The principal advocate of the 969 Movement is the notorious ultranationalist monk U Wirathu.

¹⁰ Ma Ba Tha, or the Organisation for the Protection of Race and Religion, surfaced in June 2013 with the stated aim of defending Buddhist Myanmar against alleged Islamisation. It was instrumental in successfully pressuring the Union Solidarity and Development Party government to enact four anti-Muslim laws on race and religion in 2015. In 2017, the NLD banned Ma Ba Tha, but the organisation has rebranded itself as the Buddha Dhamma Parahita Foundation.

¹¹ 19 Organizations, 'Hate Speech Ignited: Understanding Hate Speech in Myanmar,' *Progressive Voice*, Burma Monitor and International Human Rights Clinic at Harvard Law School, 8 October 2020. Available at: <https://progressivevoicemyanmar.org/2020/10/08/hate-speech-ignited-understanding-hate-speech-in-myanmar/>

¹² Human Rights Watch, 'Burma: Satellite Images Detail Destruction in Meiktila Investigations, Accountability Needed to Deter Future Attacks,' 1 April 2013. Available at: <https://www.hrw.org/news/2013/04/01/burma-satellite-images-detail-destruction-meiktila>

¹³ U.S. Department of State '2019 Report on International Religious Freedom: Burma,' 10 June 2020. Available at: <https://www.state.gov/reports/2019-report-on-international-religious-freedom/burma/>

mass atrocities against the Rohingya in northern Rakhine State in 2016 and 2017, killing, torturing and raping thousands, and forcing around 800,000 people to flee across the border into Bangladesh,¹⁴ the operations were met with widespread public support - thousands rallied in cities across the country commending the troops and outpourings of praise for the military spread across social media.¹⁵ Such widespread hate speech and extreme anti-minority sentiment is a major factor as to why domestic accountability for these atrocities and other human rights violations remains almost non-existent and impunity prevails.¹⁶

As the ultimate arbiter of power for so many years, the Myanmar military, has long benefited from the constructed narratives of hate aimed at advancing Bamar Buddhist dominance at the expense of ethnic and religious minorities in the country. But more recently, the NLD government has increasingly aligned itself with such rhetoric, and there has been a fundamental shift in the government's policies.¹⁷

In a calculated move to ensure her popularity with voters ahead of the upcoming general elections, Daw Aung San Suu Kyi has co-opted the racist sentiment directed at the Rohingya and sought to turn it to her party's advantage in the polls. In 2019, she took the decision to defend the military against charges of genocide against the Rohingya in 2016 and 2017 at International Court of Justice brought against Myanmar by The Gambia. She denied the allegations and refused to acknowledge the existence of the Rohingya. In September 2020, when delivering an NLD campaign broadcast she ramped up the populist rhetoric, emphasising her

¹⁴ These events are now subject to multiple accountability efforts at the international level. On 11 November 2019, The Gambia instituted proceedings against Myanmar before the International Court of Justice (ICJ), alleging violations of the Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention") through "acts adopted, taken and condoned by the Government of Myanmar against members of the Rohingya group". The Application also contains a request for the indication of provisional measures, seeking to protect the rights of the Rohingya group under the Genocide Convention, and to prevent the aggravation or extension of the dispute pending the final judgment of the Court. After public hearings on the request for provisional measures, the Court's 15 judges unanimously indicated four provisional measures in order to preserve certain rights claimed by The Gambia for the protection of the Rohingya, including the prevention of the commission or acts of genocide, conspiracy or incitement to commit genocide, or destruction of evidence.

On 14 November 2019, Pre-Trial Chamber III of the International Criminal Court (ICC) authorised the Prosecutor to proceed with an investigation for alleged crimes within the ICC's jurisdiction in the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar ("the situation in Bangladesh/Myanmar"). The Pre-Trial Chamber received submissions from hundreds of thousands of victims of the atrocities who unanimously insisted that they want an investigation by the Court and many of whom 'believe that only justice and accountability can ensure that the perceived circle of violence and abuse comes to an end'. Upon review of the available information, the Chamber accepted that there exists a reasonable basis to believe widespread and/or systematic acts of violence may have been committed that could qualify as the crime against humanity of deportation across the Myanmar-Bangladesh border and persecution on grounds of ethnicity and/or religion against the Rohingya population.

¹⁵ David Mathieson, 'Myanmar army enjoys popularity surge amid Rohingya crackdown,' AP News, 17 January 2018. Available at: <https://apnews.com/article/61b769ea85164d2ca433371321a1e1a6>

¹⁶ 19 organizations, "Hate Speech Ignited: Understanding Hate Speech in Myanmar," Progressive Voice, Burma Monitor and International Human Rights Clinic at Harvard Law School, 8 October 2020. Available at: <https://progressivevoicemyanmar.org/2020/10/08/hate-speech-ignited-understanding-hate-speech-in-myanmar/>

¹⁷ Ibid.

government's promise to build a K20 billion wall along the Bangladesh border and the need to defend the country in the international arena.

Against this backdrop, the prospects for an end to violence, persecution, discrimination, and intolerance directed towards ethnic and religious minorities, and domestic accountability for those responsible, appears bleak. The 2020 general elections are providing both an incentive and a platform for those who benefit from the oppression of these communities to heighten their narratives of racial exclusion. These narratives are given effect through Myanmar's discriminatory citizenship legal framework, which results in violation of the political rights of hundreds of thousands of the population most in need of a voice.



Photo 2 People gather to rally in Yangon in support of Myanmar State Counsellor Daw Aung San Suu Kyi before her appearance at the International Court of Justice (Photo credit: Reuters)

1982 Citizenship Law

Myanmar's citizenship legal framework is centred on a political concept; that of “national races” or *taingyintha*, which came to prominence during General Ne Win's military dictatorship. Critically, it was under General Ne Win, almost forty years ago, that the regime identified 135 ethnic groups as comprising the “national races”. This figure was reached without explanation but remains the number of ethnic groups officially recognised by the Myanmar government today,¹⁸ while the ground reality contests its accuracy. Famously, it does not include the Rohingya – a

¹⁸ Thet Zin Soe, 'State Counsellor laments abuse of democratic space,' Myanmar Times, 9 October 2020. Available at: <https://www.mmtimes.com/news/state-counsellor-laments-abuse-democratic-space.html>

deliberate fact that has had terrible consequences. The identification of 135 ethnic groups as being the national races of Myanmar is arbitrary and was intended to serve the Bamar Buddhist nationalist motivations of a brutal and xenophobic military junta with the purpose of dividing, oppressing and excluding.

The regime went on to draft a citizenship law that would take the concept of national races and embed it within Myanmar's legislation, making membership within a national race the basis for determining the rights of someone claiming to be a citizen of Myanmar. The earlier 1948 Union Citizenship Act had already stipulated belonging to an 'indigenous' race as a criterion for accessing citizenship, but also provided for citizenship through residence or birth.¹⁹ The 1982 Citizenship Law represents a shift towards an entirely ethnic-based conception of belonging and was drafted by the Ne Win dictatorship in the context of a violent military operation intended to identify residents as either citizens or foreigners, which resulted in gross human rights violations against ethnic and religious minorities and mass, forced deportations.²⁰ It sought to relegate anyone deemed as not belonging to a national race to a lower class of citizenship or exclude them from citizenship altogether. The Citizenship Law was enacted in 1982 and remains in effect today. It is still the central pillar of contemporary Myanmar's citizenship framework.

The 1982 Citizenship Law establishes a three-tiered hierarchy of citizenship status: **Full citizenship**, granted on the basis of several grounds, the most important of which is membership in a *taingyintha*; **Associate citizenship**; and **Naturalized citizenship**, which may be acquired by non-*taingyintha* who are able to provide "strong" evidence that their ancestors resided in Myanmar prior to 1948.²¹

The associate and naturalized categories of citizenship effectively designate second-class citizenship. Second-class associate or naturalized citizens experience discrimination to varying degrees affecting nearly all aspects of their lives. They are often branded by authorities as being "mixed blood". By using the concept of national races as the basis for determining the citizenship rights of people in Myanmar, the 1982 Citizenship Law is, by design, both highly discriminatory and arbitrary. It institutionalizes discrimination on the basis of race or ethnicity and gives authorities the discretion to arbitrarily deny citizenship.

2010 Election Laws

Myanmar's Election Laws were issued in 2010 by the ruling military regime of the time, the State SPDC. The SPDC issued five laws relating to elections: the Union Election Commission Law; Political Parties Registration Law; Pyithu Hluttaw Election Law; Amoyotha Hluttaw Election Law; and Region Hluttaw or State

¹⁹ 1948 Union Citizenship Act.

²⁰ José María Arraiza and Olivier Vonk, 'Report on Citizenship Law: Myanmar,' European University Institute, Robert Schuman Centre for Advanced Studies and Global CIT, 14 October 2017. Available at: https://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS_GLOBALCIT_CR_2017_14.pdf

²¹ Justice Base, 'A legal guide to citizenship and identity documents in Myanmar,' 9 December 2018.

Hluttaw Election Law.²² The SPDC did not seek or permit any civil society or public input or scrutiny during the drafting process. Under the 2010 Election Laws, those eligible to vote are citizens, associate citizens and naturalized citizens²³ aged 18 years or over, who have been included on the voting roll of their respective constituency. With voting rights tied to citizenship, those arbitrarily denied citizenship under the 1982 Citizenship Law are denied their right to vote.²⁴

Those eligible to stand for election are citizens aged 25 and over, who have resided in Myanmar for at least ten consecutive years up to the time of the election, who are included on the voting roll and whose parents are citizens. Associate citizens, naturalized citizens or citizens born of parents both or one of whom was not citizen at the time of their birth are not eligible to stand in elections, in violation of international standards.²⁵

The voter roll is compiled by the Ward or Village Tract Sub-commission, and should include every citizen, associate citizen and naturalized citizen who are residents in a relevant constituency and are 18 years or over on the day of the election. Every citizen, associate citizen, naturalized citizen whose name is included in the voting roll of a constituency has the right to vote only in that constituency.²⁶

Institutionalized Discrimination and Citizenship Documentation

Citizenship Scrutiny Cards (CSCs) are issued to individuals according to the 1982 Citizenship Law. Prior to the 1982 Citizenship Law being implemented, individuals held National Registration Cards (NRCs), which served as *de facto* citizenship documents. For this reason, CSCs are also often referred to as NRCs. Full citizens receive a pink card, associate citizens a blue card (ACSC), and naturalized citizens a green card (NCSC). People can apply for their CSC once they turn 10 years old, and should renew it at ages 18, 30 and 45.²⁷ As they provide proof of citizenship, they are needed to register to vote. However, many people have their CSC application refused or pending for long periods of time. Immigration officers are not required to give reasons for refusing an application for citizenship documentation, leaving the process entirely vulnerable to discrimination, arbitrary decision making and corruption.

Muslims, Christians and Hindus, as well as people of perceived South Asian heritage, suffer particular discriminatory treatment.²⁸ Individuals are subjected to greater scrutiny and required to pay hundreds of dollars' worth of 'tea money' in

²² National Democratic Institute 'Burma's 2010 Electoral Framework: Fundamentally Undemocratic,' 2 August 2010. Available at: https://www.ndi.org/Burma_Electoral_Framework

²³ Temporary Certificate Holders were also eligible to vote under the 2010 Election Laws. However, these certificates expired in 2015 and the voting rights of holders were not restored.


²⁴ Chapter IV, 2010 Pyithu Hluttaw Election Law.

²⁵ Chapter V, 2010 Pyithu Hluttaw Election Law.

²⁶ Chapter VI, 2010 Pyithu Hluttaw Election Law.

²⁷ Justice Base, 'A legal guide to citizenship and identity documents in Myanmar,' 9 December 2018.

²⁸ *ibid.*



The results of the 2020 general elections will not reflect the will of the people when so many are disenfranchised on the basis of ethnicity or religion.

order for their application to be processed. If they cannot pay, the wait for citizenship documentation can last years; people have reported having to wait more than a decade for ID cards.²⁹ In some cases, applicants never receive any decision at all. Unable to prove their citizenship, individuals are denied the right to vote or stand for election. When applicants do receive documents, they may denote false foreign identities such as Indian, Pakistani or 'Bengali',³⁰ or grant a different level of citizenship, with fewer rights, than they are entitled to under the law. Branded with a lower status of citizenship, individuals may be denied the right to stand for election. Individuals report that discrimination against ethnic and religious minorities in obtaining citizenship documentation is worse now than during military rule.³¹

When CSCs were first issued in the 1990s, some members of Myanmar's ethnic and religious minorities turned in their old NRCs but did not receive CSCs in return. This includes the majority of Rohingya, who along with other Muslims in Rakhine were forced to accept Temporary Registration Cards (TRCs) in place of their surrendered NRCs.³² The TRCs, which allowed holders to participate in elections, expired on 31 March 2015. When the cards expired, individuals lost their voting rights. Under pressure from extreme Bamar Buddhist ultranationalists, these were not restored by the military-backed Union Solidarity and Development Party (USDP) government, and consequently the majority of Rohingya were completely disenfranchised and unable to participate in the November 2015 general elections. In place of the expired TRCs, authorities began issuing National Verification Cards (NVCs). In addition to Rohingya, the authorities are also reported to have issued NVCs to Muslims in other parts of the country and other minorities in Shan and Karen States.³³ NVCs designate holders as foreigners and do not confer voting rights.

²⁹ Associated Free Press, "I want to vote": Myanmar's Muslims, Hindus sidelined in election, 28 August 2020. Available at: <https://www.france24.com/en/20200828-i-want-to-vote-myanmar-s-muslims-hindus-sidelined-in-election>

³⁰ Pyae Soe Aung, 'Who gets to vote?' Frontier Myanmar, 8 September 2020. Available at: <https://www.frontiermyanmar.net/en/who-gets-to-vote/>

³¹ Associated Free Press, "I want to vote": Myanmar's Muslims, Hindus sidelined in election, 28 August 2020.

³² Fortify Rights, "Tools of Genocide" National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar, 3 September 2019. Available at: <https://www.fortifyrights.org/mya-bgd-rep-2019-09-03/>

³³ Human Rights Council, 'Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar,' 12 September 2018. Available at: https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_64.pdf

Disenfranchisement and Participation

Pervasive hate speech, anti-minority attitudes and pressure from Buddhist ultranationalists, the ethnicity-fixated 1982 Citizenship Law, and its implementation through the discriminatory and arbitrary issuance or non-issuance of various forms of citizenship documentation are resulting in the violation of political rights for unknown numbers of Myanmar's ethnic and religious minority population.

The nearly one million Rohingya refugees in Bangladesh, hundreds of thousands of Rohingya still living in northern Rakhine State, 120,000 confined to Internally Displaced Person (IDP) camps in central Rakhine State, and unknown numbers who have fled Rakhine State for other countries and parts of Myanmar will almost all be unable to vote in the 2020 general elections. Many more Muslim, Christian, Hindu and other would-be voters from ethnic and religious minority communities across Myanmar have reported being obstructed from obtaining their citizenship documents due to arbitrary decisions by authorities and a bureaucracy that institutionalizes discrimination against them, and therefore will be unable to vote.³⁴



Photo 3 Rohingya refugee camp in Bangladesh: An overview of the dense living conditions in one of the Rohingya refugee camps in Cox's Bazar district (Photo credit: Omar Munna/The Third Pole)

³⁴ Associated Free Press, "I want to vote": Myanmar's Muslims, Hindus sidelined in election, 28 August 2020; Pyae Soe Aung, 'Who gets to vote?' Frontier Myanmar, 8 September 2020.

The results of the 2020 general elections will not reflect the will of the people when so many are disenfranchised on the basis of ethnicity or religion.³⁵

The same legal framework and institutionalized discrimination also denies individuals the right to participate and stand for election. As late as October 2020, well into the campaign period, one of very few Rohingya candidates, U Aye Win, had his candidacy arbitrarily annulled by the UEC on the grounds that his father did not have citizenship documentation when he was born.³⁶ Several weeks earlier Rohingya independent candidates U Thar Aye and Khin Khin Lwin, and four others from U Aye Win's party, the Democracy and Human Rights Party, had their candidacy applications rejected by the UEC on similar false grounds, including the party's leader, U Kyaw Min.³⁷ U Kyaw Min contested in the 1990 election and won a parliamentary seat. Similarly, Thar Aye was also allowed to contest the 1990 election and the 2010 election.³⁸ Additionally, U Maung Maung, a Muslim from Mon State and former member of the NLD, was rejected as an independent candidate based upon him not being considered a citizen at the time of his birth.³⁹

Even where potential minority candidates are able to 'prove' eligibility, entrenched discrimination and pressure from Bamar Buddhist ultranationalists results in very few actually running. After declining to nominate a single Muslim candidate in 2015, the NLD has only chosen two for the 2020 general elections. Even so, in August hundreds of Buddhist monks and others signed a petition demanding that one of them, Daw Win Mya Mya, be removed. This was dismissed by the NLD.⁴⁰ Hate speech is also being deployed as part of campaign strategies leading up to the general elections. For example, a photo of a campaign poster by an independent parliamentary candidate in Latha Township, Yangon, in which he proudly pronounces his 'No Rohingya' policy, has been widely circulated.⁴¹ NLD spokesperson Dr Myo Nyut later stated that while he believed political candidates shouldn't use such slogans, as the government does not recognise the Rohingya as

³⁵ Human Rights Council, "UN human rights expert calls for immediate end to military assaults on Rakhine villages, decries mounting death toll of children" Statement by UN Special Rapporteur on Human Rights in Myanmar, Thomas Andrews, 22 September 2020. Available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26279&LangID=E>

³⁶ Kyaw Myo Aung, 'Muslim candidate's bid voided in late-stage election commission reversal,' Development Media Group, 7 October 2020. Available at: <https://www.dmediag.com/news/2083-msl-mp-uec-dte>

³⁷ Kyaw Lin Htoon, 'Election commission accused of discrimination after rejecting Rohingya candidates,' Myanmar Now, 20 August 2020. Fortify Rights 'Myanmar: Reverse Decision to Bar Rohingya from Elections', 31 August 2020. Available at: <https://www.fortifyrights.org/mya-inv-2020-08-31/>.

³⁸ Ibid.

³⁹ Yan Lin Aung 'Mon State Election Commission Rejects Independent Candidate,' 28 August 2020. Available at: <https://www.bnionline.net/en/news/mon-state-election-commission-rejects-independent-candidate>.

⁴⁰ Yan Moe Naing, 'Officials 'investigating' after hundreds of monks sign petition against Muslim NLD candidate,' Myanmar Now, 28 August 2020. Available at: <https://myanmar-now.org/en/news/officials-investigating-after-hundreds-of-monks-sign-petition-against-muslim-nld-candidate>

⁴¹ Progressive Voice, 'Controlling the Narrative at Home and Abroad,' 2 October 2020. Available at: <https://progressivevoicemyanmar.org/2020/10/02/controlling-the-narrative-at-home-and-abroad/>

an ethnic group, the poster was not in violation of campaign rules against using religion or nationality.⁴²



Photo 4 Campaign poster stating the “No Rohingya” policy of an independent parliamentary candidate in Latha Township, Yangon (screenshot of Myanmar Now news coverage)

Endorsement of the 2020 electoral process under these conditions legitimizes and further entrenches the discrimination experienced by members of Myanmar’s ethnic and religious minorities. In September 2020, the mVoter 2020 app developed with the support of international organizations and donors was launched. Adding fuel to the climate of Bamar Buddhist ultranationalism and hate speech against minorities, the app highlights the race and religion of candidates and that of their mother and father. Moreover, the app labels Rohingya candidates as ‘Bengali’, a derogatory term used to deny Rohingya identity, which challenges their right of belonging in Myanmar and incites hate.⁴³

The 2020 general elections, where political rights are determined by a discriminatory citizenship legal framework and in the context rising Bamar Buddhist ultranationalism that is not only permitted but embraced by those in

⁴² Radio Free Asia, ‘Hate Speech Against Rohingya in Myanmar Election Has Worrisome Precedents,’ 13 October 2020. Available at: <https://www.rfa.org/english/news/myanmar/hate-speech-10132020192900.html>

⁴³ Justice for Myanmar, ‘Justice For Myanmar condemns EU, IDEA and Asia Foundation mVoter 2020 app, which erases Rohingya identity and instigates racism and Buddhist nationalism,’ 3 October 2020. Available at: <https://www.justiceformyanmar.org/press-releases/justice-for-myanmar-condemns-eu-idea-and-asia-foundation-myvoter-2020-app-which-erases-rohingya-identity-and-instigates-racism-and-buddhist-nationalism>

power is in violation of international standards and risks worsening the already deteriorating human rights situation in the country.

IV. Civil War and Displacement

Myanmar has experienced one of the world's longest running civil wars, since shortly after independence in 1948. Ultimately, the source of the conflict is that the promise made in 1947 of a federal democratic union guaranteeing the principles of equality and autonomy for the many ethnic nationalities that form the Union of Myanmar has never been realised. For decades, the Myanmar military has waged armed conflicts in Myanmar's ethnic states where dozens of Ethnic Armed Organizations (EAOs) from amongst the Karen, Karenni, Shan, Ta'ang, Mon, Kachin, Chin, Rakhine and other ethnic groups have formed over the years to defend their lands and fight for greater autonomy from militarily imposed centralized rule. For generations, the military's operations have involved directly targeting the ethnic minority civilian population, in violation of international law. These operations continue today. The current peace process, launched in 2011, is at a standstill, and this period has seen some of the most intense fighting in Myanmar in the past decades. The many impacts of armed conflict, insecurity and displacement in ethnic areas severely impedes the ability of people to participate in elections on an equal basis, further marginalizing these communities. Moreover, the vast numbers of ethnic nationals whose political rights are denied as a result of conflict and displacement will impact voting demographics and election results, further undermining the results of the 2020 general elections.

Overview of Current State of Conflict

Myanmar's most serious conflict is currently taking place in Rakhine and Chin States, where the military has been engaged in heavy fighting with the Arakan Army since late 2018. The Myanmar military is targeting civilians with impunity, and war crimes and crimes against humanity continue to be reported. More than 220,000 people have now been displaced by the conflict.⁴⁴ In 2019, serious fighting erupted for several weeks between the military and EAOs in northern Shan State, and the situation remains volatile. There has been instability and ongoing clashes between the military and EAOs and between EAOs in northern Shan and Kachin States since 2011, again with reports of ongoing war crimes and crimes against humanity taking place. Hundreds of thousands of people remain in IDP camps across the region as

⁴⁴ Khaing Yoe Hla, 'Rakhine State IDPs Exceed 36,000 Since August: Myanmar NGO,' The Irrawaddy, 5 October 2020. Available at: [https://www.irrawaddy.com/news/burma/rakhine-state-idps-exceed-36000-since-august-myanmar-ngo.html#:~:text=Sittwe%2C%20Rakhine%20State%20%E2%80%94%20More%20than,Rakhine%20Ethnic%20Congress%20\(REC\)](https://www.irrawaddy.com/news/burma/rakhine-state-idps-exceed-36000-since-august-myanmar-ngo.html#:~:text=Sittwe%2C%20Rakhine%20State%20%E2%80%94%20More%20than,Rakhine%20Ethnic%20Congress%20(REC))

a result with unknown numbers of Kachin, Shan, Ta'ang and others forced into displacement in China and Thailand. Clashes have broken out between the Myanmar military and the Karen National Liberation Army – the armed wing of the Karen National Union – this year⁴⁵ and clashes were also observed in Mon State at the end of last year,⁴⁶ reflecting rising tensions and instability in the southeast of Myanmar.⁴⁷ An estimated 160,000 people are displaced in Karen, Mon and Karenni States and Tanintharyi Region, and approximately 100,000 mostly Karen and Karenni people are living in refugee camps on the Thai border, having fled military campaigns in the 1990s and 2000s and still unable to safely return.⁴⁸ The endless cycles of conflict in ethnic states has also contributed to there being an estimated four million migrants in countries neighboring Myanmar, the majority of them non-Bamar.⁴⁹

Security Concerns and Participation

In October 2015, the UEC announced that voting for the 2015 general elections would be cancelled in constituencies in Bago Region, Kachin, Karen, Mon and Shan States due to the 'security situation'. The decision making lacked any transparency, with no clear process, criteria or consultation, creating suspicions that the cancellations were politically motivated.⁵⁰ This year, on 16 October, the UEC made a similar announcement, this time adding Rakhine State to the list.⁵¹ The UEC has unilaterally cancelled voting in nine out of 17 constituencies in Rakhine State. Seven

⁴⁵ Network Media Group 'First Months of 2020 See Dozens of Clashes Between Burma Army, KNU,' 2 April 2020. Available at: <https://bit.ly/37HL9F9>.

⁴⁶ Lawi Weng, 'Mon Ethnic Party: Myanmar Gov't, Military Lack Political Will for Federalism, Equality,' The Irrawaddy, 8 January 2020. Available at: <https://www.irrawaddy.com/news/burma/mon-ethnic-party-myanmar-govt-military-lack-political-will-for-federalism-equality.html>.

⁴⁷ Network Media Group 'First Months of 2020 See Dozens of Clashes Between Burma Army, KNU,' 2 April 2020. Available at: <https://bit.ly/37HL9F9>.

⁴⁸ Internal Displacement Monitoring Centre, "'Before You Were Born, Your Mother Ran" Displacement and Disillusion in South-east Myanmar,' December 2019. Available at: <https://www.internal-displacement.org/sites/default/files/publications/documents/201912-myanmar-cross-border-report.pdf>; and The Border Consortium, 'Refugee Camp Populations: September 2020', September 2020. Available at: <https://www.theborderconsortium.org/wp-content/uploads/2020/10/2020-09-September-map-tbc-unhcr.pdf>.

⁴⁹ Lahpai Seng Raw, 'What Elections Really Mean For Us: the 2020 Polls in Myanmar A Commentary by Lahpai Seng Raw,' Transnational Institute, 7 October 2020. Available at: <https://www.tni.org/en/article/what-elections-really-mean-for-us-the-2020-polls-in-myanmar>

⁵⁰ Mary Callahan; Myo Zaw Oo 'Myanmar's 2020 Elections and Conflict Dynamics,' United States Institute of Peace, 15 April 2019. Available at: <https://www.usip.org/publications/2019/04/myanmars-2020-elections-and-conflict-dynamics>

⁵¹ Sai Wansai, 'STRANGULATION OF POLITICAL SPACE: UEC cancelled voting in five ethnic states and a division,' 19 October 2020. Available at: https://english.shannews.org/archives/21973?fbclid=IwAR1eQsufKR_IRPP_7vfiNqzkCCXLfnrF6LkCg-8xRTXKQsdvj5ZuAcwZUxg

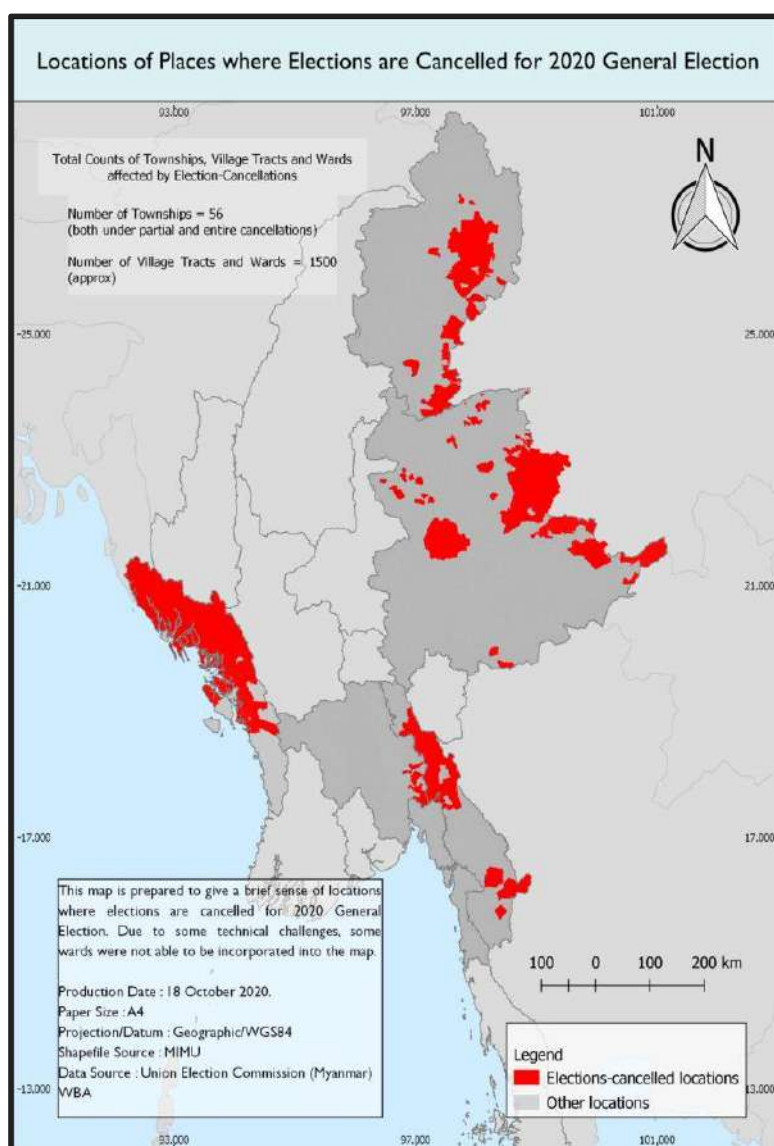


Photo 5 Locations of village tracts where voting for the 2020 general elections has been cancelled (Photo credit: Shan News)

of the nine constituencies are currently held by the Arakan National Party (ANP), and the other two by the USDP. The ANP is currently the third largest party in parliament after the NLD and USDP. The decision means that more than one million people in Rakhine State will be unable to vote in the 2020 general elections. Two townships in Bago Region will be affected by partial voting cancellations, as will eleven in Kachin State, six in Karen State, one in Mon State, fifteen in Shan State and a further six townships in Shan State subject to total voting cancellation.

Besides voting cancellations, there are many other impacts of the armed conflicts in ethnic areas that may undermine many more people's right to vote. For example, the threat of violence or other dangers such as from landmine contamination may deter voters from traveling to polling stations and casting their ballot, or even being able to check whether they have been correctly included on the voter registration lists.

Conflict and insecurity are also suppressing the right of people in affected areas to stand for election, independently or for ethnic political parties, on an equal basis with candidates from the larger national parties. For example, political parties in Rakhine State in particular are being prevented from reaching voters during the 2020 campaign period. The rights to freedom of expression, association, assembly, movement and information of people in Rakhine State have been heavily curtailed for more than a year now as the conflict intensified between the Myanmar military and the Arakan Army. The military has imposed tight travel restrictions which have recently been compounded by stay-at-home orders due to a local outbreak of COVID-19. Eight townships in northern Rakhine and Chin States were subject to a year-long internet shutdown imposed by the government. The government has claimed the internet has now been restored but only a 2G network is accessible, which does not provide meaningful internet access and flow of information. Additionally, as part of a broader clampdown on criticism of itself and the military, the government has suppressed ethnic news outlets in Rakhine that have been reporting on the conflict.⁵² Consequently, local candidates and political parties have been left with little to no means of campaigning and sharing policies with the electorate. This is a serious disadvantage when compared to NLD candidates, whose party have full access to state television, radio and publications. Another example of the conflict impacting on political rights is that of a current Rakhine State member of parliament for the Arakan National Party, whose application to re-run as a candidate in 2020 was arbitrarily rejected due to his son's connection to the Arakan Army.⁵³

⁵² Human Rights Watch, 'Myanmar: End Harassment of Rakhine Media Outlets,' 1 September 2020. Available at: <https://www.hrw.org/news/2020/09/01/myanmar-end-harassment-rakhine-media-outlets>

⁵³ Radio Free Asia, 'Rakhine Lawmaker Disqualified After Son Deserts Myanmar Army For Rebel Force,' 31 August 2020. Available at: <https://www.rfa.org/english/news/myanmar/lawmaker-disqualified-08312020171115.html>

IDPs, Refugees and Participation

Those living in IDP camps or other forms of displacement due to conflict face challenges in exercising their democratic rights, casting their vote and standing for election. People among the 220,000 currently displaced in Rakhine State have expressed being unable to think of anything other than survival.⁵⁴ In the chaos of having to flee the priority is on finding food, water and shelter; not voting lists and polling stations. IDPs in Shan State who have been living in camps for several years have reported that they will be denied their voting rights as they lack the necessary documentation to prove their citizenship. They were unable to vote in the 2010 and 2015 general elections.⁵⁵ This situation is likely to affect a large number of Myanmar's IDP population - over the years, hundreds of thousands of people from ethnic minorities have been forced to flee the Myanmar military's decades long counter-insurgency campaigns, during which civilians are systematically targeted and homes razed leaving individuals and their families without necessary evidence required to prove citizenship and register to vote.

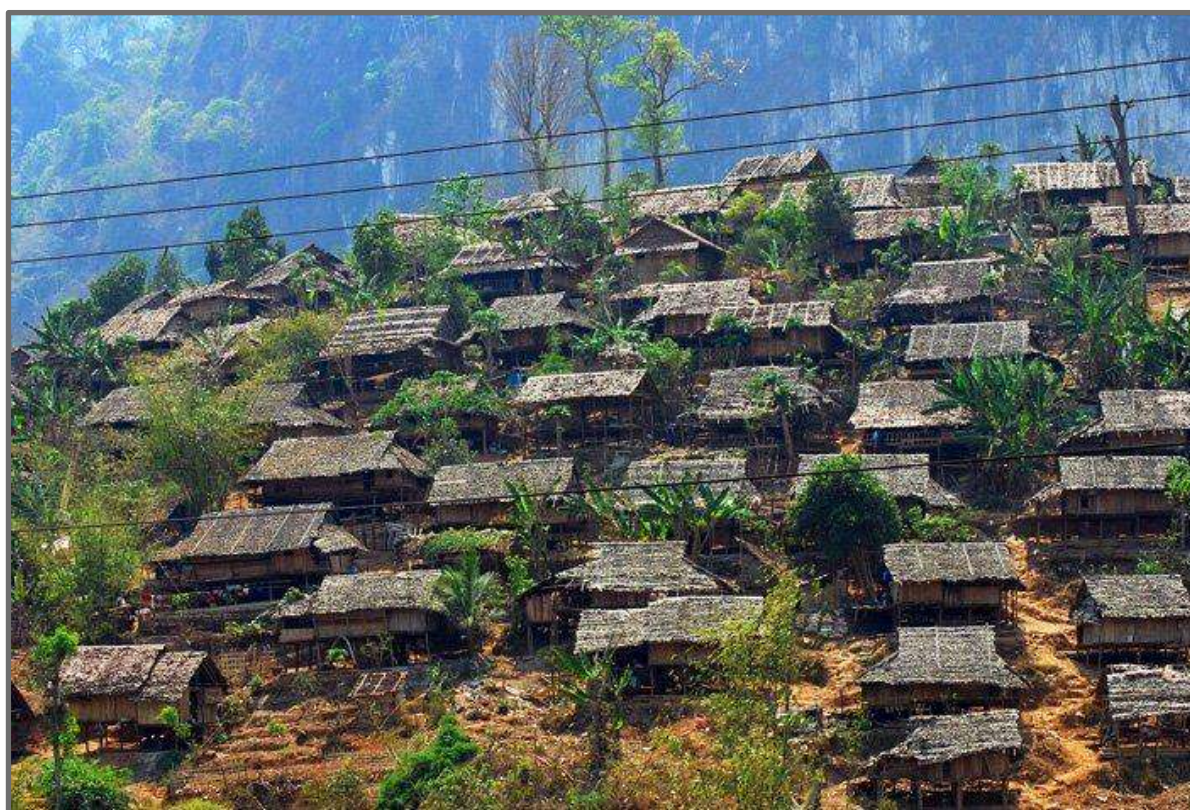


Photo 6 Mae La refugee camp on the Thailand-Myanmar border (Photo credit: Karen News)

⁵⁴ 'Min Aung Khine, 'Rakhine Parties Slam COVID-19 Campaign Restrictions Ahead of Myanmar's Election,' The Irrawaddy, 10 September 2020. Available at: <https://www.irrawaddy.com/elections/rakhine-parties-slam-covid-19-campaign-restrictions-ahead-myanmars-election.html>

⁵⁵ Saw Thonya, 'Shan IDPs on Thai-Myanmar border lose their voting rights' Network Media Group, 17 September 2020. Available at: [https://www.bnionline.net/en/news/shan-idps-thai-myanmar-border-lose-their-voting-rights#:~:text=Shan%20refugees%20from%20the%20war,Refugee%20Committee%20\(Thai%20Border\)](https://www.bnionline.net/en/news/shan-idps-thai-myanmar-border-lose-their-voting-rights#:~:text=Shan%20refugees%20from%20the%20war,Refugee%20Committee%20(Thai%20Border))

The vast majority of the refugees and displaced persons from Myanmar now residing in Bangladesh, China, India, Thailand, Malaysia – who could number up to two million, all from ethnic minorities – will not have the opportunity to vote. The same is also true for many of the four million migrants living in neighboring countries. Those who are not registered – the majority – are unable to vote. Those who are registered now face the additional hurdles in 2020 due to COVID-19 travel restrictions.⁵⁶

The result is further marginalization of a significant part of Myanmar's ethnic population, and in particular a portion of the ethnic population that has already been made vulnerable and excluded from the democratic process due to the extreme challenges of displacement due to conflict.

Impact on the Peace Process

Just as the many impacts of Myanmar's conflicts continue to undermine the credibility of the elections by suppressing the democratic rights of ethnic nationalities, the 2020 general elections themselves, held within the current Myanmar military-drafted constitutional arrangements continue to undermine prospects for peace.

The roots of Myanmar's conflicts are seeded in the calls of Myanmar's ethnic nationalities for self-determination and the long-broken promise of a genuine federal democracy. Ensuring greater political space for ethnic people in the governance of Myanmar is essential to build long-lost trust towards achieving peace. However, under the 2008 Constitution, which does not create nor protect the necessary structures for sufficient federal autonomy for Myanmar's ethnic nationalities, and with the NLD having sought to centralize rather than decentralize functions of government during office, the 2020 general elections are resulting in the government attempting to squeeze out and suppress ethnic candidates and parties as the NLD pursues another landslide victory. Without having substantial political space and equality of representation for ethnic nationalities protected by the Constitution, this is likely to further aggravate political grievances and fuel civil war.

Without having substantial political space and equality of representation for ethnic nationalities protected by the Constitution, this is likely to further aggravate political grievances and fuel civil war.

⁵⁶ Nyein Nyein, 'Many Myanmar Migrants in Thailand To Be Denied Vote as Extra Polling Stations Ruled Out,' The Irrawaddy, 25 September 2020. Available at: <https://www.irrawaddy.com/elections/many-myanmar-migrants-in-thailand-to-be-denied-vote-as-extra-polling-stations-ruled-out.html>



Photo 7 Myanmar government, military and ethnic leaders sitting together during the 3rd Union Peace Conference (Photo credit: The Irrawaddy)

For example, under the 2008 Constitution, the President has the authority to appoint chief state ministers and state governments. In the 2015 general elections, NLD candidates won only a small proportion of the vote in Rakhine State, yet NLD party members were appointed as the Rakhine State chief minister and cabinet. This was seized upon by Rakhine political parties with core policies of Rakhine self-determination as well as the Arakan Army, to ignite a sense of injustice amongst ethnic Rakhine, the majority in the State, and to recruit supporters to their cause. Similarly, the NLD appointed its own members as Shan State chief minister and state government, despite having come third overall in the State. The elections did not result in greater democratic representation for ethnic nationalities.

V. COVID-19

One of the biggest challenges Myanmar has been faced with in the run up to the 2020 general elections, is how to manage the situation of COVID-19. The UEC has ruled out postponing the election despite a surging number of cases in Myanmar and with entire townships under lockdown. In September, the UEC issued guidelines for political parties and candidates to follow during campaigning, which include a ban on mass rallies, campaign gatherings restricted to 50 people and enforcement of social distancing along with other preventative measures.⁵⁷ UEC members gave multiple assurances that the restrictions wouldn't create an uneven playing field between political parties across the country during the campaign

⁵⁷ Htun Htun, 'Myanmar's Election Body Bans Campaigning in COVID-19-Hit Townships,' The Irrawaddy, 8 September 2020. Available at: <https://www.irrawaddy.com/elections/myanmars-election-body-bans-campaigning-covid-19-hit-townships.html>

period, but in reality the restrictions have had a massively detrimental impact on the campaigning capacity of smaller political parties, particularly those located outside of Yangon and in ethnic areas.

Without being able to meet voters face to face, the ability of candidates from smaller political parties to share their message with voters has been severely hampered, particularly in areas where few people use social media or even have access to internet due to restrictions imposed by the government. Meanwhile, the NLD, USDP and other parties based in Yangon or Nay Pyi Taw have access to state-owned media stations to record election broadcasts, while parties from other states and regions face several weeks quarantine if they attempt to travel to do the same. This gives Yangon and Nay Pyi Taw-based parties, and the NLD in particular with its monopoly over airspace, a hugely unfair advantage. The Shan Nationalities League for Democracy (SNLD) reportedly requested that the rule requiring such broadcasts be recorded at state-owned stations be changed, so that it could submit a recorded video introducing the party's policies and election promises, but the request was denied by the UEC.⁵⁸

The imposed restrictions are most seriously undermining political campaigning in Rakhine State, where a local outbreak occurred prior to and during the campaign period, and the government issued stay-at-home orders. This is compounded by the internet restrictions imposed by the government in conflict-affected townships in Rakhine and Chin States, where only 2G internet is available. These heavy restrictions effectively gag political parties based in the region seriously undermining the fairness of the 2020 general elections. This further curtails the rights of all ethnic communities in Rakhine and runs the high risk of deepening the grievances that are contributing to the conflict.

The travel restrictions imposed due to COVID-19 have however created difficulties for national parties to travel and organise campaigns in ethnic areas. Meanwhile ethnic parties are still able to mobilize campaigns in some of their constituencies, an opportunity which has been maximized by youth organizers such as has been the case in Shan, Karenni and Kachin States in particular. Local NLD branches have however been able to continue canvassing in ethnic areas, while some ethnic parties have received directions from the UEC that they are not able to do the same, and even been told that NLD members have lodged complaints about their canvassing, citing COVID-19 restrictions.⁵⁹

The COVID-19 restrictions are affecting the ability of civil society to conduct voter education and monitor the elections. In early September, the UEC approved 8,120 domestic observers from eight civil society groups to observe the 2020 general

⁵⁸ San Yamin Aung, 'Myanmar's Suu Kyi Cancels First Campaign Trip as Health Minister Intervenes Over COVID-19 Concerns,' *The Irrawaddy*, 7 September 2020. <https://www.irrawaddy.com/elections/myanmars-suu-kyi-cancels-first-campaign-trip-health-minister-intervenes-covid-19-concerns.html>

⁵⁹ Saw Thonya, 'Ethnic Parties complain this Covid19 election restrictions have given the big parties an unfair advantage,' *New Media Group*, 17 October 2020. Available at: <https://www.bnionline.net/en/news/ethnic-parties-complain-covid19-election-restrictions-have-given-big-parties-unfair-advantage>

elections.⁶⁰ Initially, the UEC rejected the application of the People's Alliance for Credible Elections (PACE) as an election observer group, despite the group having been accredited to monitor previous elections, including the 2015 general elections. The decision was reversed after pressure from civil society organizations who called on the UEC to allow such observation but reflects the hostile environment for civil society in Myanmar. Receiving late accreditation hindered PACE's nationwide observation mission, at a time when the role of domestic observance is more critical than ever, with travel restrictions preventing international observers from being present.

VI. Freedom of Expression

Under the NLD government, freedom of expression has declined significantly in Myanmar. Repressive laws that curtail freedom of expression have not been repealed, and lawsuits have been filed against more than a thousand people for raising criticisms against the government, military, members of parliament and other individuals.⁶¹ These laws include the Telecommunications Law 2013, Law Protecting the Privacy and Security of Citizens 2017, Unlawful Associations Act 1908, Peaceful Assembly and Peaceful Procession Law 2011, Official Secrets Act 1923 and Penal Code. Recently there has been an increase in attempts by the government to suppress criticism as well as ethnic news media, using criminal laws, website blocks, and licensing delays. Since the outbreak of COVID-19, discriminatory and unjustified use of the Natural Disaster Management Law 2013 has also been used to suppress free speech, in particular to the detriment of ethnic and religious minorities but to the advantage of the NLD and other major parties, whose supporters are able to gather in large groups while others are penalized.⁶² Along with rife hate speech and ultranationalist, anti-minority attitudes, this climate severely undermines the necessary conditions for free and open public debate and the right to seek, receive and impart information; critical to the credibility of the elections. The UEC meanwhile threatened legal action against campaigners behind a "No Vote" campaign online, using provisions of the 2010 Election Laws.⁶³ Such a move would be in violation of the right to freedom of expression.

⁶⁰ Nan Lwin, 'Carter Center Launches Election Monitoring Mission in Myanmar,' *The Irrawaddy*, 18 September 2020. Available at: <https://www.irrawaddy.com/elections/carter-center-launches-election-monitoring-mission-myanmar.html>

⁶¹ Zaw Zaw Htwe, 'Freedom of Expression in Myanmar in Decline Under NLD Government, Say Advocates,' *The Irrawaddy*, 4 May 2020. Available at: [Freedom of Expression in Myanmar in Decline Under NLD Government, Say Advocates](https://www.irrawaddy.com/freedom-of-expression-in-myanmar-in-decline-under-nld-government-say-advocates)

⁶² Article 19, 'Briefing Paper: Freedom of Expression Concerns Related to Myanmar's COVID-19 Response,' 5 August 2020. Available at: <https://www.article19.org/wp-content/uploads/2020/08/2020.08.31-COVID-19-briefing-paper-Myanmar.pdf>

⁶³ Article 19, 'Myanmar: As campaign period begins, freedom of expression violations ramp up,' 10 September 2020. <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-violations-ramp-up/>

The UEC has further stifled expression during the campaign period. In July, the UEC announced that political parties would be able to deliver campaign broadcasts on state-owned television and radio stations, but that all broadcasts must be pre-approved by the Commission under overly broad and vague restrictions on what political parties can say.⁶⁴ The restrictions effectively prohibit criticism of the government, existing laws, and the military. The restrictions are in violation of the right to freedom of expression and international standards for the regulation of election campaign broadcasts. In September, the UEC ordered that the Democratic Party for a New Society remove content from the party's election broadcast that included comments on children's rights, the Letpadaung copper mine⁶⁵ and use of the word "oppressed".⁶⁶ By early October the ANP, Chin National League for Democracy, United Nationalities Democracy Party, Arakan League for Democracy, National Democratic Force, People's Party and Arakan Front Party had all also had sections of their campaign speeches censored by the UEC.⁶⁷

VII. Myanmar military

In July this year, Parliament approved amendments to the Election Laws, to remove polling booths from military bases. The change in the law is positive. There are over one million military-affiliated voters in Myanmar, including both the armed forces estimated 500,000 personnel and their relatives. However, despite the change, there are still concerns over the role of the Myanmar military in influencing the vote through means such as advance voting, moving battalions to swing constituencies, causing insecurity to cancel polling or by intimidating voters.

During the 2015 general elections, soldiers and their families voted behind closed doors, without observers and with the voter lists kept secret. This did not comply with international standards and raised serious questions over the credibility of the 2015 election results in areas with large numbers of soldiers stationed. For example, neighboring Meiktila, Pyawbwe, Yamethin and Thazi Townships in Mandalay Region, where USDP candidates won despite being in the Bamar-dominated central lowlands which overwhelmingly voted for the NLD. There have long been

⁶⁴ Global New Light of Myanmar, 'Permission for broadcast campaigns of political parties,' 24 July 2020. Available at: <https://www.gnfm.com.mm/permission-for-broadcast-campaigns-of-political-parties/>

⁶⁵ The Letpadaung copper mine is co-owned by a Chinese company and the Myanmar military and has led to ongoing serious human rights violations. For more see Amnesty International 'Mountain of Trouble: Human Rights Abuses Continue at Letpadaung Copper Mine' 10 February 2017. Available at: <https://www.amnesty.org/en/documents/asal6/5564/2017/en/>

⁶⁶ San Yamin Aung, 'Political Party Withdraws Election Broadcast After Censorship by Myanmar Authorities,' The Irrawaddy, 21 September 2020. Available at: <https://www.irrawaddy.com/elections/political-party-withdraws-election-broadcast-censorship-myanmar-authorities.html>

⁶⁷ Frontier Myanmar, 'Time to take away the election commission's red pen,' 7 October 2020. Available at: <https://www.frontiermyanmar.net/en/time-to-take-away-the-election-commissions-red-pen/>

suspensions that military personnel were ordered to vote for the military's proxy party.

These suspicions remain relevant to the 2020 general elections in spite of the recent law amendments. The UEC has failed to develop clear procedures and regulations to ensure transparency in the advance voting process for the military. Commanding officers from regional bases have authority to compile advance voting lists, arrange and submit advance votes. The process is completely exposed to fraud or intimidation of military voters. In August 2020, soldiers from Karen State arrived in Tang Yang Township, northern Shan State, and began questioning and intimidating villagers, who believed the soldiers were planning an offensive to disrupt the elections; polling was cancelled in Tang Yang Township in 2015 due to fighting. Another Battalion travelled to Namtaung Village in Namtu Township and registered to vote there, with local politicians reporting suspicions that the soldiers were also registered to vote in the constituency where they would normally be based, allowing them to vote twice.⁶⁸ Soldiers have also arrived in villages in Kachin State throughout September 2020, in areas where their numbers could easily swing the vote.⁶⁹ In other areas affected by conflict and instability such as Muse in Shan State, where the UEC and sub commissions are unable to compile voter lists, the military has compiled voter lists of Myanmar military aligned militia members, further undermining transparency.⁷⁰

VIII. Conclusion

International standards for democratic elections require that every citizen, on a universal and equal basis, has the right to vote. For this right to be fully realized, the rights to freedom of expression, association, assembly, movement and information, and freedom from coercion are also needed. There should be no discrimination on the right to stand for election, such as on the grounds of descent, residence or political affiliation.

In Myanmar, the discriminatory and arbitrary denial of citizenship on the basis of ethnicity or religion results in disenfranchisement and violation of the

The denial of the ability to stand for election on the basis of residence or descent for those deemed associate or naturalized citizens is in violation of the right to stand for election.

⁶⁸ Shan News, 'Residents of Shan State Puzzled by Myanmar military Troops from Karen State,' 29 August 2020. Available at: <https://www.bnionline.net/en/news/residents-shan-state-puzzled-tatmadaw-troops-karen-state#:~:text=HOM%20HURNG%20%E2%80%94%20Residents%20of%20northern,Yang%20Township%2C%20in%20early%20August.>

⁶⁹ Chan Thar, Kyaw Lin Htoon, 'Sudden arrival of soldiers in swing seats seen as bid to boost USDP's chances,' Myanmar Now, 22 September 2020. Available at: <https://www.myanmar-now.org/en/news/sudden-arrival-of-soldiers-in-swing-seats-seen-as-bid-to-boost-usdps-chances>

⁷⁰ *ibid*

right to vote and to stand for election for almost the entire Rohingya population and unknown numbers of members of other ethnic and religious minorities across the country. The denial of the ability to stand for election on the basis of residence or descent for those deemed associate or naturalized citizens is in violation of the right to stand for election. This is worsened by discriminatory anti-minority attitudes and hate speech proliferated by Bamar Buddhist ultranationalists. The NLD government has done nothing to address the root causes of hate speech and institutionalized discrimination during its time in office. On the contrary, it has chosen to exploit popular anti-minority sentiment for political gain. The election campaigns of many political parties and candidates, including the NLD and USDP, are fueling Bamar Buddhist ultranationalist and anti-minority sentiment, while the general elections themselves are entrenching the discriminatory and arbitrary citizenship legal framework.

Voting has been cancelled in constituencies in Bago Region and Kachin, Karen, Mon, Rakhine and Shan States due to security reasons, disenfranchising members of ethnic minorities living in those areas. Rights to freedom of expression, association, assembly, movement and information are being curtailed, especially in ethnic areas affected by armed conflict, in particular Rakhine State, which is undermining rights to political participation and further marginalizing ethnic minority communities from the democratic process. The more than 220,000 recent IDPs in Rakhine State are faced with far more urgent needs of survival than registering to vote in the 2020 elections, and large numbers of ethnic minority IDPs in situations of protracted displacement across the country without necessary citizenship documentation may be denied

the right to vote. The majority of the nearly two million ethnic minority refugees and estimated four million migrants in neighboring countries will be unable to vote. Consequently, a hugely significant number of Myanmar's ethnic minority population are being disenfranchised and marginalized in the 2020 general elections. Not only is this a violation of rights, but voting demographics will be impacted, undermining the elections' result. Moreover, the military-drafted 2008 Constitution does not provide for a federal democracy or guarantee political and economic autonomy for ethnic nationalities. During its time in office the NLD has betrayed the trust of ethnic voters and is seeking to defeat ethnic political parties in the 2020 elections as it pursues a second consecutive victory. This conflicts with the peace process, through which EAOs are negotiating greater political space for



The Bamar Buddhist nation building project of arbitrarily excluding certain ethnic and religious groups entirely from the Union of Myanmar while oppressing others, which successive military regimes built into all functions of the State apparatus and psyche, has yet to be meaningfully dismantled or rejected.

ethnic nationalities and federal governance, and of which the NLD government is supposed to facilitate and fulfil Myanmar's long overdue Panglong Agreement for equality of ethnic nationalities. Consequently, the 2020 general elections risk further undermining trust, aggravating grievances of ethnic nationalities and obstructing prospects for peace.

Restrictions imposed as a result of a surge in cases of COVID-19 are impacting on the ability of all political parties and candidates to share their messages and conduct their campaigns. However, smaller political parties and those based outside of Yangon and Nay Pyi Taw, particularly ethnic political parties in ethnic areas experiencing internet restrictions, are disproportionately impacted, as they have less means of accessing state television and radio broadcasting facilities. Freedom of expression has declined significantly under the NLD government. Critics face criminal charges and media outlets, in particular ethnic news media outlets, are being suppressed. This is compounded by decisions of the UEC to censor political party campaign broadcasts under provisions that restrict criticism of the government, existing laws or the military. This climate fundamentally undermines what is required for free and open public debate and credible elections. Finally, the UEC has failed to develop procedures to ensure transparency of advance military voting, leaving military members vulnerable to coercion from commanding officers. Military battalions have been moved around ethnic areas raising suspicions of attempts to subvert votes, cause instability or intimidate ethnic political parties and ethnic minority voters.

The conditions in Myanmar fail fundamentally to meet international standards for democratic elections. Ethnic and religious minorities are severely disadvantaged by multiple, deeply ingrained structural challenges in Myanmar law and institutionalized discrimination in Myanmar society. The Bamar Buddhist nation building project of arbitrarily excluding certain ethnic and religious groups entirely from the Union of Myanmar while oppressing others, which successive military regimes built into all functions of the State apparatus and psyche, has yet to be meaningfully dismantled or rejected. As such, exercises of government, including the 2020 general elections, continue to have the effect of excluding and oppressing ethnic and religious minorities. Despite these issues, the 2020 elections will go ahead but it will be a vote with no confidence for the large portion of Myanmar's disenfranchised and marginalized ethnic and religious minorities.



Despite these issues, the 2020 elections will go ahead but it will be a vote with no confidence for the large portion of Myanmar's disenfranchised and marginalised ethnic and religious minorities.

IX. Recommendations to ensure political rights in 2020 and all future elections:

Myanmar Government:

- Ensure the UEC immediately remove “race” and “religion” data from the mVoter2020 mobile app and reinstate the candidacy of the 3 candidates annulled on false grounds;
- Immediately ratify international conventions, including the ICCPR and ICERD and align national laws with international treaties;
- Take all necessary steps to hold perpetrators of hate speech, who have called for and incited violence against particular groups, accountable through fair and transparent judicial proceedings and make sincere efforts to end hate speech that perpetuates discrimination based on gender, race, ethnicity, religion or other defining characteristics;
- Ensure justice and accountability for all human rights violations committed against ethnic and religious minorities by members of the Myanmar military and security forces;
- Cooperate with international mechanisms aimed at securing justice for ethnic and religious minority victims of human rights violations;
- Cease use of populist rhetoric that perpetuates anti-Rohingya and anti-minority sentiment;
- Amend the 2008 Constitution to establish a genuine federal democratic system of governance based on equality and the right to self-determination;
- Repeal or amend the 1982 Citizenship Law in accordance with international human rights law and restore full citizenship for the Rohingya community and eliminate a tiered citizenship framework and requirements for citizenship that discriminate on the basis of race, religion, ethnicity or any other status;
- Repeal or amend 2010 Election Laws in accordance with international standards and eliminate requirements to stand for election based on residence or descent;
- Take meaningful efforts to end institutionalized discrimination against ethnic and religious minorities and corruption in citizenship decision-making;
- Immediately cease the NVC process. Restore citizenship to Rohingya;
- Allow Rohingya the right to run as candidates and to vote in all upcoming elections;
- Make sincere efforts to end all armed conflict, war crimes, crimes against humanity, genocide and all human rights violations against civilians;
- Amend laws that restrict freedom of expression including the Telecommunications Law by removing Sections 66(d) and 68(a) and repeal Articles 124A, 295A, 499-500 of the Penal Code, and reform Article 505 in accordance with international law;
- Immediately end all restriction on mobile internet use in 8 townships in Rakhine and Chin States; and

- Amend the Union Election Commission Law in accordance with international standards.

Myanmar Military:

- Immediately cease human rights violations against civilians;
- Call for an immediate nationwide ceasefire and withdraw from ethnic areas;
- Withdraw from politics and economy and come under civilian oversight; and
- Cooperate with international justice mechanisms.

International Community:

- Do not endorse Myanmar election activities, materials or tools that legitimize and entrench discrimination against ethnic and religious minorities and incite hate;
- Require the UEC to immediately remove “race” and “religion” data from the mVoter2020 mobile app and reinstate the candidacy of the 3 candidates annulled on false grounds;
- Make concerted efforts to end Myanmar’s institutionalized discrimination and persecution against ethnic and religious minorities by ensuring human rights due diligence in all programs and activities; and
- Support ongoing international justice mechanisms to ensure justice and accountability for all human rights violations committed against ethnic and religious minorities by members of the Myanmar military and security forces.

Union Election Commission:

- Ensure the elections are held freely, fairly and safely. In this regard,
 - immediately revoke the announcement of cancelled polling in constituencies in Bago Region, Kachin, Karen, Mon, Rakhine and Shan States or, where following consultation with local residents, civil society and political parties, the security situation in certain constituencies is deemed too dangerous to allow polling to take place, provide transparent reasoning behind the decision and develop alternative means of ensuring the right to political participation of the affected constituents;
 - take concrete measures to end hate speech, disinformation and violence related to elections;
 - immediately remove “race” and “religion” data from the mVoter2020 mobile app and reinstate the candidacy of the 3 candidates;
- Ensure persons in conflict affected areas entitled to vote are able to exercise that right;
- Ensure that all IDPs, refugees and migrant workers entitled to vote are able to exercise that right;

- Take measures to ensure a genuine level playing field amongst political parties and candidates during election campaign periods;
- Ensure freedom of expression for all political parties in accordance with international standards; and
- Ensure transparency for Myanmar military advance voting procedures.

Political Parties:


- Include diversity and non-discrimination in political party policies and amend policies and regulations that are discriminatory based on race and religion; and
- Ensure diversity of representation of candidates including women, LGBTIQ+, persons with disabilities and other minority groups.



Contact Information

Progressive Voice

 www.progressivevoicemyanmar.org

 info@progressive-voice.org