



Network for Human Rights Documentation-Burma

Dismissed & Denied

Civic Rights Undermined In the 2020 Pre Election Landscape





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Cover Photos

Campaign photo of the Arakan National Party (ANP) in Taungup Harbor, Rakhine State (Photo: AASYC)

Protester of the Mon Unity Party prepare to erect a farm poster in Thanbyuzayat Township (Photo : HURFOM)

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Introduction

On November 8 2020 nearly 40 million people, including 5 million first time voters, will vote in Myanmar's 2020 general election. With 1,171 national, state and regional seats to win,¹ and over 90 political parties² vying for them – competition during the campaign period has been fierce. Against the backdrop of the candidates' commitments are thousands of voters who are living in conflict areas and struggling to recover economically from the global COVID-19 pandemic.

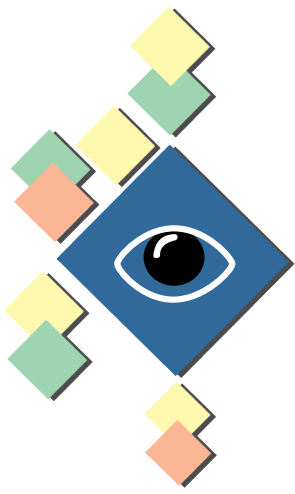
Key stakeholders including the ruling National League for Democracy (NLD) government, the Burma Army, Ethnic Armed Organizations (EAOs), the Union Election Commission (UEC) and international governments and organizations have a responsibility to ensure all citizens have the equal right to vote and equal right to be elected. Article 21 of the Universal Declaration of Human Rights states that 'everyone has the right to take part in the government of his country, directly or through freely chosen representatives.'³ The failure to uphold basic human rights principles and electoral values in the midst of political campaigning in Burma has resulted in the continued persecution of ethnic people, especially ethnic political parties, and further enabled deeply rooted systemic discrimination.

1. Al Jazeera, "Myanmar sets November 8 date for general election," 2 July 2020.. <https://www.aljazeera.com/news/2020/7/2/myanmar-sets-november-8-date-for-general-election>
2. See Konrad Adenauer Stiftung September 2020 Country report: "Election 2020 in Myanmar and the possible influence of Ethnic Parties," September 2020. <https://www.kas.de/documents/252038/7938566/Elections+Myanmar+2020+Influence+Ethnic+Parties.pdf/08eaf959-051d-8648-414f-d5bed4bb4495?version=1.1&t=1599122247170>
3. See: Universal Declaration of Human Rights: <https://www.un.org/en/universal-declaration-human-rights/>



This briefing paper by the Network for Human Rights Documentation-Burma (ND-Burma) is a research-based analysis of the 2020 pre-election landscape about how rights were abused and manipulated in the midst of COVID-19, and internal armed conflict between the months of August 25 2020 and 25 October 2020. By drawing on the various articles in the International Covenant on Civil and Political Rights (ICCPR)⁴ and the International Covenant on Economic, Social and Cultural Rights⁵ (ICESCR), ND-Burma will demonstrate how the failure to uphold democratic values enshrined in both covenants contributes to the lack of legitimacy and integrity of the 2020 election.

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4. See: International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49
 5. See: International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27



Overview of the ICCPR ICESCR

The ICCPR enables people to enjoy a wide range of human rights, including those related to: freedom from torture and other cruel, inhuman or degrading treatment or punishment.⁶ As a legally binding treaty, states that choose to sign are obligated to uphold the rights outlined. Adopted at the United Nations General Assembly in 1966, it was enacted in 1976. States that do not sign are not bound by the articles defined, nor are they permitted to invoke the responsibilities against other states. Burma has not signed or ratified the ICCPR. Similarly, the ICESCR which was also adopted in 1966, ensures the enjoyment of economic, social and cultural rights such as the right to education, work and an acceptable standard of living.⁷ In July 2015, Burma signed the ICESCR and ratified it on 6 October 2017. Therefore, Burma is expected to fulfill the



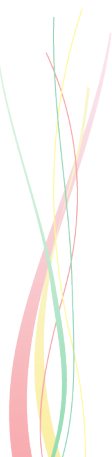
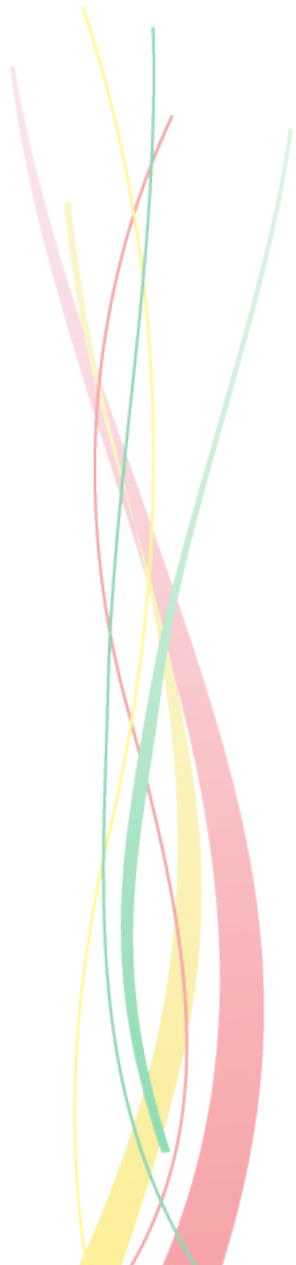
Mon Unity Party supporters of young people in Ye Township gather for a day-long campaign trip. (Photo : HURFOM)

6. See: International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49
7. Ibid



requirements as stated and made clear in the Covenant. Nonetheless, in the midst of the 2020 election campaign there have been significant failures by the government to uphold several articles.

The following section outlines specifically how stakeholders involved in the pre-election have attempted to censor political dialogue and disenfranchise ethnic parties and individuals.



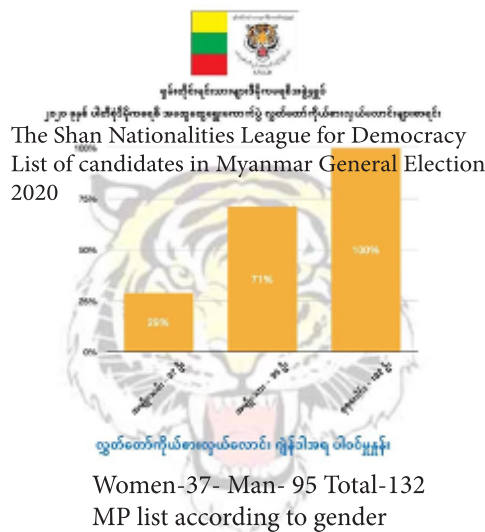


Violations of the ICCPR & ICESCR

Article 3 of the ICCPR and ICESCR

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Burma was the first country in Asia to grant women the right to vote in 1935. Some parties are working to achieve higher gender quotas, such as the NLD which



has selected 20% of female candidates for the 2020 election.⁸ The Shan Nationalities League for Democracy (SNLD) 2020 party platform also states that there should be at least 30% of women’s participation in legislation, governance and judicial sectors at the National, State and Regional level.⁹ Twenty-nine per cent of the candidates SNLD fielded for the 2020 general election

are women. However, the Women’s League of Burma (WLB) has offered caution to the selection of women as ‘window-dressing.’¹⁰ WLB says that window dressing is found not only in the big parties but also in the other ethnic parties. The ethnic parties also have to organize women to represent their parties as their chance of winning the election is extremely low.¹¹ In a satirical dance performance video named ‘2020 Challenge Voices’ WLB drew attention to the current political situation.

8. The Irrawaddy, “NLD Selects 20% Female Candidates for Myanmar’s November Election,” 27 July 2020. <https://www.irrawaddy.com/news/burma/nld-selects-20-female-candidates-myanmars-november-election.html>
9. See SNLD 2020 party platform
10. Burma News International, “The competition of female candidates is just a window-dressing, WLB criticizes,” 9 October 2020. <https://www.bnionline.net/en/news/competition-female-candidates-just-window-dressing-wlb-criticizes>
11. Ibid



Article 3 of both the ICCPR and the ICESCR maintains the need to uphold the rights of men and women. Nonetheless, populist appeals suggest that women are the weaker sex and therefore not capable of holding leadership positions. Female politicians have addressed campaign challenges that include patriarchal norms



Voter education for youth taking place in Thanbyuzaut Township.
(Photo : HURFOM)

and values in the culture being used to justify the attacks against them.¹² Women running in politics in Burma are more aggressively targeted in online attacks and are more likely to experience harassment. Unfortunately, Burma is still very far from reaching the 30% minimum representation of women, with numbers since the 2015 election not being significantly higher. Out of 6,200 candidates in 2015, just 13% were women. In 2020, it's slightly more with 15% out of over 7,000 candidates.¹³

Findings from a 2018 survey suggest that women's participation in Burma is declining.¹⁴ Women are forced to confront traditionalism which is largely engrained in anti-democratic and Conservative values, much more so than their male counterparts. According to the Enlightened Myanmar Research Foundation, women also suffer from a lack of confidence and ambition to

12. United States Institute of Peace, "Myanmar's 2020 Elections and Conflict Dynamics," Mary Callahan, Myo Zaw Oo. April 2019. https://www.usip.org/sites/default/files/2019-04/pw_146-myanmars_2020_election_and_conflict_dynamics.pdf
13. The Irrawaddy, Aye Lei Tun, "Myanmar Still Fails to Bring More Women Into Politics," 14 October 2020 <https://www.irrawaddy.com/opinion/guest-column/myanmar-still-fails-bring-women-politics.html>
14. Mizzima, "Research shows women's political participation in Myanmar is declining," 29 December 2018. <http://mizzima.com/article/research-shows-womens-political-participation-myanmar-declining>
15. Ibid



become parliamentarians.¹⁵ With limited support from political parties and their community, they are at a much higher risk of being discriminated against or being confronted by members of ruling parties.

Of additional concern is the increased limitations women have over voting because of accessibility. In most households women are deemed the primary caregiver and have responsibilities that limit their free time, which includes voting. Rural voters are also less likely to have an Internet connection which limits effective reach through online campaigning. Efforts for more gender representation in politics should be embraced, rather than used to categorically privilege the rights of one sex over the other.

Article 5 of the ICCPR and Article 5 of the ICESCR:

- 1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.*
- 2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.*

Both 1 and 2 of Article 5 as stipulated in the ICCPR and the ICESCR make clear that nothing warrants the abuse of rights and freedoms. On 8 October 2020, as Mon State opposition parties increased in popularity, the authorities were

15. Ibid



attempting to ‘restrict expressions of support for competing political and ethnic parties from members of the public.’¹⁶ After shopkeepers displayed flags of various political parties in Ye, Mon State, the township municipal committee released a statement to ban the action.¹⁷ A Ye resident said this was intimidation.¹⁸



In another example, the UEC initially rejected the application of the election observer group, the People’s Alliance for Credible Elections (PACE)¹⁹ alleging they received international funding, but are not a registered organization. However, NGO registration law does not say organizations have to register. This ruling was eventually overturned after civil society organizations questioned the transparency of the election without a credible observer.²⁰ This too stands as an example in direct violation of Article 5 in that fundamental freedoms, which include civilian rights to free and fair elections, was at risk of being undermined.

Political parties have also experienced limitations on their abilities to campaign because of restrictions on large gatherings to limit the spread of COVID-19. While these safeguards are understandably in place for the collective protection and

16. Human Rights Foundation of Monland, “Authorities attempt to restrict growing support to competing political and ethnic parties,” 8 October 2020. <https://rehmonnya.org/archives/6152>

17. Ibid

18. Ibid

19. ASEAN Plus News, “Myanmar Election Commission denies PACE is barred from observing November election,” 17 August 2020. <https://www.thestar.com.my/aseanplus/aseanplus-news/2020/08/17/myanmar-election-commission-denies-pace-is-barred-from-observing-november-election>

20. The Myanmar Times, “Election Commission Allows PACE to Monitor Polls,” 17 August 2020. <https://www.mmmtimes.com/news/election-commission-allows-pace-monitor-polls.html>



prioritization of health for all, national parties such as the NLD have not followed suit. Both Article 5 of the ICCPR and the ICESCR state that there should not be an abuse of power in relation to the freedoms set forth. While parties have been given restrictions on campaigning, disregarding them for the sake of the power one candidate holds over another is problematic. A candidate with the Kachin State People's Party who is contesting a seat held by the NLD told Frontier Myanmar that while smaller ethnic parties are following the rules and are extremely limited by a lack of resources to campaign, the NLD and large parties are still holding gatherings.²¹ Moreover, the result of so many election restrictions has created an unlevel playing field for smaller ethnic parties. The gap has led to several candidates speaking out and using their time and resources to do voter education. The double standards on mass gatherings, canvassing and funds have only complicated the election further for voters and candidates risking confusion.



A lot has changed in five years: NLD supporters at an election rally held by Daw Aung San Suu Kyi in Myitkyina on October 4, 2015. (Steve Tickner | Frontier)

21. Pay Sone Aung, 'Our feet are tied, candidates in Myitkyina hobbled by COVID-19 restrictions,' 15 October 2020 <https://www.frontiermyanmar.net/en/our-feet-are-tied-candidates-in-mytikyina-hobbled-by-covid-19-restrictions/>



Article 6 of the ICCPR

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

The UEC announced a 60-day campaign window beginning from 6AM on September 8 2020 to midnight on 6 November 2020. Despite the unilateral ceasefire in place, as announced by the Burma Army to extend to the end of October 2020, conflict has been particularly active in northern Shan. The ceasefire notably does not extend to Rakhine State, where clashes have been ongoing between the Burma Army and the Arakan Army (AA). The fighting has resulted in thousands of innocent civilians displaced, and hundreds killed and injured, with many others detained for long periods, presumably tortured and



U Naing Soe, a former political prisoner and independent electoral candidate for Sittwe Township's Constituency II campaigning in Amyint Kyun village, on 27 October 2020. (Photo AASYC)

not heard or seen from again. The right to life as stated in the ICCPR means that citizens must be protected by their government under the law. Yet for Rakhine and Shan based political parties, campaigning quite literally poses a threat to their livelihood and overall well-being.



According to the Rakhine Ethnic Congress, nearly 40 000 people in Rakhine State have been displaced by fighting since August 2020.²² They also estimate that there are between 80,000 and 120 0000 Internally Displaced Persons (IDPs) who are eligible to vote – between 5 and 7.5% of all authorized voters in the state.²³ In addition to a lack of information about voting arrangements for IDPs, fears of voting in a conflict zone only disenfranchises vulnerable populations further.

In response to the fighting between the Burma Army and the Restoration Council of Shan State/Shan State Army (RCSS) in northern Shan, which worsened at the beginning of October 2020, civilians have expressed ‘great anxiety about their daily life, economic survival and potential loss of voting rights.’²⁴ The extent of the conflict, and the unpredictability of when a civilian may be killed or injured in the crossfire has made the election environment incredibly unstable, making it more difficult for local people to cast their votes. In 2015, the lack of security as a result of the civil war in several states led to UEC failing to conduct the general election in 600 village-tracts, and seven townships in Kachin, Kayin, Mon, Shan States and Bago region.²⁵

These civil and political limitations in various regions across the county have made for an incredibly volatile pre-election environment, in which civilians have the most to lose.

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22. The Irrawaddy, Khaing Yoe Hla, “Rakhine State IDPs Exceed 36,000 Since August: Myanmar NGO,” 5 October 2020 <https://www.irrawaddy.com/news/burma/rakhine-state-idps-exceed-36000-since-august-myanmar-ngo.html>
 23. Frontier Myanmar, Kaung Hset Naing, “Rakhine IDPs: Displaced, demoralised ... disenfranchised?” 12 October 2020 <https://www.frontiermyanmar.net/en/rakhine-idps-displaced-demoralised-disenfranchised/>
 24. Burma News International, “CSOs and locals call for ceasefire to end fighting around Kyaukme Shan State,” 9 October 2020 <https://www.bnionline.net/en/news/csos-and-locals-call-ceasefire-end-fighting-around-kyaukme-shan-state>
 25. Ibid



Article 19 of the ICCPR

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

The NLD's record on upholding safe spaces to freedom of expression has been called into question over the government's first term. With a civil war raging in Rakhine State, the government has been hostile in their response to student's protesting the war by arresting them for breaching the Peaceful Assembly and Peaceful Procession Law.²⁶ This has forced over 30 students to go into hiding.²⁷

Meanwhile, the world's longest Internet shutdown is continuing in eight townships in Rakhine State where political parties are calling for full restoration of Internet services, especially during the campaign period.²⁸ Due to limited internet access in many parts of the state, those campaigning cannot share their messaging on social media because of the weak signal.²⁹ The shutdown has had lasting consequences on civilians, Members of Parliament and aid workers.

International human rights law makes clear that some limits on freedom of expression are only warranted if deemed absolutely necessary and are determined as such through a three-part legal test of legality, legitimacy and proportionality. The criteria for the tests stem from Article 19 of the ICCPR. Essentially, the tests ensure the limits are justified if they are provided by the law, if they are under the protection of national security or public order and if they are necessary.

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26. The Diplomat, Sebastian Strangio "Myanmar Accelerates Arrests of Student Anti-War Protesters," 2 October 2020 <https://thediplomat.com/2020/10/myanmar-accelerates-arrests-of-student-anti-war-protesters/>
27. Radio Free Asia, "Myanmar Arrests 14 For Anti-War Protests, While 30 More Remain in Hiding," September 30 2020 <https://www.rfa.org/english/news/myanmar/student-protesters-09302020183400.html>
28. Burma News International, "Political parties demand full restoration of internet during the election campaign period," 11 September 2020 <https://www.bnionline.net/en/news/political-parties-demand-full-restoration-internet-during-election-campaign-period>
29. Development Media Group, "Electioneering imminent as UEC announces 60-day campaign window," 6 September 2020 <https://www.dmediag.com/news/1955-uec-announces>



The decision makers of this test are meant to be impartial, such as through independent courts. However, in Burma previous administrations, and the current government have used national security as their own basis of justification.

Other examples of the UEC failing to facilitate a safe space for political dialogue free from censorship have been made from at least four different ethnic states.³⁰ This includes the Kachin State People’s Party (KSPP) who were told to alter the wording about their policy on the allocation of resources.³¹ They had originally proposed stating, “the Kachin ethnics shall fully enjoy the State’s resources,” but the UEC wanted it changed to, “Both the Kachin people and citizens shall enjoy the State’s resources.” The KSPP was not the only party told to adjust their campaign messaging. The Democratic Party for a New Society (DPNS) and the Dawei Nationalities Party (DNP) also faced policy criticism from their campaign speeches edited by the UEC, which were set to be broadcast on State television.³²



A People’s Party campaigner (L) displays a yellow and red campaign sign with the party’s logo outside a shopping center in Myanmar’s commercial hub Yangon, September 2020. (Photo- RFA)

- 30. Burma News International, “UEC censors election address of Tai-Leng (Shan-ni) Nationalities Development Party,” 9 October 2020 <https://www.bnionline.net/en/news/uec-censors-election-address-tai-leng-shan-ni-nationalities-development-party>
- 31. Burma News International, “KSPP withdraws televised election address due to censorship by State-owned TV,” 12 October 2020 <https://www.bnionline.net/en/news/kspp-withdraws-televised-election-address-due-censorship-state-owned-tv>
- 32. Mizzima, “Two political parties accuse UEC of censorship,” 23 September 2020 <http://mizzima.com/article/two-political-parties-accuse-uec-censorship>



The UEC also suppressed half of the election address by the Tai-Leng-Leng (Shan-ni) Nationalities Development Party, which was critical of the 1947 Constitution, youth development and dictatorship.³³ In protest, the National Democratic Force (NDF) and the DPNS cancelled their broadcasts after the UEC cut parts of their speeches, saying they believed the restrictions were harsher than they were in 2015.³⁴ In yet another example, Chairman of the People's Party, Ko Ko Gyi, said his election campaign speech had also been censored and not allowed to air their full political stance because the speech discussed poverty and challenges of many every-day citizens.³⁵ In response, the UEC admitted to censoring many parties' campaign speeches and maintained without an explanation that, 'only a handful have complained.'³⁶

International rights watchdog, Human Rights Watch condemned this type of censorship, calling it a 'violation of freedom of expression that underpins a free and fair election'.³⁷ Article-19, an organization committing itself to a world where people can freely express themselves without discrimination, also accused the Burmese government of undermining freedom of expression ahead of the general election by imposing 'severe restrictions on candidates, voters, and the general public.'³⁸

Parties have a right to share their views, statements and opinions freely. The limitations forced upon parties by the UEC is draconian and is an abuse of

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33. Burma News International, "UEC censors election address of Tai-Leng (Shan-ni) Nationalities Development Party," 9 October 2020 <https://www.bnionline.net/en/news/uec-censors-election-address-tai-leng-shan-ni-nationalities-development-party>
34. Myanmar Now, Phadu Tun Aung "Election officials censor parties' campaign speeches 'like the dictatorship,' 24 September 2020. <https://www.myanmar-now.org/en/news/election-officials-censor-parties-campaign-speeches-like-the-dictatorship-did>
35. Free Radio Asia, "Myanmar Censorship of Party Messages on State Media Draws Fire," September 30 2020. <https://www.rfa.org/english/news/myanmar/party-censorship-09302020201609.html>
36. Radio Free Asia, "We are working in order to have free and fair elections," 15 October 2020 <https://www.rfa.org/english/news/myanmar/election-commissioner-10152020205851.html>
37. Burma News International, "UEC censors election address of Tai-Leng (Shan-ni) Nationalities Development Party," 9 October 2020 <https://www.bnionline.net/en/news/uec-censors-election-address-tai-leng-shan-ni-nationalities-development-party>
38. Article 19, "The Myanmar government is undermining freedom of expression ahead of the upcoming general elections by imposing severe restrictions on candidates, voters, and the general public, said ARTICLE 19. 8 September 2020 marked the beginning of the official campaign period for the elections, which are scheduled for 8 November." Read more: <https://www.article19.org/resources/myanmar-as-campaign-period-begins-freedom-of-expression-violations-ramp-up/>



power, which shows the lengths they are willing to go to present a very different, distorted reality to the people in the country. The infringement on basic rights on freedom of speech is made abundantly clear by the UEC's decision to censor the language of ethnic political parties.

Article 25 of the ICCPR

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26 of the ICCPR

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The 1982 Citizenship Law has enabled the UEC to disqualify and disenfranchise Muslim candidates. The law, which has been long contested by civil society organizations, propagates statelessness, inequality and domination over minorities living in Burma. It runs in complete contradiction of Article 25 and



Article 26 of the ICCPR, and has been used to fuel racial hatred and stir division between groups further.



Online and offline hate speech against the Rohingya is not being effectively controlled by the UEC. At the beginning of the campaigning period in September 2020, an independent candidate running for a parliamentary seat in Yangon's Latha township, used three Banyan leaves (a symbol used by the Buddhist majority) accompanied with the slogan, 'No Rohingya.'³⁹ Despite being ordered by the Yangon District Election Sub-commission to remove the signs, the candidate refused saying it did not violate campaign rules – and stated he would only remove it if the UEC said to do so.⁴⁰ In a worrying response the NLD Chairman, Myo Nyunt said the messaging does not violate the commission rules because, “we do not recognize the Rohingya as an ethnic group in Myanmar.”⁴¹

This was followed by a series of several Rohingya Muslims being barred from the election by the UEC. One of the candidates, Abdul Rasheed of the Democracy and Human Rights Party was disqualified by the UEC for not having evidence of his parents or grandparents being born in the country, despite proof of

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

40. Ibid

41. Ibid



them receiving citizenship four years before he was born.⁴² Another Muslim from Rakhine State, U Aye Win, was rejected from his candidacy for similar reasons regarding proof demanded by the UEC of National Registration Cards.⁴³ According to Radio Free Asia, four more Rohingya men were disqualified for contesting the citizenship of their families. As indicated by the UEC, a total of 43 candidates (at the time of writing) have been disqualified by district election commissions – the majority for not meeting criteria as citizens.⁴⁴

More evidence of Muslim candidates being disqualified for questionable reasons and against the terms in Article 26 of the ICCPR, was made apparent at the end of August 2020. The Rakhine State election commission prohibited U Phoe San from running, for having alleged ties with the terrorist branded AA.⁴⁵ Affiliation with the armed group is in violation of the country's election law. While his son is a member of the AA, U Phoe San denied having contact with him and insisted that he did not break the law.⁴⁶

Despite earlier claims by the UEC that members of the commission were working hard to have 'free and fair elections,'⁴⁷ many voters have been disenfranchised throughout the campaign period. An announcement by the UEC in mid-October declaring that the general election in 9 out of 17 townships in Rakhine State would be cancelled and furthermore 130 village tracts in 4 townships,⁴⁸ has serious implications. In western Rakhine State alone, this means 1.1 million voters will not be able to vote⁴⁹ (documentation from ND-Burma member organization, the All Arakan Students' and Youths' Congress refers to this as Northern Arakan).

42. Frontier Myanmar, "Myanmar bars Rohingya candidate from election," 12 August 2020 <https://www.frontiermyanmar.net/en/myanmar-bars-rohingya-candidate-from-election/>

43. Burma News International, "Another Muslim Blocked for Running in the Election," 12 October 2020. <https://www.bnionline.net/en/news/another-muslim-blocked-running-election>

44. Radio Free Asia, "We are working in order to have free and fair elections," 15 October 2020 <https://www.rfa.org/english/news/myanmar/election-commissioner-10152020205851.html>

45. Myanmar Times, Sai Wanna "Rakhine candidate disqualified for son's suspected AA ties," 1 September 2020 <https://www.mmtimes.com/news/rakhine-candidate-disqualified-sons-suspected-aa-ties.html>

46. Ibid

47. Radio Free Asia, "We are working in order to have free and fair elections," 15 October 2020 <https://www.rfa.org/english/news/myanmar/election-commissioner-10152020205851.html>

48. Myanmar Times, Thompson Chau, "Voting in Over Half of Rakhine Cancelled, Hitting Arakan Party," 17 October 2020 <https://www.mmtimes.com/news/voting-over-half-rakhine-cancelled-hitting-arakan-party.html>

49. AFP, "1.1 Million in Rakhine State Barred from Voting," 17 October 2020 <https://www.frontiermyanmar.net/en/1-1-million-in-myanmars-rakhine-barred-from-voting/>



Campaign photo of the Arakan National Party (ANP) in Taungup Harbor, Rakhine State
(Photo: AASYC)

Voting has also been cancelled in five townships in Shan State, with over 15 partial cancellations.⁵⁰ Being unable to freely choose their political representatives runs contrary to Article 25 of the ICCPR. Partial cancellations were also applied to 11 out of 18 townships in Kachin State, six in Karen State, two in Mon and one in Bago Region, all on the basis that the conditions were not fit for free and fair elections by the UEC.⁵¹ This comes after weeks of the UEC standing by their claims that regardless of the pandemic and active conflict, voters would be able to still safely participate in the election.⁵² The UEC even went as far as downplaying findings from a PACE survey which found that one third of voters might be afraid to vote amid the pandemic and conflict, stating ‘we have estimated that voter turnout will be high’ and that ‘questioning the legitimacy of the election result is unnecessary.’⁵³

The disregard for voter access and their right to vote in Rakhine State also suggests a political strategy to reduce the influence of the Arakan National Party (ANP), the largest ethnic group in the national parliament. In response to the announcement, a member of the ANP told the Myanmar Times that the number

50. Myanmar Times, Thompson Chau, “Voting in Over Half of Rakhine Cancelled, Hitting Arakan Party,” 17 October 2020 <https://www.mmtimes.com/news/voting-over-half-rakhine-cancelled-hitting-arakan-party.html>

51. Ibid

52. Radio Free Asia, “We are working in order to have free and fair elections,” 15 October 2020 <https://www.rfa.org/english/news/myanmar/election-commissioner-10152020205851.html>

53. Ibid



of cancelled townships was much higher than expected.⁵⁴ The decision by the UEC is set to only increase tensions between the ruling parties, and shrink the already narrowing civic space, especially as the election has been suspiciously canceled even in areas where there is no fighting. Taking away a person’s right to vote or limiting their capacity to do so is undemocratic and threatens the integrity of the election.

The UEC and regional election commissions are not the only bodies who are responsible for influencing the election through their biases. International organizations have also been complicit in advancing state-agendas. At the end of



September, a voting app which was sponsored by the UEC, was launched.⁵⁵ The mVoter2020 mobile app detailed the biographies of candidates running in each district as well as their policies. One of the candidates listed, Aye Win, running with the Human Rights and Democracy Party from Rakhine State, was labelled as ‘Bengali-Bamar.’⁵⁶ Two human rights organizations including Sweden’s International Institute for Democracy and Electoral Assistance (IDEA), and the U.S.-based Asia Foundation were involved in the development of the app.

54. Ibid
 55. Radio Free Asia, “Hate Speech Against Rohingya in Myanmar Election Has Worrisome Precedents,” 13 October 2020 <https://www.rfa.org/english/news/myanmar/hate-speech-10132020192900.html>
 56. Ibid



The classification, as was quickly pointed out by Justice for Myanmar and other groups, ‘displayed a bias against Rohingya candidates by implying that voters cast ballots based on candidate’s ethnicity and religious affiliations rather than their performance and experience in politics.’⁵⁷

Further, Article 25 of the ICCPR makes clear the right to be elected into government agencies and institutions and Article 26 of the ICCPR indicates the equality of all before the law without discrimination. The failure to do so by the UEC and stakeholders participating in the election also fails to uphold the dignity of the electoral process. The political arena, as it stands with significant disregard for Article 25 of the ICCPR, will only delay Burma’s democratic transition further and call into question their sincerity to uphold human rights for all. It also sets a worrying tone for what is to come in the next term of the elected government as the right to self-identify without prejudice against culture or religion requires a significant amount of disabling through policy reform.

Article 1 of the ICESCR

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The rights of various ethnic people in Burma has been undermined greatly by the state across many decades of war. Despite Article 1 declaring that civilians are able to ‘freely determine their political status,’ this has not been the case in several ethnic areas. In Shan State specifically, there has been fear mongering by armed groups through intimidation tactics and campaign materials being destroyed to send the message that they are not welcome in various ethnic majority areas.

57. Ibid



The RCSS released a statement strongly encouraging political parties who want to campaign in the general election in territory that the armed group controls, that they should be informed before launching any activities.⁵⁸ An RCSS spokesperson said, “They need to inform us. They need to negotiate with us. They need to come to an understanding with us.”⁵⁹

The RCSS also suggested that there could be some problems otherwise. The Shan Nationalities League for Democracy responded by welcoming the announcement, where the RCSS controls 30 townships, mostly in southern Shan State.⁶⁰

However, for the Ta’ang National Party, online campaigning is limited as many voters do not have access to the Internet, which may require them to canvas in RCSS areas.

Similarly, the Ta’ang National Liberation Army (TNLA) also announced that they would allow political parties to campaign in their territory – as long as it ‘does not exacerbate ethnic tensions.’⁶¹ The TNLA also said that those who do so must avoid speaking negatively about other ethnic groups. Notably, the armed group has also said that they do not accept the election under the military-drafted 2008 Constitution.⁶²

Another example of stakeholders violating civic spaces and undermining self-determination throughout the pre-election campaign period, was the abduction of three NLD candidates who were seized by an unidentified gunman.⁶³ Daw Ni Ni May Mying, Daw Chit Chit Chaw and Ko Min Aung, were all taken while they were campaigning in Taungkok township. The AA admitted to capturing

58. Burma News International, “RCSS Recommends Political Parties Inform Them of Election Campaigns in Their Territory,” 3 October 2020 <https://www.bnionline.net/en/news/rcss-recommends-political-parties-inform-them-election-campaigns-their-territory>

59. Ibid

60. Myanmar Times, Sai Wanna, “RCSS vows to allow election campaigning in territory,” 3 September 2020 <https://www.mmtimes.com/news/rcss-vows-allow-election-campaigning-territory.html>

61. Burma News International, “TNLA, SSPP to Allow Election Campaigning in Their Territories,” 17 August 2020 <https://www.bnionline.net/en/news/tnla-sspp-allow-election-campaigning-their-territories>

62. Ibid

63. Myanmar Times, Min Wathan, “Three NLD candidates seized in Rakhine,” 14 October 2020. <https://www.mmtimes.com/news/three-nld-candidates-seized-rakhine.html>



The three NLD candidates from Rakhine State's Taungup Township who were abducted, as seen in a photograph released by the Arakan Army. (Screenshot from press release by AA)

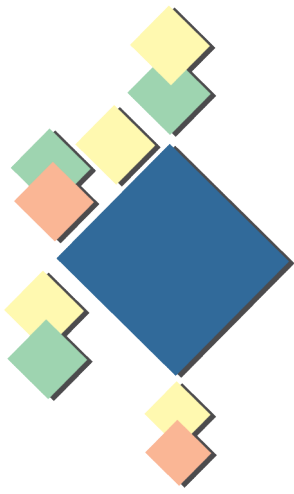
the candidates after posting a photo online of the three and accusing them of ‘collaborating and covering up war crimes committed by the Burma Army.’⁶⁴ The NLD has called for the immediate release of the party members and condemned the act ‘to deliberately destroy the election,’⁶⁵ although the AA has maintained they will not release them until the government frees all people arresting and detaining those unlawfully demanding peace.⁶⁶

Attempts to control the balloting regionally by armed actors is also not in line with democratic principles. The political status of voters and their preference must not be compromised as a tactic to suppress a voter’s right to choose their candidate. Similarly, the individuals running must not have to worry about lost time, money and resources – or their lives campaigning in an area where they are not necessarily the preferred party.

64. Myanmar Mix, “Arakan Army Admits NLD Candidate Abductions,” 20 October 2020 <https://www.myanmarmix.com/en/articles/arakan-army-admits-nld-candidate-abductions#.X45BCJiPvk4.twitter>

65. Ibid

66. Myanmar Mix, “Arakan Army Admits NLD Candidate Abductions,” 20 October 2020 <https://www.myanmarmix.com/en/articles/arakan-army-admits-nld-candidate-abductions#.X45BCJiPvk4.twitter>



Conclusion

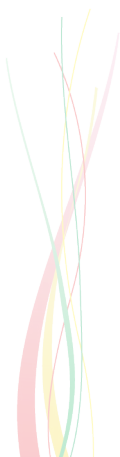
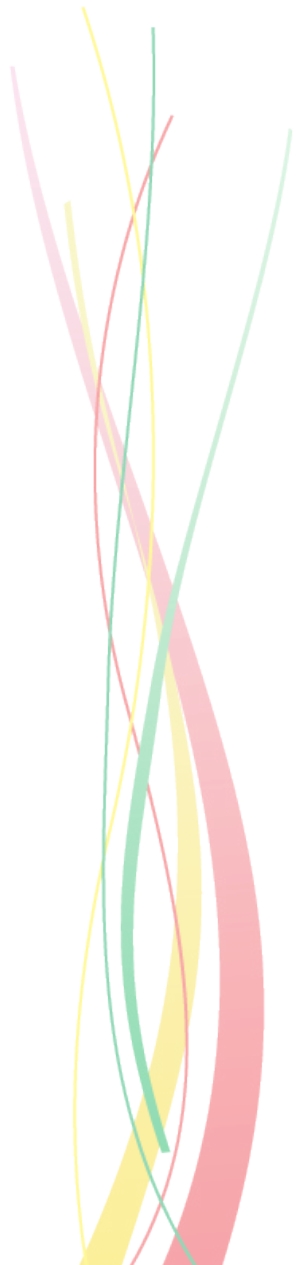
One of the most important democratic principles is freedom of speech and to uphold the civic and political rights as fundamental for all citizens. In hope of a peaceful transition to democracy many ethnic voters cast a ballot for the NLD to bring about the changes they had long hoped for in the 2015 general election. However, amid the outbreak of COVID-19 and increased threats to livelihood, local people are less interested in the election. Civilians are also scared and frustrated as widespread election disenfranchisement continues with cases of COVID-19 rising.

Even before the election campaign period began, the NLD and UEC had already started making biased decisions rooted in discrimination, censorship and the unfair treatment of political parties. Against the backdrop of poor planning has been the ongoing occurrence of mass human rights violations taking place in conflict areas, as thousands of innocent people are forced to escape from fighting and are forcibly displaced, threatened, tortured, or killed.

The ruling government has failed to demonstrate an effective transition to democracy. People of the country do not enjoy political and civil rights and as a result, their hopes and trust in the government has gradually faded. It cannot be stated enough that the outcome of this election will have serious impacts on the future of Burma's democratic transition. Conspicuously, Burma has not signed or ratified the ICCPR. Despite not being under any legal obligation to uphold the values in the ICCPR, as a country that has expressed willingness to the transfer of power into a quasi-civilian government, the reluctance to sign and ratify this important UN doctrine calls into question the sincerity of the commitment.



As stated in this short briefing paper, violations of the ICCPR and ICESCR indicate the shrinking space for freedom of expression and social, cultural and religious views and practice without consequences.





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