



## Mandate for Democracy?

### Military Politics Rejected as Myanmar Votes for a Yet Unrealized Democracy

#### Introduction

The results of Myanmar's second general elections since 2011, when fifty years of military rule came to an end, were announced by the Union Election Commission (UEC) a week after the vote itself, which was held on 8 November 2020. Defying expectations of a poorer performance than in the historic 2015 general elections, the ruling National League for Democracy (NLD) in fact exceeded its previous landslide win, securing 396 of the 476 contested seats across the Upper and Lower Houses of the Union Hluttaw, or 83.2% of the vote.<sup>1</sup> 22 seats remain vacant due to poll cancellations, and a further 166 of the total 664 seats in the Hluttaw, or 25% of the seats, are reserved for unelected members of the Myanmar military as required by the 2008 Constitution. Even factoring these in however, the NLD has comfortably held and built on its outright majority and will form the next government. The party's main rival - the Myanmar military's proxy Union Solidarity and Development Party (USDP) – suffered the most losses. The results demonstrate an irrefutable consensus in Myanmar that there is no place for the military in politics, and a resolve not to return to the days of military rule.

While a critical process for a nation long-striving to overcome authoritarianism, the 2020 elections – conducted under the military-drafted 2008 Constitution and in the context of ongoing, widespread and serious suppression of political rights – cannot be considered fully democratic. This is the second in a series of two briefing papers by Progressive Voice covering Myanmar's 2020 general elections. The first briefing paper "A Vote with No Confidence: Myanmar's 2020 General Elections and Rights of Ethnic and Religious Minorities"<sup>2</sup> highlighted how the impacts of long-standing systemic and institutionalized racism and protracted armed conflict worsened during the NLD's first term in office. This resulted in even greater mass disenfranchisement and marginalization than in 2015, leaving a large proportion of Myanmar's ethnic and religious minority population with little reason to hope that Myanmar's fledgling parliamentary democracy will serve their interests and improve their lives.

Almost the entire Rohingya population, including the one million Rohingya refugees in Bangladesh, as well as members of other minorities continue to be deprived of their citizenship rights under an intentionally racist citizenship legal framework and were again arbitrarily denied their right to vote and stand for election. The government-appointed UEC unilaterally cancelled voting in conflict-affected ethnic areas – particularly where the NLD is less popular – due to security concerns, directly disenfranchising an estimated 1.5 million

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<sup>1</sup> Global New Light of Myanmar, 'UEC's announcement on final list of winning parties until 9 am on 15 November,' 16 November 2020. Available at: <https://www.gnlm.com.mm/uecs-announcement-on-final-list-of-winning-parties-until-9-am-on-15-november/>

<sup>2</sup> Progressive Voice, 'A Vote with No Confidence: Myanmar's 2020 General Elections and Rights of Ethnic and Religious Minorities,' 26 October 2020. Available at: <https://progressivevoicemyanmar.org/2020/10/26/a-vote-with-no-confidence-myanmars-2020-general-elections-and-rights-of-ethnic-and-religious-minorities/>

to 2 million people.<sup>3</sup> In ethnic areas, rights to freedom of expression, association, assembly, movement and information are already impacted by armed conflict and discrimination, undermining the equal participation of ethnic minorities and marginalizing them from the democratic process. Large numbers of ethnic minority internally displaced persons (IDPs), a further roughly one million more refugees and majority of the four million migrants in neighboring countries largely driven out by ongoing civil war were also unable to vote.

The restrictions in place in response to the second wave of COVID-19 in Myanmar favored the NLD, who chose not to cancel the elections despite a rapidly surging number of cases and severely poor access to healthcare across the country. The pandemic provided an even greater platform for Daw Aung San Suu Kyi, while hampering the campaigns of other political candidates. Crowds of NLD supporters were not prevented from campaigning or celebrating the election result, and new cases of COVID-19 are now spiking.<sup>4</sup> Clampdowns on free expression, a right which has declined significantly under the NLD, further contributed to an unequal playing field, favoring the NLD and USDP – criticism of the government or military is increasingly criminalized, and was banned in political party campaign broadcasts by the UEC. The military is also suspected of attempting to subvert the vote in ethnic areas, further undermining the political rights of ethnic and religious minorities. As such, the result does not truly reflect the views and will of the diverse peoples of Myanmar.<sup>5</sup>

Over the past five years, Daw Aung San Suu Kyi and the NLD have prioritized their battle with the military for power in Naypyidaw over improving the situation of human rights across the country or taking meaningful steps towards addressing the political demands and grievances of ethnic communities and establishing a long-sought-after genuine federal democracy. The international community made this power struggle all the more difficult for the NLD by lifting economic sanctions in place against the military, its companies and cronies, in a premature response to the minimal reforms of the past decade. This removed critical leverage that could have been pivotal to the NLD-led civilian government.

In the end, playing to the strength of Bamar Buddhist ultranationalism at the expense of ethnic and religious minorities to keep the military at bay and defeat the USDP paid off for Daw Aung San Suu Kyi in the polls. But that end came by entirely unjustifiable means, as arguably the one person in Myanmar with the platform, status and respect to significantly challenge deep-rooted prejudices between ethnic and religious communities – that have long been fueled and exploited by successive military regimes – instead chose to deny and defend a genocide in the process of securing electoral victory. A continuation of the same approach during a second term in office would be unacceptable. It would be to permit the ongoing persecution of ethnic and religious minorities; to deny justice to the victims of human rights violations; and to cause immense damage to prospects for peace. The newly elected NLD-led government must change course. In an interesting move, just days after the election, the NLD sent an open letter to 48 ethnic parties calling on them to join in partnership to build a federal democracy and a ‘national unity government’. Leaders of ethnic

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<sup>3</sup> Radio Free Asia, ‘Rebels Call for Election in Parts of Myanmar’s Rakhine Denied Vote,’ 12 November 2020. Available at: <https://www.rfa.org/english/news/myanmar/vore-redo-11122020205813.html>; Rebecca Ratcliffe, ‘Myanmar minorities, including Rohingya, excluded from voting in election,’ The Guardian, 6 November 2020. Available at: <https://www.theguardian.com/world/2020/nov/06/myanmar-minorities-rohingya-excluded-voting-election-poll-aung-san-suu-kyi-rights>

<sup>4</sup> Zaw Zaw Htwe, ‘Suu Kyi Warns of COVID-19 Spread After Myanmar’s Election Celebrations,’ The Irrawaddy, 17 November 2020. Available at <https://www.irrawaddy.com/elections/suu-kyi-warns-covid-19-spread-myanmars-election-celebrations.html>

<sup>5</sup> Progressive Voice, ‘A Vote with No Confidence’

political parties are skeptical however, and it remains to be seen whether the public gesture will translate into a substantive shift in the government's approach.<sup>6</sup>

This paper, which is drawn from secondary research and covers the election campaign period beginning 8 September 2020 until one week after the elections, looks back at several human rights issues relating to Myanmar's 2020 general elections that were not covered in the first paper and arose later in the campaign period. Those are the attempts of the Myanmar military to undermine the government and electoral process through misinformation campaigns and publicly questioning the competence of the UEC; the representation of women amongst the parliamentary candidates and the gender-based hate speech they were subjected to; and the concerning incidents of violence that occurred during the campaign period.

## Military Efforts to Undermine Election

### Misinformation and Hate Speech

Prior to and throughout the campaign period, misinformation and hate speech was, and continues to be, spread across social media, primarily on Facebook. Misinformation and hate speech are pervasive issues in Myanmar. A joint report published by Progressive Voice and 19 partner organizations in October 2020 titled "Hate Speech Ignited: Understanding Hate Speech in Myanmar" identified several constructed narratives, all of which interlink and reinforce an overarching meta-narrative of Bamar Buddhist dominance. These narratives include claims that both ethnic minority groups and non-Buddhists are a threat to Myanmar; Islam in particular poses an imminent "violent" threat; military strength is essential to protect the nation and the "Bamar race and Buddhist religion"; the international community is biased, misinformed and targeting Myanmar with ill will; and those that challenge the aforementioned narratives are dangerous "race traitors" and foreign agents.<sup>7</sup>

The Myanmar military is known to use social media to disseminate misinformation and hate speech, which can have serious real-world impact. In 2018, whistle-blowers reported that in the run up to the atrocities inflicted on the Rohingya in 2016 and 2017 by the military and other security forces, the military had operated a systematic anti-Rohingya campaign on Facebook. Hundreds of military personnel were reported to be working in shifts out of military bases creating troll accounts, news and celebrity pages on Facebook, then flooding them with incendiary comments and posts timed for peak viewership. Facebook confirmed many of these details, having found clear and deliberate attempts to covertly spread anti-Rohingya propaganda that were directly linked to the Myanmar military.<sup>8</sup>

Falsehoods spread online prior to and during the 2020 election campaign period largely played to Islamophobic sentiment and accused the NLD of favoring Muslims. For example, posts included assertions that the NLD is planning to allow for the construction of mosques, create a Muslim Affairs Ministry, and is

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<sup>6</sup> Hay Man Pyae, 'Despite landslide victory, NLD appeals to ethnic parties to join its 'national unity government,' Myanmar Now, 13 November 2020. Available at: <https://myanmar-now.org/en/news/despite-landslide-victory-nld-appeals-to-ethnic-parties-to-join-its-national-unity-government>

<sup>7</sup> 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/>

<sup>8</sup> Paul Mozur, 'A Genocide Incited on Facebook, With Posts From Myanmar's Military,' The New York Times, 15 October 2018. Available at: <https://www.nytimes.com/2018/10/15/technology/myanmar-facebook-genocide.html>

receiving assistance from the Organization of Islamic Cooperation.<sup>9</sup> One post falsely claiming that an NLD candidate was campaigning in Myawaddy with the promise of building a mosque was shared more than a thousand times.<sup>10</sup> A live stream broadcasting apparent excerpts from a sermon by the Venerable Mya Saydi Sayardaw in which he warned people to be cautious, claimed that Myanmar would soon become a land of *Kalars*<sup>11</sup> and urged people to use their vote to protect the nation, faith and religion was viewed 37 thousand times.<sup>12</sup> An investigation by *Frontier Myanmar* uncovered network of accounts spreading disinformation about the NLD and Rohingya attributed to a fake news organization “*Radio Free Myanmar*” which convincingly mimics the name and logo of US-based news outlet “*Radio Free Asia*” was uncovered, after its activity spiked dramatically during the election campaign period.<sup>13</sup> U Sithu Maung, one of only two Muslim candidates fielded by the NLD described receiving online attacks from “all sides” after his nomination was announced, with social media users calling him a terrorist and claiming he intended for Arabic to be taught in schools.<sup>14</sup>

The prevalence of these types of messages across social media demonstrate how influential these narratives are. Moreover, the incidents of violence committed by USDP supporters against NLD members and supporters in relation to the elections, discussed later in the paper, may have been fueled, in part, by online misinformation and hate speech, and highlight how dangerous it can be.

Several days before the election, Facebook announced that it had removed 36 Facebook accounts, six Pages, two Groups and one Instagram account for violating their policy on coordinated inauthentic behavior.<sup>15</sup> Some of the pages focused on promoting the USDP, while others criticized the NLD. According to Facebook, they were mainly posting in Burmese about current events including the general elections. Facebook had already reported having removed 38 Facebook accounts, 15 Pages, and 6 Instagram accounts in October. The individuals behind that network had posted primarily in Burmese about local news and current events including topics like military activities, the USDP, criticism of the NLD and Daw Aung San Suu Kyi, as well as a small number of anti-Rohingya posts. While the individuals had attempted to conceal their identity, Facebook found links to members of the Myanmar military.<sup>16</sup>

While not all misinformation and hate speech online in Myanmar can be attributed to the Myanmar military, the findings reported by Facebook highlight an ongoing effort on the part of the military to undermine the elections, the NLD, the democratic transition and promote a dangerous Bamar Buddhist nationalist ideology, targeting minorities. Throughout the election campaign period the military continued to employ its tactic of targeting ethnic minority civilians, blatantly and with impunity. For example, at the beginning of the week leading up to the elections, the military rounded up 100 villagers from Zaichaung Village, Rakhine State, held

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<sup>9</sup> Burma Human Rights Network (BHRN), ‘Free and Fair For Some: Discrimination and Hate Speech in Burma’s General Election Campaign,’ 4 November 2020. Available at: <http://www.bhrn.org.uk/en/press-release/1137-bhrn-launches-new-report-on-discrimination-and-hate-speech-in-burma-s-election-campaign.html>

<sup>10</sup> Ibid

<sup>11</sup> Kalar is a highly racist and derogatory term used against people of Muslim or perceived to be south Asian heritage

<sup>12</sup> BHRN, ‘Free and Fair For Some’

<sup>13</sup> Banyar Kyaw, Phone Htet Naung, Alex Beatson, Andrew Nachemson, ‘Radio Free Myanmar: Disinformation network spreads false news and hate speech,’ *Frontier Myanmar*, 9 October 2020. Available at:

<https://www.frontiermyanmar.net/en/radio-free-myanmar-disinformation-network-spreads-false-news-and-hate-speech/>

<sup>14</sup> Associated Free Press, ‘Myanmar Muslim MP-Elect Vows To Be Rights Champion,’ 11 November 2020. Available at: <https://theaseanpost.com/article/myanmar-muslim-mp-elect-vows-be-rights-champion>

<sup>15</sup> Defined by Facebook as being a group of people working together to mislead others about who they are and what they are doing.

<sup>16</sup> Facebook, ‘October 2020 Coordinated Inauthentic Behavior Report,’ 5 November 2020. Available at: <https://about.fb.com/news/2020/11/october-2020-cib-report/>

them hostage at a school and interrogated them for 10 days about links to the Arakan Army,<sup>17</sup> having already shot and wounded one woman from the village and causing 700 people to flee for safety.<sup>18</sup> Two days after the elections, six villagers, including two children were injured from heavy artillery shelling over Shaukkon Village, the second attack there in two months, causing an influx of IDPs to seek refuge at a nearby camp already in desperate need of humanitarian assistance.<sup>19</sup> Over the course of the two-year conflict in Rakhine, civil society report that 247,442 people have become victims of the armed conflict, including 244,968 internally displaced, 313 killed (51 of which were children) and 1,491 arrests.<sup>20</sup> As with countless other military crimes against civilians committed over the decades, no domestic accountability or justice processes are being pursued. It is therefore imperative that the international community strengthen efforts to pursue international justice. The military's ongoing weaponization of social media involving the spread of anti-Rohingya hate speech is already in direct contravention of the unanimous ruling by the International Court of Justice, indicating provisional measures in the case brought against Myanmar by The Gambia under charges of genocide. The military remains emboldened, as the cases above illustrate, and will continue to persecute civilians unless it is held to account.

## Challenging Credibility

Just days before the 8 November elections, the Myanmar military Commander-in-Chief, Senior General Min Aung Hlaing, released a public statement claiming that the government is responsible for “weakness and deficiencies” in management of the election, and that this would have adverse impacts on the elections’ image. He based his claims on valid reports that the UEC had mismanaged voter lists, ballot envelopes and boxes, and had failed to ensure political parties followed campaign rules in line with COVID-19 restrictions.<sup>21</sup> In response, the President’s Office claimed that not only would the statement cause concern and instability, but as a government employee, by publicly suggesting political affiliation the Commander-in-Chief had breached the 2008 Constitution.<sup>22</sup>

It is ironic that the leader of the Myanmar military would question the credibility of Myanmar’s electoral process, when it is the military-drafted 2008 Constitution – under which 25% of seats in Parliament are reserved for military appointees, simultaneously giving the military a veto over any Constitutional change – which is in fundamental violation of democratic norms. The public comments made by Min Aung Hlaing, while presented as being made out of concern for the integrity of the elections, were an overt attempt to undermine public confidence in the NLD.

In the days following the elections, as initial results were revealed, the extent of the USDP’s losses and the NLD’s gains became clear. The USDP immediately claimed it rejected the result, citing a list of weaknesses in

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<sup>17</sup> The Arakan Army is an ethnic armed organization fighting for Rakhine self-determination in Rakhine State, formerly Arakan. Formed in 2008, it has been engaged in heavy conflict with the Myanmar military in northern Rakhine and southern Chin States since November 2018.

<sup>18</sup> Hnin New, ‘Kyaukphyu Twsp villagers released after lengthy military interrogation,’ Development Media Group, 14 November 2020. Available at: <https://www.dmediag.com/news/2282-zc-kpu-nov-14>

<sup>19</sup> Khaing Lu Hla, ‘Six people, including two children, injured as artillery shells hit Ann township village,’ Burma News International, 12 November 2020. Available at: <https://www.bnionline.net/en/news/six-people-including-two-children-injured-artillery-shells-hit-ann-township-village>

<sup>20</sup> See Burma Monitor at: <https://www.facebook.com/BurmaMonitor/>

<sup>21</sup> Sebastian Strangio, ‘Myanmar’s NLD Draws More Criticisms Ahead of National Poll,’ The Diplomat, 4 November 2020. Available at: <https://thediplomat.com/2020/11/myanmars-nld-draws-more-criticisms-ahead-of-national-poll/>

<sup>22</sup> Radio Free Asia, ‘Myanmar Military-Government War of Words in Run-up to Vote Raises Concerns,’ 4 November 2020. Available at: <https://www.rfa.org/english/news/myanmar/military-government-11042020190519.html>

the way the UEC ran the elections but providing no significant evidence to support these.<sup>23</sup> The party instructed candidates not to sign Form 19 with election officials confirming the results, and called for a rerun of the election to be supervised by the military.<sup>24</sup> The call was immediately rejected by the UEC.

The UEC is a flawed institution, being unrepresentative and appointed by the President, and there were damning failures on its part, such as the inability, once again, to accurately prepare voter lists, total lack of transparency over its decision to cancel voting in multiple ethnic areas and the heavy restrictions it imposed on free expression in political party campaign broadcasts.<sup>25</sup> However, these issues aside, independent observers did not raise any concerns over the validity of the result itself that would support the USDP's claims. Myanmar civil society organization, the People's Alliance for Credible Elections (PACE), deployed 1,885 observers to monitor the election-day process and 305 to observe the tabulation process. Almost all of the observers were allowed to observe the whole process openly, and PACE considered the election-day process overall to be peaceful with no major incidents.<sup>26</sup> While citing critical flaws in the legal framework undermining the quality of democracy – principally the 2008 Constitution – international observer the Carter Centre also found there to be no major irregularities at polling stations.<sup>27</sup> As with the earlier remarks made by Min Aung Hlaing, the USDP's calls reflect the intention of the military and its allies to undermine confidence in the civilian government and maintain a perception of the military as being essential to governance; a view that is clearly not shared by the vast majority of the Myanmar public.

Despite being ineffective at influencing public opinion, the interjections by Min Aung Hlaing and the USDP were concerning to many people. The military and its proxy political party are not – and never were – intending for Myanmar to become a democracy. The military will continue to obstruct and undermine democracy at every opportunity. Concerns were also raised over the personal political ambitions of Min Aung Hlaing, who is nearing the end of his term as Commander-in-Chief of the military. Min Aung Hlaing is already subject to multiple international sanctions for the commission of grave human rights violations, and an investigation by the International Criminal Court, which seeks to prosecute and try individuals accused of committing the most serious crimes under international law, is underway. Min Aung Hlaing may anticipate himself to be vulnerable to international sanctions and charges if he cannot secure another official position for himself. It is imperative that the international community increase pressure on the Myanmar military by imposing targeted sanctions and cutting ties with military businesses, and supporting the ongoing international justice and accountability mechanisms, in the interests of justice and prevention of further atrocities, but also to support the people of Myanmar in seeing that war criminals cannot continue to shape the country's future and deny them their democratic rights.

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<sup>23</sup> Myanmar Now, 'UEC dismisses USDP's calls for new election,' 12 November 2020. Available at: <https://myanmar-now.org/en/news/uec-dismisses-usdps-calls-for-new-election>

<sup>24</sup> Naw Betty Han, Hein Thar, 'Commission shuts down USDP call for fresh election,' Frontier Myanmar, 11 November 2020. Available at: <https://www.frontiermyanmar.net/en/commission-shuts-down-usdp-call-for-fresh-election/>

<sup>25</sup> Progressive Voice, 'A Vote with No Confidence'

<sup>26</sup> PACE Myanmar, 'Election Day Observation Preliminary Findings,' 9 November 2020. Available at: <https://www.pacemyanmar.org/2020-eday-eng/>

<sup>27</sup> The Carter Centre, 'Carter Center Preliminary Statement on the 2020 Myanmar General Elections,' 10 November 2020. Available at: <https://www.cartercenter.org/news/pr/2020/myanmar-111020.html>

## Women's Political Participation

There was a slight increase in representation of female parliamentary candidates for the 2020 general elections compared to 2015 when only 800 women ran. In 2020, 1,112<sup>28</sup> women ran out of 5,639 candidates overall nationwide,<sup>29</sup> or around 20%. In 2015, 15% of the candidates fielded by the NLD were women, and 6% of those fielded by the USDP. Both parties increased this amount in 2020 to 18.8% and 10% respectively,<sup>30</sup> but these numbers remain very low demographically. Some ethnic political parties fielded more female candidates. Parties with the highest number of women running included the Shan Nationalities League for Democracy and the Mon Unity Party, with around 29% and 26%, respectively.<sup>31</sup>

Women in Myanmar aspiring to stand as candidates for political parties face many disproportionate challenges compared to men, including deeply ingrained patriarchal, cultural and institutional constraints. Prevailing gender norms and stereotypes mean that the majority of women are expected to take on traditional roles in caring for the family, making it difficult to balance the demands of political life. The same norms and stereotypes privilege male leaders, including, or especially, in politics.<sup>32</sup> The challenges faced by women in standing for public office result in very poor representation of women in parliament. During the last parliament, women held only 75 of the 664 seats, or around 11%.<sup>33</sup> This extended into executive branch of government; during the last term the President, Vice President and 24 members of the Cabinet were all male, with the exception of Daw Aung San Suu Kyi.<sup>34</sup>

International standards on women's political participation require governments to review the impact of their electoral system on the political participation of women and adjust or reform them where appropriate; to strongly encourage political parties to remove all barriers that discriminate against women, to analyze issues from a gender perspective, and to adopt policies and action plans to promote women's full participation at all levels of decision-making within those political parties; to promote awareness and recognition of the importance of women's participation in the political process; to investigate allegations of violence, assault or harassment against women elected officials and candidates for political office, create an environment of zero tolerance for such offences and take all appropriate steps to prosecute those responsible; and to encourage greater involvement of women who may be marginalized, including women with disabilities, women from rural areas and women from ethnic or religious minorities, in decision-making at all levels, and address and counter the barriers faced by women, particularly from disenfranchised and marginalized communities, in participating in politics and decision-making at all levels.<sup>35</sup>

The NLD has done little to meet these standards, both as a political party and a government. The NLD conforms to the patriarchal status quo in Myanmar, with nearly all decision-making positions held by men. During the past term in office, the NLD government was reluctant to develop concrete policies to improve

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<sup>28</sup> Khin Lay Nge, 'Women's Footsteps towards Democratic Transition in Myanmar,' Gunder Werner Institute, 5 October 2020. Available at: <https://www.gwi-boell.de/en/2020/10/05/womens-footsteps-towards-democratic-transition-myanmar>

<sup>29</sup> The Irrawaddy, 'Myanmar's 2020 General Election Results in Numbers,' 11 November 2020. Available at: <https://www.irrawaddy.com/elections/myanmars-2020-general-election-results-numbers.html>

<sup>30</sup> International Crisis Group (ICG), 'Majority Rules in Myanmar's Second Democratic Election,' 22 October 2020. Available at: <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmar-s-electoral-landscape>

<sup>31</sup> The Transnational Institute (TNI), 'Myanmar: Ethnic Politics and the 2020 General Election,' 24 September 2020. Available at: <https://www.tni.org/en/publication/myanmar-ethnic-politics-and-the-2020-general-election>

<sup>32</sup> ICG, 'Majority Rules in Myanmar's Second Democratic Election'

<sup>33</sup> *ibid*

<sup>34</sup> *ibid*

<sup>35</sup> UN Women, 'Global norms and standards: Leadership and political participation,' available at: <https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/global-norms-and-standards>

female political representation, while Daw Aung San Suu Kyi was public in her skepticism of quotas.<sup>36</sup> The new NLD government must develop specific, targeted policies to advance women's political participation, leadership and gender equality, and take comprehensive measures to address pervasive gender stereotypes in society that limit the life choices of both women as well as men. Myanmar has long accepted these obligations, having ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1997, which specifically requires the government to eliminate discriminations against women in political and public life and hold public office and perform all public functions at all levels of government on equal terms with men.<sup>37</sup>

Of the few female candidates that did run in the elections, many were subjected to gender-based online abuse, reflecting misogynistic attitudes about the role of women in Myanmar society, in politics in particular. As with anti-minority misinformation and hate speech, discussed above, such online rhetoric is dangerous, and translates into real world harm. Kachin State People's Party (KSPP) candidate Seng Nu Pan described receiving many gender-based online attacks during the campaign, as well as attacks based on her ethnicity. She was told that all women are wives and mistresses of Lieutenant General Gun Maw – vice chairman of the Kachin Independence Organization (KIO) – including herself, and that the KSPP should select a decent man instead of her. Ei Thinzar Maung from the Democratic Party for a New Society (DPSN) received comments implying that women in politics would destroy the nation, and that although she is “very cute” the people say “no” to her party. Ei Thinzar Maung was one of the youngest candidates running in the 2020 general elections. She has been a human rights activist since 2012 and was once imprisoned for her leading role in national education reform movement in 2015. She has campaigned for an end to the decades long civil war, as well as for the rights of ethnic and religious minorities, including the Rohingya. In December 2019, she famously braved the risk of being arrested or attacked handing out t-shirts with the words “I stand against genocide in Myanmar,” in Yangon's Maha Bandula Park amidst crowds of people supporting Daw Aung San Suu Kyi's appearance at the ICJ.<sup>38</sup> Her activism highlights the potential power that women and youth in Myanmar have to inspire and encourage a socially cohesive, ethnically diverse and socially just society. Ei Thinzar Maung's party, the DPNS was committed to giving her political campaign a platform.

Far more needs to be done to address and end impunity for violence against women in Myanmar – an issue that successive governments have failed to show any meaningful commitment to. A proposed law on the prevention of violence against women has long been in development, but near final drafts contain fundamental flaws, including a failure to adequately identify, define, prohibit and punish gender-based crimes in order to prevent violence against all women.<sup>39</sup> Passing the Law in line with international standards should be a priority for the new Government, all the more so considering the widespread use of rape and sexual violence against ethnic and religious minority women by the Myanmar military, for which there is near-total impunity.

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<sup>36</sup> Akanksha Khullar, 'Dashed Hopes for Myanmar's Women,' *The Diplomat*, 9 August 2019. Available at: <https://thediplomat.com/2019/08/dashed-hopes-for-myanmars-women/>

<sup>37</sup> Article 7(b), Convention on the Elimination of All Forms of Discrimination Against Women

<sup>38</sup> Emily Fishbein, "Genocide is un-Burmese': Breaking taboos, activists speak up for Rohingya," *The Christian Science Monitor*, 24 March 2020. Available at: <https://www.csmonitor.com/World/Asia-Pacific/2020/0324/Genocide-is-un-Burmese-Breaking-taboos-activists-speak-up-for-Rohingya>

<sup>39</sup> Global Justice Centre Blog, 'Myanmar's Proposed Prevention Of Violence Against Women Law - A Failure to Meet International Human Rights Standards,' 13 July 2020. Available at: <https://globaljusticecenter.net/blog/19-publications/1319-myanmar-s-proposed-prevention-of-violence-against-women-law-a-failure-to-meet-international-human-rights-standards>

## Election-Related Violence

During the election campaign period there were multiple, concerning incidents of violence. More violent incidents were recorded this year than in 2015.<sup>40</sup> In September, two unexploded grenades were found having been thrown from the street into the home of a UEC official in Nay Pyi Taw,<sup>41</sup> while the Restoration Council of Shan State (RCSS) allegedly detained a Ta'ang National Party (TNP) member in Murg Kung Township, southern Shan State.<sup>42</sup> In October an NLD member's house was attacked by a mob who threw petrol bombs and caused serious damage in Myaing Township, Magwe Region.<sup>43</sup> Also in October, the Arakan Army (AA) abducted three NLD candidates in Taungup Township, Rakhine State, while they were campaigning. At the time of writing they are yet to be released.<sup>44</sup> In November, 38-year-old Myo Min Soe died in hospital two days after being beaten by USDP supporters after he intervened during a riot in Kanbalu Township, Sagaing Region.<sup>45</sup> A USDP convoy with around 2,000 followers was reported to have been travelling through the township all day.<sup>46</sup> Other incidents of violence related to the elections were also reported in Yangon, Nay Pyi Taw, Mandalay and Ayeyarwady regions.<sup>47</sup> Less than a week after the elections, a supporter of the NLD was brutally beaten to death while celebrating the party's first victory in his constituency, by supporters of the USDP. Aung Zin Phyto was from Kangyidaunt Township, Ayeyarwady Region.<sup>48</sup>

The right to participate in free and fair elections is inextricably linked to a number of basic rights. These include freedom from fear and intimidation, a principle based on the rights to life, to personal integrity and to liberty and security of the person - articles 6, 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR).<sup>49</sup> Everyone taking part in elections, including candidates, election officials and voters, must have the confidence that they will not be targeted, threatened or intimidated in any way as a result of their participation.<sup>50</sup> The rights to freedom of opinion, expression, association and peaceful assembly are also critical to the integrity of elections; only within an environment where everyone is included and is able to freely exercise their political rights can elections be truly inclusive, free and fair. The incidents of election violence in Myanmar, during which election officials, voters and candidates were all targeted, limits or denies

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<sup>40</sup> San Yamin Aung, 'Myanmar Election Violence on the Rise as November Vote Nears,' The Irrawaddy, 29 October 2020. Available at: <https://www.irrawaddy.com/opinion/analysis/myanmar-election-violence-rise-november-vote-nears.html>

<sup>41</sup> Myanmar Now, 'Two unexploded grenades found at election official's Naypyitaw home,' 21 September 2020. Available at: <https://myanmar-now.org/en/news/two-unexploded-grenades-found-at-election-officials-naypyitaw-home>

<sup>42</sup> Sai Pawnl, 'Ta'ang Political Party Accuses RCSS of Detaining One of Its Members,' Shan News, 21 September 2020. Available at: <https://english.shannews.org/archives/21808>

<sup>43</sup> San Yamin Aung, '19 Arrested After Mob Attack on NLD Member's House in Central Myanmar,' The Irrawaddy, 6 October 2020. Available at: <https://www.irrawaddy.com/elections/19-arrested-mob-attack-nld-members-house-central-myanmar.html>

<sup>44</sup> Zaw Zaw Htwe, 'Long Silence From Abducted NLD Candidates in Myanmar's Rakhine State Prompts Fears,' The Irrawaddy, 5 November 2020. Available at: <https://www.irrawaddy.com/news/burma/long-silence-abducted-nld-candidates-myanmars-rakhine-state-prompts-fears.html>

<sup>45</sup> Khin Hnin Wai, 'USDP mob beats NLD supporter to death during clash in Sagaing,' 26 October 2020. Available at: <https://www.myanmar-now.org/en/news/usdp-mob-beats-nld-supporter-to-death-during-clash-in-sagaing>

<sup>46</sup> San Yamin Aung, 'Myanmar Election Violence on the Rise as November Vote Nears,' The Irrawaddy, 29 October 2020. <https://www.irrawaddy.com/opinion/analysis/myanmar-election-violence-rise-november-vote-nears.html>

<sup>47</sup> ibid

<sup>48</sup> Zaw Ye Thwe, 'NLD supporter beaten to death after victory celebration,' Myanmar Now, 13 November 2020. Available at: <https://www.myanmar-now.org/en/news/nld-supporter-beaten-to-death-after-victory-celebration>

<sup>49</sup> Despite advocacy by civil society and parliamentarians, Myanmar remains one of very few countries in the world not to have ratified the ICCPR.

<sup>50</sup> OHCHR, 'Monitoring Human Rights in the Context of Elections,' Manual on Human Rights Monitoring, available at: <https://www.ohchr.org/Documents/Publications/Chapter23-MHRM.pdf>

the free exercise of any or all of these rights for the individuals affected and has contributed to a broader climate of fear and intimidation.

The 2010 Election Laws provide that anyone found guilty of violence, threat, or undue influence to prevent a person from exercising the right to vote or to stand for election may be imprisoned for up to a year or fined one hundred thousand kyats or with both.<sup>51</sup> The 2010 Political Parties Registration Law requires political parties to abstain from activities that can cause conflict or that can affect dignity and morals relating to nationality, religion, individual or public.<sup>52</sup> Provisions of the Penal Code and other legislation apply to the violent incidents not covered by the Elections Laws and Political Parties Registration Law. It is critical that thorough investigation into the election-related violence be carried out by the Government, the UEC, the police and political parties and criminal accountability for those responsible is properly pursued. These will include looking at the relationship between misinformation and hate speech online and the violent events surrounding the 2020 general elections.

## Conclusion

Myanmar's 2020 general elections have resulted in a resounding rejection of military involvement in politics, and a clear mandate for ongoing democratic reform. But the elections themselves were fundamentally flawed. Mass disenfranchisement and marginalization of ethnic and religious minorities was worse than in 2015 and will be the hallmark of the 2020 elections. The Myanmar military was able to make overt efforts to undermine the elections. The dangerous misinformation and hate speech that was spread online in part by individuals linked to the military may have contributed to the increased levels of election-related violence and fatalities. Moreover, the public challenges made to the competence of election management imply the military will continue to obstruct democracy at every opportunity and have raised concerns over the political ambitions of war criminal Senior General Min Aung Hlaing. Women's political participation remained low, which will result in poor representation of women in parliament and government. Finally, the increased levels of election-related violence are deeply concerning and could have a chilling effect on political rights and the democratization process.

The new NLD-led Government must address these serious flaws and there must be a fundamental change from that of the first term in office. The democratic transition is not only about winning over the military in elections; there must be a plan to remove the military entirely from politics; an end to the genocidal persecution of the Rohingya and systemic and institutionalized discrimination against ethnic and religious minorities; national reconciliation and establishment of a genuine federal democracy must be a priority; and human rights must be respected, protected and fulfilled. The international community can and must assist Myanmar to achieve this.

"Many Western pro-engagement groups and governments have demonstrated their willingness to put the promotion of democracy—flawed as it may be in Myanmar—over the protection of the Rohingya and others from future atrocities. But sacrificing the lives and safety of Rohingya in the name of promoting democracy is immoral and short-sighted," writes Wai Wai Nu, Founder and Executive Director of Women's Peace Network in Myanmar and former political prisoner in a *Times* article with a message to the international

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<sup>51</sup> Article 57, Chapter XIII, 2010 Pyithu Hluttaw Election Law

<sup>52</sup> Article 6(d), Chapter II, 2010 Political Parties Registration Law

community that cannot be overstated. “It is time for Western governments to stop endorsing a fundamentally flawed democracy and put stronger pressure on Myanmar.”<sup>53</sup>

The international community must apply all economic, legal and diplomatic means to isolate the Myanmar military and reject its role in politics, as the people of Myanmar have. At the same time, the new NLD Government must be held accountable to its international human rights obligations. The NLD may be returning to government, but it cannot return with the same approach. It must change course.

“The world needs to make sure that global pressure can change the Myanmar government’s priorities so that it protects all its people—including the Rohingya—from future atrocities,” continues Wai Wai Nu. “We can’t afford to wait until the next election and let this crisis go unaddressed for another five years.”

## Recommendations

To the new National League for Democracy-led Government:

- Immediately ratify international conventions, including the ICCPR and ICERD and align national laws with international treaties;
- Acknowledge the Rohingya as an ethnic group of Myanmar and the grave atrocities committed against them as a group by the Myanmar military and security forces;
- Repeal or amend the 1982 Citizenship Law in accordance with international human rights standards and restore citizenship to Rohingya;
- Pursue 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 and survivors of human rights violations;
- Make sincere efforts to end the civil war, war crimes, crimes against humanity, genocide and all human rights violations against civilians;
- Immediately comply with the provisional measures ordered by the ICJ;
- Take meaningful steps towards establishment of a genuine federal democracy in accordance the principles of equality and self-determination for ethnic nationalities, as enshrined in the 1947 Panglong Agreement;
- Amend the 2008 Constitution to bring the Myanmar military under total civilian control and establish a genuine federal democratic system of governance based on equality and the right to self-determination;
- End all politically motivated criminal prosecutions and other restrictions on freedom of expression and assembly;
- Repeal or amend laws that infringe on freedom of expression and assembly and withdraw all unjust charges against individuals awaiting trial or serving sentences for exercising their basic freedoms;
- 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 combat hate speech that perpetuates discrimination based on gender, race, ethnicity, religion or other defining characteristics;

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<sup>53</sup> Wai Wai Nu, ‘Myanmar Went To the Polls for the Second Time Since the End of Military Rule but the Election Was Not Free or Fair,’ TIME, 12 November 2020. Available at: <https://time.com/5910739/myanmar-election-rohingya/>

- Adopt and implement specific, targeted policies to advance women's political participation, leadership and gender equality in line with international obligations under CEDAW;
- Enact and implement the proposed law on the prevention of violence against women, ensuring that it adequately identifies, defines, prohibits and punishes gender-based crimes and meets international obligations under CEDAW and UN Security Council Resolution 1325 on women, peace and security;
- Ensure justice for victims of election-related violence and their families, and to this end conduct a full and independent public inquiry into the causes of election-related violence, taking into account the role of security forces, election officials, political parties and candidates; and
- Hold by-election as soon as possible and to this end, call for an immediate ceasefire, particularly between the AA and the Myanmar military to ensure that voters can safely participate in an inclusive free and fair by-election.

To the International Community:

- Reassess policy towards Myanmar in light of undemocratic actions and human rights violations by NLD-led government and ongoing commission of war crimes and crimes against humanity by Myanmar military;
- Strengthen support for ongoing international justice mechanisms to ensure justice and accountability for human rights violations, war crimes, crimes against humanity and genocide committed against ethnic and religious minorities by members of the Myanmar military and security forces;
- Impose targeted sanctions against the Myanmar military leaders, military-owned businesses, and crony businesses;
- Hold the newly elected NLD-led government firmly to account for its international human rights obligations and to uphold the preliminary measures ordered by the ICJ;
- Ensure Myanmar's compliance with the ICJ provisional measures by ensuring that Myanmar remains on the agenda of the UN Security Council and for the UN Security Council to hold public hearings to evaluate Myanmar's compliance with the provisional measures; and
- Do not accept the continued denial and genocidal persecution of the Rohingya.

## 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.

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