



# ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

109 SUTHISARN WINICHAJ RD., HUAYKWANG SAMSEN NOK, BANGKOK 10320 THAILAND

TEL: 66-2-2773627 FAX: 66-2-2762183

EMAIL: [ANFREL@ANFREL.ORG](mailto:ANFREL@ANFREL.ORG) WEB: [WWW.ANFREL.ORG](http://WWW.ANFREL.ORG)

## Statement

### **Myanmar after the Elections: A Call for Essential Comprehensive Electoral Reform**

*December 7<sup>th</sup>, 2010*

The Asian Network for Free Elections (ANFREL) has expressed its profound disappointment in the conduct of Myanmar's 2010 Parliamentary & Regional Assembly Elections. After missing a chance to hold truly free and fair elections, ANFREL hopes that Myanmar's military junta and the new parliament, once formed, take this post-election period as an opportunity to institute much needed reform. From the constitution all the way down to individual polling station management, serious and thorough reform is necessary. As a starting point in this effort, ANFREL wishes to recommend the following steps to put Myanmar on a path towards genuine democracy.

#### **Structural Changes**

- 1) The constitution needs a considerable amount of amending, if not an outright redrafting. The amending process must be a nationwide and inclusive project. It needs participation from all the people of Myanmar with public forums to encourage their inclusion in the process.
- 2) A democratic constitution must create a parliament made up of only civilian parliamentarians. The current design setting aside one quarter of parliament's seats for representatives appointed by the military must end. No parliamentarians with dual functions as military officers and legislators should be allowed.
- 3) A system of proportional representation should be considered for the country to ensure opposition parties with sizeable popular support are represented in parliament. This could be a particularly effective system where ethnic identification with their own ethnic parties is strong and ethnic voters continue to vote along ethnic lines.
- 4) If the system of proportional representation mentioned above fails to adequately capture the diversity of Myanmar's minority ethnic groups, then a system that includes quotas for minority seats in parliament should be considered. However it is done, bringing historically marginalized ethnic minorities into the democratic process is a necessary part of any successful transition to democracy.
- 5) Religious leaders, prisoners, and all of Myanmar's eligible voters living outside of Myanmar must have the opportunity to vote as citizens of the country.

#### **Voter Registration**

- 6) Myanmar needs to conduct a comprehensive census of its population and needs to update that number every year. All issued ID cards should be reviewed and rechecked and a new tamper proof system should be established to replace the current system if need be.
- 7) Regarding the voter list, all citizens 18 years and older must be able to register to vote without discrimination and the registrar must permanently remove the names of the deceased from the list. Those names should not be put back on the list for any reason.



# ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

109 SUTHISARN WINICHAJ RD., HUAYKWANG SAMSEN NOK, BANGKOK 10320 THAILAND

TEL: 66-2-2773627 FAX: 66-2-2762183

EMAIL: [ANFREL@ANFREL.ORG](mailto:ANFREL@ANFREL.ORG) WEB: [WWW.ANFREL.ORG](http://WWW.ANFREL.ORG)

## Parties and Candidates

- 8) Eliminate the constitution's forbidding presidential candidates from having a spouse from another country or children that are citizens of another country. In addition to having no relevance to a leader's ability to be an effective president, this section seems to exist only to eliminate Daw Aung San Suu Kyi from running for president. An improved constitution would not include a clause targeted to weaken the government's opposition.
- 9) Remove or significantly lower the candidate registration fee. Currently, the fee is 500,000 kyat (approximately 500 USD). This severely limits the number of candidates that less well-funded parties can afford to register. This clause seems entirely unnecessary and intended only to favor wealthy parties tied to the military. As such, it should be removed or substantially lowered.
- 10) To end political interference by the military and current government, the UEC must sincerely enforce the current law forbidding parties from abusing government resources for campaign purposes.

## Campaign Period

- 11) The use of intimidation or threats to pressure voters and other stakeholders must be punished. No matter the party or official doing it, such threats should not be tolerated and those perpetrating these kinds of threats should be prosecuted.
- 12) Campaign laws must be in accordance with international principles on the freedom of movement, assembly, and association. The climate of fear that exists for many supporters of parties other than the USDP is a serious problem. Elimination of both the government sponsorship of the USDP as well as the outright threats made to voters to support the USDP would go a long way towards making voters feel like they are free to cast their vote without fear of government retribution. The provision requiring a week's notice before a planned rally should also be dropped.
- 13) Promulgate a new law on campaign finance for more equal electoral competition and then actually enforce that law. Enactment and enforcement of a well-written law on campaign finance would also have the beneficial effect of limiting the misuse of state facilities and government human resources in the campaign.
- 14) Voter education and civic education must begin early in the election cycle, i.e. well before the election. The UEC must provide a comprehensive education, in a neutral manner, to voters by any and all means possible. They should not overly rely on television or any media that is consumed mainly by wealthier city dwellers. Outreach programs and community information sessions should be thoroughly and impartially carried out all over the country.
- 15) The government should do everything in its power to ensure that all areas have polling stations. Because areas without elections were far too common this election, the government and UEC must do more in the future to ensure that each citizen has access to a polling station and feels free to vote as they desire. Even if that requires a 3rd party ethnic administration to help to manage the poll's logistics, the government must do more to ensure that no areas are kept from voting.



# ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

109 SUTHISARN WINICHAI RD., HUAYKWANG SAMSEN NOK, BANGKOK 10320 THAILAND

TEL: 66-2-2773627 FAX: 66-2-2762183

EMAIL: [ANFREL@ANFREL.ORG](mailto:ANFREL@ANFREL.ORG) WEB: [WWW.ANFREL.ORG](http://WWW.ANFREL.ORG)

16) Illegal efforts to destroy opposition campaign materials must be investigated and punished.

## Union Election Commission

17) Truly independent election commissions should be established at all levels of administration, from the Union Election Commission on down.

18) The UEC must have a diverse set of members that are either appointed by various groups within society or else fairly elected by the people. Its members should represent all parts of the country and its people, not simply the elite military members that appointed them, as is mainly the case now. Members should operate in an objective manner but, failing that, having members from a variety of different backgrounds that are each biased in their own ways and can serve as checks on each other is better than the status quo of a homogenous bias.

19) To give them greater independence, UEC members should not be able to be easily replaced by the president or a parliament controlled by a single military allied party, as is currently the case. In time, a truly independent parliament could be trusted to approve UEC members but even then UEC commissioners should be given ample room to operate without fear of reprisal from a politically motivated parliament.

20) An independent election complaint tribunal should be set up to investigate and prosecute electoral complaints, disputes, and infractions. This body should work with, but be independent from, the Union Election Commission and Township Commissions. The UEC may of course refer cases to the tribunal but the court should also hear cases brought directly to it by the relevant stakeholders.

21) The UEC and complaint tribunal should investigate claims of vote fraud and, where a great deal of fraud is found, the appropriate district must re-vote. Where lesser fraud is found, those responsible should be sacked if they are election or UEC officials and otherwise punished through the use of the UEC and tribunal's power to investigate and prosecute.

22) The time allowed for investigations of electoral injustice should not be limited. An independent UEC and electoral tribunal should be encouraged to act the sooner the better but there should be no limiting deadlines after which they cannot investigate fraud.

23) The UEC must investigate the use of government resources for some parties' campaigns, primarily the USDP. Where abuses are found, both the party and the candidates responsible should be held accountable.

24) Remove the current UEC fee that charges a party or individual 1 million kyat (1000USD) to sue the UEC or an opposing party in court.

25) Enforce the laws to establish electoral justice and to create a system free from special privileges or discrimination. In areas with the worst electoral malfeasance, re-elections should be held and these new political norms can begin to be implemented.



# ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

109 SUTHISARN WINICHAI RD., HUAYKWANG SAMSEN NOK, BANGKOK 10320 THAILAND

TEL: 66-2-2773627 FAX: 66-2-2762183

EMAIL: [ANFREL@ANFREL.ORG](mailto:ANFREL@ANFREL.ORG) WEB: [WWW.ANFREL.ORG](http://WWW.ANFREL.ORG)

## Media

- 26) Eliminate the Press Scrutiny and Registration Division of the Ministry of Information. Its stranglehold on the media prevents the development of the free press that is so necessary for a healthy democratic environment.
- 27) Government ownership of major media outlets should be stopped or, at the very least, each should be given an independent charter so that they can operate free from government influence and interference.
- 28) The few private media groups that do exist should not have to pass the aforementioned censorship board and should not have to self-censor their reports because they fear government reprisal for anything negative they report.
- 29) Government control over the internet should be eased. Major government censorship, surveillance, and intentional slowing of the internet handicaps the country's development democratically, culturally, and economically.
- 30) An independent media commission should be established to promote freedom of expression and monitor the public's equal access to media.
- 31) The media must be able to play their proper role during the election season in providing balanced and fair news on all parties and candidates.

## Advance Voting & the Counting Process

- 32) All counting, no matter the time, location, or whether the vote is from the advanced voting period or Election Day, should be done in full view of party agents for all parties, voters, as well as other stakeholders. This is a bedrock principle that must not be violated.
- 33) Due to the ease of electoral abuse of the advance voting option, ANFREL strongly recommends eliminating the Advance Voting Period. Since manipulation during the advance-voting period was the primary means of ballot and vote fraud during this election, its elimination will simplify the voting and counting processes and likely lessen the amount of fraud.
- 34) If advance voting is not eliminated, the results of the advance vote and e-day vote should be announced separately at all polling stations and cumulative totals should be announced before ballots are moved from PSs to Ward Offices and from Ward Offices to Township Offices.
- 35) Unmarked ballots for the advance vote period as well as Election Day should be kept in a safe and secure place where they will not be tampered with or taken. Votes from the advance-voting period should similarly be kept in a secure place where they cannot be added to or removed.
- 36) All advance vote ballots should be kept in secure places monitored by all parties. They should be transported to the polling stations before polls open on polling day and, at the latest, before they close. No votes should be kept behind at the township office or delivered in the middle of the count of polling day votes.



# ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

109 SUTHISARN WINICHAI RD., HUAYKWANG SAMSEN NOK, BANGKOK 10320 THAILAND

TEL: 66-2-2773627 FAX: 66-2-2762183

EMAIL: [ANFREL@ANFREL.ORG](mailto:ANFREL@ANFREL.ORG) WEB: [WWW.ANFREL.ORG](http://WWW.ANFREL.ORG)

- 37) Advance votes should not be collected outside of the predetermined voting period and should not be counted before Election Day.
  - 38) Just like votes on Election Day, advance votes should be cast following international standards respecting the sanctity of the secret ballot. In far too many cases, advance ballots were collected door-to-door, a blatant violation of the principle of the secret ballot and a situation ripe for voter intimidation.
  - 39) All advance voting must use the same voter list as is used on Election Day to avoid the possibility of multiple vote fraud.
  - 40) Vote totals of advance votes marked on the voter list should be reconciled with the number of advance ballots being brought to polling stations to lessen the amount of fraudulent advance vote ballots sent to polling stations.
  - 41) Proxy voting must be eliminated. All citizens must vote for themselves. Heads of households should not be allowed to vote in place of their family members going and voting themselves. Regardless of whether the family member wishes to consent to this kind of arrangement, it violates the principles of one person, one ballot and the secret ballot. Additionally, leaders, be they in government ministries, the military, or private companies should not coerce those under them to vote or vote for their employees.
-