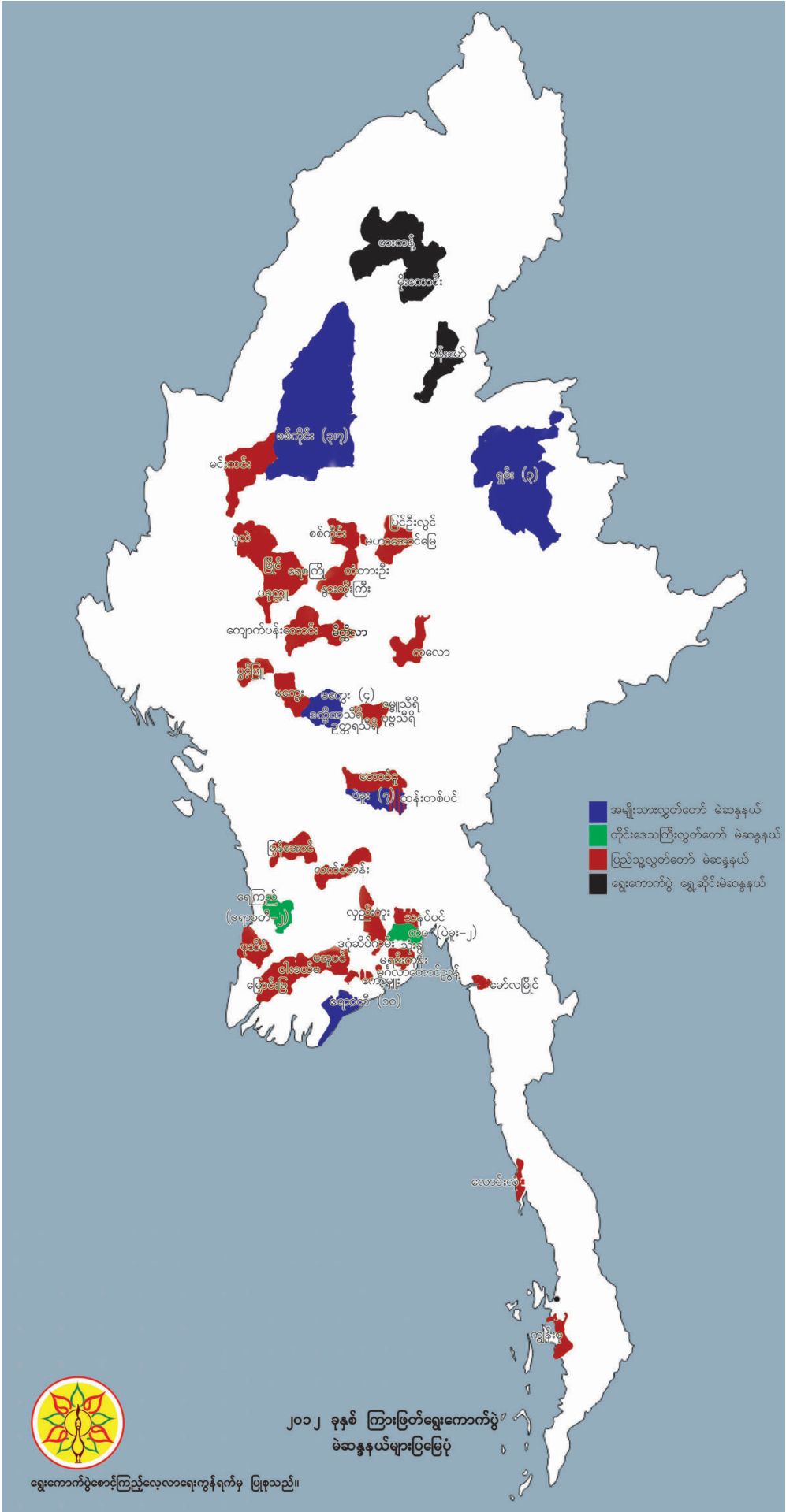


THE REPUBLIC OF THE UNION OF MYANMAR
BY-ELECTION 2012

Election Monitoring
Report No.1



April 7th, 2012
Election Monitoring Network



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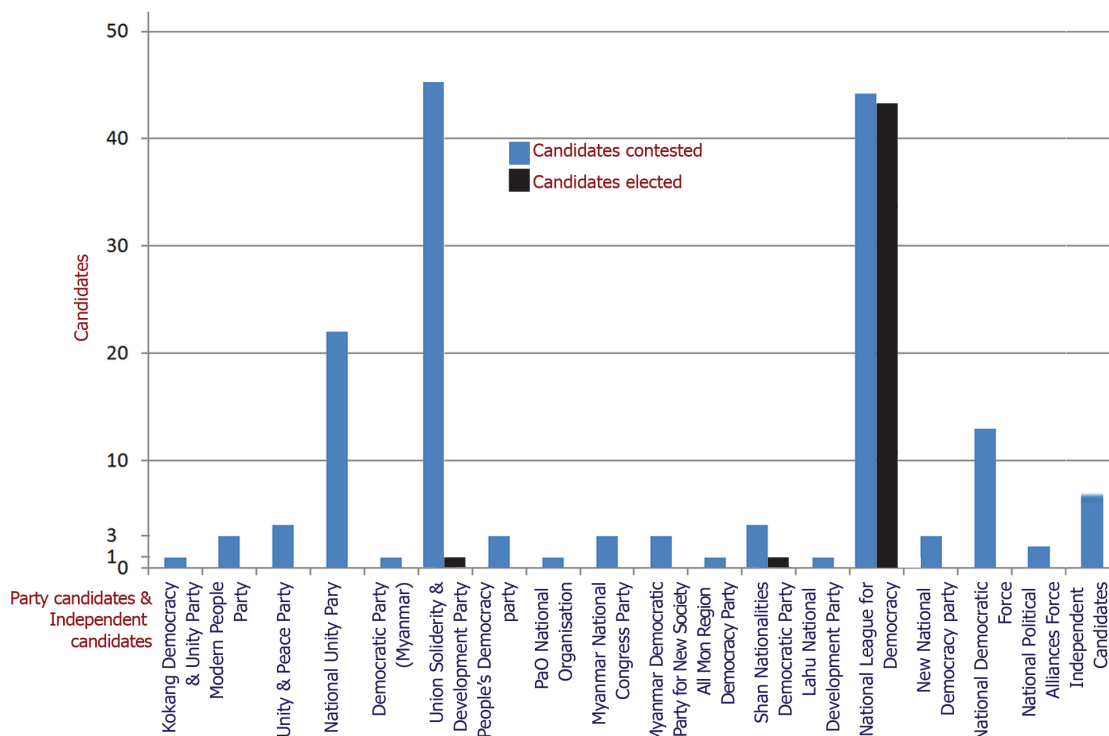
Introduction:

Our Election Monitoring Network, led by the 88 Generation Students, was established to monitor the April 1 by-Election in collaboration with political parties, independent candidates, civil society groups, international and local media, as well with civic participation. Our monitors were usually stationed in their respective constituencies to collect data while our network also monitored local and online media regarding the various activities of the election. Our objective, as an independent monitoring group, is to ensure free and fair election through the transparency of the electoral process, while at the same time encouraging greater civic participation and awareness in the elections.

Background:

The historic by-elections in Myanmar were held on April 1, 2012. 45 seats were available, 37 in the Lower House (Pyithu Hluttaw), 6 in the Upper House (Amyotha Hluttaw) and 2 in Regional Assemblies in Bago and Ayeyawadi Regions. A total of 17 political parties ran candidates, plus 7 independent candidates. On March 23rd, a week before the elections took place, the Union Election Commission (UEC) announced that the by-elections would be postponed in three constituencies in Kachin State due to security concerns. All of the 45 seats had been vacated by elected USDP representatives. The people feel that the success of this by-election is a step towards resolving Myanmar's political, economic and social problems. International Community sees the by-elections as an important step to test the political reform process President U Thein Sein and his new Government have seemed to embark.

This election has been a major step forward for progressive developments. After taking office in March 2011, President U Thein Sein held a talk with the country's democratic leader Daw Aung San Suu Kyi in the Capital Nay Pyi Taw. A pair of major relaxation of the Political Party Registration Law was made by the government which paved the way for the National League for Democracy (NLD) led by Daw Aung San Suu Kyi to re-register at the Union Election Commission and take part in the April 1st By-Election. The NLD won 43 seats out of the 45 seats. The NLD couldn't contest in one constituency as its candidate was disqualified by the UEC. The ruling party, Union Solidarity and Development Party (USDP), and the Shan Nationalities Democratic Party (SNDP) won one seat each.



Party Candidates and Independent Candidates contested in 2012 Myanmar By-Election

About the Report Draft:

The April 1 by-election generally went well. People could genuinely express their own voices through their own votes. While the process was significantly peaceful in all the 45 contested constituencies with a total of 158 candidates, some irregularities and minor cases due to various reasons have been found.

This report is based on ground observation in all the constituencies through our network. Our method is a civic engagement approach for which well-trained observers, including citizen journalists and professional journalists are of great contribution. We were one of the leading groups inside the country monitoring all the electoral processes, judging by international standards, yet in addition, we have a significant understanding of the local context. We also have the most comprehensive approach, having thoroughly documented the whole process through various social groups. Our monitoring process is divided into three key periods: pre-Election, the Election Day and post-Election.

Pre-Election Period:

The pre-election period was overshadowed by numerous irregularities, especially with fraudulent voters' lists. Our observers, however, noticed that the parties' pre-election activities such as campaigning or giving public speeches were somewhat free despite some limitations. Some key shortcomings at various levels of the polling process are listed below:

- The Election Commission, especially officers at lower levels, did not seem educated enough before and during the electoral process. Already

deceased people, as well as under-aged children, often appeared on voters lists. Generally, the voters' lists were based on those used in the 2010 general elections, without taking household changes in the constituencies into consideration. Hundreds of eligible voters were excluded in the lists in many constituencies.

- Political parties had just emphasized their campaigning while considerably ignoring voters' education; as a result of which, the parties lost its own votes even though their supporters showed up on the Election Day.
- International observers and media representatives should have arrived in the country a certain time ahead of the Election Day to cover the event adequately; however, last minute visa issuance made it difficult to conduct observations sufficiently.
- The Election Commission's cancellation of the by-election in three constituencies in Kachin state is controversial, even though the EC cites for security reasons.
- The Election Commissions at various levels are well connected to the ruling party even though the laws states that "respected persons" who are not of any party should be assigned as the Commission officials.
- Though some state-own media such as MRTV, newspapers and local media (such as FM radio stations) aired election awareness programs throughout the country, the general public, especially in rural areas, were not interested in this since it is more about technical matters rather than realistic ones the people easily understand.
- According to the 2008 Constitution, any representative appointed by the Government should cut off any relation with its own party's political activities; however, high-level government officials campaigned for the USDP.
- There was a controversial exclusion of two candidates by the District-level Election Commissions. Daw Khin Sandar Myint, a candidate of National Unity Party for the Lower House in the Mingalar Taung Nyunt Township, Yangon, was surprisingly disqualified. The Election Commission decided because her parents were not nationals yet when she was born, although she was qualified as a candidate for the regional constituency in the 2010 election. U Saw Hlaing, a candidate of National League for Democracy competing for Amyotha Hluttaw (Upper House) seat in the Constituency Number Seven, Sagaing Region, who won a seat in the 1990 election, was also disqualified by

the UEC for the same reason as Daw Khin Sandar Myint.

While these key shortcomings come out in nearly all the constituencies, some positive steps made this by-election free and fair. Our monitoring members and observers have noticed key signs as follows:

- The Union Election Commission made it clear that this by-election must be free and fair. They held a last minute press conference led by the Commission's president; however, the early reports saying that media could enter into ballot booths to make a necessary documentation (as long as it could not disturb the voter's secrecy of voting) was denied.
- Local media coverage is significantly freer than the last election.
- Civic participation is highly motivated and voters are confident enough to cast votes for a party they want, without any fear.
- Though last minute issues of visa and entry permission for the international observers and media, the international community had full freedom to cover election events.

Election Day:

The Election Day was greatly peaceful. The rules and regulations concerning the Election Day activities were somewhat regulated. Our monitoring members and observers noticed some shortcomings and positive steps as follows:

- Incidences of eligible voters not being able to vote, while non-eligible voters showed up to vote. In some polling areas, voters from rural areas showed up without national identity cards so they couldn't cast their votes. Because of time constraints they couldn't make it back to their village to get their documents.
- Some voters were not well prepared, just showed up to cast their votes without even knowing whether their names were on the list.
- Wax had been put on ballot papers, presumably in an intentional way, so as not to be able to tick next to the logo of the desired party, Also there were problems with bad quality pens and ballot paper. Most voters did not know that they had the rights to ask for another ballot paper to cast it properly. Election Commission officers did not know to give voters another ballot if there was any difficulty casting votes.
- Voters who believed their names were off voter lists in some areas such as Thongwa and Maubin constituencies, were much frustrated with

this, and even tried to protest against Election Commission officials at the polling booth.

- Election Day though was a public holiday, there were labors who are not able to cast the vote for the private-owned factories in which they work were not closed.
- Election Commission officials were not trained enough to handle the electoral process, especially they did not know how to deal with the voters, local and international media, the general public etc. Some polling booth official seals were not signed in the ballot paper, making the votes rejected due to EC's lack of skills and knowledge.
- Even in the same Township, such as Ma Yan Gone in Yangon Region, the Election Commission officials in each polling booth had different understandings of rules and regulations. Some allowed the media and the general public to take a look at the counting process while some did not.
- The Election Commission officials were not clearly instructed on how to solve problems, for example, if a complaint was made by any party or the general public "how do you handle the waxed ballot paper currently?"
- International observers and media did not know well about localities; therefore, their Election Day coverage was less adequate than expected given their permission and last-minute visas.

While these overwhelming shortcomings were taking place, some positive steps occurred that helped make this election "relatively" free and fair. Voter turnout was relatively high. We currently estimate that the lowest turnout in Thonegwa's polling booths was not less than 39 percent, while the highest turnout could be close to 91 percent. So the average turnout for all the contested constituencies would be not less than 60 percent. We understand that this by-election is much more free and fair than the previous election held in 2010, especially in regards to the following election procedures:

- The polling stations opened and closed at the set time.
- No significant threat from the ruling party or any other party towards voters to cast votes for their respective party.
- No interference to dependent election monitoring groups and international monitors.
- Taking more care of the advanced votes than in the previous one.

- Activeness of the voters directed to open claims.
- More coordinated mechanisms among the election monitoring groups.
- Media was instrumental in reporting the election updates.
- Security at polling booths and nearby the polling areas was relatively good enough.

Post-Election Period:

The post-election process was significantly smooth. A counting process went well, though some shortcomings were still detected. No significant threat to a voter by any party. However, our monitoring group has noticed some shortcomings as follows:

- The parties, the Election Commission, and the general public lacked the knowledge to report what they had found out during and after elections.
- There is no clarification on transparency of voters' list, voter turnout etc., to the public issued by the Election Commission at various levels.
- Some monitoring persons due to some constraints of technical skills, experiences, time and finances were not working properly as a "monitor".

Despite these shortcomings, some progressive signs have been found. Obviously, the Election Commission announced the results relatively faster than the previous one, perhaps due to a smaller number of constituencies. Also, our group has noticed some progressive measures as follows:

- The Election Commission officials counted the votes properly.
- Local media such as SkyNet was considerably active in reporting the Election Day; the general public relied upon live or nearly live broadcasting on the voting process, counting etc.
- The voters asked for their rights to watch the counting process when the counting being done.
- The USDP did not complain about the electoral process, though they faced a great loss. The USDP's candidate Dr. Soe Min said that he is now handing over Kaw Hmu constituency to "Mom Suu";

- NLD generally agrees that the election was somewhat free and fair, but still found minor cases due to inadequate training to voters and Election Commission officials.
- Minor parties generally commented that the election's outcome represents the people's voice.

Analysis:

Generally, our group is satisfied with the whole electoral process now being finished without any major risks including violence and unrest. We all look forward to seeing more transparency and accountability of the process. However, we would like to pinpoint some crucial facts necessary to create a more open society through democratic elections.

- The Election Commission at various levels, especially lower-ranking officials, should not be comprised of any government officials or be any member of the ruling party. The general public believes that an Election Commission totally independent of any political party should be established.
- Regarding widespread inaccuracies in voter lists, more accountable individuals should be tasked with collecting better data on voter lists for future elections.
- We also believe that disqualification of any qualified candidate through the use of controversial rules and regulations should be halted.
- Also, better quality ballot papers and pens should be used so as not to reject any individual vote because of a technical problem. The Election Commission officials should issue the vote results publicly and officially around the polling booths for the voters.
- The Election Commission should be trained enough to handle the whole electoral process, such as public announcements of voters list in villages.
- Though the Union Election Commission through state media provided some voter education programs, local commission members should provide realistic training on the ground and also by civil society groups. Moreover, the Election Laws, rules and regulations need to be distributed to remote and border regions of all ethnic minorities by using each of their mother tongues.
- Monitoring training should be provided not only for specific monitoring group but also local media.

- Political parties should have legal consultants to handle any case emerging.
- International monitors and media should be issued visas at sufficient time period ahead of the election.
- And the authorities should investigate all alleged fraudulent acts during the campaign and on the Election Day and take proper action to prevent further irregularities in the future elections. Cases of threats, intimidation and violence, and especially the death of a political party worker in Pale in Sagaing constituency on Election Day, should be thoroughly investigated by the UEC. The UEC should apply the highest standards that conform to international norms and principles in these investigations.

Acknowledgement:

We recorded the wholesome contributions of local media, international media, online sources, political parties, independent candidates, our election monitoring youth clusters, individuals, legal consultants, and citizen observers, who are generously supported in all ways with data, information, and insights.

Election Monitoring Network

