

# Myanmar: Ethnic Politics and the 2020 General Election

## KEY POINTS

- The 2020 general election is scheduled to take place at a critical moment in Myanmar's transition from half a century under military rule. The advent of the National League for Democracy to government office in March 2016 was greeted by all the country's peoples as the opportunity to bring about real change. But since this time, the ethnic peace process has faltered, constitutional reform has not started, and conflict has escalated in several parts of the country, becoming emergencies of grave international concern.
- Covid-19 represents a new – and serious – challenge to the conduct of free and fair elections. Postponements cannot be ruled out. But the spread of the pandemic is not expected to have a significant impact on the election outcome as long as it goes ahead within constitutionally-appointed times. The NLD is still widely predicted to win, albeit on reduced scale. Questions, however, will remain about the credibility of the polls during a time of unprecedented restrictions and health crisis.
- There are three main reasons to expect NLD victory. Under the country's complex political system, the mainstream party among the ethnic Bamar majority always win the polls. In the population at large, a victory for the NLD is regarded as the most likely way to prevent a return to military government. The Covid-19 crisis and campaign restrictions hand all the political advantages to the NLD and incumbent authorities.

- To improve election performance, ethnic nationality parties are introducing a number of new measures, including “party mergers” and “no-compete” agreements. “Vote-splitting” is widely perceived as the reason for polling weakness in the past. But while this should improve the vote for the better-organised parties, this is unlikely to change the political balance in the national legislatures – only in the state assemblies. Ethnic nationality parties have been unable to make a significant mark in all general elections since independence in 1948.
- In the present political era, the marginalisation of non-Bamar peoples is inherent under the county’s “first-past-the-post” election system. Notions of ethnicity and identity are articulated under the 2008 constitution but not addressed. Nationality peoples are represented by “states”, “self-administered areas”, “ethnic affairs ministers” and constituencies won by ethnic parties. But there is little meaningful autonomy; parties among the Bamar majority predominate in national politics; chief ministers for the states and regions are centrally appointed by the Myanmar President; and the armed forces (Tatmadaw) continue to be reserved a quarter of all seats in all the legislatures. To widen representation, the promotion of more female and youth candidates has been discussed for the upcoming elections. But there will not be any largescale change.
- The elections cannot be divorced from the ethnic peace process. Myanmar remains among the most-conflict divided countries in Asia. Whole or partial cancellations will occur in constituencies in several nationality areas, increasing fears of voting irregularities and manipulation. Internally displaced persons, refugees and migrant workers abroad will largely be excluded, and the issue of voter registration is becoming a key issue. The Covid-19 emergency is exacerbating all these difficulties.
- Elections will not address the flaws in the present political system nor further the way to nationwide peace. Significant reflection and reorientation in the polling aftermath will be essential. Both Asian and Western governments believe that the successful conduct of the elections should mark another step forward in political direction. But the most important outcome will be the lessons learned and how they are used to advance democratic reform and ethnic peace in the building of a union of equality and inclusion that truly reaches to all peoples. Myanmar is only at the beginning of political change – not at the end.

## A. ELECTION OVERVIEW

### Introduction

On 8 November 2020, Myanmar is scheduled to go to the polls for only the second time since a process of political liberalisation was initiated in 2011. This second electoral cycle is critical in consolidating a tradition of electoral democracy in the country that is underpinned by the peaceful transfer of power through the ballot-box. Both practices were missing under decades of military authoritarian rule that began in 1962 with the seizure of power by the national armed forces (Tatmadaw). Against the backdrop of Covid-19, the electoral challenges are enormous. The expected timeline for the elections is as follows:

- 8 September – 6 November: Campaign Period (started under restrictions)
- October: Union Election Commission announcements on cancelled areas
- 8 November: Election Day
- 1 February: New parliament convened
- February: President elected by parliament in its capacity as electoral college
- 30 March: President sworn in and new executive term starts (approximate date).

The elections are taking place at a potent time in ethnic politics. The NLD's 2015 election victory occurred amidst rising hopes over democratic reform and peace progress, signified by the Nationwide Ceasefire Agreement (NCA) initiated by the outgoing administration of President Thein Sein. Since this time, both political reform and the NCA process have stalled. In consequence, ethnic "minority" or "non-Bamar" communities,<sup>1</sup> who constitute an estimated third of the 54 million population, feel increasingly aggrieved that Myanmar's electoral system has left them under-represented and with little political leverage.

Loss of life, displacement and armed struggle still continue in a number of borderlands today.<sup>2</sup> Given the country's long history of armed conflict, this remains a dangerous state of affairs in urgent need of resolution.

At a historic moment in national transition, this briefing looks at the ethno-political landscape ahead of the scheduled elections. As conflict continues, particular attention is paid to the key concerns of ethnic movements with the processes of electoral administration, the barriers to representation by non-Bamar peoples, Covid-19 and its widening impact, and the political prospects for nationality parties. Under present circumstances, no dramatic change in the election outcome is expected. But the conduct and results of the polls are likely to become a key benchmark in determining the country's direction towards hoped-for peace and democratic reform. All these issues require detailed attention and acknowledgment.

### Electoral Democracy and Ethnic Representation

Like many former British colonies, Myanmar has a first-past-the-post (or "plurality") voting system. Under this system, voters choose a single candidate in a constituency, and the candidate – and hence party – with the plurality of votes (which need not necessarily be a majority) is elected. There is, for example, no provision for "proportional representation" on the basis of votes counted, providing seats in the legislatures for secondary or minority parties that achieve a percentage threshold that is agreed in advance under election laws.

In the case of Myanmar, the first-past-the-post system has had a number of distorting effects that are well known from the country's early democratic period (from the 1947 election until the coup d'état in 1962) and from comparative experience. Three distinctive patterns stand out:

- Dominance by a small number of large nationally-based parties
- Under-representation of minority (i.e. non-Bamar) peoples, especially if they are not geographically concentrated
- Incentives for tactical voting, where voters choose among the candidates most likely to win rather than “wasting” their vote on a preferred candidate with weak prospects.

These outcomes are encouraged by two constitutional elements. First, Myanmar’s constituency structure, which is based on townships, means that almost 60 per cent of seats in the national parliament are in the central Bamar heartlands. The Bamar electorate are thus the key to national victory for any party. Second, the political system is unitary, meaning that government is centralised and there are no meaningful rights to local autonomy as would be the case under a union or federal system.

On the modern political map, the administrative territories of the country appear to have a political balance between seven regions (originally divisions), which are largely home to the Bamar majority, and seven “ethnic” states: Chin, Kachin, Karen, Kayah (Karenni), Mon, Rakhine and Shan. These were first delineated under the 1974 constitution. But such symmetry between Bamar and non-Bamar peoples is not reflected in the electoral or political system. Indeed the 2008 constitution, while ostensibly providing more rights, has designated a landscape of unique complexity in which nationality identities are represented by four different forms: states, self-administered areas, ethnic affairs ministers and constituencies won by ethnic parties (see “Self-Administered Areas”, “Ethnic Affairs Ministers”).

Whether, though, these delineations have actually improved political representation and inclusion for non-Bamar peoples is deeply contested. These factors go to the heart of the conflict impasse and state failures in Myanmar, which is why many nationality movements – whether electoral parties, ethnic armed organisations (EAOs) or civil

society organisations (CSOs) – continue to call for pro-federal or other reform to a devolved system of government. The difficulties and ambiguities of the present electoral landscape are explored in this briefing.

## National Party Dominance

Despite its diverse and multi-ethnic nature, Myanmar’s multi-party elections have always been dominated by one or two large parties. This experience dates back to the independence period that saw national elections in 1947, 1951, 1956 and 1960.<sup>3</sup> Under the 1947 constitution, elected governments were dominated by the Anti-Fascist People’s Freedom League (AFPFL), which faced – at most – one serious opponent as a national contender in each election. In the 1960 polls, this was a faction of the AFPFL itself (see Box 1).

The domination by one party in the polls continued after the 1988 collapse of the one-party “Burmese Way to Socialism”. In the abortive 1990 election and more recent 2015 election, Daw Aung San Suu Kyi’s NLD won by a landslide, with the Tatmadaw-established parties – the National Unity Party (NUP: founded 1988) and Union Solidarity and Development Party (USDP: founded 2010) – winning only a handful of seats.<sup>4</sup> This picture was reversed in 2010, with the USDP claiming a similar landslide in polls boycotted by the NLD and marred by widespread reports of electoral fraud.<sup>5</sup>

Given the different eras, exact comparisons of political representation and voting outcomes are difficult. This is especially the case under the 2008 constitution whereby 25 per cent of all seats are reserved for Tatmadaw appointees in the three levels of legislature (lower and upper houses of parliament,<sup>6</sup> and state/region assemblies). To provide an electoral picture, Box 1 shows the results for the Pyithu Hluttaw for the 1960, 1990, 2010 and 2015 elections where the national voting structures are equivalent and historically clear.

In 1960, the leader of the Clean AFPFL, U Nu, remarked that “I guess people like us”.<sup>9</sup> There

## Box 1: Pyithu Hluttaw Results for the 1960, 1990, 2010 and 2015 Elections

This box shows the number of seats won in the Pyithu Hluttaw (the main legislative assembly, and in 1990 the only designated assembly) by (i) the winning party, (ii) the most successful national opposition party, (iii) ethnic-based parties, and (iv) other parties and independent candidates.<sup>7</sup>

Party	Seats	% Seats <sup>8</sup>
<b>1960 ELECTIONS</b>		
Clean AFPFL	158	63.2
Stable AFPFL	41	16.4
Ethnic parties	21	8.4
Other opposition parties and independents	18	7.2
<b>1990 ELECTIONS (result never implemented)</b>		
National League for Democracy	392	80.8
National Unity Party	10	2.1
Ethnic parties	70	14.4
Other opposition parties and independents	13	2.7
<b>2010 ELECTIONS (percentages are for elected seats, not including 25% Tatmadaw bloc)</b>		
Union Solidarity and Development Party	258	79.4
National Unity Party	12	3.7
Ethnic parties	46	14.2
Other opposition parties and independents	9	2.8
<b>2015 ELECTIONS (percentages are for elected seats, not including 25% Tatmadaw bloc)</b>		
National League for Democracy	255	77.3
Union Solidarity and Development Party	30	9.1
Ethnic parties	37	11.2
Other opposition parties and independents	1	0.3

was little doubt about his movement's popularity at the time. After the "Military Caretaker" administration of Gen. Ne Win (1958-60), there was popular demand for an immediate return to democracy. However the extent of his victory – and the marginalisation of opposition parties – was in large part a function of the electoral system. Indeed, despite voting taking place in very different political eras, the overall results in the

four multi-party elections over the last 60 years are strikingly similar, especially when the results for the two AFPFL factions – which split 18 months before the 1960 campaign – are combined.

The conclusions for democratic representation under the first-past-the-post system are sobering. The dominance in each election of a single "national" party – i.e. the AFPFL, NLD and USDP –

has generally left few seats for its main opponent on the political stage. Smaller national opposition parties and independent candidates have similarly won very few seats. The only real challenge to the winning party has come in local areas where a particular nationality group is politically organised and predominant. Otherwise, ethnic-based parties have not yet reached to winning 15 per cent of the seats in the national legislatures. As such, minority candidates have continuously been excluded from government since independence unless they take part as members of the mainstream parties.

## Ethnic Representation and Tactical Voting

Ethnic nationality groups face several barriers to representation in Myanmar’s legislatures. The first is constituency structure. As in 2015, the Union Election Commission (UEC) on 29 June this year designated a total of 1171 elected constituencies, distributed as follows.<sup>10</sup>

	States	Regions	Total
<b>Upper House</b>	84	84	168
<b>Lower House</b>	123	207	330
<b>Total Union</b>	207	291	498
<b>State/Region</b>	265	408	673
<b>Total all</b>	472	699	1171

As can be seen, at the union level the seat distribution is skewed towards the Bamar-majority regions, where almost 60 per cent of the elected seats are located.<sup>11</sup> This perpetuates the dominance of large national parties focussed on Bamar-majority interests. In addition, 25 per cent of seats in all chambers are reserved for military officers appointed by the commander-in-chief of the Tatmadaw, whose leadership is also largely ethnic Bamar.

The disparity at the state/region level has fewer implications, given that these are separate legislatures for each of the 14 administrative units (i.e. they do not meet collectively). In an apparent attempt to broaden ethnic representation, the

state/region level also includes 29 “national race” seats designated in accordance with section 161 of the 2008 constitution and six nationality “self-administered areas”. These, however, are unusual categorisations, and the designation and distribution of these rights is controversial and do not necessarily reflect greater democracy (see “Ethnic Affairs Ministers”, “Self-Administered Areas”).

A second barrier to nationality representation is the first-past-the-post voting system. In the seven regions, where the Bamar population constitutes the majority in most constituencies,<sup>12</sup> it is virtually impossible for ethnic minority parties to win seats. In 2015, no ethnic parties won any seats in the national parliament in any of the seven regions. The picture was similar in the seven regional assemblies, with only one of the 408 seats being won by an ethnic party, the Tai-Leng (Shan-ni) Nationalities Development Party (TNDP) in Homalin-1 in Sagaing Region.

By comparison, ethnic Bamars are in the minority in most – though not all – territories in the seven ethnic states. This, however, does not guarantee significant representation for ethnic parties. The challenge for nationality movements here is that many constituencies are multi-ethnic, a trend that is accelerating in some areas with modern population movement and migration (see “Displacement and Migration”). This diversity makes it harder for a single nationality party to win a plurality of the votes, even if it enjoys strong support within its own community.<sup>13</sup> In some nationality areas, too, the stationing of large numbers of Tatmadaw troops – a majority of whom are ethnic Bamar – can have impact in favour of national parties, notably in Shan State.<sup>14</sup>

Equally important, under the 2008 constitution the Myanmar President has the constitutional right to appoint the chief ministers to all states and regions who appoint their own administrations, even if the ruling party in government did not win the majority of seats in the territory. This became a major course of dispute after the Arakan National Party (ANP) was excluded by the NLD in Rakhine State after

winning the largest number of seats in the 2015 polls (see “Ethnic Party Mergers”).

These two impediments to nationality representation – electoral delineations and first-past-the-post voting – indicate that little change is likely to the political status quo without a major rethink and policy reform. Since political transition began in 2011, both the USDP administration under President Thein Sein and successor NLD administration under State Counsellor Aung San Suu Kyi have frequently stated that ethnic peace is a government priority. Both leaders also advocate federal reform. But, for the moment, no constitutional amendments have been advanced nor peace progress achieved that tangibly deliver on these promises.

In this vacuum, many nationality leaders contend that the 2008 constitution exacerbates rather than addresses the challenges of equitable representation and political inclusion. Not only is a leading role reserved for the Tatmadaw (thus increasing Bamar representation) but the political system also has the effect of deepening ethnic marginalisation and fragmentation. In 2020, these grievances continue to lie at the root of instability and failure in the post-colonial state.

As in any country, discussions of ethnicity and identity can be sensitive. But, in Myanmar, these challenges are especially acute. In general, most people in the country understand ethnicity and diversity in an essentialist way: i.e., that there are numerous categories of “lummyo” (which literally translates as “types of people”) that are fixed and biologically determined.<sup>15</sup> This has been reflected in all three constitutions since independence (in 1947, 1974 and 2008), and is further described in the 2014 Population and Housing Census that categorised 135 “national races”.<sup>16</sup> Such distinctions, however, are frequently flawed, and they further marginalise identities that are either misidentified or not officially recognised at all (see “Ethnic Affairs Ministers”).

Decades of conflict and military rule have further reinforced the “ethnicized” discourse in national politics. “Ethnicity”, it is often said, has become an

“ideology”. A perception of “Bamar chauvinism” has increased a sense of minority exclusion, while many nationality groups form along identity rather than policy lines. Such movements include EAOs, political parties, cultural associations and community-based organisations. As a result, modern-day Myanmar has among the most complex ethno-political landscapes of any country in the contemporary world. As voters go to the 2020 polls, there are 55 registered nationality parties (see Box 3), over 20 EAOs (some with ceasefires and some without), hundreds of Tatmadaw-backed militia and growing numbers of CSOs.<sup>17</sup>

Since independence, however, the political system has not addressed the challenges of representation and democracy in ways that bring about a genuine equality and inclusion. Instead, inter-ethnic relations have all too often been seen in competitive and often zero-sum terms, with groups thriving or languishing depending on their relative strengths and sizes. Since 2011, the 2008 constitution and electoral laws have amplified these “numbers-game” conclusions by two innovations: “self-administered areas” and “ethnic affairs ministers”. The principle has been to give voice to such peoples as the Naga, Pa-O and Wa who have hitherto been unrepresented on the political map. But the practice has been to encourage a demographic power struggle between different nationalities over territories and rights (see “Self-Administered Areas”, “Ethnic Affairs Ministers”).

Equally critical, the creation of these positions does not necessarily increase the chances of representation by nationality parties. As voting patterns in the 2015 elections highlighted, voters in multi-ethnic regions are unlikely to consider voting for a political party that represents a different ethnicity. Their choice is more probably between a party of their own nationality or one of the large predominantly-Bamar parties: i.e. the NLD or USDP. This, in turn, encourages the practice known as “tactical voting”, where voters feel that their votes are wasted if they choose a candidate who is unlikely to win. In these circumstances, they opt for an alternative party who may not represent their identity or interests but is considered more likely to win.

Such a practice can be seen in all first-past-the-post systems anywhere in the world. It generally results in clear victories, but it also has long-term implications. Voting for perceived “winning” parties can become a self-fulfilling dynamic. Candidates or parties perceived to have little prospects receive few votes, confirming the assessment of voters and, in turn, means that they are less likely to receive votes in subsequent polls.

In the case of Myanmar, the landslide victory for the NLD in the 2015 elections was predicated on the belief that it was the only party likely to defeat the USDP and challenge the Tatmadaw in government. By comparison, parties representing nationalities won just 37 or 11.2 per cent of the electoral seats in the Pyithu Hluttaw, the main legislative assembly (see Box 1). Compounding these weaknesses, multiple ethnic parties often seek to represent the same nationality group in the same area, potentially splitting votes further in the legislatures.<sup>18</sup> There are also ethno-political differences with, for example, Rakhine and Shan parties generally gaining higher scores. But this fragmentation in the ethnic vote has occurred in every general election in the country since 1947, with a further backwards slide since 1990 (see Box 1).

## Ethnic Party Mergers

In order to address the challenge of vote-splitting, six sets of ethnic parties – representing the Kayah (Karenni), Karen, Kachin, Chin, Mon and Wa peoples – have merged since the 2015 elections (see Box 2). In some of the mergers, these new formations also bring together ethnic parties that had generally been allied in two main blocks: the United Nationalities Alliance (UNA: established 2002) which consists of parties that stood in the 1990 and 2015 elections but boycotted the 2010 polls; and the Nationalities Brotherhood Federation (NBF) of more recently-formed parties that contested the 2010 and 2015 elections.<sup>19</sup>

On the surface, these mergers appear an important advance. They came about following a period of soul-searching following the poor

performance by most nationality parties in the 2015 elections. In making this decision, party leaders concluded that vote-splitting had been a major contributor to their low success rate. As they noted, there was only one notable exception: the Arakan National Party which won victory in Rakhine State following a merger by the two main nationality parties (see below).<sup>20</sup> The ANP's election performance was the only significant success by an ethnic movement in the country, winning the third largest share of the vote in the country after the NLD and USDP.<sup>21</sup>

Many difficulties nevertheless lie ahead for the new merger parties. Negotiations have been needed to decide who will run in which constituency and the number of candidates from each pre-merger party to run in the polls. The experience of the ANP also provides warnings. Formed in 2014 by a merger between the Arakan League for Democracy (ALD: established 1989) and Rakhine Nationalities Development Party (RNDP: established 2010), the ANP's victory in the 2015 election was not enough to quell internal tensions. These broke out into the open in July 2017 when a number of ALD leaders split off and re-formed again under the ALD banner.<sup>22</sup> The ANP and former RNDP leader Dr Aye Maung MP also caused shock by resigning in December 2017 to establish a new Arakan Front Party. Subsequently, he was arrested and sentenced to 20 years' imprisonment for alleged high treason in perceived support for the armed struggle of the United League of Arakan-Arakan Army (ULA-AA). As conflict and displacement spread across Rakhine State, it was a reminder of the ethnic volatility and instability that continues to face the peoples in all ethnic states today (see “Conflict and Cancellations”).<sup>23</sup>

For such reasons, it is not immediately certain that intra-nationality mergers will dramatically improve the prospects of the new parties. Evidence from the 2015 elections appears to back this up. First, the electoral success of the ANP does not necessarily reflect the way voters will make their decisions in other parts of the country. And second, vote-splitting between nationality parties seeking to represent the same constituency did



## Box 2: Ethnic Party Mergers since the 2015 General Election

Merged party	Pre-merger parties (de-registered)
Chin League for Democracy	Chin National Democratic Party
	Chin National League for Democracy
	Chin Progressive Party
Kachin State People's Party	Kachin Democratic Party
	Kachin State Democracy Party
	Unity and Democracy Party of Kachin State
Karen National Democratic Party	Karen Democratic Party
	Karen State Democracy and Development Party
	Karen United Democratic Party
Kayah State Democratic Party*	All Nationalities Democracy Party (Kayah State)
	Kayah Unity Democracy Party
Mon Unity Party	All Mon Regions Democracy Party
	Mon National Party
Wa National Party	Wa Democratic Party
	Wa Liberal Democratic Development Party
	Wa National Unity Party

\* The Kayah State Democratic Party has also reached a “no-compete” agreement with the Kayan National Party, which is contesting seats in Pekon township in Shan State and also in Kayah State where many Kayan people also live.

not appear to have had a major impact in the 2015 polls. An analysis of voting figures indicates that the outcome of only a small number of seats – 17 of the total 1171 – was actually affected by vote-splitting at that time.<sup>24</sup>

In explaining these results, it is of course possible that there was an interaction between vote-splitting and tactical voting. In this case, believing that vote-splitting might diminish the prospects of ethnic parties, voters instead selected a national party: i.e. the NLD or USDP. In 2015, this represented a distinct advantage for the NLD as the electoral face of national change. In 2020, it seems unlikely that the NLD will gain

such a dominant victory again – as long as the elections go ahead in free and fair circumstances. Nevertheless the voting patterns from previous elections suggest that constituency demographics – particularly ethnic diversity – are more important than vote-splitting per se.

A further idiosyncrasy of party mergers is that, if based upon ethnic grounds, they reinforce the identity-based nature of electoral politics. This, too, may not work in favour of nationality movements. After decades of conflict, most parties in the country are based around core personalities or broad ideologies rather than policy platforms.<sup>25</sup> As the two-month campaign

period commenced in September 2020, few of the 94 parties had released detailed manifestos (see Box 3).<sup>26</sup> Thus, rather than broadening policy discussion, the risk from ethnic party mergers is that they send the message that the ballot should contain only one party representing a nationality community – and hence voters should vote along ethnic rather than political lines. Certainly, merged parties are likely to perform better. But that, in itself, is unlikely to help them win enough extra seats to gain legislative majorities in constituencies and territories where there is ethnic diversity.

Recognising this risk, a number of parties have made efforts in preparing for the 2020 polls to move beyond identity politics and set out policy platforms that appeal across nationality lines. Thus the Kachin State People's Party (KSPP) aspires to be a party for everyone in Kachin State, not only the ethnic Kachin (or Jinghpaw) community. The same is true of the Kayah State Democratic Party (KySDP) in Kayah State and the Shan Nationalities League for Democracy (SNLD) in Shan State.<sup>27</sup> The KSPP has backed this up by not competing in Kachin-populated constituencies outside Kachin State, notably northern Shan State. Similarly, the KySDP has made a “no-compete” agreement with the Kayan National Party that seeks to represent ethnic Kayan communities on both sides of the Kayah and Shan State borders. In the meantime, these four parties have worked on manifestos setting out positions on such policy issues as land, natural resources, investment and narcotics.

Their performance therefore is likely to be a key barometer in assessing voting trends in the 2020 elections. The decision to become geopolitically rather than nationality-based parties is thought to be popular and has attracted candidates from different backgrounds.<sup>28</sup> Whether, though, this will translate into ballot-box victories is uncertain. When electorates are focussed on the issues of identity, ethno-nationalist perceptions and legacies still remain. Electoral politics cannot be easily divorced from ethnic conflict and humanitarian emergency that still continue in several parts of the country. Covid-19 is only

adding to the difficulties in campaigning, meaning that the new merger parties face difficulties in having their voices heard (see “Covid-19 and Campaigning”).

In these circumstances, the new merger parties – along with such older parties as the ANP and SNLD – are still expected to perform best among nationality or state-based parties in the upcoming polls. But they still have a long way to go. A swing in votes from the NLD and USDP to local parties is predicted in most ethnic states. But, under the present electoral system, this would not bring about a breakthrough on sufficient scale for nationality movements to rechart the political landscape.

## Self-Administered Areas

Since independence in 1948, it is the ethnic states – today numbering seven – that have generally been regarded as the main ethno-political battlegrounds. But under the 2008 constitution, there are a number of other nationality peoples that are also recognised as being linked to particular identities and locations. Below the state/region levels, there are six self-administered areas that have been specified for the first time. These consist of five “Self-Administered Zones” (SAZs) that are located for the Naga in Sagaing Region and for the Danu, Kokang, Pa-O and Ta-ang (Palaung) in Shan State; and a larger “Self-Administered Division” (SAD) for the Wa, also situated in Shan State.

In principle, it is also open to other nationality groups that do not have ethno-political recognition to apply for “self-administered” status, provided that the group in question forms the majority of the population in at least two adjacent townships. Nationalities that have promoted such status in recent years include the Akha and Lahu in eastern Shan State, the Shan-ni (Tai-Leng) in Kachin State and Sagaing Region, and Khumi in Chin State.<sup>29</sup>

Each of these self-administered territories has an elected “leading body” that has both legislative

and executive functions. In practice, though, these bodies have limited authority. In electoral terms, the only distinguishing feature of these territories is that they are delineated as one upper house seat, regardless of population size. They are not reserved for MPs from the nationality group in question nor from any particular political party. The leading bodies are constituted from whichever MPs win those state/region constituency seats, with the addition of reserved seats for Tatmadaw appointees.<sup>30</sup>

The outcome from these arrangements was that each of the self-administered areas was generally dominated by a particular political party in the 2015 elections.<sup>31</sup> As with the state and region assemblies, there was no clear pattern that suggested improved representation and governance (see “Ethnic Representation and Tactical Voting”). The following examples provide a snapshot of the different experiences .

- The Pa-O SAZ is dominated by the Pa-O National Organisation (PNO), a registered political party that retains a powerful militia (pyithusit) following its 1991 ceasefire with the government and has strong de facto control of the territory. The PNO won all seats in the zone in the 2015 elections – and even prevented the NLD from organising there.<sup>32</sup> There is also a substantial Pa-O population outside the zone and PNO leaders want to expand its status to a Self-Administered Division. But the way township borders are demarcated mean that Pa-O communities in Shan State are not sufficiently contiguous to meet the constitutional requirements. For the 2020 elections, PNO leaders have expressed their frustration by ending a “no-compete” agreement with the USDP for constituencies outside the SAZ. In the 2010 and 2015 elections, this opened the way for the USDP to gain victories in ten seats that include Pa-O populations.<sup>33</sup>
- There are two Danu political parties in the Danu SAZ (see Box 3). But unlike other self-administered areas, there is no nationality force or ethnic-based militia. In the 2015 elections, the four SAZ seats were split between the NLD

and the USDP, with the Danu parties having no electoral success. The NLD, meanwhile, also won the three constituency seats to the national parliament.

- Representation is similarly mixed in the Naga, Ta’ang and Kokang SAZs, all of which are conflict-zones. In the Naga SAZ, the NLD gained the majority of seats followed by the USDP; in the Ta’ang SAZ the local Ta’ang National Party (TNP) won victory; and in the Kokang SAZ, where the Tatmadaw has established a Border Guard Force, it was the USDP that claimed all seats.
- Most of the Wa Self-Administered Division is within territory controlled by the United Wa State Army/Party (UWSA/UWSP). Since its 1989 ceasefire, the UWSP has developed a de facto mini-state on the Chinese border as well as control of a separate territory further south on the Thai border. The UWSP administers what is effectively a one-party state, and the organisation has not allowed elections to take place in areas under its control.<sup>34</sup> Although the group has held tentative discussions with the UEC, there will again be no polls held in UWSP-controlled areas in the upcoming elections.<sup>35</sup> The UWSP also closed entrance to its territories in early September in claimed response to the Covid-19 crisis (see “Covid-19 and Campaigning”).

Further complicating the ethno-political map, the UWSP is not happy with the status of the Wa SAD. Instead, party leaders have called for the formation of a “Wa State” as a separate entity under a union government and not as part of Shan State. UWSP officials also do not agree with the borders of the current Wa SAD since it does not include all areas currently under UWSP administration on the China border. Other nationalities who live in the Wa SAD include Akha and Lahu peoples. The UWSP-controlled areas along the Thai border, where smaller Wa populations live, are treated as a different issue.

The 2020 elections appear unlikely to resolve any of these issues. Enjoying long-standing

relations with China, the UWSP is a leading actor among EAOs in the Federal Peace Negotiation and Consultative Committee (FPNCC: established 2017) that have not signed the NCA with the government. The Wa SAD leading body is currently made up of MPs elected to the four Shan State constituencies within demarcations of the Wa SAD that are under government control. The headquarters of the Wa SAD is also located in this area, which the UWSP opposes. Three Wa parties – not formally related to the UWSP and located outside its territory – merged in April 2020 to form a new Wa National Party that will contest these areas in the upcoming polls, along with seats in the eastern Shan State capital Kengtung (see Box 2).<sup>36</sup>

## Ethnic Affairs Ministers

The other special recognition provided to nationality groups on geographic grounds under the present electoral system are the seats for “ethnic affairs ministers”. Section 161 of the 2008 constitution provides that minority populations of more than around 54,000 (that is, 0.1 per cent of the country’s population) in each region or state have the right to elect an additional representative to their state or region legislature, provided that they are not the main nationality in that region or state and do not already have a self-administered area in that region or state. The representatives elected under this provision are automatically appointed as ex officio ethnic affairs ministers in the state or region government, each having responsibility for matters relating to their respective “minority” communities.

For the 2010 election, 29 such seats were designated (see table below). Their introduction, however, has proven controversial. Exactly the same seats were designated in the 2015 and 2020 elections, despite subsequent population movements and revisions to national statistics as a result of the 2014 Population and Housing Census. The process for doing so in 2010, and for considering whether any subsequent adjustments were warranted, has never been transparent. This

lack of clarity has fuelled perceptions that the ethnic Bamar majority with five seats (the same as Karen) are the largest winners in this unusual designation. As a result, several nationality movements took matters into their own hands ahead of the 2015 polls, conducting informal counts of their populations in different states and regions, with a view to lobbying the UEC to designate more minister seats for them as well.<sup>37</sup>

For the moment, the issue remains unaddressed. For the 2010 elections, ethnic population data were provided to the UEC on the basis of estimates by the Immigration and Population Ministry. Subsequently, the 2014 census attempted to collect ethnic data, always a problematic endeavour in Myanmar, in an error-strewn way (see “Ethnic Representation and Tactical Voting”). Indeed the ethnic statistics collected by the 2014 census were considered too contentious and unreliable to be released, and they remain under wraps.

With new population counts, future adjustments to the designation of ethnic affairs ministers are likely. But the fact that no changes have been made since the census suggest that the data collected by the 2014 enumerators have not been used for the purpose of redefining these seats in subsequent elections. In the event, 21 of the 29 seats for ethnic affairs ministers were won by the NLD in the 2015 polls and two by the USDP, suggesting that voting for these positions is also dominated by the mainstream parties.

Despite these ambiguities, the principle of ethnic affairs ministers appears to have been established. But they are yet to develop any meaningful influence.<sup>38</sup> First, there are many limitations on their executive powers; they do not compare to the positions of government ministers. Second, the complexities of their designation highlight the ad hoc – and often incongruous – ways that identities have been delineated under the 2008 constitution. And third, many nationality leaders believe that the anomalies in the designation of ethnic affairs ministers (and also self-administered areas) are part of a long-standing policy to water down

State/Region Parliament	Ethnic Affairs Seats
Ayeyarwady Region	2 seats (Karen, Rakhine)
Bago Region	1 seat (Karen)
Chin State	no seats
Kachin State	4 seats (Bamar, Lisu, Rawang, Shan)
Kayah State	1 seat (Bamar)
Kayin (Karen) State	3 seats (Bamar, Mon, Pa-O)
Magway Region	1 seat (Chin)
Mandalay Region	1 seat (Shan)
Mon State	3 seats (Bamar, Karen, Pa-O)
Rakhine State	1 seat (Chin)
Sagaing Region	2 seats (Chin, Shan)
Shan State	7 seats (Akha, Bamar, Intha, Kachin, Kayan, Lahu, Lisu)
Tanintharyi Region	1 seat (Karen)
Yangon Region	2 seats (Karen, Rakhine)

the minority cause. If, for example, the peoples of the ethnic states had the rights of autonomy and equality that were promised in the Panglong Agreement in 1947, then it is argued that the need for such complicated arrangements would not exist.<sup>39</sup> As Thant Myint-U recently wrote, Myanmar has the characteristics of an “unfinished nation”.<sup>40</sup>

Many examples can be picked out of the unusual complications under the present political system. Of the 135 officially-recognised “national races”, eight are demarcated as “major” (Bamar plus Chin, Kachin, Karen, Kayah, Mon, Rakhine and Shan corresponding to the seven ethnic states); the rest are listed – often wrongly – as “minority” sub-groups of these eight.<sup>41</sup> This then leads into further causes of confusion.

In some cases, the identities of the major groups have been used as the basis for designating additional seats for ethnic affairs ministers: for example, “Chin” seats were allocated in Magway and Sagaing Regions and Rakhine State rather than Mro, Khami, Asho or others of the 53 Chin sub-groups specified in the 2014 census.<sup>42</sup> In contrast, there are other territories where nationality sub-groups have been accorded seats: for example, the Akha and Lahu in Shan

State where both have been incorrectly listed as Shan sub-groups in the census. Equally inconsistent, there are ethnic affairs minister seats in Shan State designated for both Kachin and Lisu identities even though the latter are listed as a sub-group of the former in Kachin State. Similarly, the Kayah – who are the majority population among an inter-related group of peoples collectively known as Karenni – are misleadingly given the identity of the entire territory and group.<sup>43</sup> Meanwhile the identity of one of the larger ethnic groups, the Rohingya, is not recognised by the government at all (see “Rohingya Disenfranchisement”).

As these inconsistencies expose, the vexed issues of ethnicity and identity in Myanmar have long needed fresh discussion and new approaches. According to the UEC, eligibility criteria for nationality representation are the responsibility of immigration and population officials.<sup>44</sup> But this will never be enough to address a political crisis that is at the heart of state failure in the country.

It is important to stress, then, that the challenges in ethnic politics are not represented in the field by the kind of *reductio ad absurdum* that is often suggested in government circles. The

number of movements reflected by ethnic armed organisations, political parties, self-administered areas and ethnic affairs ministers remains very constant at around 20 (with related sub-groups), and it is around these main identities that nationality leaders believe that political solutions should – and can – be found.<sup>45</sup> This is also the general ethno-political framework of the NCA and 21<sup>st</sup> Century Panglong Conference through which a Union Peace Accord is being sought.

In summary, self-administered areas and ethnic affairs ministers have brought new delineations into the geographic landscape of Myanmar politics. But they do not address the need for much more fundamental change. The challenge remains, as it has in all political eras since independence: to build a genuine union that truly guarantees democracy, representation and rights for all peoples.

## Ethnic Political Party Landscape

Despite the recent mergers, there remain a large number of nationality parties. They form a majority of all registered parties for the upcoming polls: 55 of the 94 total (see Box 3). Most of these parties are unlikely to win any seats for one of two reasons: either because they are not popular with voters – or because they represent peoples that are small in number or geographically-dispersed across multiple constituencies. This is illustrated by the success rates of ethnic-based parties in the 2015 elections:

Number of Seats Won (2015: Union and State/Region)	Number of Ethnic Parties
Zero seats	40 parties
1 seat	7 parties
2-3 seats	5 parties
4-10 seats	4 parties
11+ seats	3 parties (ANP, SNLD, TNP)

In 2015, the NLD failed to win a majority of the elected seats in only two of the seven ethnic state

legislatures, and won a large majority of seats in all seven region legislatures. The Rakhine and Shan States were the two exceptions:

- In Rakhine State, the ANP won 23 of the 35 elected seats (66 per cent) in the state legislature, compared to 9 seats for the NLD (26 per cent).<sup>46</sup> Once the 12 seats for military appointees were factored in, however, the ANP was just short of a majority. Adding to Rakhine frustrations, the state legislatures have few independent law-making powers, and Present Htin Kyaw used his constitutional prerogative to appoint a minority NLD chief minister and hence administration for the state. The result of this action was to further compound unrest in the territory.<sup>47</sup>
- In Shan State, no party won a majority of the elected seats. The USDP fared best, with 33 of 103 elected seats (32 per cent), just ahead of the SNLD with 25 seats (24 per cent) and the NLD with 23 seats (22 per cent). The smaller nationality parties had a combined 21 seats.<sup>48</sup> These results meant that the Tatmadaw had the largest bloc in the Shan State legislature, with its 34 appointees, but also no majority – even in combination with the USDP. As in Rakhine State, President Htin Kyaw used his constitutional prerogative to appoint a minority NLD chief minister and administration for the state. Furthering the sense of marginalisation, the comparatively strong performance of the USDP in some constituencies was not due to local support but the number of government troops as well as Tatmadaw-supported militia leaders (see “Ethnic Representation and Tactical Voting”).<sup>49</sup>

As these histories suggest, while mergers may provide a boost to the chances of the largest ethnic parties winning additional seats, most parties contesting the 2020 elections are unlikely to win seats nor will it necessarily be easier for nationality parties to gain control of state administrations. In some cases, such as Kayah State, it is likely that the new formations will make electoral impact due to local politics. Here NLD insensitivities and government heavy-handedness

have deepened nationalist sentiment. The enforced building of a statue of Aung San, the State Counsellor's father, has been a particular source of popular protest.<sup>50</sup>

In Shan State, too, the USDP is unlikely to come out on top again if polling booths are moved away from Tatmadaw bases, reducing the potential for vote manipulation.<sup>51</sup> There are also indications that some of the militia groups will lessen their support for the USDP, with the PNO ending its "no-compete" agreement with the party (see "Self-Administered Areas"). However, unless there is a major change in voting alignments, expectations appear to be running ahead of likely outcomes (see "Expectations by Ethnic Parties"). The electoral structures of politics under the 2008 constitution are not demarcated in ways that are intended to allow or bring about radical change.

So why do so many ethnic parties continue to exist and contest elections? Seen from the perspective of representation in the national and state/region legislatures, there appears little rationale for many of these parties to stand. However, in the broader context of national politics, ethnic parties are about more than winning seats. Many other countries, of course, have ethnic diversity. But it is in Myanmar where these challenges are so engrained in the ethno-political landscape. During a half century under military rule, expressions of non-Bamar identity were suppressed. But, since political transition began in 2011, promotion and celebrations of ethnic identity have burst back into new life.

It is not surprising, then, that many ethnic parties are now seeking representation on the national stage. It is the fear of exclusion that is the main motivating force. Peace talks and the 21<sup>st</sup> Century Panglong Conference are heightening awareness of 2020 as a critical year for potential change. The 2008 constitution also encourages nationality movements to organise – not only by winning seats but also by proving population numbers sufficient to gain territorial recognition (see "Ethnic Representation and Tactical Voting").

Equally important, the election laws require political parties to stand in the polls in order to be granted or maintain legal status. Unless parties put up candidates in a minimum of three seats, they are deregistered by the UEC. Said a spokesperson for the Mro National Democracy Party: "If our political party keeps existing, we can provide help for our people."<sup>52</sup> A similar challenge is faced by Shan-ni (Tai-Leng) leaders who fear that the failure to identify their population correctly is depriving them of the right to vote.<sup>53</sup> Simply standing in the polls is seen as a statement of identity for marginalised groups.

No people, however, suffer from discrimination more than Muslim communities in Myanmar (see "Rohingya Disenfranchisement"). The main crisis point will be Rakhine State. As conflict continues, election cancellations are already certain in the north of the territory, affecting Rakhine, Rohingya and other nationality groups (see "Conflict and Cancellations"). It is not, however, only the Rohingya population that will be barred. The same electoral pressures are felt by other Muslims. This includes the Kaman community in Rakhine State, the only Muslim-majority group officially recognised as a "national race" in the 2014 census. According to a Kaman National Development Party (KNDP) leader: "We have to field in the election at least three candidates to be able to keep the party standing."<sup>54</sup>

The future for the Kaman people is very uncertain. With fighting continuing, the KNDP can no longer campaign in many of its traditional areas in Rakhine State. Covid-19 is only adding to the party's difficulties. Instead three of its five candidates will run in the Yangon Region where many Kaman refugees have moved. The result is a political paradox. Kaman identity will appear on the 2020 ballot papers. But the Kaman people will be very far from meaningful representation in their own homeland. It is a plight that many other marginalised peoples in the country now also face (see "Displacement and Migration").

### Box 3: List of all 94 Registered Parties (ethnic minority parties in bold)

88 Generation Democracy Party  
88 Generation Student Youths (Union of Myanmar)

**Akha National Development Party**

Alliance of Myanmar Worker and Farmer Party<sup>1</sup>

**Arakan Front Party<sup>1</sup>**

**Arakan League for Democracy<sup>2</sup>**

**Arakan National Party**

**Asho Chin National Party**

Bamar People's Party

**Chin League for Democracy<sup>1</sup>**

**Chin National Party<sup>1</sup>**

**Danu National Democracy Party**

**Danu National Organization Party**

**Dawei Nationalities Party**

**Democracy and Human Rights Party**

Democracy and Peace Party

Democratic Party (Myanmar)

Democratic Party for a New Society

Democratic Party of National Politics<sup>1</sup>

**Dynet (Daingnet) National Race Development Party**

**Ethnic National Development Party**

**Federal Union Party**

Guiding Star Party

**Inn National Development Party**

**Inn National League Party<sup>1</sup>**

**Kachin National Democracy Congress Party**

**Kachin National Party<sup>1</sup>**

**Kachin State People's Party<sup>1</sup>**

**Kaman National Development Party**

**Kayah State Democratic Party<sup>1</sup>**

**Kayan National Party**

**Kayin (Karen) National Democratic Party<sup>1</sup>**

**Kayin (Karen) National Party**

**Kayin (Karen) People's Party**

**Khami National Development Party**

**Khumi National Party**

**Kokang Democracy and Unity Party**

**Lahu National Development Party**

**Lawwaw National Unity and Development Party**

**Lisu National Development Party**

Modern People's Party

**Mon Unity Party<sup>1</sup>**

**Mro National Democracy Party**

**Mro National Development Party**

**Mro Nationalities Party**

Myanma New Society Democratic Party

Myanmar Farmers' Development Party

Myanmar National Congress Party

Myanmar Peasant, Worker, People's Party

Myanmar People's Democratic Party<sup>1</sup>

**Naga National Party<sup>1</sup>**

National Democratic Force

**National Democratic Party for Development**

**National Development and Peace Party**

National Development Party

National League for Democracy

National Political Alliance

National Prosperity Party

**National Solidarity Congress Party**

National United Democratic Party<sup>1</sup>

National Unity Party

**New Democracy Party (Kachin)<sup>1</sup>**

New Era Union Party

New National Democracy Party

New Society Party

**Pao National Organisation**

Peace and Diversity Party

People's Pioneer Party<sup>1</sup>

People's Power Party<sup>1</sup>

**Phalon-Sawaw [Pwo-Sgaw] Democratic Party**

Public of Labour Party<sup>1</sup>

Public Service Students' Democracy Party

**Rakhine State National Force Party**

**Shan Nationalities Democratic Party**

**Shan Nationalities League for Democracy**

**Shan State Kokang Democratic Party**

**Shan-ni Solidarity Party**

**Ta-ang (Palaung) National Party**

**Tai-Leng (Shan-ni) Nationalities Development Party**

The Party for People

The People's Party<sup>1</sup>

Union Betterment Party<sup>1</sup>

Union of Myanmar Federation of National Politics

**Union Pao National Organisation**

Union Solidarity and Development Party

United Democratic Party

**United Nationalities Democracy Party<sup>1</sup>**

United Peasant Worker Forces Party

**Wa National Party<sup>1</sup>**

**Women's Party (Mon)**

Wunthanu Democratic Party

Yeomanry Development Party<sup>1</sup>

**Zo Ethnic Regional Development Party**

**Zomi Congress for Democracy Party**

<sup>1</sup> Party registered since the 2015 election

<sup>2</sup> Party re-registered (following de-merger from Arakan National Party) in July 2017



## B. KEY ISSUES FOR THE 2020 POLLS

### Conflict and Cancellations

The election laws allow for voting to be cancelled in part or all of a constituency for security reasons.<sup>55</sup> In practice, the two main criteria used in cancellation decisions are:

- Whether it has been possible to compile and display the voter list in a particular location (an access consideration determined by the UEC)
- Whether the election sub-commissions will be able to move freely to prepare and administer the polls (primarily a security consideration determined by the Tatmadaw and communicated to the UEC by the Home Affairs Ministry).

Ahead of the 2010 and 2015 elections, the UEC issued notifications a few weeks before election day listing areas where voting would not take place – both whole constituencies and parts of constituencies.<sup>56</sup> Most were areas that the electoral authorities could not access, such as territories administered by the ceasefire UWSP in eastern Shan State and Karen National Union (KNU) in northern Karen State, or insecure or conflict-affected areas in states with predominant ethnic populations, notably Kachin, Karen and Shan. In total, the UEC announced that, in 2015, it was unable to hold polling in 211 village-tracts in 11 townships of Kachin State, 94 village-tracts in seven townships in Karen State, 41 village-tracts in two townships of Bago Region, one village-tract in one township of Mon State, and 106 village-tracts in 10 townships of Shan State.<sup>57</sup>

The decision-making process, however, was not transparent. The Tatmadaw authorities informed the commission where it was to cancel voting due to security conditions. But they did not disclose detailed reasoning or criteria used, raising questions about whether political rather than security considerations were driving decisions. This led to claims by opposition parties of malpractice on the part of the UEC (see “A Partisan Election Commission”). In 2015, the cancellations ultimately

resulted in seven vacant seats in the lower house and 14 vacant seats at the state/region level, all in the Shan State legislature. There were no vacant seats in the upper house or in any other state/region legislature apart from Shan State.

To some extent, such cancellations are anticipated under the present election system. Cancellations may affect only some parts of constituencies, in which case the election can proceed in other areas and a representative is still elected. A common scenario in 2010 and 2015 was for voting to be cancelled in rural areas of some constituencies but permitted to take place in the towns that are generally more secure. In the case of the cancellations of whole constituencies, this need not result in vacant seats for the whole five-year legislative term, as these seats can be filled in by-elections if security conditions improve.

An example of this postponement is the six seats in Kyethi and Mong Hsu townships in Shan State (two in the lower house, and four in the Shan State legislature). These were cancelled in 2015 due to armed conflict between the Tatmadaw and ceasefire Shan State Progress Party (SSPP), leaving these seats vacant. It was a time of high tensions. Following its decision not to sign the NCA, the SSPP narrowly held off a Tatmadaw offensive to capture its Wanhai headquarters, with over 30,000 civilians displaced from their homes.<sup>58</sup> The seats were subsequently filled in the 2017 by-elections, with all six being won by the SNLD.

In the 2020 elections, similar complexity is likely to emerge, exacerbated by two factors of deep uncertainty: first, the Covid-19 emergency; and second, the backdrop of conflict. As political campaigning began in early September, voters in many parts of the country could not know whether elections will really go ahead.

Many of these challenges were most intensely felt in the ethnic borderlands where there is a complicated landscape of government-controlled, ceasefire and non-ceasefire areas. Understanding

these inter-relationships is essential to understand the challenges in holding free and fair elections in all parts of the country. Presently, EAOs and nationality politics can be divided into three main groups: a smaller group of 10 EAOs that signed the NCA during 2015-18 and have been taking part in the 21<sup>st</sup> Century Panglong Conference; and a numerically stronger grouping of around a dozen EAOs that can be divided into two further groups – those that have bilateral ceasefires with the government and those that do not.<sup>59</sup>

There are overlaps, however, between all groups. The Federal Peace Negotiation and Consultative Committee, headquartered on the China border, contains both ceasefire and non-ceasefire groups, while the United Nationalities Federal Council (established 2011) includes both NCA and non-NCA ceasefire groups. In peace talks, armed nationality movements have generally preferred to negotiate with the government in alliances but this is something that the Tatmadaw has historically blocked.<sup>60</sup>

Against this backdrop, an intermittent game of “ceasefire diplomacy” has continued between the Tatmadaw and non-ceasefire EAOs during the past two years, with both sides announcing “unilateral” ceasefires of varying duration.<sup>61</sup> Most recently, the Three Brotherhood Alliance of the ULA-AA and its Kokang and Ta’ang allies (which are also FPNCC members) announced a 70-day ceasefire extension from 1 September until 9 November, the day after the polls, to promote “political dialogue”, Covid-19 prevention and “facilitate the general election”.<sup>62</sup> The present Tatmadaw ceasefire has also been extended until the end of September.<sup>63</sup> But, with the Western Command and Rakhine State excluded from these orders, opinion is widespread that the Tatmadaw’s ceasefire announcements are a “divide and rule” strategy to gain security control rather than achieve peace for the elections.

For this reason, cancellations will again be controversial during the elections. The UEC has announced that any formal decisions on partial or whole-constituency cancellations will be

made during October. Covid-19 is only adding to the unpredictability of polling conditions. But it is already certain that the largest number of cancellations and disruptions will be in areas affected by conflict. This, in turn, will draw criticism from ethnic nationality parties who claim that their voters are being disenfranchised or voting areas gerrymandered.

Of particular concern will be the northern and central Rakhine State, and adjacent areas in Paletwa township in southern Chin State. Here the 2020 elections will be taking place in very different conditions from the 2010 and 2015 polls. Since this time entire populations have been disrupted, with concerns over egregious human rights violations reaching to international legal courts in The Hague (see “Rohingya Disenfranchisement”). Over 750,000 Rohingya refugees fled into Bangladesh during 2016-17 after the Tatmadaw launched “regional clearance operations” in claimed response to attacks by a new militant force, known as the Arakan Rohingya Salvation Army (ARSA).<sup>64</sup>

Subsequently, over 150,000 Rakhine, Chin, Mro and other nationality peoples have been displaced during fighting between government forces and the ULA-AA after the territory was excluded in December 2018 from Snr-Gen. Min Aung Hlaing’s first unilateral ceasefire order.<sup>65</sup> Adding to the difficulties in communication, a government Internet ban has been maintained since June 2019 in eight (initially nine) townships in the north of the territory,<sup>66</sup> while arrests have been made of journalists reporting on both the Rakhine and Rohingya conflicts.<sup>67</sup> In early September, a Tatmadaw spokesman stepped up the pressures when he called upon the UEC to cancel the polls in northern Rakhine State.<sup>68</sup> Shortly afterwards, all in-person campaigning was banned across the state in response to the Covid-19 emergency.

How such disruptions will affect the results in different parts of the country is difficult to estimate. The rise in Covid-19 cases has fuelled uncertainties, with the ethnic borderlands regarded to be in the frontline of transmission

(see “Covid-19 and Campaigning”). In the case of Rakhine State, there are two main reasons for political concerns: first, voting will be inhibited in the north of the state where Rakhine nationalist sentiment is strong; and second, because the demographics of rural areas are generally different from the towns which have more ethnic Bamar voters. The polls are more likely to be run in the towns. Nevertheless, unless there are significant splits in the Rakhine vote, the scale of support for the ANP in the 2015 elections suggests that it is likely to win a majority of seats again – as long as free and fair voting goes ahead. The possible exception is the south of the state where the NLD has historically fared better. The Rohingya population, meanwhile, has been entirely removed from the political map. But similar fears of marginalisation are expressed by smaller nationalities in the territory, including Kaman, Mro and Khumi (see “Ethnic Political Party Landscape”).

The same degree of uncertainty is being expressed in both ceasefire and non-ceasefire areas in other ethnic states. In ceasefire areas of Shan State, there is likely to be a similar admixture of whole-constituency and partial cancellations as the 2015 polls. Ceasefire territories likely to be affected include areas under the control of the Restoration Council Shan State (RCSS), an NCA signatory, as well as those of the SSPP and USWP, both of which are FPNCC members. As in 2015, UWSP-administered townships around Panghsang along the China border as well as Mongla to the south will be excluded (see “Self-Administered Areas”).<sup>69</sup> Meanwhile, warning of the risks of fighting, the RCSS has notified political parties that they need to inform in advance if they intend to campaign in its territories.<sup>70</sup>

With the exception of the KNU, most of the other NCA-signatory EAOs are smaller in size and outreach. In general, all welcome the elections, hoping that a strong nationality performance will boost the peace process. But similar concerns over cancellations and election security have been expressed in NCA ceasefire areas in the Chin, Karen and Mon states. In particular, tensions have been rising in areas administered by the KNU

in Hpapun District after a series of Tatmadaw incursions.<sup>71</sup> In mid-September, it was also announced that no elections would be held in KNU-administered territory in seven townships in Kawkaik District to the south.<sup>72</sup>

The greatest insecurity, however, is presently felt in non-ceasefire areas of the country. The latest 21<sup>st</sup> Century Panglong Conference, known as the fifth “Union Peace Conference-21<sup>st</sup> Century Panglong”, went ahead in reduced circumstances in Nay Pyi Taw in August. Here it was agreed to continue with discussions after the elections. But there were no immediate breakthroughs nor notions of how non-NCA groups can be brought into the political negotiations.<sup>73</sup>

The implications for the 2020 elections are bleak in many nationality areas. Against a recalcitrant Tatmadaw, the recent ceasefire extension by the Three Brotherhood Alliance is unlikely to bring peace to Rakhine, Kokang and Ta’ang territories. Meanwhile a number of constituencies in Kachin State and northern Shan State are also likely to be disrupted where a 2013 “reduction of hostilities agreement” with the KIO has only lightly held. The Kachin-Shan borderlands are presently an area of deep instability.<sup>74</sup> During early September, fighting was reported to have broken out in Muse township on the Yunnan border, while the Tatmadaw prepared to step up military operations in Chipwi township to the north.<sup>75</sup>

All general elections have gone ahead in conditions of conflict and uncertainty since independence. But with the added risk of Covid-19, the impact of conflict and cancellations on the 2020 polls ensures that they will be among the most unpredictable. As the countdown continues to voting day, Myanmar is not a land at peace.

## A Partisan Election Commission

The Union Election Commission is a partisan body. Under the law, it is appointed by the Myanmar President for each 5-year term. This inevitably undermines the confidence of political parties in the UEC and makes it an easy target

for criticism, regardless of its performance. The current commission is made up of NLD-linked legal professionals that reflect its partisan basis. In a difficult election year, this will increase focus on the many decisions that it will have to make. Its influence is enormous, ranging from vetting candidates and election broadcasts to ensuring that the polls are fairly conducted.

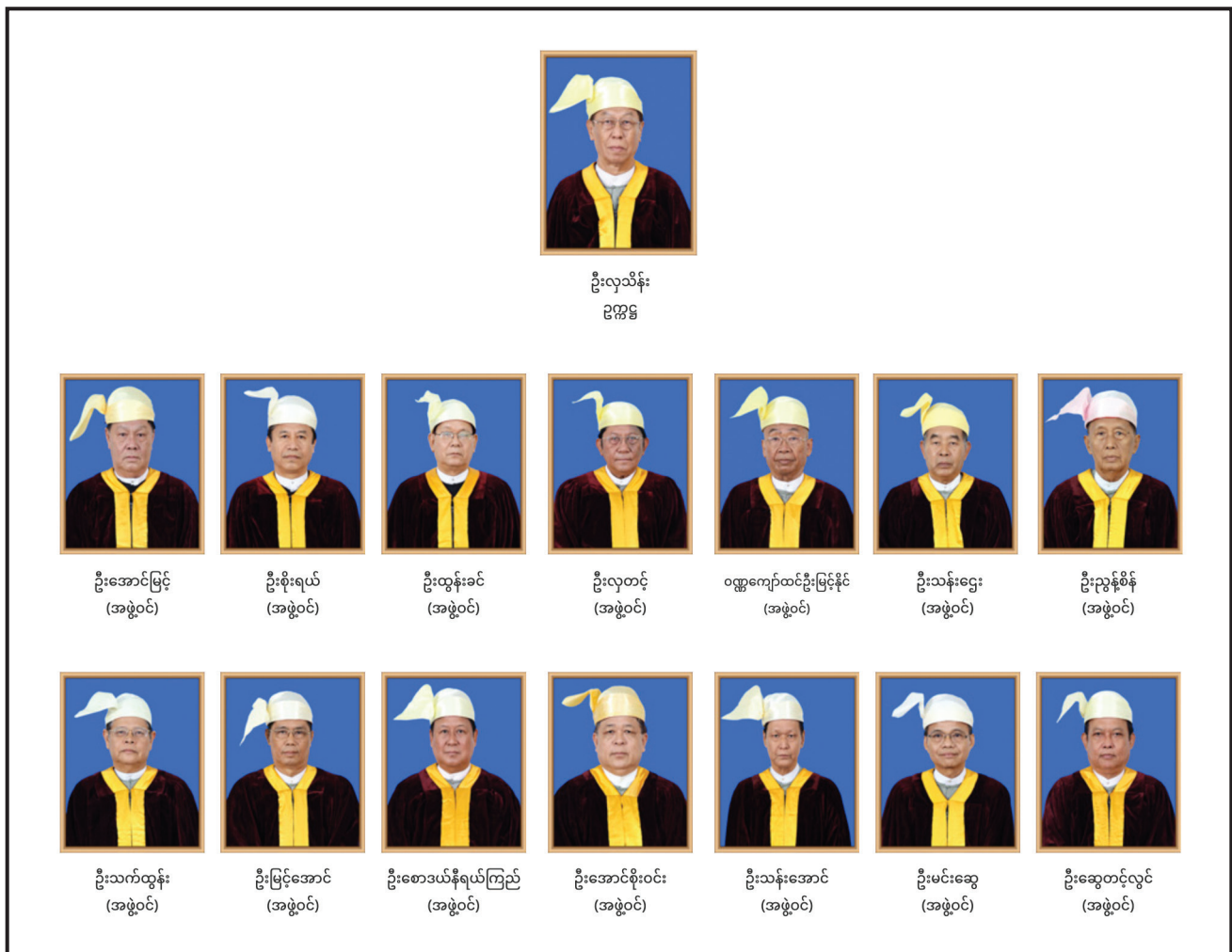
The election commission is also unrepresentative in other ways:

- Gender: all 15 members of the commission are men.
- Age: all 15 members are elderly, most in their 70s and 80s.
- Ethno-religious diversity: all but one of the members are Bamar and Buddhist.

The USDP has led the way in criticising the UEC, joined by several other parties.<sup>76</sup> Generally,

they regard its composition as too close to the NLD. In August, the USDP organised a meeting between Snr-Gen. Min Aung Hlaing and 33 other pro-military parties where they lobbied for the Tatmadaw to ensure the fairness of the elections and for the UEC chairman to be replaced.<sup>77</sup> Their aim is to counter-balance the election dominance of the NLD. In reply, the Commander-in-Chief urged parties to choose candidates who will do the “best for their constituents, understand the Tatmadaw’s role in national politics; respect race and religions; and who are free from foreign influence”.<sup>78</sup>

The issue of foreign influence also came up in August when the UEC took the unexpected decision to ban members of the country’s largest election monitoring group, the People’s Alliance for Credible Elections (PACE), from observing the 2020 polls.<sup>79</sup> The PACE receives funding from a number of Western governmental and non-governmental donors.<sup>80</sup> Previously the PACE had monitored both the 2015 general election and two



subsequent by-elections. Thus the reasons for its banning were initially unclear; several other CSOs were allowed to keep their monitoring status.<sup>81</sup>

In reality, both Western and Asian governments want the 2020 election to proceed: Western governments because they believe the process will keep democratic transition on track; and Asian governments because they believe an NLD victory is better for investments and their political interests. Later it was reported that, under a different registration process, the PACE decision could be reversed.<sup>82</sup> The Carter Center and Asian Network for Free Elections will also be permitted to monitor the polls as international observers.<sup>83</sup> But the sensitivities around this issue were a reminder of the UEC's custodial role, raising worries in civil society and political circles about the evasion of scrutiny and decisions that could influence voting outcomes.

The question of monitoring, however, was just one of a huge logjam of issues that were building up for the UEC as election campaigning began. Since the 2015 polls, the General Administration Department, which implements the election process, has moved from the Tatmadaw-led Ministry of Home Affairs to the Ministry of the Office of the Union Government. In principle, this should help civilianize management. But it also raised questions about security and the conduct of the polls in conflict-zones and harder to access regions of the country.

Holding elections in Myanmar is difficult in any year. But in 2020, Covid-19 and continuing fighting were adding new levels of complexity. As election day approached, reports of a litany of new challenges began to emerge. These included difficulties in communication between government departments; delays in training auxiliary police and teachers as polling agents; irregularities in compiling voting lists; and concerns about transporting ballot-boxes to and from polling stations in time. It will fall on the members of the UEC to ensure that the elections are fairly conducted. In the coming months, their decisions and activities will be closely followed by all parties.

## Displacement and Migration

One area where the Union Election Commission has already had impact is an amendment since the 2015 polls to the number of days a person needs to have resided in a constituency in order to be eligible to be able to vote there. Previously, the election by-laws set this period at six months. However, in November 2019, the UEC sent draft revised by-laws to the parliament that reduced the period to 90 days.<sup>84</sup> This has now become a controversial issue.

In principle, the reduced residency threshold should allow more people to vote, which is generally considered a good move. This is not so straightforward in Myanmar, though. Only after the elections are over will it be possible to estimate the impact of this change in registration. The reason for argument is that many nationality parties worry that short residency will dilute their support base by enfranchising more migrants. In a worst case scenario, they believe that it could even open the door to manipulation by the NLD or USDP which, some fear, could pay people to relocate to particular areas and enrol to vote there.<sup>85</sup>

For ethnic movements, the issues of displacement and population movement are of critical importance. Identity and territory are integral features of the ethno-political landscape (see "Ethnic Representation and Tactical Voting"). Decades of conflict have only made the social and humanitarian situation worse. In addition to over 750,000 Rohingya refugees in Bangladesh, there are up to 300,000 internally-displaced persons (IDPs) in Rakhine State and southern Chin State, over 100,000 IDPs in Kachin and northern Shan States, up to 100,000 Karen and Karenni refugees in Thailand, and around 150,000 IDPs across the Thai borders in Karen, Kayah and Shan States.<sup>86</sup> Few of these populations are acknowledged by the UEC, causing nationality leaders to question how elections can be considered representative or free and fair in their absence.<sup>87</sup> Meanwhile millions of migrants – both legal and illegal – remain overseas or in neighbouring countries, with little likelihood that they will be able to vote.

In terms of electoral impact, attention is usually focused on migration concerning the majority Bamar population. But it is important to recognise that there have also been substantial movements by other nationalities within the country during recent years. A particular example is the movement by Rakhine people into Kachin State where the number of registered voters has increased by 220,000 to 1.1 million voters between the 2015 and 2020 polls.<sup>88</sup> Such industries as jade mining or banana plantations have become major, though criticised, sources of employment.<sup>89</sup> It is also in Kachin State where supporters of the ULA-AA began their military training. Importantly, too, in both Kachin State and other parts of the country there are constituencies where election results could be equally affected by the departures of voters to seek work abroad, with, for example, large numbers of Karen, Mon, Pa-O and Shan people presently staying in Thailand.

As with the impact of Tatmadaw voters (see “Ethnic Representation and Tactical Voting”), the influence of population change is most likely to be felt in multi-ethnic constituencies, such as Myitkyina in Kachin State where the vote in 2015 was fairly evenly split between the NLD, USDP and Kachin State Democracy Party.<sup>90</sup> For the present, though, it should be clarified that there is no evidence of plans by either the NLD or USDP to move voters in ways that might be to their electoral advantage. This would mean a significant logistical feat to have impact on the required scale. Even the registration of existing migrants needs a major effort, given that the paperwork is complex and can require multiple visits to the township office.<sup>91</sup> But this is not to underestimate the importance of the migration issue as an election flash-point. The 2020 results could reflect demographic change in several parts of the country.

The other issue of migration concern among nationality parties is the return of workers from foreign countries as a result of Covid-19 (see “Covid-19 and Campaigning”). In the past half year, there have been significant job losses in both Myanmar and abroad, increasing focus on

the rights and movement of migrant workers. To date, however, far fewer overseas migrants have returned than had initially been expected – less than 150,000 in total across land borders by one count in August.<sup>92</sup> In general, these migrants returned to their family homes all over the country, not to a small number of constituencies. This means that, even if a significant proportion are eligible to be included on voter lists and exercised their rights, they would form a negligible proportion of the total voter populations. Equally important, any migrants who arrived after August will no longer be eligible to vote this time around under the 90-day rule. Of those who remain abroad, they will also be largely excluded or unable to vote. According to the Ministry of Foreign Affairs, of the more than four million Myanmar nationals estimated to be living overseas, only 109,470 had filed applications to vote by the August closing date.<sup>93</sup>

In the event of a postponed election, the issue of population movements will rise in importance again. After decades of conflict and instability, there remain substantial numbers of Myanmar peoples either displaced inside the country or living abroad. Many live in distressed circumstances, and their voting rights should not be neglected. It is vital that they are able to participate in the challenges of building democracy and supporting political transition in their homeland.

## Rohingya Disenfranchisement

In terms of disenfranchisement and non-participation in the elections, the most affected community in the country will be the Rohingya, a mostly Muslim people in Rakhine State. It is the plight of this ethnic group that is presently the subject of international human rights examination, and their situation has deteriorated considerably since the 2010 and 2015 general elections.<sup>94</sup> In 2018, Snr-Gen. Min Aung Hlaing and five other Tatmadaw commanders were named by the UN Independent International Fact-Finding mission as perpetrators of potential war crimes and genocide for investigation,<sup>95</sup> leading to cases

brought at the International Criminal Court and International Court of Justice. Presently, over a million Rohingya people are displaced from their homes, whether as refugees in Bangladesh, other countries abroad or in resettlement camps in Rakhine State.

Up until 2015, the Rohingya population had been able to vote in all post-independence elections. But in February 2015, responding to anti-Muslim violence and nationalist protests, President Thein Sein announced the cancellation of all Temporary Registration Certificates (or “white cards”), which was the only type of identity document that most Rohingya held. The effect was to disenfranchise most of the Rohingya population. A small number – both among the population still in Myanmar and those who have fled into Bangladesh – hold citizenship documents that should make them eligible to vote.<sup>96</sup> Whether they will be included in voter lists and able to take part in the 2020 polls is presently unclear. But, even if they are, this would only represent a small proportion of the total Rohingya population. By one estimate, only “hundreds” of Muslims will be eligible to vote in constituencies in Maungdaw and Buthidaung townships that were historically Rohingya majority – up until 2017 – along the Naf River borders.<sup>97</sup>

This mass disenfranchisement has inevitably had a drastic impact on Rohingya community and political movements. The 2016 surfacing of the Arakan Rohingya Salvation Army was widely attributed to frustration among young people living in limbo without recognised registration or rights. But there is no evidence that their cause has found popular support among the local population. Nor has there been any change in the conditions for Rohingya people still living in Myanmar.

In northern Rakhine State, meanwhile, there remain three Rohingya-supported parties registered with the UEC, but they are not allowed to include the word “Rohingya” in their party names.<sup>98</sup> So far, six candidates submitted by these parties have been rejected by the electoral authorities on the basis that they fail to meet citizenship requirements: in this case, that they do

not meet the legal requirement that their parents were citizens of Myanmar at the time of the candidates’ birth.<sup>99</sup> This follows the pattern ahead of the 2015 elections when 19 Rohingya and other Muslim candidates were disbarred on citizenship grounds in Maungdaw township.

At issue is the kind of identification document that their parents possess: i.e., the National Registration Card. For many decades, this was the only identification document that all Myanmar nationals held. But it was not technically proof of citizenship or the right to the citizenship cards that were introduced following the adoption of the country’s 1982 Citizenship Law.<sup>100</sup>

On the basis of this law, the election authorities are presently declining to take possession of a National Registration Card as proof of the citizenship status of the parents of Rohingya candidates. This approach is inherently discriminatory, and only selectively applied. Indeed, under the 1982 Citizenship Law, the rights to full citizenship are only allowed to certain national races (e.g. Bamar, Chin, Kachin, Karen, Mon, Rakhine, Shan) or persons who can prove ancestors resident in the country before the first British annexation in 1824.<sup>101</sup> For many families in Myanmar, this is a near impossible task. In practice, the election authorities only cast doubt about citizenship in the case of Muslim, and especially Rohingya, candidates.<sup>102</sup>

It also needs to be added that political discrimination is not only against Muslim people claiming Rohingya identity. This exclusion also fits into a climate of anti-Muslim sentiment in the country that has become more explicit since political transition began under the USDP-Thein Sein government in 2011. Although Muslims had stood for both parties before, neither the NLD nor USDP selected a single Muslim candidate for the 2015 elections. By the day of the polls, over 80 Muslim candidates had been banned, and it was estimated that just 28 of the 6,000 political candidates who stood in the 2015 elections were actually Muslims.<sup>103</sup> In a Muslim population considered to be in excess of two million, this is a very low number.<sup>104</sup>

Five years later, the NLD has so far stood firm on the choice of two Muslim candidates who will contest the elections this time around.<sup>105</sup> But the general marginalisation of Muslim candidates looks set to continue. In early September, it was reported that the only Muslim among 302 candidates in Mon State, an independent who had previously been an NLD member, had been disbarred on citizenship grounds.<sup>106</sup> Meanwhile all traces have disappeared of Rohingya villages in parts of northern Rakhine State where large communities lived before the Tatmadaw's 2017 operations.<sup>107</sup> At the same time, the new ARSA movement has proven to be a shadowy force that is only sporadically active in small clashes on the Bangladesh border. But, despite repeated international condemnation, there is little indication that the Rohingya refugee population will be allowed by the Myanmar government to return home at any time soon.

## Covid-19 and Campaigning

By international comparison, Myanmar has detected only a small number of Covid-19 cases: as of 23 September, a total of 6,959 infected and 116 deaths. The government was nevertheless concerned from the outset about the negative impact of any outbreak given the country's weak health system. Restrictions were immediately put in place during February and March that have had significant effect on work, communication and travel. By mid-year, these were being eased, from an initial ban on public gatherings of 5 or more people to a ban on 30 or more people as of mid-August.<sup>108</sup> However a sudden spread in new cases, which this time were being locally transmitted, meant that many restrictions were again tightened during early September.<sup>109</sup> This did not prevent the announcement of the beginning of election campaigning on 8 September. But, unless transmission is quickly brought under control, it seems certain that Covid-19 will overshadow the conduct of the polls in every part of the country. The only question is by how much.

For this reason, political parties have continued to call on the UEC to provide clarity on how these

rules and restrictions will apply, and they have expressed concern that they give the NLD an incumbent advantage given the higher visibility of its leaders in carrying out government activities.<sup>110</sup> These concerns have increased over recent months after Aung San Suu Kyi made her debut on Facebook. The State Counsellor has since used her account to communicate with her 2.7 million followers on Covid-19 health guidance and an expanding range of policy issues. In a country where it is often said that "Facebook is the Internet", this is high-profile exposure.<sup>111</sup> The NLD also appeared to be placing Covid-19 at the centre of its election strategy when Aung San Suu Kyi launched the party's campaign wearing protection equipment bearing the NLD logo.<sup>112</sup> The party, she pledged, would lead the economic recovery from the virus.<sup>113</sup>

In mid-September, the USDP and a number of other opposition parties called for the elections to be postponed.<sup>114</sup> With cases spreading and many towns in virtual lockdown, the public mood quickly changed from election optimism to health anxiety. Actions taken by both the government and, independently, by local communities imposed tight restrictions on freedom of movement and association, raising questions as to whether the elections can really go ahead.

For the present, the government appears determined to proceed with the election on schedule, with any decisions on postponement to be made by the UEC in October. But any delay comes with risks, potentially leading to a constitutional crisis if it lasts for more than two months. In certain circumstances, it could even lead to a state of emergency. In a country long under military rule, this is an eventuality that the NLD and most of the Myanmar population are very keen to avoid. For this reason, it seems likely that the prospect of the "2020 election" – even if delayed – will be kept on the road for as long as possible. After that, political predications become very difficult.

In the meantime, health concerns and the severe restrictions on movement and campaigning are



certain to have impact on the polls, when (and if) they go ahead.<sup>115</sup> Four key areas stand out.

First, the combination of Covid-19 and restrictions on freedom of movement will inhibit political parties from touring and meeting with the public in their constituencies.<sup>116</sup> Community and civil society groups will also be constrained, inhibiting voter education and election monitoring in many parts of the country. Instead, many political campaign activities will be pushed online, particularly to Facebook as the preeminent platform in the country. This, too, will benefit the NLD, given Aung San Suu Kyi's popularity in social media. The government also controls the state media.<sup>117</sup>

The shift to the Internet will also advantage larger national parties with deeper pockets, notably the NLD and USDP, who will be able to pay for sponsored or boosted posts. Disadvantaged will be ethnic parties as well as smaller national opposition parties that are less well funded. Some of these are less technologically savvy and have fewer constituents that own mobile phones or live in areas with good network coverage. Warned a leader of the Kachin State People's Party: "If we strictly follow their regulations and stay at home and do not go outside, there will only be online campaigning. Social media is not common in our state."<sup>118</sup> Especially worried are recently-formed parties and some of the new merger groups that had been intending to launch energetic campaigns around their constituencies to carry their messages into the districts (see "Ethnic Party Mergers").

Second, and related to this, there are fears that censorship, travel restrictions and the threat of Covid-19 could be used to influence the polls or bring about cancellations in selected constituencies. Again, Rakhine State is likely to be one of the most affected territories in the country (see "Conflict and Cancellations"). Since June 2019 an Internet shutdown has been enforced under the 2013 Telecommunications Law in eight townships, an area with an estimated population of over one million people in the 2014 census. The media – both local and international – have

also faced harassment, and in March this year arrests were begun of Rakhine journalists accused of interviewing members of the ULU-AA, which has been declared a "terrorist" organisation by the government.<sup>119</sup> Meanwhile access by UN and non-governmental health agencies to the territory remains strictly limited.<sup>120</sup> With fighting continuing, in early September the ULA-AA accused the Tatmadaw of using the Covid-19 emergency to step up military operations in advance of the polls.<sup>121</sup>

Adding to the tensions, the notion that Covid-19 is an "imported disease" is widespread in nationalist circles, with the India-Bangladesh borderlands regarded a key gateway for transmission.<sup>122</sup> As an analysis in the Diplomat magazine warned: "Racism Is fuelling Myanmar's deadly second wave of COVID-19".<sup>123</sup> Inevitably, these views further coloured perceptions of the situation in Rakhine State. "Anti-migrant" – notably anti-Rohingya and anti-Rakhine – sentiments were widely reported.<sup>124</sup> With the authorities effectively shutting the territory off, a government spokesperson admitted that elections may eventually go ahead in as few as five of the 17 townships.<sup>125</sup> In response, a growing chorus of domestic and international voices called upon all parties to agree a ceasefire, with members of the UN Security Council adding their weight.<sup>126</sup> But, as the days ticked down towards election day, conflict and Covid-19 were still spreading.<sup>127</sup>

A similar rise in tensions was reported in other ethnic nationality regions. Vigilance and security are presently high along the China, India and Thailand borders, with concerns of infection spreading to Yangon, Mandalay and other urban areas.<sup>128</sup> In areas where EAOs and local militia control territory, the threat of Covid-19 seems certain to increase disruption, highlighting the difficulties of holding the polls in the absence of peace and stability (see "Conflict and Cancellations").

In the north of the country, Kachin, Kokang, Shan and Ta'ang EAOs all reported increased tensions;<sup>129</sup> the ceasefire UWSP closed entrance to its territories on the Yunnan border; and the NCA-signatory, the Chin National Front, warned

election candidates to seek permission to enter its administered areas on the India frontier.<sup>130</sup> Meanwhile disputes broke out in the borderlands with Thailand after the Tatmadaw ordered the Karen National Union and New Mon State Party (NMSP) to stop operating Covid-19 checkpoints.<sup>131</sup> Both parties are NCA signatories that had attended the recent 21<sup>st</sup> Century Panglong Conference. Subsequently, the NMSP shut off its territories to try and protect against Covid-19. As ethnic leaders questioned, how can party candidates safely enter villages to canvas under current health conditions?<sup>132</sup>

This leads to the third impact of Covid-19: the probability of a reduced voter turnout. Families and communities in all parts of the country could be affected. Even without a major surge in cases, voters are likely to be more cautious about voting in crowded polling stations or waiting in long queues to vote. The burden of Covid-19 falls primarily upon the poor whose lives are already very difficult (see below). To try and minimise risks, the UEC is coordinating with the Ministry of Health and Sports on measures to be put in place on election day. Initially, the UEC had been planning 43,200 polling stations around the country. But it is now considering to increase that number, given that many are too small to allow physical distancing for poll workers and voters.<sup>133</sup>

Reorganising, however, the conduct of the elections is likely to be a major task. Several thousand additional polling stations will be required to process all voters in a safe way. Even in 2015, there were long queues and crowded conditions in polling stations in urban and peri-urban areas. But, with the added pressure of Covid-19, the logistics of holding the polls will not be any easier this time around. Training staff, providing security, ensuring health provision and accessing remote regions are difficult every time the country goes to the polls. And, with restrictions currently increasing on travel and transportation, there are many questions as to whether preparations can be adequately completed in time. Meanwhile, almost forgotten, there are many IDPs, refugees and migrants who, in the main, will be excluded from the polls. More

than ever, who votes – and who does not – could be decisive in determining the outcome of the elections (see “Displacement and Migration”).

Finally, as the plight of displaced peoples warns, travel restrictions and Covid-19 are likely to increase pressures on the country’s most vulnerable communities as the elections proceed. In the first months of emergency, the lack of health facilities, virus testing and outreach in many parts of the country was quickly exposed.<sup>134</sup> As the Asia Foundation warned: “The Covid-19 response has highlighted deep fragmentation across Myanmar society, in particular along ethnic lines.”<sup>135</sup> Censorship and the lack of humanitarian access to the conflict-zones were only making the situation worse.<sup>136</sup>

In the early stages, local CSOs and EAO health services addressed some of these challenges. The virus, too, was slow to take root. But from late August, concerns escalated again as Covid-19 began to spread. The health implications appeared to make no difference in the government’s election call. Many communities reported an immediate increase in distress. Moving from one area to another became impossible due to health restrictions; the security services interdicted travellers accused of breaking health curfew laws; and humanitarian conditions worsened in poor and marginalised communities due to food shortages and lack of work.<sup>137</sup> Meanwhile new casualties and a further 17,000 refugees were reported in northern Rakhine State where the Tatmadaw stepped up military attacks.<sup>138</sup> In the first weeks of September, growing numbers of ethnic leaders in the country expressed concerns over the deepening crisis.<sup>139</sup> But there was little evidence that a change in government policy was about to come.

The question, then, is how much any of this will matter in political terms or change the course of national politics through the 2020 elections. At this stage in socio-political transition, it is a very tough call. The impact of reduced or disrupted voting is likely to be uneven across the country, and there may well be local differences. But, in political circles, opinion is widespread that a

reduction in voter turnout should benefit the NLD and larger national parties more than their opponents. The government enjoys control of the process; the NLD's domination of the media and communications has increased; it is difficult for opposition parties to canvass and organise; and the country's first-past-the-post system still appears set to guarantee the NLD national victory. "Small, minority parties" will be "at a loss" is a generally held view.<sup>140</sup>

There is also the subject of government will. In mid-September, calls were increasing for the elections to be postponed on public health grounds. Up until now, Myanmar has been relatively spared the pandemic by most international standards. But this is not certain to continue. At the same time, both the NLD and Tatmadaw leaders have reasons to want to see the election through as quickly as possible: the NLD because of a perceived decline in its popularity since the 2015 polls that Covid-19 might now change; and the Tatmadaw because of continuing pressures over human rights violations that are being investigated by international courts in The Hague. It remains an uneasy relationship. But, in present circumstances, Covid-19 has taken focus away from the failures and weaknesses in the government. For both parties, this change in political narrative is an unexpected boost.

Last month, a restricted 21<sup>st</sup> Century Panglong Conference was held in Nay Pyi Taw to keep the government peace process on the road. Now the completion of the 2020 elections – even under constrained circumstances – would mark another step in political legitimacy for both parties, opening the door to another five years of the NLD-Tatmadaw nexus – however precarious – in government. Postponement for two months is possible, but after this the constitutional consequences become less clear. Thus, unless very powerful reasons intervene, it is likely that government leaders will try to deliver the 2020 elections on time.

There are, however, two important caveats. First, in the run-up to the polls, expectation had been rising among ethnic parties that the elections

would provide the opportunity to increase their participation and representation on the national stage. If these rights are now taken away from them, it would mark a very regressive step for trust-building and national reconciliation (see "Expectations by Ethnic Parties").

Second, there is the terrible precedent of the 2008 Cyclone Nargis in which an estimated 140,000 people died. In the cyclone aftermath, the military government of the State Peace and Development Council (SPDC) pushed through a controversial constitutional referendum, an event that undermined its legitimacy. For the moment, the NLD enjoys popular support in the anti-Covid-19 struggle. But if public health is perceived to be endangered for political opportunism, then opinion could change very swiftly indeed.

## Gender Inequality and Youth Inclusion

Women's representation in politics and government in Myanmar is extremely low. Of the 24 members of the cabinet, only one is a woman: State Counsellor Aung San Suu Kyi. Reflecting this under-representation, the current national parliament has only 75 women MPs (11 per cent of the total).<sup>141</sup> It is an issue that women's rights and other democracy activists have long sought to address.<sup>142</sup>

While the number of female candidates nominated for the 2020 elections is greater than in 2015, there has been no major change. As the UEC is still vetting applications, no comprehensive data are available so far. However, individual parties have released their lists of candidate nominees. The NLD candidate nominations include about 20 per cent women, up from 13 per cent in 2015.<sup>143</sup> Around 15 per cent of the USDP's candidates are women.<sup>144</sup> Many ethnic parties have done little better. The SNLD and the Mon Unity Party have among the highest number of female candidate nominees, at around 29 per cent and 26 per cent respectively.<sup>145</sup> The Arakan National Party nominated only 9 per cent female candidates (6 out of 64). Meanwhile women

make up 13 per cent of the Kachin State People's Party's candidate nominations (9 out of 68) in a territory where the number of female candidates nominated by different parties has declined since 2015.<sup>146</sup>

In a further bid to boost diversity and inclusion, some of the nationality parties have prioritised the selection of "youth" candidates. Myanmar currently has one of the most gerontocratic political systems in the world.<sup>147</sup> Among these parties, "youth" is typically defined as under the age of 40. To address this, the SNLD in Shan State has said that at least 30 per cent of its candidates will be younger people and the KSPP in Kachin State is aiming for a similar proportion.<sup>148</sup> But, for the 2020 polls, political insiders privately complain that "loyalty" is still regarded as the leading requirement in candidate selection for the NLD, USDP and many other parties.

Awareness of the need for gender and youth change is building. But there is unlikely to be any significant transformation during the upcoming elections. The challenge will be to move in their aftermath from political awareness to political practice.

## Expectations by Ethnic Parties

The 2020 elections will take place in a very different context from those held in 2015. On that occasion, the NLD gained victory amidst a surging tide of public optimism for political change. Since this time, reports have multiplied that ethnic minority voters feel let down by the NLD.<sup>149</sup> Areas of concern include: the party's failure to implement its election promise to bring nationwide peace; its lack of consultation with nationality leaders; the exclusion of nationality parties from local government; the pursuit of policies that support – or at least do not inhibit – those of pro-Buddhist and pro-Bamar nationalists; an inrush of outside investors and economic projects that do not benefit local peoples; and amendments to land laws that have led to increased land loss among ethnic nationality communities. In many areas, little difference is

seen between military and NLD-led government. "First they grabbed our land with guns; now they are using the law," a Karenni farmer complained last year.<sup>150</sup>

The expectation that the NLD will win the election, however, is not changed. A reduced majority is likely. Both Covid-19 and voter apathy add to the unpredictability. In Bamar-majority constituencies especially, the sentiment remains strong that a vote for the NLD is preferable to a vote for the USDP, NUP or other parties regarded as Tatmadaw proxies. Nevertheless the spread of disaffection with the NLD has raised hopes among nationality parties that they can do better this time. In 2015, they won 11 per cent of the elected seats in the national parliament – or just 8.5 per cent of the total seats once Tatmadaw appointees are included. In terms of national representation, this is a very poor figure.

Whether this number can be improved is the challenge that now awaits the 55 ethnic parties registered for this year's polls (see Box 3). Certainly, a number of nationality movements have sought to learn the lessons from previous elections by party mergers to reduce vote-splitting (see "Ethnic Representation and Tactical Voting"). On this basis, it is likely that better-organised parties will win additional seats. However, expectations in some quarters are running high, with talk of ethnic parties becoming the "kingmakers" after the polls.<sup>151</sup> Such predictions are based upon a combination of two views: a pre-Covid spurt in ethnic optimism and an attempt to stem the tactical voting that helped the NLD's 2015 landslide victory. Sai Aik Pao, for example, leader of the Shan Nationalities Democratic Party (SNDP) has predicted that his party will win a majority of seats in the Shan State parliament even though his party won only one of the 103 elected seats in 2015.<sup>152</sup>

In private, though, a more considered view is expressed. Veteran parties in the United Nationalities Alliance do not expect the SNDP, a Nationalities Brotherhood Federation member, to win many seats: the SNLD is a more popular choice. But such older parties – most of which

were NLD allies during the days of SLORC-SPDC government – still want the NLD to win the elections but on a reduced scale so that NLD leaders cannot form a “one-party” government again. If a smaller victory happens, what the SNLD, KSPPP and other parties want to see is the NLD gaining enough votes with their support in the electoral college to select the next president. But, in return, nationality parties would – for example – be allowed to select one of the vice-presidents, minister positions in the national government, and the chief ministers of the ethnic states. On this basis, it is hoped that both government and state administration will become more representative and inclusive.

When considering the post-election landscape, it should also be stressed that many nationality movements do not see the reform process through the prism of general elections alone. The 2008 constitution is regarded as a central part of the present impasse, and as much weight – if not more – is put on hopes for the ongoing peace process to bring about change. Recently, there have been three elements to this: the Nationwide Ceasefire Agreement, 21<sup>st</sup> Century Panglong Conference and bilateral negotiations with EAOs (see “Conflict and Cancellations”). In this regard, a partnership between the NLD and ethnic political parties is one that many EAOs would support to bring about a peace breakthrough. At the latest 21<sup>st</sup> Century Panglong Conference, EAO leaders called for a “coalition government” following the elections. The NMSP leader Nai Hongsa warned that new revolutions have always broken out when peoples are denied equal rights.<sup>153</sup>

Although an unlikely prospect, the calls for a coalition government are worth examining carefully if Myanmar is to achieve peace via the ballot-box. Certainly, if the results are closely contested, the possibility of nationality parties having a more important role after the 2020 polls is plausible if they should hold a balance of power in the national legislatures – and hence electoral college. More than 40 per cent of the elected seats are in the ethnic states. However, under the country’s first-past-the-post electoral system, a change large enough to significantly alter the

political status quo or bring about a coalition government still appears improbable unless the NLD gives its political approval.

There are two main reasons for this obstacle. The first is demographic. Many constituencies in the nationality states are not mono-ethnic and have significant Bamar populations. For this reason, the NLD can still emerge victorious in these locations even if local nationality peoples are not strongly supportive of the party. This, for example, happened in the 2015 elections in Myitkyina in Kachin State and much of Mon State (see “Ethnic Representation and Tactical Voting”).

The second reason relates to the political system. In a single round of voting to decide between the three candidates for president (one chosen each by the two chambers in Nay Pyi Taw and the other by the Tatmadaw), a majority is not needed to prevail, and a coalition government is very unlikely to follow. In electoral practice, the arrangements for a coalition government are more commonly found in parliamentary systems – not presidential as in Myanmar. Instead, if the NLD does fall short of the votes required, it could make a temporary arrangement with one or more parties to elect its candidate as president.

In these circumstances, no lasting coalition would be required, and none could be enforced, given the president’s full executive authority. Even if the voting deal involved the appointment of someone from a minority party to a cabinet position, this might give that party influence over a portfolio, but it would not imply any coalition between that party and the NLD. Indeed, even though the present cabinet includes USDP members, Tatmadaw officers and a representative of a nationality party, the current government is not considered a coalition.<sup>154</sup> Equally important, the NLD does not accept “no-compete” agreements and has ruled out alliances with ethnic parties – at least prior to elections (see “National Party Dominance”).<sup>155</sup> This has only fuelled grievance among UNA and other nationality parties that it has not engaged with them in any substantive ways since gaining office in the 2015 polls.

Perhaps surprisingly, then, the USDP has expressed more openness to cooperating or forming alliances with nationality parties, informally reaching out to several of them. To date, however, these offers have generally been rejected, and the USDP is also contesting most constituencies.<sup>156</sup> Indeed, given that the USDP's strongest performance in the 2015 polls was in Shan State, it could be that it is the USDP's position in the legislatures which is most under threat of any national party in the 2020 polls if Shan and other nationality parties improve their vote there (see "Self-Administered Areas", "Ethnic Affairs Ministers", "Ethnic Political Party Landscape").

If so, this could become one of the most important consequences of the 2020 elections. There have been a number of breakaways from the USDP in recent years, notably the Union Betterment Party, set up by ex-Gen. Shwe Mann. The USDP, meanwhile, continues to be widely regarded as the leading political vehicle for the Tatmadaw which has dominated the national stage since 1962. Thus how Snr-Gen. Min Aung Hlaing and the Tatmadaw generals will respond to any significant decline in the USDP's influence is an outcome that all parties in the country are watching for closely. During a critical election year, the Tatmadaw's decisions and actions are just one of many uncertainties that could come to define the transitional landscape.

The stage is delicately set. Covid-19 has introduced new complexities. But many nationality parties still have hopes of improved results in the upcoming polls. The risk of high expectations in election victories is greater disappointment if they end up faring poorly or, equally damaging, if nationality movements find success but this fails to translate into political rights and representation. The denial of democratic rights has underpinned over seven decades of conflict, and the failure of another general election to bring national inclusion will only damage trust further. If peace and stability are to be achieved, the electoral system must provide avenues that allow all peoples to address their aspirations and grievances by democratic means at the ballot-box.

## Conclusions

Great hopes are invested in democratic elections to support peaceful transition in Myanmar from decades of ethnic conflict and military rule. The present electoral system, however, is not well suited to ensuring legislative representation and political influence for minority peoples. The first-past-the-post system and the allocation of a majority of seats to the central Bamar regions has historically resulted in the dominance of a single political party serving the interests of the majority ethnic group and unrepresentative institutions. This is unlikely to change following the upcoming elections.

This political imbalance and lack of equality have been integral to state failure and instability in the country since independence in 1948. In the 21<sup>st</sup> century, they remain the greatest obstacles to nationwide peace and the establishment of a nation that truly embraces its diversity. Since 2011, there has been shift away from military government to a quasi-civilian system, and there has been a general liberalisation in many aspects of national life. The 2015 general election brought the NLD to government office, and the latest round of parliamentary elections is hoped to mark another stage in progress towards democratic change. The current political system, however, and approach of national leaders are unlikely to address the challenges of ethnic rights and inclusion. The need remains to build a peaceful future for the country in which all peoples equally share.

Covid-19 has introduced new crises and challenges for the general election, conflict resolution and processes of political transition. Depending on the rate of transmission, a postponement could become likely. Any postponement of more than two months, however, would raise constitutional questions that might not be easy to resolve. Political transition in Myanmar is at a critical stage, with important questions still to be answered. Such issues as the ethnic peace process, constitutional change, Tatmadaw-civilian relations, economic reform, poverty alleviation, humanitarian

outreach and international affairs all require urgent attention.

In the meantime, the NLD is keen to proceed with the scheduled polls, which it is still expected to win. Victory will open the doors to another five years in office. But the experiences of the past five years have provided many warnings as to how far there is still to go in achieving democratic reforms and national inclusion. Both the election process and Covid-19 are bringing many of the underlying weaknesses in the structures of Myanmar politics and society to the surface.

The 2020 elections will not resolve these issues. With the Tatmadaw maintaining a dominant role in national politics, the 2008 constitution is not designed to bring about progressive change. In theory, nationality representation is encouraged through such designations as ethnic states, ethnic affairs ministers and self-administered areas. In practice, the system is one of labyrinthine complexity that perpetuates marginalisation, does not allow meaningful autonomy, and ensures elections to the national legislatures are won by parties dominated by the Bamar majority. Through such measures as party mergers and no-compete agreements, nationality parties hope to improve their share of the vote in the 2020 polls, especially for the state assemblies. But this does not guarantee political office and, even with a reduced vote, the NLD is still predicted to gain victory in the national legislatures.

The current socio-political landscape also provides many grounds for caution. All general elections in Myanmar since independence have taken place in difficult conditions, and the 2020 polls are no exception. Conflict and conditions of humanitarian emergency continue in many parts of the country. The peace process has faltered; fighting has not ended in Kachin and Shan States; new conflicts have erupted in Rakhine and Chin States; the Rohingya crisis is unaddressed; and concerns over human rights violations have brought the case of Myanmar to the international stage. Meanwhile the numbers of

refugees and displaced persons has continued to rise, with Covid-19 adding to the sufferings and insecurity felt in many poor and marginalised communities.

This distressed backdrop only adds to the difficulties in conducting free and fair polls. There are already constituencies in the ethnic states where voting will be cancelled due to conflict, and the Covid-19 restrictions on movement and association are likely to amplify the challenges in campaigning and transparent management. By a historic twist, this may well embed an unrepresentative political system further. Coming into the elections, support for the NLD had been declining. Paradoxically, the party is now expected to be the main electoral beneficiary through its governmental advantage in addressing the Covid-19 emergency. In contrast, nationality parties will be constrained at a time when they had hoped to be building in political capacity and electoral strength.

Of utmost importance will be political responses in the election aftermath. All parties should seek to respond constructively. The critical issues of equality, ethnic peace and political reform still remain. Whatever the results, the incoming government must prioritise the challenges of ending conflict and building a multi-ethnic union that represents all peoples. A new sense of urgency and conviction is essential. Failure to do so will only see state failure and political malaise endure into another generation of government.

## Endnotes

1. Generalisations about ethnicity and identity are problematic in a country of cultural and ethnic diversity such as Myanmar (Burma). Many nationalities reject the notion of being described as “minority” while one nationality, Bamar (Burman), is attributed the status of “majority”. In a political union, they believe, such terminology can be regarded as implying a lesser status for “non-Bamar peoples” and ignores the fact that many nationalities are “majorities” in their own lands. In this briefing, such implications are not intended. Rather, the term “minority” is used to distinguish nationality peoples from the “majority” Bamar identity. Although its usage is decreasing, “Burmese” has generally been used to describe peoples from all nationality backgrounds: i.e. a person can be an ethnic Karen or Shan but a Burmese citizen. “Myanmar” and “Bamar” can also be considered alternative forms, with Bamar the more colloquial. In this briefing, “ethnic” is a general term for ethnicity while “nationality” refers to specific peoples or identities.
2. “Borderlands” in this briefing is not intended to suggest a peripheral or secondary status. Instead, they describe the geographic location and geopolitical territory of different nationalities on an important crossroads between south, east and southeast Asia. Bangladesh, China, India, Laos and Thailand are all neighbours, with many peoples living on both sides of the modern borders.
3. The “Union of Burma” became independent in January 1948. The 1947 polls were to a Constituent Assembly that drew up the post-independence constitution. There were 255 seats: 210 for Ministerial Burma (including 24 for Karens and 4 for Anglo-Burmans) reflecting the ethno-political designations under British administration and 45 for the Frontier Areas.
4. The NUP was successor to the Tatmadaw-established Burma Socialist Programme Party that headed the country under a one-party system between 1962-88. The USDP was formed from the mass Union Solidarity and Development Association established by the military State Law and Order Restoration Council (SLORC) in 1993.
5. Transnational Institute, “A Changing Ethnic Landscape: Analysis of Burma’s 2010 Polls”, TNI-BCN Burma Policy Briefing No.4, December 2010.
6. Pyidaungsu Hluttaw. This consists of two bodies: the House of Representatives (a 440-seat lower house, Pyithu Hluttaw); and the House of Nationalities (a 224-seat upper house, Amyotha Hluttaw).
7. It should be added that, to varying degrees, there were districts in constituencies in conflict-affected areas in all four elections where polling was either disrupted or not held.
8. Numbers do not always add up to 100 due to vacant seats.
9. “U Nu’s victory changes trend”, *The Spokesman-Review* (Spokane, Washington), 11 February 1960, p.6.
10. Union Election Commission notifications, Nos. 111-114/2020, 29 June 2020.
11. In fact, 58.4 per cent. However this number de facto increases close to 60 per cent due to the fact that elections are usually cancelled in several constituencies in states that are affected by conflict (see “Conflict and Cancellations”).
12. There are substantial nationality populations in several regions, such as Naga in Sagaing, Karen in Ayeyarwady and Mon in Tanintharyi, but they are minorities within the larger territories.
13. For example, there are 15 parties and four independents contesting the elections in Myitkyina, capital of Kachin State, including nine that represent ethnic identities as well as the NLD, NUP and USDP. “The election in Kachin State’s Myitkyina District to be hotly contested”, *Burma News International*, 2 September 2020.
14. Sai Wansai, “Shan Armies Describe Being on the Outside of Electoral Process”, *Shan Herald Agency for News*, 17 September 2020.
15. For discussions, see e.g., International Crisis Group, “Identity Crisis: Ethnicity and Conflict in Myanmar”, *Asia Report No.312*, 28 August 2020; Matthew Walton, “The ‘Wages of Burman-ness’: Ethnicity and Burman privilege in contemporary Myanmar”, *Journal of Contemporary Asia*, Vol.43, 2013; Transnational Institute, “Ethnicity without Meaning, Data without Context: The 2014 Census, Identity and Citizenship in Burma/Myanmar”, *Burma Policy Briefing No.13*, February 2014.
16. *Ibid.*
17. For a recent analysis of the conflict landscape, see e.g., Tom Kramer, “‘Neither war nor peace’: Failed ceasefires and dispossession in Myanmar’s ethnic borderlands”, forthcoming in *Journal of Peasant Studies*, 2020. For militias, see also, Kim Jolliffe, “Ethnic Armed Conflict and Territorial Administration in Myanmar”, *Asia Foundation*, June 2015; John Buchanan, “Militias in Myanmar”, *Asia Foundation*, July 2016.
18. For the experience of nationality parties in the 2015 elections in Kayah State, see e.g., Tom Kramer, Oliver Russell and Martin Smith, *From War to Peace in Kayah (Karenni) State: A Land at the Crossroads in Myanmar* (Amsterdam: Transnational Institute, 2018), pp.73-8; for Rakhine State, see, Martin Smith, *Arakan (Rakhine State): A Land in Conflict on Myanmar’s Western*



*Frontier* (Amsterdam: Transnational Institute, 2019), pp.88-90.

19. Su Mon Thant, "Party Mergers in Myanmar: A New Development", ISEAS-Yusof Ishak Institute, No.8, 2020. For their current alignments, see, Sai Wansai, "How will ethnic parties fair in the Myanmar elections?", Mizzima News, 19 September 2020.

20. See, Transnational Institute, "The 2015 General Election in Myanmar: What Now for Ethnic Politics?", Myanmar Policy Briefing No.17, December 2015, p.9.

21. Smith, *Arakan (Rakhine State)*, pp.88-90.

22. This decision resulted, in part, from a perception that former ALD members were being discriminated against in candidate selection and party organisation.

23. For Rakhine State, see e.g., Smith, *Arakan (Rakhine State)*, pp.91-122.

24. Transnational Institute, "The 2015 General Election in Myanmar", pp. 10-11.

25. For discussion of the campaign strategies and policies of ethnic political parties, see, Naw Gladys Maung Maung, "Getting Ready for the 2020 General Election: Ways to Improve the Campaign Strategies of Ethnic Political Parties in Myanmar", Salween Institute, May 2020.

26. In 2015, for example, the NLD released its manifesto only shortly before the polls; it was not widely distributed or referred to during its campaign; and large parts were copied verbatim from its 1988 manifesto: see, International Crisis Group, "The Myanmar Elections: Results and Implications", Asia Briefing No.147, 9 December 2015, section V.C.. In early September, an updated manifesto was announced in which three main areas were repeated: ethnic peace; a democratic federal union; and sustainable development. But, with Aung San Suu Kyi and Covid-19 at the centre of NLD publicity, it is these two themes that appear likely to be the key issues in the 2020 polls (see "Covid-19 and Campaigning").

27. "The new party will represent everyone in Kachin State, leaders say", Kachin News Group, 7 May 2019; "New Kayah State party officially registered", Kantarawaddy Times, 15 August 2017; "Former Kayah State CM will contest as Kayah State Democratic Party candidate", Mizzima News, 7 August 2020.

28. See, for example, the interview with Maw Htun Aung, an ethnic Kachin candidate for the SNLD in northern Shan State, in, "New Ethnic Faces Dot Myanmar's 2020 Election Landscape", The Irrawaddy, 26 August 2020.

29. See e.g., "Mongla to call for self administered

status", Shan Herald Agency for News, 20 March 2014; Sai Wansai, "Resolving ethnic conflict — Civic nationalism: a theoretical tool for the ending of civil war?", TNI Myanmar Commentary, 11 February 2020; "Khumi National Party Calls for Establishment of Paletwa District", Khonumthung News, 31 January 2019.

30. The bodies have three categories of members: MPs from the constituencies in the self-administered area, Tatmadaw appointees and "additional representatives" that the other two categories may select as designated under section 276 (d) of the 2008 constitution.

31. For the results, see, Transnational Institute, "The 2015 General Election in Myanmar", p.8.

32. The NLD said at the time that it was unable to campaign in the zone due to PNO threats. See e.g., The Carter Center, "Observing Myanmar's 2015 General Elections: Final Report", 2015, pp.45-6. See also, "NLD members threatened at gunpoint to resign in east Burma", The Irrawaddy, 23 May 2013.

33. Phyo Thiha Cho, "Pa-O party ends electoral agreement with USDP", Myanmar Now, 31 July 2020.

34. In 2008 the UWSA/UWSP did allow the constitutional referendum to take place in its areas, though it was not considered free and fair as people were advised to vote no. This produced the only no votes of significance in the country.

35. See, "UEC and Wa discuss holding an election in UWSA's controlled area", Eleven Media, 4 March 2020; "UEC fails to collect voter information in Wa townships", Myanmar Times, 29 July 2020.

36. "Wa National Party will not contest UWSA-controlled townships", Myanmar Times, 20 July 2020.

37. For example, Mon leaders surveyed the population in Tanintharyi Region in November 2014, reportedly identifying 62,000 unrecognised Mons, although many of these had no identification cards or had cards that designated them as ethnic Bamars. A similar effort by Mon community leaders in the Yangon Region ended, reportedly due to lack of funding, with a further 41,000 Mons identified. TNI interviews, 2014.

38. A law was enacted in 2016 creating a Ministry of Ethnic Affairs, but it is understaffed and underfunded. The Tatmadaw-run Ministry of Border Affairs has far more authority and decision-making power in everything from infrastructure and development to security and administration. See e.g., Hay Man Pyae, "Just for show' - ethnic affairs ministers say they are prevented from doing their jobs", Myanmar Now, 16 September 2020.

39. The 1947 Panglong Conference involved Chin,

Kachin and Shan leaders from the Frontier Areas under the British administration. Karen representatives were present as observers but took no formal part.

40. Thant Myint-U, *The Hidden History of Burma: Race, Capitalism and the Crisis of Democracy in the 21st Century* (New York: W.W. Norton & Company, 2020), p.220. See also, Wansai, "Resolving ethnic conflict".

41. These 135 identities and their sub-group classifications were the basis of the ethnicity component of the questionnaire in the 2014 census: "Ethnicity (135) and others foreigner (sic) of coding list".

42. For a snapshot of candidates in the 2020 election, see, "Eleven Candidates Contesting Minister of Chin Ethnic Affairs for Magwe Region", *Khonumthung News*, 27 August 2020.

43. The territory was historically known as Karenni ("Red Karen") State until a name change by the AFPFL government in 1951 to remove a name connected with Karen identity. For a discussion, see, Kramer, Russell and Smith, *From War to Peace in Kayah (Karenni) State*, pp.18, 101-3 and passim.

44. TNI interviews with the Union Election Commission, 2014.

45. Wansai, "Resolving ethnic conflict".

46. One of these 23 seats was won by an ANP-linked independent candidate, who subsequently rejoined the party.

47. Smith, *Arakan (Rakhine State)*, pp.88-91 and passim.

48. Transnational Institute, "The 2015 General Election in Myanmar", p.8. One additional seat was won by an independent candidate. Subsequently, the UEC ruled in favour of two NLD challenges against the USDP, adding two more seats to the NLD total (23 became 25) and two less to the USDP (33 became 31). In the 2017 by-elections, four more seats were won by the SNLD that had been cancelled for security reasons in 2015 (25 became 29).

49. The most prominent militia leader is the ethnic Kachin T Hkun Myat in Kutkai township, who was later sacked from the USDP before becoming lower house speaker in 2018: see e.g., Nyan Hlaing Lynn and Thomas Keen, "T Hkun Myat: Who is the new Pyithu speaker?", *Frontier Myanmar*, 22 March 2018. For the militias, see also note 17.

50. See e.g., Dee De, "The Promise and The Statue", *TNI Commentary*, 28 June 2019.

51. Phyo Thiha Cho, "More than 600 polling stations moved off military bases for November, says UEC", *Myanmar Now*, 5 August 2020.

52. "As November vote approaches, some Arakan parties say viability is foremost", *Development Media Group*, 10 August 2020. A similar view was expressed by a representative of the Khami National Development Party in the same territory.

53. "Shan-Ni ethnics likely to lose their voting rights in 2020 Elections", *Burma News International*, 14 August 2020. In this case, the deprivation will be twofold: the denial of recognition as a nationality people for a self-administered area and the right to vote for ethnic affairs ministers. See also, Chit Min Tun, "Without Territory, the Shanni Army's Difficult Path to Recognition", *The Irrawaddy*, 8 April 2019.

54. See note 52.

55. Pyithu Hluttaw Election Law, section 50, and corresponding section of the laws relating to the Amyotha Hluttaw and state/region Hluttaw.

56. "Areas where elections will not be held": five Union Election Commission Notifications, nos. 99/2010-103/2010, 16 September 2010; and Union Election Commission Notifications, nos. 61-65 and 67/2015, 12 and 27 October 2015.

57. "UEC announces skipped constituencies in coming October", *Burma News International*, 4 September 2020.

58. Charm Tong, "Govt invasion of Shan state mocks ceasefire pact", *Bangkok Post*, 24 October 2015.

59. For a recent chart, see e.g., Smith, *Arakan (Rakhine State)*, p.82.

60. For the evolution of the peace and conflict landscape during the transition from USDP to NLD governments, see, Transnational Institute, "Beyond Panglong: Myanmar's National Peace and Reform Dilemma", *TNI Myanmar Policy Briefing No.21*, September 2017.

61. See e.g., "Tatmadaw releases statement on ceasefire and eternal peace", *Global New Light of Myanmar*, 10 May 2020; Joe Kumbun, "Myanmar's Meaningless Unilateral Ceasefires", *The Diplomat*, 29 May 2020.

62. Three Brotherhood Alliance, "Press release of the Three Brotherhood Alliance for a unilateral ceasefire extension as the seventh term to facilitate the election, peace process and the prevention of the COVID-19's second wave", No.12/2020, 1 September 2020. The three parties are: the ULA-AA, Myanmar National Truth and Justice Party-Myanmar National Democratic Alliance Army (Kokang: MNDAA), and Palaung State Liberation Front-Ta'ang National Liberation Army (TNLA).

63. Aung Htein, "Tatmadaw extends ceasefire by one month, excludes Arakan State", Network Media Group, 25 August 2020.
64. See e.g., International Crisis Group, "Myanmar: A New Muslim Insurgency in Rakhine State", Asia Report No.283, 2016; Smith, *Arakan (Rakhine State)*, pp.97-9.
65. Nyein Nyein, "Tatmadaw Announces Four-Month Ceasefire in North, Northeast", The Irrawaddy, 21 December 2018. Often overlooked, there is a 2012 ceasefire in place in Rakhine State with a small residual force, the Arakan Liberation Party, an NCA signatory.
66. 2G Internet was restored by the government in August this year, but a shutdown of 3G and 4G continues which is essential for real-time connection and information. Restrictions were lifted in Maungdaw township in May. See, Kyaw Hsan Hlaing and Emily Fishbein, "To Fight the Coronavirus, Myanmar Needs a Cease-Fire in Rakhine", Foreign Policy, 3 September 2020; Human Rights Watch, "Myanmar: End World's Longest Internet Shutdown", 19 June 2020.
67. For a Reuters website report detailing the case of two of its Myanmar journalists who reported the Tatmadaw's killing of Rohingya villagers, see: <https://www.reuters.com/subjects/myanmar-reporters>; see also, Human Rights Watch, "Myanmar: End Harassment of Rakhine Media Outlets", 1 September 2020.
68. By Soe Thu Aung, "Myanmar military suggests election commission not hold elections in northern Rakhine, Wa area", Mizzima News, 5 September 2020.
69. The Mongla area is controlled by the ceasefire National Democratic Alliance Army/Peace and Solidarity Committee, also a FPNCC member and close UWSP ally. The certainty of these cancellations was confirmed in September by both Tatmadaw officers and the UWSP which closed its borders to protect against Covid-19. See e.g., Aung, "Myanmar military suggests election commission".
70. "RCSS Recommends Political Parties Inform Them of Election Campaigns in Their Territory", Network Media Group, 3 September 2020.
71. See e.g., Karen Peace Support Network, "Karen heartlands under attack", April 2020; KNU Supreme Headquarters, "KNU Statement on challenges facing implementation: The Nationwide Ceasefire Agreement", 15 May 2020.
72. "The election will exclude rebel-controlled areas in Karen State", Burma News International, 16 September 2020.
73. See e.g., "Peace talks without peace: Why the stalemate in Myanmar persists", The Economist, 18 August 2020; David Scott Mathieson, "Selling dog meat while showing a goat head in Myanmar", Asia Times, 27 August 2020.
74. In the Kachin State borders, increased tensions have been reported around the KIO-controlled towns of Laiza and Majaiyang; in Shan State in the following townships where Kachin, Kokang, Shan and Ta'ang peoples variously live: Kyaukme, Kutkai, Konkyan, Muse, Laukkaing, Mantong, Namkhan, Namhsan and Namtu.
75. "LID 88 and KIA Clash in Muse", Kachin News Group, 8 September 2020; "Tatmadaw Warns KIO/A to Remove Military Camps in Chipwi Township", Kachin News Group, 17 September 2020.
76. See, for example, "UEC criticized for interfering in some parties' affairs", Mizzima News, 24 November 2018; "NLD vice chair challenges distrust of election commission", Eleven Media, 24 September 2019; "Political parties in Myanmar blast UEC over meeting request snub", Myanmar Times, 24 June 2020.
77. Nyein Nyein, "Dozens of Myanmar Political Parties Seek Assurances From Military Chief Over Election Concerns", The Irrawaddy, 15 August 2020.
78. Ibid.
79. San Yamin Aung, "Myanmar's Largest Poll Monitor Hits Out at UEC After Being Banned From 2020 Election", The Irrawaddy, 14 August 2020.
80. Ibid: Department for International Development (DFID/UKaid), National Democratic Institute, National Endowment for Democracy, Norwegian People's Aid and Open Society Myanmar.
81. The reason given was that monitoring organisations which receive foreign funding must be officially registered as "non-governmental organisations" for accreditation, but other local groups such as the Panna Institute and New Myanmar Foundation would still be allowed.
82. Linn Hset Aung, "Election Commission allows PACE to monitor polls", Myanmar Times, 17 August 2020; "The Commission's Decision Poses a Major Hindrance in Election Observation Process", PACE, 24 August 2020.
83. Nan Lwin, "Carter Center Launches Election Monitoring Mission in Myanmar", The Irrawaddy, 18 September 2020.
84. In a very different policy, under Article 8(a) of the Election Law the UEC has continued to disqualify candidates not permanently resident in the country during the previous ten years. See e.g., "Five Electoral Candidates Disqualified in Shan State", Shan Herald Agency for News, 2 September 2020.
85. "Myanmar's Ethnic Parties Fear Loss of Vote Share

as Lower House Approves Eased Residency Rules”, *The Irrawaddy*, 26 February 2020.

**86.** Given conflict and the scale of movement, exact numbers are difficult to calculate. But, for example, a recent analysis of the border areas extending between Kayah State and Tanintharyi Region puts the figure of IDPs and refugees in the Thailand border region at about 250,000, of which around 160,000 are IDPs: Ashley South, “Toward A Tipping Point? Climate Change, Disaster Risk Reduction and Resilience in Southeast Myanmar”, ActionAid, August 2020, p.23. The other figures are based upon recent CSO and international aid estimates. For the Rohingya situation, see also, “Rohingya Disenfranchisement”.

**87.** See e.g., Saw Thonya, “Shan IDPs on Thai-Myanmar border lose their voting rights”, Network Media Group, 17 September 2020; “Tatmadaw Block Kachin IDPs From Returning Home”, Kachin News Group, 12 September 2020. For recent advocacy by over 100 CSOs for the “safe and dignified return and resettlement” of displaced persons, see, Lahpai Seng Raw, “The cycles of conflict and displacement must be brought to an end’: The IDP crisis in northeast Myanmar”, TNI Myanmar Commentary, 30 March 2020.

**88.** “Ethnic people without any documents included in the list of voters”, Network Media Group, 4 September 2020.

**89.** See e.g., Global Witness, “Jade: Myanmar’s ‘Big State Secret’”, October 2015; Nicholas Muller, “A Deadly Gamble: Myanmar’s Jade Industry”, *The Diplomat*, 13 July 2020; Hein Ko Soe and Ben Dunant, “Kachin’s plantation curse”, *Frontier Myanmar*, 17 January 2019.

**90.** See note 13.

**91.** “Myanmar Election Commissioner: No Groups Will Be Disenfranchised”, *The Irrawaddy*, 13 August 2020.

**92.** “COVID-19 Response Situation Report 11”, IOM Myanmar, 6 August 2020. See also, “More migrants prepare to return, but is Myanmar ready this time?”, *Frontier Myanmar*, 17 May 2020.

**93.** Zaw Zaw Htwe, “Only a Fraction of Myanmar Migrants Have Applied to Vote in November Election”, *The Irrawaddy*, 21 August 2020.

**94.** For the background to the 2010 elections and Rohingya-supported parties, see e.g., Smith, *Arakan (Rakhine State)*, pp.68-73 and *passim*.

**95.** UN Human Rights Council, “Report of the Independent International Fact-Finding Mission”, 12 September 2018, pp.1, 17.

**96.** That is, Citizenship Scrutiny Cards as well as older National Registration Cards (green tri-fold cards).

**97.** Min Tun, “Many Muslims not included in voter lists in Arakan State”, *Burma News International*, 26 August 2020.

**98.** National Democratic Party for Development, National Development and Peace Party, and Democracy and Human Rights Party.

**99.** See e.g., “Rohingya politicians excluded from Myanmar election”, Reuters, 25 August 2020; Tun Khaing, “Arakan State Election Sub-Commission rejects appeals from Muslim candidates”, *Narinjara*, 26 August 2020.

**100.** For an examination of these issues, see e.g., Smith, *Arakan (Rakhine State)*, pp.25-7.

**101.** *Ibid.*

**102.** In contrast, in September this year it was announced that “ethnic people” in four districts of Kachin State who can not provide documents but are able to prove their “forefathers” were residents will be allowed to vote; see, “Ethnic people without any documents included in the list of voters”, Network Media Group, 4 September 2020.

**103.** Transnational Institute, “The 2015 General Election”, p.5; Courtney Weatherby, “Myanmar’s Election: The ‘Real Burmese’ Dilemma”, *The Diplomat*, 30 September 2015; International Crisis Group, “The Myanmar Elections: Results and Implications”, *Asia Briefing No.147*, 9 December 2015, p.2.

**104.** See e.g., Kyaw Ye Lynn, “Census data shows Myanmar Muslim population has fallen”, *Anadolu Agency*, 21 July 2016.

**105.** Myat Pyae Phyo, “Myanmar’s Ruling NLD Rejects Calls to Ditch Muslim Candidate”, *The Irrawaddy*, 28 August 2020. Never forgotten, in January 2017 the NLD’s leading constitutional lawyer, U Ko Ni, a prominent Muslim, was assassinated by a gunman with links to military interests. His killing continues to overshadow the socio-political landscape. See e.g., Tom Lasseter, “Special Report: In a Muslim lawyer’s murder, Myanmar’s shattered dream”, Reuters, 13 December 2018.

**106.** “Mon State’s Only Muslim Electoral Candidate Speaks Out on Disqualification”, Network Media Group, 8 September 2020.

**107.** Given the limitations in access, exact figures are unknown. Up to 400 villages were believed to have been destroyed in 2017. See, Poppy McPherson, “Three years after exodus, Myanmar erases names of Rohingya villages, U.N. map makers follow suit”, Reuters, 11 September 2020.

**108.** Ministry of Health and Sports, Order No. 88/2020, 12 August 2020.

- 109.** “Myanmar seals off capital amid virus surge”, Reuters, 3 September 2020.
- 110.** See e.g., Kyaw Lin Htoon, “COVID-proofing the polls”, *Frontier Myanmar*, 16 July 2020.
- 111.** San Yamin Aung, “Forget Knocking on Doors: Open a Facebook Account—the New Way to Campaign in Myanmar Amid COVID-19”, *The Irrawaddy*, 14 September 2020.
- 112.** “Myanmar’s election campaign starts, with Aung San Suu Kyi urging landslide victory”, *South China Morning Post*, 8 September 2020. See also note 26.
- 113.** Ibid. San Yamin Aung, “Myanmar’s Ruling Party Vows to Reform Military in Election Manifesto”, *The Irrawaddy*, 2 September 2020; Zeyar Hein, “NLD aims to lead economic recovery from Covid-19”, *Myanmar Times*, 7 September 2020.
- 114.** “Main Opposition Party Wants Myanmar Election Postponed, Citing Coronavirus Concerns”, *Radio Free Asia*, 14 September 2020.
- 115.** See e.g., Sebastian Strangio, “Myanmar Election Campaign Opens Under the Shadow of COVID-19”, *The Diplomat*, 8 September 2020; “Myanmar Election Campaign Muted by COVID-19”, *The Irrawaddy*, 9 September 2020.
- 116.** See e.g., “Pandemic Creating Hurdles for Candidates During Campaign Period”, *Shan Herald Agency for News*, 20 September 2020.
- 117.** Human Rights Watch, “Myanmar: Revise Election Broadcast Rules”, 14 August 2020.
- 118.** “Myanmar Election Campaign Muted by COVID-19”, *The Irrawaddy*, 9 September 2020.
- 119.** Human Rights Watch, “Myanmar: Editor Wrongfully Charged: Counter-Terrorism Law Threatens Press Freedom, Freedom of Information”, 2 April 2020; see also note 67.
- 120.** Hlaing and Fishbein, “To Fight the Coronavirus”.
- 121.** “Arakan Army Accuses Myanmar of Using COVID-19 to Ramp Up Military Pressure”, *RFA*, 3 September 2020.
- 122.** Given the lack of testing and reliable figures, this is a difficult issue. Many of the uptick in reported cases in early September came from Rakhine State and the major conurbation of Yangon, but cases were also being identified in other parts of the country.
- 123.** Andrew Nagemson, “Racism Is Fuelling Myanmar’s Deadly Second Wave of COVID-19”, *The Diplomat*, 11 September 2020.
- 124.** Ibid.
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