



## Free and Fair elections in Myanmar: A Case Study of the 2015 and 2020 General Elections in Myanmar

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### Abstract

Election law and electoral system are formed according to its national conditions. Myanmar has been recognized that it has a truly democratic election for the first time after 2015 general election. Arranging free and fair elections is a very important basic of democracy. This research aims to find out whether political candidates still have more challenges with freedom of participation in the 2020 general election when compared with the 2015 general election and to analyze whether the 2020 general election process is freer and fairer when compared with the 2015 general election. Approximately, six participants who were the political candidates from the National League for Democracy (NLD) and the Union Solidarity and Development Party (USDP) in the 2020 general election in Myanmar were interviewed. This research found that there were three main challenges for the political candidates in the 2020 general election. The first challenge is no freedom of participation in the election, especially in rural areas. The second challenge is that some political parties lost their constituencies because of armed conflict zones and the last challenge is that some candidates had been abducted and abused by an armed group before the election. Furthermore, this research also found that there were two reasons why this election was freer and fairer than the 2015 general election. The first reason is that the 2020 general election was more transparent because citizens, media, and many local and international observers were closely observing the election process. However, only a few observers were allowed to observe the 2015 general elections. The second reason is that the Union Election Commission (UEC) organized the 2020 general election very well, especially the advanced voting system. In this election, elderly voters, overseas voters, and Burmese voters who were in the quarantine centers across the country due to the COVID-19 pandemic were able to vote in this election. However, it can be said that the 2020 election was not completely free and fair.

**Keywords:** *Free and fair election in Myanmar, The 2015 general election in Myanmar, The 2020 general election in Myanmar, Election processes in Myanmar*

### 1. Introduction

Myanmar had been under the control of military dictatorship for many decades since 1962 (BBC News, 2021). Although people throughout the whole nation revolted and demanded democracy in 1988, the military still had control (Myint, 2020). Later, the military generals unreasonably held an election in 1990 and the National League for Democracy (NLD) party participated in this 1990 election. This party was led by Daw Aung San Suu Kyi while she was placed under house arrest at her home. In this election, the NLD party won with a majority votes with 60% of the votes and around 80% of the seats in the parliament, however; the military denied to hand over its power (Asian Network for Free Elections, 2016). After this incident, the military had written the 2008 undemocratic constitution under the discussion for several years and it had actually done with an unfair referendum to preserve their grip on power (Myint, 2020).

The military government held the first general election in 2010 and the military-backed the Union Solidarity and Development Party (USDP), the NLD's opposition party, won over 70% of seats in the Union of Parliament under the 2008 Constitution (Asian Network for Free Elections, 2016). However, Sithu Aung Myint, a reporter from Frontier Myanmar, pointed out the 2010 general election was unfair and lack of transparency in the election process, it did not have legitimate representation of the people's will, and any other international groups and free media were not also allowed to observe the election (Myint, 2020).

Thus, the opposition party, NLD boycotted the military government after the election result's announcement, but it was not changed until the end (Asian Network for Free Elections, 2016).

With its election result, President Thein Sein as the head of a nominally civilian government was sworn into office. He was a former high-ranking general, but his power was transferred to take up the civilian role of President (Asian Network for Free Elections, 2016). On the sixth day after the election, Daw Aung San Suu Kyi was freed from house arrest and she as an NLD member participated in the by-election in 2012 again. Fortunately, her party won by a landslide with a seat of Kawhmu, a district of Myanmar (Asian Network for Free Elections, 2016). Following the years, the 2015 general election came up. At this time, the military had already noticed that the NLD and other opposition ethnic parties would be able to take part, so they legislated the reservation of 25% of parliamentary seats for the military both at state/regional and national level based on the 2008 constitution to ensure the military will win enough seats to join forces and have power in the parliament (Asian Network for Free Elections, 2016).

As expected, the election result had produced a landslide victory for the NLD Party even though there was a 25% quota of military seats. The Union Election Commission (UEC) had announced that the NLD won 58% in Lower House (Amyotha Hluttaw) and 60% in Upper House (Pyithu Hluttaw) (Grafilo, 2015). The NLD party could win a landslide because the majority in urban areas and the other ethnic Burma regions believed that the NLD would perform well for the nation. Surprisingly, the NLD even had attention in rural areas and also in some ethnic minority areas like Kachin (Fisher, 2015).

Unlike the 2010 election, the UEC accepted more observer accreditation procedures and invited over 11,000 local observers from 52 civil society organizations and over 1,000 international observers for the 2015 general election (Carter Center, 2016). There were also more opportunities for broadcasting media to monitor and report freely and critically on the election process even though there were some specific restrictions. Due to these local and international observations and media monitoring, much information and news about the election process were available before and after the election (Carter Center, 2016).

However, not only positive outcomes but challenges and problems during the 2015 election process were also reported. Four main problems of instance occurred during both pre-election processes and on the election day. First, political parties and candidates had difficulty registering and participating in the election process because of discrimination under the laws and regulations and unfair approval or recommendation from the UEC. For example, the authorities mostly tended to be stricter when it was concerned with Muslim candidates than other Chinese and non-Muslim ancestry (Asian Network for Free Elections, 2016). Second, the problem concerned the performance of the UEC in the election. The advance-voting process became a serious problem with a lack of transparency with electoral fraud. For example, the military advance voting system was not permitted to be observed by international and even domestic observers and party agents in the 2015 election (Carter Center, 2016).

Third, the role of female and younger candidates in the election still had lower chances to join and win in the 2015 General Election compared with male candidates. Even after the 2015 general election, all of the military appointees in the Union Parliament were male with the age over 35 years old (Minoletti, 2016). In the 2015 election, female and younger candidates had not increased. Only 13% of women and 8% of younger candidates were elected in the union parliament (Asian Network for Free Elections, 2016; Paungsie Facility, 2020). Fourth, the ethnic minorities from armed conflict areas and the Internally displaced persons (IDPs) around national borders did not have any right to vote in the 2015 general election (Naw, 2020).

All of these problems had been founded in the 2015 general election. Although it had gained better outcomes if compared with the 2010 election, it still did not have a completely free and fair election and the candidates were still challenging for more opportunities and freedom. A free and fair election process, freedom of speech, freedom of participation is very important to practice in a country. Right to participation can also help to create a better society. Therefore, the main objectives of this research paper are to observe whether the candidates still have more or fewer challenges with the freedom of participation and to analyze how much the 2020 general election process has been improving after lesson learned from the 2015 general election and how the organizers would manage to bring up freer and fairer election processes in the 2020 general election.

This research paper is divided into five sections. The first section defines the election legal framework and electoral system and also describes the challenges and problems of the 2010 general election and the 2015 general election in Myanmar. The main research objectives are described in the second section. The third section then focuses on the methodology by describing the detailed information of the research design and about the participants in this research. The research results and discussion part are in the fourth section by reporting the challenges of the political candidates and analyzing the free and fair election process in the 2020 general election by comparing it with the 2015 general election. Lastly, in the fifth section, the research results and analysis are summarized and the possible recommendations are also mentioned for the political representative candidates and fairer and freer elections in the upcoming election process.

### 1.1. Definition

**The 2008 Constitution** is known as the third constitution of Myanmar after 1947 and 1974 constitutions and it was held the first referendum on a draft constitution under military coups.

**The general election in Myanmar** can be defined as an election that included contests in the upper house (Amyotha Hluttaw), and the lower house (Pyithu Hluttaw) of the Phyidaungsu Hluttaw for seats in each of the fourteen local state/region assemblies. It is supposed to be held every five years.

**By-election in Myanmar** is defined as an election that can be held within six months when a seat becomes vacant. The Commission holds it under the election law due to the postponement of election or resignation, death, termination, or revocation of duty from a Hluttaw representative.

**Tatmadaw** is named as the official name of the armed forces of Myanmar. These armed forces are administered by the Ministry of Defense and are composed of the Army, the Navy, and the Air Force.

**Hluttaw Representative** can be defined when a person is elected to any Hluttaw or Defence Services personnel Hluttaw representative nominated by the Commander-in-Chief of the Defence Services.

**Member of a religious order** is applied to a religious monk, nun, Christian priests, Muslim imam, or any members who are serving temporarily or permanently in the religion.

**A free and fair election** can be defined when an election process is transparent, inclusive, and accountable, and when all citizens have equitable opportunities to compete or to participate in the election.

### 1.2. Election in Myanmar

#### 1.2.1 The Election Legal Framework and Electoral System

The 2010 general election became the first general election under the 2008 constitution. Elections in Myanmar are conducted and stipulated by administrative directives and codes of conduct based on the different laws with different ranks. The 2008 Constitution has already contained the basic provision for the conduct of the election, therefore; it can provide the Election Legal Framework (Asian Network for Free Elections, 2016). In this framework, there are Presidential Election Law, Political Parties Law, Amyotha Hluttaw Election Law, Pyithu Hluttaw Election Law, State/Region Hluttaw Election Law, other related laws such as citizenship law, media laws, criminal law, and lastly, Union Election Commission Law (Democracy Reporting International, 2016).

The electoral system is held by the first-past-the-post (FPTP) system (or) plurality voting system to choose a representative from single-member constituencies, meaning one representative for each legislative body (Asian Network for Free Election, 2016). In the elected bodies, the Parliament of the Republic Union of Myanmar, also known as the Phyidaungsu Hluttaw, is comprised of two assemblies (Hluttaws) such as the Amyotha Hluttaw and the Pyithu Hluttaw at the national level. Besides, while there are fourteen states and regions in Myanmar, each of them has its own Hluttaw called the State/Region Hluttaw. Its Hluttaw also includes reserved seats for representatives of the minority group from an ethnic community, also known as "National Race Representative" for local assembly. A National Race Representative or Ethnic Affairs Minister will be elected for any national race in each state and region when its ethnic community has a population equal to, or greater than 0.1% of the total Union population of Myanmar (International Institute for Democracy and Electoral Assistance, 2020).

### 1.2.2 Members of parliament

Under the 2008 Constitution, the Myanmar military was guaranteed 25% representation in all three levels of assemblies to secure a permanent place in Myanmar's politics (Asian Network for Free Elections, 2016). All military appointees in three levels of Hluttaws are appointed by the Commander in Chief (International Institute for Democracy and Electoral Assistance, 2020).

First, the Amyotha Hluttaw is made up of a maximum of 224 seats: a total of 168 seats with 12 constituencies from every 14 states and regions and 56 seats for military appointees. Each constituency is representing on one township, but if there are more than 12 townships in a state or a region, the number of constituencies should be based on districts and if there are less than 12 townships in a state or a region, two populated townships would be split into two constituencies (Democracy Reporting International, 2016).

Second, the Pyithu Hluttaw is formed of 440 members of seats: a total of 330 constituencies based on 330 townships division plus 110 seats for military appointees (Chau, Liu, & Htet, 2020).

Third, the State/Regional Hluttaw consists of a maximum of 644 seats: two representatives from each township, but not including the Union Territory, and one-third of the total elected number are the military appointees. Its Hluttaw also includes 29 reserved seats for National Race Representative. Besides, at State/Region level, when there is only one candidate in one constituency, the elections will not be held and that candidate will automatically get a seat (Democracy Reporting International, 2016).

### 1.2.3 Free and Fair Election in the 2010 General Election

After being controlled by the military dictatorship for many years, the 2010 general election became the first general election in Myanmar. While it was held, the NLD party was rejected from participation in it by the Union Election Commission (UEC) with giving an excuse as "null and void" (Aktar, 2020). However, the 2010 general election could also not prove as a free and fair election either because of three main problems.

First, the 2010 election was a very low-profile event and it was not worth calling as 'the free and fair election'. According to Wilson (2010), he reported that there was not any signage to indicate where voting was being held and the UEC under military control even announced any election observer was unnecessary to observe in this election. Second, the election registration process and election campaign had not been transparent and it was not free and fair at all. For this statement, Lehmann (2010) mentioned that although this election was so-called disciplined democracy, the registration process for political parties to the nomination of candidates and election campaigning periods were controlled by the military government in 2010. He further stated that many ethnic minorities did not have equal opportunities to register in this election because the UEC announced that the election did not take place in some certain regions and states where large ethnic minority populations by excusing "security concerns". Third, the voters in sensitive areas could not vote for the 2010 general election. Wilson (2010) reported that most voters from border regions such as the Thailand-Myanmar border and Bangladesh-Myanmar border had been excluded to vote because the UEC mentioned that the government could not provide full security provision to hold the election around those border regions.

As a result, the 2010 general election was not a free and fair election at all since it had been under military control with an undemocratic system. Election observers did not have the right to observe the election process, the political candidates, including many ethnic minorities, did not have equal rights to register for the election, and voters around border regions had lost the right to vote in the 2010 general election. Therefore, the 2010 general election had been undermined and a sham election. The election process was not transparent and the citizens had lost their equal opportunities to contest or to vote in this election.

### 1.2.4 Free and Fair Election in the 2015 General Election

After five years, the NLD party had gained the opportunity to participate in the 2015 general election. As expected, the election result of the NLD party had produced a landslide victory even though there was a 25% quota of military seats in the parliament. As a total result, the Union Election Commission (UEC) had announced that the NLD won 258 seats out of 440 seats in Amyotha Hluttaw and 138 seats out of 224 seats in Pyithu Hluttaw (Grafilo, 2015). According to both domestic and international observers'

reports, the 2015 general election had been recognized as the first democratic general election in Myanmar since Burmese citizens had gained more right to participate with their will and election observers and media had received more freedom to observe in this election (Callahan, & Oo, 2019).

However, it was not a completely free and fair election due to three main reasons. The first reason is that the military government's sway in the decision of the UEC. According to Human Rights Watch report, the UEC during the 2015 general election obviously lacked independence and transparency after they were put under pressure by local government officials and they had demonstrated a pro-USDP and military bias. Moreover, the international observers from Carter Center reported the UEC did not state transparency information about the number of requests, voting location, or the schedule for polling for the advance voting day in both the 2010 and 2015 general elections (Carter Center, 2016). Therefore, it seemed that the voting process was the lack of transparency and short of international standards during the previous election processes.

The second reason is unequal rights for ethnic minorities and Internally Displaced Persons (IDPs). Naw (2020) stated while the UEC had canceled 34 townships in Kachin, Kayin, Mon, Shan States, and Bagon regions, which were the conflicts and war zones. At that time, millions of ethnic minorities had lost their vote and hundreds of thousands of IDPs from Kachin, Rakhine, and Shan had been disenfranchised to vote in the 2015 election. The last reason is that gender inequality and a low number of younger representatives had been founded in the parliament. The international observers from ANFREL also pointed out that only 800 female candidates were included to participate and just 151 female candidates were successfully elected in the 2015 General Election (Asian Network for Free Elections, 2016). Besides, for the younger representatives who were under 35 years old, approximately 34 out of 491 seats in the parliament were taken (Paungsie Facility, 2020). Apart from these reasons, the military group even abused power by selecting only male candidates for the military seats, which had created gender inequality in the parliament.

As a result, the international observers and reporters had found that the 2015 election lacked justice, freedom, and equal rights. Even though the democratic party won the election, the elected government could not make many new paths since the military group had taken the major controls and the 2008 constitution had also favored the military group (Aktar, 2020). Due to the undemocratic 2008 constitution, the development and improvement were delayed in the country. To amend this undemocratic constitution, more than 75% of members in the parliament are needed to agree to do so. However, while there was a 25% reservation of the military group in the parliament, it was not possible to revise the 2008 constitution (Aktar, 2020). Therefore, although the 2015 general election became the first democratic election in Myanmar, the election process was still under military controls and the political candidates and the citizens had still faced many challenges in the 2015 general election due to the 2008 constitution.

Even after the 2015 general election, the elected government had still failed to amend the 2008 constitution because of the military power in the parliament; also, it had not been significantly addressed to the human rights of the ethnic minorities from unrest areas between the period of 2015 to 2020. With all of these reasons, this research is important, to observe whether the candidates still have more or less challenges with the freedom of participation in the 2020 general election when compared with the 2015 general election and whether the election process is freer and fairer in the 2020 general election. This research mainly highlights the difficulties faced by the political candidates as the result of the undemocratic 2008 constitution and the electoral law, as well as highlighting the challenges of the ethnic minorities from civil wars and also even mentioning the challenges of Rohingya from Rakhine State to participate in the 2020 general election processes. Furthermore, it also covers the issues related to free and fair elections that are difficult to achieve due to military intervention. Therefore, the findings of these facts and reasons will make this research different from other research.

## **2. Objectives**

- 1) To examine the challenges for political parties' candidates who participate in the 2020 general election in Myanmar
- 2) To analyze whether the 2020 election process is freer and fairer in Myanmar when compared with the 2015 general election

### 3. Methods

This research is mainly based on the study of election processes and electoral rules and regulations in Myanmar. The research paper is applied to the qualitative research method. The research has also used both primary and secondary data to identify election legal framework, electoral systems, and the whole election process with case studies of the 2015 and 2020 general elections in Myanmar. A semi-structured interview was used in this research.

#### 3.1 Data Collection

This research has included both primary sources and secondary sources. As the primary sources, the interviewing process was conducted with a total of six participants. For the secondary sources, data were collected from the 2008 Constitution, the Election Laws in Myanmar, International Election Observers' reports, 1982 citizen law, and the other published articles related to the elections. After collecting the data and information, the researcher analyzed what those authors mentioned and identified to explain the specific election's rules and regulations, other challenges, and the differences in the election system of Myanmar.

#### 3.2 Participants

All six participants were the political candidates who ran for the 2020 general election in Myanmar. There are two main political parties known as the National League for Democracy (NLD) and the Union Solidarity and Development Party (USDP). Both parties have been recognized as the powerful parties in Myanmar because both of them have taken the most seats after the 2015 general election. Therefore, the interviewing process will be conducted with one woman and two men from the NLD party and one woman and two men from the USDP party.

The participants were chosen based on four criteria. The first criterion is that they must run for election in Shwe Pyi Thar Township since it is known as one of the developing areas in Yangon. The Shwe Pyi Thar township has been known as an industrial zone with a diverse population with many different ethnicities and religions. There were also some conflicts among citizens and politicians after the 2015 general election. As a result, the researcher would like to focus on this area to explore more challenges with the political candidates who are living in this township.

The second criterion is about the period of participation in their political parties. The interviewees for this research must have participated for more than five years because a long-term professional candidate can give more details about the election. The third criterion is age. All participants must be over 35 years because the researcher believes that middle-aged participants usually have a more specific idea and knowledge of what they have been experiencing in the parties. The last criterion is about the ethnicity, such as Karan and Rakhine who have been most marginalized in participation in the election process, because interviewing those candidates can get more information about the ethnic minorities' challenges.

All participants who meet all criteria have been chosen by both NLD and USDP parties by giving names of people who can participate in this research to the researcher. The researcher conducted all interviews between October 2<sup>nd</sup>, 2020, to October 29<sup>th</sup>, 2020. Table 1 shows the list of participants in this research.

**Table 1** List of interviewees of the Political Candidates of Representative

No.	Participants	Gender	Age	Ethnicity	Political Party's Name	Representative Constituency
1.	Participant A	Male	37	Burmese & Rakhine	The National League for Democracy Party (NLD)	Shwe Pyi Thar Township, Yangon
2.	Participant B	Female	55	Burmese	The National League for Democracy Party (NLD)	Shwe Pyi Thar Township, Yangon
3.	Participant C	Male	43	Karan & Burmese	The Union Solidary and Development Party (USDP)	Shwe Pyi Thar Township, Yangon
4.	Participant D	Female	42	Burmese	The Union Solidary and Development Party (USDP)	Shwe Pyi Thar Township, Yangon
5.	Participant E	Male	38	Burmese	The Union Solidary and Development Party (USDP)	Shwe Pyi Thar Township, Yangon
6.	Participant F	Male	44	Burmese	The National League for Democracy Party (NLD)	Shwe Pyi Thar Township, Yangon

### 3.3 Limitation

The researcher initially contacted all six intended participants from social media but the researcher could not interview everyone by phone or video call since not all participants were available due to proximity to the election time and the interview process was during their campaigning period. Therefore, the researcher sent the list of questions to the participants by E-mail. Moreover, during the interviewing process, the researcher noticed that most participants did not feel comfortable answering all questions openly and freely due to their parties' policies and restrictions, therefore, the participants did not answer some questions directly.

## 4. Results

The results will mainly describe the interviewees' reports by dividing them into four main points 1) Registration process of parties and candidates, 2) Younger, Women, and Ethnic Political Candidates, 3) Political Campaign Situation, and 4) Free and Fair Election for political candidates. This section will report how the 2020 general election and which kinds of challenges and problems that the parliamentary candidates have experienced for contesting the general election.

### 4.1 Registration of Parties & Candidates

The Political Parties Registration Law has prescribed the rules and regulations that the candidates must follow. To participate in the election, all participants reported that they must pay around 300,000 kyats (around 7,000 baht) according to the law, but if a candidate could not afford to pay for it, the party would pay for it instead. However, participant A mentioned that this situation is rarely seen in most constituencies, which means that most candidates had to pay this fee by themselves.

During the registration process, participants C and D from the USDP party mentioned that they had a difficult time registering when the UEC could not provide clear and specific instructions and regulations. As the complexity of the registration process, participant C reported that we have to go to the registration office at least two times a week to wait for the registration results that will be approved by the UEC.

Additionally, in the process of being eligible candidates for the election, participants B, E, and F from both parties reported the candidates from Shwe Pyi Thar township had never been rejected by the UEC since all of them had followed the regulations. On the other hand, participant B stated "numbers of political candidates in other small political parties have been rejected by the UEC because some rejected

candidates might violent to regulations in some ways or some may not be Burmese citizens, or their parents may not be citizens when those candidates were born according to the citizenship law. As a result, based on the participants' responses, the registration process in this township was quite positive although a few participants had some problems registering due to the mismanagement of the UEC.

#### **4.2 Younger, Women, and Ethnic Political Candidates**

In the 2020 general election, the participation of women, younger, and ethnic political candidates in some parties have increased. The participants from the NLD party reported that even though ethnic participation rates are slightly increased, there has been a considerable increase for the younger participation by 30% and the women participation by 50% because the role of Daw Aung San Suu Kyi is significantly cited by aspiring younger and women politicians.

On the other hand, the participants from the USDP party pointed out that the percentage of the younger, women and ethnic participation in their party has slightly increased if compared to the previous election, but the majority of candidates for the 2020 general election are men. However, the results of younger, women and ethnic participation in politics have not been significantly improved in some parties than the 2015 general election, so the need and the supports of the government are also questioned. All six participants suggest that (1) the government needs to promote equal opportunities and participation; (2) the government needs to educate the young people to know more about politics; (3) the government needs to promote freedom of speech among them regarding the laws and regulation; (4) the government needs to promote the equal role for women and men; and (5) the government needs to create the freedom of environment for its people.

#### **4.3 Political Campaign**

The 2020 election campaign environment was very different from the 2015 election campaign period. All political candidates did not have a free campaigning period because of the Covid-19, which is threatening the lives of human beings. Approximately, the four participants reported that political parties must not campaign with the crowded people or door-to-door campaigning in accordance with the Ministry of Health and Sports' announcement and they must follow the "Stay-at-home order". On the other hand, the political parties with only limited numbers of people are allowed to campaign and hand out leaflets to the citizens with specific guidelines mandated by the government's Covid-19 prevention measures.

All participants mentioned that the candidates have to use the online media campaigning strategy by using social media platforms, especially Facebook. When the political parties were not allowed to campaign freely during the middle of the pandemic, the participants expressed that they were worried about some small townships and villages with limited knowledge about the election, especially for those who are living in the rural areas and remote areas because they are very poor in voter education and with very low awareness about democracy and politics. As a result, the political candidates and members were dissatisfied the 2020 general election was held without having much freely campaigning because of the pandemic.

#### **4.4 Free and Fair Process for Political Candidates**

All participants from these main parties reported that the candidates could demonstrate their freedom of expression and speech and then they could freely exchange their different political perceptions through news broadcasts on Channel Media Platform during this election.

Participants A, C, and D reported that there was no race, ethnic, and religious discrimination to anyone to participate in their parties, but she mentioned that the citizens who have held national citizen cards and follow all criteria and rules promulgated by the UEC are available to vote or run as a candidate for the election.

Participant B mentioned that "the women participation rate has increased and they also have gained equal opportunities to be able to run for the election freely and fairly with the men". However, she also pointed out "every woman still faces with some challenges because women usually have to take family's responsibilities and also the candidates' responsibilities at the same time and then when we are traveling for campaigning in some remote areas where are insecure, we also have to take a risk".



Therefore, four participants including male participants stated that the candidates who would win the seats really need to ensure and encourage women to be more involved in politics and to bring more security concern for the women by promoting their rights and by increasing equal opportunities for them.

## 5. Discussion

Based on the secondary sources, the discussion part will analyze the four main challenges of the political candidates in Myanmar and also discuss why the 2020 election process is still far from a free and fair election process.

### 5.1 Challenges of the Political Candidates

In Myanmar, there was a really difficult situation for the political candidates to contest in the general election while every election process was mainly controlled by the 2008 constitution made by the military group. Even though the interviewees did not mention any serious difficulties and challenges of their experiences, the situations of the political candidates from other states and divisions were not the same. Generally, several candidates from various parties have faced different challenges such as discrimination, insecurity, and harassment to run for the election.

There are three main challenges for the political candidates, which have been reported in the 2020 general election. The first challenge is the candidates did not have the full freedom of participation in the election. The reason is that the local election sub-commission has still abolished the political parties, especially from Shan, Kachin, Rakhine, and also Rohingya based on the election laws and 1982 citizenship law. For example, according to interviewees' reports, the candidates could not run for an office if they were not followed by the promulgated laws, which are unfairly restricted. Based on the 1982 citizenship law, Rohingya candidates have been rejected by saying that their parents were not citizens at that time of their birth and even some Rohingya have not been still accepted as full citizenship to participate in the election (ANFREL's International Election Observation Mission, 2020).

Other political candidates from Shan and Kachin States were also disqualified for not meeting eligibility criteria (Phoo, 2020; Burmese News International Multimedia Group, 2020). Additionally, the Rakhine candidates whose son is in the Arakan Army, recognized as a group labeled as terrorist by the government of Myanmar, had also been denied to participate in the election because the UEC mentioned that the candidate has violated the parliamentary election law (Khine, 2020). With these restricted laws and regulations, they had lost their rights and opportunities to run for the election in 2020.

The second challenge is the candidates from some political parties have lost their constituencies because of armed conflict zones in Myanmar. There were many conflicts and wars between the ethnic armed groups and military groups in the states such as Shan, Kachin, Karen, Rakhine, Chin, and Mon. When those states were unrest and the military service was an inability to provide security for all citizens during the election day, the safety of the citizens and the political candidates to participate in the election was not guaranteed. Therefore, the UEC has canceled at least 56 townships and 665 villages in those states, even including the Bago region, which is close to Rakhine State (Progressive Voice, 2020). As a result, Tower (2020) also pointed out that the political candidates had lost more than 22 constituencies from those states and regions during the 2020 general election.

The third challenge is some candidates have been abducted and abused by an armed group before the election. This incident could happen when the candidates had to contest around remote or armed conflict areas like Rakhine state because there was not full security provision during fierce between an armed group and military group. As an incident, three candidates from the NLD party in Taungup Township, Rakhine State, were arrested and abused physically by the Arakan Army to demand releasing all Rakhine politicians and the student protesters in return (Nyein, 2020). At that time, those three candidates had lost the chance to participate in the election. For this incident, the other candidates and some international observers seriously condemned and reported that the candidates during the campaigning need more security provisions (ANFREL's International Election Observation Mission, 2020; Nyein, 2020).

Due to these three challenges, the numbers of constituencies were reduced from 1,171 to 1,117 and the numbers of registered election candidates were also decreased from 6,969 to 5,643 near the election day in the 2020 general election (Xinhua, 2020). Because of the unfair laws and restricted regulations, the

political candidates had lost their rights. It is still proved that there is no specific and democratic rule and laws for all political candidates to freely participate and to access to equality and security. To change these laws and regulations, the decisions cannot be made by the elected government because it also mainly depended on the military group's decision. As a result, the political candidates' opportunities and rights in the 2020 general election have been still hindered by the undemocratic laws and constitution in Myanmar when compared to the 2015 general election.

### **5.2 Free and Fair Election in 2020**

During the election day, the overall election processes and campaign environment were considered as partly free and fair election according to the international and local observer's reports and other the political candidates' reports, however; it was also found peaceful with no major incidents and more transparent election process than the previous election. To mention it, there are two main reasons why this election was freer and fairer than the 2015 elections.

The first reason that brought free and fair election is that citizens became more interested in the election, media also tended to focus on how the election process run and the international and local observers are encouraged to observe the election. For example, when the voter lists posted by the UEC were an error or when some were not on the list, the citizen immediately requested corrections from social media or at the regional election committee because of the voter awareness and attention on the election process (ANFREL's International Election Observation Mission, 2020). If compared to the 2015 general election with 34.3 million eligible voters, there were 38 million eligible voters in the 2020 general election (Enlightened Myanmar Research Foundation, 2020). Moreover, thousands of international and local observers, broadcasting media, and reporters had eagerly observed how the UEC would manage the election process during the pandemic. Because of these reasons, the UEC became more transparent and managed well to hold this safe and peaceful election in Myanmar (ANFREL's International Election Observation Mission, 2020). Thus, it could assume the 2020 general election was freer and fairer than the 2015 general election.

The second reason is the UEC could make an extraordinary change in the advanced voting system, unlike the 2015 general election. For example, ANFREL observers reported that the polling and counting system during the advance voting days was conducted diligently and transparently with well-implemented health guidelines (ANFREL's International Election Observation Mission, 2020). The UEC also could enhance the voting system for elderly voters at home or their respective ward and arranged polling stations even in quarantine centers across the country. Moreover, the UEC managed well for overseas voters to be able to cast their ballots and there was a threefold increase from 34,697 in the 2015 general election (ANFREL's International Election Observation Mission, 2020). As a result, even in a challenging environment due to the global pandemic, the UEC could manage to have greater participation and to have a more free and fair election.

On the other hand, it also cannot deny that the 2020 election was not completely free and fair. There are four main reasons why the 2020 general election was partly free and fair. The first reason is the discriminated 1982 citizenship laws have affected political candidates and citizens to participate in the election freely and fairly. According to this citizenship law, only a citizen who holds a pink or green national citizen card can be able to participate in the election (International Institute for Democracy and Electoral Assistance, 2020). For example, most of the ethnic minorities from Kachin and Karen, and Rohingya in Rakhine State have lost the right to participate in the 2020 election. The reason was that they have not been recognized as citizens according to the 1982 citizenship law even though they have been living in the same country for many years (ANFREL's International Election Observation Mission, 2020).

The second reason is the Covid-19 pandemic contributed to a hazardous campaign environment and an unlevel playing field. Under the specific restriction on a political campaign, the candidates could not campaign freely and online campaigning also could not perform well in all areas. As a result, ANFREL's International Election Observation Mission (2020) pointed out while the two major parties were automatically given more attention by the public, the smaller and ethnic parties had faced more disadvantages during this election. For example, since smaller and ethnic parties had minority supporters,

they could not compete with strong supporters from the major parties, who voluntarily campaigned for their parties even during the Covid-19 pandemic.

The third reason is internally displaced persons (IDPs) still lost their rights to vote in the 2020 general election since the national laws could not be revised by the elected government from 2015 to 2020. Because of the fierce fighting between armed groups and the military group in Shan, Kachin, Karen, and Rakhine states, hundreds of thousands of people have to move to other areas like the Karenni States, Tanintharyi Regions or other refugee camps along the Thailand-Myanmar border for their safety (Progressive Voice, 2020). As a result, those displaced persons who are living in refugee camps around the borders and who do not actually have their household registration in Myanmar, unfortunately, lose their right to vote in the 2020 general election like the 2015 general election. Until now, the government still cannot reform the laws and make them happen yet. Therefore, the impact of the conflict and civil wars definitely affect the citizens' rights and the election results.

The fourth reason is the lack of UEC's management in ballot papers. According to Radio Free Asia (2020), Daw Htu May, an individual candidate, reported that the UEC has been lack of efficient preparations of ballot-boxes and inaccurate voting lists, and also many ethnic minorities had lost voting for Ethnic Race Representatives in some regions and states, especially in Yangon region. For example, any ethnic citizen who is living in another state or region in Myanmar has one more ballot paper to vote for Ethnic Affairs Minister for their national representative, however; due to the lack of UEC's management in those ballot papers, many ethnicities have lost their right to vote for their ethnic minister. Even after the election day, the UEC did not respond to this incident.

Overall, the candidates still have a lot of challenges, the violations and conflicts have been found, the small parties, ethnic minorities, and the displaced persons still lost their right in the election. Moreover, as the researcher's assessment, the electoral process has been undermined by the systemic problems and right abuses of the people to elect their government, and the legal framework for elections still undemocratic because there are unchanged 25% of seats reserved for the military. Therefore, even though some levels and areas have been increased and improved, most of the situations still need to be enhanced to approach a more free and fair election.

Apart from these challenges, on November 8th, 2020 general election, the NLD party has been reelected to govern the country for five more years with the results of 396 seats out of 476 seats in the union parliament and 501 seats in State/Region Hluttaw and 23 seats in ethnic affairs minister (Chau, Liu, & Htet, 2020). However, even though the result has been approved by domestic and international observers, the USDP, which won only 71 seats (6.4%) nationwide, has refused to accept the election result and demanded to rerun the election by claiming it was "widespread fraud" (Radio Free Asia, 2021). For this statement, the UEC even reported that no one can still prove with exact evidence to support this claim (Cuddy, 2021). Despite what the UEC mentioned, the military group took places by detaining State Counselor Daw Aung San Su Kyi with various charges, including the Export and Import Law after the military had found illegally importing walkie-talkies in her home and detaining President U Win Myint with the charge under Article 25 of the Natural Disaster Management Law for violating Covid-19 restrictions while campaigning (The Irrawaddy, 2021). Since then, Military Coup d'état has been restarted on February 1<sup>st</sup>, 2021, in Myanmar and the military group announced that a "free and fair" election will be begun once the state of emergency is over (Cuddy, 2021).

Nevertheless, the free and fair election in Myanmar can only be seen after the military group handover the power or after the constitution and some laws are revised. As long as the military control exists in the parliament, it cannot bring total free and fair election for all citizens and the election process will still be flawed.

## **6. Conclusion and Recommendations**

### **6.1 Conclusion**

To summarize this research paper, the researcher has found the challenges of the political candidates who participated in the 2020 general election and the researcher has also analyzed how the 2020 general election looked like.

#### **6.1.1 Challenges of the political candidates**

Whenever an election is to be held, some difficult situations or challenging issues are always there for the political candidates, the organizers, and even for the voters. In the 2020 general election, although the women political candidates' participation has been considerably increased and women have also acquired better equal opportunities in the parties as men, there have still been discovered three challenges for the candidates. First, due to the Election Law and 1982 Citizenship Law, many ethnicities and Rohingya were also prevented from running for office. Second, many political candidates have lost the constituencies for the election when some regions and states are still unrest, armed conflict, and violation. Third, they have been violated and abused by the armed group during campaigning.

Moreover, every political candidate had to compete with the situation of 25% of reserved seats in the parliamentary for the military under the undemocratic 2008 constitution like the previous elections. By looking at these situations, the political candidates will never access free and fair election processes until this constitution and the laws are revised and until the peace process in local areas has been brought.

#### **6.1.2 Free and Fair Election**

The 2020 general election is not completely free and fair since many political candidates had still faced with challenges, problems, and discrimination during the election process because of the 2008 constitution and 1982 citizenship law. Moreover, even though the UEC's performance on this election became more transparent and had better management on advanced voting days than the previous elections, some eligible voters had still lost their right to vote due to the poor management of the UEC. The displaced people had also lost their opportunities to vote because of the restricted national law in Myanmar. Until the 2020 general election, there was still 25% of the military quota in the parliament to control their power and seats. Despite these problems and challenges, the democratic NLD party had won with majority votes, however; the USDP party who won with few percent of votes could not accept this result. Therefore, its party and the military group had sued the winning party by claiming "the election was a fraud" and had demanded to rerun the election even though the UEC mentioned there was not any evidence to prove the fraud election. In the end, on February 1<sup>st</sup>, 2021, the military group had detained the state counselor and president of Myanmar and they had announced they had to do it as a state of emergency. They also reported the "free and fair" election will be held after the state of emergency is over.

To bring free and fair elections, the country should have a more liberal and democratic constitution and laws. Due to undemocratic rule regulation and the military controls in the country, it is unlikely to make significant change and improvement in the election process and it still fails to ensure free and fair elections.

### **6.2 Recommendations**

In Myanmar, the main problem is the current government has still been suffering from military oppression. The government's efforts to amend the constitution have failed due to the veto granted to the military. It still lacks institutional support for initiatives to empower women and attain gender equality. The younger's role in politics should be considered and their participation and their interest in politics can enhance the future political system and can bring more peace process. The ethnic minorities and the displaced people who have been marginalized should also have equal rights to every citizen who lives in the same country. Therefore, the following recommendations aim to bring up more free and fair elections in the upcoming election process for all political candidates and all citizens.

6.2.1 To support the political candidates, the main recommendations are:

- The criteria for the political candidates should be determined in accordance with national constitutions and other related laws, but those constitutions and laws should be under a democratic system and fair enough for all participants.
- To access equitable opportunities to compete in the elections, the role of the military and its commander-in-chief in politics needs to be reduced.
- The role of the younger, women and ethnic minorities' participation needs to be emphasized by promoting more international standards to bring freedom from discrimination.

6.2.2 To bring up a free and fair election, the main recommendations are:

- The election processes should be transparent, inclusive, and accountable.
- The government needs to take more practical actions to improve the gender equality of participation and to reduce social norms that confine women to their traditional roles.
- The government should act more for the peace process and reduce the civil wars and conflicts between the armed groups and the Military groups.
- The government should reform the national laws to enable the displaced people to register and vote in the displacement area or their origin area without facing adverse consequences.
- Myanmar's 2008 constitution and 1982 citizen law should be reviewed and changed to be able to bring freer and fairer elections for all.

## 7. References

- Aktar, T. (2020). *Democratic Election in Myanmar: Political Transition and Challenges*. Retrieved from [https://www.researchgate.net/publication/341567437\\_Democratic\\_Election\\_in\\_Myanmar\\_Political\\_Transition\\_and\\_Challenges](https://www.researchgate.net/publication/341567437_Democratic_Election_in_Myanmar_Political_Transition_and_Challenges)
- ANFREL's International Election Observation Mission. (2020). *Interim Report: ANFREL's International Election Observation Mission (IEOM) to Myanmar's 2020 general elections*. Retrieved from [https://anfrel.org/wp-content/uploads/2020/11/ANFREL-Interim-Report\\_IEOM-to-the-2020-Myanmar-General-Elections.pdf](https://anfrel.org/wp-content/uploads/2020/11/ANFREL-Interim-Report_IEOM-to-the-2020-Myanmar-General-Elections.pdf)
- Asian Network for Free Elections. (2016). *General & Local Elections Myanmar 2015: Asian Network for Free Elections (ANFREL) election observation mission report*. Retrieved from <https://anfrel.org/wp-content/uploads/2016/08/ANFREL-EOM-2015-Report.pdf>
- BBC News. (2021). *Myanmar Country Profile*. Retrieved from <https://www.bbc.com/news/world-asia-pacific-12990563>
- Burmese News International Multimedia Group. (2020). Two candidates rejected by Kachin State Election Sub-Commission. *Burmese News International Multimedia Group*. Retrieved from <https://www.bnionline.net/en/news/two-candidates-rejected-kachin-state-election-sub-commission>
- Callahan, M., & Oo, M. Z. (2019). *Myanmar's 2020 Elections and Conflict Dynamics*. Retrieved from [https://www.usip.org/sites/default/files/2019-04/pw\\_146\\_myanmars\\_2020\\_election\\_and\\_conflict\\_dynamics.pdf](https://www.usip.org/sites/default/files/2019-04/pw_146_myanmars_2020_election_and_conflict_dynamics.pdf)
- Carter Center. (2016). *Observing Myanmar's 2015 General Elections: Final Report*. Retrieved from [https://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/myanmar-2015-final.pdf](https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar-2015-final.pdf)
- Chau, T., Liu, J., & Htet, K. S. (2020). *Myanmar Election 2020: What businesses should know*. Retrieved from <https://www.mmtimes.com/news/myanmar-elections-2020-what-businesses-should-know.html>
- Cuddy, A. (2021). *Myanmar coup: What is happening and why?*. Retrieved from <https://www.bbc.com/news/world-asia-55902070>
- Democracy Reporting International. (2016). *The Legal Framework*. Retrieved from <http://myanmarelectionlaw.org/legal-framework/>
- Enlightened Myanmar Research Foundation. (2020). *Women's Involvement in Myanmar Politics*. Retrieved from [https://emref.org/sites/emref.org/files/publication-docs/sa\\_voix\\_-\\_17\\_eng-final.pdf](https://emref.org/sites/emref.org/files/publication-docs/sa_voix_-_17_eng-final.pdf)

- Fisher, J. (2015). *Myanmar's 2015 Landmark Elections Explained*. Retrieved from <https://www.bbc.com/news/world-asia-33547036>
- Grafilo, J. (2020). *NLD wins 396 parliament seats*. Retrieved from <https://www.mmtimes.com/news/nld-wins-396-parliament-seats.html>
- International Institute for Democracy and Electoral Assistance. (2020). *2020 General Election in Myanmar: Fact Sheet*. Retrieved from [https://www.idea.int/sites/default/files/news/news-pdfs/2020-General-Election-in-Myanmar-Fact-Sheet\\_14-July-2020.pdf](https://www.idea.int/sites/default/files/news/news-pdfs/2020-General-Election-in-Myanmar-Fact-Sheet_14-July-2020.pdf)
- Khine, M. T. (2020). *Rejected Candidates in Myanmar's Rakhine State Says He's Been Bullied off the Ballot*. Retrieved from <https://www.irrawaddy.com/elections/rejected-candidate-myanmars-rakhine-state-says-hes-bullied-off-ballot.html>
- Lehmann, A. (2010). *Elections in Myanmar are unlikely to be "free and fair"*. Retrieved from <https://www.dw.com/en/elections-in-myanmar-are-unlikely-to-be-free-and-fair/a-6196670>
- Myint, S. A. (2020). *Why the 2020 General Election matters*. Retrieved from <https://www.frontiermyanmar.net/en/why-the-2020-general-election-matters/>
- Minoletti, P. (2016). *Gender (in) Equality in the Governance of Myanmar: Past, Present, and Potential Strategies for Change*. Retrieved from [https://asiafoundation.org/wp-content/uploads/2016/05/Gender\\_in\\_Equality\\_in-the-Governance-of-Myanmar\\_ENG.pdf](https://asiafoundation.org/wp-content/uploads/2016/05/Gender_in_Equality_in-the-Governance-of-Myanmar_ENG.pdf)
- Naw, S. (2020). *Opinion: What do Myanmar's elections mean to its ethnic minorities?* Retrieved from <https://news.trust.org/item/20201107075320-8dr34/>
- Nyein, N. (2020). *Arakan Army Admits Abducting Three Myanmar Ruling Party Candidates*. Retrieved from <https://www.irrawaddy.com/elections/arakan-army-admits-abducting-three-myanmar-ruling-party-candidates.html>
- Paungsie Facility. (2020). *Youth & Everyday Peace in Myanmar*. Retrieved from [http://www.paungsiefacility.org/uploads/3/0/1/8/30181835/youth\\_paper\\_english.pdf?fbclid=IwAR3OykAK5qHm0wzE1bFtHdvYN7i5tCToyNaIJLdMzb-haQVK6KNLhDmuKXc](http://www.paungsiefacility.org/uploads/3/0/1/8/30181835/youth_paper_english.pdf?fbclid=IwAR3OykAK5qHm0wzE1bFtHdvYN7i5tCToyNaIJLdMzb-haQVK6KNLhDmuKXc)
- Phoo, S. (2020). *Five Electoral Candidates Disqualified in Shan State*. Retrieved from <https://www.bnionline.net/en/news/five-electoral-candidates-disqualified-shan-state>
- Progressive Voice. (2020). *Myanmar's 2020 General Elections: A Vote with No Confidence for Many Ethnic and Religious Minorities*. Retrieved from <https://progressivevoicemyanmar.org/2020/10/26/myanmars-2020-general-elections-a-vote-with-no-confidence-for-many-ethnic-and-religious-minorities/>
- Radio Free Asia. (2020). *Candidates Say Rakhine in Yangon have lost their right to vote*. [Video]. YouTube. Retrieved from <https://youtu.be/8caXWppjplw>
- Radio Free Asia. (2021). *Myanmar's Military Refuses to Rule Out Coup Over Election Fraud Claims*. Retrieved from <https://www.voanews.com/east-asia-pacific/myanmars-military-refuses-rule-out-coup-over-election-fraud-claims>
- The Irrawaddy. (2021). *Myanmar Military Govt Files Cases Against Daw Aung San Suu Kyi, President*. Retrieved from <https://www.irrawaddy.com/news/burma/myanmar-military-govt-files-cases-daw-aung-san-suu-kyi-president.html>
- Tower, J. (2020). *Myanmar Elections 2020: Ethnic Tensions and a Military Hand*. Retrieved from <https://www.usip.org/publications/2020/11/myanmar-elections-2020-ethnic-tensions-and-military-hand>
- Wilson, T. (2010). *The Significance of Myanmar's 2010 Election*. Retrieved from <https://www.newmandala.org/the-significance-of-myanmar%E2%80%99s-2010-election/>
- Xinhua. (2020). *Voting concludes in Myanmar's general election*. Retrieved from <https://www.chinadailyasia.com/article/148682>