



Rain Maker

(Myanmar Election Observation Network)

2018 BY ELECTIONS OBSERVATION REPORT

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Part (1)

1.1. 2018 Myanmar politics and by-elections

After the land-slide victory of National League for Democracy in 2015 general election, 2018 by-election is the second election conducted in Myanmar. NLD government has a lot of challenges and difficulties in administration of transition period and peace building process. In spite of the fact that people have unreliable economics affairs and the government has been in external debts and the foreign currency value is dramatically increased within three year of governance, there have been evidences in changes of legislation, anti-corruption, education and youth development.

There are 19 constituencies in 22 townships for 2017 by-election and 33% of voting process. It is found that only 22% of the voters come and vote in Hlaing Tharyar Township. More, NLD wins 9 seats, SNLD wins 6 seats, USDP wins 2 seats, ANP wins 1 seat and KSNLD wins 1 seat respectively. Comparatively, by-election results of 2017 are 18% lesser than that of 2015 general election.

In 2015, general election was not held in Mine Shu and Kyay Thee townships of Shan State due to instability of regions. However, bi-election is successfully conducted in these areas in 2018 and it states the swift peace process of the government. In fact, there have been different political views, needs, and negotiations that are still discussed in third Pinlong Peace Conference.

Before by-elections, the country has suffered from religious and ethical clashes, currency depreciation, and sky-rocketing. In addition, NLD has been struggling to get support from people due to different situations of ministries of the government.

In 2018 by-election, there are 62 candidates from 24 political parties and 9 independent candidates. In 13 constituencies, there are 9 million of people who are legible to vote and 43% of voters come and vote on 3rd November, 2018 and among those seats, NLD wins 7 seats, USDP wins 3 seats, CNDP wins 1 seat, SNLD wins 1 seat and independent candidate wins 1 seat respectively.

Although these are some misappropriations in by-elections that degrade the image of free and fair election, these should timely be remedied before 2020 general election.

1.2. By-elections and legal framework

Union Election Commission, applying the duties and rights developed in Article (10) of Union Election Law and Article 34(c) of Hluttaw Election Law and Article 16(a) of Principal, announced the 13 constituencies for 2018 by-election on 18th May, 2018. Constituencies of Pyithu Hluttaw are Kanpatlat, Lechar, and Tamwe Township, that of Amyotha Hluttaw constituency (2) is Myitkyinan and constituencies for regional and state Hluttaw are Matupi constituency (1), Tamu constituency (2), Oattwin constituency (1), Thabakekyin constituency (1), Yathaetaung constituency(2), Seikkan constituency (2) and Shan national constituency of Mandalay regional Hluttaw.

Monitoring process of voting list is done in relevant election sub-commission offices based on voting list of 2015 general election and the approved lists of eligible voters are announced in relevant election commission offices of wards and village tracts from 9.7.2018-22.7.2018 and from 1.10.2018-14.10.2018. More, the lists are announced in the villages of relevant village tracts for 14 days as the last time.

According to article 22 of election law, the nomination of candidate is specified from 2nd – 11th July. More, by means of article 25, the objection deadline of candidate is 13th July and the commission monitored the nominated lists of candidate from 16th-26th July according to article 24 and the final list of candidates is announced on 6th August with Form (10) in accordance with principal 35.

The electioneering activities of political parties are to be conducted from 6 am of 3rd September, 2018 to 12 pm of 1st November, 2018 and total number of days is 60.

According to currently enacted election laws and principals, taking actions for misappropriation and contravention are performed. More from 2010 to 2018, according to article of 12(a), six political parties that did not participate in three constituencies and nine political parties are nullified with announcement (1/2013). Accordingly, there are 237 candidates who were accused of failing to submit the general expenditures for election from 2010 to 2018.

1.3. Political parties

There are 62 candidates from 24 political parties and 7 independent candidates and total number of candidates is 69. Among the political parties, there are 6 new parties participating in by election. It is discovered that Daw Khin Ohn, Daw El Bauk Saing and Daw Anday Khaw Nywal from Shan No and Northern Shan National Unity Party and Union National Federal Democracy Party participate in bi-election and Daw Khin Marlar from National Democratic Force Party, Daw Yan Khaung from National League for Democracy, Daw Thet Thet Aye from Arakan National Party and Nam Htway Hmone from SNLD participate as well and the percentage of women participation in by-election is under 10.

USDP criticized Union Election Commission and launched a press release for by-election but the party participates and contests in 10 constituencies.

NLD participates in 13 constituencies and the central election accomplishment committee of the party has delivered supports and guidelines in highest level. Three Chin parties are united and formed China National League for Democracy and encouraged the voters of Matupi and Kanpatlat townships to support Chin National Development Party as well.

Co-operation among the political parties has its highest position for ethnical political parties and it is foreseen as a test among the political parties for 2020 general election and it will also reveal the support of the citizens.

In comparison with the election results of 2017, by-elections results of 2018 are decreased (8%) and so is the number of voters (12%). It cannot be denied that people will have focus on the performance of the government they elected – if the government they support fulfills the commitments they made in electioneering. It is very interesting to know whether the co-operation and alliance of ethnic political parties in 2020 can make well-balanced Hluttaw.

1.4. Preparation for election observation

For by-election monitoring, Rain Maker team that is made up of 148 observers and 10 supervisors specifies relevant constituencies for monitoring process. In preparation for the specification of constituencies to be monitored and assigning the observers depend on the voter population of each area in 13 constituencies. More, 70 observers observe and monitor the electioneering and Election Day in Tamwe and Myitkyin, Myinchin, Pyin Oo Lwin and Thabakekyin. In monitoring and observing 2018 bi-election, matters relating to inclusion of women candidates, their challenges and difficulties, neglect of the participation of the disabled are mainly observed. More, the team also focused on the misappropriation of laws and principles in electioneering activities. Before monitoring and observing the election process, we conducted a capacity building training program for observers who are between the ages of 18-35. The practical trails are also conducted in Myitkyina, Yangon, Lechar, Mandalay and Myingyan in the middle of September. Observers are trained and introduced to rules and regulations to be followed, codes of conducts to be followed by political parties in electioneering, using survey forms and different procedure of a polling station etc. Election monitoring activity in other areas is performed by the partner organizations of Myanmar Election Watch Network.

More, we also specified time frame for 10 supervisors, arranged for survey, submitted reports and prepared and guided for network of information.

We also prepared questionnaires for taking survey for candidates and public talks for electioneering and people who participate in election. There are three types of survey formats we prepared.

More, while monitoring the electioneering activities of political parties, each observer has to observe each candidate from 15 September to 1 November and there are 148 observers after all and they collect data and information. It is agreed that each observer has to attend the electioneering talk of each candidate for three times and we could observe the electioneering talks of female candidate for 128 times and also find that some candidates performed door-to-door electioneering.

We collected information by having interview personally with candidate and the relevant and responsible election commission members relating with role of women and their duties and responsibilities etc.

As a final step, we take surveyed from people- each observer took survey from 10 voters from 15 September to 3 November and we evaluated the results of the survey data we collected from 1400 voters.

In taking survey from people, we consider the constituency area, gender ration of people living in both rural and urban areas for getting accurate and reliable information. So, our findings in by-election are the results of the reports of the observers that are repeatedly monitored and cross-checked.

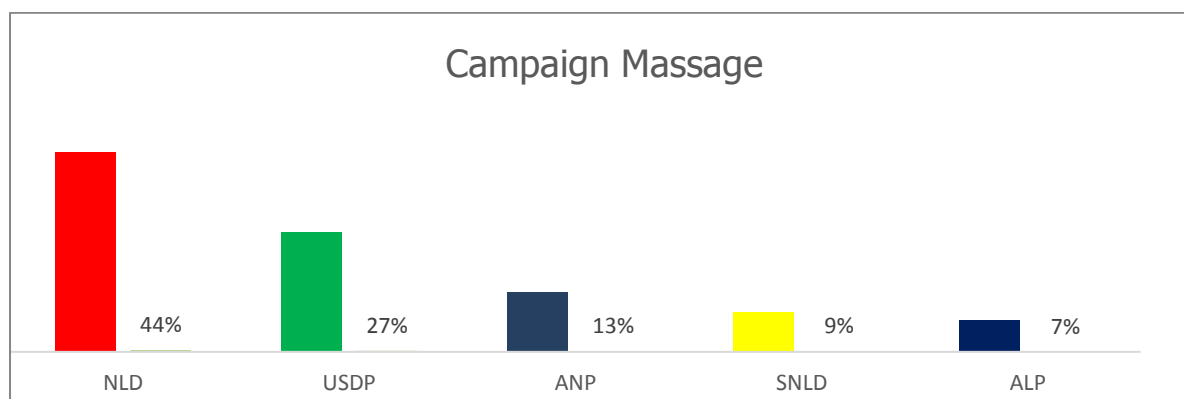
1.5. Observation on electioneering process and political parties

In 2018 by-election, NLD contests for 13 constituencies, USDP for 10 constituencies and other parties for 3 constituencies. Electioneering activities are greatly performed by NLD and USDP from 3 September to 1 November. NLD has much more public talks than USDP. Other parties perform electioneering activities by door- to-door and newly established parties distribute pamphlets to introduce their objectives.

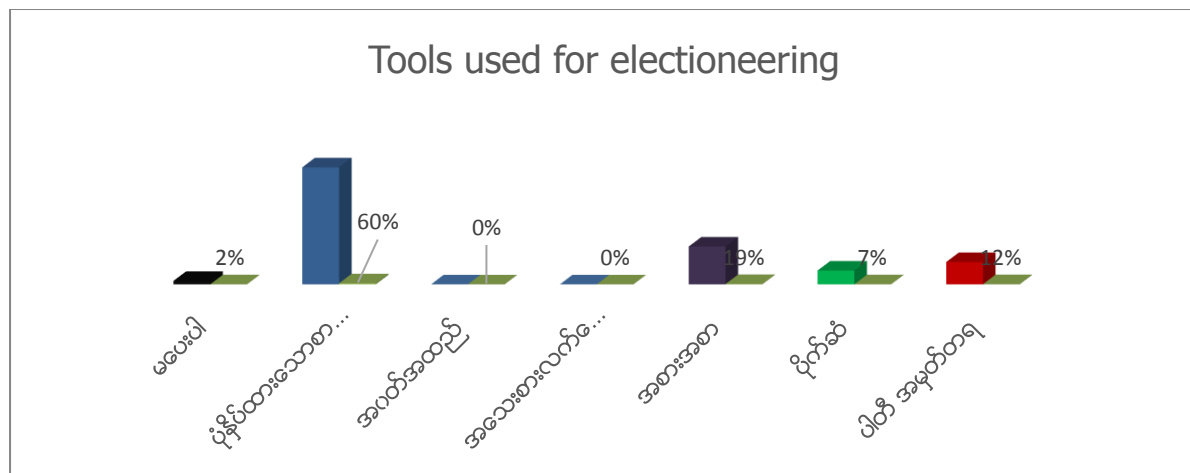
It is found that the electioneering talks have been held for 113 times by USDP and NLD. Electioneering activities are performed by means of parades, public talks and entertainments etc.

Other small parties and independent candidates, expect those candidates from Yathaetaung Township, visit people personally and deliver commitments that mainly focus on the needs of people.

Although the specified expenditures for electioneering process in 100 lakhs, powerful parties have expensed more than the specified amount but they are largely ignored.



In electioneering, the distribution of printed documents is 60% and delivering of party's souvenirs and food is 19%. In addition, delivering party flag, cornice, hats etc. is 12% and 7% of electioneering process is linked with monetary support.



89% of the electioneering area is public areas but 10% of electioneering area is related to religious area. In Myitkyi, Matupi and Yathetaung townships, electioneering activities are conducted in churches and religious buildings.

It is reported that posters, signboards of candidates are destroyed for 7 times and there are some interruptions in electioneering activities in Yathetaung, Myingyan and Thabakekyin townships. In Yathetaung and Matupi twonships, political parties use religion and nationality as medium of electioneering. There are some attacks to the public talks of NLD and ANP according to the confirmation from election commission of Yathaetaung Township. It is also reported that these attacks and disputes are solved by the negotiation of township election commission and negotiation commission.

Currently, U Nay Myo Aung form USDP who won the seat in Seikkan township of Yangon region has been charged by the police according to article (58) of election law but it is not reported to township election commission. So, the commission does not receive any instructions yet.

1.6. Challenges and barriers of participation for women candidates in by elections

While interviewing women candidates, out of 7 candidates, 6 women confessed that they have been nominated due to the women empowerment policy of their parties and profound political experiences. More, they expressed that the objective of contesting in bi-election is to raise women rights, to establish democracy and to support peace process.

In fact, 6 women candidates answered that they did not get any support from other organizations and 1 candidate stated that she received assistance from ethnic women organizations.

Out of women candidate participating in by-election, Daw Anday Khaw Nywel from Union Ethnic Federal Democracy Party says...

‘I think media should speak out without any bias as I see some media write about the interview of the candidate more positively as they have a good relation with him/her and some even cross out the important words in interview. Some voters think that women are not

capable so they do not want to vote her even if she is from NLD. More, women are discriminated in religious role. It should be stopped.'

Daw Khin Ohn, a candidate from Shani (Talaing) and Northern Shan Ethnic Unity Party says,

'As we do not have any plan for parade and entertainment in electioneering, we do not ask permission from relevant authority but we conduct electioneering activity in Naung Nan and Sel Mine villages that include in our constituency.'



Findings on electioneering activities

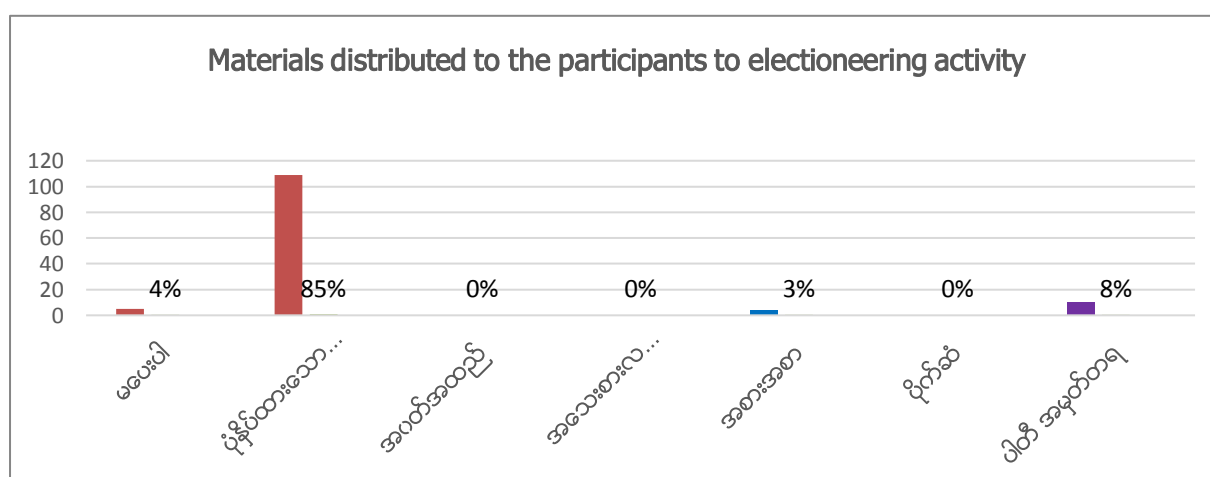


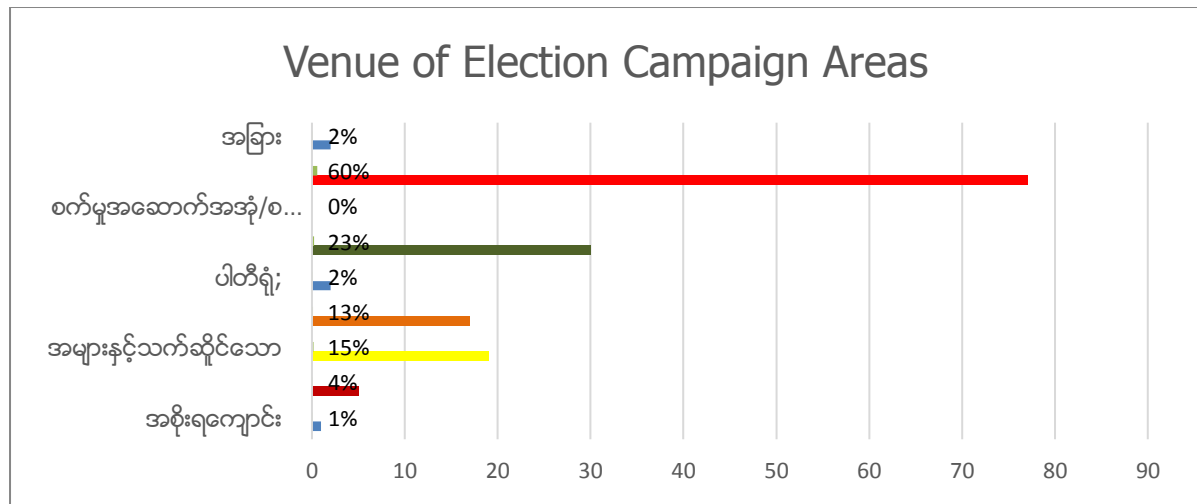
From 15 September to 1 November, We conduct monitoring and observation on the electioneering activities of candidates for 128 times in Tmawe, Seikkan, Thabakekyin, Moegoke, Chanaye Tharsan, Myingyan and Myitkyina townships. It is found that the women candidates of NLD and SNLD have frequent times of parades, public talks and entertainments for electioneering.

SNLD party conducts both electioneering activity and public awareness programs at the same time and the young party members

actively support the campaign and the rest women candidates visit to the homes of voters and ask for voting.

It is found that distribution of printed documents is 85% and 14% of distribution is related to party souvenirs and food.





Electioneering sites are as follow-

1. Party offices and home-visit (60%)
2. Public places (markets, park etc.) (15%)
3. Public talks in party offices (14%)
4. Public talks in public places (markets, parks etc.) (15%)
5. Public talks in religious sites (4%)

However, the electioneering activity led by the leaders of political party is 86% and participation of the young and the businessman is 14% (SNLD). More, 69% of the participants in electioneering talks of women candidates are women respectively.

Major topics delivered in electioneering talks are regional development (49%), ethnic affairs (44%), peace affairs (49%), women rights (35%), democracy (66%), education and infrastructures (30%) respectively.

It is seen that candidates do not misappropriate state-owned assets directly or indirectly for electioneering activities. (100%)



There have been no external interruptions to the electioneering activities of women candidates.

‘Findings of public surveys taken in electioneering activities of women candidates’

In taking survey from people, 70 observers take survey from 400 people from relevant constituencies from 15 September 2018 to 1 November. The survey taken covers electioneering situations, knowing the role of women candidates, gender opinion for leadership, and freedom in voting etc. 46% of the people say that there are electioneering activities in their regions and 13% state that they have seen electioneering activities for many times in their environment. More , 63% of people answer that they know women candidates participating in election.

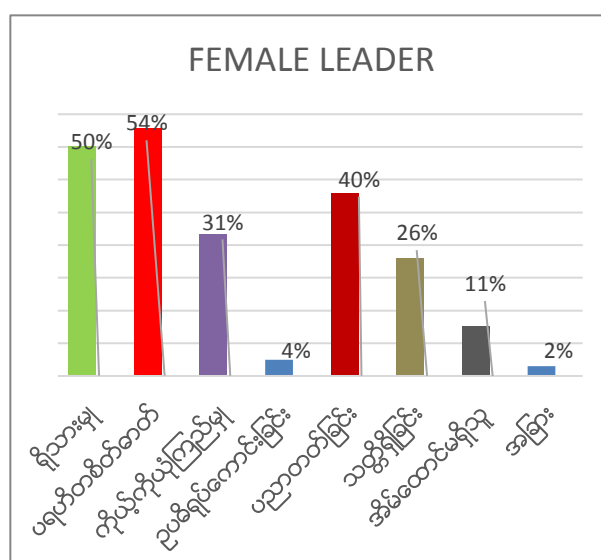
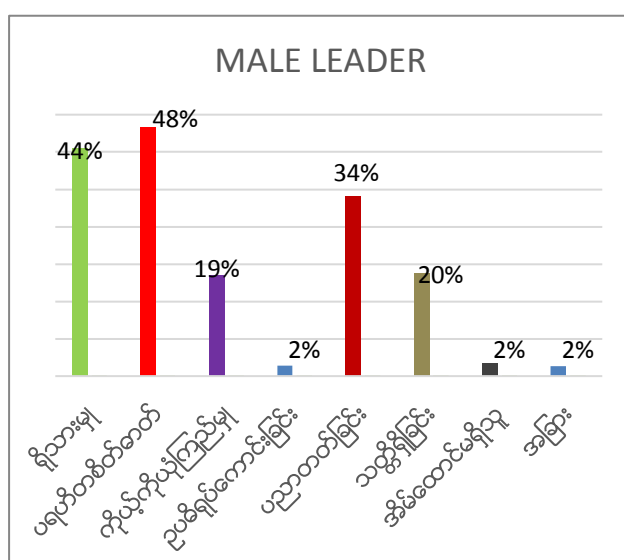


It is interesting to know that 87% of people agree that they have no interruption to attend the electioneering activities of political parties and it also states that people are aware of their rights to vote and elect the candidate.

Similarly 90% of the voters state that they can be able to vote the party and candidate they prefer freely and fairly. But, 9% of voters state that they have family problems so they cannot be able to vote.



It is found that 82% of the voters have desire to vote the women candidates and 8% of voters have no clear decision and 10% do not want to vote them.



In taking survey for the leadership role among men and women candidates, people mainly focus on education, altruism and honesty of the candidates. In addition, they also emphasize on accountability and responsibility. When we ask about their opinions on the ability of women, 39% state that women are capable like men, 48% disagree with the fact and 12% feel indifference.

1.7. Findings of observation on E-day

Monitoring on the polling station management

In monitoring the polling station management of relevant constituencies, 92% of the polling stations are managed according to specified rules and regulations and 8% of polling stations such as those in Myitkyina, Matupi and Yathaetaung townships do not follow rules and regulations specified by Union Election Committee. Announcement of pre-voting lists is 93% and posters for different procedures of voting is shown in all polling stations.



Monitoring the polling station environment

We have been reported on contravention of election rules, disputes, ghost voting, prevention of media from entering into polling stations, inability to vote, putting part's logos and other signs near polling stations on election date for 25 times. It is relatively less than 2017 by-election. More, voting by ID card reduces overuse of voting ID cards and other problems.

Counting process in E-day

There are 148 observers monitoring the vote counting. It is seen that 96% of polling stations close at 4pm and start vote counting according to the principles but 8% of polling stations in Myitkyina, Moegyoke and Tamu



townships close late, give out Form (19) late. Observers have to go back by the request of election commission of Tamu Township as they count votes until 2 pm midnight.

We received direct reports for 25 times concerning with ghost voting, disallowance of media and observers for entering into polling stations, inability of voting and keeping party's logo and other accessories near polling stations. However, it is relatively lesser than the previous election. More, inflation of ballot cards and ghost votes are reduced due to the new system in which each voter can get the number of vote by showing his/her NRC.

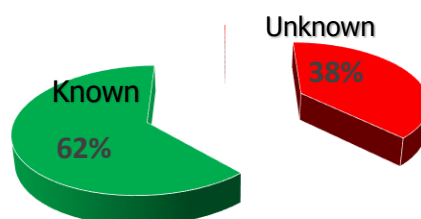
As a special case, in polling station 2 of Pauktaw Village Tract of Oakktwin Township, a woman refused to get ink- mark in small finger because her son's name was not included in eligible voter list. She then stopped the vehicles of Regional Chief Minister and informed the process. The Chief Minister urged Township Election Committee for convenience. The Township Election Committee stated that nothing could be done for anyone who is not included in the list. She observed polling station for 2 hours and she again visited the station for second time.

In polling station of military areas, any observer wearing ID card is allowed to get into the polling station. Rainmaker observers observed 7 polling stations. In Matupi Township, media men are not allowed to enter the polling station in Military Force (304). It is observed that 58% voted in advance and 42% came to polling station for voting.

1.8 Participation of disabled voters on election date

In 2018 By-election, 70 observers are specified to monitor the status of the voting of the disabled voters. Each observer has to monitor 3 polling stations. In observation, respect of the voting right of the disabled, number of the disabled voters, proper arrangement of polling stations for the disabled, and support to the disabled voters are monitored primarily. It is reported that no disabled voters come and vote in polling stations of Moegyoke, Tamu, Pyin Oo Lwin and other constituencies for Shan nationality. In other area, 33 body-disabled voters, 9 deaf-voters, and 6 blind-voters come and vote. More, 87% of people state that they do not find any disabled voter coming to vote in polling stations.

Aware in voter rights for PWD



While asking for knowing voting rights of the disabled, 62% state that they know the rights and 38% say that they do not know them. More, 68% of polling stations are well established enough for convenience of the disabled voter. While asking for the arrangement of polling station for the comfort of the old and the disabled, 58% state that they are satisfied with the arrangement.



Three polling stations arrange for the comfort of the disabled, the old, and the pregnant women. However, in monitoring areas, we do not find any arrangements such as voting card for the blind, sitting places for the disabled and convenient placement of voting boxes etc.

In addition, 86% of people say that they have assistance to voting with the helpers and they find no discrimination by the polling station staff. More, 12% of people state that they do not have any assistance and 2% say that they do not know.



1.9 Electoral law and Dispute in by elections

While studying the interruptions and disputes in by-elections, candidate signboards of Rataethaung and Myin Chan townships are destroyed. Though there are some interruptions in electioneering activities, relevant election commissions and negotiation committees assist to solve these disputes so there have been no peculiar reports for these matters. However, U Nay Myo Aung, the winner of USDP of Seikkan Township has been accused of contravention of election law by article 58(a) by the police. And Daw Nan Htwe Hmom - SNLD party complaint on the campaign finance of Saing Htun Sein from NLD party.

On the by-elections day, it is found that there are two ghost voting process in Myin Chan Township and there happen such problems as inclusiveness in voting list, loose of voting

rights, group voting, seeing people who are not responsible in polling station and closing the door of polling station and vote counting etc.

According to the rules and regulations of union election law, any election disputes shall be reported to Union Election Commission with 45 days of the official announcement of winners in election by the commission.

Interview with township election sub-commissions

We interview the responsible persons of township election sub-commissions and the interview is mainly focused on participation of women, preparation of voting list and other needs.

Participation of women in election commission is found that there is one woman out of 6 people in urban area but there is no participation of women in election commission in such area as Matupi, Kanpatlat, Lechar and Tamu due to poor transportation. Moreover, it is seen that 25% of women commission members are not able to involve in decision making. We also receive suggestions from local people that we should not perform monitoring process in polling station of In Git Yan, Ho Kat, Wine Lone etc. due to security.



Not many people come and check the voting list and modification and deletion of voting list are mostly done in Tamwe, Myingyan, Thabakekyin Townships. There are some disputes in Rataethaung, Myin Chan and Thabakekyin Townships and election commission and negotiation commission have to solve out 8 cases after all.

Township election commissions receive instructions, directives and information from Union Election Commission in time. 35% of commission members state that they find difficulty in working with township administration sectors and they also find difficulty in collecting voting list as well.

Part 2- Recommendations

2.1 Legal Framework

The current Myanmar election law is solely based in chapter (9) of 2018 constitution. Therefore, after general election of 2015, political parties and election watch organizations gather and discuss about the changes in the law but there is no effective way to change the law until now.

In the letter of suggestion to Union Election Commission by Chin Nation Development Party, dated 21st June 2018, it is suggested to conduct union level elections for state and region Hluttaw and to extend the duration of electioneering (from 60 days to 90 days).

According to the monitoring and observation of previous by-election, it is found that the in-charge person of a polling station shall be reliable government staff (article 39-a) but qualified and educated young persons and women of the relevant ward should be appointed as in-charge person of a polling station as well. More, voting list of the households of the military should be included in that of near village and polling station should be outside of the military areas.

In submitting the expenses for electioneering activities, according to article 55/5/73 -90, it should not be more than 100 lakhs (article 74) but it is seen that some powerful and large parties use more than the specified expenses. No investigation is done by the commission yet. So, the maximum expenses for electioneering activities should be changed as well.

For the misappropriation and contravention of rules and regulations by political parties should be pointed out and decided by laws and principles as the solutions of negotiation committee are not that effective. Concerning with the advance-voting, according to article 45/47, number of advance voting should be limited so that there will be few misappropriation in counting vote.

2.2. Election and improved participation of women

In monitoring the women participation in 2018 by-election, we conduct monitoring and observation in all aspects including nomination, electioneering, election day etc. We also get information on difficulties and challenges women candidates find out and our ultimate purpose is to motivate and increase the women participation in election processes.

While interviewing the women candidates, they all agree that it is easy for them to overcome security, finance and other situations but it is difficult for them to make the people understand gender equality. Traditions, religious beliefs and influence of powerful parties are major difficulties for them.

So, it is recommended to conduct training programs on importance of gender equality, leadership skill of women by creating network among the CSOs and relevant organizations.

Likewise, political parties should improve the capacity building of women party members and develop policies relating to women for the readiness of elections.

In addition, there should be laws and legal framework with which women candidates can be able to conduct electioneering activities fairly and freely.

In order to increase the participation of women in electoral process, they should have rights to extend electioneering expenses but within limitation. More, Union Election Commission should encourage political parties to foster gender issues within parties and should invite to the meetings with gender equality.

Current electioneering activities of Myanmar mainly focus on expenses and there have been many weaknesses in active participation of local people and women organizations. More, women organizations do not have long term plan for organizing the women for active participation in future.

2.3. Voter rights for PWD

All-inclusiveness in 2018 by-election means inclusion of both women, LGBTI and the disabled. More, monitoring is also performed for participation of LGBT in by-elections and preparation for the chance of voting of PWD tasks by MILI. In addition, with the co-operation of CAN, training programs are conducted as well.

Myanmar has a lot of people with unreasonable traditional beliefs and superstition, they even jeer people who are different from them and these misappropriations are largely neglected.

After the emergence of law for the rights of the disabled people in 2015, we have long term plans for the living environment improvement of these people.

In monitoring (210) polling stations, there are (48) disabled voters. In 13 constituencies, according to the census collection of UNFPA in 2014, there are 60000 disable people and they are listed into voting lists due to their human rights.

It is wise to consider arranging the polling stations for the comfort of the disabled and easy voting system for them should be developed.

More, campaigns for voting rights of the disabled, pamphlets for awareness, social media campaigns for the right of disabled people should be performed when an election is drawing close.

2.4 Youth and election

On 14th October 2018, there is a training program for the young people concerning with by-election in Tamwe Township for the first time and it is seen that most of the young people are

not very much interested in election and the number of young voter is 25% .The young people (from age 18-24) living in urban are in working environment.

There are about 6 million young people who are going to be 18 in 2020 and it accounts for 20% of the eligible voters in general election and citizen and voting rights campaigns should be conducted regionally.

Immigration department should perform field activities for age verification and national IDs and the relevant village tract and ward election sub-commissions should work closely with immigration department for voting list. Our team will perform youth campaigns for those young people who are going to vote for the first time and will be co-operative with other organizations for promoting duties, responsibilities and rights of citizens.

Elections in Myanmar are usually implemenetd in November and it is the time for examination in universities of distance education. It makes the youth difficult to participate in election. Therefore, in 2020, the election time should be changed for the availability of the young people.

In order to implement free, fair, transparant and all inclusive election, the most important foundation of a democratic society, people, government, impartail Union Election Commission, and election watch organizations that can provide impartial and accurate information to peopl and media have to work ethically and principally.



Acknowledgement

We would like to express our sincere thanks to all volunteer observers who have been very supportive for monitoring and observing activities of by-elections, partner organizations of Rainmaker, those who travelled together with us and who supported us patiently, vehicle owners, trainers, women candidates from political parties who provide answers patiently, local organizations, local people, voters, responsible persons from election committees and members and other supporters. More, thanks are due to the NDI (National Democratic Institute for International) that supports is technically and financially for monitoring the women participation in by-elections.

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