

Constitution Brief

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About the series

These briefs are associated with the International Institute for Democracy and Electoral Assistance (International IDEA), Gender Equality Network (GEN) and Triangle Women initiative to contextualize the 2016 Constitution Assessment for Women's Equality (CAWE) tool, which provides comparative examples from around the world for inspiration and information on good practice for anyone who is determined to contribute to gender-inclusive policy and legislative developments in Myanmar.

About International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with a mission to support sustainable democracy worldwide.

Inclusion and Gender Equality in Post-Coup Myanmar

Strategies for Constitutional and Democratic Reform

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Summary

This brief explores inclusion strategies for constitutional and democratic reform in the post-coup context of Myanmar. It highlights the challenges to gender equality and inclusion in Myanmar, including the role and demands of the pro-democracy actors in Myanmar's post-coup political landscape. It analyses how inclusive Myanmar's legitimate interim government institutions are and what the revised Federal Democracy Charter states about gender and inclusion. It is one of a four-part series that also includes Brief No. 1, *A Guide to Being an Effective Advocate for Gender Equality*, Brief No. 2, *Substantive Equality and Women's Representation in Public Institutions*, and Brief No. 3, *Preventing Gender-Based Violence in Myanmar*, which were written before the 1 February 2021 coup in Myanmar.

1. What are the challenges of inclusion and gender equality in Myanmar?

Myanmar is one of the most ethnically diverse countries in the world, with a traditionally conservative, patriarchal and hierarchical society. Accordingly, questions related to inclusion have been the most complex challenges affecting specific groups in the country. Women, youth and ethnic minorities are among those most affected and marginalized by formal political processes, a problem exacerbated by decades of autocratic military rule. This is due to multiple barriers, including discrimination that affects the right to citizenship, resulting in limited influence on or complete exclusion from decisions that affect their lives.

Women make up over half of Myanmar's population, yet significant structural, institutional and legal obstacles to women participating fully and effectively in political processes remain. Social dynamics are marred by discriminatory norms, as gender remains one of the key determinants of access to rights and defines one's opportunities. Paternalism and conservative values typically assign women roles in the domestic sphere, largely excluding them from the public sphere, while societal beliefs dictate that men should take a leading role in both the household and community (Parmar 2021a). For instance, despite

major progress made during Myanmar's 2020 general elections, with more women elected as members in legislatures (16 per cent) than in the 2015 elections (13 per cent), persistent barriers, including patriarchal values defining gender norms or the lack of legal and institutional measures facilitating women's participation, remain in place.

In addition, Myanmar has no hate crime legislation, no legislation to protect the rights of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) people and no recognition of sex change. Same-sex sexual acts have been illegal in Myanmar since 1861. LGBTQI people and women with disabilities face double discrimination and compounded marginalization. Sexual harassment, molestation and torture of LGBTQI people are common, especially during arrests. Transgender people can be arrested for expressing their gender identity openly, as the Burmese judicial system interprets this as a form of concealment for the purpose of committing a crime (RFSL 2021).

Youth (aged 15–35) constitute 33 per cent of Myanmar's population, with a national median age of 27. Although youth in Myanmar have historically, and since the military coup on 1 February 2021, been at the forefront of the fight against repression and dictatorship, they have remained significantly underrepresented in political processes and institutions. This is due to multiple barriers, including sociocultural norms and perceptions, limited political awareness, financial or socio-economic barriers, or a lack of legal and institutional measures facilitating youth inclusion. During Myanmar's 2020 general elections, youth (aged 35 and under) won only 8 per cent of seats in the legislatures.

Ethnicity is a complex and politically sensitive issue in Myanmar, where ethnic identity, which is linked with citizenship, has been a key determinant of access to basic human rights and the ability to participate in political processes (Parmar 2021b). The Bamar people make up the majority of the population, while ethnic minorities compose 30–40 per cent of the population (Myanmar Centre for Responsible Business 2014).¹ The Bamar people have always dominated the central government, representing the majority of formal institutions. Ethnic minority groups that have seen the institutionalization of a project of 'Burmanization' have long suffered grievances about political rights, including the right to self-governance; limited resource sharing; discrimination; and suppression of religion, language and culture (Parmar 2021b). This has been inextricably connected with decades of armed conflict between the military and several ethnic armed organizations (EAOs) in their quest for more autonomy and self-determination. The Rohingya people, an ethnic and religious minority group who were excluded from the '135 national races' in Myanmar's 1982 Citizenship Law, and stripped of their citizenship and consequently their right to vote or run for elections, were subject to gross human rights violations, genocide and mass displacement in 2017. The question of how they should be included in political life remains one of the most sensitive issues for Myanmar.

In 1935 Myanmar was among the first countries in Asia to grant women the right to vote (Latt et al. 2017) and it committed to ensuring the full and equal participation of the people in political processes by endorsing the Beijing Declaration and Platform for Action in 1995 and ratifying the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997. The country has also made numerous commitments to the protection of human rights in the past decade, particularly on inclusion, diversity and gender equality, through the ratification of several international human rights instruments² and the development of national policies.

Before the 2021 coup, encouraging government policies included the National Strategic Plan for the Advancement of Women (NSPAW), which aimed to advance gender equality and women's rights at the highest levels of governance, and women's equal participation in decision-making and leadership across all levels of society, and the National Youth Policy, which reiterated the

1 In 1974 the country's landmass was divided into seven divisions (Tanintharyi, Yangon, Ayeyarwady, Bago, Magway, Mandalay and Sagaing), and seven states were ethnically delineated (Chin, Kachin, Kayah, Kayin, Mon, Rakhine and Shan, which refer to ethnic minorities that are the relatively largest groups in the population of each state, but not necessarily a majority).

2 Myanmar ratified the International Covenant on Economic, Social and Cultural Rights (CESCR) in 2017, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OP-AC) in 2015, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-SC) in 2012 and the Convention on the Rights of Persons with Disabilities (CRPD) in 2011 (OHCHR n.d.).

importance of youth participation in developmental and political processes, and reflected a government commitment to advancing the welfare and development of the country's youth. These commitments remained largely on paper and did not lead to tangible results. As a result of the coup, they became ineffective and largely irrelevant.

2. What have been the roles and demands of women, youth, and ethnic minorities in Myanmar's post-coup civil disobedience movement?

The unconstitutional coup and seizure of power by the Myanmar military on 1 February 2021 and the democratic revolution that followed, with the people rising through mass protests, the civil disobedience movement (CDM) and labour strikes, have shifted Myanmar's political landscape. This has had significant implications for inclusion, diversity and equality, particularly with regard to women, youth and ethnic minorities.

The CDM is an apolitical and broad-based democracy movement based on fundamental freedoms. It includes civil society actors, government civil servants, universities, students, and even private firms such as factories and copper mines. The CDM, which has acted largely autonomously from established political parties or organizations, represents a new and powerful source of political mobilization that has been especially appealing to youth (International IDEA 2021).

Myanmar's youth, notably Generation Z, drove mass protests nationwide, mobilizing strong public support across communities. Healthcare workers and civil servants across the country launched a national civil disobedience campaign, with workers from dozens of state-run hospitals and institutions initiating a labour strike. The CDM gained unprecedented public support, with country-wide demonstrations demanding that the results of the 2020 general elections be respected and the National League for Democracy (NLD) leadership be freed. Youth protesters initially focused solely on demanding the release of State Counsellor Aung San Suu Kyi and other elected members, but their demands gradually consolidated into the revocation of the 2008 Constitution and the establishment of a federal democratic union. They reject dictatorship and demand the restoration of democracy, which is linked to fundamental freedoms, including freedom of speech, physical movement, and expression through art and culture. They envisage a more equitable society, increased recognition by political leaders and space to be able to meaningfully engage in political processes, including those led by the interim government institutions. In the longer term, youth demand accountability and an end to impunity, with a process of transitional justice to address atrocities committed following the coup and in Myanmar's long-standing conflicts. Although they are not explicit about specific post-coup policy priorities, they have been advocating increased quality of education, opportunities for vocational training and employment, and increased civic and political engagement to influence policies.

General strike committees, composed of party members from 25 groups, including the Saffron Monks network and the NLD, and general strike committees of nationalities were formed to focus cooperation across the emerging opposition movement and in the private sector. The general strike committees of nationalities defined objectives that all stakeholders and groups should be able to embrace: these are to release political detainees, abolish the dictatorship, abolish the 2008 Constitution, and build a federal democratic union based on equality and the right to self-determination (Wah 2021).

Women, who have represented an estimated 60 per cent of the protestors (Khan 2021), play a significant role in the CDM. The CDM was initiated by the staff of the Ministry of Health, public health doctors and nurses, mostly women, expanded across the civil service, and spread to factories and the private sector. Female garment workers and union leaders in particular played a leading role in demonstrations and the popular defence forces (PDFs) formed by citizens. Women's human rights defenders and women's civil society organizations (CSOs) have demanded a return to democratic rule and lobbied the international community to condemn the coup. The active participation of women led Myanmar's military to use gender-based tactics to intimidate women, with several women activists being detained and many others forced into hiding. Facing increased risks, women's networks have formed within the interim National Unity Consultative Council (NUCC), including the Women Advocacy Coalition (WAC) Myanmar, with the aim of ending the military dictatorship and building a gender-responsive federal democracy. The Sisters2Sisters

solidarity movement is another recently formed women's network that aims to raise awareness and demand accountability for the Myanmar military's systematic sexual abuse and oppression of women activists and protesters.

Women envisage the establishment of a genuine and inclusive federal union, which they also see as a solution addressing the root causes of unresolved conflict. They demand more space in political processes and decision-making, including in the democratic reform and peace process led by interim government institutions. Women also have specific policy priorities, including addressing women's roles being traditionally tied to the domestic sphere, women's exclusion from public spaces and oppression of women, and eliminating gender-based violence. They demand new laws, policies and effective mechanisms to address these priorities.

Although many LGBTQI people openly joined the protests with rainbow anti-coup signs, many more keep a lower profile when supporting democracy so that they stay safe. The police in Myanmar have a history of verbal, sexual and physical abuse of LGBTQI people. In the current environment of police and military impunity, the threat of arbitrary arrest for being CDM protesters has increased significantly for LGBTQI people and the safe reporting of violations and violators is increasingly difficult. The younger generation of LGBTQI citizen protesters come from different ethnic minorities and regions of the country, expanding the nascent LGBTQI movement beyond the big cities of Yangon and Mandalay. Since the coup they have united across the country to advocate for democracy in the CDM (Poore 2021).

The nationwide protests also brought together people from different ethnicities (the Bamar people and ethnic minorities) and religions (Buddhists, Christians, Muslims and Hindus) to fight the military dictatorship. Ethnic minority/nationality groups, including groups such as the Rohingya people, who were disenfranchised and not recognized by the previous government, also declared their opposition to the coup and support of the Committee Representing Pyidaungsu Hluttaw (CRPH). Ten EAOs that had signed the 2015 Nationwide Ceasefire Agreement (NCA) no longer negotiate with the military. They declared their support for the CDM and public protests, declared the civilian democratic forces the legitimate government and have demanded that the military immediately cease human rights violations and unconditionally release all detained people.

Considering the long-standing conflict between the EAOs and the military, and the grievances of certain ethnic minority communities against the Bamar majority group and the previous NLD-led government, the coup has been an opportunity for ethnic communities to set their differences aside and unite to fight a common enemy. The new alliance between the ethnic communities, including the EAOs, and the pursuit of a common goal of building a federal democracy have shifted the paradigm of Myanmar's political landscape, with the inclusion and equality of these diverse groups at the centre of democratic reform and state building.

3. What does the Federal Democracy Charter say about inclusion and gender equality?

The Federal Democracy Charter (FDC), first issued by the CRPH on 2 April 2021, defines its goal and objective as building a Federal Democracy Union where democracy is exercised, and equal rights and self-determination are guaranteed (FDC 2021). It lays out the Federal Democracy Union's vision and values, guiding principles and the steps for an implementation process or political roadmap. The FDC identifies democracy rights, gender equality and basic human rights, equality and self-determination, collective leadership, diversity, social harmony, solidarity and non-discrimination, and protection of minority rights as Federal Democracy Union values that must underpin all decisions and policies by the interim government institutions and be enshrined in the future constitutional framework.

The FDC also recognizes the role of all key stakeholders in implementing its vision, stating that elected parliamentarian representatives, political parties, the CDM, strike committees, CSOs, including women's and youth organizations, and EAOs collaborate and participate to collectively implement the vision of this charter (FDC 2021).

The People's Assembly, an all-encompassing forum bringing together all stakeholders participating in the democratic resistance, including elected members of parliament, ethnic resistance organizations (EROs), a variety of civil society groups, political parties and state-level committees,

took place from 27 to 29 January 2022 and approved a revised FDC. The revised FDC contains a set of expanded fundamental human rights and social rights provisions, including gender equality and children's rights, and a prohibition of discrimination on any grounds, including race, faith, gender, disability and sexual orientation. It also acknowledges the universal right to education and to education in ethnic languages, and collective rights, such as the right to language, historical heritage, customary practices, and the protection and preservation of national identities. It also establishes several commissions tasked with working on inclusion, including the Commission for the Protection and Preservation of Minority Rights, the Commission for Women's Rights and Gender Equality, the Commission for People with Disabilities and the Youth Commission.

The amended FDC guarantees that all ethnic minorities enjoy equal socio-economic and cultural rights. It also highlights 'special rights' in the form of affirmative action for ethnic minorities and women: significantly, it states that a quota system of 30 per cent of women on different levels of decision-making mechanisms in future democratic institutions must be practised. The revised FDC also highlights that affirmative action for ethnic minorities should particularly focus on increasing their opportunities for political participation and that affirmative action should apply in all sectors. The definition and implementation of affirmative action mechanisms, such as legislative quotas, will require further detailed discussion and weighing of constitutional design options among the democratic actors involved in Myanmar's ongoing constitution-building process.

The above-mentioned rights in the revised FDC will need to be translated into more specific constitutional provisions to be operationalized in the framework of the political roadmap outlined by the revised FDC, which includes an interim phase in which the NUCC, acting as an interim constitution-making body, will prepare a transitional constitution based on the amended FDC, and a future transitional phase leading to a permanent constitution as a result of a constitutional assembly and national referendum.

4. How inclusive are the interim government institutions: the National Unity Government (NUG), the Committee Representing the Pyidaungsu Hluttaw (CRPH) and the National Unity Consultative Council (NUCC)?

The unconstitutional military coup rendered the 2008 Constitution defunct and inapplicable. In parallel with the rise of the people, interim government institutions emerged in defiance of the coup and with the explicit objective of restoring a genuine democracy. On 5 February 2021 elected lawmakers formed the CRPH with the declared support of 80 per cent of the elected MPs from the 2020 general elections (Committee Representing Pyidaungsu Hluttaw n.d.). Committees representing the elected legislatures at regional level were also formed. Based on the democratic mandate bestowed on the elected MPs by the people in the 2020 general elections and under the terms of the FDC, on 16 April 2021 the CRPH, in a coalition of democratic forces in Myanmar, formed the National Unity Government (NUG) as an interim government that included stakeholders from the country's ethnic-based organizations and civil society experts. The CRPH now has 20 members, of whom three are women, including one of the three Secretariat Members.³ Three of the CRPH members are youth (aged 35 and under) and five are from non-Bamar ethnic minorities. The CRPH currently has eight designated committees covering different policy areas.⁴

The NUG has a dedicated Ministry of Women, Youths and Children Affairs (MOWYCA) and, for the first time in Myanmar's history, a Ministry of Human Rights. Its commitment to inclusion and gender equality is also visible in the composition of the ministries, with the appointment of women as Union ministers to the MOWYCA, Ministry of Foreign Affairs and Ministry of Commerce, and the appointment of Myanmar's first LGBTQI representative to the Ministry of Human Rights. The NUG also appointed minority ethnic representatives for key positions such

3 Information compiled by International IDEA's MyConstitution programme (unpublished) from the CRPH website, <<https://crphmyanmar.org>>.

4 The eight committees are: Legal Affairs Committee, Member of Parliament Scrutiny Committee, Financial Committee, Public Affairs Committee, Federal Affairs Committee, Security and Defence Affairs Committee, International Relations Committee, and News and Information Committee.

as the Vice President, Prime Minister, and ministers of Federal Union Affairs and of Natural Resources and Environmental Conservation. Of the NUG's 37 top positions, which include the President, Acting President, Prime Minister, State Counsellor, and Union ministers and deputy ministers of 17 ministries, 9 (24 per cent) are held by women, a record in Myanmar's history (Myanmar, Republic of the Union of, National Unity Government n.d.).

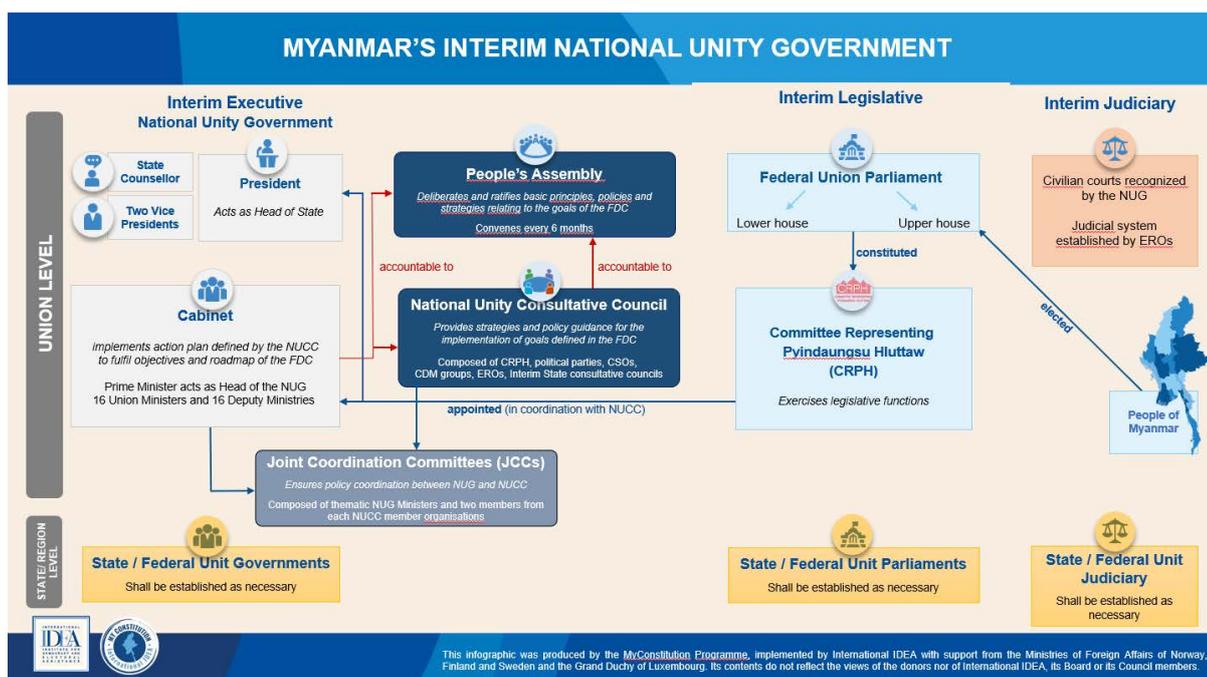
In relation to the FDC's vision of inclusion and equality, the NUG acknowledged past injustices committed against the Rohingya people and has presented public apologies for not defending the Rohingya communities in 2016/2017 when the military committed gross human rights violations in Rakhine State. The NUG also released a policy statement on 3 June 2021 recognizing the Rohingya people's right to citizenship, suggesting that the country's 1982 Citizenship Law, which in effect stripped them of their citizenship, should be repealed in line with the guiding principles for a future constitution as stipulated in the FDC. The Policy Position on the Rohingya in Rakhine State stresses that 'all ethnic groups who are native to the Union have full enjoyment of individual rights held by individual people and collective rights held by ethnic groups' (NUG 2021a). According to the policy, the new Citizenship Act will base citizenship on birth in Myanmar or birth anywhere as a child of Myanmar citizens. The NUG commits to zero tolerance of discrimination and to 'seek justice and accountability for all crimes committed by the military against the Rohingyas and all other people of Myanmar throughout our history' (NUG 2021a).

On 20 August 2021, the NUG also announced that it has lodged a declaration with the International Criminal Court (ICC) accepting the court's jurisdiction with respect to all international crimes committed in Myanmar since 2002 (NUG 2021b). This was a milestone considering the previous position of the NLD-led government, which, under the influence of the military, had seen itself as compelled to defend Myanmar from charges of the International Court of Justice (ICJ) against the state for persecution of its Rohingya population amounting to genocide. The NUG's commitment to building an inclusive Myanmar through recognizing the differences of its diverse people and working with all groups in Rakhine State to develop and implement inclusive policies is also evident in several statements made by the NUG and its representatives (NUG 2021c).

The NUCC is made up of 33 member organizations, including representatives of the Parliament/CRPH, political parties, EROs, CSOs, CDM strike committees and state/federal unit consultative councils. The CSO and CDM representatives work on gender equality and inclusion, while the EROs, ethnic parties and state/federal unit consultative councils also represent Myanmar's ethnic minority communities. The NUCC is a key body for inclusion, as it is the only interim body for which the FDC provides an explicit commitment to including a wide array of pro-democracy stakeholders. A Federal Union Constitutional Affairs Commission established under the NUG Ministry of Federal Union Affairs plans to enable broad public consultations, including with people from different ethnic minorities, women's CSOs and youth leaders.

On 27–29 January 2022 the 388 delegates to Myanmar's first People's Assembly convened by the NUCC met online and elected a five-member Presidium, including the Assistant General Secretary of the Confederation of Trade Unions Myanmar (CTUM), the only woman and youngest person elected to the Presidium (Connell 2022). The People's Assembly is a platform of the five groups represented in the NUCC, including women's groups, and CSOs working with youth and ethnic minorities (see Figure 1).

Figure 1. Stakeholders involved in the negotiations over the FDC



Source: International IDEA, MyConstitution programme, 2022.

5. Strategies to enhance the inclusion of women, youth and ethnic minorities in constitutional and democratic reform

The subsequent sections outline strategies for inclusive and equal political participation and election reform that the interim government institutions can consider.

5.1 Strengthening inclusive political participation

Political inclusion through inclusive dialogues/processes, and institutional structures/mechanisms

Myanmar's democratic reform should focus on ensuring inclusive political participation through open dialogue and consultations in which all groups, but especially women, youth and ethnic minorities, are fully engaged in political processes led by the CRPH, NUG and NUCC. Inclusive political participation is not only a fundamental political and democratic right, but also crucial to building stable and peaceful societies and developing policies that respond to the specific needs of different groups. Women, youth and ethnic minorities must be engaged in all processes and have a say in operationalizing the FDC, defining the roadmap towards democratic reform, drafting the new constitution, reviewing laws and formulating policies. In this sense, the NUG must work closely with the NUCC to ensure the voices of civil society and the disadvantaged groups are heard and integrated. The NUG and CRPH must also ensure the buy-in and cooperation of ethnic minorities and EAOs, as this would be key to a successful revolution and defeat of the military coup.

Building on existing women's caucuses in Myanmar, including those strengthened during the 2020 general elections, the CRPH and NUG, in collaboration with women's networks such as WAC Myanmar, could consider establishing a women's caucus/council to identify, formulate and lobby for the implementation of priority policy areas. Experiences from other countries show that caucuses can influence a parliament by cooperating across party lines and collaborating with other gender equality advocates. In Serbia, the Women's Parliamentary Network, which includes women MPs from all parliamentary parties, succeeded in persuading parliament to adopt a law on gender-responsive budgetary procedures and withdraw an unsatisfactory new law on equality between women and men (UNDP 2016).

Similarly, the CRPH and NUG can build on the work of the Youth Affairs Committee (YAC) (40 per cent government and 60 per cent youth representatives), which was established through the youth policy drafting process and became Myanmar's first youth representative legislative body

recognized by the government in 2018 (Search for Common Ground 2018). Another example is Sri Lanka's Youth Parliament, consisting of 335 members (elected by 500,000 members of youth organizations and clubs nationwide), which meets twice a month. Thirty youth ministers engage with national ministries and have working space there, and youth parliamentarians can enter the committees of the national parliament (UNDP 2013). A similar structure can be considered when collaborating with the CRPH committees and NUG ministries for youth to make their voices heard effectively in the democratic reform process.

Special commissions tasked with advising on and promoting the well-being of historically underrepresented ethnic minorities, notably the Rohingya people, may also be necessary. For example, the Constitution of Nepal establishes the National Inclusion Commission, and special commissions representing the interests of the Adibasi Janajati, Madhesi, Tharu and Dalit peoples, Muslims and women (Parmar 2021b).

Considering the NUCC's inclusive membership and decision-making based on consensus, it should be able to ensure the voices of underrepresented groups are heard. Still, advancing the interests of ethnic minorities (e.g. the Rohingya people) and other disadvantaged groups may require additional efforts, institutional structures or mechanisms. The NUCC could consider using its monitoring mechanism to hold the NUG and CRPH accountable for achieving the inclusive goals of the revised FDC by establishing a clear results framework, including targets and indicators. Data collection and disaggregation must be enhanced considerably for this purpose.

Key legislative amendments

One of the key issues that determines an individual's right and ability to participate in political activities is citizenship. Therefore, it is essential to review the 1982 Citizenship Act and the way it has been applied in practice, as stressed by the NUG. The NUG must annul the obsolete and unjustifiable list of '135 national races' referred to in the 2008 Constitution and undertake inclusive consultations to identify steps to formulate a new citizenship law that would guarantee inclusion of all groups in Myanmar. This should also consider the historical 'Burmanization' that forced many non-Bamar people to change their ethnic affiliation to be part of the majority for increased political, economic and social security. To find a solution to the question of giving full citizenship rights to and ending the discrimination of the Rohingya people, it is vital to include all communities affected, notably the Rohingya and Rakhine communities, in the consultations to ensure their positions are reflected in the drafting of a new citizenship law.

The lack of disaggregated and reliable data remains a fundamental challenge to political participation in Myanmar, which has made it difficult to track and monitor the levels of participation and representation of disadvantaged groups. In this sense, it would be opportune and beneficial for the CRPH and NUG to review and amend laws in a way that would require all public institutions to collect long-term data disaggregated by gender, age group and ethnicity to enable analysis of political participation and representation, and to facilitate measures aimed at strengthening inclusion and equality.

Build the capacities of the CDM/CSOs to define priorities and effectively engage in political processes

Another important element to promote inclusive political participation is to build the capacity of civil society actors. The CDM that emerged following the military coup consists of diverse groups representing all of Myanmar. Women and youth have mobilized en masse, and ethnic minority communities have shown solidarity. This experience has illustrated the influence of the people's movement on Myanmar's political discourse and dynamics in an unprecedented way. However, the CDM is an unstructured group and has generally been a movement with no standout leaders.

The formal inclusion of CDM representatives in the NUCC means they are part of all discussions and decision-making related to future democratic reform. Nevertheless, considering the diverse groups it represents, it is important that the CDM can define its priorities and, furthermore, that those representing the CDM within the NUCC are able to articulate demands and influence discussions, including when defining the roadmap towards democratic reform and drafting the new federal constitution. The same level of diversity and inclusion must be reflected in any subnational constitutional drafting processes.

In International IDEA interviews with CSOs and other CDM representatives, women identified priority areas such as formulating laws and policies, and establishing mechanisms to eliminate gender-based violence; and, more broadly, to establish a gender-responsive federal constitution that guarantees women's rights and inclusive language, and creates institutions and processes that protect and promote the substantive equality of women and men. Youth want justice and equality, but they need to further define their thematic priorities so that these issues can be included in future constitutional frameworks. Ethnic minorities demand recognition of their diversity and more political autonomy at state and regional levels. They must also define and make explicit their policy priorities and draw up concrete ways to implement these new principles in practice.

To participate and be represented in political institutions, processes and decision-making, all groups concerned must know their rights and have the necessary knowledge and capacity. Youths' historical and recent engagement in civic and political activities in Myanmar illustrates that many do not need to be motivated, but rather need support to be able to effectively participate in political processes and influence decision-making. Many youths have often lacked the capacity or self-confidence to effectively engage with decision makers and lobby for their viewpoints in policy processes, owing to the education system in Myanmar, which traditionally has not promoted critical and independent thinking skills (Hald and Smith 2018).

Increasing civic literacy on democratic principles and practices and inclusive political participation can be effective instruments for civic and political empowerment. The NUG's Ministry of Education, in collaboration with civil society actors, could develop and implement an interim civic education programme targeting youth leaders (both women and men from all ethnicities) that would enhance knowledge of and skills in democratic principles and state building, and to enhance critical and independent thinking. Strategic considerations should be made to use online and social media spaces to share experiences and perspectives between youth, given their active digital engagement and the post-coup context.

In the longer term, the Ministry of Education should consider reviewing the national education curriculum, incorporating civic literacy and introducing new teaching methodologies through which children and youth can be trained on critical thinking in their early years of education. In addition, the choice of languages used in all education programmes should be carefully assessed to guarantee access to information for all, including minority ethnic communities.

5.2 Enhancing inclusive electoral processes through electoral reform

Although the CRPH and NUG may not have begun discussions around electoral reform, it is critical to start considering issues related to political participation and inclusion in electoral processes, as the new constitution for a federal democracy would have to define elements related to the electoral legal framework. Between 2015 and the coup, the electoral legal framework did not change significantly despite a promising legal reform initiated by the Union Election Commission (UEC) in 2016. The framework lacked measures to actively promote the participation and representation of women, youth or other disadvantaged groups (International IDEA 2021). As Myanmar envisages a transition to a federal democracy, it is both timely and critical to review the previously applied electoral legal framework and in particular the electoral system. Electoral reform should contribute to a stronger democracy by adopting gender- and inclusion-responsive laws, policies and practices that would lead to more diversity among candidates and elected members of legislatures, with an increased number of women, youth and ethnic minorities, which would be more representative of Myanmar's demography. It should also strengthen gender equality and inclusion within the electoral administration and electoral stakeholders (e.g. political parties, CSOs, voters), which would guarantee the full and effective participation of all actors at national and subnational levels. As Myanmar currently has no legitimate electoral management body (EMB), with the UEC that existed under the 2008 Constitution replaced by a military-appointed body that has no legal authority or democratic legitimacy, an interim EMB that enshrines the principles of inclusion will be needed to support the restoration of democracy in Myanmar (International IDEA forthcoming 2022a).

Electoral legal framework

Myanmar's electoral legal framework has lacked measures to actively promote the participation of women, youth or other groups such as ethnic minorities. No affirmative measures such as legislative quotas that could help increase the representation of women or youth among elected members were included. The 2008 Constitution only granted nominal equality, and the election laws only regulated non-discrimination, which provided that citizens are eligible to vote and stand for election irrespective of sex and religion. However, certain provisions in the 2008 Constitution could be considered affirmative action towards ethnic minorities, such as the special election of ethnic affairs ministers at state and regional levels (International IDEA 2021).

It would be important for the interim government institutions to identify barriers specific to women, youth and ethnic minorities that prevent their full and effective political and electoral participation, and to prioritize reform areas accordingly. They must review the electoral legal framework and advocate for changes to achieve increased participation and representation of women, youth and ethnic minorities. This could include reviewing qualifications to run for a seat in the Union Parliament and considering lowering the eligibility age, reviewing the political finance regulations and reducing registration fees for youth/women politicians running as candidates. Some countries, including Austria, the Democratic Republic of the Congo, France and Kenya, have lowered the required minimum age for candidates, to support greater inclusion (ACE Project n.d.). Other countries, including Albania, France, Georgia, Mexico, the Republic of Moldova and Panama, have adopted gender-targeted public funding for political parties with the objective of promoting women's participation (ACE Project n.d.; Parmar 2021a). The previous legal framework of Myanmar limited campaign finance to private contributions, making it more difficult for women and younger candidates to access funds and compete equally with men or older candidates. Therefore, an adoption of the use of public funding could provide financial incentives to political parties, with increased funds given to parties fulfilling the established percentage of women or youth as candidates, party members or leaders.

Last, temporary special measures that can accelerate inclusion, such as legislative quotas mandating parties to field a minimum per cent of women/youth candidates, ought to be adopted in line with the 30 per cent quota stipulated by the FDC. A 30 per cent share in decision-making bodies is generally assumed to be the critical mass, that is, the level of women's representation in elected office at which they can begin to influence policy and laws, potentially move the gender equality and women's empowerment agenda forward, and make a substantial difference in politics (OSCE/ODIHR 2014). However, working out how to make such a quota compatible with the electoral system (see 'Electoral system' below) may require further thinking and consultations. More than half of the countries in the world use some type of quota to increase women's representation in government structures, which is also in line with CEDAW and the UN's Sustainable Development Goals (ACE Project n.d.; Parmar 2021a). For example, Sri Lanka's legal candidate quota system requires that no fewer than 25 per cent of the total members in each local authority be women (International IDEA 2022b). This incentivized political parties to put up women as candidates in the 2018 local elections, increasing the proportion of women elected from 2 per cent to 23 per cent (Gunasekera 2018). It is, however, not a given that quotas at local level will translate to increased women's representation, although examples of countries where quotas work at local level are India, Indonesia, Nepal, Timor-Leste and Vanuatu. Although several political parties in Myanmar have adopted voluntary quotas in the past, this will have to be formalized through incentives or established in the electoral law.

Electoral system

Electoral system design is of crucial importance for the representation of women, youth and ethnic minorities in political decision-making bodies. Since the coup, the military-appointed 'UEC' has discussed the electoral system as a key issue in electoral reform. This includes the possibility of changing the first-past-the-post (FPTP) system that has traditionally been used in Myanmar and was required under the 2008 Constitution by the Constitutional Tribunal, to proportional representation (PR). The military-appointed 'UEC' and several small military-aligned political parties have called for changing the electoral system to PR. So far, the stakeholders in the

democracy movement and the interim government institutions have not expressed themselves on this issue.

Globally, the FPTP system has tended to disadvantage groups such as women and youth, as parties are more likely to select candidates who appeal to many voters, typically those from the dominant group that holds power, which in Myanmar would probably be male voters over the age of 30 and from the Bamar ethnic group (Parmar 2021b). In contrast, a PR system can be advantageous to women and youth candidates when political parties are willing or legally required to ensure that women and youth run as candidates. Evidence for this is the fact that, on average, women in parliament in countries with proportional systems make up 27.6 per cent compared with 14.4 per cent in majority systems (ACE Project n.d.; Parmar 2021a). Nevertheless, it is important to note that a combination of other elements such as gender quotas, the size of the electoral district or the party magnitude (i.e. the number of candidates elected from one party in one electoral district) also influences the success of women candidates (Laserud and Taphorn 2007).

Given the complexity of Myanmar's electoral architecture, a PR system may not directly benefit candidates from ethnic minority parties, as the electoral threshold set for parties to be allocated seats in parliament would be difficult for ethnic minority parties to achieve, as evidenced during the 2020 general elections. This means that, despite Myanmar being a highly centralized state, when it comes to constituents linked to ethnic minority parties the FPTP system is considered more advantageous (International IDEA 2021). In this sense, the advantages and disadvantages of a PR versus an FPTP system need to be carefully weighed to ensure the best possible system—possibly a mixed election system—accompanied by other measures to guarantee inclusion of the different groups.

An example of a mixed system is the mixed-member proportional representation (MMP) voting system that was adopted by New Zealand in the early 1990s to increase the representation of the Maori community (an Indigenous minority group) and other historically underrepresented groups, including women, Pacific Islanders and Asians, in parliament. This led to an increase in the proportion of Maori members of parliament, who accounted for 7 per cent in the last parliament formed using an FPTP system, to 16 per cent of the members of the legislature as of 2016, and an increase in the proportion of female MPs, who constituted 21 per cent in the 1993 election that used the FPTP system, to an average of 29 per cent in the first three MMP parliaments (ACE Project n.d.; Parmar 2021a). In addition, during 1993–2002, the proportion of Pacific Island MPs increased from 1 per cent to 3 per cent, and the number of Asian MPs rose from 0 to 2 per cent.

Another area that needs to be reviewed is the current system of delineating election boundaries. Voters are unequally distributed across constituencies, leading to a high degree of malapportionment in elections to parliaments. This situation violates the 'one person, one vote' principle of representative democracy, creating large-scale inequality in suffrage, distorting the translation of parliamentary votes into seats and leading to biased electoral outcomes (International IDEA 2021).

Considering that the choice of an electoral system can have a major impact on different groups, broad and informed consultations with all stakeholders and a thorough impact analysis must be carried out. The interim government institutions should ensure consultations with stakeholders such as political parties, including ethnic minority parties, and representatives of the CDM and other civil society actors, including women and youth organizations, to review and assess the advantages and disadvantages of different electoral systems. Changes should be considered to move towards a system that increases the inclusion of underrepresented populations, such as ethnic minority communities, women and youth, as candidates. They should also reconsider the regulation of constituency boundaries to respect the principle of equal suffrage.

Formation of the election administration

The Myanmar military, following its unconstitutional seizure of power, detained the UEC Chairperson and other UEC members, and appointed new members to form its own illegitimate 'UEC'. As the FDC has already defined the establishment of an independent election commission,

the interim government institutions must consider the legal framework for appointing members to a legitimate election commission and the composition of such a body in the future.

The appointment procedure for EMB members should ensure that the appointed members are more representative of the country's diverse demography, including its ethnic composition and gender balance. The recruitment policy of the EMB staff could also be reviewed and laws amended accordingly to ensure diversity and inclusion. Both the appointment of members and recruitment of staff should be based on transparent, merit-based, equitable and inclusive criteria (i.e. gender, ethnicity, age). Similarly, if subnational EMBs will be established in the context of the decentralized federal system envisaged in the FDC, the same criteria also need to be applied at state and regional levels.

Some countries also use legislative gender quotas for appointing EMB members, for example Armenia, where the Electoral Code requires that the number of representatives of each sex in the Electoral Commission shall not be fewer than two of the seven.

5.3 Enhancing the capacity of democratic institutions to ensure inclusive policies and practices

Despite the complex challenges following the coup in Myanmar, the interim government institutions—the NUG, CRPH and NUCC—have made substantial steps towards democratic reforms through the endorsement of the revised FDC, which embraces the inclusion of the diverse groups of Myanmar.

The NUG has established structures such as the MOWYCA and the Ministry of Human Rights, which are already advocating for and working on promoting and protecting the rights of the diverse peoples of Myanmar, including through campaigns to end sexual violence in conflict and violence against women. More specifically, MOWYCA has a directorate focused on women and gender affairs and on youth affairs, tasked with defining policy priority areas for each group. Based on the priorities they establish, they could consider reviewing and implementing the NSPAW and the National Youth Policy Strategic Plan (2020–2024) to build on the gains made prior to the 2021 coup.

Public information on the work of the NUG and insights from local actors supporting the NUG indicate that it is trying its best to be inclusive in its policies and practices, and in the consultation process with stakeholders. For example, according to International IDEA's interviews with experts embedded in the NUG, it is ensuring that its messages and languages are sensitive to the needs and concerns of gender or ethnic minority groups by actively reaching out to local gender experts to seek technical inputs, including in the drafting of codes of conduct of ministries. Furthermore, the review of the Prevention of Violence against Women Law, which women's rights organizations have long been advocating, is currently under way, according to International IDEA's interviews with these experts.

NUG members have said that they need to enhance their capacity and expertise in running a government, and in defining an inclusive roadmap and priorities for democratic reform. To achieve the goal of establishing a federal democracy's constitution that is responsive to gender and inclusion, the NUCC, NUG and CRPH will need to build the required institutional and organizational capacity, and thematic expertise, with the support of civil society actors, particularly those working to promote gender equality and inclusion. They could also benefit from support from international technical assistance providers.

Based on an assessment of capacity needs, the NUG should develop a plan to strengthen capacity and expertise that will enable it to map existing needs, analyse different roles and clarify responsibilities to work towards a consultative roadmap for inclusive democratic reform. It could also identify thematic areas to build capacity, and ensure support and training opportunities for its members and staff, especially in areas that are considered priorities for women and youth staff.

The NUG's ministries can continue to collaborate with civil society actors and experts who can help improve its ability to use an inclusion lens systematically in the development and implementation of policies through trainings and continuous provision of technical advice. It would also be important for the NUG to identify ways to mobilize resources and ensure capacity that would provide a budget for policy areas prioritized by women, youth and ethnic minorities.

Likewise, such approaches need to be mirrored at the subnational level, where increasing powers are to be provided in the context of the emerging federal system. In this sense, specific training on gender-sensitive budgeting could be considered with the support of civil society and other external assistance providers.

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Abbreviations

CDM	Civil disobedience movement
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	International Covenant on Economic, Social and Cultural Rights
CRPH	Committee Representing Pyidaungsu Hluttaw
CSO	Civil society organization
EAO	Ethnic armed organization
EMB	Electoral management body
ERO	Ethnic resistance organization
FDC	Federal Democracy Charter
FPTP	First-past-the-post
LGBTQI	Lesbian, gay, bisexual, transgender, queer and intersex
MOWYCA	Ministry of Women, Youths and Children Affairs
NLD	National League for Democracy
NSPAW	National Strategic Plan for the Advancement of Women
NUCC	National Unity Consultative Council
NUG	National Unity Government
PR	Proportional representation
UEC	Union Election Commission
WAC	Women Advocacy Coalition

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Colophon

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