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THE FAILED BURMA UNITARY SYSTEMS

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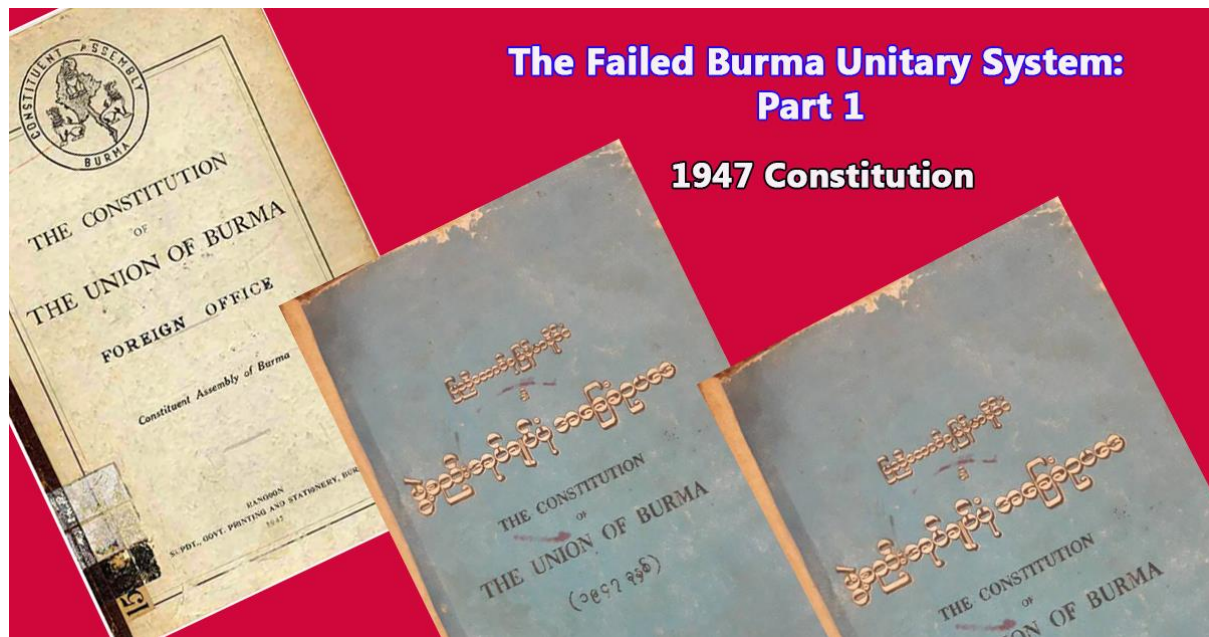
Introduction

Successive Burmese political leaders have established a unitary system in Myanmar, under various seemingly benevolent labels, to allow the Burmese to control and manipulate the country as they desire.

Three constitutions were drafted for these unitary administrations. However, these administrations were unsuccessful and failed. Therefore, this study analyzes why the unitary structure and unitary administration were not successful in Myanmar, hoping to contribute to the construction of a new federal democratic union in the future.

The three constitutions enacted in Myanmar will be analyzed in three parts:

- (1) 1947 Constitution
- (2) 1974 Constitution
- (3) 2008 Constitution



The Failed Burma Unitary System: Part 1

(1) 1947 Constitution

(a) Prelude – the Background reasons

In 1946-47, the region known as Burma proper was almost certain to gain independence from the British. In fact, although it was called Burma proper according to the British usage, it included Rakhine and Mon regions, which had historically established their own sovereign states, as well as Karen regions.

While Burma proper was in a position to gain independence, efforts were being made to gain independence together with the hill regions, and the Highlanders were also striving to gain independence together with Burma proper, as can be seen in historical records. The possible background reasons for these efforts can be considered as follows:

Possible background reasons for Burmese politicians:

- (1) Wishing fellow colonial subjects to gain independence together, as the British had separated the hill regions with the intention of continuing to rule them even after granting independence to Burma proper.
- (2) Intending to form a strong nation by uniting with the hill regions, which had been neighboring regions throughout history.
- (3) Intending to establish a Burmese Union by allowing the Highlanders appropriate autonomy and power sharing, while the Burmese, who were more advanced in politics, economy, and education at that time, would lead and manage the entire Union.



However, considering other possibilities from another perspective:

- (1) Burmese kings had historically attacked and conquered neighboring states to establish a Greater Burma, but they had never been able to conquer up to the current British-ruled territories. In the current situation, the Burmese had a chance to claim all the territories under British rule.
- (2) The Highlanders were in a position to be excluded by the British as not yet ready for independence when Burma proper was about to gain independence. Therefore, it was a great opportunity for the Burmese to unite with them, as they had a chance to gain independence if they joined forces with Burma proper.
- (3) The Burmese politicians' political advancement, the great influence of the AFPFL, and its penetration into the hill regions, along with their legal expertise and eloquence, were used to incorporate the hill regions and ethnic areas into the Union under the guise of a federal system. By granting some designated autonomy and administrative powers to certain ethnic groups and regions, they aimed to establish a Greater Burma led by the Burmese.

Background of Highlanders and Indigenous Peoples

Possible Reasons:

- (1) The British considered the highland regions not ready for independence and planned to continue governing them:
 - (a) Desire for equal rights and equal independence with the Burmese.
 - (b) This was further fueled by Burmese political leaders.

(2) The British refused to grant the highland regions the desired state-level status and instead established the Highland Region Administration Department. This was perceived by the highlanders as inferior and discriminatory governance compared to the Burmese.

(3) The British seemed to be pushing the highlanders to choose between remaining under the Highland Region Administration Department's rule or joining Burma as an independent autonomous state or region.

(4) The eloquent and legally knowledgeable Burmese politicians made promises that were enticing (compared to the rights granted by the British), and they were influenced by the AFPFL and the Burmese political situation.

(5) The highlanders felt that their political and economic conditions were not yet sufficient and believed that joining Burma and working together would improve them.

(B) Preparing for a unitary Burmese state

Burmese political leaders, after independence, did not want to establish a truly federal union with equal political and administrative opportunities and status for all states. Instead, they wanted to incorporate other ethnic groups into a Burmese Union, with the Burmese defining the political status, administrative power, and financial support for these regions.

As early as June 1945, the AFPFL drafted the following basic principles for the Burmese constitution:

(1) Establish a bicameral parliament: a House of Representatives elected by the entire population and a House of Nationalities in which Rakhine, Karen, Kachin, Chin, and Shan allowing representatives in the same proportion as Burmese, equal in power. Both houses would need to approve legislation, and disputes would be resolved by a joint session with a majority vote.

(2) The cabinet should include ministers from each important ethnic group and be accountable to the legislature.

(3) Elect a president separately, similar to the French system.

(4) Build a strong and robust Union government, but grant regional autonomy to Rakhine, Karen, and Shan states if requested. Less developed highland ethnic groups would be placed under special administration.

(5) Allow all states the right to secede, with the decision made by the Constituent Assembly (i.e., a joint session of both houses) after a majority vote.

Analysis of the Basic Principles

Principle (1): The Burmese knew that in a joint session of both houses, the numerically superior Burmese would always prevail. This is a legally enacted right to dominate.

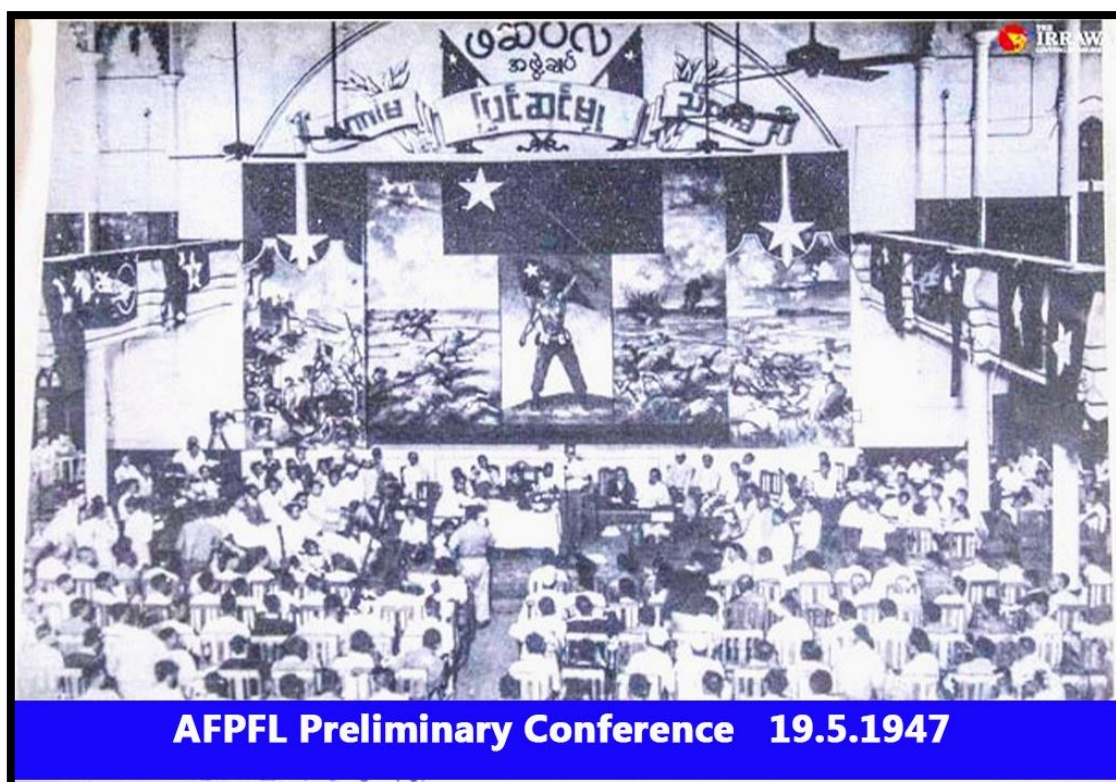
Principle (2): Who gets to decide which ethnic groups are important? All ethnic groups in the Union deserve equal rights. There should be no discrimination. While giving a ministerial position to an important ethnic group might seem like a significant concession on the surface:

(a) Who has the power to appoint these ministers?

(b) These ministers, being part of the cabinet, must follow the leadership of the president or prime minister, effectively placing the ethnic groups they represent under the central government.

(c) The cabinet is accountable to the legislature, which is dominated by the Burmese, making the cabinet itself subject to the Burmese parliament's decisions.

Principle (4): This aims to consolidate Union power under a single government, effectively placing all three branches of power in the hands of the Burmese. While regional autonomy might be granted to Rakhine, Karen, and Shan, and special administration to Chin and Kachin, key decision-making, ownership, administrative, legislative, and taxation powers would remain with the Burmese central government.



In 1947, Burmese leaders began striving once again to draft a constitution for the Union of Burma. From May 19th to 23rd, 1947, the AFPFL (Anti-Fascist People's Freedom League) Preliminary Conference was held at Jubilee Hall. From this conference, the following 14 fundamental principles of the constitution were adopted:

(1) This Preliminary Conference solemnly enacts that Burma shall be declared an independent sovereign republic.

(2) In the Constitution of the Union of Burma, to be drafted by the Constituent Assembly, the said independent sovereign republic of Burma shall consist of -

(a) The territories presently included in British Burma, namely: (1) Burma Proper administered by the Council of Ministers of Burma (2) Homalin Subdivision (3) Singkaling Hkamti (4) Thaundut (5) Somerah Tract (6) Naga Hills (7) Salween District (8) Kanpetlet Subdivision (9) The areas known as the Arakan Hill Tracts

(b) The Shan States, including Kokang and Mongpai.

(c) The Karenni States.

(d) The Kachin Hills.

(e) The Chin Hills District, excluding Kanpetlet Subdivision.

(3-1) The areas specified in (b), (c), (d), and (e), possessing all or some of the qualifications listed below shall be entitled to acquire the status of a constituent state of the Union, an autonomous state, or a ethnic state, as determined by this Constituent Assembly and as stipulated in the future Constitution and the laws of the Union. These areas shall exercise the powers and responsibilities granted or delegated to them. The qualifications are:

1. Clearly defined territorial boundaries by geographical features.
2. A single language distinct from Burmese.
3. A distinct culture.
4. A group with a single historical tradition.
5. A group with economic interests and economic self-sufficiency.
6. A considerable population.
7. The desire to exist as a separate region within the Union in accordance with their distinct identity.

(3-2) These powers and responsibilities are subject to consideration and decision after obtaining mutual agreement through the negotiations of a committee appointed by the Preliminary Conference. The agreements reached through the negotiations of the aforementioned committee shall be subject to the approval of the AFPFL Executive Committee.

(4) The jurisdiction of the central legislative body (hereinafter referred to as the "Union Legislature") shall extend throughout the Union. Notwithstanding anything contained in the Constitution, the Union Legislature shall have legislative power over all matters included in the categories listed below, except for matters specifically delegated to the legislative bodies of the constituent states, autonomous states, or tribal states.

1. Departments of the Union Government
2. Inter-state matters
3. Other matters (excluding the two categories above)
4. Matters related to the economic development of the entire Union
5. Matters related to regions other than the Union Territory, autonomous states, and tribal states.

(Note) - Separate legislative bodies will not be established for the "other regions" mentioned in Article 4, Clause 5 above.

(5) This independent sovereign republic of Burma, its constituent states and regions, and its government departments shall each derive their power and authority from the people of the country.

(6) In addition to social, economic, and political justice, equality of status, equality of opportunity, and equality before the law, all citizens shall be guaranteed the freedoms of thought, expression, writing, belief, worship, movement to and from religious sites, pursuit of livelihood, organization, and action, in accordance with the law and moral principles.

(7-1) The rights of ethnic minorities, namely:

1. Human rights
2. Ethnic and cultural rights
3. The right to freely associate and interact, including the right to enact their own cultural laws,
4. Appropriate representation in the legislature.

These rights shall be enjoyed by any group of people who are distinct by ethnicity, race, language, culture, or historical tradition, and who constitute no less than one-tenth (1/10) of the population in the relevant member region.

(7-2) A Karen Affairs Council shall be formed to assist and advise the Union Government on matters relating to the Karen people.

(8) Except for the powers specifically designated and transferred to the constituent states, autonomous states, and tribal states of the Union, the legislative, executive, and judicial powers of the independent sovereign republic of Burma shall reside in the Union of Burma, and these powers may be exercised by the government departments of the Union of Burma established by the Constitution, or by their order.

(9) The Union legislative power shall be vested in the Union Grand Assembly, which shall consist of the President, who is the Head of State and supreme leader of all the people within the Union, and the two chambers of the People's Assembly and the Assembly of Nationalities. The President shall be elected by the Union Grand Assembly. The members of the People's Assembly shall be elected by all adults through a secret ballot system. The Assembly of Nationalities shall include representatives from the constituent states, autonomous states, tribal states, ethnic minorities, and the remaining regions collectively organized as a member region.

(10) Subject to the provisions of the law and this Constitution, the people shall have the right to recall their elected representatives.

(11) The Union Government, which is the seat of the sovereign executive power of the Union, shall be accountable to the People's Assembly.

(12) The courts established by the Constitution and the law shall administer justice. These courts shall include the Supreme Court and its subordinate courts. Judges shall adjudicate independently, based solely on the Constitution and the law. The judges of the Supreme Court shall be elected by the Union Grand Assembly.

(13) The integrity of the territory of the independent sovereign republic of Burma and its sovereign rights to control its land, sea, and air shall be maintained in accordance with justice and the laws of nations.

(14) Our beloved nation, believing that it deserves and possesses a just and honorable place in the world, and recognizing its responsibility to promote the welfare of all humanity, is firmly resolved to

strive to the utmost to achieve this goal, and to cooperate with other nations in peace and amity, based on justice and morality.

Regarding these 14 fundamental principles, the following observations can be made about the preparations for a Burmese unitary state system:

While Principle No. 2 of the AFPFL principles states that it shall be a Union, Principle No. 3 treats the dignity, sovereignty, and status of ethnic groups as if they are being evaluated and ranked by another ethnic group, similar to how a company might screen job applicants. The ethnic groups are required to apply for membership in the Burmese Union, and the Burmese will select some of them and assign them to appropriate positions and responsibilities. These responsibilities are solely for the purpose of maintaining the sovereignty of the greater Burmese nation and ensuring that all ethnic groups within the Burmese nation remain obedient under a single command.

(a) Did the Burmese have the right to define the seven qualifications for constituent state status?

(b) Were the ethnic groups submitting applications for entry into the Burmese Union, necessitating the setting of qualification criteria?

(c) It is possible that this was merely a matter of limiting the rights of ethnic groups and creating a tiered system.

(d) In the region commonly referred to as Burma Proper, there are ethnic groups (e.g., Rakhine, Mon, etc.) that meet the aforementioned seven qualifications. Why were they not included and organized as constituent states?

(e) Not only are the states of the ethnic groups within the country incomplete, but also the Burmese are not integrated as a state with equal status and opportunities like other ethnic groups.

(f) Instead of a genuine federal system where the Union government receives delegated powers from the states and the remaining powers reside with the states, as stated in point (3-1), "These areas shall exercise the powers and responsibilities granted or delegated to them," it appears that all powers and responsibilities are controlled by the Burmese center, with other ethnic groups being granted limited autonomy, thus aiming for a Burmese-centric, centralized system.

For example, the Kachin land and the Kachin people have, since ancient times, possessed their own history, customs, sovereignty, and have lived continuously within their own territory. They were induced to join the Burmese Union, and even then, they were not guaranteed constituent state status. Instead, they were subjected to the qualification standards set by the Burmese. If this is the case, even if they are poor or underdeveloped, they would still have gained more dignity as an independent sovereign nation, rather than a subordinate state of the Burmese Union company.

On May 20, 1947, at the AFPFL Preliminary Conference, General Aung San delivered a speech regarding ethnic groups and the form of the Union, stating:

"I consider the Jinghpaw, Chin, Karenni, and Karen not to have fulfilled the characteristics of a major ethnic group. The Jinghpaw people, due to economic reasons, cannot be classified as a major ethnic group."

On November 28, 1946, during a meeting between General Aung San and Kachin leaders in Myitkyina, General Aung San stated:

"If you join for independence together with Burma Proper, there is a possibility of getting a Kachin State."



Regarding the consideration that the Kachin(Jinghpaw) could not be classified as a major ethnic group due to economic reasons, the following observations can be made:

- (a) It is not possible to make a correct assessment by fixing and calculating the economic situation under British rule.
- (b) The Kachin Land's forests, gems, hydropower, tourism, etc., and trade with India and China may offer even better economic opportunities than the inland Burmese regions.
- (c) The rights of the Kachin Land and the Kachin people are not related to the Kachin's economic, educational, social, or demographic conditions under British rule. The fact that they are a historically independent ethnic group with their own territory and sovereignty should be the basis for equality within the Union.

The implication of Clause (2) of Principle No. 3 of the AFPFL principles is that no ethnic group could obtain powers and responsibilities without the consent of the dominant Burmese group at that time, the AFPFL. They could only obtain powers and responsibilities that were satisfactory to the AFPFL.

According to AFPFL Principle No. 4, although the regions classified as first-class, second-class, and third-class states (following the British classification system) are given limited legislative rights, the Union Legislative Body, dominated and controlled by the Burmese, will have ultimate authority over all other matters.

AFPFL Principle No. 8 implies that, apart from the few powers transferred to the ethnic minority regions classified as above, all three sovereign powers of the country are held solely by the Burmese government.

In AFPFL Principle No. 9, since the two parliaments will elect the President, no President can be elected by other ethnic groups without the consent of the Burmese parliamentarians, who are numerically superior. Moreover, the so-called Assembly of Nationalities does not represent the Union's interests in any way, as the states are not fully represented and lack numerical equality.

In AFPFL Principle No. 11, since the central government is only accountable to the House of Representatives, the central government, which is predominantly Burmese, is accountable to the House of Representatives, which the Burmese can dominate and control. This means that other ethnic groups cannot influence the central government, except for disagreements among the Burmese themselves.

According to AFPFL Principle No. 12, since the Union judicial bodies will be appointed by the combined two parliaments, which will be dominated by Burmese representatives, the Burmese are essentially taking control of the judiciary as well.

AFPFL Principle No. 13 states that "the integrity of the territory of the independent sovereign republic of Burma" means that all ethnic groups and their territories are included as a single entity under the Burmese sovereign nation. It also implies the "rights to control the land, sea, and air of the nation" means that the Burmese have the right to sovereign control not only over their own territories but also over all the territories of other ethnic groups, including their water, land, and air. It can be interpreted that these dignities and rights should be legally established and made permanently valid.

(C) Burma: Mainland or State?

The Burmese consider themselves a major ethnic group and believe they are superior to other ethnic groups in all aspects. They believe that they alone should establish the nation and lead other ethnic groups. Burmese political leaders are adept at seizing opportunities and creating them when they don't exist.

Two factors in the 1947 principles for drafting the constitution, which were intended to be a Union but instead created a Burmese unitary state, are:

- (1) Not forming a Burmese state but taking the rights of the Union central government.
- (2) Not forming Rakhine, Mon, and Chin states.

The Burmese did not form a Burmese state but instead took the right to be directly governed by the central government. As a result, the Burmese became the Union central government. Therefore, the Burmese have obtained the right to legislate, govern, collect taxes, and distribute tax funds throughout the country.

Furthermore, they have acquired the right to grant or deny statehood to other ethnic groups, to determine the type and status of states, to decide how much administrative power should be delegated, to decide how much tax revenue should be collected and used, to decide how much financial support should be provided, and to appoint ethnic affairs ministers. These are just some of the rights gained by the Burmese by taking the Union central power without forming a Burmese state.

Regarding the non-formation of a Burmese state, Burmese officials, who are skilled in using legal rhetoric and exploiting legal loopholes, have given various reasons. The main reasons they have given are:

(1) Burma Proper is superior in size, population, and financial status compared to other ethnic minority states.

(2) If a Burmese state were formed, the number of representatives and expenses would increase.

These views are expressed in the "Power Sharing Document" by U Chan Tun, Legal Advisor to the Constitution of the union of Burma. The same document also states:

"The constituent units of the Union must be equal in size, population, and financial strength."

The assertion that states must be equal in size, population, and financial strength to form a federal union is an extreme interpretation. No such near-equality of these factors is found in the states of federal union countries around the world.

The Federal Republic of Germany is composed of 16 states, with the largest state being Bavaria (70,550 sq km) and the smallest being Bremen (419 sq km). In terms of population, Bavaria has 12.9 million, Baden-Württemberg has 11 million, Hamburg and Lower Saxony have 8 million each, while Bremen has 680,000 and Saarland has only 180,000. North Rhine-Westphalia and Hamburg are wealthy states, while Bremen is relatively not.

The United States is composed of 50 states. Alaska covers 570,641 square miles, while Rhode Island covers only 1,034 square miles, showing a vast difference in size. Delaware also has only 1,955 square miles. In terms of population, California has over 39.5 million, Texas has nearly 29 million, and Florida has over 21.4 million, while Wyoming has only 580,000, Vermont has 624,000, and Alaska has 732,000, showing a high degree of population disparity. In terms of financial strength, for example, Maryland is wealthy, while Mississippi is not.

The Swiss Confederation is composed of 26 cantons and Bern (the capital). Graubünden (2,743 sq mi), Fribourg (2,301 sq mi), and Wallis (2,017 sq mi) are large cantons, while Basel-Stadt (14 sq mi), Appenzell Innerrhoden (67 sq mi), and Appenzell Ausserrhoden (94 sq mi) are small, showing a difference in size.

In terms of population, Zurich has 1.5 million, the capital Bern has 1 million, and Vaud has over 800,000, while Appenzell Innerrhoden has only 16,293, Uri has 36,819, and Obwalden has 38,108, showing a high degree of population disparity. Basel-Stadt, Zug, Geneva, and Zurich are wealthy cantons, while Uri, Wallis, Appenzell Ausserrhoden, Fribourg, and Schwyz are not.

Therefore, the assertion that states must be equal in size, population, and financial strength to form a federal union is a false idea given to prevent the formation of a Burmese state and to seize central control.

After the First Anglo-Burmese War (March 5, 1824 - February 24, 1826), Rakhine and Tanintharyi were directly administered by the Governor-General of India. Later, Rakhine was administered by the Rakhine Commissioner (later the Rakhine Chief Minister) under the Bengal government. Tanintharyi was directly administered by the Governor-General of India, with the Bengal government handling judicial and tax matters in 1834, and the Governor-General of India taking responsibility for general administration.

After the Second Anglo-Burmese War (April 5, 1852 - January 20, 1853), the Bago region was directly administered by the Commissioner under the Governor-General of India, and the Mottama region was administered by the Tanintharyi Chief Minister.

In 1862, the disparate administrations were consolidated, and Rakhine, Tanintharyi, and Bago were designated as the Province of British Burma, administered by three commissioners under a Chief Commissioner, who was in turn under the Governor-General of India.

After the Third Anglo-Burmese War (November 7, 1885 - November 27, 1885), the area designated as Ministerial Burma (Burma Proper) was divided into four divisions: Rakhine, Tanintharyi, Bago, and Ayeyarwady. The Scheduled Areas (Frontier Areas) included the Shan States, Kachin, and Chin Hills.

Therefore, the so-called Burma Proper included the Rakhine, Mon, Burmese, and Karen regions, which the British divided into four divisions for administration. The Burmese, using the pretext that Burma Proper was large in size, population, and financial strength, seized the power of the Union central government in order to dominate and control the hill nationalities by consolidating these areas under the name of Burma Proper.

In reality, Burma Proper would likely consist of the Rakhine State, the Mon State, the Burmese State, and parts of the Karen State. Dividing the region in this way is justified, as both Rakhine and Mon have well-established histories and clearly defined territories. They also meet the seven qualifications for a constituent state of the Union listed in Principle No. 3, Clause (1) of the 14 fundamental principles of the constitution adopted on May 23, 1947.

Despite this, the failure to separately establish the Rakhine State, the Mon State, and the Burmese State has harmed the Rakhine, Mon, and all hill nationalities. The Rakhine and Mon, after gaining independence, became the first to be colonized under the new Burmese rule. This expansion of Burma Proper also gave the Burmese leverage in bargaining with the highlanders.

Only by establishing complete states such as the Burmese State, the Mon State, the Rakhine State, the Karen State, the Kachin State, the Shan State, the Karenni State, and the Chin State, with each state having its own constitution and autonomy, delegating some nationwide powers to the Union while retaining the remaining powers, and ensuring that the Union government's power is not monopolized by a single ethnic group, can a true Union be achieved.

However, as it stands, the Burmese have incorporated the Rakhine, Mon, and Karen regions into Burma Proper, claiming it as their own. They have also integrated the remaining hill regions and the Karen and Karenni areas into the Union of Burma. They monopolize almost all matters in the Union legislative list and the Union tax list, and they alone can appoint ethnic ministers. As a result, the Shan, Kachin, Karenni, and Karen, which are nominally constituent states of the Union, and the Chin Special Division, which was not even included in the state list, as well as the Rakhine and Mon, which were not even recognized as states, have all become subjects and subordinates under Burmese majoritarianism and the Burmese nation.

(D) The Attitude of the Hill Tribes

Ethnic groups such as the Shan, Kachin, Karen, Karenni, and Chin have held numerous discussions, negotiations, and public meetings among themselves, with AFPFL Burmese leaders, and with the British to explore the possibility of forming a Union with the Burmese. The ethnic groups found the British unreliable, and the Burmese were also distrustful. However, compared to the British, they chose to cooperate with the Burmese, believing it would be more beneficial. The decisions and demands of the aforementioned discussions can be summarized as follows:

(1) Right to establish states

- (2) Right to self-determination
- (3) Right to self-government
- (4) Right to collect taxes
- (5) Right to join in a federal system
- (6) Right to secede at any time

These demands show that the ethnic groups are clearly aware of the current political landscape, their own situation, their rights, and what they want. This can be seen in the following demands:

Chin Leaders' Resolution from the Falam Public Meeting on October 28, 1946, concerning the areas of Tiddim, Falam, and Haka:

- (1) To remain under the direct administration of the Governor for the time being.
- (2) To work hand in hand with our ethnic brothers, the Shan and Kachin, in a spirit of friendship and cooperation.
- (3) To join the Burma Ethnic Cultural Association formed in 1946 as members.
- (4) When the Chin people are more aware and able to manage their own affairs, to consider whether to unite with Burma or not, as stated in the British White Paper on Burma and the Governor's speech at the Panglong Conference (1946).

Resolutions from the Kachin Leaders' Meeting held in Nantphatka Village, Kutkai Township, on February 1, 1947:

- (1) To gain independence together with Burma Proper.
- (2) To establish a separate Kachin State in accordance with the wishes of the Kachin people.
- (3) The Kachin State should include the Bhamo and Myitkyina districts, the Kachin Hill Areas, and the northern plains of Katha District.
- (4) To work towards a boundary demarcation acceptable to both the Burmese and Kachin.
- (5) After the Kachin State boundaries are defined, to ensure that a Kachin representative elected by the Kachin people is included in the interim government, with the same rights as the Burmese currently hold.
 - (a) The Kachin Minister should be the Home Minister of the Kachin State.
 - (b) The Kachin Minister should also have the right to participate in foreign relations and financial affairs.
 - (c) A Kachin advisor should be appointed in the Defense Department.
- (6) For the sake of Burma's swift independence, the Shan and Kachin should immediately participate in the Constituent Assembly.
- (7) The inclusion of the Kachin State in the Union of Burma after independence should be

considered with the following two provisos:

- (a) The decision to include or not include the Kachin State in the Union of Burma should be made solely by the Kachin people.
- (b) The right to secede from the Union of Burma should be granted at any time.

(8) The Burmese government should provide financial assistance for the development projects of the Kachin State.

(9) To work towards gaining the support of other hill tribes for the above resolutions.

Shan State Independence Organization (SSIO) Declaration No. 4 on February 5, 1947:

- (1) The Shan State believes that it can exist as a separate sovereign nation after liberation from colonial rule.
- (2) The Shan State believes that its current strength is insufficient to fight against colonial rule. Therefore, the Shan State wishes to live together with Burma Proper until both are liberated. The Shan State believes that only through the united and undivided struggle of all ethnic groups, including Shan, Burmese, Chin, Jinghpaw, and Karen, can both the Shan State and Burma be completely liberated.
- (3) After independence, in order for the two states to be strong, the Shan State wishes to live together with Burma Proper. This will be discussed in the upcoming Constituent Assembly by the smaller ethnic groups and their respective regions. The free Burmese and the free Shan, Karen, Chin, Jinghpaw, and other ethnic groups should negotiate and consult with each other, ensuring equal rights and establishing a firm and lasting agreement that includes provisions for internal self-determination and the right to secede in the future, if desired. Under these administrative rules, the Shan State wishes to live together with Burma Proper.

Statements and submitted documents by the Hill Tribes Unity Organization to the Frontier Areas Inquiry Commission:

- (1) Representatives from the hill regions to the Constituent Assembly should be proportionally elected by the respective state councils, regardless of ethnicity, religion, but educational qualifications.
- (2) Representatives to the Constituent Assembly should be elected proportionally to the population.

However, decisions related to a specific region should not be valid unless two-thirds of the representatives from that region vote in favor. Furthermore:

- (a) Everyone should have equal rights.
 - (b) All hill region representatives should have the right to self-determination within their respective states.
 - (c) The right to secede from Burma Proper should be granted after independence.
- (3) The resolution stipulates that the future Constitution of Burma should include a provision prohibiting diplomatic relations and appointments with the hill region states without prior notice.

- (3) In matters of national importance, such as defense, no decisions should be made without the consent of the majority of hill region state representatives.
- (4) The resolution stipulates that the Constitution of the Union of Burma should include a provision prohibiting any changes, amendments, or revisions that directly or indirectly affect the hill region states without a two-thirds majority vote from the hill region state representatives.
- (5) The resolution stipulates that in case of any dispute in the interpretation of the Constitution, the matter should be referred to a tribunal consisting of the Chief Justice and two other judges of the High Court in Yangon for a final decision.
- (6) The total number of Burmese ministers in the Union government should not exceed the total number of ministers from the hill region states.

Responses from the Shan Chiefs Association to the questions of the Frontier Areas Inquiry Commission:

- Representatives from the Shan State will be sent to the Constituent Assembly.
- Representatives will be elected proportionally to the population.
- A more appropriate method than majority vote will be used for elections.
- Sending representatives to the Constituent Assembly should not be considered as joining a united Burma.
- The Shan State does not desire a Union with Burma.
- The Shan State only desires a Federation.
- The Shan State desires full self-determination and requests a small committee to be formed to designate the matters to be handled by the central government and the state governments.
- Whether to join the Commonwealth or not is not a significant issue for the Shan State.
- The Shan State requests the British government to act as a supervisor to ensure that the central government adheres to the agreements.

Document submitted by the Karenni Representative Group to the Frontier Areas Inquiry Commission:

- (1) The Karenni State will cooperate with the Hill Region Administration if it does not infringe on the rights of the independent Karenni State.
- (2) If the Karenni State joins the Hill Region Administration, one Karenni representative should be appointed as a consultant council member in the Hill Tribes Unity Organization.
- (3) The Karenni regions should be granted full autonomy.
- (4) Even if the Karenni State joins the Hill Region Administration, the Karenni people should have the right to secede from the organization if they wish.
- (5) National matters such as foreign affairs, post and telegraph, transportation, finance, and defense should be discussed and handled in consultation with the Karenni consultant council member in the United Hill Tribes Unity Organization.

(6) The Karenni State will receive necessary assistance from the Burmese government for rural development within the limits of its capacity.

(7) The Karenni State will proportionally receive the collected land revenue, refunds, and customs duties.

(8) A Karenni State Council will be formed to handle internal affairs of the Karenni State. The consultant council members will be elected by the public. Anyone who has lived in the Karenni State for at least seven years, excluding Karen, will be considered a Karenni citizen.

(9) The Karenni people should be able to enjoy the rights and benefits available in democratic countries.

(10) The Karenni Council should have the power to enact budgets, legislate, and appoint and assign duties to civil servants.

(E) Analysis of the 1947 Constitution

(E-1) Structure of the State

(a) The 1947 Constitution failed to fully realize the concept of a federation state because it did not grant statehood to the Rakhine and Mon ethnic groups, who had historically established their own kingdoms or possessed independent sovereign authority, distinct customs, languages, cultures, and territories. The Chin ethnic group was also only granted a "Special Division" status instead of a full state.

(b) Article 8 of the Constitution, which stipulated that the Union government would exercise all three branches of power (legislative, executive, and judicial) in all regions except the Shan State, Kachin State, Karenni State, Karen State (Kawthoolei), and Chin Special Division, had the following consequences:

(1) It effectively placed the Rakhine and Mon regions under direct Burmese colonial rule.

(2) It allowed the Burmese to control the Union government without establishing a separate "Burma State."

(3) Through this control of the Union government, the Burmese gained the power to govern, legislate, collect taxes, and administer justice in the remaining regions, effectively granting them indirect colonial power.

Therefore, the structure of the state as defined in the 1947 Constitution was essentially a "Burma-centric" structure.

(E-2) Governance of the State

According to the Constitution, the Union had a bicameral legislature consisting of the People's Assembly and the Nationalities Assembly. The People's Assembly had 250 seats, while the Nationalities Assembly had 125 seats. With an estimated population of 15 million in the Burmese mainland, the Burmese were allocated over 200 seats in the People's Assembly and 53 seats in the Nationalities Assembly, totaling over 250 seats in both houses. Following the 1951 constitutional amendment, the

Burmese mainland gained an additional 6 seats in the Nationalities Assembly, bringing their total to over 260 seats in both houses.

Burma was a republic under the Constitution, with the President elected by a joint session of both houses of the legislature (Article 46). Given their majority in both houses, no one could become President without the support of the Burmese mainland. The President was likely to be from the Burmese mainland, or someone who pleased the Burmese mainland, or someone who would follow their wishes.

Despite being a republic, the Prime Minister led the government. The Prime Minister was appointed by the President from a list of nominees submitted by the People's Assembly (Article 56-1). With the Burmese mainland holding a significant majority in the People's Assembly, the individual who would govern the entire Union was likely to be a Burmese, a member of a Burmese party, or someone under the influence of a Burmese party.



The Prime Minister submitted a list of ministers, who were then appointed by the President (Article 56-2). The government was accountable to the People's Assembly, where Burmese mainland MPs held a majority (Article 115).

The Prime Minister, in consultation with the State Council, nominated a member of the State's MPs to be the State Minister, who was then appointed by the President. This minister was a member of the Union government (Article 160). Therefore, the State Minister or State Chairman was not independent from the Prime Minister's influence or the control of the Union government, and was likely to be someone who would implement the directives of the Union government or the Burmese government.

To illustrate this more clearly, imagine the nation as a large public company. The shareholders are the people. The two houses of the Union legislature are the company's board of directors. The Burmese mainland representatives hold a majority on the board. The board appoints the company chairman

(Article 46). The board also selects the CEO, who will lead the company in practice, and the chairman confirms the selection (Article 56-1). The CEO then selects the heads of departments and managers, who are confirmed by the chairman (Article 56-2).

If the board is not satisfied with the CEO, they can remove the CEO (Article 119). Alternatively, the chairman can dissolve the board or request the board to elect a new CEO (Article 57). If the CEO is removed, the managers they appointed are also removed (Article 120-1).

The company also has joint ventures with other smaller ethnic companies. One member of the smaller company's board is appointed as the manager of that company by the CEO of the large public company, in consultation with the board. The employees of this manager are selected by the board (Article 162-3). The manager reports the company's income and expenditure, and activities to the large company, in consultation with the board. The manager is a member of the large company's executive management team and follows the CEO's instructions.

Therefore, in terms of the governance of the state, the President, a ceremonial position, and the Prime Minister, the head of the government, are elected by both houses of the legislature, which are dominated by Burmese mainland MPs from the Burmese party. The State Ministers are selected by the Prime Minister and appointed by the President. These ministers are only members of the Prime Minister's government. As a result, the governance of the state is essentially a "Burma-centric" system. For the Rakhine and Mon, who were only included as "Divisions" within the Burmese mainland, they suffered a loss of rights and prestige as they did not even have state-level status. The states themselves also depended on the goodwill, approval, and support of the Burmese central government, making the concept of a "Union" merely nominal.

(E-3) Parliamentary Assemblies

The Union Parliament consisted of two houses: the People's Assembly, elected based on population, and the Nationalities Assembly, composed of representatives from indigenous ethnic groups.

The People's Assembly could have between 250 and 340 seats, depending on the population. The Nationalities Assembly had 125 seats. The number of seats in the People's Assembly was designed to be nearly double that of the Nationalities Assembly (Article 83-2). This ensured the Burmese majority in the joint sessions of both houses.

As mentioned earlier, the President was elected by a joint session of both houses. The Prime Minister was elected from the People's Assembly. The Prime Minister then selected the ministers and the Attorney General. The Chief Justice, other judges, and the Auditor General were appointed by the President with the approval of both houses. Therefore, the joint session of both houses not only held central legislative power but also produced the central government and the central judiciary (Article 56 (1)(2), Article 46, Article 126 (1), Article 129, Article 140 (1)(2)).

These arrangements were designed to minimize the influence of other ethnic groups on the central powers and allow the Burmese to manipulate them as they wished. In any case, the Burmese MPs had a majority in the joint session of both houses. Even if there were Burmese opposition parties or groups, they would align with the government and other Burmese parties on issues that would grant more power to other ethnic groups, such as the creation of new states, granting more authority and rights to states, increasing funding for states, and the secession of states. This will be shown in the following chapters.

If the nation were to be formed as a genuine federation:

(1) States would be formed with equal political standing, such as the Burma State, Rakhine State, Mon State, Chin State, etc.

(2) States would send proportionate representatives to the Nationalities Assembly.

(3) The Union government would be accountable to the Nationalities Assembly.

(4) With the formation of states along ethnic lines, the privileged control of the Burmese mainland in the People's Assembly would be reduced.

(5) The Union government would not be a government chosen by the legislature but a government separately elected by the people. This would allow for checks and balances between the government and the legislature and reduce the potential for one ethnic group to control the formation of the Union government.

(6) The Union legislature would select individuals for Union judicial positions.

(7) The Union legislative list would only include matters delegated by the states.

(8) States would have the power to legislate on all remaining matters. These legislative powers should not be interfered with by the Union government or the Union legislature as long as they do not contradict the Union constitution.

(9) For concurrent legislative lists, the laws enacted by the Union and the states should be harmonious. This does not mean that the laws enacted by the states should be subordinate to the laws enacted by the Union. The two laws should be harmonized with a focus on national interests.

(10) The state administrator would sign and promulgate the bills passed by the state legislature. They would not need to obtain the approval of the President.

(11) However, if the President believes that a law enacted by a state harms the interests of other states or the Union, they can submit the law to the Constitutional Tribunal of the Union Supreme Court for review.

In the 1947 Constitution, even if the Nationalities Assembly amended or objected to a bill, it could still be passed with a majority of Burmese MPs in the joint session of both houses (Article 109). As for money bills, they were entirely at the discretion of the People's Assembly, which was dominated by Burmese MPs, and the People's Assembly could choose to disregard the amendments or suggestions of the Nationalities Assembly (Article 105).

Therefore, since the Burmese did not participate in the Union as a state, but instead took control of the Union powers and exercised them without granting other ethnic groups the power and rights to check them, the Union Parliament, which could be dominated and controlled by Burmese MPs, or was designed to be so, could shape the Union government, the legislative power for the entire country (except for insignificant matters granted to the states), the appointment of the Union Chief Justice and judges, the right to form the Union army, navy, and air force (Article 97), and tax matters, etc., as they wished, under the guise of a Union but in reality, a "Burma-centric" state, with the majority of Burmese MPs.

(E-4) The States

Chapter 9 of the 1947 Constitution addressed the Shan State, Kachin State, Karen State, Karenni State, and Chin Special Division.

The State Legislative List was a restricted list, containing only a few insignificant matters. Even so, when a State Council approved a bill, it had to be submitted to the President to be signed and promulgated. The President could then refer the bill to the Supreme Court for review to determine whether it was constitutional. This indicates that the Union government did not completely relinquish control over even the legislative powers granted to the states, but instead maintained a tight grip.

If a state law conflicted with a Union law, the Union law prevailed (Article 94). This protected the laws passed by the Burmese majority vote and further restricted the legislative powers of the ethnic states.

The fact that the State Minister or State Chairman was a minister in the central government, under the Prime Minister, was another way of bringing the states under the control of the Burmese central government led by the Prime Minister. The appointment of this State Minister or State Chairman was also done by the Prime Minister nominating a candidate and the President appointing them. This was not in line with democratic or federal principles, and gave the central government more control, as they could only approve and appoint someone they favored.



Shan State Minister Sao Khun Cho

In reality, the State Chairman should have been directly elected by the people of the state, or, if a parliamentary system was adopted, elected by the representatives freely elected by the people. There should be no need for the President or the Union Prime Minister to approve and appoint this elected individual. Only then would a state in a federal union receive the rights it deserves.

The states were not allowed to engage in large-scale industries such as mining and forestry. These large-scale industries were operated only by Union ministries or their subordinate branches, corporations, and organizations. According to Article 30, the state was the original owner of all land. According to Article 224, all forests, all minerals and other substances underground, mineral and medicinal waters, the original sources of natural forces, railway transport materials, postal materials, telegraphic and wireless communication materials, and broadcasting materials would, from the commencement of the Constitution, be the property of the Union.

Therefore, the Union government owned and managed all the land in the country, and all the forests, minerals, underground and underwater resources, and natural resources. These could be operated for profit by organizations under the Union government, either directly or in joint ventures, and the Union government would receive the tax revenue. The Union government was also the Burmese government of the Burmese mainland. The benefit entitlements of the indigenous people were even less than what they received under British rule.

The states' tax lists were extremely small. They included land tax, taxes on intoxicating substances, forests, trade, watercraft, motor vehicles, irrigation, festivals, gambling, etc., and registration fees, court fines, etc., and some other small fees. The fines and fees were negligible for a state.

In reality, there were not enough taxes to generate sufficient funds for the states. This was a factor that reduced the states' powers and made them dependent on Union subsidies. Moreover, since the Burmese mainland took control of the Union government powers without forming a Burmese state, the states were, in a way, reduced to a position of having to ask for subsidies from the Burmese mainland.

For example, in the 1955-56 fiscal year, the Union government received nearly 280 million kyats (279606000 kyats) in tax revenue from the Shan State. However, the Shan State government received only 4 million kyats in tax revenue within the state. Even then, the Shan State's expenditure was over 17 million kyats. Although the Union government provided a subsidy of 12.5 million kyats, it was still not enough to meet the needs. This subsidy was only 4.5% of the 280 million kyats that the Union government collected from the Shan State. If the Shan State had been allowed to collect and use all of its tax revenue, 280 million kyats would have enabled the Shan State to develop significantly. Even a quarter of that amount, 70 million kyats, would have been very helpful.

In 1956-57, the Union subsidies received by the states were as follows:

Shan State	12,500,000 kyats
Kachin State	7,500,000 kyats
Kayah State	2,000,000 kyats
Karen State	3,800,000 kyats

In 1956-57, the state's internal tax revenues were as follows:

Shan State	4,127,340 kyats
Kachin State	3,904,230 kyats
Kayah State	506,390 kyats
Karen State	2,008,430 kyats

In 1956-57, the ordinary expenditures of the states were as follows:

Shan State	17,211,000 kyats
Kachin State	12,069,000 kyats
Kayah State	2,938,000 kyats
Karen State	6,916,000 kyats

Looking at the above figures, it can be seen that the states had budget deficits. Therefore, the first amendment should be to reduce the Union Legislative List and the Union Tax List and increase the State Legislative List and the State Tax List. The second amendment should be to fully form states (such as Burma State, Mon State, Rakhine State, Chin State, etc.) and include only national matters delegated by the states in the Union Legislative List and the Union Tax List, create a Union and State Concurrent List, and include the remaining matters in the State Legislative List and the State Tax List.

However, under the 1947 Constitution, the states were merely nominal states, without independence in self-governance, administration, judiciary, and financial matters. They suffered a loss of rights and were under the control and management of the Burmese mainland (which had colonized the Rakhine and Mon), which held the Union powers.

(F) From a Multi-Party unitary system to a One-Party unitary system

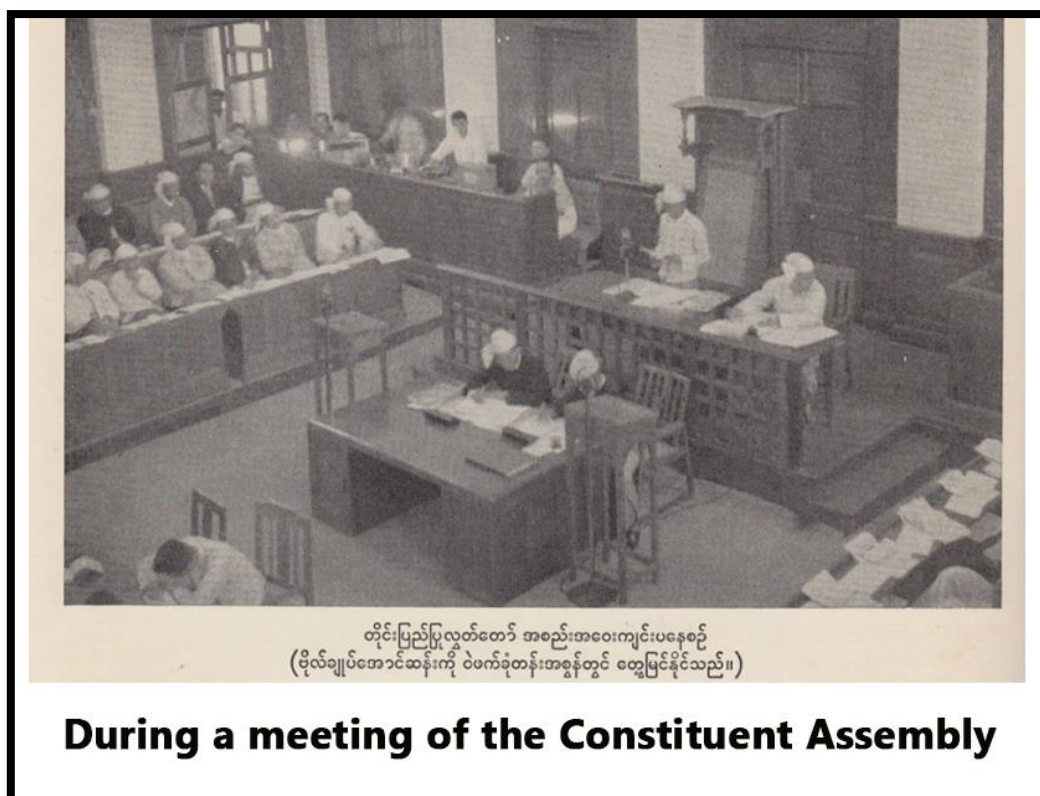
When the Burmese leaders were persuading the ethnic groups to join in establishing the Union of Burma, the ethnic groups envisioned and accepted a Union based on ethnic equality, equal rights, and the right to secede. They believed that there was no need to worry about the legal wording and nuances, and that they could discuss the details and improve the constitution after independence with a family spirit and a Union spirit.

At the first session of the Constituent Assembly, General Aung San stated:

*"Before the formation of the Constituent Assembly, when we made various agreements and contracts for the formation of the Constituent Assembly, whether it was according to the contract we signed with the representatives from the hill regions, or according to the recommendations from the Hill Regions Inquiry Commission report that we accepted, we... **not only agreed to the letter of the agreement, but for my part, I accepted the spirit of the agreement, the real fundamental principle of the agreement, and I will act accordingly in this Constituent Assembly. I want the representatives from the hill regions to clearly understand this.**"*

He also promised that *"there is no fully complete law in any constitution in the world, and that they would maintain the **"spirit of the Constitution"** through mutual understanding and trust, **"extra-constitutional understanding and convention,"** and the preservation of traditions and customs."*

In the memoirs of U Aung Zan Wai (Maung Kan Htoo's memoirs), a Rakhine national and AFPFL leader who was a close colleague of General Aung San during the Burmese independence struggle, it is stated that regarding the Rakhine State issue, the Rakhine MPs requested that it be included in the 1947 draft constitution, but General Aung San did not want any delays that would hinder the declaration of independence by January 31, 1948. He cited the lengthy negotiations with the hill regions, and the concern that external forces might intervene under the pretext of ethnic inequality, as reasons for accepting a temporary framework and including Chapter 9, Part 6, Article 199 in the draft constitution, which contained promises related to the new states.



Nevertheless, after Burmese independence in 1948, the legal terms were interpreted according to their literal meaning, the "spirit of the Constitution" was lost, and the states became semi-colonies. The Burmese mainland controlled almost all of the Union's powers. The Rakhine and Mon, on the other hand, became completely colonized.

In fact, both the ethnic groups that already had states and those that did not, valued independence more than the legal wording in the 1947 Constitution, and respected the gentleman's agreement based on honor and trust. However, this became an opportunity for the Burmese leaders who wanted to dominate and colonize other ethnic groups, or rather, they were able to create such an opportunity.

However, due to the small amount of taxes that the states were allowed to collect, the limited matters they were allowed to legislate on, the Burmese mainland taking control of the Union powers without forming a Burmese state, the fact that the State Chairman was nominated by the Prime Minister and appointed by the President, the fact that the laws approved by the State Council had to be signed and approved by the President, the absence of the Burmese state in the Nationalities Assembly and the absence of the Rakhine and Mon states, which prevented equal representation, and the fact that the Union (i.e., the Burmese mainland) controlled large-scale industries and water, land, resources, and minerals, which resulted in the loss of the states' powers and the reduction of their tax revenues, and the loss of the essence of the "self-governance" chapter, the subsequent problems of the 1947 Constitution smoldered.

The Rakhine and Mon movements for statehood, which had not yet been granted, also intensified, despite the fact that they met the seven qualifications for Union states listed in Article 3, Sub-section 1 of the 14 fundamental principles of the draft constitution approved at the AFPFL Preliminary Adjustment Conference on May 23, 1947.

The Burmese leaders, who believed that the Burmese should lead the Union, focused more on internal ideological conflicts, personal grudges, and extreme biases, without considering the future and interests of the country, and were trapped in a cycle of forming factions and breaking apart, instead of prioritizing and implementing the following important and crucial tasks during the early stages of independence and the formation of the Union:

- (1) The establishment of a genuine federal union
- (2) Making it a nation for all ethnic nationalities
- (3) Uniform development of all ethnic states
- (4) Raising the level of political thinking (e.g., the military, government departments, political parties, and the people)

Instead of these priorities, they courted the military, which had no reason to interfere in politics, to join their respective factions, causing the military to gradually deviate from the path of democracy, accumulate power, and grow stronger.

However, the Burmese leaders have never betrayed their core, original, and ultimate goal: to dominate and rule over other ethnic groups and establish a unitary state dominated by the Burmese. They remain firmly committed to this goal even today.

For example, even the PNAO (People's Nationalities Alliance Organization), an opposition group within the AFPFL (Anti-Fascist People's Freedom League) that consistently supported the granting of statehood in the Rakhine and Mon statehood movements, agreed to the desire for statehood under the Burmese flag. However, they could not accept the idea that the Burmese would no longer be the mainland, that the Burmese would no longer have the right to control the Union's power, and that the Burmese would become just one state among equals in a federal union.



**Vidura Thakin Chit Maung,
a representative from the PNAO**

When it came to the issue of a genuine federal union, all Burmese political organizations, such as the AFPFL, the Socialist Party, and the PNAO, united to protect their common goal. During the second day of the Federal Principle Discussions (the Federal Principle Conference) on March 1, 1962, Vidura Thakin Chit Maung, a representative from the PNAO, stated:

"The formation of the Union based on the Burmese mainland is something that has to be done in this way at this time, whether it is from the perspective of the history of international unions, or from the perspective of Burmese history, or for the sake of central leadership and unity... This is the gift given by the very life, the gift given by the very God."

This statement clearly highlighted that the Burmese were unwilling to relinquish their dominance over the ethnic nationalities, and that they considered this dominance to be their birthright.

In 1962, U Nu's government formed a Rakhine State Amendment Committee. After the committee drafted and submitted bills, and the government was preparing to review them and submit them to the parliament, U Ba Swe, a leader of the stable AFPFL, sent a personal letter to Prime Minister U Nu, requesting that **"this matter should be postponed."** As a result, at the beginning of the afternoon parliamentary session on February 28, 1962, the scheduled submission of the Rakhine State bill was announced to be postponed indefinitely. The truth behind this was the Burmese unity when it came to Burmese chauvinism, and their unwillingness to relinquish their control over other ethnic groups.

Prime Minister U Nu, in his address to the Sixth Session of the Parliament on September 2, 1948, stated:

"To be honest, let alone dividing the Union further, I, personally, do not fully agree with the existing divisions of Shan State, Kachin State, and Karenni State."

In a parliamentary meeting in March 1957, he said:

"The reason we gave (Shan, Kachin, Karenni) states was not because we wanted to... In fact, we believe that a country like Burma, the size of a plum seed, does not need to have these states."

At the Federal Principle Conference on March 1, 1962, AFPFL leader U Ba Swe stated:

"We would have preferred a unitary system, but we had to start with a federal system... The Burmese mainland, due to its land, water, and geographical location, is naturally more developed than other states, and therefore we believe that it should be responsible for the development of all other states, which is why the Burmese mainland was not given statehood."

These statements reveal that Burmese leaders were chauvinistic and believed that they were superior to other ethnic groups and had the right to dominate them.

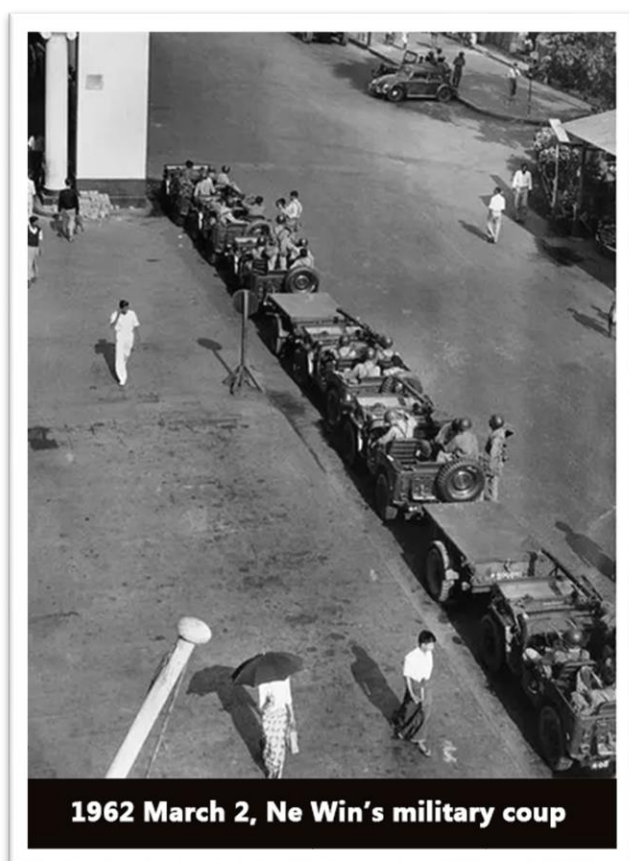


**The Federal Principle Conference
on March 1, 1962**

Prime Minister U Nu, despite his personal reservations about the formation of Rakhine and Mon states, as mentioned earlier, promised to grant them statehood to gain support in the power struggle after the split of the AFPFL. Although he stalled on this promise, he gradually had to implement it. He also allowed discussions on the federal principle, which the ethnic nationalities strongly desired, by convening a Nationalities Conference. This might have led some Burmese leaders to worry that U Nu was betraying the principles of Burmese chauvinism and one-nation domination.

Among those who were worried was Ne Win, who was building up his own power while other Burmese political parties were divided and weakened, fighting amongst themselves.

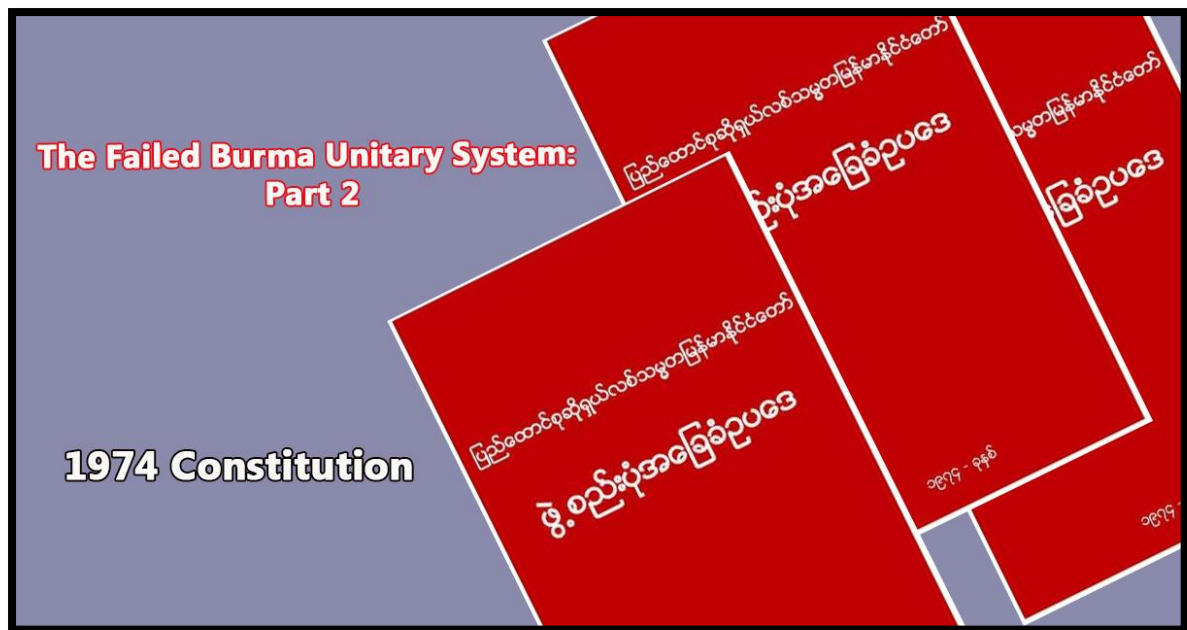
Ne Win had already tasted power once in 1958 as a caretaker prime minister, and he was now eager for more. Or perhaps, his 1958 move was intended to seize power (to take full possession of the house), but due to various reasons, he only became a caretaker (staying in the house temporarily), and he was now seeking to become the owner and ruler of the house. Like other Burmese leaders, he was a Burmese chauvinist and could not accept a genuine federal system and ethnic equality. More than other Burmese leaders, he was a militarist who controlled the army. He was also someone who desired absolute power. Therefore, Ne Win chose a non-parliamentary path to continue Burmese colonial rule by controlling the ethnic nationalities.



This led to the end of the parliamentary democracy era, which had lasted for 14 years, including the caretaker government period, and ushered in an era of military rule and a one-party dictatorship, plunging the country into poverty, human rights violations, and a deep abyss. It also set the precedent for future military coups.

It is believed that if the 1947 Constitution had established a genuine federal system with fully formed states, and if the military had been placed under the control of the parliament and the civilian democratic government, then the country could have become a union for all ethnic groups, and there would have been no reason for the long civil war, mutual distrust, poverty, and the country falling into the hands of military dictators.

In fact, the demise of that era of flawed democracy was due to the disregard for equality, minority rights, and the opinions of the indigenous nationalities, which are the core foundations of democracy, and the excessive use of numerical and quantitative advantages, a weakness of democracy, where "if everyone agrees, then a buffalo is read as a cow."



The Failed Burma Unitary System: Part 2

2. Analysis of the 1974 Constitution

(A) Structure of the State

The structure of Burma under the 1947 Constitution was a unitary system disguised as a federation. However, the slightly federal-looking structure (Chapter 9 - Parts 1, 2, 3, 4, 5), the inclusion of the possibility of forming new states (Chapter 9 - Part 6), and the practice of parliamentary democracy did not allow the Burmese chauvinists to dominate and rule the other ethnic groups as they wished.

Therefore, the Burmese chauvinist military dictators created a one-party, Burmese-dominated unitary system. The Union of Burma was not a federal union. The state did not include any federally constituted states. The state was a single Burmese state. It was merely divided administratively into different levels of regions (Article 28, 29 (a)(b)).

The major indigenous ethnic groups in Burma were designated as seven states. To balance these seven states, the regions where the Burmese majority lived were organized into seven divisions (Article 31). This created the famous division where one indigenous ethnic group equaled one kyat, while the Burmese equaled seven kyats, resulting in a gross inequality where the Burmese chauvinists monopolized the country.

The Burmese chauvinists were so pleased with this monopolistic division that they carried it over to the 2008 Constitution (2008 Constitution - Article 49). Thus, the principle of 14 divisions and states became a major lopsided principle in the parliament, budget allocation, and administration, where the Burmese always had an advantage over the indigenous ethnic groups.

Therefore, the 1974 state structure deprived the indigenous ethnic groups of ethnic, political, and economic equality, leaving them impoverished, declining, and resentful under the Burmese chauvinist military dictatorship, fueling only discontent, conflict, and civil war.

(B) Governance of the State

According to the 1974 Constitution, the state had only one legislative body (Article 32). This legislative body was the highest sovereign authority in the state (Article 41). It enacted laws and delegated executive and judicial powers to the Central Authority and various levels of Regional Authorities formed by the legislature (Article 13, 44, 45).

Thus, who could participate in the legislature? It was stated that the People's Assembly constituencies were based on townships (Article 176-a). Each township had one representative (Article 176-b). It was stated that if the population was large, more than one representative could be elected (Article 176-c). Based on the structure of seven divisions and the number of townships in those divisions, the proportion of Burmese representatives in the legislature was overwhelming.

Therefore, the indigenous ethnic groups legally lost their right to checks and balances against the Burmese chauvinists in the legislature, which held the highest power in the country. In reality, the legislature was merely a rubber stamp for the dictator Ne Win, and since Ne Win was a Burmese chauvinist military leader, his legislature produced only laws that would exploit the indigenous ethnic groups and a puppet government that would implement those laws.

Ne Win's legislature formed the State Council (Article 33). The State Council consisted of 14 members, one from each of the 14 divisions and states, and an equal number of representatives elected by the legislature, plus the Prime Minister. Therefore, the representation of indigenous ethnic groups in the State Council could be only slightly more than seven (Article 64).



The Chairman of the State Council was the President of the State (Article 66-a). The responsibilities of the State Council were similar to those of the President in the 1947 and 2008 Constitutions. It was very unlikely that the Chairman of the State Council or the President would be from the indigenous ethnic groups. This was because the Burmese representatives dominated the State Council, and this dominance was steered by Ne Win, who was a Burmese chauvinist.

Under the State Council, there were four Central Authority organizations: the Council of Ministers, the Council of People's Justices, the Council of People's Attorneys, and the Council of People's Inspectors¹ (Article 34).

The Council of Ministers was elected by the members of the State Council, and one of them was elected as the Prime Minister (Article 82 (a)(b)). The Council of Ministers was the highest executive body of the State (Article 83). The Council of Ministers was accountable to the People's Assembly. When the Assembly was not in session, it was accountable to the State Council (Article 84). The Council of Ministers was responsible for the country's executive affairs, economy, finance, social affairs, culture, foreign affairs, defense, short-term and long-term economic plans, annual budget, taxation, rule of law and order, and implementing the tasks, decisions, and orders assigned by the People's Assembly and the State Council (Article 87, 88, 89).

In other words, the Prime Minister and the Council of Ministers were the central government. They were elected by the members of the State Council. The members of the State Council were People's Assembly representatives elected by the Assembly to be State Council members. The central government or the Council of Ministers was merely a body that implemented the tasks assigned by the Assembly and the State Council. It administered the entire country with a centralist system.

Below the State Council and the Council of Ministers were the People's Councils of the states and divisions, the People's Councils of the townships, and the People's Councils of the wards and village tracts. The People's Councils of the states and divisions and the People's Councils of the townships consisted of an Executive Committee, a Council of Justices, and a Council of Inspectors, formed by the council members. The People's Councils of the wards and village tracts had an Executive Committee and a Council of Justices. These bodies were responsible for implementing the policies, decisions, orders, and plans formulated by the central government.

In summary, the state's governance system was as follows: The People's Assembly was formed by representatives representing the townships. The People's Assembly formed the State Council. The Chairman of the State Council was the President of the State. The State Council formed the Council of Ministers, the Council of Justices, the Council of Attorneys, and the Council of Inspectors from the Assembly representatives.

The Council of Ministers governed the country. The Council of Ministers submitted plans, draft plan laws, and budget bills to the Assembly. The Assembly enacted laws. The Council of People's Justices carried out judicial affairs. The Council of People's Inspectors inspected the work of the ministries.

The People's Councils of the states and divisions were formed. The council members formed the Executive Committee, the Council of Justices, and the Council of Inspectors. The Chairman of the Executive Committee was the Chairman of the respective state/division. The People's Councils of the states and divisions implemented the plans, decisions, and orders of the State Council and the Council of Ministers. The Council of Justices of the states and divisions carried out judicial affairs, and the Council of Inspectors of the states and divisions inspected the work.

The Township People's Councils were formed by the members of the Township People's Councils. The council members formed the Executive Committee, the Council of Justices, and the Council of Inspectors. The operational procedures were the same as those of the states and divisions.

The same structure was used in the wards and village tracts, except that there was no Council of Inspectors. The Council of People's Attorneys was formed directly from the center to the grassroots level.

The entire administrative machinery was regulated by laws enacted by the legislature, led by the State Council, and implemented by the Council of Ministers and various levels of local People's Councils. The ultimate authority behind all these was the Burma Socialist Programme Party (BSPP). Checks and balances could only exist within the party, making them ineffective.

Since the state practiced a unitary system, the indigenous ethnic groups suffered losses in their rights. Because it was a one-party system, the people were mired in the problems of party domination, the emergence of privileged classes, bias, corruption, moral decay, unsuccessful projects, poverty, and isolation from the world.

In addition to being exercised the one-party system, Ne Win, as a dictator, controlled the party, the military, and the civilian administration, and ruled even more harshly by oppressing the ethnic nationalities with his loyal military officers.



**The leaders of the Burma Socialist Programme Party (BSPP)
that Ne Win produced**

(C) Election process

The 1974 Constitution divided the electoral districts into four categories for the election of people's representatives. These were the People's Assembly, the People's Councils of the States and Regions, the People's Councils of the Townships, and the People's Councils of the Wards/Village Groups (Article 175).

However, the main point is that the Burma Socialist Programme Party (BSPP) was the only party that could nominate candidates for the people to vote for (Article 179). This led to an increase in the party's control and manipulation, oppression, and corruption, which undermined the essence of democracy and created a group of local dictators.

Thus, Ne Win and his followers prioritized whether their loyalists were elected rather than whether they were truly representatives of the people or whether they were qualified, in order to perpetuate their one-party dictatorship. The intra-party democracy of the BSPP was a sham, and the representation of the people and the secret ballot were merely at the great will of the "His Majesty Ne Win" .

(D) Centralization

The 1974 Constitution stipulated that the state was led by the BSPP alone (Article 11). Therefore, other political associations were not allowed. This meant that the only way for ethnic nationalities to express their rights and losses was within the BSPP. However, the various levels of the BSPP, in order to gain and maintain power, followed Ne Win and his followers' orders like divine commandments, so it was impossible to achieve anything. Even if they could present their case, it was unlikely that Ne Win, the "big boss" of the BSPP, would accept it.



The BSPP's Ideological master, U Chit Hlaing

The members of the various levels of the People's Councils and the People's Assembly were also elected from the list of candidates nominated by the BSPP (Article 179). These council members and assembly representatives were mostly those who chanted "Ne Win saranam gacchami, Party saranam gacchami, Position saranam gacchami" (I take refuge in Ne Win, I take refuge in the Party, I take refuge in the Position),¹ so the rights and grievances of ethnic groups were bound to be neglected.

The 1947, 1974, and 2008 Constitutions all included the following key points: (1) The state owns all land and water in the country. (2) The state can manage and control these resources. (3) The central government can administer and govern the entire country. (4) The central government can be formed and led by the Bamar people. (5) The Bamar people will rule the ethnic nationalities, or they will have the local people from the ethnic nationalities who are under the influence of the Bamar central government rule them, or the Bamar central government will appoint the person to rule. (6) The central government will handle most of the major economic activities, investments, and tax collection in the country.

Therefore, the 1974 Constitution also stipulated that the state owns all the natural resources in the land, water, and air of the country, and the state will manage and control them (Article 18 (a)(b)). As a result, Ne Win and his group did whatever they wanted with the natural resources of the local ethnic groups. Since the local ethnic groups had no legal way to express their grievances, they had to resort to armed struggle.

The BSPP nationalized the manufacturing industries and ran the country's economy with short-term and long-term plans (Article 19). In reality, however, they were selling the natural resources and raw materials of the local ethnic groups to serve their own interests and the growth of the military.

In fact, the entire 1947 Constitution was designed to establish Bamar central control, so there is no need to analyze it in detail. Moreover, Article 28 explicitly stated that the state would be governed by a centralized system from top to bottom, and Article 32 stipulated that there would be only one parliament. Article 33 stated that the State Council would be formed by this parliament, and Article 34 established four central authorities. Article 35 provided for the formation of People's Councils in the states and regions, townships, wards, and village groups. Articles 36 and 37, as well as Chapter 4 on the People's Assembly, Chapter 5 on the State Council, and Chapter 6 on the Council of Ministers, all ensured the full Bamar central control over the local ethnic groups.



The Failed Burma Unitary System: Part 3

3. Analysis of the 2008 Constitution

The 2008 Constitution is a constitution in which the Burmese military holds power in one hand. On the other hand, it is a constitution where only Burmese political parties can form the government, only Burmese can manage the Union budget, only the Burmese central government can control the resource rights and taxes of the states, and also the administration of the states.

In this day and age, when the demands for equal rights, freedom, self-determination, and self-governance of the indigenous ethnic groups within Myanmar are increasing, it is more likely that people will realize that the 2008 Constitution lacks democratic values and federal essence.

If you peel away the superficial label of "Union" attached to the 2008 Constitution, you will see that it is systematically designed to allow the Burmese to continue to control the politics, administration, legislation, judiciary, economy, resources, and taxes of the indigenous ethnic groups, as follows:

Stage (1) - Establishing the nominally "Union" of Burma as a unitary state.

Stage (2) - Arrangements for the Burmese political parties to dominate the legislative bodies of the Burmese state.

Stage (3) - Only Burmese political parties or the Burmese military can form the central government and control the ethnic states.

Stage (4) - The central government exclusively monopolizes all the financial resources of the country and the budget allocation.

(A) Stage (1) - Establishing the nominally "Union" of Burma as a unitary state

The 2008 Constitution calls Myanmar a "Union" state, but in reality, it is not a Union state of all ethnic groups, but rather a unitary Burmese state. As mentioned earlier, Burmese politicians and Burmese rulers have always tried to include the areas designated as "Burma Proper" by the British, including the highland regions and Karenni areas, within the Burmese state, and to have them live under Burmese rule and administration.

In the preamble of the 2008 Constitution, the false historical fact that **"Myanmar is a Nation with magnificent historical traditions. We, the National people, have been living in unity and oneness, setting up an independent sovereign State and standing tall with pride."** is used as a matter of fact, which is the first step in establishing the Burmese state.

This implies that even before the British annexed the country, the current borders of Myanmar existed as a single nation, that there was more than one ethnic group in that nation, that they were united, and that this nation was the Burmese nation.

To make this implication clear, the sentence is ended with **" setting up an independent sovereign State and standing tall with pride. "** which means that the current territory of Myanmar was established as an independent sovereign state by someone, or some group, or some ethnicity. Therefore, the historical reference must be questioned as to which ethnicity, which king, established the current state of the nation throughout history before the British annexation.

Before the British colonial rule, within the area designated as present-day Myanmar, indigenous ethnic groups had established their own sovereign states in their respective territories and lived under their own traditions and customs. In the area where the majority of Burmese people now live, which is now widely known as "Burma Proper," kingdoms such as Bagan, Pinya, Inwa, Taungoo, Nyaungyan, and Konbaung existed successively, and the Mon people also firmly established the Hanthawaddy kingdom. The Rakhine people also established kingdoms such as Danyawadi, Vesali, Laymyo, and Mrauk-U. They established their own sovereignty thousands of years earlier than the Burmese, who are now trying to inscribe that the great Burmese Empire existed even before the British colonial rule.

As these neighboring countries were armed states, they were historically known to have fought each other. For example, the 40-year-long Mon-Burmese war is a strong testament to this.

As for the Karenni State, it was never conquered as a vassal state by any English king or any Burmese king. It was also recognized as a separate independent state by the English and Burmese, who signed an agreement on June 21, 1875.

Nevertheless, the use of **" We, the National people, have been living in unity and oneness, setting up an independent sovereign State and standing tall with pride "** in the 2008 Constitution implies that the current territory of Myanmar was the territory of a unified country (which is meant to be the Burmese territory) since before the British colonial rule, that this unified country was ruled by some ethnicity or some group or someone (which is meant to imply that the Burmese led and ruled all the ethnic groups within this territory), and that the ethnic groups lived in unity and harmony in this unified nation, thus reviving the Burmese state.

Continuing in the preamble of the 2008 Constitution, it further cements the existence of a Burmese state by stating, **" Due to colonial intrusion, the Nation lost her sovereign power in 1885. "** This inserts the false information that there existed a large nation-state within the current borders (which is meant to imply the Burmese state), and that this nation-state lost its power due to British colonialists.



Images that revealing the idea of the Burmese Empire

In reality, what happened in 1885 was the end of the Konbaung Dynasty and the fall of Mandalay as the capital, resulting in Burma becoming a British colony. However, the Kachin, Shan, Karenni, Chin, Naga, etc., regions did *not* simultaneously become British colonies just because Mandalay fell.

Therefore, the forced and undignified portrayal of a non-existent nation (purportedly the great Burmese state) can only be for one reason: to enable the Burmese to control and rule over non-Burmese ethnic groups when drafting the national constitution.

Article 3 of the 2008 Constitution states, "**The State is where multi-National races collectively reside.**" This implies that the State is the Burmese state, that the founders and rulers of the state are Burmese, and that all ethnic nationalities live within this state under Burmese rule.

If it were truly a federal state, the constitution should stipulate something like, "The Union of Myanmar is a Union of independent and sovereign states with equal status and equal opportunities." Only then can it be called a genuine federation.

A federal state is not a unitary state founded by one ethnicity or one group. It is a union of independent states representing different ethnicities or regions. Therefore, the original agreement to form the union must include a clause allowing for secession.

Historically and constitutionally, it is difficult for an ethnicity or a region within a unitary state to secede, and it is unlikely to be legally permitted. Therefore, the provisions in Article 10 imply that no part of the unitary Burmese state can secede. In other words, the Myanmar in the 2008 Constitution is meant to be a unitary Burmese state.

For ease of administration, the Burmese state is divided into regions, which are named "States," "Regions," and "Union Territories" (Article 49, 50). These "States" and "Regions" are further divided into "Self-Administered Zones," "Districts," "Townships," "Cities," "Wards," and "Village Tracts" (Article

51). However, these "States" and "Regions" do not have self-governance; they are merely administrative divisions within the Burmese state, designed to carry out the administrative tasks of the Burmese central government.

As the Burmese state is a unitary state, it is the original owner of all land, above and below ground and water, and all natural resources within its territory (Article 37-a).



The Burmese state, through its central government, will exclusively manage the exploration, extraction, production, and sale of these natural resources. The revenue generated from these resources will also belong solely to the central government. The central government can conduct explorations, seize land related to these activities, etc., as it sees fit. Regardless of where these natural resources are found, that area belongs to the Burmese state, and the people living in that area are merely subjects allowed to reside there by the Burmese central government (Article 37 (a)(b)).

The Burmese rulers, with their compassionate and considerate intentions, will assist and support the ethnic nationalities living as subjects within the Burmese state in the development of their languages, literature, culture, and arts, as well as in education, health, economy, and transportation (Article 22 (a)(b)(c)). However, the Burmese central government will decide how these matters concerning the ethnic nationalities should be handled, to what extent they should be carried out, and how much development is appropriate.

Even if some of the issues of the ethnic nationalities are addressed with a degree of leniency, the entire country is still the Burmese state. Therefore, the Burmese central government must prioritize the development, strengthening, and preservation of Burmese national culture—in other words, Burmese literature, Burmese culture, Burmese traditions, Burmese names, and the grand Burmese historical narrative—burying and burmanized the unique national characteristics, histories, traditions, cultures, languages, literatures, and national memorial days, iconic figures, and all other distinct symbols of the other ethnic groups under the umbrella of Burmese culture (Article 27).

The above describes the first stage of establishing the Burmese Nation: bringing the indigenous ethnic groups, who have lived with their own kings, territories, histories, cultures, languages, and literatures throughout history before the British colonial period, under a unitary system under the guise of a federal union.

(B) Stage (2) - Arrangements for the Burmese political parties to dominate the legislative bodies of the Burmese state

The central-level parliaments of the Burmese state, which will control and manipulate the entire country at the Union level, are divided into two: the House of Nationalities (the Amyotha Hluttaw) and the House of Representatives (the Pyithu Hluttaw) (Article 74).

Out of the 224 seats in the House of Nationalities, the Burmese military takes one-third, or 56 seats (Article 141 (a)(b)). This fixed share for the military in the country's legislature is like extracting one-third of the heart of democracy. The Burmese military, which has designed the unitary Burmese state and upholds Burmese chauvinism while protecting Burmese interests, is essentially stepping on the heads of the ethnic nationalities by securing these seats.



The Burmese military, relying on the 2008 Constitution, is forcibly occupying seats in the parliament

Of the remaining 168 seats, 84 are allocated to the 7 regions where the Burmese are the majority or where they want to claim original ownership (Article 9(a), Article 141 (a)(b)). This is also giving Burmese political parties another foothold over the ethnic nationalities.

Out of the total 440 seats in the House of Representatives, the Burmese military takes a fixed quarter, or 110 seats, making it difficult to call this a House of Representatives that fully embodies the essence of democracy. Moreover, since the central government is accountable to the House of Representatives, and to ensure a large number of Burmese representatives in the House of Representatives and to have

more leverage in controlling the House of Nationalities (the House of Nationalities in the 1947 Constitution), the 2008 Constitution continues to follow the provision in Article 83 (2) of the 1947 Constitution, which stipulated that the number of representatives in the House of Representatives should be nearly double the number of representatives in the House of Nationalities, if possible.

Let's say the 330 representatives to be elected by the public are based on the 330 townships. The total number of townships in the ethnic states is 123, while the total number of townships in the 7 regions where Burmese political parties are stronger is 207. Therefore, Burmese political parties can secure the majority of the 207 seats, which is 62.72% of the 330 seats. The ethnic states, on the other hand, are not even sure of getting more than half of the 123 seats, which is 37.27% of the 330 seats.

Even though the 207 representatives from the regions will not all be from one Burmese political party, the majority will still be from Burmese political parties. Therefore, when it comes to federal issues, issues of natural resources in the states, the right to self-determination and self-governance of the states, budget allocation, tax issues, and other rights of the ethnic nationalities, Burmese political parties are more likely to be of one mind. This has been clearly demonstrated in Burmese political history.

In important and sensitive issues for the Burmese, such as federal union issues and constitutional amendment issues related to power sharing, the Burmese military's 110 votes can also be secured. Therefore, it is not easy for ethnic nationalities to achieve anything for their rights through democratic means in the House of Representatives. It is a Burmese parliamentary system where they can only get what the Burmese political parties, Burmese politicians, and Burmese public representatives, who hold the majority of the votes, are willing to give.

For the Burmese state's legislation, there are three types of bills: bills to be submitted to the Union Parliament, bills to be submitted only to the House of Representatives, and bills that can be initially submitted to either the House of Representatives or the House of Nationalities.

The Union Parliament has the legislative power (Article 96, 98) in relation to (1) matters in the Union Legislative List shown in Schedule (1) of the 2008 Constitution, and (2) other matters not shown in the legislative lists of the Union, Regions, States, and Self-Administered Areas/Zones Leading Bodies.

The Union Parliament is said to be the place where the Burmese central government can discuss and decide on the state's national plan, the annual budget estimates, and tax bills (Article 100 (b)).

The Union Parliament is said to be the place where it discusses and decides when the House of Representatives and the House of Nationalities disagree on repealing or amending a bill, regulation, rule, or bylaw (Article 95(b), Article 97(d), Article 137(g)).

Each Region or State has its own parliament. This parliament has the power to legislate on matters in the Legislative List shown in Schedule (2) (Article 188). The Legislative List in Schedule (2) mostly includes minor matters that are not important to the Burmese state, are not the main source of income, or, in other words, are just token gestures.

Even though they are given the right to legislate on such insignificant matters, the fact that the Burmese military has a fixed one-third of the seats in the Region and State parliaments means that this is only a legislative right under continued guardianship (Article 161-d). Only the Region and State governments have the right to submit the annual financial budget bill for the Regions and States (Article 193). However, the Chief Minister who will lead the Region and State government is appointed by the President of the Union (Article 261), and the Chief Minister submits the list of Region and State ministers and the Region and State Attorney General, who are then appointed by the President (Article

262, Article 266). Therefore, the annual financial budget bill is also under the control of the Burmese central government.

Even with the right to legislate on such insignificant matters, in terms of the effect of the laws, it is stipulated that if any provision in the law enacted by the Region and State parliaments, the Leading Body of the Self-Administered Area/Zone, etc., contradicts any provision in the law enacted by the Union Parliament, the law enacted by the Union Parliament shall be followed. Therefore, the Union Parliament is the main legislative court that can make the final decision (Article 198 (b)(c)).

In the Union Parliament, which has great legislative power, there are two houses: the House of Nationalities and the House of Representatives. Let's say the number of votes that can be cast for the Union Parliament's decision is (House of Nationalities (224) votes + House of Representatives (440) votes = (664) votes). If we remove the (166) votes that the Burmese military has taken, there are (498) votes left. If we add the (84) votes that were taken from the ethnic nationalities by forming the regions and the (207) votes that the regions get in the House of Representatives based on the number of townships in the Burmese mainland, which has been economically developed, has many residences, and has a large number of townships, we get (291) votes. This is (58) percent of the (498) votes even without the Burmese military's votes. If we add the Burmese military's votes, we get (68) percent.

Therefore, in the Burmese parliament dominated by the Burmese political parties' representatives, no law can be enacted without their consent, and any law protecting Burmese national interests can be enacted. This is the arrangement made by the Burmese rulers to continue to control the ethnic nationalities by using the weakness of democracy as an advantage (Article 109, Article 141).

(C) Stage (3) - Only Burmese political parties or the Burmese military can form the central government and control the ethnic states

The Burmese state is governed by a presidential government. However, the president is elected by the Union Parliament. To elect the president, the Union Parliament is divided into three groups: the House of Nationalities group, the House of Representatives group, and the Burmese military group, which has seats in the parliament without being elected. Each group elects one vice president. The Burmese military has already secured its right to one vice president (Article 60 (a)(b)(c)).

Out of these three vice presidents, the president is elected by a vote of all the representatives in the Union Parliament. Let's assume that elections can be held in all constituencies and there are a full 664 votes. After removing the 166 seats held by the Burmese military, the remaining 498 votes include 291 votes representing the regions and only 207 votes representing the ethnic states. Therefore, the Burmese political party or parties that can win decisively in the regions, or the will of their parliamentary representatives, cannot be disregarded in the presidential election (Article 60 (e)).

According to the results of the past 2010, 2015, and 2020 elections, it can be seen that the ethnic parties did not receive all 207 votes from the ethnic states, and many were taken by Burmese political parties. It is also impossible for ethnic parties and the Burmese military to unite, as their political goals are different and there is no common ground for building common interests. Even if they do unite, it is not easy to overcome the majority of votes held by Burmese political forces that oppose the military's involvement in politics. The current political landscape and political thinking in the Burmese mainland are still unable to break free from the shackles of personality cult, majoritarianism, and anti-military dictatorship sentiment, and a shift towards a new political environment that is equal, free, and

focused on the national interests of all ethnic groups has not yet occurred. Therefore, small Burmese political parties that would create balance in the parliament are also unable to gain traction.

Therefore, the person who becomes the president must be someone who can lead the Burmese political party or parties that represent the majority of Burmese people, or someone who is supported by these parties. The main point is that the person must follow the policies of these parties.

The president can form the National Defense and Security Council, which he himself leads (Article 201). This council has a total of 11 members, 5 from the civilian side and 6 from the Burmese military. The 5 civilians can be from the powerful Burmese political parties in the parliament, or someone who is supported by these parties and will carry out their interests (Article 201). Therefore, this council, which is important in the administration of the Burmese state, is fully dominated by the Burmese military and Burmese political parties, which is an arrangement designed to control and rule over the ethnic nationalities.

The president forms the central government of the Burmese state, which he leads, with the approval of the Union Parliament.



The president appoints the central government ministers with the approval of the Union Parliament. These ministers are accountable to the president (Article 232).

The president can appoint deputy ministers of the central government. These deputy ministers are accountable to the president through their respective ministers (Article 234).

The president must appoint the Union Attorney General with the approval of the Union Parliament. The Attorney General is accountable to the president (Article 237). The president appoints the Union Deputy Attorney General. The Deputy Attorney General is accountable to the president through the Union Attorney General (Article 239).

The president must appoint the Union Auditor General with the approval of the Union Parliament. The Auditor General is accountable to the president (Article 242).

The president appoints the Union Deputy Auditor General. The Deputy Auditor General is accountable to the president through the Union Auditor General (Article 244).

The president forms the Union Civil Service Board and appoints the chairman and members of the board. They are accountable to the president (Article 246).

The president appoints the Chief Ministers of the Regions and States with the approval of the respective Region and State parliaments (Article 261). These Chief Ministers are accountable to the president (Article 262 (h)(1)).

The president appoints the Region and State ministers who are nominated by the respective Region and State Chief Ministers with the approval of the respective Region and State parliaments. These ministers are accountable to the president through their respective Chief Ministers (Article 262).

The president can make changes to the ministries of the Regions and States, and increase or decrease the number of ministers, with the approval of the respective Region and State parliaments (Article 248 (g)).

The president appoints the Region and State Attorneys General who are nominated by the respective Region and State Chief Ministers with the approval of the respective Region and State parliaments. These Region and State Attorneys General are accountable to the president through their respective Chief Ministers (Article 266).

The president appoints the Region and State Auditors General who are nominated by the respective Region and State Chief Ministers with the approval of the respective Region and State parliaments. These Region and State Auditors General are accountable to the president through their respective Chief Ministers (Article 271).

The president appoints the Chairpersons of the Self-Administered Areas/Zones who are nominated by the respective Region and State Chief Ministers. They are accountable to the president through their respective Chief Ministers (Article 276).

The president can make necessary changes to the districts and townships within the Union Territory (Article 284 (b)).

The president forms the Naypyidaw Council and appoints the chairman and members of the council. They are accountable to the president (Article 285).

By studying the aforementioned articles, it can be seen that the president of the Burmese state is elected by the Union Parliament, which is dominated by the Burmese political parties in terms of numbers. Therefore, the president has a large support base in the parliament. In other words, the president is a representative of the dominant forces in the parliament.

The president appoints the members of the central government with the approval of the Union Parliament. In fact, although it is said that the appointment should be made with the approval of the parliament for the purpose of mutual checks and balances between the president's central government and the parliament, according to the principles mentioned earlier, there will be no checks and balances whatsoever for the president and his parliamentary group, or the powerful parliamentary group and their representative president, in appointing the members of the central government.

Therefore, the Burmese state central government and majority of Burmese political party representatives in the parliament are cut from the same cloth and can implement the Burmese state's agenda and manage the entire country, including the ethnic nationalities, as it wishes.

The Burmese government's president also has the power to appoint and dismiss the Chief Ministers of the ethnic states, the state ministers, and the state attorneys general and auditors general. The president also has the power to appoint the chairpersons of the Self-Administered Areas/Zones.

The president of the Burmese state and his central government can formulate and implement the policies and plans of the central government (Article 220). The president of the Burmese state and his central government can draft the national budget (Article 221). The president of the Burmese state and his central government can submit bills related to matters that the Union Parliament can legislate on to the parliament. They also have a large political force within the parliament to pass these bills (Article 223).

The president of the Burmese state and his central government ministries manage the government departments and organizations under their ministries across the country (Article 224). The president of the Burmese state and his central government can issue orders to the ethnic states and self-administered entities to work under the direction and command of the central government (Article 225). The president of the Burmese state and his central government can use state funds to freely form and appoint compliant staff organizations and staff to help them govern the entire country, including ethnic areas, as they wish (Article 227).

The unitary system of governance of the Burmese state under the 2008 Constitution is as follows:

According to the Constitution, the Burmese political forces, which are already dominant in the parliament with or without the alliance of the Burmese military, have the greatest opportunity to appoint the president without the need to negotiate with the ethnic nationalities.

The president, with his superior parliamentary support or as a representative of the powerful parliamentary forces, forms the central government. The territories designated by the Burmese as "Burma Proper" and divided into regions, the ethnic states, and the self-administered areas/zones are merely administrative divisions of the Burmese state. The president also appoints the leaders and officials to manage and administer all these territories according to the wishes of the central government and assigns his duties to them.

These regions, states, and self-administered areas/zones are further divided into districts, townships, cities, wards, village tracts, and villages. The General Administration Department, which is a department under the central government or the central government ministries or the local (regional/state) government, which is a subordinate department of the central government, administers the entire country (Article 288, Article 289). The head of the General Administration Department of the Region/State is the secretary of the Region/State government (Article 260). They hold the key decision-making positions from top to bottom in the country's administration, and the central government controls and operates all the key administrative positions.

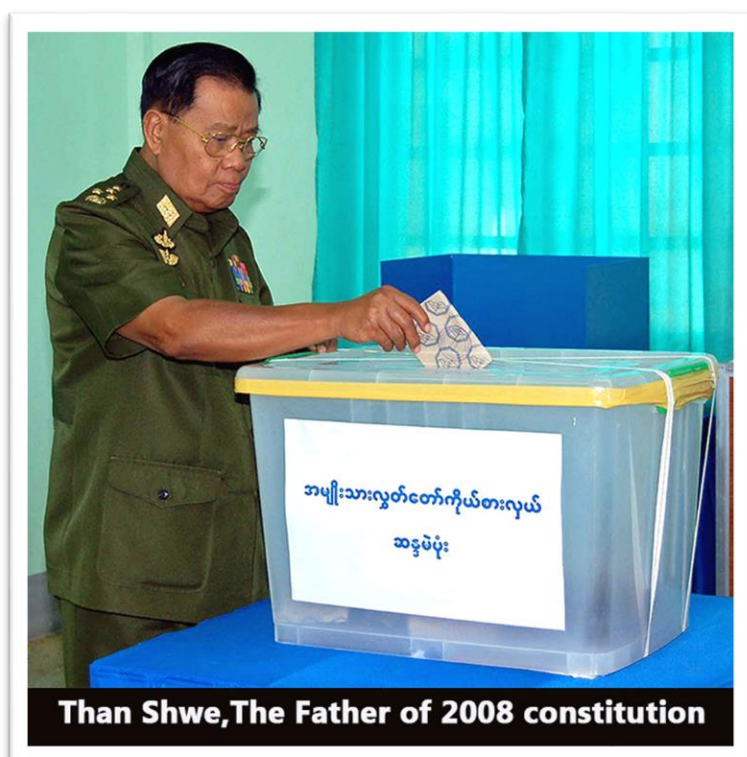
The president forms the central government ministries and appoints ministers. The central government ministries manage all the important sectors of the country. These ministries extend their branches and offices throughout the country and control them. All these branches and offices operate according to the orders of the central government ministries. There is no need to consider the rights, opinions, and management rights of the local ethnic nationalities.

The government ministries in the Regions and States also have very little power, and for these limited powers, they are accountable to the respective Region and State Chief Ministers, and through them, to the president and the Union ministries. Therefore, the powers are only flowing vertically from the center.

In other words, the president only distributes the general administrative powers and authority to the Region and State Chief Ministers and their governments, the district, township, and city general administration departments, and the ward/village administrators. On the other hand, the president only delegates responsibilities for the basic and important sectors of the country to the ministries that he forms and to the subordinate departments and organizations of these ministries.

The central government ministries are only given the responsibility of implementing the instructions under their command. In reality, the central government controls the country's administrative power, and only delegates the responsibility for following and implementing their decisions, instructions, and plans to the subordinate administrative levels, while controlling and restricting their right to make their own decisions and manage their own affairs. It is a strict central control system of governance within a unitary state.

If it is stated in Article 8 of the 2008 Constitution, "**The Union is constituted by the Union system,**" then the State must be a union of independent states. It should not be merely a division of administrative regions for the sake of easy administration of a unitary state. Within the Union, the state governments and local governments must have their own constitutions and self-governance rights within their legally defined territories, and they must be able to freely carry out public services.



The Union government should only manage the powers transferred to it by the states for matters related to the entire country, and it has no reason to interfere in the self-determination, self-governance, self-decision-making, and self-management rights of the states. However, in the 2008 Constitution, these essences of the Union are lost, and the Burmese central government monopolizes all the rights of the ethnic states.

(D) Stage (4) - The central government exclusively monopolizes all the financial resources of the country and budget allocation

(1) Confiscation of Burmese state property

The Union of Myanmar is not a union of states; it is considered only as the Burmese state in the 2008 Constitution. Therefore, the ethnic states do not have the right to own their water, land, and natural resources; only the Burmese state owns everything. The central government of the Burmese state has the exclusive right to manage and control them. It has the right to enact the laws necessary for this management. This is the monopolization of all the financial resources of the country.

This is the Burmese government, which mainly represents the Burmese people, enacting laws to seize the land, water, forests, mountains, and natural resources of the non-Burmese ethnic groups (Article 37 (a)(b)).

(2) The central government seizes all tax revenue

After confiscating the property of the ethnic nationalities, the Burmese state compiled the Union Legislative List to legally manage and control them (Article 96, Schedule 1). This list is divided into 11 sectors, and the 123 important, key, and revenue-generating matters are given to the Burmese Union Parliament, which is the main backbone of the Burmese central government, to legislate. The ethnic states only have the right to legislate on minor matters, and even these laws will be subject to the Union laws if they conflict (Article 198).

The taxes and fees that the states are allowed to collect are also completely insignificant and trivial. These trivialities are not much, only 9 types of taxes, 3 types of fees, land revenue, registration fees, 4 types of fines, and interest and profits from loans and investments from state-owned funds (Article 254, Schedule 5).

The 9 types of taxes that the states are allowed to collect are land tax, liquor tax, water tax, dam tax, tax levied on land and water transport vehicles, market tax, salt tax, and municipal tax. The 3 types of fees are electricity usage fees generated by the water of dams and weirs managed by the state, toll fees for roads and bridges managed by the state, and rental fees for state-owned property. The land revenue, registration fees, and 4 types of fines are freshwater fishery revenue, sea fishery revenue within a specified distance, fines imposed by courts, and registration fees.

The types and amounts of taxes and fees that the states are allowed to collect are pitifully small. (For example, how much can be collected in Chin State from land tax, liquor tax, water tax, dam tax, electricity usage fees from those dams and weirs, freshwater fishery tax, sea fishing tax, tax levied on land and water transport vehicles, salt tax, market tax, etc.?)

However, except for these insignificant taxes and fees that the states are allowed to collect, all other taxes, fees, and revenues must be included in the Union Consolidated Fund. The central government has the right to use these funds in accordance with the law (under various pretexts) (Article 231). (For example, the four offshore natural gas projects alone generate about US\$1.5 billion annually.)

In legislation, the central government has the power to enact laws that are effective for the entire country or for the states (Article 96). The right to draft bylaws and regulations related to the laws enacted in this way has been given to the Union ministries or Union-level organizations (Article 97 (a)(b)).

In other words, this is giving the Burmese central government and the Union Parliament the right to legislate, manage, and generate revenue for the 123 matters in Schedule (1) monopolized by them, as

well as matters not yet included in this list, matters not yet included in the State Legislative List (Schedule 2), and matters not yet included or mentioned in the Self-Administered Areas/Zones Leading Body Legislative List (Article 98).

(3) The central government acquire the right to manage and allocate the funds seized as the Union Fund

The central government first forms the Finance Commission to use the Union Consolidated Fund. This commission has 21 members, and except for one vice president nominated by the Burmese military, the remaining members are the president and 18 people appointed by the president, and the other vice president (Article 229). Therefore, the Finance Commission is the president's compliant commission. The president is a person of the Burmese parliamentarians who have a lot of power in the Union Parliament. Therefore, it is almost certain that the president's Finance Commission will only look after the interests of the Burmese people and the regions where they mostly live, rather than the interests of the ethnic nationalities.

The central government, in consultation with its compliant Finance Commission, drafts the Union budget and submits the budgets of its backing Union ministries and Union-level organizations to one vice president, and the budgets of the states to another vice president. They are reviewed by them under the president's assignment and submitted to the Finance Commission led by the president (Article 230). Therefore, the budgets of the ethnic states depend on the goodwill of the central government, and the 2008 Constitution is designed to suppress and control the rights of the ethnic nationalities and prioritize the interests of the unitary Burmese state.

(E) The Burmese Military and its Tenant Politics Policy

(E-1) Is the military a separate entity?

The Burmese military, in the State Fundamental Principles (Article 6-f) of the 2008 Constitution, explicitly states its intention: "**enabling the Defence Services to be able to participate in the National political leadership role of the State.**"

The military is one of the fundamental sectors of the State and must be under the command of the President of the State and the Union Parliament. The civilian Minister of Defense from the elected civilian government of the President is the leader of the State's defense organizations, including the military. The military is not a political organization. It has no reason to be involved in politics at all. It has no reason to take responsibility in the country's administration, except when temporarily assigned by the President and the Parliament in times of national emergency. It has no reason to interfere in the country's legislation and judiciary.

However, the fact that the military is an armed organization and therefore has the right to interfere in the country's administration and legislation at any time, and that it must participate in the country's political leadership role negates the provision that "The Union practises genuine, disciplined multi-party democratic system (Article 7)," and makes the elections held under the 2008 Constitution, the parliaments convened, and the governments formed seem like the playing politics for fun.

The Burmese military has disproportionately inflated its role in the 2008 Constitution and forcibly enacted provisions that grant it irrelevant powers.

Article (20-a), in which it is the sole Tatmadaw of the Union, would be sufficient, but it is embellished with unnecessary adjectives.

Article (20-b) in which matters that the Tatmadaw can manage, matters that the President can manage, and matters that require parliamentary approval must be differentiated. However, the Burmese military is building a separate entity with its own economy, self-governance, self-determination, and self-judicial power, independent of the control and command of the State government and the Union Parliament, using public funds.

Article (20-c) in which the Commander-in-Chief of all armed forces must be the President of the State. The Commander in Chief of the Tatmadaw must be under the command of the civilian Minister of Defense.

Article (20-d) in which matters such as organizing the People's Militia and conscripting all citizens for national security and defense are the responsibility of the President and the Parliament.

Article 20 (e)(f) in which (a) non-disintegration of the Union; (b) non-disintegration of National solidarity; (c) perpetuation of sovereignty; are the responsibility of all citizens. The military alone does not need to take primary responsibility. However, due to the Burmese's Great Burma chauvinism, national unity has been disintegrated. The very Union has never existed. They have always strived for the non-disintegration and perpetuation of the Great Burmese unitary state and Burmese sovereignty. The Constitution is not divinely ordained, and therefore, it must be amended if necessary according to the times and circumstances. If the public desires a new one, it must be rewritten. All citizens have a duty to protect a constitution that is accepted and agreed upon by the public. The Burmese military does not need to act like it is holding an inheritance from its in-laws.

Article (338) in which it is not necessary to put all armed organizations under the Tatmadaw. The police force must be separate and not under the military. Investigative and intelligence agencies also do not need to be under the military. In a federal system, state police forces must be organizations under the state government led by the state governor. As mentioned earlier, it can be assumed that the Burmese military wants to build a separate authoritative organization by gathering all armed organizations under the military and building its strength.

Article (339) in which all actions, plans, and decisions of the military must come from the President of the State, the Union Parliament, the Union government, and its Ministry of Defense. The military has no reason to act with its own decisions. It is also not the proper way. The military's duty is to obey the orders of the State President elected by the country, his government, and the Union Parliament representing the country, to be ready for orders, and to be fully capable when ready.

Article (340) is in line with the principles discussed in Article (20-d).

Article (342) in which the President of the State shall appoint the Commander in Chief of the Tatmadaw with the advice of the Minister of Defense and the approval of the Union Parliament. The Commander in Chief of the Tatmadaw and the Deputy Chief of the Tatmadaw are already included in the National Defense and Security Council, and the Ministers of Defense, Home Affairs, and Border Affairs, who are appointed by the President after requesting a list from the Commander in Chief of the Tatmadaw, are also included. Therefore, it is not a realistic way for the President to appoint and assign the Chief of Defense Staff based on the proposal of this council.

Therefore, the Burmese military is a separate armed organization that is free from the control of the State government and the Union Parliament, has its own self-governance, self-determination, and self-economy, but has a fixed place in the country's administration and legislation and has the right to

interfere, has the right to receive and use public funds, and can seize state power at any time under various pretexts.

(E-2) The Burmese military's interference in the country's administration

The fact that the military has secured permanent positions, permanent responsibilities, and a permanent number in the country's administration is a strange, half-baked democracy. The 2008 Constitution, which allows the Burmese military to permanently participate in administration from the Union level down to the local administration level of districts, is an unjust provision. Holding elections and participating in elections under this constitution is also encouraging this injustice (Article 17-b).



In the election of the President of the State, the military takes one-third of the rights and has the opportunity to rise to the presidency. At least one of the Vice Presidents can be nominated by the military, and this Vice President can be used by the military to interfere in the country's administration. This is more than just tarnishing the face of democracy (Article 60 (a-3)).

In the Union government, the Ministry of Defense, the Ministry of Home Affairs, and the Ministry of Border Affairs are not managed by the President but are controlled by the military. This is a strange civilian-military coalition government in Myanmar (Article 232 (b-2)).

The ethnic states have the least freedom. The Chief Minister of the State, the Attorney General of the State, and the State Ministers are appointed by the President. Among the State Ministers, the Minister of Security and Border Affairs is controlled by the military. Therefore, the authenticity, freedom, independence, and self-determination of the ethnic state governments are questionable (Article 262 (a-2)). Even in the local administration of the Self-Administered Areas/Zones Leading Body, one-fourth of the Leading Body is still controlled by the Burmese military. The military's interference and occupation in the country's administration is frightening or shameful (Article 276 (d-2)(j)).

(E-3) The Burmese military's interference in legislation

It is completely unacceptable that the military is sitting comfortably in the parliaments formed by the people's elected representatives (Article 174).

The Burmese military has already secured one-fourth of the seats in the House of Representatives (Article 109-b), one-fourth in the House of Nationalities (Article 161-d), one-third in the Region and State Parliaments (Article 161-d), and one-fourth in the Self-Administered Areas/Zones Leading Body (Article 276-j) without being elected by the people. The Burmese military's exclusive right to one-fourth of the Union Parliament is even more advantageous than one state. The fact that they have secured one-fourth of the central structure of the country and one-third of the Region and State parliaments means that they are deeply involved in controlling the detailed structure of the country.



(E-4) Preparedness to seize power at any time

In the ethnic states and self-administered ethnic areas, the Burmese military has secured the right to prevent and protect with Article 40 (b) to control the rise of nationalist spirit among ethnic nationalities and the activities to bring this about.

The Burmese military has firmly stipulated in Article (40-c) that they have the right to seize state power for the matters they are labeling.

In other words, even though the Burmese military has firmly established its position in the state administration and legislation as described above, they are ready to cheat if they are not satisfied with this game. As soon as they feel that they are not allowed to manipulate the country as they wish, they are ready to stage a coup. They have prepared to legitimize the coup with many articles (Article 418 (a)(b), Article 419, Article 420, Article 421, Article 425, Article 432).



In fact, the Burmese military does not care about any articles or clauses. It has firmly and separately built its own constitution, self-governance, self-determination, and self-economy so that it does not need to care about the people, government organizations, parliaments, political organizations, etc.

The people's representatives who participate in elections, form governments, and hold parliaments under the 2008 Constitution are like hired farmers working in the fields of the Burmese military, not knowing when they will be taken back.

Interfering in the country's administration and legislation by using the fact that it is an armed organization, seizing state power by force, or preparing to seize it is a very shameful act of low intellectual ability, and this will not succeed in the long run and will only lead the country to chaos and destruction.

Conclusion

Since gaining independence from the British, Myanmar has drafted and implemented three constitutions. However, these constitutions adopted a Burman-centric system that did not grant equal political rights to all indigenous ethnic groups. This has fueled a civil war lasting over 70 years, and the country continues to endure military coups by the Burmese army.

To prevent Myanmar from disintegrating, there is no other way but to establish a federal union. In doing so, it is necessary for the Burmese political organizations and military entities to relinquish the political advantages they held over non-Burman indigenous ethnic groups in previous constitutions.

Therefore, it is hoped that all indigenous ethnic groups can draft a new constitution that guarantees equal political rights for all and establish a peaceful, prosperous, and sustainable federal union.