

**The Language of Democracy and Federalism in Burma and  
Its Divorce from True Concepts: The Way Forward for  
-The Burmese Federation-**

**Nang Seng Hong**

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aspiration for a Federal Union State, I will feel justified in my efforts.



## **Abstract**

Globalization is not only related with sovereignty, and things such as natural resources, but it is also related with multiculturalism. The current Burmese Government has made gestures toward democratization and they have been involved in discussions of minority rights in recent years. Nevertheless, minority rights are by no means secured. Ethnic minorities have been struggling in a civil war with majority Burmese since 1947. Moreover, there are eight major ethnic groups with their own language and some borrowed words such as “federal” and “democratic”, which have come to take on major significance in current peace negotiations. This research determines the degree of understanding of democracy and federalism through usage among these ethnic groups. This is very necessary to understand how did the ideology of democracy and federalism influence Burma and why the leaders of Burma came to practice federalism in the political platform in the country. Burma was a monarchy and the other ethnic groups accepted their traditional rule as feudalist system. However, there is no native Burmese term for democracy or federal, which can be found in any Burmese-English dictionary, and only one English-Burmese dictionary is used in Burma. The official language of Burma is Burmese. However, the eight major ethnic groups each with a different language have some borrowed words such as “federal” and “democratic”. My dissertation examines the safeguards of democratic and federalist principles and practices in relation to protecting rights of ethnic minorities, and it compares the use of democracy (and related terms) and federal (and related terms) in the newly-open-to-the-outside Burma.

Starting from a common standard of English language meaning, federal and democracy as found in English dictionaries is compared to Burmese language usage. This usage gives a clear picture of the understanding of democracy and federalism in the first Burmese Constitution of 1947, Burmese 1974 Constitution and Myanmar 2008 Constitution, Burmese publications, newspapers and proclamations including the ethnic armed groups called United Nationalities Federal Council (UNFC) which wrote a constitution called the Federal Republic of the Union of Burma (Second Draft) and related statements. In addition, both Myanmar Newspapers in English, and Myanmar Government Statements and ethnic armed groups statements will be referenced in this dissertation.

Heinrich Bullinger (1504-1575) indicated that the fountainhead of federalism that was in relationship between God and human civilization. The ideology of federalism has exerted influence for four and half centuries since it first appeared in print. Philippe Duplessis-Mornay (1549-1623) tracked the theological-political federalism of Bullinger. Moreover, Johannes Althusius (1557-1638) indicated that federal was as “biblical grand design” for civilization. He believed that covenants were promises between God and humans that knit a connection between God and humans. Charles S. McCoy and J. Wayne, Baker (1991) indicated the influence of federalism developed in the sixteenth and seventeenth centuries. It constituted a Religious-political movement in the low countries in 1579 that put to end the cruel rule of Spain and founded the United Provinces as Union of Dutch provinces. The system became “federal” and it influenced Switzerland, Germany, Netherlands, Britain, and New

England.

Richard Simeon (2013) writes that there are over two dozens federal systems around the world, that include 40% of the globe's population. Democracy is a part of federalism's global promise, but in the contemporary era interest in federalism has increasingly focused on its potential as a means of governing diverse and divided societies. For ethno-religious minorities federalism holds promise because federalism has emerged as a powerful idea about how to organize a divided society.

Vermeule (2009) observes, when designing a constitution, it is important to remember that a society may not be able to get an "ideal" constitution; it may have to settle for inferior institutions when setting up its system. Broschek (2010) articulated that federations create a gap between the legitimating values of federalism and allocations of political authority in federal institutions. It creates endogenous pressures for change. Ran Hirschl examines how federalism can be an institutional arrangement to contain religious fundamentalism. A divine authority is the ultimate source of sovereignty, power, and legitimacy; not only is religion a basis of collective identity but it is granted a formal constitutional status, putting certain religious directives above the constitutional order. Hirschl noted that a secular-religious divide, as anti-theocratic interests seek to tame the spread of religious fundamentalism and to defuse attempts to establish a constitutional theocracy.

Hamid Hussain (2010) contends that a federal State derives its existence from the constitution and there are executive, legislative and judicial divisions of a state. An independent judiciary is an important feature in a federal set up. Federalism provides

possibility of adequate representation to the territorially organized ethnic communities. He mentioned India's federal structure was framed on the basis of linguistic consideration. It provides equal economic opportunity and resource sharing by giving certain benefits to socio-economic societies. There is no mention of the word 'secular' nor 'federal' in the preamble of the Constitution but, the spirit of the Constitution has been secular and federal as a part of its basic structure. Hussain explained how the Indian Constitution protects the rights for minority groups in India as the Preamble of Indian Constitution reads, "We, the people of India adopt, enact and give to ourselves this Constitution".

Sanjiv Agarwal (2014) claimed that a constitution is a written document that forms the basis of a governing body and this document says how a government of governments will come into being and who in such a government will play what role and Indian Federalism is the original will of India's founding fathers. Dr. Ambedkar explained the American polity is known as the Federal Government and the other States, which correspond, respectively to the Union Government and the States Government of the Draft Constitution. According to the American Constitution the Federal Government is not a mere league of the States or the States administrative units or agencies of the Federal Government. This is the same with the Indian Constitution as was proposed in the Draft Constitution; it is not a league of States nor are the States administrative units or agencies of the Union Government.

Solomon A. Dersso (2012), an Ethiopia scholar, has written about the Ethiopian Federalist system, the history of how Ethiopia became a federation, and about

its constitution. The main political forces of the time considered it critical to position ethnicity, expressed in terms of national self-determination, as a principle of political organization. *Taking Ethno-Cultural Diversity Seriously in Constitutional Design* is a book that details the specific structure of the Ethiopian Federal System and Ethiopia's Constitution. The Constitution expresses that sovereignty does not reside in the Ethiopian people in their entirety, but instead, it is shared among the 'nations, nationalities and people's'; that means sovereignty lies with the various ethnic groups. The sovereignty of the states resides within the federal division of powers, and residual powers are allocated to the states while the federal state holds ultimate powers, as in the American model.

Moreover, the constitution expresses deep commitment to building a common political community and maintaining one economic community. The most important matters for local regulations in this area include traditional and religious laws, subject to the limitations of the federal constitution and states are empowered to determine their own official languages. Scholars believe that Ethiopian federalism is founded upon ethnicity and that it will be a prospective federal model for the whole world.

Professor Asnake Kefale describes the adoption of federalism in Ethiopia that appears to him to have transformed the country and yet it even generated localized ethnic conflicts. There are still critical challenges in the country. According to the author's analyses. There are federal restructuring and identity conflicts, intra-federal boundary conflicts, intra-regional conflicts over federal resources, conflict between titular and non-titular groups and conflict between the government and secessionist

movements. Moreover, he seeks to identify and discuss the contextual factors of democracy, rule of law, other the successes of federalism in managing multi-ethnic countries and some of the ideological and institutional aspects of Ethiopian federalism that need reform.

Analyzing primary data sources (a collection of contemporary writings from Burma/Myanmar) for the use of the term federal. The use will be cross-referenced with the American federal model and its concepts, the Indian model, the largest federal democratic system in Asia, and the Ethiopia model, a newly founded and multi-ethnic system. The Myanmar Government's 2008 Constitution, government statements, media, and proclamations will be examined. In addition, ethnic groups such as the United Nationalities Federal Council (Union of Burma)'s statements from ethnic groups will be used in this research to reveal the disparities in the understandings and usages of the terms federal and federalism as well as democracy in both their semantic and sociolinguistic viewpoints.

The data sources used for this research consists of articles and extracted related data in their digitized versions. All materials are available over the Internet or print. Daily issues of all materials were downloaded as PDF files and read with Adobe Reader. The search function of the edit menu of Adobe Reader was used to track the context in which federal and its related terms, and democratic and its related terms. Sentences in which federal and democratic appeared were then copied and tracked for their meaning, that is, how they used the terms in sentences.

How the Burmese government defines federalism, why it refuses to accept.

## Chapter 1: Introduction

The issues around globalization include multicultural connections, transportation, moderated communication, and the influence of global trading, but also issues related with territory, sovereignty, geopolitical features and natural resources. Traditional values and accepted freedoms and rights affecting the life of each individual in a society or group within a nation, have changed because of foreign colonizers and conquerors.<sup>1</sup> Consequently, in underdeveloped countries there was optimism that the progress of modern civilization would spread, if not, a nation could potentially be left in perpetual political conflict. Cultural struggles have been on the increase in the postcolonial era and these contribute to worldwide tension. Currently, these contemporary circumstances seem to be more significant than the other crises in the world.<sup>2</sup>

Cultural revolutions developed in and after the colonial era that led to clashes between different cultures and religious groups in multiple regions. The clashes revealed the diverse linguistic traditions, traditional value systems, and various historical processes that the retreat of colonial powers left in its wake. Many people had neither the right to choose their nation nor their own political system. In addition, many were driven out of lands where they were born or where their people had lived. Those simple facts of life were decisions that were made by people of other countries, i.e., the colonizers determined the fates of those in the colonies.<sup>3</sup> In the former colony of India, colonial policy was created according to the desires of the British, whose main motivation was to protect trade and to get economic benefits from the countries they colonized.<sup>4</sup>

Subsequent to the earliest explorers, the Italian Christopher Columbus reached the Americas in 1492 and his “discovering” of the New World heralded a spectacular clash of

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<sup>1</sup> Dirks, *Colonialism And Culture*, 3

<sup>2</sup> Barnes, *Culture, Conflict, and Mediation In The Asian Pacific*, 2.

<sup>3</sup> <http://www.thefreedictionary.com/colony>. (4 April 2015)

<sup>4</sup> Jauaram. Midgley & Piachaud. *Colonialism And Culture*, 101.

civilizations that inaugurated European world colonialism and domination.<sup>5</sup> The main purpose of colonization was to spread the faith of Christianity thereby improving lives for the Catholic Church and missionaries of all denominations.<sup>6</sup>

However, the greater project of colonization grew increasingly economic. Merchants participated with the missionaries in the colonial project and tried to spread the Gospel to advance the faith of Christ. Eventually, profits for English and other European companies and the advantage that international trade gave them outweighed all other concerns. Trade may even be argued to have brought material improvements colonizers through even more important than those available the foreign religion.<sup>7</sup>

Nonetheless, the most defining characteristic of colonialism was the occupation of one country by another and the direct administration of one country by another, and that gave the perception of a potentially better situation both socially and politically, but in essence, imperialism was primarily a profitable business venture.<sup>8</sup> The situation was never so simple, however: the making of colonies not only emphasized profits and benefits drawn from other countries, but the colonizers also contributed to the technological developments and improvements in quality of life of other nations.

The influence of colonizers transformed the political and social concerns of the colony. What had developed progressively in the middle decades of the nineteenth century in developed countries,<sup>9</sup> took place inconsistently in the colonies, and the behavior of colonialists created identity crises in the colonized because cultural adaptation and evolution as an import reached

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<sup>5</sup> McNeese, *The American Colonies*, 1.

<sup>6</sup> Lilley, *God's Country, America's Heartcry*, 124.

<sup>7</sup> Armstrong, *Writing North America in the Seventeenth Century: English Representation in Print and Manuscript*, 171.

<sup>8</sup> Smith, *Understanding Third World Politics: Theories of Political Change & Development*, 22.

<sup>9</sup> Westfall, *Two Worlds The Protestant Culture of Nineteenth Century Ontario*, 53.



some groups or individuals, and not others, in a very incoherent fashion.<sup>10</sup>

Conceptually, the ideology of colonists flourished in American society as it contributed the institutions of education, traditional religions and improvements in the American political system. Consequently, the American Revolution freed Americans from the British.<sup>11</sup> The structure of American law and jurisdiction were derived from English Common Law, which in turn had its origins in Roman Law and Civil Law structures.<sup>12</sup> Currently, the power of the United States of America can reach any place of the world. Equally important, however, is the United States' role as a symbolic model of a postcolonial system. The United States Constitution and the principle of federalism are designed to guarantee diversity and balance.<sup>13</sup> The fundamentals of the United States Constitution and principle of federalism are still today the models for the rest of the world.

### **The United States of America**

The King of England, James I, approved the first Charter of Virginia in 1606 for reasons of religious freedom.<sup>14</sup> Colonists reached the New World in 1607.<sup>15</sup> The Native Americans, who lived in the United States and Canada, used many different languages in their commerce and political organizations. However, the influence of Europeans changed their civilizations between the 16<sup>th</sup> and 17<sup>th</sup> centuries.<sup>16</sup> Representations of English native civilizations indicate a very high degree of development and organization in terms of ability, technique, language, faith and

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<sup>10</sup> McDniels, "Young Writer, Young Country: Katherine Mansfield's Ambivalence toward Colonial New Zealand", 73.

<sup>11</sup> Rury, *Education and Social Change: Contours in The History of American Schooling*, 36.

<sup>12</sup> Sokalska, "The Influence of the Tradition of British Law on the American Legal System (Some Historical Aspects)", 155.

<sup>13</sup> Bagnall, *The Autobiography of Joseph A. Bagnall: Adventures in Education*, 48.

<sup>14</sup> Martin, *A Nation of Immigrants*, 12.

<sup>15</sup> Morton, *Greenwood Guides to Historic Events, 1500-1900; The American Revolution*, 5.

<sup>16</sup> Robinson, "A Lost World and a World of Loss: Native Americans and British Colonists before 1700", 1-3.

culture.<sup>17</sup> The English language wields influence over other languages and ideologies in terms of the human rights that were assumed and enshrined in the law in the American society.<sup>18</sup> Victory over the British in the American Revolution spurred the ideology of freedom and rights. The American Revolution helped to construct the current global situation; the world has been influenced greatly by its effect. Therefore, the successful of American free from English came to be universally accepted as the sign of revolution and according to the Articles of Confederation, the first Constitution was inscribed.<sup>19</sup> The United States of America obtained its freedom as a nation on July 4, 1776 with the Declaration of Independence that called for American independence from Britain.<sup>20</sup>

American independence was founded upon principles of democracy and it included in its achievement the creation of the world's first modern Constitution, which is comprised of a federalist system, and the Bill of Rights to defend the freedoms and rights of the people.<sup>21</sup> The idea of federalism has grown in America since 1760.<sup>22</sup> The Courts of the United States established the Judiciary Act of 1789 as the backbone of American federalism. The Judiciary Act of 1789 divided power between the national or federal level, and state or local level. Consequently, the chief justice, the Supreme Court, five sub courts, and thirteen federal regions, it's called three circuit courts made resolution for federal proposals upon the foundations of "The Supreme Law of the Land." The central characteristic of the Constitution of the United States is its three branches, which are the legislative, executive, and judicial—all these branches limit the powers of each

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<sup>17</sup> Kemp, *Awakening: The Rise of Western Civilization; Volume One of the March of the Titans Quadrilogy*, 7.

<sup>18</sup> Cohen, "The Background of the American Tradition", 27-29.

<sup>19</sup> Mishra, *Democracy in India*, 133.

<sup>20</sup> Jayapalan, *History of The United States of America*, 3-18.

<sup>21</sup> *Ibid.*, p.19.

<sup>22</sup> LaCroix, *The Ideological Origins of American Federalism*, 169-177.

other.<sup>23</sup>

The 33<sup>rd</sup> President of the United States, Harry S. Truman, announced “All of the people have equal rights and equal justice under the law. The Federal Government is responsible to check the constitutional security of freedoms and defend them under the laws, and to see they are not refused or edited anywhere in United States.”<sup>24</sup> Among the most important aspects of the American Constitution is its emphasis on liberty and the defense of the freedom of self-determination.<sup>25</sup>

Consequently, Americans claimed that the American Constitution is based on equality, such that no one is above the law, both governor and civilian equal under the law<sup>26</sup> and “the powers not transferred to the United States by the Constitution, nor forbade by it to the States, are replaced to the States individually or to the people.”<sup>27</sup> American Federalism has developed resolutely and civilians trust the state governments recognizing there is a gap between government and nation and national government.<sup>28</sup> American Federalism was established in the US Constitution and it is not only a document, but also participates in the life of Americans.

## **India**

Federalism was adopted in several Asia countries between 1940 and 1950. As a result of opportunities at the end of colonialism for nation building in the territories that were to become India and Pakistan, Malaysia and Singapore. Federalism was also introduced to other countries

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<sup>23</sup> Damp, *The Book of U. S. Government Jobs: Where They are, What's Available & How To Get One*, 5.

<sup>24</sup> Sutton, *Major Issues In American History: Federalism*, 128-129.

<sup>25</sup> Rabe, *Equality, Affirmative Action, and Justice*, 284.

<sup>26</sup> Chemerinsky, *The Conservative Assault on The Constitution*, 221.

<sup>27</sup> Sargent, *Political Thought in the United States: A Documentary History*, 149.

<sup>28</sup> Landy, M. Milkis, *American Government: Enduring Principles, Critical Choices*, 145.

such as China, Philippines, Indonesia, India, Sri Lanka, Pakistan and Burma.<sup>29</sup> However, the federalist achievements in one country may not be practical in another country because of the different historical backgrounds or various political concepts that may not cross over between Western and non-Western societies.

Interestingly, India has been a model in the developing world and a self-motivated federal institution in the Asian region. The conditions in Indian civil society with its democratic structures and practices, and a strong political culture, make for foundations that are very significant indeed in India. India is a multilingual civilization, and this dissertation wishes to emphasize how India maintains and balances power between minority groups and the majority with a range of different languages.<sup>30</sup>

The British colonized the country with the world's second greatest population, India, in 1757 and were forced out in 1947. The British desired to get rich from natural resources in India, exploiting her raw materials and cheap labor to develop English industries in India. India was a main exporter of cotton and silk before being colonized by the British. Nevertheless, British became the main exporters of materials from India to British industries. According to the British colonial policy, India imported products from Britain and a made good profitable market for Britain, which had hit their to fail to maintain profitable business from her domestic industrial products.<sup>31</sup>

By the beginning of the 20<sup>th</sup> century, India's education system had developed and former students for the purpose of standing for Indian's rights and mediated between the British government and Indians.<sup>32</sup> Mahatama Gandhi campaigned with non-violent actions that included a

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<sup>29</sup> He, "Democratization and federalization in Asia" in *Federalism in Asia*, 2.

<sup>30</sup> Roy, "Communities-Civil Society and Conflict Management: The Federal Experience in Sri Lanka, India and Nigeria: Unity in Diversity or Diversity as Unity?", 334-335.

<sup>31</sup> Mukherjee & Chakrabarti, *Evolution of Indian Economy & Elementary Statistics*, 1- 4.

<sup>32</sup> Nutt & Bottaro, *History for the IB Diploma*, 62.

boycott of British products and changed the India National Congress into a mass nationalist moment, which boycotted British institutions, and claimed self-government in 1920.<sup>33</sup> The Government of India Act was approved by the British parliament in 1935, which not only granted self-government but also made continuing British power in India impossible.<sup>34</sup>

British entered the Second World War in 1939 and that made a chance for India to be freed from the yoke of British colonialism. Consequently, India gained independence on 15 August 1947.<sup>35</sup> India had been ruled by a monarchy from 1500 BC to 647 AD.<sup>36</sup> However, India's long established traditional rule vanished under the British, and a new ideology replaced the practices of the old India civilization. Advanced education, liberal attitudes, ideals of liberty and the spirit of political discourse transformed India.<sup>37</sup>

The British Westminster Model of a parliamentary government system replaced India's political structure. The people's representatives are responsible for executive decisions and participation in institutions.<sup>38</sup> India accepted the British parliamentary system in 1950.<sup>39</sup> Nevertheless, the American model of democracy motivated India and the principles of the American Constitution had a powerful effect on the Indian Constitution.<sup>40</sup>

Today India is the world's largest democracy and the primary federalist democracy of South Asia.<sup>41</sup> India is a pluralistic society with seven major religious groups, twelve major ethnic groups and 22 official languages, 2000 vernaculars and 60 socio-cultural groupings. In addition, a

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<sup>33</sup> Ibid., 70.

<sup>34</sup> Ibid., 74-76.

<sup>35</sup> Tromp, "Change in the Netherland", 86.

<sup>36</sup> Mishra, *Democracy in India*, 20.

<sup>37</sup> Vohra, *The Making of India*, 79.

<sup>38</sup> Tromp, "Change in the Netherland", 86.

<sup>39</sup> Mishra, *Democracy in India*, 39.

<sup>40</sup> Ibid., 134-135.

<sup>41</sup> Singh & Kukreja, *Federalism in South Asia*, India, 11.

great number sub-groups classes exist in India.<sup>42</sup> India's Constitution is organized on the basis of harmony, community, fairness, equality and the principle of federalism.<sup>43</sup> The latter principle of the Indian Constitution includes the characteristics of federalism, which provides protection nationwide and safeguards the country's development.<sup>44</sup>

Hindi is the main official language of the principal government, and English is used for non-Hindi speakers.<sup>45</sup> 22 languages are constitutionally recognized in schedule of the constitution and English is also an official language of the Union of India, making 23 languages with status. Individual states have also nominated additional internal official languages (e.g. French in Pondicherry). However, the India Constitution Article 345 provides that states have a right to the use of an official language themselves to promote their traditional culture and mother languages.

The principles of the Indian Constitution achieve a successful form of federalism. India is a country with a large and diverse population, including multiple cultures and great religious traditions.<sup>46</sup> The national culture is one of diverse cultures and languages with multiple dialects. Democracy and federalism are necessary for Indians to determine the value of India's principles such self-determination and equal rights were granted by the constitution and it has established India as one of the great democratic countries in the world and a model for federalist states in the world.

## **Ethiopia**

The United Nations Population Division 2008 estimated that Ethiopia had a population of 71.1 million in 2006, and it comprised mostly of 70 ethnic groups with over 250 languages,

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<sup>42</sup> Majeed, "India: A Model of Cooperative Federalism", 503.

<sup>43</sup> Ibid.,507.

<sup>44</sup> Lacmikanth, "Federal System", 12.6.

<sup>45</sup> Deva, "The India constitution in the twenty-first century: the continuing quest for empowerment good governance and sustainability", 356.

<sup>46</sup> Brass, *Language, Religion and Politics in North India*, 200.

dialects and a great number of religious or social groupings.<sup>47</sup> Religious conflicts have had a political dimension since the country was governed by a monarchy. Many in Ethiopia suffered from starvation and many lives were lost, it brought an end to the monarchy in 1974. During the multi-party system instituted in 1995, Ethiopians voted in the Ethiopian People's Revolution Democratic Front (EPRDF) and they are the current Ethiopian government.<sup>48</sup>

Federalism has been practiced in Ethiopia since the Ethiopian Constitution was established in 1995. The characteristics of the Ethiopian Constitution founded on not only the principle of democracy but also on federalism. Significantly, sharing power, self-determination, balance, and the separation of powers, and the valuation of both horizontal and vertical social structures are protected under the Ethiopian Constitution.<sup>49</sup>

Scholars' protests and the social communities assembly reformed Ethiopian politics.<sup>50</sup> The significant aspect of the Ethiopian Constitution is that one-third of the articles included were concerned with fundamental rights and freedoms. Furthermore, they have adopted the International Bill of Rights and Democratic Rights<sup>51</sup> created in 1948 with the Declaration of Human Rights in the 1966 U.N. Covenant on Civil and Political Rights, Economic, Social, and Cultural Rights.<sup>52</sup> These have been further extended by Democratic Rights which are: freedom of belief and freedom of gathering and protesting, the rights of individual and family, females' and children's rights, in addition to rights of activation in political development.<sup>53</sup>

Structurally, Ethiopian federalism is derived from the constitution and shares authority

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<sup>47</sup> Heinonen, *Social Identities Volume 7: Youth Gangs & Street Children, Culture, Nurture and Masculinity*, 17-19.

<sup>48</sup> Ibid., 22-23.

<sup>49</sup> Abebe, *Federalism Studies; The Last Post-Cold War Socialist Federation; Ethnicity, Ideology and Democracy in Ethiopia*, 69.

<sup>50</sup> Ibid., 71.

<sup>51</sup> Praeg, *Ethiopia and Political Renaissance in Africa*, 126.

<sup>52</sup> Forsythe, *Teaching About International Conflict and Peace*, 251.

<sup>53</sup> Ashenafi, "Ethiopia: Processes of Democratization and Development", 34.

among the federal government and representative states, as do other federalisms. Federalism was preserved in the constitution and local administration preferred establishing federal structures that provide the authority to address their individual and local concerns. However, Ethiopian federalism is firmly connected with the EPRDF's principle of advancing the interests of ethnicity as an effective implement of modernizing the Ethiopian base. Usually, the practice of federalism functions to give people the opportunity to promote their own self-determination, their own culture and civilization.<sup>54</sup> Nevertheless, Ethiopian federalism is intermediate and incomplete. Moreover, to improve the practice of federalism in Ethiopia, the new Ethiopian government determined that it was necessary to accept non-Ethiopians use of their own languages.<sup>55</sup>

Starvation killed approximately one million Ethiopians in 1984-1985.<sup>56</sup> The world's two poorest countries were Ethiopia and Eritrea, both of which suffered the effects of war between 1998-2000.<sup>57</sup> NGOs have been established in Ethiopia since 1960. According to Human Rights Watch 2008, NGOs participated in the establishment of the country and encouraged civil liberties and principles of democracy that are effective in the reforms to promote development and politics taking place in Ethiopia. Starting in 1991, NGO Associations began to develop. There were 11 regional NGOs and 44 International NGOs in 1993. By 1998 these had grown to 160 regional NGOs and 119 International NGOs.<sup>58</sup>

Ethiopia was faced with one million people suffering with HIV/AIDS, in addition to its geopolitical conflicts and starvation. Both The United States and Ethiopia determined essential policy structures were created which were the new Ethiopia ethnic federalism and the

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<sup>54</sup> Kefale, "The Politics of Federalism in Ethiopia: Some Reflections", 262-264.

<sup>55</sup> Ibid., 169.

<sup>56</sup> Natsios, *The Washington Papers; U. S. Foreign Policy and the Four Horsemen of the Apocalypse Humanitarian Relief in Complex Emergencies*, 58.

<sup>57</sup> Ayittey, "The Economic Impact of Africa's Conflicts", 39.

<sup>58</sup> Kefale & Aredo, "Civil Society and Governance in Ethiopia Since 1991", 102.



reconstruction of the country's trade economy and industrial development.<sup>59</sup> Ethiopia's livestock industry is the greatest in Africa, and agriculture is the principal profit maker at 45% profit for the country. Agriculture constituted 85% of GDP and created work for 83% of the population.<sup>60</sup>

According to UNESCO research, the population of Ethiopia is 92 million in 2015 with half of the population aged between 0-24, and it faces the educational problem of insufficient teachers. However, the government increased the education budget from 34 billion Birr in 2006 to 60 billion Birr in 2010, raising total government spending for education to 25.9%. The Ethiopian government has improved education and included advanced instruction, practical professional instruction in globalization in the curriculum for the nation.

The idea that war is a natural human behavior, in that warfare exists in many different parts of the world, may to some degree be understandable. However, wars have left behind multitude of troubles in these war torn communities. Ethiopia has faced the additional challenges of HIV/AIDS victims, orphans, refugees, an increase in population and natural disasters.

Consequently, NGOs established themselves starting in 1960 and supported assistance for people in need. NGOs not only supported with aid but also indicated that civil liberties and the fundamentals of democracy were needed in Ethiopia.<sup>61</sup> Indeed, the ideology of the Ethiopian government was changed by the influence of NGOs and it decided to reform its principles of governance. A multi-party system and elections were implemented<sup>62</sup> and not only was the Ethiopian Constitution established but also federalism was instituted from 1995.<sup>63</sup>

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<sup>59</sup> Pereira, "Ethiopia: Self-Help with External Support", 110-111.

<sup>60</sup> Deressa, "Achievements and challenges in Ethiopia agriculture", 9.

<sup>61</sup> Molenaers & Renard, "The Trouble With Participation: Assessing The New Aid Paradigm", 268.

<sup>62</sup> Heinonen, *Social Identities Volume 7: Youth Gangs & Street Children, Culture, Nurture and Masculinity*, 17-19.

<sup>63</sup> Abebe, *Federalism Studies; The Last Post-Cold War Socialist Federation Ethnicity, Ideology and Democracy in Ethiopia*, 69.

## Burma

Burma is a country with a population of approximately 53 million with eight major ethnic groups;<sup>64</sup> however, there are 135 legitimately ethnic groups<sup>65</sup> with their own vernaculars or languages in many minority states. Nevertheless, Burmese is the only official language used in Burma.<sup>66</sup>

Burma became a British Colony on May 4, 1886.<sup>67</sup> The historic agreement, called Panglong Agreement, was created in 1947, which gave the right of self-government to Burma. The declaration also gave this right to the Shan, Kachin and Chin after independence from the British.<sup>68</sup> Burma gained complete independence in 1948 and the parliamentary system that had been implemented lasted until 1962.<sup>69</sup>

The military General Ne Win conducted a coup and ruled Burma with the ideology called the Burma Socialist Programmed starting in 1962.<sup>70</sup> A new constitution was adopted in 1974 and a nation-wide revolution put an end to the one party system on 18 September 1988.<sup>71</sup> The military leadership renamed Burma the Union of Myanmar in 1989,<sup>72</sup> and The State Peace and Development Council (SPDC) continued in power.<sup>73</sup> The military junta renamed itself the State Law and Order Restoration Council (SLORC) in 1997.

Aung San Suu Kyi, the daughter of Aung Sun who was one of the leaders of Burmese

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<sup>64</sup> Strinberg, *Burma/Myanmar: What Everyone Need to Know*, xxiv.

<sup>65</sup> Kyaw Yin Hlaing, *Myanmar/ Burma; Inside Challenges, Outside Interests*, 43.

<sup>66</sup> Kyaw Yin Hlaing. "The Politics of Language Policy in Myanmar: Imagining Togetherness, Practicing Difference?", 172.

<sup>67</sup> Sai Aung Tun, *History of The Shan State*, 111.

<sup>68</sup> Rovers, *ASEAN's Myanmar Crisis: Challenges to the Pursuit of a Security Community*. 54.

<sup>69</sup> Turnell, *Fiery Dragons: Banks, Moneylenders and Microfinance in Burma*. 5.

<sup>70</sup> Steinberg, "The Military Coup, The Socialist Period (1962-1988), And The Perpetuation of Military Rule", 63.

<sup>71</sup> Steinberg, "Tenuous Spaces; Civil Society in Burma/Myanmar", 151.

<sup>72</sup> Bader, *China's Foreign Relations and the Survival of Autocracies*, 44.

<sup>73</sup> Strinberg, *Burma/Myanmar: What Everyone Needs To Know*, 69.

independence, became the symbol of human rights and democracy in the country<sup>74</sup> and was awarded the Nobel Peace Prize in 1991.<sup>75</sup> She represented the National League for Democracy (NLD) on May 27, 1990 in a general election. There were more than 2,300 candidates for the 1990 election including NLD, NUP (SLORC's endorsement party) and other ethnic parties that contested 485 assembly seats. The National Unity Party got 10 seats and NLD obtained 392 seats, which was eighty-one percent of the total seats contested in the election. The military proclaimed the result of 1990 election was not form a new government but to write a draft constitution.<sup>76</sup>

NLD and the majority of the winners in 1990 boycotted the military plans for limitations on the new representatives. NLD leaders were to write the draft of the new constitution under military directive. The representatives did not participate, however, the military completed the draft according to their process and promulgated the new Constitution in 2008.<sup>77</sup> The Union Solidarity and Development Party (USDP) was founded by SLORC in 1992.<sup>78</sup> The USDP was settling on one of the military's strategies as a mechanism to support the regime's process. The USDP candidate for the November 7, 2010 election got approximately 80 percent of all legislative seats with "advance votes".<sup>79</sup>

According to the 2008 Constitution, the three branches of sovereign power, that is, legislative power, executive power and judicial power, are divided. The structures of the legislative power are the union (Pyidaungsu Hluttaw) regional Hluttaw and state Hluttaw. The union (Pyidaungsu Hluttaw) consists of an Upper House (*Amyotha Hluttaw*) and Lower House (*Pyithu Hluttaw*). The union (Pyidaungsu Hluttaw) includes the Defense Services personnel as house representative elected by the Commander-in-Chief of the Defense Services in numbers

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<sup>74</sup> Bengtsson, *Aung San Suu Kyi a Biography*, 65.

<sup>75</sup> Rieffel, "Robinson" , 21.

<sup>76</sup> Stewart, *Aung San Suu Kyi; Fearless Voice of Burma*, 66-77.

<sup>77</sup> Bader, *China's Foreign Relations and the Survival of Autocracies*, 44.

<sup>78</sup> <http://www.ibiblio.org/obl/docs3/USDA-Mon-Forum2005-04.html> , (1 October 2015).

<sup>79</sup> Topich & Leitich, *The Greenwood Histories of The Modern Nations: The History of Myanmar*, 41.

stipulated by the 2008 Constitution:<sup>80</sup>

“Consequently, there were 1154 seats open in the 2010 election, USDP won 833 seats that is 77% of those elected in the Upper house (*Amyotha Hluttaw*) and 79% of those elected in the lower house (*Pyithu Hluttaw*) with the military personnel elected at 25% in both houses.<sup>81</sup> To amend the Constitution the prior approval of over 75 % of all the representatives of the union (Pyidaungsu Hluttaw) votes are necessary.”<sup>82</sup>

The international community including the UN Secretary General Ban Ki-Moon did not welcome the results of the 2010 Myanmar election and criticized the elections as not free and reasonable.<sup>83</sup> Nevertheless, the civil government including the USDP recognized the results and prepared for the 2015 elections.<sup>84</sup>

After the Second World War, Burma intensified the world’s longest civil war.<sup>85</sup> Burma suffered through the first military regime led by Ne Win from 1962 to 1988, and the second military regime that ruled the country in 1988. After the 1990 elections, the 2<sup>nd</sup> military regime destroyed many ethnic armed groups. The New Myanmar government ran by President Thein Sein invited all of the armed groups to end their wars and sign a cease-fire agreement. The Myanmar Peace Committee was established on November 3, 2012 and preceded with a diplomatic strategy to agree to a cease-fire with ethnic armed groups.<sup>86</sup>

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<sup>80</sup> Constitution of the Republic of the Union of Myanmar 2008, 4-5.

<sup>81</sup> Sakbong, “Burma at a Crossroad”, 207.

<sup>82</sup> Constitution of the Republic of the Union of Myanmar 2008, 173.

<sup>83</sup> Davies, *Routledge/Warwick Studies in Globalization; Realizing Rights: How Regional Organizations Socialise Human Rights*, 61.

<sup>84</sup> Soe Than Lynn, “SNDP pushes Shan party merger; concerns that parties will split Shan vote in 2015 election, opening the way for an NLD or USDP” in *The Myanmar Times*. 24-30, December 2012. (11 April 2015). <http://docslide.us/documents/the-myanmar-times-24-30-dec-2012.html>.

<sup>85</sup> Rosen, *Contemporary world issues: Child Soldiers*, 122.

<sup>86</sup> <http://www.mmpeacemonitor.org>. Government Peace Plan, (18 April 2015).

The United Nationalities Federal Council (UNFC), an ethnic armed organization, was established on February 16, 2011 and represents the ethnic armed forces in peace negotiations with the Myanmar government.<sup>87</sup> The Myanmar government and ethnic armed groups called the United Nationalities Federal Council (UNFC) had been negotiating to hold informal discussions before meeting in 2011. Nevertheless, the results of the peace talks between the Myanmar government and the ethnic armed groups in the two years from March 2013 to March 2015 were at best mixed listed in the following table.

**Table 1. Myanmar Peace Monitor: Peace Monitoring Dashboard**

Years	Peace Talks	Peace Agreements	Armed Clashes	IDPs Reports
2013	64	5	133	5,100
2014	77	3	248	10,700
2015	9	1	120	104,000
<b>Total</b>	<b>150</b>	<b>9</b>	<b>501</b>	<b>119,800</b>

Peace talks were held 150 times, and peace agreements reached 9 times, however despite these talks and agreements, there were 501 armed clashes in the same period. The UNHCR (The UN Refugee Agency) reported that there were approximately 119,800 internally displaced people (IDPs) in the two-year period.<sup>88</sup> Currently, the UNHCR is assisting over 100,000 IDPs in Kachin and 120,000 refugees from Myanmar have been residing in temporary camps in Thailand.<sup>89</sup>

According to the Thai authorities national campaign for registration of foreign workers,

<sup>87</sup> Ibid., UNFC (United Nationalities Federal Council), (18 April 2015).

<sup>88</sup> Ibid., Monitoring Archive, (18 April 2015).

<sup>89</sup> <http://www.unhcr.org/pages/49e4877d6.html>, 2015 UNHCR country operations profile-Myanmar. (24 April 2015).

in July 2004 there were 850,000 illegal workers from Burma in Thailand.<sup>90</sup> The United States Immigration and Naturalization Service (INS) indicated that 25,229 immigrants from Burma entered to United States from 1977 to 2000.<sup>91</sup> Currently, approximately 50,000 Burmese females are employed as prostitutes in Thailand.<sup>92</sup> Myanmar became the world's second largest opium creator, and a significant fabricator in Southeast Asia.<sup>93</sup> An official from the Malaysian human rights NGO indicated that there are 60, 000 Myanmar asylum seekers listed with UNHCR and thousands are illegal immigrants in Malaysia.<sup>94</sup>

Myanmar not only has plenty of natural resources, but it was one of the world's leading rice exporting countries. In fact before WWII it was also one of the richest countries in Asia.<sup>95</sup> Today, the Myanmar GDP is the lowest in the region. The civil government used 3% of the budget for healthcare, but military spending was 40% of the national expenditure.<sup>96</sup> UNICEF indicated that by percentage of GDP, Myanmar's spending for health and education is the lowest in the ASEAN regional, that is 0.75% for health and 1.46% for education.<sup>97</sup> Fully 32% of the children under 5 lack adequate nutrition, and Myanmar ranks among the most underprivileged countries in Southeast Asia.<sup>98</sup>

Currently, the Myanmar government is at war with one of the minority ethnic nationalities : the Kokang ethnic army group that calls itself the Myanmar National Democratic

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<sup>90</sup> Lubeigt, "Industrial zones in Burma and Burmese labors in Thailand", 171.

<sup>91</sup> Cheah, "The Function of Ethnicity in the Adaptation of Burmese Religious Practices", 200.

<sup>92</sup> Roberts, *ASEAN's Myanmar Crisis: Challenges to the Pursuit of a Security Community*. 82.

<sup>93</sup> United Nation Office on Drugs and Crime, *2006: World Drug Report: Volume 2: Statistics: The Office for Drug Control and Crime Prevention*, 11.

<sup>94</sup> Petcharamesree, "International protection and public accountability: the roles of civil society", 278.

<sup>95</sup> Hmung, "Militarization and indigenous people's rights in Myanmar", 54.

<sup>96</sup> Morrison, *International Business: Challenges in a changing world*, 254.

<sup>97</sup> UNICEF, Unite for children, *Towards more child-focused social investments; Snapshot of Social Sector Public Budget Allocations and Spending in Myanmar*, 10.

<sup>98</sup> Dittmer, *Burma Or Myanmar?; The Struggle for National Identity*. Singapore, 90.

Alliance Army (MNDAA). Kokang was not only the first group to have signed a ceasefire agreement with the SLORC after 1988 but also a self-administered region.<sup>99</sup> The civil government cracked down by violent means and arrested students and other civilians who demonstrated peacefully for the amendment of the national education law supporting education in March 2015.<sup>100</sup>

United Nationalities Federal Council (Union Of Burma) Ethnic armed groups stated that to form the present Union of Burma/Myanmar into a Federal Union of national states and nationalities would be the best way to practice democracy in a Federal Union. The current 2008 Constitution and the civil government have not been accepted by the UNFC, who it as devoid of democratic essence and not in accordance with the principles of federalism. A new Constitution based on genuine federal principles will be drafted and promoted. The UNFC and the United Nationalities Alliance (UNA) will lead the way in drafting the new Constitution.<sup>101</sup>

The civil government's Union Peacemaking Work Committee and the team representing ethnic-armed groups nation-wide are involved in ceasefire coordination, working toward the conclusion of the Single Text of a national ceasefire. The United Nations special adviser Vijay Numbiar said:

“The signing of a Nationwide Ceasefire Agreement (NCA) is a first step towards a larger dialogue for settling the political and military issues that pave the way for a inclusive and harmonious future for Myanmar. However, it is a crucial first stage that must be crossed before embarking on the next chapter”.

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<sup>99</sup><http://www.mmpeacemonitor.org/stakeholders/unfc>. UNFC Statement on the Fighting in Kokang Region on 21 February 2015, (20 April 2015).

<sup>100</sup> <http://www.mmpeacemonitor.org/> “Statement Regarding Violent Crackdown on Democratic Education Movement on 8 March 2015” (22 April 2015).

<sup>101</sup> <http://www.mmpeacemonitor.org/> “United Nationalities Federal Council (Union of Burma). Statement of the Ethnic Nationalities Conference on 2 August 2013”. 20 April 2015.

While the ethnic groups' leaders said that they could not guarantee the triumph of peace,<sup>102</sup> reaching an understanding of the meaning of federalism would be very valuable for both the majority Myanmar government and the minority of ethnic leaders.

Burma is confronting the challenges of poverty, immigration, the ethnic armed groups issue, and international criticism of the 2008 Constitution. The government must amend the constitution, address the internal crises and organize the 2015 election. Consequently to these actions, the principles of federalism will be fundamental to social stability and important in achieving the guarantee of continued stability in Myanmar/Burma as in many nations, and the ideology of federalism must function under a democratic constitution.

The main aim of the present research is to further the understanding of federal principles necessary to stable reform in Burma/ Myanmar. This will involve comprehending how federalism has become a part of the global political culture, consider the fundamental principles of federalism, understanding the ideology of federalism in Western and non-Western societies, examining how to organize the sharing and distribution of political powers between central government and sub-national governments.

This understanding will be based on three models already mentioned above: (a) the American model, (b) the Indian model, and (c) the Ethiopia model. Defining the relationship between democracy and federalism, exposing the disparities in the understandings and usages of the terms federal and democratic in Burma today, in both its semantic and sociolinguistic meanings, these are the other coordinate goals of this dissertation.

In the course of reaching these goals, the following research questions will must be addressed: how federalism became the preeminent and influential modern political system in the present; how federalism changes social and political circumstances where there have been diverse

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<sup>102</sup> <http://www.burmalibrary.org/docs21/GNLM2015-04-03-red.pdf> .Ye Myint. "For lasting peace, dialogue must be inclusive of all ethnic groups". *The Global New Light of Myanmar* "on April 3, 2015. Volume 1. Number 185. p.3. (22 April 2015).



ethnic groups, languages, religions and civilizations; and finally, how federalism might be modified with particular reference to issues particular to Burma, and as a result how federalism can be implemented in Burma.

## Chapter 2: Literature Reviews

### A History of Federalism

Etymologically the word federalism originated with the Latin word *foedu*, which denoted a covenant between deity and people.<sup>103</sup> The significance of federalism is appropriate with covenants that had been practiced among the Christian religion of the sixteenth century. Christians believe that the doctrine of covenant is the way to connect with God and the principles were based on the Old Testament and the New Testament. Israel had to comply with Moses for redemption of their sins in the Old Testament but the New Testament indicated Jesus Christ redeemed the world from sin.

The Medieval philosopher and theologian Saint Thomas Aquinas (1225-1274)<sup>104</sup> indicated that this concept was inherited from the Jews as we read in the Old Testament that when the people of Israel left Egypt they made a compact, a covenant of governance with representatives selected from the various members of the community.

“So choose some men from each tribe – wise men who have understanding and experience – and I will make them leaders over you. So I took the wise and experienced leaders of tribes, and I made them your leaders. I appointed commanders over a thousand people, over a hundred people, over fifty people, and over ten people and made them officers over your tribes”.<sup>105</sup>

However, the Old Testament regarded the first covenant between human and God as wrecked by Adam, but the old covenant was incomplete in bringing a righteous to get a good relationship between Israel and God in the Old Testament. In the New Testament, God nominated

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<sup>103</sup> Brian Galligan. *Federal Republic: Australia's Constitutional System of Government*.39.

<sup>104</sup> <http://www.iep.utm.edu/aquinas/>. 17 April 2015.

<sup>105</sup> *The Holy Bible: New Century Version*. 161.

Jesus and through his sacrifice, a new covenant was made. Jesus was a representative of kind human on behalf of one for all.<sup>106</sup>

Various societies may enjoy both alliances and interrelationships. A person can participate in an individual society that governs itself and meanwhile good relations and participation may connect one to an extensive society, perhaps this is the basis to create an advanced civilization. Currently, the system of selecting representatives of the minority group to administer and organize, is a function of any minority society's interaction with every other part of its community. Aquinas indicated that this concept was inherited from the Jews as we read in the Old Testament that when the people of Israel left Egypt they made a compact, a covenant of governance with representatives selected from the various members of the community.

Christians believe that the pope is an authorized liege and obliged by spiritual conventions. Respectively, Aquinas discerned that the tendency of kings was to drop into dictatorship, and he mentioned the authority of kings should be limited by covenant. The system, which might be, distributes sovereignty and that is called "diverse administration".<sup>107</sup>

The Bible said God had covenant with a nation and government that they can simplify the circumstances of the covenant. The people of God required the judges and rules to make controls in their daily lives.<sup>108</sup> The people of Israel received the following message from Moses in the desert east of the Jordan River:

"Listen to the arguments between your people. Judge fairly between two Israelites or between an Israelite and a foreigner. When you judge, be fair to everyone; don't act as if one person is more important than another, and don't be afraid of anyone, because your decision comes from God".<sup>109</sup>

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<sup>106</sup> Mark W. Karlberg. *Federalism and the Westminster Tradition*. 1- 4.

<sup>107</sup> Nicholas Aroney. "Thomas Aquinas, Jean Quidort and Nicolas Cusanus". 39.

<sup>108</sup> *Ibid.*, 54.

<sup>109</sup> "Old Testament; Deuteronomy 1:16, 17" in *The Holy Bible: New Century Version*. 161.

Heinrich Bullinger (1504-1575) indicated the fountainhead of federalism was the relationship between God and human civilization. The ideology of federalism influenced the world for four and half centuries before it appeared in print. Philippe Duplessis - Mornay (1549-1623) followed the theological-political federalism of Bullinger. Moreover, Johannes Althusius (1557-1638) claimed that federalism was a “biblical grand design” for civilization. He believed that, the relationship of humans and God are throughout the covenant. The religious tradition subsequently became replaced by a political concept that led to the federal practices in the present day.<sup>110</sup>

The Latin word *foedus* was influential as federalism advanced in the sixteenth and seventeenth centuries. The force of a widespread religious-political movement in the Low Countries in 1579 put to an end the cruel rule of Spain and originated the United Provinces as a union of Dutch provinces. The system that became the federalism was influential in Switzerland, Germany, Netherlands, Britain, and New England. The reflection of Bullinger’s federalism spread through out the churches in Scotland, England and the British colonies of North America. Eventually, the influence of federalism was realized not only in the United States of America,<sup>111</sup> but also in other British colonies.<sup>112</sup>

Two sympathetic “federal” administrations can be imagined. The first is a separate administratively aware and self-governing body in alliance with central to rally and support its autonomous states. The second is the diversifying of government on the foundation of geography and significant range of individual movement.<sup>113</sup>

Federalism draws capacity between the deprived and the wealthy, between politically conflicted or sovereign territories or, dealings and connections between minorities and majority.

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<sup>110</sup> Shaun de Freitas. and Andries, Raath. “The Reformational Legacy of Theologico-political Federalism”. 53-55.

<sup>111</sup> Charles S. McCoy & J. Wayne Baker. “The Development of the Federal Theological Tradition”. 29-30.

<sup>112</sup> Ibid., 80.

<sup>113</sup> Nicholas Aroney. “Before federalism : Thomas Aquinas, Jean Quidort and Nicolas Cusanus”. 43.

Federalism can raise the alternative notion of the way to organize between different societies.<sup>114</sup>

However, Thomas O. Hueglin mentioned that joint decision-making is a form of federalism and it is better practiced in multi-layered organizations in different communities than a democratic legislative unitary system.<sup>115</sup>

### **A Brief History of Why is Federalism essential**

One of the methods to prevent tyrannical or majoritarian governance by a group, which might be able to take control of the government due to numerical dominance, is forming a federation.<sup>116</sup> Federalism is provides a means of verifying and controlling the authority of the federal administration over the states and citizens.<sup>117</sup> Conventionally, federalism divides powers, shares sovereignty, divides territorial jurisdictions and individuals to diversify powers and to increase peoples choices.<sup>118</sup> Bob Rae described the system of federalism as making a balance of the authorities between various branches of government that includes complicated institutions, but divides the administrative powers.<sup>119</sup>

Modern civilization created the opportunity for individuals to select from a broader range of potential aspirations. Moreover, the old political structure was challenged by the influence of global trading, international market demands and alternative societies.<sup>120</sup> Consequently, the idea central to federations has replaced older forms of governance as diversity of views on new

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<sup>114</sup> Grace Skogstad, David Cameron, Martin Papillon & Keith Banting. “The Global Promise of Federalism”. 4.

<sup>115</sup> Ibid., 17.

<sup>116</sup> Ronald. A. Cass. *The Rule of Law in America*. 24.

<sup>117</sup> Christopher P. Banks & John C. Blakeman. *The U. S. Supreme Court and New Federalism: From the Rehnquist to the Roberts Court*. 133.

<sup>118</sup> Thomas O. Hueglin and Alan Fenna. *Comparative Federalism: A Systematic Inquiry*. 31.

<sup>119</sup> Christopher P. Banks & John C. Blakeman. *The U. S. Supreme Court and New Federalism: From the Rehnquist to the Roberts Court*. 133.

<sup>120</sup> Thomas O. Hueglin & Alan Fenna. *Comparative Federalism: A Systematic Inquiry*. 16-18.

political policies has been instituted as in the European Union, Ethiopia, South Africa and Russia.<sup>121</sup> Federalism established with a constitution might help to stabilize the government and address the disparities within the unbalanced economic systems. The authority of government and financial control under a federation with a constitution is transformed into rule by principles, the foundation of which is rule by self-government.<sup>122</sup>

The characteristic of federal states is that they are able to focus and deal effectively with such issues as polyglot populations, multiethnic diversity, groups with widely varying religious practices, multiculturalism, societies with complex political backgrounds and even regions with a history of territorial conflict. Federalism is a basis for alliance under which independent regions can rule by self-determination. Kenneth Newton and Jan Van Deth explained in the *Foundations of Comparative Politics* that there are two types of federalism: the one which distributes the powers to institutions and where one authority has to be responsible for the entire network of institutions; and the other structure is one which that institutions are unconnected with each other, but have their own ranges of authority control between their governments. Normally, the structure of federalism designates that the governments have equivalent powers and make decisions, discuss, participate and take responsibility for the issues dealt with by the institutions. The federalism of Ancient Greece was the model for the West. The Dutch Republic of the United Provinces became an innovative federal state in more recent history. Moreover, approximately 40% of the world's population has embraced federalism as a modern political system and it is considered good practice in Western countries and non-Western countries alike.<sup>123</sup>

## **Democracy**

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<sup>121</sup> Michael Burgess. "Opening Pandora's Box: Process and Paradox in the Federalism of Political Identity". 5.

<sup>122</sup> Ibid., 31.

<sup>123</sup> Kenneth Newton & Jan W. Van Deth. *Foundations of Comparative Politics*. 79-81.

Democracy was derived from the Greeks, originating in Athens in 508 B. C. E. It signifies rule by the people. However, democracy has seen its strongest influence since the founding of the United States and subsequently, the French Revolution.<sup>124</sup> Thomas Christiano considered that the process of democracy is not only meritorious in presenting people choices with more choices but as a fundamental value of human nature, that all people are equal.

The Oxford Advanced Learner's Dictionary expresses the meaning of democracy as a system of government in which all the people of a country can vote to elect their representatives and their right to take part in making decisions.<sup>125</sup> Moreover, the standard of equality is fundamental to the system of justice. The idea that all have potentially the same capacity transformed the basic social morality and political institutions. A fundamental notion of the modern world's declaration of democracy is to respect that all people are identical under the law and have autonomy. Obviously, people have disparities, and varying sensitivities. However, the process of democracy would be the best way to reduce conflict among different people who accept the practice of autonomy. The majority of people prefer democracy because democracy is based on equality.<sup>126</sup>

Nikolai Biryukov and Victor Sergeyev indicated that modern democracy is people having unrestricted might to select their symbol of government, divide the power of the authority and protect the liberty of political movements. People participate, and recognize that they can select their government, making decisions based on the idea that humans are created equal and have rights to pursue their own liberty. Moreover, this basic idea was subsequently transformed into real political systems as democratic civilizations have developed.<sup>127</sup>

Sir Phillip Francis stated, "The right of election is the very essence of the constitution".

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<sup>124</sup> John J. Butt. *The Greenwood Dictionary Of World*. 97-89.

<sup>125</sup> Constantinos E. Scaros. *Understanding The Constitution*. 1.

<sup>126</sup> Michael Saward. "Democratic Theory and Indices of Democratization". 8.

<sup>127</sup> *Ibid.*, 183-185.

It is necessary to determine the characteristics of the process of writing a constitution, and these depend on (1) the policy achievement of the country, (2) the form of the government, (3) the manner in which power is transferred, (4) the record of human rights and the rights of the political parties, and (5) the participation level of societies; these are the measures for a modern constitution.<sup>128</sup>

### **Constitution**

Sanjiv Agarwal explained a constitution as a scripted record on paper to declare the fundamentals of government and explain how to administer a country. However, if the people create a constitution it will be safeguarded by a bill of rights, fundamental rights and before it can be promulgated as a constitution, it is necessary to make a proposal or presentation to the government.<sup>129</sup> Constantinos E. Scaros understands that, a constitution is not only significant for the country but also defines the destiny of nations and historical impacts of human civilizations.<sup>130</sup>

### **American Constitution and Federalism**

As seen in section Albert Blaustein the ideology of federalism in the present derived from Hebrew people's constitution described in (Exodus 18:14-27).<sup>131</sup> The Greek Philosopher Aristotle (384-322 BC) reasoned how to create a better society between people and the government in a legitimate union. He emphasized making a constitution and accepted the fundamentals of democracy.<sup>132</sup> In the U.S Constitution, the ideals were put into practice in the

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<sup>128</sup> Robert L. Maddex. *Constitution of the World*. UK; Routledge. ix.

<sup>129</sup> Sanjiv Agarwal. *The Indian Federalist: The original will of India's founding fathers*.1-2.

<sup>130</sup> Constantinos E. Scaros. *Understanding the Constitution*. XV.

<sup>131</sup> Albert Blaustein. "Contemporary Trends in Constitution-Writing". 171.

<sup>132</sup> Christopher Berry Gray. *The Philosophy of Law an Encyclopedia*. 49-50.



Philadelphia Convention, where the founding fathers the American Constitution of 1787,<sup>133</sup> which took effect in 1788, and became the first modern constitution.<sup>134</sup> The American Constitution is not only the oldest but also the shortest in the world.<sup>135</sup>

The original American Constitution has 7 chapters or articles. Of these, Articles I, II, III define the general 3 divisions that legislative, executive and judicial of the US Government. Articles IV to VII describe federal administration; methods for amendments; and explain that the constitution itself is the ruling principle of the country and authority. The effect of strong constitution made United States of America the most powerful nation in the world and the government made it possible to spread the authority to every corner of the world.<sup>137</sup>

The characteristics of the American constitution include the Articles of Confederation.<sup>138</sup> Richard Henry Lee defined a confederation as “an association of independent states. It may make recommendations to the member states but has no power over individual citizens in these states.”<sup>139</sup> There are three characteristics of federalism in the United States, frequently, modified the fundamental elements to maintain balances of power between federal states and federal authorities, the states prevent the problems individually and conception how to overcome the conflicts by themselves, raising the national morale and interest in the constitution and consistently, presenting quarrel with the constitution.<sup>140</sup>

U. S. federalism has exclusive supremacies and Article 5 of the U. S. Constitution states “The Senate of the United States shall be composed of two Senators from each State”. Each state

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<sup>133</sup> Albert Blaustein. “Contemporary Trends in Constitution-Writing”. 171.

<sup>134</sup> John Kincaid. “Early State History and Constitutions”. 243.

<sup>135</sup> Therese Shea. *20 Fun facts About The US Constitution*. 23.

<sup>137</sup> Constantinos E. Scaros. *Understanding the Constitution*. xx-xix.

<sup>138</sup> Daniel J. Elazar. “Cooperative Federalism”. 78.

<sup>139</sup> Barbara Silberdick Feinberg. *The Articles of Confederation: The First Constitution of the United States*. 12.

<sup>140</sup> Charles D. Tarlton\* “Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation”. 98.

obtains the equal seats in the senate and is proportional to population of the state. “No state, without its consent, shall be deprived of its equal suffrage in the Senate” stated in Article 5 of the US Constitution. Mutual agreement is essential if there is an intention to amend the constitution.

The Senate has complete veto power on all regulations (Article 1, section 7). The Senate not only has privileged power over the House of Representatives but is also more powerful in terms of presidential recommendations for main legal ranks and the controls of most important government interventions authorization of contracts (Article 2, section 2). Further, Article 1, section 3 asserts, “Senate shall have the sole power to try all impeachments”.

Such “Residual powers” yielded to the states the federal government include responsibilities.<sup>141</sup> States restrain themselves with individual police services, traditional principles, schooling systems, and welfare procedures.<sup>142</sup> The US Constitution states in the Tenth Amendment that Residual Power is; “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”.<sup>143</sup> The American Constitution’s first ten amendments are generally accepted as the Bill of Rights. Definitely, the Tenth Amendment is that the powers neither designated to the federal government nor refused to the states are held in reserve for the states.<sup>144</sup>

Sally Senzell Isaacs notes that the American Constitution creates the process of government in United States. It indicates how to legitimize the principles, how to elect the representatives, and explains the authority of state administration. The American Constitution of 1788 granted to American people valuable privileges and liberties. Which were specified in the Bill of Rights promulgated in 1791 (see Appendix 1). In particular the Bill of Rights protects the

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<sup>141</sup> Alfred Stepan , Juan J. Linz & Yogendra Yadav. *Crafting State-Nations: India and Other Multinational Democracies*. 261.

<sup>142</sup> Michael Burgess. “ The foundations of the New Federal Models: Three Case Studies”. 300.

<sup>143</sup> Kern Alexander & M. David Alexander. *American Public School*. 82.

<sup>144</sup> Roger LeRoy Miller & William Eric Hollowell. *Business Law: Text & Exercises*. 52.

people from interference in their life by the government for no reason.

Moreover, Lutz further notes that the American Constitution is the most complicated system to amend composed to other constitutions, requiring an unparalleled degree of consensus. Two-thirds of common votes in the senate and including three-fourths of the state administrations are necessary to amend the constitution. The Supreme Court has authority to grant various topics of legislations. Even though the American President is most powerful person in the country, majority votes of Senate and states can over rule the president's veto.<sup>146</sup>

Many other countries subsequently adopted the procedure of writing a constitution and advanced governmental system. Robert L. Maddex stresses not all of the people can read the constitution or recognize how their lives are greatly influenced by having a constitution. Perhaps, only scholars, legal representatives, politicians and constitution makers comprehend and study the constitution. A grasp of constitutions is very valuable for human societies. The ideology of constitution can inform not only the sense of justice in a country but also serves to determine how to connect the states or nations more generally.<sup>147</sup>

### **India Constitution and Federalism**

India was one of the British colonies from 1757 to 1947.<sup>148</sup> However, India had the advantage of trade and industry, economic and evolution of India's civilization from British.<sup>149</sup> India Constitution promulgated in 26 January 1950<sup>150</sup> and it was created on the foundations of democracy. India demanded self-determination, freedoms of religious and practicing the human

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<sup>146</sup> Alfred Stepan , Juan J. Linz & Yogendra Yadav. *Crafting State-Nations: India and Other Multinational Democracies*. 261-262.

<sup>147</sup> Robert L. Maddex. *Constitution of the World*. VIII.

<sup>148</sup> Mukherjee, S& Chakrabarti, J. *Evolution of India Economy & Elementary Statistics*.1.

<sup>149</sup> Bipan Chandra, Mridula Mukherjee, Aditya Mukherjee. *India Since Independence*. 11.

<sup>150</sup> *Ibid.*, 38.

rights, rearrangement of dialectology institute in the country.<sup>151</sup>

Surprisingly, the Indian Constitution is the world's longest constitution contains 22 Parts, 395 Articles, 12 Schedules and had been modified 92 times that made it the world's most repeatedly altered Constitution.<sup>152</sup> The Indian Constitution affords federal system and not only defines the power of each organ, but also divides the responsibilities and is superior to all other laws of the country. The Indian government is divided into three branches: legislative, executive, and judicial. There are two levels of governance, central governments and state governments in the structure of the Indian federalism. The states governments also divide three branches; legislative, executive, and judicial but it is separated from the fundamentals of the constitution.<sup>153</sup>

However, a free judicial system is a mother safeguard and equal powers between center and states, or states and state. There are twenty-five judiciaries in the India Supreme Court with the recommended authority, and this authority is especially created to have the power to protect the Indian federation (Article. 143).<sup>154</sup> Possibly, stability and tranquility of the India is principally contingent upon The Fundamental Rights in the Constitution of India.

Hoveyda Abbas, Ranjay Kumar and Mohammad Aftab Alam mentioned that the Indian Constitution states in The Fundamental Rights that no one is above the law. There are unrestricted liberties such as the freedom to discussion, freedom of presentations, freedom of religious practice, freedom to form organizations, freedom of activities, habitation, occupation and corporation. Also there are human rights and individual liberties, in addition to traditional and spiritual liberties. Judiciously, nations are protected by the constitution of India, such as, no one is above the law (Article 14), the admiration of faith (Article 20), life and private freedom (Article

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<sup>151</sup> Ibid., 39-43.

<sup>152</sup> Edgar Thorpe & Showick Thorpe. *The Person General Studies Manual: for the UPSC Civil Services Preliminary Examination*. 5-6.

<sup>153</sup> Hamid Hussain. *Indian Federalism: Emerging Trends*. 10-11.

<sup>154</sup> Ibid., 94.

21), it defends from seizure and interception (Article 22); Articles 25 to 28 prevent religious discrimination and (Article 30) protects the rights of different languages for minorities and educational freedom.<sup>155</sup>

Indian Federalism not only has been founded upon the fundamentals of ethno-linguistics but also Indian Constitution stipulates multiple systems and diversity of sovereignty.<sup>156</sup> The Indian Constitution states in Article 29 (see Appendix 2) that Federalism is responsible for all of the civilizations of the ethnic groups. This determination of the principle of federalism is the ideology of self-governance and divides the authorities. However, where many ethnic groups exist with the multiple languages and different cultures in the various regions, the structure of the Indian federalism has become indispensable due to its base on multiple languages and cultures is viewed as the equivalent of profit from natural resources.<sup>157</sup>

India Federalism has described a quasi-federal and it has the characteristics of unitary federal character. Nevertheless, there are two types of governments but the power which originated from the constitution and has been functioning for five decades. India declared itself as a democratic country and Indian enjoyed a system of federalism and people have stability because of The Fundamental Rights in the constitution.<sup>158</sup> Even though, the word “federal” does not appear in the introduction of the constitution, it states “We, the people of India adopt, enact and give to ourselves this Constitution”<sup>159</sup> and the constitution itself seems to be emblematic of the spirit that lead India to become one of the modern nations in the world.

### **The Ethiopian Constitution and Federalism**

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<sup>155</sup> Hoveyda Abbas, Ranjay Kumar & Mohammad Aftab Alam. *India Government and Politics*. 133-135.

<sup>156</sup> Hamid Hussain. *Indian Federalism: Emerging Trends*. 134.

<sup>157</sup> Hamid Hussain. *Indian Federalism: Emerging Trends*. 134-135.

<sup>158</sup> *Ibid.*, 140-141.

<sup>159</sup> *Ibid.*, 10

Ethiopian Emperor Haile Selassie declared a modern Ethiopia and introduced constitution in 1931. Nevertheless first Ethiopian Constitution was not established with the standards of democracy but it had started to vanish under Ethiopian feudal rule. The Constitution was amended in 1955 but when the Ethiopian military took power in 1974 the regime ruled the country without a constitution. After the end of military power, the Ethiopian Peoples Revolutionary Democratic Front (EPRDF) declared a new Ethiopia, and equal rights for the nation, to be a democratic civilization, to form a well-organized government<sup>160</sup> and legislated the constitution in 1995.<sup>161</sup>

Moreover, the Constitution announces that states have to write a constitution themselves, with the right to choose their languages, improve their organization, to set up their own police powers and the authority to collect taxes. The system of Ethiopian federalism has five separate levels of administration; federal – regional state – zone – district – local.<sup>162</sup> The concept of Ethiopian Federalism was derived from socialist federations formed under known Marxist-Leninist ideology. The Marxist-Leninists believed: “The premium placed on organization, the pervasiveness of communist economic policy and the perception of the national question” (Bahru 2008:332).

Significant in Marxist theory is the autonomous control and this idea was not only effective to maintain the principle of federalism in many conditions but also the key to control the constitution. Marxist theory is based on the ideology of socialist structure and that is *vis á vis* self-ruled multiethnic confederations. The principle of socialism is a one party system but also the opportunity to practice local components in the local traditions and languages rather than

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<sup>160</sup> Edmond J. Keller & Lahra Smith. “Obstacles to Implementing Territorial Decentralization: The First Decade of Ethiopian Federalism”. 270.

<sup>161</sup> Abebe, Semahagn Gashu. *The Last Post- Cold War Socialist Federation: Ethnicity, ideology and Democracy in Ethiopia*. 84-85.

<sup>162</sup> Edmond J. Keller & Lahra Smith. “Obstacles to Implementing Territorial Decentralization: The First Decade of Ethiopian Federalism”. 270.

stipulating appropriate self-government. Interestingly, the classification of Ethiopian political system is accepted as a multi-party system but (EPRDF) is strong enough to dominate all area directly.

Ethiopian federalism is divided in three branches: legislative, executive and judicial. The judicial process is independent but has no the authority to check and balance between legislative and executive. There are not democratic constitutions in Ethiopia and the government is not founded on the basis of the democracy. Ethiopian federalism has multi-party systems, self-determination, and elections but the powerful one party EPRDF with the slogan of “revolutionary democracy” controls the country. They have no device for a constitutional system with the authority to check and balance legislative and executive branches as in the normally conceived principle of a federal system.

The contraries are restricted in participation or activists in other civil societies, and democratic associations were also controlled. The structure of Ethiopian federalism is not founded on the generally accepted standards of democracy but the principles were influenced by the socialist system.<sup>163</sup> However, Ethiopian Constitution states “the Nations, Nationalities and Peoples of Ethiopia” in Article 3(2) and includes the fundamental Rights Articles 39 (see Appendix 3). Patz indicated that Ethiopian Constitution not only includes the right to improve multi-cultures and languages but also the process of governmental procedure and the main principal of self-determination achieved in Ethiopian federalism. Definitely, self-determination is one of the fundamentals of the federalism however the Ethiopian Constitution includes the right of secession in Article 39.<sup>164</sup>

Historically, most of the African countries were under the colonialists including Eritrea.

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<sup>163</sup> Abebe, Semahagn Gashu. *The Last Post- Cold War Socialist Federation: Ethnicity, ideology and Democracy in Ethiopia*. 123-125.

<sup>164</sup> Kyle Scott. *Federalism; A Normative Theory and its Practical Relevance*. 157.

The high grounds of Eritrea were in Ethiopia and under the controlled of the British in 1941<sup>165</sup> and according to the Eritrean-Ethiopia Federation Act; Eritrea was a federal country since 11 September 1952. However, after Eritrea refused to use Ethiopian currency as national currency and announced it would issue national cash, Eritrea sent its military to the border<sup>166</sup> of Ethiopia and the Eritrean War went on from 1961 to 1991.<sup>167</sup> The issue of Eritrean demanding for self-determination was settled in the United Nations and by the UN decision an Eritrean state gained independence on 27 April 1993. (UN Doc. A/Res/47/230).<sup>168</sup>

### **Self-Determination and Secession**

The purpose of the United Nations is; “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples in the Article 1 (2)” Moreover, the intentions of the United Nations are to encourage affluent society, physical condition and traditional issues, admiration of the human rights and “equal rights and self-determination.” This is essential to establish a stable global society where the people can exist together (Article 55). The United Nations mentions in Article 73 (b) “develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances each territory and its peoples and the varying stages of advancement”<sup>169</sup>

John Dugard indicated there are no complications related with the secession in neither international law nor precept of cooperative non-identification however the international community might interrupt operations for secession. Moreover, UN Secretary, General U Thant

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<sup>165</sup> Araya Tseggai. “The History of the Eritrean Struggle” 71.

<sup>166</sup> David H. Shinn & Thomas P. Ofcansky. *Historical Dictionary of Ethiopia*. 145-146.

<sup>167</sup> George Childs Kohn. *Dictionary of Wars*. 164.

<sup>168</sup> David Raič. *Statehood and the Law of Self-Determination*. 135.

<sup>169</sup> Judge Rosalyn Higgins \*. “Self-Determination and Secession”. 22-23.



stated in 1970 as: “As far as the question of secession of a particular section of a State is concerned, the United Nations attitude is unequivocal. As an international organization, the United Nations has never accepted and does not believe will ever accept the principle of secession of a part of its Member State”<sup>170</sup>

However, Eritrea achieved status as a new state as they aspired because it was a federal state from the colony period.<sup>171</sup> Aleksandra Pavković and Peter Randan explained secession is such a construct wherein one country separates from another but it can be permitted by the international community.<sup>172</sup> Moreover, scholars described the fundamentals of secession are:

1. a bounded territory within an existing state
2. a population within that territory, and a political movement targeting (and supported by) that population which:
3. has proclaimed the independence of a new state based on that territory and
4. has attempted to gain recognition of that independence by other states and international organizations.<sup>173</sup>

The phenomenon of Ethiopian Federalism includes secession and this characteristic is different from the other forms of federalism. However, Ethiopian referred to the right of secession which differs from both the principle of Soviet Union Constitution and the principle of the Burma Constitution.<sup>174</sup>

However, many scholars cannot accept the Ethiopian federalism as a standard model. The constitution promises the right of self-determination for ethnic groups and moreover, constitution states, “nations, nationalities and peoples’ are represented but Ethiopian judicial

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<sup>170</sup> John Dugard. “A Legal Basis For Secession-Relevant Principles And Rules”. 89-90.

<sup>171</sup> Ibid., 94.

<sup>172</sup> Aleksandra Pavković & Peter Randan. *Creating New States; Theory and Practice of Secession*. 29.

<sup>173</sup> Ibid., 33.

<sup>174</sup> Asnake Kefale. *Federalism and Ethnic Conflict in Ethiopia; A comparative regional study*. 52.

system is independent.<sup>175</sup> Clearly, the minorities were restricted to become involved with the other societies' activities. Consequently, constitution itself has no authority to protect minority rights and lacks with the principle of the federalism as shares and balances the powers.<sup>176</sup>

Federalism is the system of to prevent tyrannical majoritarian government by a group. Democratic constitution is necessary for federalism and the constitution might guarantee individual rights and protect the entire nation shall under one law. Even though, the American Constitution is the world shortest the American federalism system is the most extended in this modern world. Moreover, the Indian Constitution is the world longest but India is a democratic country and one of the successful federal countries in the world. The characteristics of undemocratic societies are that people cannot participate the procedures of the governmental and their aspirations are somehow restricted. In a very real sense, the Ethiopian federalist system is deficient in its judicial system that would be problem to amending the constitution if they had one and therefore an inadequate model, but I wish to emphasize its federation based on ethnicity, language and religion.

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<sup>175</sup> Solomon A. Dersso. *Taking Ethno-Cultural Diversity Seriously in Constitutional Design: A Theory of Minority Rights for Addressing Africa's Multi-Ethnic Challenge*. 199-120.

<sup>176</sup> *Ibid.*, 241.

## Chapter 3: History Background

### Burma's Historical Background

The world identified Burma (Myanmar) as one of the independent countries with the multi-ethnic alliances. Thailand and Laos border Burma on the east, China to the northeast, and Burma has a border with India on the northwest. Two defining characteristics are the cultural role of Theravada Buddhism and the country's rich environmental resources.<sup>177</sup> Burma was on record as major rice exporting country and the largest in Southeast Asia before 1962.<sup>178</sup> Dr. Cushing indicated the Burmese (Burman) immigrated in to Burma as such:

The migration of the Thai into Burma probably began about two thousand years ago, although Shan and Burman traditions place the irruption several centuries earlier. What we can gather from Chinese history would seem to point to the same date.<sup>179</sup>

Conversely, there are eight major minority ethnic groups (Kachin, Kayah, Kayin, Chin, Mon, Myanmar, Rakai, Shan). Those groups further subdivide into 135 smaller groupings and they have their own tradition and some have their own languages.<sup>180</sup> Mon Ethnic group was the first the Burmese King but did not show consideration for the other uneducated and nonliterary ethnic people who immigrated and settled in the Burma later than the other groups. About 900 BC and Pyu entered Burma in 1<sup>st</sup> century B.C. The Tibeto-Burmans known Burmans founded their small monarchy in 849 AD in Pagan, which is in the middle of Burma. The Burman King, Anawrahta, became powerful between 1044 and 1077 and occupied Thaton which was the Mon capital in 1077.

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<sup>177</sup> Krishna Murari Krishna "Burma-Manipur Corridor". 49.

<sup>178</sup> Lowell Dittmer. "Burma vs. Myanmar: What's in a Name?" 12.

<sup>179</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 20.

<sup>180</sup> Rieffel Lex, Kyaw Yin Hlaing. *Myanmar/ Burma Inside Challenges, Outside Interests*. 43.

After being dominated by the Mon, the Burmese obtained benefits from Mon not only Burmese embraced Theravada Buddhism but they also transcribed the Mon scripts into Burmese and King Kyanzittha established the first Burmese scripts in the years 1084 to 1112. Shan Kings dominated upper Burma between 1247 and 1555 and ruled over the Pinya, Sagaing and Inwa with a capital in Ava. However, the Burmese occupied the Shan Kings capital Ava and made a Burmese capital there from 1364 to 1555.<sup>181</sup> The Mon had their territories and capital in Bago (1287-1540), the capital of Rakhine was renamed Mrauk U (1434-1784) and there were various Shan states in the east of Burma.<sup>182</sup>

The Burmese royal kings ruled the country with their hereditary monarchial system before the control of British. The ideology of Burmese politics was affected by the faith of Buddhism. Most Burmese were devout Theravada Buddhists, and believed in the emperor's great personal charisma and accepted him as their destined leader.<sup>183</sup> However, Kachin, Shan and Kayah enjoy sovereignty over their own territories, and the Burmese kings did not show consideration for the other uneducated and non-literate ethnic groups. Ethnic groups were always considered miserable by the Burmese Kings. The ethnic groups resided in the high ground near India, China, Laos and Thailand.<sup>184</sup>

The Burmese political system was feudalistic and the relations between the Burmese Kings and Shan leaders had been good as they were based upon this political structure. Shan leaders recognized there were similarities in the systems of the Shan federation and policymaking of Burmese royal court. Moreover, Shan leaders not only accepted the dignity the Burmese court system but also imitated the Burmese royals to build firmly their own powers in the post-colony

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<sup>181</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 89.

<sup>182</sup> Maj Gen (Retd) Jatinder Singh. "Defense Economies Of South Asia : An Analysis". 228-229.

<sup>183</sup> Melford E. Spiro. *Buddhism and Society: A Great Tradition and Its Burmese Vicissitudes*. 172.

<sup>184</sup> Ardeth Maung Thawngmung. "The Dilemmas of Burma's Multinational Society". 138.

period.<sup>185</sup>

### **The Colonial Period 1824-1948**

V. C. Scott O’Conner who had resided in Upper Burma in the 1890s criticized the Burmese Court saying:

The Burmese Court...were too proud and too weak to make the concessions that could alone serve as the basis for conciliation. Its own resources were too slandered to sustain its great pretensions ... the result was war.<sup>186</sup>

The British instigated the First Anglo-Burmese War in 1824, the Second Anglo-Burmese War in 1852, the Third War in 1885<sup>187</sup> and declared all of Burma to be a part of British India on May 4, 1886. The British Foreign Department issued Notification under Section 8, issued in 1887, the Shan States were defined follows:

The Northern Shan States (under the supervision of the superintendent, North Shan States)

The Southern Shan States (under the supervision of the superintendent and political officer, Southern Shan States)

The Myelat (under the supervision of the superintendent and political officer, Southern Shan States)

States under the supervision of the deputy commissioner, Myitkyina District

States under the supervision of the deputy commissioner, Upper Chindwin District.”<sup>188</sup>

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<sup>185</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 111-112.

<sup>186</sup> That Myint-U. *The Making of Modern Burma*. 186.

<sup>187</sup> Amarjit Kaur. “Indian Ocean Crossings: Indian Labor Migration And Settlement In Southeast Asia, 1870 To 1940”.135.

<sup>188</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*.167.

Meanwhile, the French interfered in the political traditions of Burma's neighboring countries of Cambodia, Laos and Vietnam. The British claimed a desire to end the dominion of the Burmese empire and create modern political system in Burma. In fact, the British attempted to get economic profits and wanted to send Christian missionaries to the ethnic tribal territories. They enacted the strategic policy of "divide and rule" among the minority ethnic federations and majority Burmese peoples.<sup>189</sup>

According to the British "divide and rule" policy, lower Burma was governed directly but Shan chiefs were judged indirectly. The British introduced a federal system to the Shan States on 17 September 1922. The Federal Council of Shan Chiefs was founded and Shan State sent two representatives to London for the issue of the seceding from British India.<sup>190</sup>

Shan chiefs called *Saobpa* were feudalists and uncomfortable with the structure of federalism as it was created by British. Even though, The Federal Council was the most powerful in the Federated Shan States in the branches of executive and judicial authorities but British Empire grasped legislative powers. The notion of charisma was very strong among the Shan chiefs and they could not surrender their sense of themselves as the hereditary ruler. Therefore, Shan chiefs sent a memorandum to the British and asserted their rights to power and authority, as India had and demanded legislative rights. The Federation had never been the standard political system for Shan chiefs and they were uncomfortable the system thinking they might lose their traditional position.<sup>191</sup> Consequently, Shan Federal Council decided to send memorandum to the British government in 1930. The memorandum indicated the Shan federation and some of the Shan chiefs' demands:

The Memorandum first traced the history of the Shan States, relating that at the time of the British annexation of Upper Burma, despite some measure of Burmese

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<sup>189</sup> Taylor Robert H. "Pathways to the Present". 5-9.

<sup>190</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 181.

<sup>191</sup> *Ibid.*, 187.

ascendancy over the Shan States, the right of Shan Chiefs to rule their own states independent of Burmese control was not questioned; that, after the annexation, the Shan Chiefs were treated as sovereigns in their own right and the Shan States were incorporated into British India with the Chiefs becoming subjects of the Crown. The Memorandum stated that the Constitution of the Federation was framed without formal consultation with the Chiefs, who were made to consent to the Constitution at a single meeting with British officers who were unacquainted with the customs of the Shan States and came with preconceived ideas. Shan States would not object to a future federal form of government with Myanmar on the following terms:

- (a) that there would be no interference with the affairs of individual States;
- (b) that their ancient rights, customs, religions, and privileges would remain unaltered unless modified by mutual consent; (c) that the relationship would be on the same lines as that between the Indian States and British India; and
- (d) that the hereditary rights of the Chiefs would be acknowledged and safeguarded by the British Government. Asserting that under the existing system of administration the Chiefs had only nominal legislative and executive powers, the Memorandum called for the full freedom for the Chiefs in civil and criminal administration and in matters of revenue and the right to govern their States independently, and an advisory body, to be given the power to deal with all matters affecting the welfare and prosperity of the Shan States as a whole.

Recalling that Sir Reginald Craddock, Lieutenant Governor of Myanmar, had, in a Durbar on 22<sup>nd</sup> March 1920, told to the Shan Chiefs, “the special powers, rights, and privileges which you have enjoyed in the past must be conserved for you in the future,” the Memorandum declared that the Chiefs desired a reversion of their

status, and that the original designation of the Chiefs as “Maharajah Sawbwagyi” should be revived.<sup>192</sup>

Shan Chiefs had their authorities reduced under the Myanmar Laws Act of 1898 by the Civil and Criminal Justice Orders it stated Shan Chiefs *Saopha* had the managerial, judicial and revenue authorities but under the leading of an administrator and the restraining of the committee.

However, Shan chiefs were strong-minded and indicated that they could only accept advises but had no authority of the legislated.<sup>193</sup>

Another critical change occurred when the Japanese marched to the Burma in 13 December 1941 and formed the first Burmese Army called The Burma Independence Army (BIA). Japanese troops and BIA moved the British out. Finally, Japan occupied Burma in July 1942.<sup>194</sup> However, the British returned to Burma again and made the Japanese left Burma in 1945.<sup>195</sup> World War II put to end the British Empire and in turn gave the opportunity for countries to gain back their independence, this also made Burma free from colonialism.

Historically, Burmese and ethnic leaders held a conference called Panglong in February 1947. The dialogue of the first Panglong Conference ethnic groups decided the boundaries in the forthcoming in March 1946. Moreover, Burmese representative Aung San and Chin, Kachin and Shan leaders agreed to the establishment of the Union of Burma and full self-government to be practiced by states and as well as equal opportunity in February 1947 in the Panglong Agreement.<sup>196</sup>

Ethnic groups believed the future of the Union of Burma might open to the rights of self-determination, as was their aspiration and every state would advance in freedom after the

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<sup>192</sup> Ibid., 182-184.

<sup>193</sup> Ibid., 187.

<sup>194</sup> Barbara Andaya. *Columbia Chronologies of Asian History And Culture*. 484.

<sup>195</sup> John F. Riddick. *The History of British India: A Chronology*. 116.

<sup>196</sup> Kai Chen. *Comparative Study of Child Soldiering on Myanmar-China border; Evolutions, Challenges and Countermeasures*. 19.



years with the promised of “right of secession”.<sup>197</sup> The Burmese 1947 Constitution was created on the basis of the Panglong agreement and the right of secession was included in Chapter X, Articles 201-206.<sup>198</sup> (See The 1947 Burmese Constitution and the Burmese second Constitution promulgated in 1974 and some of the preamble declared as following in Appendix 4).

### **After Independence 1948-1962**

Burmese representative Aung San was assassinated and the other Burmese were uncomfortable with the 1947 Constitution but Burma gained back independence in January 1948. After independence the Karen minority revolted. Most of the Kachin are Christian and the Kachin felt religious discrimination in the statement of the first Burma Prime minister U Nu when he stated that Buddhism should be national religion.<sup>199</sup> The main issues of sharing authority with minority groups and merger between ideologies of spiritual beliefs and traditions resulted in armed conflicts between the Burmese and others ethnics groups. The scholar Kai Chen indicated that:

They combined the power of the Burma/Myanmar ethnic national state with sovereign authority of the whole Union of Burma. Thus, while one ethnic group, the Burma/Myanmar, controlled the sovereign power of the Union, that is, legislative, judiciary, and administrative powers of the Union of Burma; the rest of the ethnic nationalities who formed their own respective ethnic national states become almost like, “vassal states” of the ethnic Burma or Myanmar.<sup>200</sup>

The main purpose of the Panglong agreement was to guarantee sovereignty of the ethnic groups.

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<sup>197</sup> Lian H. Sakhong\*. “Ethnic Conflicts: Burma”. 244.

<sup>198</sup> Kai Chen. *Comparative Study of Child Soldiering on Myanmar-China border; Evolutions, Challenges and Countermeasures*. 19.

<sup>199</sup> Jim Della-Giacome and Richard Horsey. “A House Divided: Finding Peace in Multiethnic Myanmar”. 6-7.

<sup>200</sup> Kai Chen. *Comparative Study of Child Soldiering on Myanmar-China border; Evolutions, Challenges and Countermeasures*. 20.

The first Burma constitution was ratified at the Panglong agreement and established among all the peoples of Burma federalism, a prospect for ethnic equal opportunity and sovereignty.

Nevertheless, the Burma 1947 first Constitution was criticized for the problematic issue of executive and regional combination. If Shan, Kachin and Karenni shall be envoys in the upper house of parliament, the other ethnic groups such as Mon and Arakanese lost the right. Chin and Karen would have their districts in the future but Mon and Arakanese resided with the Burmese in Burma.

Moreover, the 1947 Constitution including the right of secession and this right might effect only the Shan and Karenni. (see Appendix 4) Taylor mentioned “truncated federalism” and all should focus on the conflict among the ethnic groups, imagining the coming civil wars.<sup>201</sup> Karen National Union and other contrary groups made civil war with Burmese majority. The Prime Minister U Nu’s government could not control the situation and military power interfered in the executive branch.

General Ne Win had invested his authority in the government and with his first coup took power in 1960 but returned to civil government. However, after he took power for the second time in 1962, he not only put an end to the parliament of the democratic system, but also, the dictator General Ne Win ruled Burma with a one party system called Burma Socialist Program Party (BSPP) the party has the structure of a Marxist-Leninist government but the dictator named it the Burmese Way to Socialism.<sup>202</sup>

### **The Socialist Period in Burma 1962-1988**

General Ne Win was a commander, one of the founders of the Burmese Military that in a coup took power on 2 March 1962. The ethnic groups aspired to the right of self- government and

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<sup>201</sup> Hazel J. Lang. “Burma: History, Ethnicity, And Civil War”. 34-35.

<sup>202</sup> Susanne Prager Nyein. “The armed forces of Burma; The constant sentinel”. 25-26.

the right to secession was disregarded. Burma's Socialism was based on the combination of socialism, Buddhist principles and humanism. The official language became Burmese. All publishing was limited and controlled. Political opponents including ethnic leaders were arrested but military control was invested in all of sovereign powers and government institutions.

Evidently, the result of the BSPP congress indicated party membership was 73,369 in 1971 but 58 percent of members were military. The BSPP was a one-party system that originated with the military and strapped the country with military selected personnel and what was called the Burmese Way to Socialism.<sup>203</sup> The Dictator General Ne Win retired from the military in 1974 but held power until 1988. The Burmese Second Constitution was promulgated in 1974 (see Appendix 5). Consequently, the effect of dictatorial administration made Burma isolated from the world and at finally it was declared one of the poorest countries in the world.<sup>204</sup>

### **Military Rule Period 1988-2008**

Unfortunately, not only ethnic minorities were ignored in the lost promise of the Panglong Agreement, but they and lost the sovereignty and also the entire nation suffered losing human rights, unequal opportunity and entering on economic crisis. Consequently, nationwide demonstrations occurred in 1988 most called stop one-party system and demanded a multi-party and democratic country.<sup>205</sup> The Military regime was renamed in SLORC and cracked down of the uprising by demonstrators in 1988.

SLORC was founded with 19 persons on 18 September 1988 and ruled the country with

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<sup>203</sup> David I. Steinberg. *Burma/Myanmar: What Everyone Needs to Know*. 62-65.

<sup>204</sup> Doug Dillon. *A Brief Political and Geographic History of Asia: Where are Saigon, Kampuchea, and Burma*. 32-33.

<sup>205</sup> Thin Thin Aung & Susan H. Williams. "Women in the Constitutional Drafting Process in Burma". 275.

the military principles.<sup>206</sup> SLORC reformed the economic policy, permitted the organizing of multiple-parties and one election was held under the supervision of the SLORC in 1990. Burmese representative General Aung Sun's daughter Aung San Suu Kyi led political party NLD got a majority of votes 82%<sup>207</sup> in 1990 election.<sup>208</sup> However, the regime did not accept the 1990 election results and refused to handover authority.<sup>209</sup>

Scholar Ian Holliday explained the Burma 1988 uprising intended to hold multi-party elections in 1990. The determination of the renewed was only to change the country name from Burma to Myanmar in July 1989. Moreover, consequence of the 1990 voting did not affect the transfer of Burma to become a democratic country. SLORC announced the important step that it was preparing a fresh constitution in a National Convention on January 9, 1993.

Unreliability of restricted discussion and limits on questions, it caused the NLD refuse to participate the assembly in November 1995. The SLORC attempted the impossible and challenged to the other ethnic delegates in the 1990 election victory over the issue of sovereignty. Consequently, the National Convention to be remitting to create a constitution in April 1996.<sup>210</sup> The SLORC renamed SLORC as the SPDC in November 1997.<sup>211</sup> Effectively, SPDC was faced with internal and international suspected. In an attempt to release itself from the pressure SPDC implemented a 7-step program for Burma's transition to a democratic state. (see Appendix 6)

The regime controlled the National Convention and the assembly was only a puppet assembly. It was very clear, among 702 representatives in the National Convention there were 99

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<sup>206</sup> Tin Maung Maung Than. "Myanmar State And Society" in *Media Fortunes ASEAN States in Transition Changing Times*. 140.

<sup>207</sup> Ashok K. Dutt. *Southeast Asia: A Ten Nation Region*. 12.

<sup>208</sup> Ardeth Maung Maung Thawngmung. "The Dilemmas of Burma's multinational Society". 150.

<sup>209</sup> Tin Maung Maung Than. "Myanmar State And Society". 140.

<sup>210</sup> Ian Holliday, "Voting and violence in Myanmar: Nation Building for a Transition to Democracy". 32-33.

<sup>211</sup> Tin Maung Maung Than. "Myanmar State And Society".140.

people who gained from 1990 election the NLD only had representative only 81 persons and the continuing 603 persons were selected by SLORC. A few minorities' envoys contributed with expectations for a federal constitution and ethnic sovereignty. Nevertheless, NLD boycotted the National Convention but the SLORC continued to write a draft of constitution for 8 years without genuine representatives of the people.

There was no consent to criticize the program of SLORC and neither drafting the constitution nor the discussion, debating, criticism of the SLORC's handling of the process of the national conversion. Politicians, ethnic armed groups and the people generally refused to accept the new draft constitution<sup>212</sup> the monks held demonstrations in August 2007 and this was the first demonstration that had occurred in Burma since the regime took the power in 1988. However, the Saffron Revolution was crushed in a violent crackdown by the military junta.<sup>213</sup>

A Nationwide Referendum was held by SPDC on 10 May 2008<sup>214</sup> and according to the Commission for Holding the Referendum Announcement No. 12/2008 declared there were 57,504,368, or 92.48 percent of the voters decided to approval draft of the constitution.<sup>215</sup> Conversely, SPDC was faced with condemnation by internal antagonism and international censured of the process of 2008 Constitution.<sup>216</sup> NLD presenter Nyan Win explained: "This referendum was full of cheating and fraud across the country. In some villages, authorities and

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<sup>212</sup> Benedict Rogers. *Burma; A Nation At The Crossroads*. 205.

<sup>213</sup> Human Rights Watch. *Burma The Resistance of the Monks; Buddhism and Activism in Burma*. 2009.

<sup>214</sup> Paulin G. Djité. *Multilingual Matters; The Language Difference; Language and Development in the Greater Mekong Sub-Region*. 184.

<sup>215</sup> Constitution of the Republic of the Union of Myanmar (2008). Myanmar: Ministry of Information. Announcement No. 12/2008.

<sup>216</sup> Joseph Chinyong Liow. *Dictionary Of The Modern Politics Of Southeast Asia*. 132.

polling station officials ticked the ballots themselves and did not let the voters do anything.”<sup>217</sup>

### **The 2008 Myanmar Constitution**

Burmese third Constitution was promulgated in 2008 and it declares the structure of the basic principles as seen in (see Appendix 7). The fundamental principles of the Burma (Myanmar) 2008 Constitution include: three branches legislative, executive and judicial, like international democratic constitutions (see Chapter 1, Article 11 (a)). The legislative power of the Union is divided three branches the Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaw in Chapter 1, Article 12 (a).<sup>218</sup> Furthermore, Pyidaungsu Hluttaw (Union Assembly) includes Pyithu Hluttaw (People’s Assembly) (Lower house) and Amyotha Hluttaw (National Assembly) (Upper house) in Chapter IV. Article 74 (a), (b).<sup>219</sup>

Interestingly, There are 440 seats in Pyithu Hluttaw (People’s Assembly) (Lower house), the legislative body has 330 seats that are chosen on the basis of township as well as the number of people who reside there and the 110 seats from the military officers who are selected by the Commander-in-Chief. Amyotha Hluttaw (National Assembly) (Upper house) has 224 seats, but 168 representatives are chosen from each state or region but 56 seats are reserved for the military. The Commander-in-Chief chooses them.<sup>220</sup>

The Union Solidarity and Development Association (USDA) was established in 15 September 1993 on the settlement of SLORC with the purpose of USDA was to become an opposition group and pro-SLORC. Moreover, SLORC wanted to succeed to finish the process of the new constitution. The majority of the USDA was a public association but under the Ministry of

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<sup>217</sup> Global Investment Center. *Myanmar (Burma) Medical and Pharmaceutical Industry Handbook Strategic Information and Regulations*. 96.

<sup>218</sup> *Ibid.*,3.

<sup>219</sup> *Ibid.*,27.

<sup>220</sup> Melissa Crouch. “The Layers of Legal Development in Myanmar”. 47.

Home Affairs. Military and civil servants have to become members of the USDA and SLORC chairman Than Shwe was a promoter. The membership of the USDA had grown to an approximate 11 million in 1999 and USDA managed a very systematic connection between the organization and opening the offices from every state, division, region, town and villages. The slogans of the USDA addressed the non-breakdown of the Union, non-collapse of national unity and to upholding sovereignty.<sup>221</sup>

USDA is a Top-Down structure and receives all of the backing from military for financial, technical help and guidance etc. Those responsible for USDA are in conflict with the NLD and strictly forbid antagonistic, political instruction and movements. The USDA has been involved in violent action against the people who opposite to the SPDC but the regime's legal systems protected USDA's violent action. Effectively, SPDC made use of USDA to complete their strategy to continue to keep power by any means.<sup>222</sup> Obviously, SLORC has mentioned USDA as:

The patriotic youth, who are members of the USDA, are self-reliant; they have their own initiative. They have conviction and are full of confidence in themselves. Their strength, which is growing year by year, is used for the state; it is for our nationals. By using their strength, they will oppose anyone who will infringe and disturb the stability of the state. They will also isolate these elements in society. They youth mass will join hands with the public to totally remove these destructive elements if they try to disturb, damage, or destroy the state.”<sup>223</sup>

Subsequently, SPDC reformed the Union Solidarity and Development Association (USDA) into the political party named Union Solidarity and Development Party (USDP) on March 29, 2010. Furthermore, SPDC organized the Union Election Commission (UEC) and strictly interfered in the election process.

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<sup>221</sup> David I. Steinberg. “Mass Mobilization, Civil Society, and Orthodoxy”. 110-111.

<sup>222</sup> <http://www.ibiblio.org/obl/docs3/USDA-Mon-Forum2005-04.html>. 9 August 2015.

<sup>223</sup> David I. Steinberg. “Mass Mobilization, Civil Society, and Orthodoxy”. 113.

According to the UEC's election law, the candidates who were prisoners prohibited from standing for elections. Consequently, not only Aung San Suu Kyi but also the other opposition leaders and ethnic party leaders could not participate in the 2010 election. Under SPDC control, UEC announced some ethnic regions (Kayah, Kayah, Mon, and Shan states) where ethnic armed conflicts were being fought where they would not hold elections because instability.

SPDC forced UEC to make such unreasonable restrictions on the other political parties that U.S. Assistant Secretary of State for Police Affairs, Philip J. Crowley indicated the Burma Union Election Commission Political Parties Registration Law “makes a mockery of the democratic process and ensures that the upcoming elections will be devoid of credibility.” The highest regime officers left from the military participated as USDP candidates for 2010 election.<sup>224</sup> The military backed USDP won with some “advance votes”, 77 percent of all the seats in the 2010 election.<sup>225</sup> They took victory for 259 among 330 seats. However, NLD did not stand for 2010 election but re-registered for the 2012 by-elections on 1 April 2012. Aung San Suu Kyi was freed from house arrest to run for by-elections and her party won in 43 of 44 seats in 2012.<sup>226</sup>

According to the Myanmar 2008 Constitution Chapter VII. Article 338 all the armed forces in the Union shall be under the command of the Defense Services.<sup>227</sup> The Ethnic armed conflict occurred from 1948 and is on going. Among 18 ethnic armed groups, 14 groups already signed a ceasefire with the Myanmar military but 4 ethnic groups are fighting presently. However, the military regime attempted to change tactics during the ceasefire by changing forces into “Border Guard Forces” in April 2009. Furthermore, Myanmar Peace committee was founded on 3 November 2012 and includes international mediators.

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<sup>224</sup> <https://www.fas.org/sgp/crs/row/R41447.pdf> 10 August 2015.

<sup>225</sup> Ardeth Maung Maung Thawngmung. “*The “Other” Karen in Myanmar; Ethnic Minorities and the Struggle without Arms.*” 136.

<sup>226</sup> Global Investment Center. *Myanmar (Burma) Medical and Pharmaceutical Industry Handbook Strategic Information and Regulations.* 97.

<sup>227</sup> Constitution of the Republic of the Union of Myanmar (2008). Myanmar: Ministry of Information.



Burmese (Myanmar) Government made proposals for nationwide ceasefire as follows:

**Three-phase peace plan**

1. State level: Ceasefire, set up liaison offices and travel without holding arms to each other's territory.
2. Union level: Confidence building, holding political dialogue, implement regional development tasks in terms of education, health and communication.
3. Sign agreement for eternal peace in the presence of the parliament represented by nationalities, political parties and different walks of life.

The Burma Government Union-level Peacemaking Work Committee has to complete the following responsibility as:

**State Level Peace Negotiation – 5 Terms**

1. To cease fire from both sides
2. To deploy troops only in agreed territories
3. Prohibit carrying arms outside the designated territories
4. Open liaison offices in areas agreed by both sides (no arms allowed)
5. In order for the negotiation process to proceed to Union Level negotiation, each group will have to form an official delegation term and negotiate the place and time for Union Level negotiation.

**Union Level Peace Negotiation – 8 Points**

1. remain forever in the Union
2. To accept the Three National Causes: non-disintegration of national sovereignty and perpetuation of national sovereignty
3. To cooperate in economic and development tasks
4. To cooperate in the elimination of narcotic drugs
5. To set up political parties and enter elections

6. To accept the 2008 Constitution and to make necessary amendments via Parliament by majority consent
7. To fully enter the legal for permanent peace and live, move, work in accord with the Constitution
8. To coordinate existence of only a single armed forces in accord with the Constitution

UNFC was established on 16 February 2011, to represent ethnic armed groups in negotiations of ceasefire talks with the Myanmar government. However, this does not signify all of the ethnic armed groups in Burma. The ethnic armed groups established a Federal Union Army in December 2011. The aims of UNFC is to build a Federal Union (in Myanmar) and form a Federal Union Army. UNFC believes that the issue of ethnic armed conflict is based upon the Panglong Agreement. Moreover, UNFC has 2008 Federal Constitution (second draft) and all negotiations with the Burmese civil government are based upon the UNFC 2008 Federal Constitution (second draft).<sup>228</sup>

The ethnic leaders and Burmese representative General Aung San signed the Panglong Agreement on February 12, 1947 that demanded independence from the British.<sup>229</sup> However, ethnic groups have been fighting for self-determination and federalism.<sup>230</sup> Consequently, Burmese ethnic interior war became the world's longest since the end of the Second World War.<sup>231</sup>

**The major of the ethnic armed groups' demands:**

1. Amnesty/legalization of ethnic groups
2. International mediators, monitoring bodies, public consultation
3. Panglong terms and pan-ethnic dialogue

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<sup>228</sup> <http://mmpeacemonitor.org> 13 August 2015.

<sup>229</sup> Chao Tzang Yawnghwe. *The Shan Of Burma; Memoirs of a Shan Exile*.94.

<sup>230</sup> <http://mmpeacemonitor.org> 13 August 2015.

<sup>231</sup> David M. Rosen. *Contemporary World Issues; Child Soldiers*.121.

4. Cultural protection
5. Human rights and a special commission to ensure these rights are protected
6. Environmental protection
7. Resettlement/integration of refugees and soldiers

**UNFC Six Point Plan:**

1. to host a meeting with civil society and all ethnic armed groups
2. a meeting between all ethnic armed groups and government representatives monitored by the international community
3. referendums in each state to ratify agreements reached
4. a meeting with all ethnic people talk about peace
5. tripartite dialogue between the government, democracy activists and ethnic people
6. implementation of agreements reached within a set timeframe.<sup>232</sup>

The representatives of UNFC held a meeting in Nay Pyi Daw to discuss with some complexity the NCA Single Text between the Nationwide Ceasefire Coordinating Team (NCCT) officially formed by UNFC and the UPWC formed by the Burmese government.<sup>233</sup> The NCCT made an effort to sign NCA with the UPWC on March 31, 2015. However, the approval of NCA draft has not reached the final accepted agreement and some topics shall continue to be discussed until the “required implementation” is met.<sup>234</sup> UNFC formed “Nationwide Ceasefire High-Level Delegation” with 15 leaders of the Armed Organizations to negotiate with the Burmese

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<sup>232</sup> <http://mmpeacemonitor.org>. 13 August 2015.

<sup>233</sup> <http://mmpeacemonitor.org> . Press Release on Four UNFC Leader’s Trip to Nay Pyi Daw on 15 November 2014. 13 August 2015.

<sup>234</sup> <http://mmpeacemonitor.org>. Position Statement on Signing of Approval on Nationwide Ceasefire Agreement Draft Reached between NCCT and UPWC. 7 April 2015. 14 August 2015.

representative until achieving a signed agreement on 9 June 2015.<sup>235</sup> According to the Senior Delegation (SD) during the dialogue with Burmese government, the army was attacked in Kachin, Shan and Karen territories. Such extraordinary circumstances are a misstep. These conditions made not achieving a nationwide ceasefire agreement inevitable. Moreover, the Burmese government did not accept all of the ethnic armed resistance organizations together in signing ceasefire agreement, and only accepted a limited amount of countries to participate as witnesses to the ceasefire agreement. They also restricted the international witnesses who have been encouraging our country's peace process and national reconciliation for long time.

A senior delegation (SD) demanded that the Burmese government essentially stop completely all of the government marches and made several pleas related to attacks in ethnic territories. For trust building the government must allow all of the ethnic armed organizations to participate and sign ceasefire together with both internal and international witnesses, particularly those from the countries that encourage and aid in the nationwide ceasefire proposals in Burma over many years. However, there have been continuing negotiations between the ethnic armed resistance organizations and the Union Peace-making Work Committee now in the 8<sup>th</sup> round of talks and attempts to reach a Nationwide Ceasefire Agreement. The Senior Delegation (SD) believe these should be considered as optimistic negotiations.<sup>236</sup>

Significantly, the Burmese have dominated the other ethnic groups since the AD period. The Burmese not only controlled political power, but also culture, script, traditional beliefs and religions. Both Burmese and Pyu existed in the middle of Burma, however, the Pyu race has disappeared from Burmese history<sup>237</sup> and Burmese scripts originated with the Mon scripts. The

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<sup>235</sup> <http://mmpeacemonitor.org>. EAO Released a statement after Lawkheeler meeting on 9 June 2015. 14 August 2015.

<sup>236</sup> <http://mmpeacemonitor.org>. Statement on 8<sup>th</sup> Round of Talks between SD and UPWC regarding Nationwide Ceasefire Agreement (draft), on 27 July 2015. 14 August 2015.

<sup>237</sup> Hugh Tinker. *South Asia: A Short History*. 29.

Shan is a largest ethnic group in Burma however Shan chiefs had never controlled their capital Ava since being occupied by the Burmese.<sup>238</sup>

The ideology of federalism became a political system in Burma in Shan States on 17 September 1922. However, the traditional feudalist Shan Chiefs could not consent to the federal system that much restricts their authority.<sup>239</sup> The Shan Chiefs had been concerned with federalism and authority issues with the British rulers in the colony period. Furthermore, Shan State representatives and the Burmese government Advisory Committee discussions concerned with federalism took place in July 22, 1961.<sup>240</sup> They complained with the 1947 Constitution was unfair and The Union government got more authority than state government.<sup>241</sup> Nevertheless, the conflict over the 1947 Constitution could not be resolved but the Burmese military General Nay Win took power in a coup and put an end to parliamentary democracy in 1962.<sup>242</sup> The Burmese 1974 Constitution was based on the Burma Way Socialism<sup>243</sup> and it was not only that the ethnic groups lost their rights and aspirations, but also many representatives were confined and Burma fell under the rule of the military dictatorship.<sup>244</sup>

Even though, the nationwide demonstration demanded to end the one party system called Burma Way of Socialism, and creates a democratic country in 1988, the one party system came to an end and multi-party system was practiced from 1990. The Myanmar 2008 Constitution was promulgated and the 2010 multi-party elections were held and a civil government was established.<sup>245</sup> Nevertheless, the ethnic armed group's negotiations and the constitution crisis

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<sup>238</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 89.

<sup>239</sup> *Ibid.*, 182-184.

<sup>240</sup> *Ibid.*, 433.

<sup>241</sup> *Ibid.*, 433-435.

<sup>242</sup> Kyaw Yin Hlaing. "Problems with the Process of Reconciliation". 34-35.

<sup>243</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> . 16 August 2015.

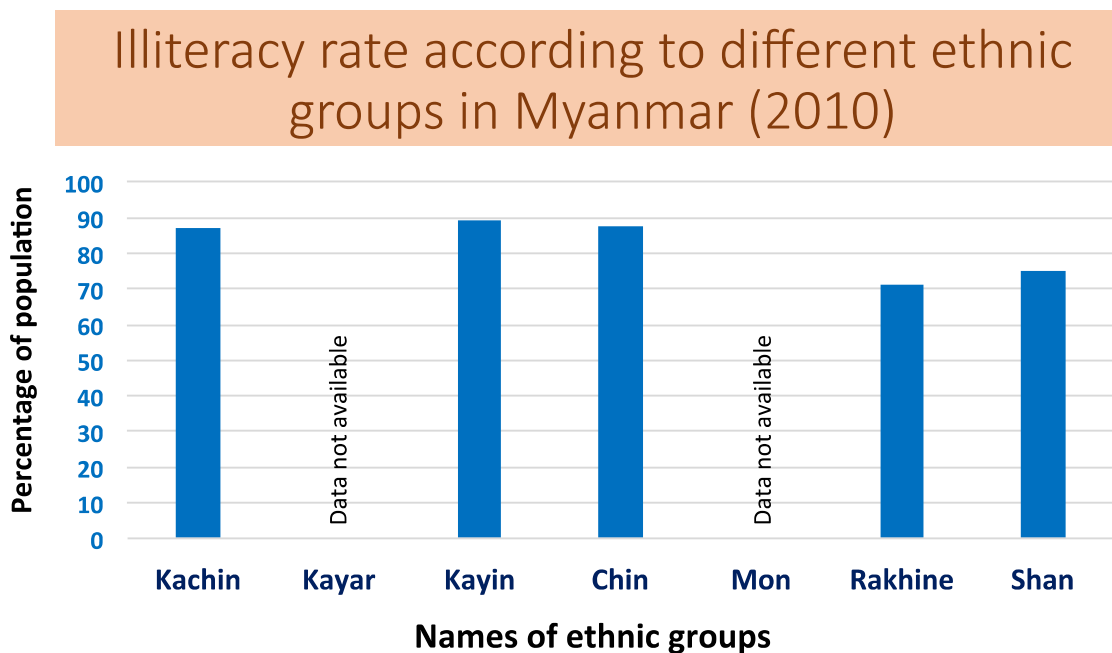
<sup>244</sup> Steven A. Leibo. *East and Southeast Asia*. 201.

<sup>245</sup> David I. Steinberg. "Setting the Stage: The Crisis of 1988 and Its Origins". 1.

remains at present.<sup>246</sup>

The following charts give some indication of the effects of military rule.

**Table 2. Illiteracy Rate According to Different Ethnic Groups in Burma (2010)**



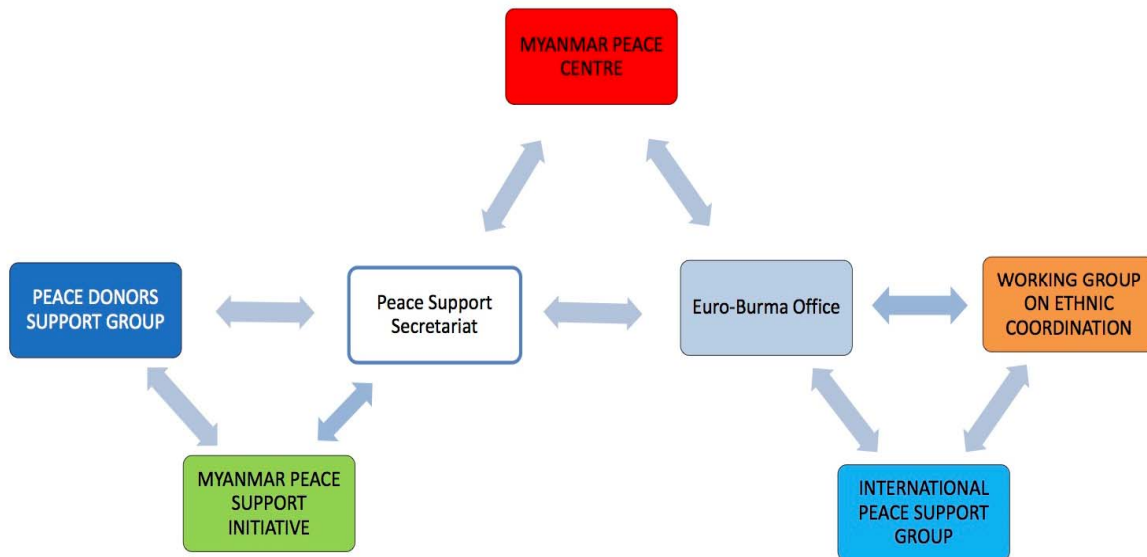
The effect of the Myanmar government’s “four cut policy,” is that it has made the country into the one with the highest number of people living in poverty, and those in the ethnic territories are the hardest hit: Chin state (73%), Rakhine State (44%) and Shan state (33%) living in poverty. There is no electricity, suitable roads or other infrastructure. Many are facing removal and replacement by Myanmar troops. Moreover, illiteracy ranks are the bottommost in ethnic states; they are the Shan state (75%), Rakhine state (75.1%), Kayar state (84.7%), Kachin state (87.2%), Chin state (87.4%) and Kayin state (89%). (See Table 2.)

Youth in ethnic states are involved with drugs, especially in Kachin state and Shan state.

<sup>246</sup> <http://mmpeacemonitor.org>. *Elections, Transition And Conflict*. 16 August 2015.

Ethnic people have no chance to learn their own languages as official languages and cannot preserve their traditional culture and heritage.<sup>247</sup> Actually, the Myanmar Army has been trading ethnic people as second-class citizens and enemies.

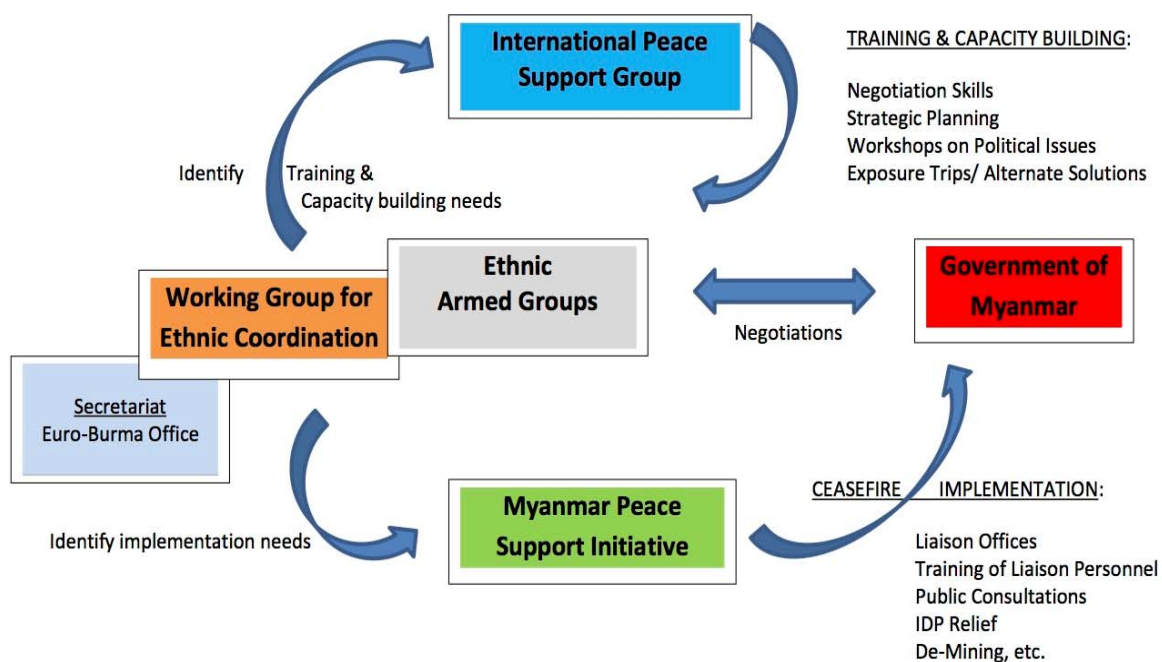
**Table 3. Myanmar Peace Support Initiative (MPSI)<sup>248</sup>**



The following is a diagram of the structure of the mediation and negotiations between the various elements involved in Myanmar.

<sup>247</sup> <http://mmpeacemonitor.org>. Ethnic Grievances. 16 August 2015.

<sup>248</sup> <http://mmpeacemonitor.org>. Myanmar Peace Support Initiative (MPSI). 16 August 2015.



Since the civil government’s peace strategy began in 2011, 14 out of 16 ethnic armed groups have made agreements with the government. The ethnic armed groups, which made ceasefire with government got the opportunity to participate in search of political dialogue, making the structure of political negotiations and political decisions.<sup>249</sup> Nevertheless, not all of the ethnic armed groups signed the ceasefire with the Myanmar government but some ethnic armed groups including UNFC are still fighting with the Myanmar troops.

The Myanmar government established the Myanmar Peace Center (MPC) in Burma by the Norway-led Peace Support Donor Group. There is not only the Norway-led Peace Support Donor Group, but also international peace support groups backed by the United Nations Office for Project Service (UNOP), European Union (EU), Nippon Foundation, etc. Technical working groups for training and capacity building has needs such as negotiation skills, strategic planning, workshops on political issues and exposure trips/ alternate solutions.

The purpose of MPC’s activity is to gain the government’s strategic as:

1. Ceasefire negotiations and implementation

<sup>249</sup> Kuok Lynn. *Promoting Peace in Myanmar: U. S. Interests and Role*. 6.



2. Peace negotiations and political dialogue
3. Coordination of assistance in conflict affected areas
4. Outreach and public diplomacy
5. Mine Actions<sup>250</sup>

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<sup>250</sup> <http://www.mmpeacemonitor.org/peace-process/government-peace-plan>

## Chapter 4: Methodology and Research Question

The primary focus of this dissertation is to determine the degree of understanding of the terms democracy and federalism through usage among the majority Myanmar Government and minority ethnic groups. The current Myanmar Government has made gestures toward democratization and they have been involved in negotiations over federalism with minority groups in recent years. Nevertheless, minorities' rights are by no means secured. Moreover, there are eight major ethnic groups with their own languages and some languages have borrowed words such as federal and democratic, which have come to take on major significance in current peace negotiations. Interestingly, English-Myanmar dictionary is in official use as a bilingual dictionary in Burma. The Burmese 1974 Constitution stated that Burmese language should be used in the administration of justice in Chapter VII, Article 102.<sup>251</sup> The Myanmar 2008 Constitution proclaims, Myanmar language is the official language in Chapter 15, Article 450.<sup>252</sup>

The Ethnic armed groups have been presenting grievances that ethnic minorities encountered with the Myanmar Army's "4 cuts policy" which include:

1. the cutting and blockading communications between rebel armed groups
2. an embargo of people and consumer goods entering rebel territories
3. the search and destruction of core members responsible for supply, information, funds and recruits
4. an embargo on trade to reduce rebel revenue

The evidence is that ethnic people have been living with deficiencies with the poorest learning in their territories. The 2010 data indicated that 75% of people in Shan state, 71.1% ethnic in

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<sup>251</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> . 17 August 2015.

<sup>252</sup> Constitution of the Republic of the Union of Myanmar 2008. 179.

Rakhine state, 87.2% in Kachin state, 87.4% in Chin state and the highest 89% of people in Kayin state are marginally literate.<sup>253</sup> This is the understanding of how the Myanmar Government and ethnic armed groups leaders determined the meaning of democracy and federalism and represented them to the country. Consequently, their point of view impacts the prospects for the Burma/Myanmar Federation.

Burma is multi-lingual and has various ethnic groups in one country but the official language is only the Myanmar language. Most important is how the ethnic leaders represent the meaning of democracy and federalism. The primary objectives of this dissertation will be to examine the meaning of democracy and federalism as used in media in Burma, Myanmar Government and ethnic leaders' official statements, speeches, and interviews. This will reflect to what degree understanding the meaning of democracy and federalism.

Therefore, considering the commonly determined meaning of the words democracy and federalism in English, and comparing these with what the Myanmar government and ethnic leaders profess to believe or proffer as an ideal. Concurrently, the evidence of word usage can be used to suggest possible directions to achieve the ethnic groups aspiration for a Federal Union in Burma.<sup>254</sup>

### **Data Sources**

Burmese 1947 Constitution, Burmese 1974 Constitution and Myanmar 2008 Constitution will be use for this research. The other data sources used for this dissertation consisted of articles from issues of Myanmar English Newspaper the *New Light of Myanmar* (hereafter, NLM), one Myanmar Military Newspaper named *Myawady* published in Myanmar. The Myanmar President' speeches, Myanmar Government statements, ethnic armed groups'

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<sup>253</sup> <http://www.mmpeacemonitor.org/background/ethnic-grievances> .17 August 2015.

<sup>254</sup> <http://www.mmpeacemonitor.org/stakeholders/unfc> . 17 August 2015.

leaders' statements were also investigated to emphasize how the Myanmar Government perceives the meaning of the term democracy and federalism.

Burmese 1947 Constitution was created not only to gain independence from the British but it also helped to create as a united country called the Union of Burma. The Burmese 1947 Constitution was based on the Panglong Agreement, which included the right of Secession in Chapter X. Interestingly, one must ask, why was the right of secession included in this constitution, and how the influence of the right of secession might connect with the current Burmese conditions? Moreover, did the first Burmese 1947 Constitution, a federal constitution, especially did it empathize the system of dividing the sovereignty powers itself?<sup>255</sup> Furthermore, the principles of the Burmese 1974 Constitution were not only based on the Socialism but also formed the Burmese ideology called “Burma Way to Socialism.” However, one country with the multiple ethnic groups and various traditions could not be ruled by a one party system without being dominated by some majority. How did ancient Burmese religious custom become a political system in Burma? The fundamentals of 1974 Constitution explain what was significant of the “Burma Way”. How did it divide sovereignty under the 1974 Constitution and why did a one-country culture connect with that political system.

The Myanmar 2008 Constitution declared Myanmar is a union practicing a genuine, disciplined, multi-party democratic system in Chapter I Article 7.<sup>256</sup> John Burmheim indicated that democracy and representation meant:

Most contemporary authors explicitly or implicitly treat free elections for the supreme offices in the state as a defining characteristic of democracy. By contrast, I shall argue that electoral systems are inimical to rule by the people for the

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<sup>255</sup> <http://displacementsolutions.org/wp-content/uploads/THE-CONSTITUTION-OF-THE-UNION-OF-BURMA-19483.pdf>. 19 August 2015.

<sup>256</sup> Constitution of the Republic of the Union of Myanmar 2008. 3.

people. In order to bring this out it is necessary to look closely at what voting can achieve, what alternatives might be envisaged in the abstract and what are the conditions under which they might produce acceptable results.<sup>257</sup>

Interestingly, the Myanmar 2008 Constitution states that the legislative branch is a bicameral: Union Assembly (The Pyidaungsu Hluttaw) has two houses. They are the (Pyithu Hluttaw) lower house and (Amyotha Hluttaw) upper house. According to the legislature structure in Chapter IV, Article 74 (a) (b) both (Hluttaw) houses formed with the person representatives elected and Defense Services personnel representatives elected by the Commander-in-Chief of the Defense Services. The representative persons from the Defense Services will not stand for election but automatically become representative in the Hluttaw.<sup>258</sup>

It is necessary to understand sovereignty, legislative, executive and judicial power as indicated in Myanmar 2008 Constitution. Especially we should understand the method of sharing power among the civil and military representatives in the Union Assembly (Hluttaws), the system of amendment of the constitution and possible directions to achieve the ethnic aspiration to a Federal Union in Myanmar.<sup>259</sup>

*The New Light of Myanmar* started in 1914 and it continues to publish. The articles are censored before publication.<sup>260</sup> Commonly, NLM is considered to be the government voice.<sup>261</sup> The military published daily newspaper named *Myawaddy* started in April 2011 and was especially used for the release of news about military activities. The main purpose of *Myawaddy* is to announce how the military has been achieving its promotion of peace and tranquility both domestic and

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<sup>257</sup> John Burnheim. *Is Democracy Possible?*. 82.

<sup>258</sup> Constitution of the Republic of the Union of Myanmar 2008. 27.

<sup>259</sup> <http://www.mmpeacemonitor.org/stakeholders/unfc> 25 August 2015.

<sup>260</sup> Lynn Ho. "Myanmar". 319.

<sup>261</sup> David Camroux and Renaud Egretau. "Normative Europe meets the Burmese Garrison State: Processes, Policies, Blockages and Future Possibilities". 278.

international.<sup>262</sup>

The official Myanmar President's Office website is available on the internet. The President's Office puts briefing activities related with the president, cabinet, Hluttaw and also includes presidential speeches. Ethnic armed forces organized UNFC on 16 February 2011 in exile and decided to represent all of the ethnic groups to negotiate with the Myanmar Government. The purpose of the UNFC is to create a Federal Union in Myanmar and we have already established the Federal Union Army (FUA).<sup>263</sup>

The civil government made policy concerning the ethnic proposals for the ceasefire and transformation of the country. The Secretariat for the MPC was established and opened on 3 November 2012. The Union-level UPWC was organized to negotiate the ceasefire with the ethnic armed groups. UPWC is responsible for maintaining dialogue with the UNFC and reports to the President's Office on results and conditions.

To achieve the goal of peace negotiations and attempt to end the Burmese civil war, The Nippon Foundation, Myanmar Peace Support Initiative (MPSI), Peace Support Fund (PSF), Peace Donor Support Group (PDSG), United States Institute of Peace (USIP), Mediators, and Myanmar Peace Monitors have been involved in the process of the Myanmar Government Ceasefire Negotiations with the UNFC. The Myanmar government tried to prove that they tried to achieve a ceasefire with the ethnic groups. The proposals and processes of the NCA, the developments in negotiations and the results are made available in the MPC official website.<sup>264</sup> Both UPWC and UNFC make strong political statements in the MPC Center and all statements are examined to see how the Myanmar government and Ethnic leaders understand and accept the meaning of democracy and federalism.

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<sup>262</sup> New New Aye. "The Role of the Media; The Role of the Media in Myanmar: Can It Be a Watchdog for Corruption?". 186.

<sup>263</sup> Ibid., 20 August 2015.

<sup>264</sup> <http://www.mmpeacemonitor.org/peace-process/peace-process-overview>

## The Selection of Materials

The 1947 Burmese Constitution formed the practical federal of the Union Burma. The British named the Karen, Karenni, Chin, Kachin and Shan groups as ethnic peoples or hill tribes and their territories were decided by the British. Nevertheless, the hill tribes people desired the independence with the Burmese that was created in the Panglong Agreement.<sup>265</sup> The Panglong Agreement included the rights to secede from Burma as:

Though the question of demarcating and establishing a separate Kachin State within a United Burma (Myanmar) must be relegated for decision by the Constituent Assembly, it is agreed that such a state is desirable. Citizens of the Frontier Areas shall enjoy rights and privileges, which are regarded as fundamental in democratic countries.<sup>266</sup>

The 1947 Burmese Constitution as seen in Chapter 1, Article 2. (i) (ii), 4, 5, 6, 7 stated that the territories in Burma and the sovereignty power allocated to legislative, executive and judicial branches. Chapter 10, Article 201 to 206 included the Right of secession (see Appendix 8).

The 1974 Burmese Constitution was created to build a socialist democratic union and was to be characterized by the Burmese Way to Socialism. Moreover, the constitution indicated the power of the sovereign and division of powers in the legislative, executive and judicial in Chapter 1 Article 4 and Chapter 2 Article 2 (see Appendix 9).

The Myanmar 2008 Constitution includes 15 Chapters and 457 Articles and declared the basic principles of the union in Chapter 1 (see Appendix 10). The major sovereign power is designated in Chapter 1 Article 11 (a), which called for legislative power, executive power and judicial power.<sup>267</sup> Furthermore, the structure of the legislative power will be the main analysis for this research.

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<sup>265</sup> Robert H Taylor. *The State in Myanmar*. 288.

<sup>266</sup> Sai Aung Tun. "Postwar Political Developments in the Shan States". 227.

<sup>267</sup> Constitution of the Republic of the Union of Myanmar 2008. 4.

All issues of the English newspapers of NLM for May, June and July 2008 will be selected to carry out data analysis. However, it must be noted that the natural disaster called Cyclone Nargis hit in Burma during this period but SPDC refused to accept international aid and continued with the nationwide referendum for a new constitution. Cyclone Nargis made landing in lower Burma, Ayeyarwady Delta on 2 May 2008 and passed through the country in two days. Cyclone Nargis swept away approximate 135,000 people and extremely damaged 2.4 million people's houses.<sup>268</sup>

Nevertheless, the military regime persisted and international criticism was heaped on their unfair 2008-referendum procedure, as it certainly was not suitable timing to vote. Nonetheless, the referendum was held under the conditions of a huge disaster on 10 May 2008 as the regime had decided.<sup>269</sup> At last, a draft- constitution was accepted by 92.4% of the votes, the result was approved under the undemocratic procedure of the SPDC.<sup>270</sup>

Consequently, internal and external criticism of the referendum's results were at the unbelievable results which indicated 92.48% of voters, including the people in the disaster area, decided to approve the draft constitution. SPDC tried to argue that this was a democratic system, the majority votes indicated the values of democracy throughout the newspaper articles of this period.

The data that includes the use of democracy and morphologically related words from NLM's articles, SPDC's statements, and speeches were collected and used. Selected sentences with the word democracy and morphology related terms were tracked to see how the SPDC

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<sup>268</sup> <http://www.ifrc.org/en/news-and-media/news-stories/asia-pacific/myanmar/myanmar-cyclone-nargis-2008-facts-and-figures/> International Federation of Red Cross and Red Crescent Societies. 21 August 2015.

<sup>269</sup> Andrea Fleschenberg. "Min Laung or Fighting Peacock?; Aung San Suu Kyi's Political Leadership via Moral Capital (1988-2008)". 193.

<sup>270</sup> International Business Publications "Strategic Information And Developments Important Political Reforms; New Constitution". 96.



determined the meaning of democracy. Sentences in which democracy and related words appeared were then copied to a separate word document, which are the data for analysis. Democracy and morphologically related words were extracted from the context of the sentences in the English newspaper published by the SPDC. These sentences were then sorted according to whether democracy was a noun or an adjective, and if it was a noun, whether it appeared by itself or together with one or more adjectives.

The sentences using democracy in a positive sense were placed in a positive category, when it was presented as something problematic, it was considered as being negative, if it was presented in a way that one's good or bad opinion would not be expected, then I considered it as neutral. Moreover, the words neighboring either democracy and democratic were also collected and tracked in whole sentences, to understand whether the use was in a good or bad meaning or a neutral meaning. Furthermore, the sentences including the word democrat were searched and collected to assess what was professed and stated concerning democracy. All of the results are compared with the common meaning democracy as used in English dictionaries.

The Myawaddy Myanmar Newspaper was published in April 2011 to inform the activities of the military government. The military has been publishing not only newspapers but also broadcasting television and radio called MRTV (Myanmar Radio and television but all the news were restricted before it was published or broadcasted).<sup>271</sup>

Additionally, the Myawaddy Newspaper was published after of the 2010 election and only in the Myanmar language. Myawaddy expressed that it presented the military policy and perceptions, daily activities of the military officers, and expressions of the relationship between the military and international entities.<sup>272</sup> Myawaddy newspapers were chosen and tracked for the expressions of the ideology of federalism as seen by the Myanmar government.

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<sup>271</sup> New New Aye. "The Role of the Media in Myanmar: Can it be a watchdog for Corruption?" 186.

<sup>272</sup> *Ibid.*, 366.

The Myanmar government stated that to negotiate with the ethnic armed groups was an attempt to end the long civil war.<sup>273</sup> The Myanmar President sent a letter on 18 August 2011 to ethnic armed groups calling for a dialogue and both side have been negotiating.<sup>274</sup> Nevertheless. The Peace Monitoring Dashboard mentioned that between the period when the Myanmar government and ethnic leaders had dialogues 77 times and three times made peace agreements but there were 248 armed clashes in 2014.<sup>275</sup>

Is federalism being discussed in the news media of Myanmar? Or how the federalism might be the solution to the conflict between the Myanmar government and ethnic armed groups? This question is answered through the examination of NLM issues from January 2014 to July 2014. The Myawaddy newspapers issued the same date as NLM, which is available over the Internet.<sup>276</sup> The Myanmar Government organized representative UPWC statements can be explored from the Internet website.<sup>277</sup> They were loaded from January 2014 to July 2014. The speeches of the Myanmar President from the president-office website<sup>278</sup> were loaded between January 2014 and July 2014 and were selected for reading.

The Myanmar Government representative called UPWC statements are also explored in the Internet website<sup>279</sup> and the UNFC statements<sup>280</sup> are available on the internet for the same period. Additionally, Nationwide Ceasefire Coordination Term (NCCT)<sup>281</sup> statements for the same

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<sup>273</sup> <http://www.mmpeacemonitor.org/stakeholders/myanmar-peace-center>. 24 August 2015.

<sup>274</sup> [http://www.mmpeacemonitor.org/images/pdf/20140430\\_unfc\\_sent\\_an\\_open\\_letter\\_to\\_upwc.pdf](http://www.mmpeacemonitor.org/images/pdf/20140430_unfc_sent_an_open_letter_to_upwc.pdf). 25 August 2015.

<sup>275</sup> <http://www.mmpeacemonitor.org/research/monitoring-archive>. 25 August 2015.

<sup>276</sup> <http://www.myanmarjournaldownload.com/newspaper/myawaddy.html>. 25 August 2015.

<sup>277</sup> <http://www.mmpeacemonitor.org/stakeholders/myanmar-peace-center>. 25 August 2015.

<sup>278</sup> <http://www.president-office.gov.mm>. 26 August 2015.

<sup>279</sup> <http://www.mmpeacemonitor.org/stakeholders/myanmar-peace-center>. 26 August 2015.

<sup>280</sup> <http://www.mmpeacemonitor.org/stakeholders/unfc>. 26 August 2015.

<sup>281</sup> <http://www.mmpeacemonitor.org/stakeholders/myanmar-peace-center/192-ncct>. 26 August 2015.

period are used and searched and collected for the words related to federalism. Daily issues of NLM are selected. Moreover, Myawaddy, UPWC Statements, President Speeches and UNFC Statements, which were issued between January 2014 – July 2014 were downloaded as PDF files and read with Adobe Reader.

The Myanmar government declared that all of the media are free from censorship. An examination was made of these documents for the term federalism and morphologically words in the context of the sentences of these periodicals. The selected sentences were separated by the sentences used federal and federalism again. Furthermore, the words neighboring federal, especially states, nation, union were tracked to understand how they describe the image or the future of the federal state, nation and union. The sentences containing federalism were collect and sorted and analyzed for use with a good or bad meaning. The results from data analysis indicate the impact of democracy in the NLM issued between for May, June and July 2008. The understanding federal and federalism among the Myanmar government is explored in the Burmese 1947 Constitution, the Burmese 1974 Constitution and the Myanmar 2008 Constitution.

The ethnic people have suffered with the civil wars and were treated as enemies by the majority Burmese government for long periods. There is only one-way and that is to demand to get self-determination and establish a federal country. Even though, the Burmese conflict is became an international issue, there is need to understand how the ethnic armed groups leaders recognize the meaning of the federalism. The results from data analysis will indicate the impact of federalism of the ethnic armed groups and be compared with fundamental of federalism. Moreover, a comparative determination of meaning of democracy and federalism for both the Myanmar Government and the ethnic leaders presents a prospect for the way forward for the Burma/ Myanmar federation.

## Analysis of Data

### **Burmese 1947 Constitution**

Burmese 1947 Constitution Chapter 1, Article 3 and 4 declared that the sovereignty of the Union resided in the people and all the major of legislative, executive and judicial decision derived from the people. The Burmese 1947 Constitution itself was on behalf of the people.

Likewise, if the constitution had authority, people also had power and this constitution was also the organ of the people. Panglong Agreement stated the issue of secession depended on the state.

Every state had a right of secession but the authority of secession was vested in the accordance with the condition of State Council in Chapter 10, Article 201 and 203. Moreover, law in Chapter 1, Article 206, shall regulate the issues of connected with the right of secession.<sup>282</sup>

### **Burmese 1974 Constitution**

The Burmese 1974 Constitution stated the national sovereignty should reside in the entire State in Chapter 1, Article 4 and the sovereign powers of the state, legislative, executive and judicial reside in the people in Chapter 2, Article 12. However, the state adopted a single-party system and the Burma Socialist Programme Party was the sole political party and it led the state.

Burma adopted the Burmese Way to Socialism and also formed the Burma Socialist Program Party it than truly followed the direction of the Burma Socialist Program Party. Additionally, it started that the people had aspired to democracy and socialism in the preamble. Even though sovereignty resides in the entire state and sovereign powers of state legislative, executive and judicial branches reside in the people, all of the authority was hold by the BSPP which lead the state and only faithfully obeyed the leadership of BSPP (in the Chapter 2. Article 11. ) The Burmese 1974 Constitution was very complicated and uneasy to emphasize that did not

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<sup>282</sup><http://displacementsolutions.org/wp-content/uploads/THE-CONSTITUTION-OF-THE-UNION-Of-OF-BURMA-19483.pdf>. 26 August 2015.

explain the system of “Burma Way”. There are very different between the principle of democracy and the principle of one party system.

If one country had to follow only one part-system, the sovereignty was invested in the hand of this one-party that could not state the sovereignty power resided in the people. The Preamble mentioned the people had aspired democracy and socialism. The understanding of the democracy is government by the people; a form of government in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system.<sup>283</sup>

Scholar Trenton Fervor mentioned the ideology of democracy as; democracy is originated from the right to control by oneself and formed on the base of personal dominion and self-government. Democratic system refuses the proposal that individual or a regulated group of people has any reasonable join in right to rule over others.<sup>284</sup>

Socialist system is one of the ideas to advance society however, it seemed inconsistent. The Latin word “socius” intended “friend” and English Magazine started to used “socialist” in Cooperative Magazine in November 1827 as replacement for “communist”. Ideology of socialist system is control the people’s properties, finances, and try to transforms unfairness community to equal society.<sup>285</sup>

The Burmese believe in Buddhist principals which against entrepreneurship and avarice. Moreover, the Burmese Way to socialism was based on religious humanist values that are with the socialism.<sup>286</sup> Clearly, the Burmese 1974 Constitution inextricably mixed not only principles of the religious and ideology but also the democratic and socialistic principles.

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<sup>283</sup> <http://dictionary.reference.com/browse/democracy> 26 August 2015.

<sup>284</sup> Trenton Fervor. *The Myth Of American Democracy and the Subversion of Individual Liberty*. Universe. xiii.

<sup>285</sup> Peter Lamb & James C. Docherty. *Historical Dictionary of Socialism* ;(Second Edition). 2.

<sup>286</sup> David I. Steinberg. “The Military Coup, The Socialist Period (1962-1988), and The Perpetuation of Military Rule” 64.

There are eight major minority ethnic groups are constituted 135 races and some having their own languages.<sup>287</sup> Chapter 11, Article 154 (b) stated Burmese is the common language, Article 153 (a) and (b) every citizen had right to use his own language and follow his own culture and traditions but according to the Article 153 (c) the rights of (a) and (b) were prohibited if they damage the unity and solidarity of the national races, national security or the socialist social order.

However, Burmese 1974 Constitution did not explain in detail what would be undermining the unity and solidarity of the national races, national security or the socialist social order. The difficulty of amending the constitution lies in both the required approval by a majority vote of 75 percent from all the members of the (Hluttaw) houses and a nation-wide referendum to be held wherein half of those who had the right to vote are necessary to amend as in Chapter 14, Article 194.<sup>288</sup>

The Burmese 1947 Constitution was not only complex structure but also severity limited the right of freedom of activities related with ethnic traditional cultures and the ability to learn their own languages. The culture of democracy and socialism were not familiar to the ethnic people and the words themselves not more heard nor were foreign languages. Moreover, there were no standards dictionaries for all ethnic races and English-Burmese was the only officially use dictionary in Burma.

The most important is there was no Burmese translated words such democracy and socialism in English-Burmese dictionary. The word such as democracy and socialist were used the same pronunciation as the English pronunciation in the English-Burmese dictionary.

## **Myanmar 2008 Constitution**

Chapter 1, Article 6 declared the basic principles of the Myanmar 2008 Constitution

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<sup>287</sup> Reffel Lex, Kyaw Yin Hlaing. *Myanmar/ Burma Inside Challenges, Outside Interests*. 43.

<sup>288</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf>. 27 August 2015.

(see Appendix 10) and according to the 2008 Constitution Chapter 1, Article 11 (a) the three branches of sovereign power are called legislative power, executive power and judicial power.<sup>289</sup> Nevertheless, Chapter 1, Article 14<sup>290</sup> state that the representatives of the Defense Services personnel are directly elected by the Commander in Chief of the Defense Services and participate in these three branches of sovereign powers.

The third Burmese Constitution 2008 is not only restricting the right of the people but sovereignty resides in Commander-in-Chief and was created to amend the prior constitutions. The Myanmar 2008 Constitution used slogans such as non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty in the preamble.<sup>291</sup> The Defense Services, citizens and political parties are firmly resolved to obey the objectives as mentioned above. (see Appendix 11), (see Appendix 12), (see Appendix 13)

If there is necessary intention for a state of emergency to occur that may disintegrate the union or National solidarity and for perpetuation of sovereignty, the President has authority to declare a state of emergency in Chapter 11, Article 417. (see Appendix 14) If the situation of emergency declaration, the President shall declare the transferring of sovereign power that legislative power, executive power and judicial power to the Commander-in-Chief in Article 418 (a). (see Appendix 15) Therefore, after the transferring of sovereign power from the President the Commander-in-Chief can exercise the sovereign power by himself. (see Appendix 16)

However, there has no mention that what is the essential concerning to declare of the situation of emergency or how to determine in details the meaning of disintegration of the Union, disintegration of National solidarity and disintegration of sovereignty in the Myanmar 2008 Constitution.

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<sup>289</sup> Ibid., 4.

<sup>290</sup> Ibid., 5.

<sup>291</sup> Constitution of the Republic of the Union of Myanmar 2008. 2.

## **Analysis of the *New Light of Myanmar***

### ***Democracy as a Noun***

According to the results, democracy appeared as an adjective more than as a noun. When democracy appeared as a noun it appeared in a negative context far more often than a positive one, or more than neutral position. The ratio of negative use to positive was roughly six to one (62 times in a negative context as opposed to 10 times in a positive one). With the neutral meaning 54 times between May, June and July in the *New Light of Myanmar* English newspapers. The distinct evidence articles were collected as follows.

### ***Democracy as a Noun (Positive)***

“Furthermore, our people greatly want democracy.”<sup>292</sup>

“Actually, genuine democracy is solely based on the four cardinal virtues, namely, loving-kindness, compassion, sympathetic joy and equanimity.”<sup>293</sup>

“Its participation is aimed at peacefully transforming a society without democracy into the one with flourishing democracy.”<sup>294</sup>

“That is a giant step for transition to democracy to satisfy the people’s desire.”<sup>295</sup>

### ***Democracy as a noun (Negative)***

“Let us all cast “Yes” vote in the national interest. Infront of Myoma market in Hmawby Township, “Democracy cannot be achieved by anarchism or violence,

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<sup>292</sup> Lu Thit (Padauk Mya) “The path leading towards goal” in *New Light Of Myanmar* 16 June 2008. page. 7, line 129.

<sup>293</sup> Yan Gyi Aung. “Keep calm and thoughtful” in *New Light Of Myanmar* 22 June 2008. page. 7, line 4.

<sup>294</sup> Maung Cetana (B.A Bed). “Destination of pessimists” in *New Light Of Myanmar* 15 July 2008. page. 7, line 100.

<sup>295</sup> Lu Thit (Padauk Mya). “Do not make the goal of democracy far away from the people” in *New Light Of Myanmar* 31 July 2008. page 7, line 8.



by Constitution.”<sup>296</sup>

“However, in this regard, it is required to exercise democracy correctly.”<sup>297</sup>

“Western-style democracy should not be copied in the present Myanmar political situation.”<sup>298</sup>

“When I read news stories that in consequence of too much democracy freedom, cases of shooting spree too place in schools and many children lost their in the events, the news about rapacious George Soroz, [...and other examples...]. I feel that as for our country with fine cultural traditions, such democracy is like a gift of chicken that is given when bird flu is spreading.”<sup>299</sup>

### **Democracy as a Noun (Neutral)**

“In other words, the opportunists are trying to disrupt the processes the people are carrying out for democracy.”<sup>300</sup>

“The people will elect the president through indirect democracy, not through direct democracy.”<sup>301</sup>

“Whatever it may be, the two parties give priority to the national interest and work together with the sense of democracy.”<sup>302</sup>

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<sup>296</sup> Anon. “Billboards set up in Yangon North District to have Referendum” in *New Light Of Myanmar*. 1 May 2008. page 8, line 136.

<sup>297</sup> Kyaw Min Lu (Shwepyitha). “Let’s nurture the sapling of democracy (2)” in *New Light Of Myanmar*. 21 June 2008. page 7, line 47.

<sup>298</sup> An Observer. “Please accept an invitation with affection” in *New Light Of Myanmar*. 27 June 2008. page 7, line 22.

<sup>299</sup> Hlaing Bwa (Parame). “My knowledge of democracy” in *New Light Of Myanmar*. 13 July 2008. page 6, line 61.

<sup>300</sup> Soe Mya Kyaw “The most appropriate constitution” in *New Light Of Myanmar* 7 May 2008. page 11, line 26.

<sup>301</sup> Ibid., page 6. line 186.

<sup>302</sup> Kyaw Min Lu(Shwepyitha). “Let’s nurture the sapling of democracy” in *New Light Of Myanmar*. page 7, line 104.

“At such a time, there is still foreign instigation, pressures and attempt to jeopardize the process of transition to democracy.”<sup>303</sup>

“It can also be said that the Tatmadaw is to take part internal politics together with 75 percent of the people’s representatives for speedy development of market economic system and multiparty democracy.”<sup>304</sup>

“Thus, I believe that the participation and leadership role of the Tatmadaw [=army] are necessary for successful transition to democracy, whether internal and external anti-government elements are happy with the situations or not.”<sup>305</sup>

### ***Democracy as an Adjective***

When democracy appeared as an adjective, it appeared in a positive context with far greater frequency, as the ratio of positive contexts to negative ones being roughly two thirds of the time. According to the data collection democracy used as an adjective in positive conditions 97 times, negative 38 times and neutral 55 times.

### ***Democracy as an Adjective (Positive)***

“Therefore, I would say this constitution guarantees national races all possible democracy rights.”<sup>306</sup>

“In fact, in pursuance of the seven-step Road Map to build a discipline-flourishing democracy nation, the government is dealing with anti-government groups and

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<sup>303</sup> Hlaing Bwa (Parami). “My knowledge of democracy” in *New Light Of Myanmar* 13 August 2008. page. 9, line 36.

<sup>304</sup> Maung Cetana (B.A Bed). “Destination of pessimists” in *New Light Of Myanmar*. 15 July 2008. page 7, line 90.

<sup>305</sup> Soe Mya Kyaw. *New Light Of Myanmar*. 9 May 2008. page 4, line 171.

<sup>306</sup> Soe Mya Kyaw. “The most appropriate constitution (3)” in *New Light Of Myanmar*. 9 May 2008. page 4, line 89.

persons with great patience in order to achieve national reconsolidation.”<sup>307</sup>

### **Democracy as an Adjective (Negative)**

“We have to bear in mind that democracy practice can improve slowly according to how much the people are mature in view and knowledge.”<sup>308</sup>

“It has praised terrorists and saboteurs as democracy activists, showing its intrigue putting danger to the nation.”<sup>309</sup>

“If they claimed themselves to be public party or democracy party although they are committing such crimes, their policy will be in contrary to that of the people.”<sup>310</sup>

### **Democracy as an Adjective (Neutral)**

“So, we have to understand and accept the evolution process of democracy practice.”<sup>311</sup>

“World countries came to lay down democracy patterns (branches) in accordance with the conditions of the nation concerned.”<sup>312</sup>

“In reality, it is because they do not understand the difference between the historical background for democracy transition of other countries and that of

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<sup>307</sup> Soe Mya Kyaw. “The most appropriate constitution (3)” in *New Light of Myanmar*. 11 June 2008. page 4, line 1, 89.

<sup>308</sup> Soe Mya Kyaw. “The most appropriate constitution (3)” in *New Light of Myanmar*. 7 June 2008 page 11, line 114.

<sup>309</sup> An Observer. “True mandate of the people” in *New Light of Myanmar*. 4 June 2008. page 6, line 101.

<sup>310</sup> U Pyay Kyaw. “Let’s march forward along the path to democracy paved by the people” in *New Light of Myanmar*. 26 June 2008. page 7, line 97.

<sup>311</sup> Soe Mya Kyaw. “The most appropriate constitution” in *New Light of Myanmar*. 7 May 2008. page 11, line 113.

<sup>312</sup> U Pyay Kyaw. “Let’s march forward along the path to democracy paved by the people” in *New Light of Myanmar*. 26 June 2008. page 6, line 93.

Myanmar.”<sup>313</sup>

### **The Use of *Democratic***

The use of democratic appeared with the positive standing 80 times, negative 17 times, and neutral 22 times between May, June and July.

The selected sentences are below:

#### ***Democratic (Positive)***

“The State Peace and Development Council have been working in had with the people for the emergence of a modern developed discipline-flourishing democratic nation.”<sup>314</sup>

“When hluttaws [=caucuses or conventions] at different levels are formed with the people’s representatives to be elected in the elections, the genuine discipline-flourishing modern developed democratic nation has come into shape.”<sup>315</sup>

“Nowadays, the result of the 1990 election is no longer legal as it has ben ditched by the entire people who are desirous of the emergence of a new modern developed democratic nation.”<sup>316</sup>

#### ***Democratic (Negative)***

“NLD’s announcement saying the constitution is not legitimized was in a way to disrupt democratic process desired by the people.”<sup>317</sup>

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<sup>313</sup> Maung Cetana (B.A Bed). “Destination of pessimists” in *New Light of Myanmar*. 26 June 2008. page 6, line 108.

<sup>314</sup> Anon. “Myanmar holds referendum for emergence of modern developed discipline-flourishing democratic nation” in *New Light Myanmar* 11May 2008. page 6, line8.

<sup>315</sup> Kyaw Min Lu (Shwepyitha) “Let’s nurture the sapling of democracy (2)” in *New Light Myanmar* 21 June 2008. page 7, line 204.

<sup>316</sup> Pauk Sa. “Goodbye, 1990 election results!” in *New Light Myanmar*. 6 July 2008. page 7, line 124.

<sup>317</sup> Lu Thit (Padauk Mya) “The path leading towards goal” in *New Light Myanmar*. 16 June 2008. page 7, line 135.

“Otherwise, the people will have to face a democratic act of gross indecency.”<sup>318</sup>

“Anti-government politicians who are said to be those respect democracy cannot accept the very democratic practice.”<sup>319</sup>

### **Democratic (Neutral)**

“As is known to all, the State Peace and Development Council has laid down the seven-step Road Map for emergence of a peaceful modern developed discipline-flourishing democratic nation and is implementing them.”<sup>320</sup>

“Voting system also met the internationally democratic standards.”<sup>321</sup>

“The most democratic way is to respect and fulfill the wishes of the majority of the people.”<sup>322</sup>

“This time the Tatmadaw [=army] adopted democratic system and market economic system as aspired by the people while striving very hard for the development of the State and the people.”<sup>323</sup>

“It is the very basic and simple practice of democratic system.”<sup>324</sup>

Interestingly, *democratic* nation appeared 7 times in positive condition but only one time in

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<sup>318</sup> Hlaing Bwa (Parami) “My knowledge of democracy” in *New Light Myanmar*. 13 July 2008. page 7, line 81.

<sup>319</sup> Lu Thit. “Do not make the goal of democracy far away from the people” in *New Light Myanmar*. 31 July 2008. page 6, line 11.

<sup>320</sup> Anon. “Senior General Than Shwe sends Workers Day Message....” in *New Light Myanmar*. 1 May 2008. page 8, line 23.

<sup>321</sup> Yebaw Tin Shwe. “National referendum and firm decision of the people” in *New Light Myanmar*. 2 June 2008. page 8, line 30.

<sup>322</sup> U Pyap Kyaw. “Let’s march forward along the path to democracy paved by the people” in *New Light Myanmar*. 26 June 2008. page 7, line 1,18.

<sup>323</sup> Aung Ze Min “Why did Myanmar people unanimously vote for State constitution?” in *New Light Myanmar*. 15 July 2008. page 7 line 55.

<sup>324</sup> Lu Thit “Do not make the goal of democracy far away from the people” in *New Light Myanmar*. 31 July 2008. page.6, line 5.

negative position and 8 times it is used in neutral way. Furthermore, *democrat* and *democratically* were also specialized for this event, there was the only one *democrat* appeared a neutral context and the sentence was below:

“National democrats who favors (sic!) National interest should employ national politics and national vision objectively in reviewing the concept.”<sup>325</sup>

### **Sympathetic Federalism**

*Federal* and *Federalism* are used in the NLM, Myawaddy, Myanmar President speeches, UPWC Statements, Ethnic armed groups UNFC Statements and NCCT Statements were downloaded from the website and searched the sentences containing the words of federal and federalism more chosen in the context of the statements and newspapers from a digitized version in internet. Therefore, to analyze whether federal and federalism were used positively or negatively in this sentences.

The issue of (January 2014 – July 2014) Myanmar English Newspaper NLM, Myawaddy Myanmar Newspaper, and Myanmar President speeches at the same events was selected. Analysis showed there was no mention made of *federalism*, or any related concept in the NLM, Myawaddy, Myanmar President speeches and UPWC Statements issued the same period. There are 2 UPWC Statements as:

1. A Joint Statement of NCCT and UPWC on Nationwide Ceasefire Agreement (March 10, 2014)
2. NCCT-UPWC joint statement released after ceasefire talks on 17 Aug 2014<sup>326</sup> (August 17, 2014)

Unfortunately, the data selected from Myanmar Government mouthpieces NLM, the military run

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<sup>325</sup> Maung Cetana (B.A Bed) “Destination of pessimists” in *New Light of Myanmar*. 15 July 2008. Page 6, line 27.

<sup>326</sup> <http://www.mmpeacemonitor.org/stakeholders/myanmar-peace-center> 30 August 2015.

Myawaddy Newspapers, Myanmar President speeches and UPWS Statements from MPC website, no mention was made of *federal* nor any related concept with *federalism*. UNFC made 6 Statements related to the UPWC in April and July 2014 itself presented in Myanmar Peace Center (MPC) Website. The Statements are:

1. UNFC Statement condemning Govt Army for launching strategic offensive in Kachin and Shan-North (April 23, 2014) (see Appendix 17)
  2. UNFC sent an open letter to UPWC (April 30, 2014) (see Appendix 18)
  3. Joint Statement of UNFC and political forces for the political conference (July 04, 2014)
- UNFC complaint on nationwide ceasefire
- UNFC opinion on peace road map<sup>327</sup>

Conferring the analysis showed:

“UNFC Statement condemning Gov. Army for launching strategic offensive in Kachin and Shan-North” (April 23, 2014) and “UNFC sent an open letter to UPWC” (April 30, 2014) are in English. However, “Joint Statement of UNFC and political forces for the political conference” (July 04, 2014), “UNFC complaint on nationwide ceasefire statement” and “UNFC opinion on peace road map statement” are in Myanmar language.

Amazingly, there was no any related with the word or phrase federal, federalism in UNFC Statements. NCCT issued 7 Statements between (January 2014-July 2014) and there are:

1. NCCT’s released statement (January 25, 2014)
2. A Joint Statements of NCCT and UPWC on Nationwide Ceasefire Agreement (March 10, 2014) (see Appendix 19)
3. NCCT representatives participated in Govt and KIO Myitkyinar meeting as

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<sup>327</sup> <http://www.mmpeacemonitor.org/stakeholders/unfc> (29 August 2015).

observers (May 13, 2014)

4. NCCT representative Naing Han Sor's speech at Myitkyinar meeting as

observers (May 15, 2014)

5. Joint Statement of NCCT and UPWC from second time of single text drafting

meeting (May 23, 2014)

6. 10 point guideline of EAOs (July 29, 2014)

7. A statement of Ethnic Arms Organizations summit (July 31, 2014)<sup>328</sup>

Analysis token showed only, A Joint Statements of NCCT and UPWC on Nationwide Ceasefire Agreement (March 10, 2014) translated in English but the next 6 statements issued in Myanmar.

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<sup>328</sup> <http://www.mmpeacemonitor.org/stakeholders/ncct>. (9 September 2015) .



## Chapter 5: Results

Armed conflicts in Burma started since gaining back independence from Britain in 1948. The major insufficiency stemmed from the Panglong Agreement with its right of secession. Dissolution of the Burmese 1947 Constitution made Burma the world's longest civil war and turns it into one of the poorest countries in the world.

### Burmese 1947 Constitution

According to the data analysis the 1947 Constitution could not guarantee for the ethnic peoples as they aspired to the 1947 Constitution stated in Chapter 10, Article 201 that every state should have the right to secede from the Union in accordance with the conditions hereinafter prescribed. Moreover, Article 203 (1) stated, as any state wishing to exercise the right of secession shall have a resolution to that effect passed by its State council. However, the resolution should have two-thirds of the total members of the State Council concerned have voted in its favor.

Historically, the 8 major ethnic groups include 135 races, which are known, as Arakan/Rakhine (7 subgroups), Burman/Bamar (9), Chin (53), Kachin (12), Karen/Kayin (11), Karenni/kayah (9), Mon (1), and Shan (33).<sup>329</sup> The Burmese 1947 Constitution provided for a federal structure of administration, which divided powers into the executive, legislative and judicial.<sup>330</sup> However, according to the 1947 Constitution the State Council was formed with Shan, Kachin, Karenni and Karen States and Chin special Division but Mon State and Arakan State could not get the same rights with the authority of self-government.<sup>331</sup>

In Burmese history, among the Burmese ethnic groups, Mon was the first ethnic groups that settled in Burma since 900 B.C, and Rakhine also had their capital named Mrauk U (1434-

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<sup>329</sup> John G. Dale. "The Emergence and Transformation of Burma's Democracy Movement" 45.

<sup>330</sup> Graham Hassall & Cheryl Saunders. *Asia-Pacific Constitutional Systems*. 2002.

<sup>331</sup> Alan Smith. "Ethnicity and federal prospect in Myanmar" in *Federalism in Asia*. 211.

1784).<sup>332</sup> However, Mon and Rakhine were not represented at Panglong. Panglong Shan State Conference was only for regional delegates of associated boundary areas as classified by British.

All Karen Congress was held on the 5<sup>th</sup> of February 1947 in Rangoon where they made a decided to built a Karen National Union external of the Union of Burma. Karen leaders criticized the Panglong saying it would never be achieved and Mon also held the same attitude with Karen and became progressively aligned with Karen leaders from early 1947.<sup>333</sup> Chin was a special division but Mon, Rakhine, Palaung, Pao, Wa and Kokang decided on no ethno-political identification at all.<sup>334</sup>

Federalism is divided in the sense that there is a sharing of the authority between the central government and local governments. A constitution is necessary and stands by to check and balance the power between governments.

The significance of federalism is a total of main district units in the country with a subsector has its self-government but the final authority on some main affair to make decision, authorizes divide with the central administration.<sup>335</sup>

There was not clear the principle of federalism in the Burmese 1947 Constitution. Furthermore, there was neither power sharing nor a standard of federalism that the major regions might recognize in the 1947 Constitution. Subsequently, a constitution was not obviously faithful what the ethnic purpose of establishing the strength and unity of a sovereign independent state as claimed in its preamble.<sup>336</sup>

### **Burmese 1974 Constitution**

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<sup>332</sup> Maj Gen (Retd) Jatinder Singh. “Defence Economies Of South Asia : An Analysis”. 228-229.

<sup>333</sup> Ashley South. *Mon Nationalism And Civil War In Burma*. 103.

<sup>334</sup> Martin Smith. “Ethnic conflicts in Burma: from separatism to federalism”. 297.

<sup>335</sup> Darrell J. Kozlowski. *Key Concepts In American History: Federalism*. 38.

<sup>336</sup> Martin Smith. “Ethnic conflicts in Burma: from separatism to federalism”. 297.

The Burmese 1974 Constitution was problematic because of its ideology of a socialist, communist, Burma Way that restricted in tyranny. Sovereign powers of state, the legislative, judicial and executive branches were invested in the Burmese Socialist Program Party and citizen rights including ethnic rights were restricted under Chapter 11, Article 153 (c) that stated:

Notwithstanding the rights enjoyed under Clauses (a) and (b) acts which undermine the unity and solidarity of the national races, national security or the socialist social order are prohibited. Persons who violate this prohibition shall be punished according law.<sup>337</sup>

According to the Article 153 (a) declared every citizen had right to improve their literacy and the freedom to study one's language and the right to hold their traditions however, Chapter 10, Article 153 (c) did not explain what behavior made effect to damage the unity and solidarity of the national races, national security or the socialist social or order Ethnic groups were lost or restricted in the development of their languages or traditions by this Article 153 (c). Consequently, the government could insist on prohibition and punish must for any situation even though it was without reason.

Distinctly, the Burmese 1947 Constitution in Chapter 1 declared the territories were: Federated Shan States in Article 5: Kachin State in Article 6: and Karenni States in Article 2 (ii) and Article 7. However, the 1974 Constitution Chapter 3, Article 31<sup>338</sup> mentioned that the States and Division of the Socialist Republic of the Union of Burma consisted of: Kachin State, Kayah State, Karen State, Chin State, Shan State, Mon State, Arakan State, Sagain Division, Tenasserim Division, Pegu Division, Magwe Dividion, Mandalay Dividion, Mon State and Rangoon Division as 7 States and 7 Divisions.<sup>339</sup>

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<sup>337</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> . 1 September 2015.

<sup>338</sup> <http://www.myanmarconstitutionaltribunal.org.mm/sites/default/files/constitution/pdf/2014/May/THECONSTITUTION1974.pdf>. 2 September 2015.

<sup>339</sup> <http://displacementsolutions.org/wp-content/uploads/THE-CONSTITUTION-OF-THE-UNION->

Obviously, the Union of Burma was completed under the domination by the Burmese and put to an end the ethnic aspirations to establish a federal state after gaining independence as colonies. Furthermore, The Karenni-ethnic group and Karen-ethnic group are “companions” and to abridged the territory and district of the Karen State. The Karenni ethnic group was changed to Kayah in the 1974 Constitution.<sup>340</sup>

Article 29, (a) (5) stated that local areas of the Socialist Republic of the Union of Burma were organized states and divisions of the State. Chapter 2, Article 18 (a) specified the right to natural resources were as follows:

The State ultimate owner of all natural resources above and below the ground, above and beneath the waters and in the atmosphere, and also of all the land.<sup>341</sup>

Ethnic groups not only lost the opportunity to use their local natural resources but also could not collect taxes for resources to pass from their territories because the State was eventually the owner of all the land.

Unfortunately, ethnic languages turned to not popular among the ethnic because Burmese was the official language for the purpose of standardization and clearness in communications between the higher and lower equal structures of the State and between such publications at the same level in country in the Chapter 18. Article 198.<sup>342</sup>

In effect, the 1974 Constitution was implemented from the Soviet Union and Eastern Europe. The Burma Socialist Program Party (BSPP) derived from the military was inscribed in the 1974 Constitution.<sup>343</sup> BSPP created the authority for military to declare to a state of emergency and promulgate martial law in specified areas or entire the State in Chapter 5, Article 76 as follows:

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OF-BURMA-19483. pdf. 2 September 2015.

<sup>340</sup> Jack Fong. “Bo Mya and the Nationalist KNU in the 1980s”. 157.

<sup>341</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> . 2 September 2015.

<sup>342</sup> Ibid., 2 September 2015.

<sup>343</sup> Michael Leifer. “Burma/Myanmar”. 8.

The Council of State may declare a state of emergency and promulgate martial law in specified areas or in the entire State, if an emergency affecting the defense and security of the State should arise; it may order mobilization in certain areas or in the entire State. Such measures shall be submitted for approval to the nearest session of the Pyithu Hluttaw (People 's Assembly).<sup>344</sup>

However, it did not mention the detailed characteristics of a state emergency that would require the deceleration of state emergency and promulgate martial law. The main catchphrase undermines the unity and solidarity of the national races, national security or the socialist social order is prohibited and persons who violate this prohibition should be punished according the law.

The constitution was promulgated and supported by military officials to allow them violate human rights and put an end the image of democracy and federalism. An amendment of the Constitution would require a decision approval by the majority vote of 75 percent of all the members of the Pyithu Hluttaw (People's Assembly) in Chapter 15, Article 194.<sup>345</sup>

David I. Steinberg described the "The Burmese Way to Socialism" was created as a combination of Socialism, Buddhist principle and humanism on April 30, 1962.<sup>346</sup> Michael Kreutz described the meaning of humanism as "seeking and striving so that the human shall be humane and not un-human, 'inhumane', which means outside his nature."<sup>347</sup> The Burmese majority religion is Theravada Buddhism that was influential in Sri Lanka and Thailand in the same period.<sup>348</sup>

Theravada Buddhism influenced nearly 500 years after Buddha and it was the basic of Buddha religious. That must obey the seniors everything or adopt the ancestors as the system of "Following of the seniors". The major idea is based on Buddha's principal but different the way of

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<sup>344</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> . (2 September 2015).

<sup>345</sup> Ibid., (2 September 2015).

<sup>346</sup> David I. Steinberg. "The Military Coup, The Socialist Period (1962-1988), and The Perpetuation Of Military Rule". 64.

<sup>347</sup> Michael Kreutz. "Understanding the Other: Taha Husayn on Reason and Individualism". 127.

<sup>348</sup> Scott Hipsher. "Burma/Myanmar". 246.

the practicing Theravada teachers realization, skepticism and accepts delusion.<sup>349</sup> Moreover, a scholar explained the Burma Way to Socialism as a combination of collectivism, limited of self-sufficiency and mixing Burmese own tradition and the global believed.<sup>350</sup>

Even though, the Burmese 1974 Constitution was a complicated doctrine that intended to determine not only one classification of a government but also how to practice the “Burma way” within the multi-race and multi-language country. Furthermore, Burma’s first prime minister U Nu used Buddhist socialism between his election proposals.<sup>351</sup> Prime Minister U Nu stated in a broadcast:

I abhor killing of any living creature. This abhorrence makes me to avoid taking meat in any form and that is I have become a vegetarian. Since I abhor killing and have become a vegetarian, will it be expedient to prohibit slaughter of any creature in the Union and order that the people of the Union must turn vegetarians? By no means...It will not do in this modern world to adopt a rash attitude like, “We form the majority. We will do what we like irrespective of what others like or dislike.”...If a majority community imposes its will by force on a minority in any country, then this country will go to the dogs sooner or later.

A near colleague to U Nu, U Raschid, proved that U Nu wanted “very much to go down in history as the leader who made Burma a Buddhist state again as a twentieth century Alaungpaya.”

<sup>352</sup>The Burmese King Alaungpaya was a famous emperor in the Burmese History.<sup>353</sup> Consequently, U Nu stated that the Buddhism should be the national religion.<sup>354</sup> The 1974 Constitution was

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<sup>349</sup> Michael Strange. *Common Spirit, Common Ground: A Loving Comparison of World Religions*. 114.

<sup>350</sup> Mya Than. “Political and Economic Development of Myanmar: An Overview”. 65.

<sup>351</sup> Helen James. “Buddhist Socialism”. 284.

<sup>352</sup> Richard Butwell. “A Remarkable Buddhist”. 66-67.

<sup>353</sup> George Childs Kohn. *Dictionary of Wars*. 79.

<sup>354</sup> Syed Serajul Islam. “State terrorism in Arakan”. 328. <http://www.worldpoliticsreview.com/articles/>

discriminatory it forced to binding of races, religions, cultures and minds.

The Burma military took power a coup in 1962<sup>355</sup> it was seemly planning the dissolution of the 1947 Constitution and to create a new constitution. General Ne Win declared on 3 March 1962 “Federalism is impossible; it will destroy the Union”.<sup>356</sup> The 1947 Constitution put the military in control of legislative power and ruled the country with slogans. They demined that the unity and solidarity of the national races, national security or the socialist social order.<sup>357</sup>

Inopportunately, democracy ended and the new 1974 Constitution established a one party system. Ethnic armed conflicts and civil wars spread over to the nation.<sup>358</sup> The new constitution was promulgated in 1974, but the military had ruled since 1962. Nationwide demonstrations put to end to the one party system and ended the 1974 Constitution in 1988. Multi-party system was accepted and they promised elections. The Regime held an election in 1990 and the National League for Democracy (NLD) won but the junta refused to transfer power to NLD until a new constitution was promulgated in 2008.<sup>359</sup>

### **Myanmar 2008 Constitution**

The third Burmese Constitution divides three branches of sovereign power into legislative power, executive power and judicial power. However, the main legislature divides two Hluttaws as Pyithu Hluttaw (People Assembly) and Amyotha Hluttaw (National Assembly). Each assembly

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13200/a-house-divided-finding-peace-in-multiethnic-myanmar. “A house Divided: Finding Peace in Multiethnic Myanmar/ 10 September 2013”. (3 September 2015).

<sup>355</sup> Geeta Madhavan. “Legal Regimes in Conflict Situations”. 191.

<sup>356</sup> Martin T. Smith. “Ethnic Politics and Regional Development in Myanmar: The Need for New Approaches” 67.

<sup>357</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf>. (3 September 2015).

<sup>358</sup> Tin Tin Aung & Susan H. Williams. “Women in the Constitutional Drafting Process In Burma”. 275.

<sup>359</sup> Albert H. Y. Chen. “The achievement of constitutionalism in Asia: moving beyond ‘constitutions without constitutionalism’”. 24.

includes 25% of representatives being for the Defense Services who do not stand for general election but are elected by the Commander-in-Chief of the Defense Services. Unequal power sharing in 2008 Constitution is mentioned in the Chapter 1, Article 17 (b) as:

In the executive of the Union, Regions, States, Union Territory, Self-Administered Areas and districts, Defense Services personnel, nominated by the Commander-in-Chief of the Defense Services to undertake responsibilities of the defense, security, border administration, so forth, shall be included. (c) For National races of which representatives are so permitted to participate in legislature of Regions, States or Self-Administered Areas in accord with Section 15, such representatives are permitted to participate, mainly, to undertake their National races' affairs.

The Commander-in –Chief of the Defense Services Personnel participates in all branches of the executive automatically, but races representatives need to be permitted to participate for their National races affairs. The Presidential Electoral College organized not only groups formed with elected Hluttaw (Assembly) representatives but also group formed with the Defense Services Personnel Hluttaw (Assembly) selected by the Defense Services Personnel, which are also included.<sup>360</sup>

These system discussions about the Defense Services Personnel dominate the double authorities in Hluttaw (Assembly). The Defense Services Personnel nominated by the Commander-in-Chief not only get an opportunity to be the representatives of Hluttaw (Assembly) but also when forming the Presidential Electoral College The Defense Services Personnel nominated by the Commander-in-Chief elected representatives get next opportunity to participate in this group again.<sup>361</sup>

Moreover, qualifications of the President and Vice-Presidents are necessary well

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<sup>360</sup> Constitution of the Republic of the Union of Myanmar 2008. 5.

<sup>361</sup> Ibid.,75-75.



acquainted with the affairs of the Union such as political, administrative, economic and military in Chapter 3, Article 59 (d). The elected President of the Myanmar takes superiority over all the other persons throughout the nation in Chapter 3, Article 58.<sup>362</sup>

However, the President has authority to appoint of the Union Ministers who possess the qualifications in Chapter 5, Article 232 but President cannot appoint to the Union level position of Ministries of Defense, Home Affairs and Border Affairs by himself. The President has to obtain a list of appropriate person from the Commander-in-Chief's recommendation and it was stated in Chapter 5, Article 232 (b) (i).

Furthermore, the President has authority to appointment of Deputy Ministers persons who possessing the qualifications in Chapter 5, Article 234 but the President has no power to appoint the Deputy Ministers for Ministries of Defense, Home Affairs and Border Affairs as the list of person who chosen by the Commander-in-Chief of the Defense Services is essentials it states in Chapter 5, Article 234.<sup>363</sup>

According to the Chapter 5, Article 235 (c) (i) (ii) The President has authority to term of office, resignation, termination of duties and filling vacancy of the Union Ministers and Deputy Ministers or release them from their duties. But the same position who relates to Defense Services Personnel in the Ministers or Deputy Ministers the President has co-ordinate with the Commander-in-Chief of the Defense Services for resignation or removed from their duties.

Additionally, the President can appoint of the Ministers of the Region or Ministers of the State and has power to move minister from the duties or resign himself from the position. However, the Commander-in-Chief is responsible for Security and Border Affairs Ministers of the Region or Ministers of the State to appoint in Chapter 5, Article 262 (a) (i) (ii) and the Commander-in-Chief will approve to remove or resign from the position in Chapter 5, Article 264.

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<sup>362</sup> Ibid.,20.

<sup>363</sup> Ibid.,88.

(b) (i) (ii).<sup>364</sup> Clearly, the military took the power more than the other representatives in the Hluttaw and the Commander-in Chief more power than the President. The President only can appoint the Commander-in-Chief, however, President needs approval of the National Defense and Security Council in Chapter 7, Article 342.<sup>365</sup>

Chapter 5, Article 201 states formation of the National Defense and Security Council was formed by the President and with the following persons:

- (a) The President;
- (b) Vice-President;
- (c) Vice-President;
- (d) Speaker of the Pyithu Hluttaw (Union);
- (e) Speaker of the Amyotha Hluttaw
- (f) Commander-in-Chief of the Defense Services;
- (g) Deputy Commander-in-Chief of the Defense Services
- (h) Minister for Defense;
- (i) Minister for Foreign Affairs;
- (j) Minister for Home Affairs;
- (k) Minister for Border Affairs.

Even though 2008 Constitution declares The President is the most powerful of the other officials in Chapter 3, Article 58, according of the authority to appointment and move the position of the Union Ministers and the Deputy Ministers, Ministers of the Region or Ministers of the State. However, the power of the President is limited because the President has no authority to appoint any position for the Minister of Defenses. Clearly, the Commander-in-Chief is only responsibilities for apart of all Defense Services. Consequently, the Commander-in-Chief

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<sup>364</sup> Ibid.,105.

<sup>365</sup> Ibid.,148.

dominants the power 6 positions in National Defense and Security Council; (1) Commander-in-Chief of the Defense Services, (2) Deputy Commander-in-Chief of the Defense Services, (3) Minister for Defense, (4) Minister for Foreign Affairs, (5) Minister for Home Affairs and (6) Minister for Border Affairs.<sup>366</sup>

However, the President only can nominate the positions of: (1) Vice-President, (2) Vice-President, (3) Speaker of the Pyithu Hluttaw (Union), (4) Speaker of the Amyotha Hluttaw. There is an imbalance in power sharing in National Defense and Security Council between the President and the Commander-in-Chief that the Commander-in-Chief gets 6 positions and including the President position, President obtains 5 positions. (see Appendix 20)

The Presidential Electoral College elects president and President nominates the Ministers and Deputy Ministers. Even though the President appoints the Commander-in-Chief but he cannot nominate by himself. Nevertheless, the 2008 Constitution states the President led the National Defense and Security Council but to nominate Commander-in-Chief the recommending from the National Defense and Security Council is necessary. There are 11 members in the National Defense and Security Council and 6 persons from the Defense Services, 1 person is President himself and the next 4 persons are appointed by the President.<sup>367</sup> There is no evidence how or who nominates the National Defense and Security Council. The above the data demonstrates that the National Defense and Security Council obtains most authority in the country. (see Appendix 20)

Moreover, Chapter 1, Article 29 (b) states the Defense Services has the right to independently administer and adjudicate all affairs of the armed forces. Chapter 11, Article 431 explains the authority of the national Defense and Security Council, as “The National Defense and Security Council shall exercise the sovereign powers in the name of the President.” Articles 442,

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<sup>366</sup> Ibid.,75-76.

<sup>367</sup> Ibid.,75-76.

443, 445, 447 in Chapter 14 state and shield the Ministry as follows:

Article 442. The State Peace and Development Council shall continue to exercise State sovereignty before this Constitution comes into operation.

Article 443. The preparatory work done by the State Peace and Development Council, before this Constitution comes into operation, to bring the Constitution into operation shall be deemed to have carried out in accord with this Constitution.

Article 445. All policy guidelines, laws, rules, regulations, notifications and declarations of the State Law and Order Restoration Council and the State Peace and Development Council or actions, rights and responsibilities of the State Law and Order Restoration.

Council shall devolve on the Republic of the Union of Myanmar. No proceeding shall be instituted against the said Councils or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.

Article 447. Existing rules, regulations, by-laws, notifications, orders, directives and procedures shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Union Government.<sup>368</sup>

Currently, the Defense Services are essentially responsible for to protect the 2008 Constitution. Moreover, the Defense Services in authority to protect non-disintegration of the Union, non-disintegration of National solidarity and perpetuation of sovereignty which declare in the Chapter 1, Article 20 (e), (f).<sup>369</sup> Absolutely, Burmese 2008 Constitution is not only a democratic constitution<sup>370</sup> or federal constitution but serves to maintain the power and constitution itself protect the military ability to interfere in sovereignty of the regions of the country. The

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<sup>368</sup> Ibid.,178.

<sup>369</sup> Ibid., 6.

<sup>370</sup> Rajiv Bhatia. *India-Myanmar Relations; changing contours*. 142.

Burmese 2008 Constitution is a tyrannical constitution.

Nevertheless, according to the May 2008 referendum the 2008 Constitution was promulgated and 2010 general election was held.<sup>371</sup> The civil government has been trying to work out the political issues in the two ways systems, which manipulate with the opposition by force.<sup>372</sup> Chapter 12, Article 436 (a) to amend the constitution as:

If it is necessary to amend the provisions of Sections 1 to 48 in Chapter 1, Sections 49 to 56 in Chapter 2, Sections 59 and 60 in Chapter 3, Sections 74, 109, 141 and 161 in Chapter 4, Sections 200, 201, 248 and 276 in Chapter 5, Sections 293, 294, 305, 314 and 320 in Chapter 6, Sections 410 to 432 in Chapter 11 and Section 436 in Chapter 12 of this Constitution, it shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nation-wide referendum only with the votes of more than half of those who are eligible to vote.<sup>373</sup>

Formation of the Pyidaungsu Hluttaw in Chapter 4, Article 74 The Pyidaungsu Hluttaw comprises the following to Hluttaws:

- (a) in accord with the provisions of Section 109, the Pyithu Hluttaw formed with Hluttaw representatives elected on the basis of township as well as population and Hluttaw representatives being the Defense Services Personnel nominated by the Commander-in-Chief of the Defense Services;
- (b) in accord with the provisions of Section 141, the Amyotha Hluttaw formed with Hluttaw representatives elected in equal numbers from Regions and States and Hluttaw representatives being the Defense Services Personnel nominated by

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<sup>371</sup> Tin Maung Maung Than. "Myanmar" in *Regional Outlook Southeast Asia 2011-2012*. 52.

<sup>372</sup> Peng Liu. "US-Myanmar Bilateral Relations: "Constant Variables" and "Independent Variables". 249.

<sup>373</sup> Constitution of the Republic of the Union of Myanmar 2008. 173.

the Commander-in-Chief of the Defense Services.”<sup>374</sup>

According to the 2008 Constitution, the Pyidaungsu Hluttaw (Union Parliament) has two houses that The Upper House (National Assembly) (Amyotha Hluttaw) contains 224 seats, State or Region and Self-Administered Sectors elected 168 representatives and 56 representatives are appointed by the Commander-in-Chief. In The Lower House (People’s Assembly) (Pyithu Hluttaw), entitle 440 seats, 330 are voted on the according to the population in the township but the next 110 representatives are from the military who selected by the Commander-in-Chief.<sup>375</sup>

The representatives in Lower house and the Upper house are directly selected by the Commander-in-Chief and do not stand for general election. According to the data on the population in township, the military representatives get 25% seats or 166 seats in Union Hluttaw (Union Parliament) automatically.<sup>376</sup> If it is necessary to amend the 2008 Constitution, all of the representatives elected from State or Region and Self-Administered Sectors in Lower house, all representatives elected from basis on population in townships and one vote from the representative who elected by the Commander-in-Chief are necessary.

Chapter 1, Article 20 (d) states the Defense Services has the right to administer for participation of the entire people in Union security and defense and Article (f) is the Defense Services are mainly responsible for safeguarding the Constitution. Moreover, Chapter 7, Article 343 states in the adjudication of Military justice are:

- (a) the Defense Services personnel may be administered in accord with law collectively or singly;
- (b) the decision of the Commander-in-Chief of the Defense Services is final and conclusive.”<sup>377</sup>

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<sup>374</sup> Ibid., 27.

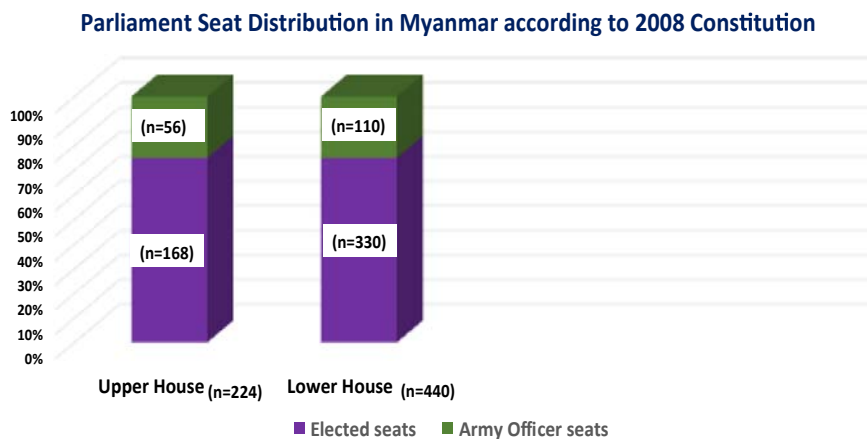
<sup>375</sup> Melissa Crouch. “The Layers of Legal Development in Myanmar” 47.

<sup>376</sup> Lowell Dittmer. *Burma Or Myanmar? The Struggle for National Identity*. 34.

<sup>377</sup> <http://burmacampaign.org.uk/media/Constitution-1.pdf> Chapter 7, Defense Services. (7 September

The 2008 Constitution not only imbalanced sharing the authority between the ethnic groups and Burmese majority but also the Defense Service is the most powerful entity in this country. Furthermore, 2008 Constitution allows military to turn violent officially.

**Table 4. Parliament Seat Distribution in Myanmar according to 2008 Constitution**



According to the Myanmar 2008 Constitution Chapter 1, Article 11 (a) states that there are three branches of sovereign power called, legislative power, executive power and judicial that are separated. The legislative power of the union is shared as the Pyidaungsu Hluttaw, Region Hluttaws and State Hlutta.<sup>378</sup>

### **New Light of Myanmar**

Democracy appeared in Myanmar English Newspaper called the *New Light of Myanmar*

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2015).

<sup>378</sup> Constitution of the Republic of the Union of Myanmar 2008. 4.

(NLM) as adjective more than noun. When democracy appeared as a noun, it was used in a negative context far more often than positive one. Democracy appeared as a noun 62 times in a negative contexts and was used positively 10 times between May, June and July in 2008. The negative contexts examples are below:

“Western-style democracy should not be copied in the present Myanmar political situation.”<sup>379</sup>

“Let us all cast “Yes” vote in the national interest. In front of Myoma market in Hmawby Township, “Democracy cannot be achieved by anarchism or violence, by Constitution.”<sup>380</sup>

However, when democracy appeared as an adjective it was frequently used in positive contexts, more positive contexts compared to negative ones were used approximately two to three times. The example contexts were:

“Therefore, I would say this constitution guarantees national races all possible democracy rights.”<sup>381</sup>

“In fact, in pursuance of the seven-step Road Map to build a discipline-flourishing democracy nation, the government is dealing with anti-government groups and persons with great patience in order to achieve national reconsolidation.”<sup>382</sup>

Possibly, democratic was popular among the contributors and frequently collocated with the phrase extraordinary multiple, *discipline-flourishing* and used all in positive meaning but not

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<sup>379</sup> An Observer. “Please accept an invitation with affection” in *New Light Of Myanmar*. 27 June 2008. page 7, line 22.

<sup>380</sup> Anon. “Billboards set up in Yangon North District to have Referendum” in *New Light Of Myanmar*. 1 May 2008. page 8, line136.

<sup>381</sup> Soe Mya Kyaw. “The most appropriate constitution (3)” in *New Light Of Myanmar*. 9 May 2008. page 4, line 89.

<sup>382</sup> Soe Mya Kyaw. “The most appropriate constitution (3)” in *New Light of Myanmar*. 11 June 2008. page 4, line 1, 89.



used negatively. Moreover, the phrase *democratic-nation* regularly collocated with the phrase *discipline- flourishing*. The military illustrated the opinion of itself without discipline Burma cannot establish a democratic country. The use of the phrase “discipline-flourishing democratic nation” attached to it the “duty of military regime to do the four political objectives” achieved by SLORC. However, SPDC continued and adopted it as:

Four political objectives of SPDC  
stability of the state, community peace and tranquility, prevalence of law and order;  
national reconsolidation;  
emergence of new enduring state constitution;  
building of a new modern developed nation in accordance with the new state constitution.<sup>383</sup>

The officials manipulate, and the government seemed to be trying convey in NLM that democracy was difficult to promote without stability, and the state maintenance of the community in peace. The military obviously wanted to take any action for stability of state with their strategy the 7-step Road Map to democracy.<sup>384</sup> Even if, the people accept the proposal of the military or do not agree the leadership of the military it is essential to achieve fruitful transformation to democracy. NLM presented the mind of the military as:

Thus, I believe that the participation and leadership role of the Tatmadaw [=army] are necessary for successful transition to democracy, whether internal and external anti-government elements are happy with the situations or not.<sup>385</sup>

The military image democracy, as would lead to disorder and violence and the outside world’s democracy is distrusted in the nation of Burma. Democracy itself could not be practiced in Burma,

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<sup>383</sup> Tin Maung Maung Than. “Military in Charge”. 340.

<sup>384</sup> Kyaw Yin Hlaing. “Problems with the Process of Reconciliation”. 50.

<sup>385</sup> Soe Mya Kyaw. *New Light Of Myanmar*. 9 May 2008. page 4, line 171.

and Burma is very much in need of being controlled or unrestrained before it could be exercise in the country.

Consequently, the phrase *discipline- flourishing* existed as a slogan in NLM; a usual spin on things given and the sentences with this phrase appeared in positive contexts. However, there was no occurrence of the word of democratic in NLM between May, June and July 2008. The military seemed very serious about democracy and at the same time it was frightened to practice democracy. An example of these attitudes are found:

When I read news stories that in consequence of too much democracy freedom, case of shooting spree too place in schools and many children lost their in the events, the news about rapacious George Soroz,[...and other examples...]. I feel that as for our country with fine cultural traditions, such democracy is like a gift of chicken that is given when bird flu is spreading.<sup>386</sup>

In reality, it is because they do not understand the difference between the historical background for democracy transition of other countries and that of Myanmar.<sup>387</sup>

Another point is that prevailing objective conditions are to be taken into account in shaping democracy<sup>388</sup>

Moreover, democratic party also appeared in a negative context. The military was trying to ignore the results of the 1990 elections in the pro-democracy party NLD won the 1990 general election but the military ignored the results and continued in power.<sup>389</sup> One of the military's central missions was to take every opportunity to use the NLD mad to increase instability and lead Burma

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<sup>386</sup> Hlaing Bwa (Parame). "My knowledge of democracy" in *New Light Of Myanmar*. 13 July 2008. page 6, line 61.

<sup>387</sup> Maung Cetana (B. A Bed). *New Light Of Myanmar*. 15 July 2008. page 6, line 108.

<sup>388</sup> Lu Thit (Padauk Mye). "The path Leading towards goal" in *New Light Of Myanmar*. 16 June 2008. page 7, line 162.

<sup>389</sup> David I. Steinberg. "Legitimacy" in *Burma/Myanmar Concepts and Implications*. 130.

along the path of conflict.

Actually, it would appear that as an adjective used in relation to the other political groups or their activities the terms invariably appeared in a negative light and were metaphors for criminal actions. These presented sentences are:

Nowadays, the result of the 1990 election is no longer as the entire people who are desirous of the emergence of a new modern developed democratic nation have ditched it.<sup>390</sup>

We have to bear in mind that democratic practice can improve slowly according to how much the people are mature in view and knowledge.<sup>391</sup>

It has praised terrorists and saboteurs as democracy activists, showing its intrigue putting the nation in danger.<sup>392</sup>

NLD's announcement saying the constitution is not legitimized was in a way to disrupt democratic process desired by the people.<sup>393</sup>

If they claimed themselves to be public party or democracy party although they are committing such crimes, their policy will be in contrary to that of the people.<sup>394</sup>

The phrase democratic nation appears 16 times in the period May, June and July 2008. This phrase appeared 16 times but 10 times in positive contexts, neutral contexts 5 times and only one time was in negative context. However, when it was collocated with the frequently appearing *discipline- flourishing* it appeared in only positive or neutral meanings but no

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<sup>390</sup> Pauk Sa. "Goodbye, 1990 election results!" in *New Light Of Myanmar*: 6 July 2008. page 7, line 124.

<sup>391</sup> Soe Mya Kyaw. "The most appropriate constitution" in *New Light of Myanmar*: 7 May 2008. page 11, line 114.

<sup>392</sup> An Observer. "True mandate of the people" in *New Light of Myanmar*: page 6, line 101.

<sup>393</sup> Lu Thit (Padauk Mya) "The path leading towards goal" in *New Light Myanmar*: 16 June 2008. page 7, line 135.

<sup>394</sup> U Pyay Kyaw. *New Light of Myanmar*: 26 June 2008. page 7, line 97.

negative contexts. The characteristic examples are:

“Only then, will it be possible for us to get the most discipline-flourishing and developed democratic nation.”<sup>395</sup>

“Only when they kick the habit of being bad citizens, will they see a genuine discipline - flourishing democratic nation with full democratic rights available.”<sup>396</sup>

“In fact, in pursuance of the 7-step Road Map to build a discipline-flourishing democracy nation, the government is dealing with anti-government groups and persons with great patience in order to achieve national reconsolidation.”<sup>397</sup>

The English *The New Light of Myanmar* included articles describing the government’s political principles, economic and social objectives. With appropriate analysis of the vocabulary and the structure of the sentences NLM can be used to determine how the military junta understood the meaning of democracy and how it would go about the conception of democracy, if this is their objective.

Democracy is government by the people; a form of government in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system, a state having such a form of government, a state of society characterized by formal equality of rights and privileges.<sup>398</sup>

Abraham Lincoln mentioned his idea of democracy is no one superior or no one servant but if this relationship is inconsistent it is not democracy.<sup>399</sup> His popular phrase was a government “of the

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<sup>395</sup> Anon. “The most appropriate constitution” in *New Light Of Myanmar*. 9 May 2008. page 5, line 92.

<sup>396</sup> Hlaing Bwa (Parami). “My knowledge of democracy” in *New Light Of Myanmar*. 13 July 2008. page.8, line 66.

<sup>397</sup> Soe Mya Kyaw. *New Light Of Myanmar*. 11 June 2008. page 4, column 1, line 89.

<sup>398</sup> <http://dictionary.reference.com/browse/democracy> 8 September 2015.

<sup>399</sup> Abraham Lincoln. “Another Explosion Will Come”. 120.

people, by the people, and for the people.”<sup>400</sup> Actually, the definitions of democracy are many and vary from dictionary to dictionary. Those in American dictionaries may differ with British dictionaries or others, but the basis is common democracy is not different in major definitions.

However, the significance of democracy in the context of NLM is slippery. Furthermore, NLM mentions that the ideology of democracy was inextricably bound by those definitions as “democracy is like a gift of chicken that is given when bird flu is spreading”<sup>401</sup>, “Western-system democracy should not be copied in the present Myanmar.”<sup>402</sup>

Unfortunately, there is no standard meaning of “democracy” in Myanmar for the citizens of that country; there is no standard meaning in translations for democracy in the Myanmar language or in the English-Myanmar dictionary. The same pronunciation “democracy” is used in the English-Myanmar dictionary. Moreover, this is not clearly how the non-Burmese determine the meaning of democracy and related terms. According to the definitions, democracy indicates an unease. This is what one often finds in NLM uses of democratic, with the collocated words such as nation in regular occurrence.

### **Sympathetic Federalism**

Currently, both the Myanmar civil government and the ethnic armed groups have been challenging the nationwide ceasefire and are willing to accommodate the changes in the country. Nevertheless, both sides did not present clearly with respect to federalism in 12 Statements that were downloaded from the UPWC Statements on the Myanmar Peace Center website.<sup>403</sup>

However, there were only two statements between January 2014 and July 2014 but the word

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<sup>400</sup> <http://www.ait.org.tw/infousa/zhtw/docs/whatsdem/whatdm2.htm> . 8 September 2015.

<sup>401</sup> Hlaing Bwa (Parame). “My knowledge of democracy” in *New Light Of Myanmar*. 13 July 2008. page 6, line 61.

<sup>402</sup> An Observer. “Please accept an invitation with affection” in *New Light Of Myanmar*. 27 June 2008. page 7, line 22. 10 September 2015.

<sup>403</sup> <http://mmpeacemonitor.org/stakeholders/myanmar-peace-center>. 10 September 2015.

federalism never appeared, nor any related word. That was not only for the statements selected between January 2014 and July 2014 but also all statements from October 2013 to August 2015.

Consequently, the other sources, Myanmar Newspaper English (NLM), Myawaddy Myanmar Newspapers, Myanmar President's speeches in (English) were also downloaded and searched for the phrases concerning federalism. Inopportunately, there were no terms related to neither federal nor federalism that appeared in sentences of the above the selected materials. UNFC issued 6 statements and NCCT made 7 Statements. Similarly, there was neither mention made of federalism nor any related concept either in UNFC Statements or NCCT Statements. The concept never appeared.

The Myanmar government imagines ethnic armed groups might change into political parties and stand for elections, according to the results from the election, it will make amendments to the 2008 Constitution.<sup>404</sup> The ethnic armed groups organized the United Nationalities Federal Council UNFC on alliance to negotiate with the Myanmar government. Even though, UNFC does not signify all of the ethnic armed groups, UNFC stands on the fundament of the second draft of the 2008 Federal Constitution. Ethnic groups aspire to establish a Federal Union (in Myanmar) and procure a Federal Union Army (FUA).<sup>405</sup>

UNFC website is officially to declare to the world the measure of improvement in negotiations between the Myanmar Government and UNFC. However, both the UNFC and NCCT did not translate some statements into English. The UNFC issued 6 statements, but only 2 statements translated in English and NCCT had 7 statements but only one statement can be read in English. In effective, I could not track the concept of federalism in all statements, which were officially issued from the UNFC.

UNFC seemed not very much interested using media to increase their policy and in

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<sup>404</sup> <http://www.mmpeacemonitor.org/research/prospects-for-peace> (10 September 2015).

<sup>405</sup> <http://www.mmpeacemonitor.org/peace-process/ethnic-peace-plan> (10 September 2015).

cooperating to achieve the ceasefire agreement with the Myanmar Government. Federalism is not part of Burmese culture but was introduced by the British to Shan leaders in 1922,<sup>406</sup> and the federal system was practiced in Burma in 1948.<sup>407</sup> However, Burma was ruled by the Burma way to Socialism System for 26 years,<sup>408</sup> the military junta from 1988 to 2010,<sup>409</sup> and current government on the foundations of the 2008 Constitution. 2008 Constitution was created under very strictly procedure and gave high priority to the Defense services.<sup>410</sup>

The media in Burma was under strict the censorship for many decades and represented the political views of the ruling junta.<sup>411</sup> Nevertheless, Burma media was declared free from censorship on 20 August 2012.<sup>412</sup> UNFC might obtain the opportunity and use media distribution to educate about the ideology of federalism throughout the website. Undeniably, the media is essential in the presentation of the world and professional journalists can convey the message to the people and clarify the objectives of the anti-government groups and should make the world understand the real situation and open the possibility to have a strong sense of justice.<sup>413</sup>

Media is very valuable for global to link to each other. The scholar Hay stated it in this way:

If empowerment is contingent upon hope that one can exercise power and influence through democratic processes, then this bias will lead to lower feelings of self-efficacy, reduced participation and low levels of engagement. These are all

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<sup>406</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 181.

<sup>407</sup> Karin Dean. "Spaces, Territorialities and Ethnography on the Thai-, Sino-and Indo-Myanmar Boundaries". 226.

<sup>408</sup> Michael Leifer. "Burmese Way to Socialism". 80. 1995.

<sup>409</sup> Julia Bader. "Burma Neither puppet, nor pawn". 44.

<sup>410</sup> Dennis Blair. "Hard Cases". 100.

<sup>411</sup> Jennifer Leehey. "Writing in a Crazy Way: Literary Life in Contemporary Urban Burma". 176.

<sup>412</sup> <http://www.telegraph.co.uk/news/worldnews/asia/burmamyanmar/9486781/Burma-abolishes-media-censorship.html> "Burma abolishes media censorship on 20 Aug 2012" *Telegraph*. (10 September 2015).

<sup>413</sup> Mary Talbot. "What is media discourse and why study it?". 3.

evident trends in the way that citizens relate to formal political.<sup>414</sup>

The measure of how media influences a society depend on how and what the media demonstrates. Every political performer used media as an information vehicle.<sup>415</sup> UNFC not only limited release the political objectives but also insufficiently promoted internal and external interest in the influence of the nationwide ceasefire.

Even though, UNFC claimed that the nationwide ceasefire agreement negotiations procedure will be the based on the second draft of the ethnic group's 2008 Federal Constitution. According to the UNFC issued statement (April 30, 2014) UNFC sent an open letter to UPWC replied that it accepted the invitation from the President to make dialogue and negotiation. (Appendix 18)<sup>416</sup>

According to the data analysis, UPWC also did not present clearly their opinion related with the ceasefire negotiations. Moreover, it can be recognized that UPWC did not make statements but just put memorandum like a project indicating the schedule.<sup>417</sup> What is going to be the next step? UPWC gives the impression that they have responsibility to make a report or memorandum but the contents included are nonsense. Actually, UPWC is responding to arrange the members of ethnic groups, social network and NGOs to participate in the ceasefire procedure and to meet donors that want to support to achieve peace and report to the President's office on the situation.<sup>418</sup>

However, either side declared the "Nationwide Ceasefire Agreement" (NCA) (Single Text draft). According to the UNFC it sent an open letter to UPWC on April 30, 2014, the military

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<sup>414</sup> Roman Gerodimos. "Introduction to the media, political participation and empowerment". 4

<sup>415</sup> Nick Couldry. "Where Mediatization Hits the Ground" in *Mediatized Worlds Culture And Society In A Media Age*. 64.

<sup>416</sup> [http://www.mmpeacemonitor.org/images/pdf/20140430\\_unfc\\_sent\\_an\\_open\\_letter\\_to\\_upwc.pdf](http://www.mmpeacemonitor.org/images/pdf/20140430_unfc_sent_an_open_letter_to_upwc.pdf) (11 September 2015).

<sup>417</sup> <http://www.mmpeacemonitor.org/peace-process/government-peace-plan10> (11 September 2015).

<sup>418</sup> Ibid., 10 September 2015)



has strategies; the one is negotiation and the other method is using overwhelming force and violations in the ethnic areas (see Appendix 18). According to the Myanmar Peace Center records that there are six types of ethnic armed groups in Burma: New Ceasefire groups, Combatant groups, BGF transformed groups, PMF transformed groups, Special Case groups and Defunct groups.

New Ceasefire Groups number 13 groups, Combatant groups number 5 groups, BGF transformed groups number 10 groups, PMF transformed groups number 8 groups, Special Case groups are 11 groups and defunct groups are 3 groups. That made a total of 50 ethnic armed groups in Burma. However, there are 11 ethnic armed groups in the UNFC<sup>419</sup> and there were not clear objectives and policy standards of the other ethnic armed groups.

UNFC does not represent all of the ethnic armed groups in Burma. UNFC seemed not to hold absolute power in organization and it is very difficult gathering all of the ethnic armed groups to become UNFC members. Multi-ethnic armed groups have been suffering the civil wars for six decades<sup>420</sup> and creation of the ethnic armed groups came about because they could not believe both the majority of the Myanmar government and among the ethnic armed groups.

The Myanmar Government side is clear, that they are the only one race and have the same religion. Even though the Myanmar Government has committed uncountable crimes since they broke the Panglong Agreement. International law has so far been unable to take the military to an international court of law.

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<sup>419</sup> <http://ja.scribd.com/doc/119923883/UNFC-STATEMENT-ANNUAL-MEETING-10-JAN-2013-ENGLISH>. (11 September 2015).

<sup>420</sup> Desmond Ball & Nicholas Farrelly. "Eastern Burma: Long wars without exhaustion". 154.

## Chapter 6: Discussion

The term of “federal” comes from federation, the loose joining together of smaller organizations. From this administrations can be imagined at local and national levels. The first principle is to divide administratively conscious, self-governing bodies into an alliance to rally and support its autonomous states. The second principle is the diversifying of government on the foundation of geography or territory and allowing a significant range of individual movement.<sup>421</sup>

Thomas O. Hueglin explained that joint decision-making is a form of federalism and it is better to practice in complicated civilizations than a democratic legislative unitary system.<sup>422</sup> In fact, federalism attracts capacity between the poor and wealth, the politically conflicted, sovereign territory, or can address the unbalance of power between minority and majority. Federalism can create the way to organize various societies.<sup>423</sup>

Ralph A. Rossum indicated, a union government was essential not only to survive with the conflicts in the community but also give a guarantee for societies. However, the societies will lose more or less their freedom in order to get legal safeguards. A constitution is necessary to prevent the majority from allocating majority domination and democratic ineffectiveness on the others.<sup>424</sup> Koen Lenaerts indicated that federalism has had an equally strengthening effect on one another within the union.<sup>425</sup> However, to practice the principle of federalism, a constitution is

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<sup>421</sup> Nicholas Aroney. “Before federalism: Thomas Aquinas, Jean Quidort and Nicolas Cusanus1” 43.

<sup>422</sup> Ibid.,17.

<sup>423</sup> Grace Skogstad, David Cameron, Martin Papillon & Keith Banting. “The Global Promise of Federalism” 4.

<sup>424</sup> Ralph A. Rossum. “Constitutional Structure, Federalism, and the Securing of Liberty”. 69.

<sup>425</sup> Koen Lenaerts. “Federalism and Rights In the European Community”. 139.

necessary to preserve the honesty of a double classification of government.<sup>426</sup>

Sanjiv Agarwal argues that a constitution is an inscribed manuscript of the structural principles of a government. A premium democratic constitution will present the structure of government; the purposes of creating the constitution in part is to define that will be the leader of the country and in what position. This makes it easy to understand what people participate by their own volition or whether they accepted the influences of some forces or pressure.<sup>427</sup>

Historically, members of the 1947 Constituent Assembly with 255 seats were selected by a nationwide election in April 1947 and the persons were from the different fields. The draft of constitution was approved on May 23, 1947 and included the basic rights of a democracy. General Aung San believed that Burma should become a self-determining autonomous Republic. The Shan, the Kachins, the Karens, the Chin and the Karenni leaders trusted General Aung San's proposal.

However, Shan leaders called *saophas* liked depending on the British and Kachin accepted their tradition nobility administrations. Even though, the Shan were the first to practice federalism in Burma, they seemed uneasy with this system and they believed that federalism would restrict their authorities. The Kachin did not clearly express willingness to participate or practice the Burmese leader's proposal.

Moreover, the British separated frontier territories by themselves when they ruled the Burma. Meanwhile, the Frontier Areas Committee of Enquiry was Lt.-Col. D. R. Rees Williams and the Chin desired a union with a central Burmese government but the Shan leaders and representatives of the frontier peoples demanded the right of secession.<sup>428</sup> The 1947 Constitution was not a federal constitution that was created for frontier territories (Kachin, Karin, Karenni

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<sup>426</sup> Charles Shang Hynemen. "The federal structure" in *A Second Federalist*. 111.

<sup>427</sup> Sanjiv Agarwal. "What is a constitution" in *The Indian Federalist*. 1.

<sup>428</sup> Maung Maung. "Drafting of the Constitution" in *Burma's Constitution*. 81-83.

Shan)<sup>429</sup> to get the rights of self-determination and secession.

The Shan, Kachin, Karen and Karenni representatives seemingly did not recognize the majority Burmese could dominate them after getting free from the British even though, frontier representatives demanded a federal state and right of secession, they did not disseminate the ideology of federalism within their territories. Moreover, federalism was an influence in Shan State from 1922<sup>430</sup> but the Shan leaders emphasized maintaining their power more than the combination with the other ethnic groups. Consequently, the Shan leaders preferred to demand a federal system and the right of the secession.

Furthermore, Burma first prime minister U Nu could not maintain the stability of the country. U Nu supported Buddhism as a nation's religion and presented proposal to the ethnic-armed groups that he called "arms for democracy". He suggested to the ethnic armed leaders that they should surrender their arms, and organize into political parties and stand for elections. Kachin and Karen did not accept this plan and rebelled against the U Nu government also named "Rangoon Government".

Prime Minister U Nu decided to get aid from Defense Services led by General Ney Win and made way for the military to interfere in the legislation of the country. He identified the Karen rebellion leaders as bad citizens and suspected the Karen officers in the military and police who trained by the British and fought with the British in the 2<sup>nd</sup> World War. U Nu seemed anxious about the ethnic military officers would make a coup. Mostly, the Kachin ethnic groups are Christian.

Clearly, the Shan made a strong decision with the Panglong Agreement for self-determination and rights of secession.<sup>431</sup> The influenced of the right secession in the Panglong Agreement, different religions and the positions of the Karen officers in the military that U Nu

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<sup>429</sup> Donald M. Seekins. *Historical dictionary Of Burma (Myanmar)*. 153.

<sup>430</sup> Sai Aung Tun. *History Of The Shan State From Its Origins To 1962*. 181.

<sup>431</sup> Ardetb Maung Tbawngbung. "The Dilemmas of Burma's Multinational Society". 143-144.

could not maintain the union of Burma and decided only the military power can make a stable country and behalf of U Nu, General Ne Win fought against the ethnic armed groups who rebelled.

After gaining independence from the British, Burma not only faced the ethnic armed groups rebellion but also fought with the Communists. General Ne Win led the military in Civil wars the result was to make a conditional election that was held in 1960 in which U Nu gained back power.<sup>432</sup> After U Nu became prime minister, called for a conference for ethnic groups that included Mon and Rakhine to discuss ethnic dissatisfaction. As a result of the ethnic groups discussions the military was of the opinion that ethnic groups might disintegrate the union. The military created “four-cut policies” included:

1. cutting and blockading communications between rebel armed groups
2. embargo of people and consumer goods entering rebel territories
3. search and destruction of core members responsible for supply, information, funds and recruits
4. embargo on trade to reduce rebel revenue<sup>433</sup>

The military procedures “four-cut policies” were executed in the ethnic territories.<sup>434</sup> Moreover, U Nu announced the import commerce would change from private to public operations. It was one of the reasons General Ne Win succeeded in his coup in 1962 and established the military dictatorship. Because, the military operated with the import business as their own. They controlled both sovereignty and the economy. Ne Win arrested those who opposed his strategy.<sup>435</sup>

U Nu was not only a person who discriminated against racial and religious groups but

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<sup>432</sup> Ciment James. “Myanmar (Burma): Civil Wars and Coups Since 1948”. 647.

<sup>433</sup> <http://mmpeacemonitor.org/background/ethnic-grievances>. 30 September 2015.

<sup>434</sup> Ardetb Maung Tbawngbmung. “The Dilemmas of Burma’s Multinational Society”. 146.

<sup>435</sup> M.C. Ricklefs, Bruce Lockhart, Albert au, Portia Reyes, Maitrii Aung-Thwin. “Building Nations, to 1990”. 369.

he also had an ancestor who created the way for the military to exercise its power on the political stage. The source of the ethnic armed rebellion also begun from his decision concerning with religion and polity. The decision of U Nu put an end to the democratic parliamentary system and dictatorial government has continuously ruled Burma to the present.

Clearly, the 1974 Constitution was based on “Burma Way to Socialism” but they rigged just the judicial system to defend and protect their socialist system. What U Nu professed in his racial discrimination and proffered of “Burma Way to Socialism” by Ne Win caused ethnic groups to completely lose trust in the Burmese Government. In 1988 the university students led nationwide demonstration but the military junta cracked down on it. The people demanded the end of the one party system and called for a multi-party system of a democratic nation.

The effect of the 1988 demonstration not only returned the hope a democratic government but also the end of racism. However, the regime created many unreasonable demands to transform authority to the NLD and other ethnic representatives who won in 1990 election. The military substituted a new constitution for the transformation of the power. The puppet National Convention as organized but the people’s representative announced that the procedures of the National Convention were an undemocratic system and stop participating in the creation of a new constitution.

Nevertheless, the new 2008 Constitution was promulgated and practiced from 2010. Even though the military declared the one party system had vanished and Burma was the Republic of the Union of Myanmar based on the flourishing of a genuine, disciplined multi-party democratic system in Chapter1, Article 6 (d).<sup>436</sup> The 2008 Constitution adopted the 1974 Constitution and the military created positions for military officers to participate not only in the sovereign power but also to the branches of legislative power, executive power and judicial power in the 2008 Constitution.

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<sup>436</sup> Constitution of the Republic of the Union of Myanmar. 2.

Currently, the nationwide ceasefire negotiations have replaced wars in Burma. But it is not the solution to end the civil wars. The results of ceasefire negotiations are related to the ultimate fate of Burma. The success of the ceasefire talks are contingent upon Burmese agriculture, trade and industry, and the essential capacity to create development in the country. Nevertheless, the Myanmar government made the following peace plan: 1. give up arms/transform into BGF-now allowing ethnic armed groups to keep their arms, 2. set up a political party, 3. contest in elections<sup>437</sup>

However, the Burma first Prime Minister U Nu also created the same plan called “arms for democracy” that ethnic armed groups had to give up arms and found political parties to stand for elections.<sup>438</sup> Currently, the government and ethnic armed representative attempted made a NCA but cannot guarantee safety in ethnic areas and violations human rights in the ethnic areas. According to the UNFC July 27, 2015 Statement, though the conversation was being held, the government army’s attacks on the areas in Kachin, Shan and Karen States were occurring without break off. Absolutely all the government troops’ attacks dispatched under countless pretexts on the ground cannot promote genuine internal peace if it is really considered necessary.<sup>439</sup>

Furthermore, both government and ethnic armed groups did not express to the public what was concluded in NCA or why. Both sides called for it, the NCA government does not agree to receive six armed groups, those being the Arakan Army (AA) (Kachin), MNDAA, Ta’ang National Liberation Army (TNLA), Arakan National Council (ANC), Wa National Organization (WNO) and Lahu Democratic Union (LDU) in the signing of the NCA.<sup>440</sup>

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<sup>437</sup> <http://www.mmpeacemonitor.org/peace-process/peace-process-overview> “Govt peace plan”. (19 September 2015).

<sup>438</sup> Ardetb Maung Tbawngbmung. “The Dilemmas of Burma’s Multinational Society”. 143-144.

<sup>439</sup> <http://www.mmpeacemonitor.org/images/2015/july/unfc-released-a-statement-27-july-2015-eng.pdf> “Statement on 8<sup>th</sup> Round of Talks between SD and UPWC regarding Nationwide Ceasefire Agreement (draft)”. (19 September 2015).

<sup>440</sup> <http://monnews.org/2015/09/16/govt-unaware-of-aa-mndaa-subsequent-absence-in-nca-inking-says->

UNFC is the most active ethnic union but does not represent all of the ethnic armed groups. A Non-UNFC Shan armed group named Restoration Council of Shan State/ Shan State Army (RCSS/SSA) stated why RCSS/SSA did not merge with UNFC. RCSS/SSA said that UNFC had implemented a state-based membership principle: a number of groups from Shan State have been received with separate representation.<sup>441</sup> UNFC declared between making dialogs with the Myanmar government they would stand on their own constitution called the Constitution of the Federal Republic of the Union of Burma (Second Draft).<sup>442</sup>

The borderline of Burma territories near China, Thai, and Lao were well known for the trade of opium for many years. Normally, half-Chinese half-Shan leaders lead the opium production and organized their own-armed forces. The Myanmar government has been trying to obviate the trade in opium and prohibit the production of opium. The largest opium zones became the special regions called Shan States' Special Region 4 (Mong La) in 1997, Special Region 1 (Kokang) in 2003 and Special Region 2 (Wa) in 2005. Special Region 4 (Mong La) organized National Democratic Alliance Army (NDAA).<sup>443</sup>

Moreover, one of the largest armed groups; the UWSA is a non-UNFC member. The UWSA was organized from the Communist Party of Burma (CPB) since 1989 and known as drug professionals, because of their opium, heroin and amphetamine business and their policy is coordinated with China politics and economics. UWSA are recognized as one of the ethnic minorities in Burma but their party used official language is Chinese and are the most powerful-armed group among the ethnic armed groups. UWSA has Wa Self-administered Divisions provide

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min ister-u-aung-min Chit Min Htun. "Gov't unaware of AA, MNDAA; subsequent absence in NCA inking; says Minister U Aung Min" (19 September 2015).

<sup>441</sup><http://e-archive.bnionline.net/index.php/interview/shan/12332-ssa-south-we-still-support-the-unfc.html> Burma News International, "SSA South: We still support the UNFC", (20 September 2015).

<sup>442</sup><http://www.mmpeacemonitor.org/peace-process/ethnic-peace-plan> "UNFC", (20 September 2015).

<sup>443</sup> Chouvy, *Opium Uncovering The Politics Of The Poppy*, 26-28.



in the 2008 Constitution<sup>444</sup> and operate in territories in north Shan State and east Burma on the Thai-Burma frontier. The USWA did not accept the change to the border guard force as in the Myanmar government' proposal in 2009. They would not sign NCA but participated in the peace process political talks.

Nevertheless, the government representative said that if UWSA and the National Democratic Alliance Army –Eastern Shan State (NDAA – ESS) does not sign the NCA they could lose the opportunity, as they demanded a self- administrated state. USWA refused to sign NCA and stated they have never fought with Myanmar government since 1989 required for their own self-directed state called Wa State by SLORC.<sup>445</sup>

Before independence from the British the Shan Chiefs enjoyed a traditional system that was close to feudalism. There are two rebelling Shan- armed groups named RCSS/SSA and SSPP/SSA in the Shan State but only SSPP/SSA is UNFC member.<sup>446</sup> Internally, Shan popular Shan Nationalities League for Democracy (SNLD) organized in 1988 and the Shan Nationalists Democratic Party (SNDP) formed in 2010. Two Shan political parties will stand for 2015 election.<sup>447</sup>

There are 33 different ethnic groups that have been living in the Shan States. UNFC members PaO National Liberation Organization armed group (PNLO), LDU armed group and Palaung State Liberation front/Ta-ang National Liberation Army (PSLF/TNLA) are in the Shan State and called for self-determination. The Shan armed group is not a Shan State representative

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<sup>444</sup><http://www.mmpeacemonitor.org/stakeholders/unfc/169-uwsa>. “United Wa State Party”, (20 September 2015).

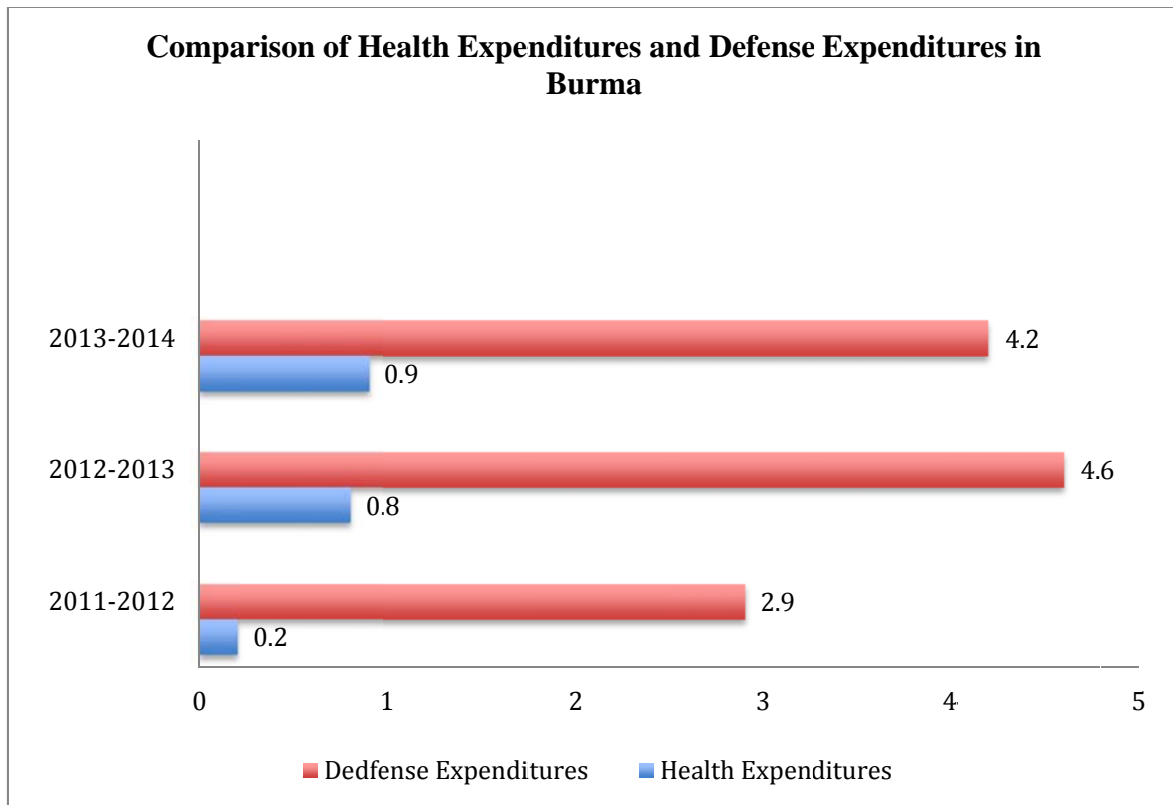
<sup>445</sup> <http://english.panglong.org/without-nca-signing-no-political-talks-for-wa/> Sai Aw. “Without NCA signing, No Political Talks for Wa” in Shan Herald Agency for News, (20 September 2015).

<sup>446</sup> Brown, *The State and Ethnic Politic in South-East Asia*, 40-41.

<sup>447</sup> Soe Than Lynn, “SNDP pushes Shan party merger; concerns that parties will split Shan vote in 2015 election, opening the way for an NLD or USDP” in the Myanmar Times. December 24-30, 2012. No. 658. 8. December. [www.mmtime.com](http://www.mmtime.com), (25 September 2015).

and UNFC did not indicate how UNFC to settle in this matter of one state with many representatives or how to decide the territories between Shan and other sub-ethnic groups such Pa-O (PNLO) Lahu (LDU) and Ta-ang (PSLF/TNLA) ethnic minorities in the Shan State. It is not only that sub-ethnic minorities are in Shan State but also they are living in each state all around of the country.

**Table 5. Comparison of Health Expenditures and Defense Expenditures in Burma (% Of GDP)**

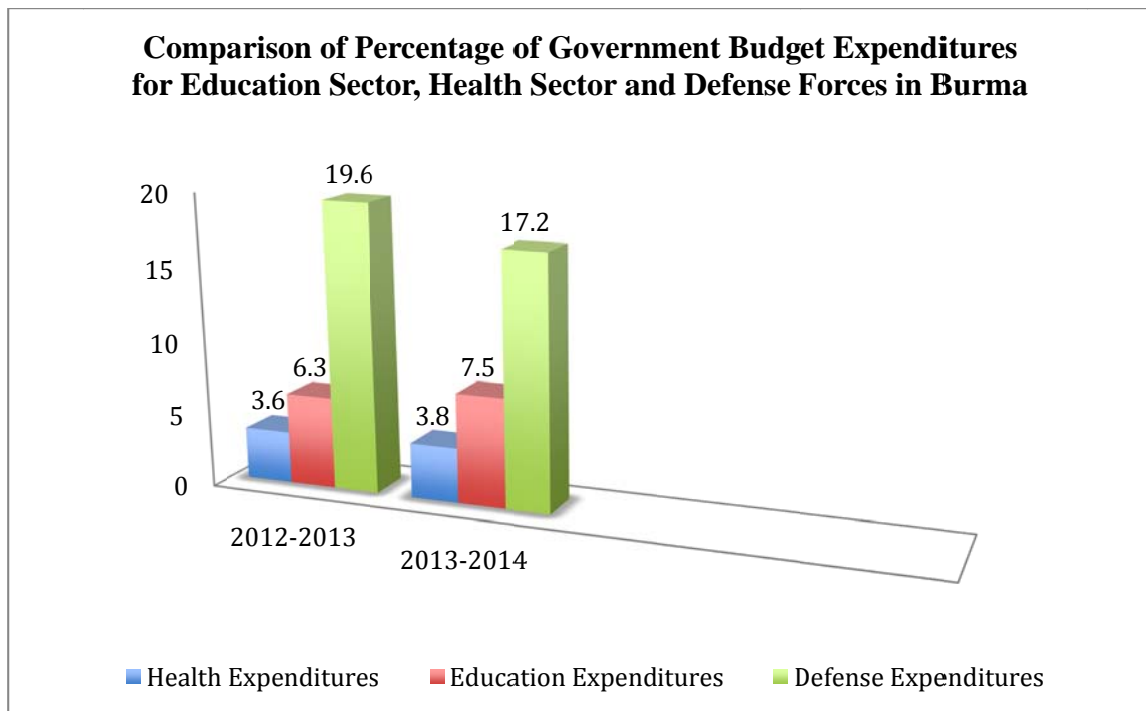


According to the World Bank Group 2013 report that was indicated in the Myanmar Economic Monitor, GDP was increased 5.1 percent in 2009/10 but grew to 7.3 percent in 2013 from the profits of exports, foreign direct investments and gas production.<sup>448</sup> There has been

<sup>448</sup>[https://www.worldbank.org/content/dam/Worldbank/document/EAP/Myanmar/Myanmar\\_Economic\\_Monitor\\_October\\_2013.pdf](https://www.worldbank.org/content/dam/Worldbank/document/EAP/Myanmar/Myanmar_Economic_Monitor_October_2013.pdf). (26 September 2015).

significant growth of GDP between 2011 to 2014. However, the Myanmar government spent the budget on defense more than education or other needs. The Myanmar government allowed 0.2 percent for education in 2011/12, but 2.9 percent was used for defense expenditures; 0.8 percent was used for education but 4.6 percent used for defense costs in 2012/13; 0.9 percent was used for education and 4.2 percent used for defense expenditures in 2013/14. (Table 5)

**6. Comparison of Percentage of Government Expenditures for Education Sector, Health Sector and Defense Forces in Burma (%Total Expenditures)**



The Myanmar government used 3.6 percent for health expenditures, 6.3 percent for education and 19.6 percent for defense expenditures in 2012-2013; and 3.8 percent for health, 7.5 percent for education and 17.2 percent for defense expenditures in 2013/14.<sup>449</sup> Subsequently, the World Bank Group 2013 reported that the Myanmar government has spent more on defense

<sup>449</sup> Ibid., 6

expenditures than education and health expenditures. Clearly, the government budgets were mostly used for the defense forces expenditures in the country. According to the UNESCO 2013 Report, Myanmar ranked lowest in the distribution of GDP for education among all the countries that spend less than 2.5% of GDP on education in the world, and the Myanmar government only used 0.78% for education in the period from 2006 to 2012.<sup>450</sup> (Table 6)

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<sup>450</sup><https://www.google.co.jp/webhp?hl=ja#hl=ja&q=10+countries+with+the+lowest+sharing+of+GDP+for+education+2012+Myanmar>. (25 September 2015). 1- 2.

## Chapter 7: Conclusions

Historically, Burma is comprised of eight major ethnic groups: the Kachin, Karanni (Kayar), Karen, Chin, Mon, Burmese /Myanmar, Rakhine and Shan. When Burma became a British colony and lost sovereignty, one major objective was to eliminate the Burmese empire and intrude in the direct administration of the new state.<sup>451</sup> The British used two methods to rule Burma: on the one hand they vanquished the monarchy and imposed direct governance; on the other they introduced representative government and formed political parties. Consequently, a parliament and party political system was adopted and influenced Burmese political culture.<sup>452</sup>

However, the parliamentary political system was abolished in 1962 by the forces of the Burmese military. They were not only greedy for power but also practiced racial and religious discrimination. Subsequently, ethnic groups have continued to struggle for their human rights through serial painful sacrifices. Currently, Burma is not only facing the issue of ethnic armed groups' conflict but also internal political reform and one major concern was the 2008 Constitution, which must be called an ongoing constitutional crisis.<sup>453</sup>

The effect of over 60 years of civil war made Burma one of the poorest countries in the world, and 26 percent of the people live with deficiencies and Burma has fallen to become weakest economic country among in the ASEAN nations.<sup>454</sup> Burma is a country with plenty of natural resources and its GDP increases every year. Normally, a country's infrastructural development depends on the growth of GDP. However, the income from natural resources are enough to a modern Burma, defense expenditure has precedence over other infrastructural needs. (see figure 5 and 6)

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<sup>451</sup> Thant Myint – U, *The Making of Modern Burma*, 4.

<sup>452</sup> Thant Myint – U, *Where China Meets : Burma and the New Crossroads of Asia*. 84.

<sup>453</sup> Farrelly, “War, Law, Politics: Reflections on Violence and the Kachin”, 309.

<sup>454</sup> Hsieh, “Does free trade matter for poverty reduction? The case of ASEAN”, 117.

The United Nations report the government of Myanmar needed to stop forcing people to move and to prevent migration to other countries. The cases of violence, violations of the human rights of women, including rape, forced labour, and trafficking have been continuing place in the ethnic areas.<sup>455</sup> After 50 years under the administration of the military Burma has become one of the most underprivileged countries in the world.<sup>456</sup> Both internal and external sources have said that the 2008 Constitution represents merely an adaptation of 1974 Constitution and remains very problematic to amend.<sup>457</sup>

There are three main branches of sovereign power called legislative power, executive power and judicial power, in Myanmar 2008 Constitution<sup>458</sup> but legislative power of the Union is shared among the Pyidaungsu Hluttaw (“Union Assembly”), Region Hluttaws and State Hluttaws. Pyidaungsu Hluttaw is a bicameral system and divided into two Hluttaws, named Pyithu Hluttaw and Amyotha Hluttaw.<sup>459</sup> Pyidaungsu means “Union” in the Myanmar language. English is used for the terms “Region” Hluttaws and “State” Hluttaws but not for the “Pyidaungsu” Hluttaw .

It is not clear why the name Pyidaungsu Hluttaw was not translated into “Union Assembly” in English. Obviously this is fundamental to understand the system of the three branches of sovereign power sharing.

For the Burmese ethnic groups who need to understand the structure of legislative power sharing in the Myanmar 2008 Constitution, the first thing that needs to be done is that these divisions need to be translated into their mother languages and into the Myanmar language. A further complication of this is that there are 135 races in Burma, and yet the Myanmar language is the only official language.<sup>460</sup> Non-Burmese also need to understand in their mother languages the

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<sup>455</sup> United Nation, “Human Rights” in *Yearbook of the United Nations 2001*, 727.

<sup>456</sup> Gavin Graham, *Frontier Markets For Dummies*, 316.

<sup>457</sup> Liow & Leifer, “Constitution 2008 (Myanmar)”, 132.

<sup>458</sup> Constitution of the Republic of the Union of Myanmar 2008, 4.

<sup>459</sup> *Ibid.*, 27.

<sup>460</sup> *Ibid.*, 179.

fundamentals of federalism i.e. the system of power sharing, balance powers and the prevention of one person, or one group, or one organization from holding power for any reason in their mother languages.

Burmese ethnic groups have been struggling for self-determination and human rights through a long and tragic history. Internal political matters such as the design of the 2008 Constitution and use of international economic supporting force to end the civil wars have blocked these aspirations. The 2008 Constitution cannot guarantee the self-determination that the ethnic majority and minorities aspire to. Yet, the issue of federalism is absent from overt political debate, and seems not to be attracting the interest of people in Burma even in a nominally “free” press all of the media.

The ethnic armed groups’ representative; (UNFC) is insufficient for the task of catching the international community’s attention, which is needed to publicizes broadcast ongoing unequal, undemocratic and oppressive measures to the world. There have been no published articles even mentioning the concept of federalism in the government newspapers, local privately owned newspapers, nor the Burmese main political party NLD issued Journals.

NCCT and UPWC met and negotiated for NCA from March 10, 2014. Nevertheless, through 86 peace talks from 2014 to 2015, armed clashed occurred 368 times and refugees increased from 10,700 in 2014 to 104,000 in 2015.<sup>461</sup> Even though the Myanmar Government has committed uncountable crimes in the ethnic territories,<sup>462</sup> the international community including the large number of actors involved in the peace process in Burma could not prevent this situation. The Myanmar government seemed to have no idea how to achieve what the ethnic armed groups demanded to become a federal union country, but most likely they just acted in bad faith and had no intentions of transitory to any meaningful form of federalism or democracy.

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<sup>461</sup> <http://www.mmpeacemonitor.org/research/monitoring-archive>. (25 September 2015).

<sup>462</sup> <http://www.mmpeacemonitor.org/conflict/human-rights-violations>. (25 September 2015).

Democracy icon, Burmese Human-Rights Activist and Nobel Peace Prize Winner, Aung San Suu Kyi and her party the National League for Democracy (NLD) have been struggling for a transformation to a democratic nation.<sup>463</sup>NLD's Shwegondine Declaration of April 29, 2009, details its priorities as:

- (a) Unconditional release of all political prisoners
- (b) Review of the Draft Constitution (2008)
- (c) Freedom to form organizations
- (d) Recognition of the result of the Multi Party Democracy General Election (1990)
- (e) Political Dialogue

NLD considered the present political issues of the utmost necessity: the release of all political prisoners; the constitution has to be promulgated based on the attitude of equality for all races, acknowledgment of the results of the 1990 election. NLD demonstrates the attitude of government by the people in all situations. Burmese issues will not be resolved without free and fair elections and equal rights. No one can achieve political stability and the advance of the country without addressing these issues. Aung San Su Kyi stated:

“We have repeatedly stated that the NLD would negotiate flexibly to get beneficial outcomes for the people of Burma. Nevertheless, such dialogues should not aim for the good of the NLD nor should they aim for the benefit of the authorities. Only the interest of the people of Burma should be targeted”.<sup>464</sup>

Aung San Suu Kyi and NLD stood for the 2012 middle election and got 44 of the 45

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<sup>463</sup> Testa, “Aung San Suu Kyi”, 84.

<sup>464</sup> <http://ja.scribd.com/doc/15232284/20090429-NLD-Shwegondine-Declaration> “Shwegondine Declaration”, (23 September 2015).



seats in the Union Parliament.<sup>465</sup> The first objective of the NLD was the amendment of the 2008 Constitution and there were discussions in parliament (Hluttaw). Issues to be amended included, Chapter 3, The President and Vice-Presidents article 59 (f) and Chapter 12, Amendment of The Constitution 436 (a), (b).<sup>466</sup> According to the 2008 Constitution, Article 59 (f)<sup>467</sup> is the criterion of the presidency that restricts Aung San Suu Kyi from being president in Burma because her two sons are not Myanmar citizens<sup>468</sup> (see Appendix 21). To amend the Myanmar 2008 Constitution, Article 436 states, more than 75 percent of all representatives' votes of the Pyidaung su Hluttaw are required and a nation-wide referendum is to be held with the votes of more than half of those eligible votes are necessary<sup>469</sup> (see Appendix 22). Nevertheless, NLD came for the 2015 elections and to attempt to amend the constitution.

The undemocratic Myanmar 2008 Constitution has permitted the military to retain power in many important ways. Even if Burma's most popular leader, Aung San Suu Kyi, can form a government and rule the country, the essential for country is to create a democratic constitution to transform Burma into a federal country as the ethnic people wish. The fundamentals of federalism are essential to practice in Burma, the general characteristic of federalism is sharing power and to safeguard against would be dictators.

For the principles of the US Constitution, the Indian Constitution adds the key concept of preservation of minority languages and cultures against influence of a majority. Burma / Myanmar might learn how India Constitution states:

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<sup>465</sup> Min Zin & Joseph, "Burma: The Democrats' Opportunity" in *Democracy in East Asia: A New Century*, 212.

<sup>466</sup> Constitution of the Republic of the Union of Myanmar 2008, 173.

<sup>467</sup> Ibid.,20.

<sup>468</sup> Kaplan, *Democracy: A world history*, 124.

<sup>469</sup> <http://www.mmtimes.com/index.php/national-news/15130-constitution-vote-will-not-affect-election-decision-nld.html>. Ei Ei Toe Lwin. "Constitution vote will not affect election decision: NLD", (24 September 2015).

(1) Any section of the citizens residing in the territory of or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.<sup>470</sup>

Moreover, Article 30 states as:

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institution, discriminate against any educational institution, on the ground that it is under the management of a ministry, whether based on religion or language.<sup>471</sup>

According to the Constitution, Article 29 and 30, minorities can establish schools and colleges with guarantees against discrimination. Moreover, Article 350 A protects the other mother languages as:

It shall be the endeavor of every state and every local authority to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups.<sup>472</sup>

Rendering to the 2001 Census reported India has 122 languages, 1575 mother dialects and 14 main handwritings but India was able to create a democratic country and practices a federal system.<sup>473</sup> India overcame political crises and made the chance for the nation to recognize the fundamentals of democracy and federalism. Moreover, not only the leader's ability can promote achievements in political structure but also the nation's reorganization and participate in these

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<sup>470</sup> Ghosh, *Government And Politics*, 71.

<sup>471</sup> Revankar, *The Indian Constitution – A Case Study of Backward Classes*, 246.

<sup>472</sup> Ghosh & Mohan, *Education in Emerging n Society; The Challenges and Issues*. 69-70.

<sup>473</sup> Williams, Colin H., *Minority Language Promotion, Protection and Regulation*. 13.

proposals are necessary. India was able to overcome gaps between the government and nation and built a mutual trust through a democratic constitution that was effective in establishing federal country. It is essential to improve the education of nation to help everyone to understand the values of the political culture and political standards can then be transferred to external country. The Indian Constitution affords a federal system and not only defines the power of each structure, but divides the responsibilities and is superior to all principles of the country (see Appendix 2).

The Ethiopian Constitution is not only a balance, sharing powers, but also guarantees social structures including the right of languages<sup>474</sup>. Scholars explained the sharing of powers in the Ethiopian Constitution based on the nations, nationalities and peoples.<sup>475</sup> Ethiopian 1995 Constitution states sovereignty of the people in Chapter 2, Article 8 as:

1. All sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia.
2. This Constitution is an expression of their sovereignty.
3. Their sovereignty shall be expressed through their representatives elected in accordance with this Constitution and through their direct democratic participation.<sup>476</sup>

The Ethiopian Constitution is based on the fundamentals of democracy; people can participate and elect their representatives. Moreover, the democratic constitution gave the people sovereignty and this constitution promises all of the ethnic groups. Self-determination as in Chapter 5, Article 5, gives states the authority to practice residual rights<sup>477</sup> Ethiopia was successful in transforming from military dominated country to a federal system of government. One of the

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<sup>474</sup> Abebe, *Federalism Studies; The Last Post-Cold War Socialist Federation; Ethnicity, Ideology and Democracy in Ethiopia*, 69.

<sup>475</sup> Dersso, "The Case of Ethiopian's Ethnic Federalism", 200.

<sup>476</sup> <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf>. (28 October 2015)

<sup>477</sup> Dersso, "The Case of Ethiopian's Ethnic Federalism", 200.

characteristics of the Ethiopian Constitution is people can learn their own languages.<sup>478</sup>

Ethiopia is a country with a great population, multiple cultures and great religious traditions but constitution allows citizens the right to select languages themselves to promote their traditional culture and mother languages,<sup>479</sup> even though Ethiopia has more than 250 languages, the Ethiopia constitution based on federalism and people promote their own cultures and civilization.<sup>480</sup> The structure of Ethiopian federalism is not founded on the generally accepted standards of democracy but the principles were influenced by the socialist system. Many scholars cannot accept the Ethiopian federalism as a standard model.

One of the objectives of the Ethiopian Constitution states that to make peoples privileged in profitable and social advance, Ethiopia has been practicing sharing of profits to local governments. Ethiopian socio-economic system seemed to work and guarantee economic stability for the nation<sup>481</sup> but restrictions to verify civilizations and societies in Chapter 10, Article 91. (see Appendix 23)

Furthermore, there are two Houses of Parliament named; the House of People's Representatives (HPR) and the House of the Federation (HoF) in Chapter 6, Article 53. The legislative power is invested in the HPR<sup>482</sup> and according to the Article 62, HoF has full authority to conclude constitutional quarrels. (see Appendix 24) Ethiopian Peoples Revolutionary Democratic Front (EPRDF) is the most powerful party in Ethiopia and controls the country with the slogan of "revolutionary democracy".

International forces could make the Myanmar government practice federalism. However, left to its own devices this government will seek a status preserving subordination of the fundamentals of any such system into some version of the "Burmese Way to Socialism" or

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<sup>478</sup> Ibid., 211.

<sup>479</sup> Brass, *Language, Religion and Politics in North*, 200.

<sup>480</sup> Heinonen, "Ethiopia", 17 - 19.

<sup>481</sup> Ibid., 212-213.

<sup>482</sup> Ibid., 204-205

“discipline-flourishing democracy”. Furthermore, if the government wants to prevent minorities from asserting the right of secession, they need to establish a federal state allowing some degree of autonomy in which Myanmar government includes real representation of all groups to participate and practice together a system of federalism, wherein the people might determine what is best for themselves under the fundamentals and values of federalism.

Even though imbalances there are 8 major ethnic groups but there are sub-ethnic groups in Burma. If there is unbalance between the federal states, it will cause instability between the federal state and sub-ethnic minorities might lose their prosperity and human dignity again. There is one best hope to maintain the values of democracy and federalism and that is to make people, to concern them on a daily basis to participate in a flawed political process by demonstrating that the process contains viable mechanisms for its own improvement.

Federalism is the best treatment for the chronic policy deficiencies of Burma, and is the first step that is necessary to establish a democratic constitution that can guarantee rights for all of the people. The way to work out a solution with representatives might refer to the American Constitution Article 5, which states “Each state in the US federation, no matter how large or small its population, receives the same member of seats in the Senate, and one person one vote system as the base of the democratic standard.”<sup>483</sup>

The principles of federalism are fundamental to social stability and important in achieving the guarantee of continued stability. The ideology of federalism must function under a democratic constitution. Federalism is having a system of government in which individual states of a country have to maintain over their own administrations, but divides powers, shares sovereignty, divides territorial jurisdictions, and diversifies the allocation of powers to increase people’s choices. A federal system intends to prevent tyrannical or majoritarian government by one group, and creates checks and balances on the exercise of authority between central

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<sup>483</sup> Orth & Newby, *The North Carolina State Constitution*, 97.

government and local governments.

The British have some responsibility for the Burmese ethnic armed groups' conflicts and without the attempts of the international community the forces might not easily get a chance for the self-determination that the ethnic groups aspire to. One possible way that can be imagined to achieve self-determination is that the ethnic groups adopt the tactic of the Ethiopian-Eritrea succession and make a claim to the international community for independence in the United Nations.

Unfortunately, the nation of Burma is in fear of both the wave of Muslims in the west and the influence of China within Burma. Significantly, the influence of the unstable political situation has increased with the Muslim Bengali (they call themselves Rohingyas) and the Buddhist Rakhine in the west of Burma. China is not only one of the major trading partners with Burma but also has been a backer of the Myanmar government against international trade sanctions and indirectly interfered in Burmese politics. Global Witness Report 2003 mentioned that countless amount of Burmese natural resources were sold illegally to China.<sup>484</sup> Moreover, according to the UN Interagency Project of Human Trafficking (UNIAP), there is greater illegitimate migration to China and 70% of Burmese women emigrated from Burma are facing forced marriage and the income made profits for their families.<sup>485</sup>

Myanmar military power in Burma has been entrenched in Burma for nearly seven decades. Not only the defense services hold it responsible for safeguarding the non-disintegration of the Union, the non-disintegration of national solidarity and the perpetuation of sovereignty but it also styles itself as the main entity responsible for safeguarding the Constitution.<sup>486</sup> This phrase seems possible justification for the military to seek any further reason to control and dominate the

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<sup>484</sup> Lall, "Internal Conflict, External Influence: The Case of Myanmar<sup>1</sup>", 283.

<sup>485</sup> Szablewska & Bradley, "Social Justice Within Transitional Justice: The Case of Human Trafficking and Sex-Work in Cambodia and Myanmar", 278-279.

<sup>486</sup> Constitution of the Republic of the Union of Myanmar 2008.6.

country given any perceived external or internal threat to stability, or even just to its own power.

Ethnic leaders are sympathetic to development of federalism and it will be develop in Burma. In particular future conflict between military and ethnic minority groups seeking increased autonomy under a federal model seems unavoidable as long as the military retains its current pivotal position of power over constitutional changed. It seems improbable that the Myanmar military will continue to control the power with some way and ethnic groups can practice to achieve a federal state within the legal limit.

The national reconciliation still appears incredible unlikely: it depends on the prospect of peaceful engagement between the military and ethnic armed groups. The influence of military power has been continuing and problematic the Myanmar 2008 Constitution serving to guarantee further protection of military power.

Consequently, if civil government and ethnic armed groups cannot move the military power, the Burmese federation will closely resemble the Ethiopia Federalism in that one powerful one party will effectively control the country. The authority of the nation is limited by the military and any model of federalism that might be devised could be fundamentally at odds with the usually accepted principles of such systems.

However, ethnic armed groups could not combine as a multi alliance both strong political power and military power between them selves. Their inability to effectively present their goals to the international community would mean Burmese civil war would become the focus of international attention. Most of the ethnic armed groups did not express their political standard to their same ethnic groups and some sub-groups just interested to focus to get self-administration as Wa, Kakan and PaO, Ta-ang in Shan State.

There were many negotiated cease-fire agreements between the Myanmar government and ethnic armed groups but both sides broke these agreements. The ethnic armed groups could not make a strategy to gain both international and internal trust by respects cease-fire agreements

efforts. Consequently, cease-fire agreements alone could guarantee to protect the people. First, the ethnic-armed groups need both internal and international recognition of their objectives concerning the need for self-determination and federal states in Burma.

Second, it is essential to determine and move to measure the illiteracy rates of the different ethnic groups and focus how to make ethnic groups understand the fundamentals, limits and benefits of democracy and federalism. The value of the understanding the principles of democracy and federalism will make people elect representatives and participate in a political system with a clear view of what may ultimately be achieved through such means.

Third, the ethnic armed groups need to make strong agreement with the Myanmar government to enable the right of secession, if power imbalances or limits on self-determination cannot be overcome; but international support are necessary. The Myanmar military has historically had only one purpose namely, to dominate minority groups, but the ethnic armed groups have changed their decision according to the political course of action, having lost their arms in accordance with the Myanmar government process.

However, the right of secession also could create many problems regarding the wave of Muslim Bengali immigrants and influence of China. The sub-ethnic groups have to recognize that prioritizing their own self-administrations is like the British policy that divides and rule the country. It will have the effect of maintaining the Myanmar military's excuse to continue to rule the country. A genuinely democratic federal system can allow all of the people to live in peace and benefit from their natural resources. Burma is 135 ethnic groups would have no need for secession or to call for self-administration and divide into 135 countries, if they can invest the fundamentals of genuine democracy and federalism.



## Appendices

### Appendix 1.

#### **The Bill of Rights: Ten Amendments**

**First** Freedom of religion, speech, the press, assembly(meeting), and petition

**Second** The right to bear arms (guns)

**Third** During peacetime, citizens cannot be forced feed and house soldiers

**Fourth** People and homes cannot be searched without a good reason

**Fifth** People accused of crimes must be treated fairly

**Sixth** The right to a speedy, public, and fair trial

**Seventh** The right to a jury trial

**Eighth** Punishment may not be cruel and unusual

**Ninth** Americans have other rights, even if they are not listed in the Bill of Rights

**Tenth** The U. S. government has only the powers listed in the Constitution<sup>514</sup>

### Appendix 2.

#### **Indian Constitution**

“It will be noticed that while Cause (1) protects the language, script or culture of a section of the citizens, Clause (2) guarantees the fundamental right of an individual citizen. The right to get admission into any educational institution of the kind mentioned in Clause (2) is a right which an individual citizen has a citizen and not as a member of any community or class of citizens. This right is not to be denied to the citizen on grounds only of religion, race, caste, language or any of them. If a citizen who seeks admission in any such educational institution has not the requisite academic qualifications and is denied admission on that ground he certainly cannot be heard to complain on that ground he certainly cannot be heard to complain of an infraction of his fundamental right under this article. But, on the other hand, if he has the academic qualifications but is refused admission only on grounds of religion, race, cast, language or any of them, then there is a clear breach of his fundamental right.” Thus, the purpose of Clause (4) is to bring Article 15 and

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<sup>514</sup> Sally Senzell Isaacs. *Understanding the Bill of Rights*. New York; Crabtree Publishing Company. 4-5.

29 in conformity with Articles 16 (4), 46 and 340 so as to make it constitutional for the State to reserve seats in educational institutions for the advancement of socially and educationally backward classes of citizens and Scheduled Castes and Scheduled Tribes. It harmonizes the fundamental right of citizens with the claim of social good. In fact, the amendment has completed the code of equality into a triangle, coordinating Articles 14 to 16, which embody the essence of classless egalitarianism envisaged by the Father of the Nation.”<sup>515</sup>

### **Appendix 3.**

#### **Ethiopian Constitution**

1. Every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession.
2. Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language, to express, to develop and to promote its culture; and to reserve its history.
3. Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government that includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in State and Federal governments.
4. The right to self-determination, including the secession of every Nation, Nationality and People shall come into effect.
5. When demand for secession has been approved by a two-thirds majority of the Members of the Legislative Council of the Nation; Nationality or People concerned.
6. When the Federal Government has organized a referendum, which must take place within three years from the time it received the concerned council’s decision for secession.
7. When the demand for secession is supported by majority vote in the referendum.
8. When the Federal Government will have transferred its power to the council of the Nation, Nationality or People who has voted to secede.

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<sup>515</sup> Shashi Nath Saraswati. *Right to Equality in the Indian Constitution: A Gandhian Perspective*. New Delhi, India: Concept Publishing. 188.

9. When the division of assets is effected in a manner prescribed by law.
10. A 'Nation, Nationality or People' for the purpose of this Constitution, is a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identifiable, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.<sup>516</sup>

#### **Appendix 4.**

### **The 1947 Burmese Constitution**

#### **Preamble**

We the people of Burma including the Frontier Areas and the Karenni States, Determined to establish in strength and unity a Sovereign Independent State, to maintain social order on the basis of the eternal principles of Justice, Liberty and Equality and to guarantee and secure to all citizens justice social, economic and political; liberty of thought, expression, belief, faith, worship vocation, association and action; equality of status, of opportunity and before the law, In Our Constituent Assembly this Tenth day of Thadingyut waxing, 1309 B. E. (Twenty fourth day of September, 1947 A. D.). Do Hereby Adopt, Enact And Give To Ourselves This Constitution.

#### Chapter I, Article 4.

All powers, legislative, executive and judicial, are derived from the people and are exercisable on their behalf by, or on the authority of, the organs of the Union or of its constituent units established by this Constitution.

#### Chapter X Right Of Secession

201. Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed.

202. The right of secession shall not be exercise within ten years from the date on

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<sup>516</sup> Michael Burgess. "Multinational Federalism in Multinational Federation" in *Multinational Federalism: Problems and Prospects*. New York: Palgrave Macmillan. 30.

which this Constitution comes into operation.

203. (1) Any State wishing to exercise the right of secession shall have a resolution to the effect passed by its State Council. No such resolution shall be deemed to have been passed unless not less than two-thirds of the total number of members of the State Council concerned have voted in its favor.

(2) The Head of the State concerned shall notify the President of any such resolution passed by the Council and shall send him a copy of such resolution certified by the Chairman of the Council by which it was passed.

204. The President shall thereupon order a plebiscite to be taken for the purpose of ascertaining the will of the people of the State concerned.

205. The President shall appoint a Plebiscite Commission consisting an equal number of members representing the Union and the State concerned in order to supervise the plebiscite.

206. Subject to the provisions of this Chapter, all matter relating to the exercise of the right of secession shall be regulated by law.<sup>517</sup>

## **Appendix 5.**

### **The 1974 Burmese Constitution**

#### **Preamble**

We, the people residing in the Socialist Republic of the Union of Burma have throughout history lived in harmony and unity sharing joys and sorrows in weal or woe.

The people of the land have endeavoured with perseverance and undaunted courage, for the attainment of independence, displaying throughout their struggles for national liberation against imperialism an intense patriotism, spirit of mutual help and sacrifice and have aspired to Democracy and Socialism. After attaining independence, the power and influence of the feudalists, landlords, and capitalists had increased and consolidated due to the defects in the old Constitution and the ill-effects of capitalistic parliamentary democracy. The cause of Socialism came under near eclipse.

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<sup>517</sup><http://displacementsolutions.org/wp-content/uploads/THE-CONSTITUTION-OF-THE-UNION-OF-BURMA-19483.pdf>. 10 August 2015.

We, the working people, firmly resolved that we shall faithfully follow the leadership of the Burma Socialist Programme Party, build a socialist economic system by the Burmese Way to socialism, for the country to be peaceful and prosperous, opposing all pernicious systems characterized by exploitation of man by man, and of one national race by another, with a view to promoting justice and goodwill among the people, and to freeing them from apathy and callousness, ignorance, backwardness and want of opportunity, build a socialist democratic social order which will afford an opportunity to the people to shape their own destiny, by the Burmese Way to Socialism.

#### Article 12

The sovereign powers of the State, legislative, executive and judicial reside in the people, comprising all national races whose strength is based on peasants and workers. The Pyithu Hluttaw[1]1, elected by citizens having the right to vote, exercises the sovereign power invested in it by the people and delegates to Organs of State Power in accordance with this Constitution.<sup>518</sup>

#### **Appendix 6.**

##### **7-steps Road Map**

1. Reconvening of the National Convention that has been adjourned since 1996;
2. After the successful holding of the National Convention, step by step implementation of the process necessary for the emergence of a genuine and disciplined democratic state;
3. Drafting of a new constitution in accordance with basic principles and detailed lay down by the National Convention;
4. Adoption of the constitution through national referendum;
5. Holding of free and fair elections for Phithu Hluttaw (Legislative bodies) according to the new constitution.
6. Convening of Hluttaw attended by Hluttaw members in accordance with new constitution;
7. Building a modern, developed and democratic nation by the state leaders elected

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<sup>518</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> 4 August 2015.

by the Hluttaw.<sup>519</sup>

However, to implement the Road Map, following of the basis principles were essential for holding of the National Convention. The six objectives are:

1. Non-disintegration of the Union;
2. Non- disintegration of National Solidarity;
3. Perpetuation of Sovereignty;
4. For a genuine multi-party democracy system to flourish;
5. For values such as justice, liberty and equality to flourish;
6. For the Tatmadaw to be able to participate in national political leadership role of the future State.<sup>520</sup>

## **Appendix 7.**

### **The 2008 Myanmar Constitution 2008**

#### **Preamble**

In order to gain independence speedily, the Constitution Assembly on 24<sup>th</sup> September 1947. After attaining independence, Parliamentary Democracy System was practiced in the State in accord with the Constitution of the Union of Myanmar. However, as democratic system could not be effectively materialized, the new Constitution of the Socialist Republic of the Union of Myanmar was drafted based on the single party system, and after holding a National Referendum, a socialist democratic State was set up in 1974. The Constitution came to an end because of the general situation occurred in 1988. Later, due to public aspirations, the State Peace and Development Council made efforts to adopt multi-party democratic system and market economy in accord with the National situation. We, the National people, firmly resolve that we shall: steadfastly adhere to the objectives of non-disintegration of the Union, non-disintegration of national solidarity, and perpetuation of sovereignty; stalwartly strive for further burgeoning

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<sup>519</sup> Kevin Y. L. Tan. “Constitutionalism in Burma, Cambodia and Thailand Developments in the first decade of the twenty-first century” in *Comparative Constitutional Law and Policy; Constitutionalism In Asia In The Early Twenty-First Century*. United Kingdom: Cambridge University Press. 224.

<sup>520</sup> International Business Publications, USA Washington DC, USA-Myanmar. *Myanmar (BURMA); Company Laws And Regulations Handbook*. USA: International Business Publications. 29.

the eternal principles namely justice, liberty, equality and prosperity of the National people; uphold racial equality, living eternally in unity fostering the firm Union Spirit of true patriotism; constantly endeavor to uphold the principles of peaceful co-existence among nations with a view to having world peace and friendly relations among nations.

Chapter I Article 4

The Sovereign power of the Union is derived from the citizens and is in force in the entire country.<sup>521</sup>

## **Appendix 8.**

### **The Burmese 1947 Constitution**

Chapter 1,

Article 2.

(i) all the territories that were heretofore governed by His Britannic Majesty through the Governor of Burma, and (ii) the Karenni States.

Article 4.

All powers, legislative, executive and judicial, are derived from the people and are exercisable on their behalf by, or on the authority of, the organs of the Union or of its constituent units established by this Constitution.

Article 5.

The territories that were heretofore known as the Federated Shan States and the Wa States shall form a constituent unit of the Union of Burma and be hereafter known as “the Shan State”.

Article 6.

The territories that were heretofore known as the Myitkyina and Bhamo Districts shall form a constituent unit of the Union of Burma and be hereafter known as “the Kachin State”.

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<sup>521</sup> Constitution of the Republic of the Union of Myanmar (2008). Myanmar: Ministry of Information.

## Article 7.

The territories that were heretofore known as the Karenni States, viz., Kantarawaddy, Bawlake and Kyebogyi shall form a constituent unit of the Union of Burma and hereafter known as “the Karenni State”.

## Chapter 10,

### Article 201 to 206

#### The Right of Secession

201. Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed.

202. The right of secession shall not be exercised within ten years from the date on which this Constitution comes into operation.

203. (1) Any State wishing to exercise the right of secession shall have a resolution to that effect passed by its State Council. No such resolution shall be deemed to have been passed unless not less than two-thirds of the total number of members of the State Council concerned have voted in its favour.

(2) The Head of the State concerned shall notify the President of any such resolution passed by the Council and shall send him a copy of such resolution certified by the Chairman of the Council by which it was passed.

204. The President shall thereupon order a plebiscite to be taken for the purpose of ascertaining the will of the people of the State concerned.

205. The President shall appoint a Plebiscite Commission consisting an equal number of members representing the Union and the State concerned in order to supervise the plebiscite.

206. Subject to the provisions of this Chapter, all matter relating to the exercise of



the right of secession shall be regulated by law.<sup>522</sup>

## **Appendix 9.**

### **The Burmese 1974 Constitution**

Chapter 1,

Article 4

National sovereignty shall reside in the entire State.

Chapter 2,

Article 12

The sovereign powers of the State, legislative, executive and judicial reside in the people.<sup>523</sup>

## **Appendix 10.**

### **The Myanmar 2008 Constitution**

Chapter 1,

Article 4.

The Sovereign power of the Union is derived from the citizens and is in force in the entire country.

Article 6. Basic Principles

The Union's consistent objectives are:

- (a) non-disintegration of the Union;
  - (b) non-disintegration of National solidarity;
  - (c) perpetuation of sovereignty;
  - (d) flourishing of a genuine, disciplined multi-party democratic system;
  - (e) enhancing the eternal principles of Justice, Liberty and Equality in the Union
- and;

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<sup>522</sup><http://displacementsolutions.org/wp-content/uploads/THE-CONSTITUTION-OF-THE-UNION-OF-BURMA-19483.pdf> 23 August 2015.

<sup>523</sup> <http://www.burmalibrary.org/docs07/1974Constitution.pdf> 24 August 2015.

(f) enabling the Defense Services to be able to participate in the National political leadership of the State.

Article 7.

The Union practices genuine, disciplined multi-party democratic system.<sup>524</sup>

## **Appendix 11.**

### **The Myanmar 2008 Constitution**

Chapter 1

Article 20 (e)

The Defense Services is mainly responsible for safeguarding the non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty.<sup>525</sup>

## **Appendix 12.**

### **The Myanmar 2008 Constitution**

Chapter 8

Article 383

Every citizen has the duty to uphold: (a) non-disintegration of the Union; (b) non-disintegration of national solidarity; (c) perpetuation of sovereignty.<sup>526</sup>

## **Appendix 13.**

### **The Myanmar 2008 Constitution**

Chapter 10

Article 404

A political party shall: (a) set the objective of non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty.<sup>527</sup>

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<sup>524</sup> Constitution of the Republic of the Union of Myanmar 2008. Myanmar: Ministry of Information. 4.

<sup>525</sup> Ibid., 6.

<sup>526</sup> Ibid., 155.

<sup>527</sup> Ibid., 163.

## **Appendix 14.**

### **The Myanmar 2008 Constitution**

#### **Provisions on State of Emergency**

##### Chapter 11

##### Article 417

If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after coordinating with the National Defense and Security Council, promulgate an ordinance and declare a state of emergency, it shall be stated that the area where the state of emergency in operation is the entire Nation and the specified duration is one year from the day of promulgation.

## **Appendix 15.**

### **The Myanmar 2008 Constitution**

#### **Provisions on State of Emergency**

##### Chapter 11

##### Article 418 (a)

If the matter concerning the declaration of the state of emergency according to Section 417, the President shall declare the transferring of legislative, executive and judicial powers of the Union to the Commander-in-Chief of the Defense Services to enable him to carry out necessary measures to speedily restore its original situation in the Union. It shall be deemed that the legislative functions of all Hluttaws and leading bodies shall be suspended from the day of declaration. It shall also be deemed that on the expiry of the term of the said Hluttaws, the relevant Hluttaws have been dissolved automatically.

## **Appendix 16.**

### **The Myanmar 2008 Constitution**

#### **Provisions on State of Emergency**

## Chapter 11

### Article 419

The Commander-in-Chief of the Defense Services to whom the sovereign power has been transferred shall have the right to exercise the powers of legislature, executive power and judiciary. The Commander-in-Chief of the Defense Services may exercise the legislative power either by himself or by a body including. The executive power and the judicial power may be transferred to and exercised by an appropriate body that has been formed or a suitable person.

### **Appendix 17.**

#### **UNFC Statement Condemning Myanmar Tatmadaw for Launching Strategic Offensives in Kachin State and Northern Shan State (23 April 2014)**

1. We, the UNFC, strongly condemn Myanmar Tatmadaw (Myanmar/Burma Armed Forces) as its massive military offensives, since early April in the Kachin State and Northern Shan State, against the KIA, TNLA and SSA (N) forces, assume the form of a general strategic offensive.
  2. Of the Myanmar Tatmadaw's divisional military units, Divisions 22 and 44 are left in the Karen and Mon States, and Divisions 11, 33, 55, 66, 77, 88 and 99 have been deployed in the above mentioned regions, and as they are conducting joint military operations with the local military units from North-East Command, Northern Command, MOC 16 and 21, we see that an overwhelming force is being used.
  3. As Myanmar Tatmadaw has used, positioned and deployed an overwhelming force with the aim of encircling and annihilating the KIA, KNLA and SSA (N) forces, battles have taken place and likely to take place, in several places. As refugees in endless number have to flee from their hearths and homes, and "crimes", including human rights violations and sexual violence are reported daily, we, the UNFC, feel greatly concerned, in addition to being appalled.
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1. At a time especially when negotiation is being conducted systematically by representatives of the Union Government of Myanmar/Burma and the ethnic armed resistance organizations for "Nationwide Ceasefire Agreement," the government's attempt to use military force for resolving problems is a thing,

which should never be done, and we, the UNFC would like to warn that the action would be like breaking up into pieces the understanding and trust gained, at every step of the negotiation.

2. For that reason, we, the UNFC, would like to prod the government to pull out its military forces deployed in the regions mentioned above, which are conducting or preparing to conduct major military offensives, and let us continue undertakings until nationwide ceasefire agreement is reached, political dialogues are held and political agreements are achieved, for the establishment of lasting and honorable peace for the future Federal Union.

(In accordance with decision of the UNFC extended Executive Committee meeting held on April 21 – 22, 2014)

April 23, 2014 Central Executive Committee United Nationalities Federal Council<sup>528</sup>

#### **Appendix 18.**

#### **UNFC Statement (Ref. – 012/Na-Pha Ka Ba/2014) April 30, 2014.**

The government led by President U Thein Sein issued letter Nr. 1/2011, dated August 18, 2011, inviting us for peace talks. Almost immediately, we, the United Nationalities Federal Council (UNFC) replied by sending a letter saying that we agreed and were ready for peace talks, a delegation had been selected and given the duty for the purpose.

However, the Union Peace-Making Work Committee (UPWC), instead of holding talks with the UNFC - the alliance of the ethnic armed resistance organizations - held talks separately with individual organizations and signed separately the so-called state-level ceasefire agreements, regional-level ceasefire agreements and union-level ceasefire agreements. In that process, it had signed preliminary ceasefire agreements with 6 member organizations of the UNFC.

Starting from the end of 2012, the government negotiation team, (UPWC), held talks with the UNFC delegation for a number of times, and then the two sides

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<sup>528</sup>[http://www.mmpeacemonitor.org/images/pdf/20140423\\_unfc\\_statement\\_condemning\\_govt\\_army\\_for\\_launching\\_strategic\\_offensive\\_eng.pdf](http://www.mmpeacemonitor.org/images/pdf/20140423_unfc_statement_condemning_govt_army_for_launching_strategic_offensive_eng.pdf)

endeavored to compile a “Nationwide Ceasefire Agreement,” for signing. In that endeavor, broad-based conferences of the ethnic armed resistance organizations, including the non-UNFC members, were held twice - once at the KIO Laiza Headquarters and another time at Law Khee Lar, in the area of the KNU. A team for consultation and coordination team, known as the Nationwide Ceasefire Coordinating Team (NCCT) was formed, and for not less than four times, it has held consultation meetings with the UPWC, in order to produce a draft of “Nationwide Ceasefire Agreement”.

With the endeavor of the two sides, a Single Text draft was obtained at the latest consultation meeting held at the MPC from April 5 to 8, 2014. However, we found that the government side was still not ready to accept inclusion, in that draft, the basic principles such as – establishment of a Federal Union, according the rights of equality and self-determination to member states based on the Nationalities of the Union etc. On the other hand, the desire by the other side to force us to submit to the laws in force, including the 2008 constitution, and the one-sided insistent proposal of the roadmap requiring continuation of the “political dialogue” only after entering the “legal fold” was a condition impossible for the UNFC and the ethnic armed resistance organizations to accept.

At a time when intense negotiation was in progress and more intense negotiation was necessary, the UNFC demands the immediate cessation of military offensives by Myanmar Tatmadaw with overwhelming force in the areas of KIO/KIA, SSPP/SSA (N) and PSLF/TNLA, threatening the UNFC member organizations by deploying a disproportionately large military force, human rights violations against the civilian populations and ignoring the resolution of political problems by political means.

The government and Tatmadaw need to make a review for reduction or cessation of hostilities and all acts of war, including military offensives mentioned above. If there is no review and restraint, our UNFC member organizations, are in a situation to review the trust building process and continuation of processes in preparation for political dialogue, including consultations for “Nationwide Ceasefire Agreement”, and I am writing to counsel that it will become necessary for us to inform and advise the international community and the entire people.

## **Appendix 19.**

### **UPWC-JCCT Nationwide Ceasefire Talks Joint Press Statement (Unofficial translation)**

10 March 2014

1. On March 9-10, 2014, members of the Union Peace Making Work Committee, Tatmadaw representatives, Hluttaw members, and representatives of the ethnic armed groups' Nationwide Ceasefire Coordination Team (NCCT) held cordial discussions at the Myanmar Peace Center.

2. Both sides agreed to jointly draft a single text of the nationwide ceasefire agreement. To facilitate this effort, the two sides agreed to establish a Joint Nationwide Ceasefire Drafting Work Group composed of an equal number of members from both sides.

3. The two sides agreed to meet for further discussions during the last week of March 2014. There was also agreement to invite other ethnic armed groups to the next nationwide ceasefire coordination meeting.

4. The two sides agreed to prepare a draft of the nationwide ceasefire agreement with the following seven (7) sections:

Preamble Section 1 Section 2 Section 3 Section 4 Section 5 Section 6 Section 7

– Background (or Basic Principles)

– Aims and Goals

– Ceasefire Matters

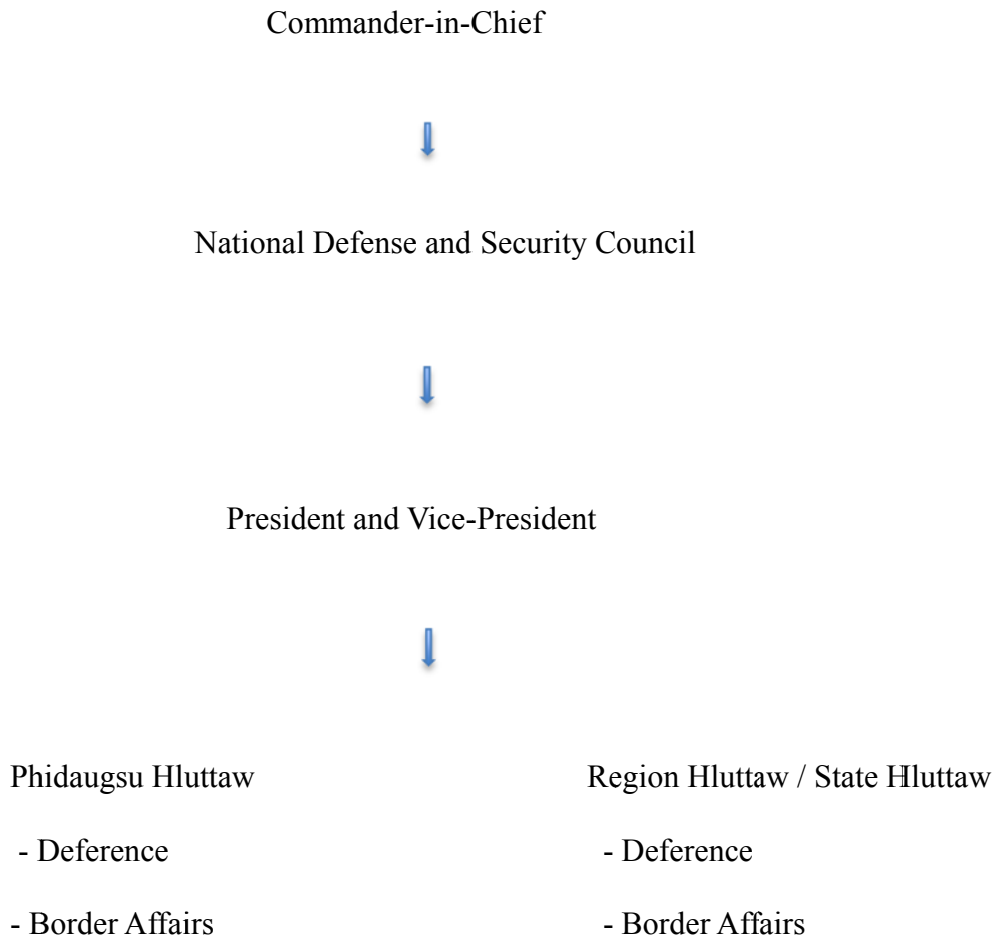
– Ways and Means for a Lasting Ceasefire – Political Dialogue Guarantees

– Ongoing Work – General Matters

5. All participants agreed to strive together to prepare and implement the nationwide ceasefire agreement, and to begin political dialogue as soon as possible.

**Appendix 20.**

**The Military dominated the sovereign power as follow;**



Chapter 5, Article 201 is formation of the National Defense and Security Council was formed by the President and with the following persons:

- (a) The President;
- (b) Vice-President;
- (c) Vice-President;
- (d) Speaker of the Pyithu Hluttaw (Union);
- (e) Speaker of the Amyotha Hluttaw
- (f) Commander-in-Chief of the Defense Services;
- (g) Deputy Commander-in-Chief of the Defense Services
- (h) Minister for Defense;
- (i) Minister for Foreign Affairs;
- (j) Minister for Home Affairs;



(k) Minister for Border Affairs.

Chapter 1,

Article 4

stated the main sovereign power is derived from the citizens and is in force in the entire country. Article 11 mentioned the three branches of sovereign power namely; legislative power, executive power and judicial power are separated, as the legislative power of the Union is shared among Pyidaungsu Hluttaw (Union), Region Huttaws and State Hluttaws in Article 12 (a).

The Pyidaungsu Hluttaw (Union) consisting of two Hluttaws, one Hluttaw elected on the basis of township as well as population, and the other an equal number of representatives elected from Regions and States in Article 12 (b).

Chapter 5,

Article 232 (b)

(i). designated the President shall select suitable persons who have qualifications to be Hluttaw representatives.

However, Chapter 5, Article 232 (b) (ii). Obtains a list of suitable Defense Services personnel nominated by the Commander-in-Chief of the Defense Services for Ministries of Defense, Home Affairs and Border Affairs.

Chapter 1,

Article 6 (f):

One of the basic principles of the union is for the Defenses Services to be able to participate in the National political leadership role of the State.

Article 14

declares the Phidaungsu Huttaw (Union), the Region Hluttaws and the State Hluttaws include the Defense Services personnel as Hluttaw representatives nominated by the Commander-in-Chief of the Defense Services in numbers stipulated by this Constitution.

Article 20 (a):

The Defense Services is the sole patriotic defense force which is strong competent

and modern. 20 (b): The Defense Services has the right to independently administer and adjudicate all affairs of the armed forces.

20 (c):

The Commander-in-Chief of the Defense Services is the Supreme Commander of all armed forces.

20 (d):

The Defense Services has the right to administer for participation of the entire people in Union security and defense.

20 (e):

The Defense Services is mainly responsible for safeguarding the non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty.

20 (f):

The Defense Services is mainly responsible for safeguarding the Constitution.

Chapter 3,

Article 60 (b):

The Presidential Electoral College shall be formed with three groups of Pyidaungsu Hluttaw representatives as follows:

(i) group formed with elected Hluttaw representatives in the Hluttaw with an equal number of representatives elected from Regions and States;

(ii) group formed with elected Hluttaw representatives in the Hluttaw elected on the basis of township and population;

(iii) group formed with the Defense Services personnel Hluttaw representatives nominated by the Commander-in-Chief of the Defense Services for the said two Hluttaws.

Chapter 4,

Article 115 (b),

When the occasion arises to have studies made and submitted on defense and

security matters or Military affairs, the Pyithu Hluttaw shall form the Defense and Security Committee with the Pyithu Hluttaw representatives and Security Committee so formed may, if necessary, be included suitable Pyithu Hluttaw representatives who are not the Defense Services Personnel in accord with the volume work.

Article 147 (b):

When the occasion arises to have studies made and submitted on defense and security matters or Military affairs, the Amyotha Hluttaw shall form the Defense and Security Committee with the Amyotha Hluttaw representatives who are the Defense Services personnel, for a limited time. The Defense and Security Committee so formed may, if necessary, be included suitable Amyotha Hluttaw representatives who are not the Defense Services personnel in accord with the volume of work.

Appointment of the Ministers of the Region or Ministers of the State the Chief Minister of the Region or State shall:

Chapter 5,

Article 262 (ii):

request a list of suitable Defense Services personnel nominated by the Commander-in-Chief of the Defense Services to assign responsibilities of Security and Border Affairs.

Chapter 7,

Article 338:

All the armed forces in the Union shall be under the command of Defense Services.

Chapter 11,

Article 412 (a):

If the President, learns that or if the respective local administrative body submits that there arises or is sufficient reason to arise a state of emergency endangering the lives, shelter and property of the public in a Region or a state or a Union Territory or a Self-Administered Area, after co-ordinating with the National Defense and Security Council, may promulgate an ordinance and declare a state of emergency.

Article 413 (b):

According to Section 412, concerning the declaration of a state of emergency: the President may, if necessary, declare a military administrative order, the executive powers and duties and the judicial powers and duties concerning community peace and tranquility and prevalence of law and order shall be conferred on the Commander-in-Chief of the Defense Services. The Commander-in-Chief of the Defense Services may exercise the said powers and duties himself or empower on any suitable military authority to exercise thereof.

Article 417:

If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after co-ordinating with the National Defense and Security Council, promulgate an ordinance and declare a state of emergency. In the said ordinance, it shall be stated that the area where the state of emergency in operation is the entire Nation and the specified duration is one year from the day of promulgation.

Article 418 (a):

In the matter concerning the declaration of the state of emergency according to Section 417, the President shall declare the transferring of legislative, executive and judicial powers of the Union to the Commander-in-Chief of the Defense Services to enable him to carry out necessary measures to speedily restore its original situation in the Union. It shall be deemed that the legislative functions of all Hluttaws and leading bodies shall be suspended from the day of declaration. It shall also be deemed that on the expiry of the term of the said Hluttaws, the relevant Hluttaws have been dissolved automatically.

(b) Notwithstanding anything contained in Constitution, commencing from the day of transfer of the sovereign power to the Commander-in-Chief of the Defense Services, it shall be deemed that the members appointed and assigned duties by approval of the relevant Hluttaws in accord with the Constitution, Self-Administered Division Leading Bodies or the members of Self-Administered Zone leading Bodies, with the exception of the President and Vice-Presidents, have been

terminated from duty.

Article 432:

The legitimate measures of any administrative body or any of its members, any Civil Services body or any of its members, and any military body or any of its members assigned powers and duties to take measures as required in order to speedily restore the security, stability, community peace and tranquility and prevalence of law and order to its original state on behalf of the President while a declaration of emergency is in operation or during the duration the sovereign power is being exercised by the Commander-in-Chief of the Defense Services or during the duration the sovereign power is being exercised by the National Defense and Security Council, shall be valid. No legal action shall be take on such legitimate measures.

Chapter 14,

Article 443:

The preparatory work done by the State Peace and Development Council, before this Constitution comes into operation, to bring the Constitution into operation shall be deemed to have been carried out in accord with this Constitution.

Article 445:

All policy guidelines, laws, rules, regulations, notifications and declarations of the State Law and Order Restoration Council and the State Peace and Development Council or actions, rights and responsibilities of the State Law and Order Restoration Council and the State Peace and Development Council shall devolve on the Republic of the Union of Myanmar. No proceeding shall be instituted against the said Council or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.

Article 447,

Existing rules, regulations, by-laws, notifications, orders, directives and procedures shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Union Government.

## **Appendix 21.**

### **Myanmar 2008 Constitution**

#### **Chapter 3**

##### **The President and Vice-Presidents**

59. Qualifications of the President and Vice-Presidents are as follows:

- (a) shall be loyal to the Union and its citizens;
- (b) shall be a citizen of Myanmar who was born of both parents who were born in the territory under the jurisdiction of the Union and being Myanmar Nationals;
- (c) shall be an elected person who has attained at least the age of 45;
- (d) shall be well acquainted with the affairs of the Union such as political, administrative, economic and military;
- (e) shall be a person who has resided continuously in the Union for at least 20 years up to the time of his election as President;

Proviso: An official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union

- (f) shall he himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country;
- (g) shall possess prescribed qualifications of the President, in addition to qualifications prescribed to stand for election to the Hluttaw.

## **Appendix 22.**

### **Myanmar 2008 Constitution**

#### **Chapter 12**

##### **Amendment of the Constitution**

436. (a) If it is necessary to amend the provisions of Sections 1 to 48 in Chapter I, Sections 49 to 56 in Chapter II, Sections 59 and 60 in Chapter III, Sections 74, 109, 141 and 161 in Chapter IV, Sections 200, 201, 248 and 276 in Chapter V, Sections 293, 294, 305, 314 and 320 in Chapter VI, Sections 410 to 432 in Chapter XI and Section 436 in Chapter XII of this Constitution, it shall be amended with the prior

approval of more than seventy- five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nation-wide referendum only with the votes of more than half of those who are eligible to vote.<sup>529</sup>

## **Appendix 23.**

### **Ethiopian Constitution**

#### **Cultural Objectives**

##### **Chapter 10**

###### Article 91

(1) Government shall have the duty to support, on the basis of equality, the growth and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals, and the provisions Constitution.

(2) Government and all Ethiopian citizens shall have the duty to protect the country's natural endowment, historical sites and objects. Government shall have the duty, to the extent of the resources permit, to support the development of the arts, science and technology.<sup>530</sup>

## **Appendix 24.**

### **Ethiopian Constitution**

#### **Part Two**

##### **The House Of The Federation**

###### **Members of the House of the Federation**

###### Article 61

(1) The House of the Federation is composed of representatives of Nations, Nationalities and Peoples.

(2) Each Nation, nationality and People shall be represented in the House of the Federation by at least one member. One additional representative for each one million of its population shall represent each Nation or Nationality.

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<sup>529</sup> Constitution of the Republic of the Union of Myanmar 2008. Myanmar: Ministry of Information. 173.

<sup>530</sup> <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf>. (22 August 2015)

(3) Members of the House of the Federation shall be elected by the State Councils. The State Councils may themselves elect representatives to the House of the Federation, or they may hold elections to have the representatives elected by the people directly.



## Acronyms

BIA	Burma Independence Army
BSPP	Burma Socialist Program Party
ERRDR	Ethiopian People's democratic Front
FUA	Federal Union Army
HoF	House of Federation
HPR	House of People's Representatives
MNDAA	Myanmar National Democratic Alliance Army
MPC	Myanmar Peace Committee
NCA	Nationwide Ceasefire Agreement
NCCT	Nationwide Ceasefire Coordinating Team
NLD	National League for Democracy
NUP	National Unity Party
SD	Senior delegation
SLORC	State Law and Order Restoration Council
SPDC	The State Peace and Development Council
UEC	Union Election Commission
UNFC	United Nationalities Federal Council
USDA	Union Solidarity and Development Association
USDP	Union Solidarity and Development Party
USINS	United States Immigration and Naturalization Service
UPWC	Union Peacemaking Work Committee
USDP	Union Solidarity and Development Party

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