

# A law in force and its effects

*A Lawyer*

Every country promulgates their laws for perpetuation of sovereignty, and political, economic and social affairs in their interest. In this regard, they have to amend the laws in force, revoke unnecessary laws and promulgate some more laws, as necessary.

Having a look at the historical background of Myanmar constitutions, the Constituent Assembly approved the 1947 constitution on 24 September 1947. The constitution was in force on 4 January 1948, on which Myanmar regained independence. The legislative body, executive body and judicial body formed under the 1947 constitution exercised the powers bestowed by the constitution and existing laws.

Section 226 (1) of the 1947 constitution says, **“Subject to this Constitution and to the extent to which they are not inconsistent therewith, the existing laws shall continue to be in force until the same or any of them shall have been repealed or amended by a competent legislature or other competent authority.”** According to the provision, the laws enacted in the time of the British government remained in force until they were subject to the 1947 constitution and were amended, and they were exercised as necessary.

On 2 March 1962, the commander-in-chief of defence services formed the Revolutionary Council of the Union of Myanmar through Announcement No (1) of the State Revolutionary Council and exercised the sovereign powers to rule the country. The Revolutionary Council of the Union of Myanmar issued Announcement No (14) **“All existing laws shall remain in force until they shall have been repealed or amended by the Government of the Union of Myanmar”**. According to the announcement, all existing laws including the 1947 constitution remained

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in force until they were repealed or amended.

The 1974 constitution of the Socialist Republic of the Union of Burma was in force on 3 January 1974. Article 202 (b) of the 1974 constitution says, **“Existing laws and rules shall remain in force in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Council of the State”**. It does not enumerate any expression of revoking the 1947 constitution. **So, the provisions of the 1947 constitutions remained in force so long as they were not contrary to the provisions of the 1974 constitution.**

On 18 September 1988, the State Law and Order Restoration Council took up State duties. On 24 September the same year, it issued Announcement 6/88 that **all the laws that were in force on 18 September 1988 on which the State Law and Order Restoration Council took up State duties shall remain in force until they were repealed or amended by the**

**State Law and Order Restoration Council.** Therefore, all the laws that have not been revoked or repealed by the State Law and Order Restoration Council remained in force.

The 2008 constitution of the Republic of the Union of Myanmar was approved through the referendum on 29 May 2008. Article 446 of the constitution says, **“Existing laws 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 Pyidaungsu Hluttaw.”** The constitution does not manifest any provisions that say the 1974 constitution is revoked. The 1974 constitution has not been repealed or revoked up to now, so it remains in force until it is not contrary to the 2008 constitution of the Republic of the Union of Myanmar.

Article 202 (a) of the 1974 constitution and Article 449 of the 2008 constitution of the Republic of the Union of Myanmar say **“This Constitution is the Basic Law of all the laws of the Union”**. The government of a nation has to promulgate necessary laws, repeal or revoke unnecessary laws, and amend, add expressions to and replace the laws in force as necessary.

The laws by nature remain in force in so far as they are not revoked or repealed.

So, the 1974 constitution of the Socialist Republic of the Union of Burma is still in force in so far as they are not contrary to the 2008 Constitution of the Republic of the Union of Myanmar because the former has not been repealed or revoked yet.

Translation: MS

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