Fourth day Pyidaungsu Hluttaw Session held

Bill amending Political Parties Registration Law approved by both Hluttaws put on record by Pyidaungsu Hluttaw

NAY PYI TAW, 18 Nov-The fourth day session of Pyidaungsu Hluttaw continued at Pyidaungsu Hluttaw Hall in Hluttaw Building here today, attended by Pyidaungsu Hluttaw Speaker U Khin Aung Myint, Pyithu Hluttaw Speaker Thura U Shwe Mann and 584 Pyidaungsu Hluttaw representatives.

At the session, one bill was approved; Hluttaw representatives were informed to register for discussion; jointcommittee members were co-opted; and one bill was recorded.

First, the Pyidaungsu Hluttaw Speaker explained measures of Pyithu Hluttaw and Amyotha Hluttaw with regard to decision of Pyidaungsu Hluttaw that bills approved by the Pyidaungsu Hluttaw or deemed to be approved by the Pyidaungsu Hluttaw, if suspected to be not in line with the constitution, are to be sent to the Constitutional Tribunal of the Union to undergo a scrutiny before sending to the President for his approval.

The Pyidaungsu Hluttaw Speaker continued that the Pyithu Hluttaw proposed to the Pyidaungsu Hluttaw on 2 November to let Pyithu Hluttaw reject the decision made at the Pyidaungsu Hluttaw on 28 October that “bills approved by the Pyidaungsu Hluttaw or deemed to be approved by the Pyidaungsu Hluttaw, if suspected to be not in line with the constitution, are to be sent to the Constitutional Tribunal of the Union to undergo a scrutiny before sending to the President for his approval” is neither in accordance with the constitution nor Pyidaungsu Hluttaw Rules and By-laws and asked to cancel the decision.

It is enacted in laws that bills approved by the Pyidaungsu Hluttaw are to be sent to the President for his approval and promulgation of the laws.
That bills suspected of violation of the constitution are to be sent to the Constitutional Tribunal of the Union before sending to the President is not a case which is not allowed by law. As only the constitutional tribunal can define and make comment to the bill, it does so with genuine goodwill to ensure there is no mistake. If the constitutional tribunal remarks that a particular fact is not in conformity with the constitution, Pyidaungsu Hluttaw can reconsider the fact and make the final decision.

The Pyidaungsu Hluttaw Speaker in his explanation of the legal outlook on the constitutional tribunal can scrutinize the enacted laws only said that responsibilities of the Constitutional Tribunal of the Union is stated in Article 322 (a) of the constitution as interpreting the provisions under the Constitution; Articles 325 and 326 of the constitution state describe persons who have the right to submit matters directly to obtain the interpretation, resolution and opinion of the Constitutional Tribunal and they can ask the remark from the Constitutional Tribunal with regard to the proposed bill; like the president who can ask the remark of the Constitutional Tribunal concerning particular bill before he signs, the Hluttaw speaker can also do so for suspicious facts. So, the responsibility of the tribunal is not only scrutinizing the existing laws but defining the bill and making remarks upon requests.

According to Article 326 of the constitution, representatives that represent at least 10 per cent of all Pyithu Hluttaw representatives or Amyotha Hluttaw representatives can ask the Constitutional Tribunal to define a particular bill. As the main responsibility of the representatives is to legislate, they can ask the opinion of the constitutional tribunal in analyzing the bills whether or not they are in line with the constitution.

The provision concerning the Constitutional Tribunal is included under the Chapter VI Legislation of the constitution, but the constitutional tribunal is not the court.

In addition, it is only to seek the remarks of the constitutional tribunal in case the bills are suspected of violating the constitution and not to send every bill to the constitutional tribunal, thus it cannot be translated that the decision of the constitutional tribunal is a must-to-do step in legislative process, but it is just to control the reckless actions.

With regard to the reason that Hluttaw representatives lose right to discuss for Pyidaungsu Hluttaw Speaker only asks Hluttaw representatives three times if they agree in seeking approval of the Hluttaw and fails to ask them if they disagreed, the Pyidaungsu Hluttaw Speaker said that the representatives need to understand why the question is asked three times; it is clear that its meaning is giving time to show disapproval if any, for example when representatives submit proposals at Pyithu Hluttaw and Amyotha Hluttaw, Hluttaw representatives are asked if they agreed the proposal for three times as it is stated in Paragraph 30 (b) of rules of the Hluttaws to ask the opinion of the Hluttaw without discussion. In Pyidaungsu Hluttaw, according to Pyidaungsu Hluttaw Rules paragraph 21 (b), Pyidaungsu Hluttaw Speaker is authorized to make the approval if he thinks it is appropriate and thus can say that he approves without asking the opinions of representatives.
In that case, Pyidaungsu Hluttaw Speaker despite his right as the speaker let the Hluttaw decide without making discussion in respect of the Hluttaw and if someone does not support the same view, then decision is to be made with voting.

If someone does not agreed with the decision made at Pyidaungsu Hluttaw on 28-10-2011, he shall write to the Pyidaungsu Hluttaw Speaker in stead of submitting a proposal of disapproval so that it can be reconsidered according to the laws. If it is done so, appropriate means can be adopted to make decision and the Hluttaw Speaker would not be hesitant mend if he was wrong.

The Speaker then quoted the Article 48 of the constitution as saying, “The basic principles of the Union shall be the guidance in enacting laws by legislature and in interpreting the provisions of this constitution and other laws” and said that enacting laws by legislature here means Hluttaws to pass a law.

The Pyidaungsu Hluttaw Speaker continued that he has no parliamentary experiences, but has read books at home and abroad since election to be able to perform duty well. He has read from the records of Constituent Assembly held on 16-6-1947 to parliamentary Hluttaw records till 25-9-1961 without leaving even a single paragraph. He did so because Hluttaws have laws, rules as well as customs and traditions. He said he did not see the similar case like current one in all he has read and this is maybe because of tradition of giving and showing respect and not because of restrictions of laws and rules.

In practicing democracy, Pyithu Hluttaw and Amyotha Hluttaw can hold the different views, evidenced by the current situation in which one Hluttaw is rejecting or amending the approval of the other. No law prohibits Pyithu Hluttaw submitting proposal of disapproval and making decision about the case that already reached an agreement at Pyidaungsu Hluttaw, but it is inappropriate though it can still be said democratic practice. The case of Pyidaungsu is to be discussed at the Pyidaungsu Hluttaw. As the Pyithu Hluttaw submitted proposal of disapproval to Pyidaungsu Hluttaw, the Pyidaungsu Hluttaw has seriously considered whether his actions are in line with the constitution, Pyidaungsu Hluttaw Laws and Rules and whether he himself should make the decide as the most responsible person and sought other ways.

With regard to that case, according to Paragraph 76 (a) of Pyithu Hluttaw Rules and Amyotha Hluttaw Rules, he had thought of seeking a solution by forming a jointcommittee constituted with the equal number of the representatives of two Hluttaws through coordination of the two Hluttaw Speakers. But that case is not because of different legal views between the Pyidaungsu Hluttaw and Pyithu Hluttaw but the matter of argument between two Hluttaws and thus there is no provision to do so.

Furthermore, allowing discussing those proposals at Hluttaw is not in conformity with the Pyidaungsu Rules Paragraph 62 (c) and thus it cannot be allowed. In Pyidaungsu Hluttaw Rules paragraph 62 (c), it is sated that “the proposal cannot include the facts that has the same meaning with what is discussed at Hluttaw session.”
Again at its 44th day second regular session on 22 November, the Pyithu Hluttaw approved the decision of Pyidaungsu Hluttaw about agenda-13 made on 28 October at Pyidaungsu Hluttaw session and objected the proposal of cancelling that agenda.

As Pyithu Hluttaw and Amyotha Hluttaw share equal status, Amyotha Hluttaw has the right to oppose any case discussed at Pyithu Hluttaw but discussing the case of Pyidaungsu Hluttaw at Amyotha Hluttaw which does not comprise all Pyidaungsu Hluttaw representatives is not respecting the Pyidaungsu Hluttaw and it is totally inappropriate that Amyotha Hluttaw is urged not to do the same again in future. Moreover, the proposal can not be table at the Hluttaw according to Pyidaungsu Hluttaw Rules Paragraph 62 (c).

Pyithu Hluttaw and Amyotha Hluttaw need to show respects to Pyidaungsu Hluttaw and also the Pyidaungsu Hluttaw speaker. To say custom about paying respects to the speaker, a person who have experience of parliamentary period in the wake of independence said that there were accusations that the Hluttaw speaker had bias with party attachment. In that regard, Thaton Hla Pe (Pa-O) insisted that it is not proper to say like that about the speaker who shoulders heavy duty, and all are needed to pay sincere respects to the speaker. Due to his sayings, the problems were over, and Thaton Hla Pe got high regard. But, it is assumed that as such accusations against the speaker were not found in the parliamentary record, they might happen outside the parliament. The Pyidaungsu Hluttaw speaker explained the role of a speaker in Hluttaw that as the duty of Pyidaungsu Hluttaw speaker is an alternate one, matter related to role of a Hluttaw speaker was explained. Hluttaw speaker is a person who was elected by Hluttaw representatives so as to manage and monitor Hluttaw, and can make far-sighted decision shouldering heavy duty in dealing with serving national interest, matters to manage Hluttaw by the State through check and balance system, future affects. In fourth-day session of the First Constituent Assembly held on 16-6-1947, MP U Aung San of Yangon Myoma (Lanmadaw) Constituency in submitting guideline for the constitution of free and sovereign Myanmar said, “Our speaker is the most authoritative person in the Hluttaw. He will monitor and make decision in discussing sessions. We must listen to what he decides”. It was the speech of Bogyoke Aung San, and pinpointed the custom of Hluttaw for appointment of the most authoritative person to balance democratic system. If a representative of any Hluttaws becomes speaker, it is needed to pay respects to him or her.

In addition, Hluttaw speaker was vested with the highest authority. Sub-paragraph (a) of Paragraph (8) prescribed in the rules of Pyidaungsu Hluttaw states the duty of speaker “right to fully employ necessary power to form disciplined Hluttaw and in doing so, to bring orders made by him into force”. It shows all comprehensive powers vested in the speaker. India Parliament prescribes that “Rules 389 Residuary Powers-All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such a manner as the Speaker may, from time to time, direct”. 
The speaker of India Parliament is vested with all residuary powers. The speaker has right to issue orders and directives at proper moment for matters which are not prescribed in laws and rules.

The Pyidaungsu Hluttaw speaker said that Chief Editor U Pe Myint of The People’s Age Journal on 15-11-2011 interviewed him about the Constitutional Tribunal of the Union and relations among Hluttaws. He replied the interviewer that it was not suitable to give answer to the question because of dissimilar ideology relating to laws. As answering the disputable issue was the use of media cover for his ideology, it is needed to pay serious attention to giving answers. At the time while taking duty of a Pyidaungsu Hluttaw speaker, as the duty of the speaker is important, it is needed to be more careful for answering. The speaker offered an apology for not answering the question. The speaker was nervous that such question would be shot since 1 November U Pe Myint requested for appointment. So, the interviewing date delayed. The speaker said he replied the interviewer for the question whether there is an equal right in casing votes for seeking approval at Pyidaungsu Hluttaw. Although Pyithu Hluttaw and Amyotha Hluttaw have equal right, members of Pyithu Hluttaw outnumbers Amyotha Hluttaw. The speaker had replied that representatives from two Hluttaws would become representatives of Pyidaungsu Hluttaw.

So, majority are to listen to wish of minority and vice versa without Hluttaw attachment.

In that account, it is ready to accept decision of majority if it is in conformity with rules of Pyidaungsu Hluttaw.

At the 48th day session of Pyithu Hluttaw on 16-11-2011, it was found that it is suitable to observe and scrutinize legal and special cases.

It has planned to organize an adviser group comprising legal experts. However, the plan has delayed to take shape as it has to consider whether enacting an act for the salary and facilities for the experts would be constitutional or not. However, as legal advices could be sought from the committees, the Hluttaw might not need to seek advices from the Constitutional Tribunal in the future.

The above clarification is his personal assumption and he does not consider it must be correct. Today decision made the Speaker at the Pyidaungsu Hluttaw is aimed at leaving a good legacy and showing that the Hluttaw also takes Pyithu Hluttaw into consideration.

Regarding the decision made at Pyidaungsu Hluttaw on 28, October, 2011, he said that he assumes that according to the Sections 325 and 326 of the constitution, the Speaker of the Pyidaungsu Hluttaw or the Speaker of Pyithu Hluttaw or the Speaker of Amyotha Hluttaw or at least 10 per cent of representatives of Pyithu Hluttaw or Amyotha Hluttaw should participate in every process of legislation. As he unnecessarily sought the approval from Pyidaungsu Hluttaw for the above decision, he decided to revoke the October-28 decision at Pyidaungsu Hluttaw.
During the session for approving bills, as there was no representatives who would discuss the private school registration bill, an approval from the Hluttaw was sought to approve amendments of the joint bill committee.

The amendments of the joint bill committee to the paragraph 4 of the original bill is that “The Ministry of Education, before giving permission for establishment of private school, shall seek remarks from region or state governments concerned.” and to the sub-paragraph (a) of the paragraph 8 is that “arrangement for establishing basic education primary schools or middle schools or high schools”. The joint bill committee also amended to add the sub-paragraph (v) “arrangement for mess in hygienic conditions” to the sub-paragraph (h) of the Paragraph 8 of the original bill and to amend the sub-paragraph (a) of the paragraph 10 of the bill as “an education officer shall scrutinize the application which is applied in accordance with the paragraph 9 and shall make remarks and report to the director general.”, to amend the sub-paragraph (l) of the paragraph 15 of the original bill as “designating suitable school uniforms (The colour of the uniforms shall be designated to be able to different from uniforms of the other private schools.)” and to add the paragraph 35 “To establish private schools, regarding the requirements of the sub-paragraph (a) of the paragraph 8, the Ministry of Education of the Union Government can give permission to separately establish a basic education primary school or a middle school or a high school.” in the chapter “General” of the bill.

As there was no objections to the above six amendments, the Hluttaw made decision to approve the amendments as parts of the bill. As there was no objection to change the order of paragraphs and subparagraphs added to the bill amendment with approval of Pyithu Hluttaw, Amyotha Hluttaw and Pyidaungsu Hluttaw, the Pyidaungsu Hluttaw made decision to approve the order of the added paragraphs and subparagraphs.

Afterwards, regarding the gathering, procession bill, Chairman of the Joint-Bill Committee U Mya Nyein clarified that the contradiction between the approval of Pyithu Hluttaw and the amendment of Amyotha Hluttaw is that (A) in the paragraph 2 (h) of Chapter-1 of the original bill, Pyithu Hluttaw approved the fact that “Flag means the State Flag, flag of officially registered party and flag of officially registered organization” leaving the State Flag in the paragraph. (B) In the paragraph 20 of the Chapter 8 of the original bill, Pyithu Hluttaw approved the fact that “Offences taken action under this law are defined as cognizable offences.” and Amyotha Hluttaw amended to the fact stating “Offences in chapter (7) are defined as cognizable offences.” in accordance with the rules and regulations.

Regarding the first contradiction of including the State Flag in the bill, majority members of the joint-bill committee supported the fact. According to the Rule 82 (c) of Pyidaungsu Hluttaw, the joint bill committee agreed to bring the case of deciding whether the State Flag should be included in the paragraph or not at Pyidaungsu Hluttaw for resolution.
In discussing the second point of differences of two Hluttaws whether the Pyithu Hluttaw’s “Offences taken action under this law” or the Amyotha Hluttaw’s “Offences in Chapter (7)” leads the phrase “are defined as cognizable offences” in Joint Bill Committee Meeting, most of committee members agreed to seek approval in the Pyidaungsu Hluttaw after ensuring to be the letter of the law.

The committee suggested to seek approval whether the approval of the Pyithu Hluttaw “Flag means the State flag, flag of officially registered party and flag of officially registered organization” and the amendment of the Amyotha Hluttaw with no mention for the State flag “Flag means officially registered party and flag of officially registered organization” in Section (2) Subsection (h) of Chapter (1) would be approved at the Pyidaungsu Hluttaw and to seek approval whether the approval of the Pyithu Hluttaw “Offences taken action under this law are defined as cognizable offences” and the amendment of the Amyotha Hluttaw “Offences in Chapter (7) are defined as cognizable offences” in Section (20) of Chapter (8) would be approved at Pyidaungsu Hluttaw.

Member of Joint Bill Committee Daw Nan Wah Nu submitted abovementioned report of the joint committee.

Hluttaw representatives who are willing to participate in discussion over the differences were to submit their name list after the session with signed brief account on matter to discuss.

Chairman of Joint Public Accounts Committee U Mya Nyein reported the findings of the committee on 2011-2012 Budget.

He said undertakings already-implemented by the Union government include pension rate increase and trade tax reduction. Although 2011-2012 budget drawn up by State Peace and Development Council, the new government applied it as of 1 October following changes in budget by emergence of Region/State governments and changes in foreign exchange. Despite the budget’s estimate, pension rate increase, recovery from natural disaster and cancellation of some special projects were found in practice.

It was learnt from Director-General U Saw Maung Hla of Budget Department who was invited to the joint committee meeting on 31 October that the Union government handled budget of the whole Union from 1 April, 2011 to 30 September, 2011 and Region and State governments started to share responsibility for budget on 1 October, 2011.
The budget of the whole country including the Union, Regions and States for 2011-2012 fiscal year is K 5781.738 billion and total expenditure is K 7983.188 billion which means that average deficit is K 2201.450 billion. In implementing 2011-2012 budget, central institutions and Union ministries coordinated to finish projects important to the State and reduce currently unnecessary expenditures. Thus, total budget becomes K 5591.413 billion and total expenditure is K 7239.661 billion, making deficit of K 1648.248 billion. The amount of deficit is reduced by K 553.202 billion.

Reduced expenditures from original estimate have been returned.

With the permission of the Union government, K 226.393 billion for pension rate increase and other indispensable expenditures were allowed.

Despite trade tax cut, the government is managing to collect the tax not less than original estimate. Region and State governments started operating with their own budgets since 1 October, 2011.

Section 3 (a) of 2011 State Budget Law states that personnel assigned for income and expenditure of central institutions, Union ministries and Union-level organizations are to manage income or expenditure shown against in Table Nos. (1), (2), (3) and (4). Section (4) suggests that changes in these tables if necessary are to be stated in 2011-2012 amended budget reported to the Pyidaungsu Hluttaw.

Changes in 2011-2012 budget in accord with financial regulations will be reported in 2011-2012 amended budget to be submitted to the Pyidaungsu Hluttaw.

In reviewing the explanation of the Budget Department, the original budget is K 5781.738 billion and total expenditure is K 7983.188 billion which means that average deficit was K 2201.450 billion.

Thanks to coordination to finish projects important to the State and reduce currently unnecessary expenditures, total budget becomes K 5591.413 billion and total expenditure is K 7239.661 billion, making deficit of K 1648.248 billion. The amount of deficit is reduced by K 553 billion. The budget of K 226.393 is used in increasing pension rate.

Original income is K 5781.738 billion and income after returning the reduced expenditure was K 5591.413 billion. Original expenditure is K 7983.188 billion and reduced expenditure is K 7792.863 billion. The average deficit is K 2201.450 billion. There is no change as deficit and GDP ratio is 4.79 per cent and GDP is 45928 billion.
As 2011 State Budget Law was drawn up by the State Peace and Development Council on 27 January, 2011, the law is in interim before submitting to the Pyidaungsu Hluttaw under Section 103 of the Constitution (Budget Bill of the Union submission). The budget law is valid before cancelling and amending it. The Union government is implementing State budget law prescribed on 27 January, 2011. In accord with Section (4) of the law, 2011-2012 amended budget will be sought approval at the Pyidaungsu Hluttaw.

Due to provisions in supplemental budget law, the duty of Joint Public Accounts Committee becomes significant with the role of the Pyidaungsu Hluttaw. The government should inform the Pyidaungsu Hluttaw in accord with Section 55 Sub-section (d) of the Union government law when financial expenditures, if required, are changed. Budget Bill will have to be submitted to the Pyidaungsu Hluttaw in accord with procedures of Budget Bill of the Union submission under the Constitution.

The 2011-2012 Budget was necessarily drawn up by the State Peace and Development Council. It is being implemented by the new government and an existing law. Since 1 October, 2011, the budget was separated with the Region and State government budgets. The demand for submission of 2011-2012 amended budget is in accord with the law and members of the joint committee agreed it.

When the Union government submitted 2011- 2012 amended budget, the joint committee will submit report to the Pyidaungsu Hluttaw after reviewing statistics and reports of officials concerned.

Hluttaw representatives willing to discuss the report of the joint committee were to submit their name list with signed brief account on subject to discuss.

Pyithu Hluttaw Representative U Ba Shein of Kyaukpyu Constituency, Member of Pyithu Hluttaw Bill Committee, was replaced in the place of Pyithu Hluttaw Representative Daw Dwe Bu of N’Jiangyang Constituency as Member of Pyidaungsu Hluttaw Joint Bill Committee. The Pyidaungsu Hluttaw agreed the reshuffle.

Member of Joint Bill Committee Daw Dwe Bu was assigned to Secretary of National Races Affairs and Internal Peace Making Committee formed by the Pyithu Hluttaw.

Bill amending Political Parties Registration Law approved by both Hluttaws was put on record by Pyidaungsu Hluttaw.Today’s session concluded at 11.40 am and the fifth day session takes place at 10 am on 22 November.

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