Modernization, Democracy and Constitutional Reform in Burma

Introduction

This is the report to mainly assess the ploy of the ruling military regime in Burma, self-claimed State Law and Order Restoration Council (SLORC), to achieve legitimacy to rule the country for the long term through the National Convention, their constitution making process. This paper will explore how the SLORC have manipulated the political process through legal device to gain legitimacy and credibility, domestically, but more importantly to them, regionally and internationally. Moreover, there will also be a brief analysis on the constitutional principles laid down by SLORC's National Convention.

This report mentions the attempt of the democratic and ethnic forces and that of the National League for Democracy led by Daw Aung San Suu Kyi to resist legitimizing the SLORC's rule and to produce a (proposed) future constitution.

It is food for thought whether, without political liberalization, modernization in Burma is conceivable or not. The paper will also explore the economic investment and its influence on democratic development in Burma.

In this report, Burma Lawyers' Council send some information to the international community with regard to a proper constitutional reform to achieve democracy and modernization in Burma in order to take consideration into account.
Background

Burma gained its independence in 1948. Before 1962, almost all the political parties in Burma were weak in practice, in the exercise of democratic principles. The leading parties such as the Union Party, Anti-Fascist Freedom League and National United Front themselves had a misconception of federalism and were much reluctant to exercise the principle of equality with regard to the non-Burma ethnic nationalities. The majority of the people were also not well familiar with the idea. The racial chauvinist military clique led by Gen. Ne Win seized power on March 2, 1962, when there was a movement for federalism and abolished the 1947 constitution the next day.

The economy of Burma started to deteriorate from the year 1966 under the military rule. The regime tried to get foreign assistance for solving the economic problem. Due to the absence of a constitution, it did not make much headway. Accordingly, it drafted a constitution for forming a one-party state which fully guaranteed the perpetuation of military dictatorship. A referendum was held on the draft constitution in 1974 and the people were forced to support it. Then the general election was held and the so-called civilian government, dominated by military and ex-military officers, was formed according to the constitution and widely publicized. Subsequently, Burma became one of the least developed countries in the world and the popular democratic uprising against the ruling regime occurred on 8-8-88. It was ruthlessly pushed down by the army and approximately over three thousand people were shot dead in the streets. The SLORC staged a military coup and came to power. Despite the general election in May 1990, the regime neglected its result and did not transfer power to the electing winning party, National League for Democracy led by Daw Aung San Suu Kyi, winner of Nobel Peace Laureate. Instead, she was put under house arrest for six years and released her in 1995. Nevertheless, up to the present time, her movement is still heavily restricted.

SLORC's Quest For Legal and Political Legitimacy

The State Law and Order Restoration Council s (SLORC) response to the democratic elections of 1990, in which the pro-democracy candidates decisively won the legal and political right to take power, has been a concerted attempt to achieve legal legitimacy through the adoption of political strategy.
SLORC's retrospective decree that those elected in 1990 were elected for the purpose of formulating the country's constitution, was followed by the convening of the National Convention (hereafter referred to as the Convention). The Convention has been cloaked in legal and consultative artifice to bring an appearance of form to an illegitimate process.

Regional and particularly international credibility is of the utmost importance to the ruling military dictatorship. Contrary to the assertions of many international governments, that is that the SLORC Generals do not care if the international community chooses to isolate them politically and economically, there is evidence which suggests that they do care.

The SLORC have been pursuing a deliberative policy of engagement with the international community and by their actions it is evident that they do not want isolation either voluntary or involuntary. It is timely for all international governments to analyze the current situation regarding the SLORC's engagement policy. That the SLORC do care what the international community thinks, gives leverage to those countries whose foreign policy objective is the restoration of democracy in Burma.

Despite the SLORC's current hold on power through its military strength, without political legitimacy, which they can only consolidate through legal device, it is inconceivable that the SLORC will overcome their current political and economic crisis.

The political crisis of course arose in 1990 after the democratically elected members of Parliament were prevented by the SLORC from constituting government. These members and supporters are the pro-democracy forces, led by the Nobel Peace Laureate Daw Aung Suu Kyi. They continue to gain strength and support from their own community, including the Ethnic Peoples, and that of the international community.

The SLORC have attempted to persuade the people that only they can provide strong and legitimate government, and they continue their attempts to obtain the assistance of the international community in this regard.

That the SLORC rule without legal legitimacy is beyond doubt, although they make feeble attempts to claim otherwise. However they know that they cannot sustain their argument either in domestic or international law. Knowing this they pursue political legitimacy, because without political legitimacy, their power will be short lived.

Much to the chagrin of the SLORC they know that political legitimacy
does not ensue from military power or from the trappings of political office, like sitting at the United Nations or getting a place at the ASEAN table. Political legitimacy comes from the people. [The Universal Declaration of Human Rights reflects this universal principle, which is that the will of the people shall be basis of the authority of government.]

The Ethnic Peoples have also denied the SLORC this and will continue to do so. Their denial takes many forms, some passive and some aggressive. The denial and resistance continues, even where there are cease-fire agreements in place.

Either way the result is the same, a denial of the thing that the SLORC most needs to consolidate their long term objective to hold on to power. Only when power is wrested from the SLORC will the people of Burma be free from the atrocious human rights abuses, which are well documented in authoritative sources, they have suffered under the illegal military rule of the SLORC.

**Why did the SLORC hold the 1990 May Election?**

In order to understand the modus operandi of the SLORC in the current situation, it is necessary to understand their rationale for the holding of the 1990 election.

In August 1988 there was a popular democratic uprising, whose aim was to overthrow the ruling military generals who ruled the country under the party name of the Burma Socialist Programme Party (BSPP). In September of that same year, a military coup d etat seized power, calling themselves the State Law and Order Restoration Council (SLORC). The only substantive change was in the name from BSPP to that of the SLORC, because the men who seized power were the same men who had ruthlessly held power for decades.

This was a pre-emptive strike to reassert their control and prolong their power. At this time the generals knew that the people would no longer tolerate their dictatorship form of rule and Burma was slowly withdrawing from its political cocoon to open up to the international community. This paralleled the dominance and rise of the Asian Tiger Economies and the Association of South East Asian Nations (ASEAN).

At this time, the country was in economic chaos, the price of rice was beyond the means of the ordinary people and the BSPP had demonetarized
the currency, the kit.

The SLORC then informed the people that they would have a multi-party democratic election. This was in a sense a form of legal device, which gave the SLORC time and opportunities to organize in a manner that would maximize their chances of holding onto power in the future. It also stabilized the immediate political situation giving them an interlude of peace.

Martial law however was not suspended and continued to operate throughout the lead up to and during the election and is of course still in operation today.

It was the SLORC's Announcement No. 1/88 which 'authorized' the holding of multi-party elections. The Announcement inter alia read as follows:

1. To stage democratic multiparty elections after fulfilling all the above stated responsibilities.

2. The present Elections commission for Holding Democratic Multi-Party Elections will continue to exist for the successful holding of multi-party elections.

3. In order to be ready for the multi-party general elections, all parties and organizations which will accept and practice genuine democracy to make preparations and form parties now.

As a result 235 political parties were formed according to Announcement No.1/88 (#) cited above. This certainly created the impression of a multi-party situation. However, many of these parties were too small to be effective. Moreover, their activities were restricted by various oppressive measures instigated by the SLORC, through the military authorities.

The BSPP had by this time disbanded, but in essence reformed under the name, the National Unity Party (NUP). The SLORC allowed the NUP the use of all the offices and buildings through out the country, previously the property of the BSPP.

They were also given the operation of an existing business called the "100 lakes and 100 plantations"— a large scale agricultural and fish breeding project — in Pegu Division, approximately 50 miles from the capital Rangoon. Prior to 1988 this particular business was operated by the De-
partment of Fisheries and Agriculture of the BSPP. It was simply a transfer of business proprietorship. Through this business the NUP was able to earn 12 million Kyats (US$ 1,846,153 app. with official exchange rate), which was used to help fund their election campaign.

Former members of the BSPP were encouraged to join the NUP, and the SLORC helped to recruit new members by supplying money and necessary authority. In practice the SLORC restricted the activities of the democratic parties at every opportunity, whilst giving the NUP unlimited support. They assumed that the NUP would win the election, but gave it every opportunity to maximize its chances.

It is sui generis that if the NUP had won the election the SLORC would have transferred power, thereby adhering to its original promise to transfer power to a democratically elected government.

This promise was stated by the then SLORC General Saw Maung in his address to the nation on 23rd September 1988.

Moreover, we additionally promise that the armed forces, after transferring power to a democratically elected government which will emerge from a free and fair election, shall only perform its principle tasks of defense, security of the state and maintaining law and order, etc...

He reiterated this promise in response to a question from a journalist from the News Agency of Burma at a media conference of 9th June 1989.

Had the NUP won the elections as the SLORC Generals had anticipated, the NUP would have achieved political and legal legitimacy to rule the country, thereby consolidating the power of the SLORC Generals. It can be argued and sustained that the 1990 May election was a ploy of the SLORC, effected by legal device, to achieve the legitimacy. [The fact that the SLORC would go to such lengths to try and achieve what they could have with military might, gives support to the view put earlier that the Generals have chosen engagement over isolation.]

The National Convention, the SLORC’s Major Political Strategy to Achieve Legal Legitimacy Domestically, Regionally and Internationally

When the election result failed to fulfill their expectations, the SLORC immediately issued declaration No.1/90, which states inter alia:

"Therefore, the representatives elected by the people have a duty to frame a constitution for the future democratic state."
The essence then of the declaration No. 1/90 was that the power would not be transferred to the elected representatives, it would continue to reside with the SLORC, and the duty for which the representatives were elected was to draw up the constitution.

At law and under rule of law conditions, Declaration No.1/90 was invalid by the nature of its retrospectivity which negated the election laws which had been accepted by the people and duly acted upon. They also had the imprimatur of the international community, that had observed the election process and despite the difficulties of favoured treatment given to NUP and the incarceration of political detainee, the NLD’s General Secretary Daw Aung San Suu Kyi, they were to a large degree open.

The question of fairness is a moot point though and the fact that the SLORC afforded the NUP many advantages and arrested and detained the General Secretary of the largest and widely supported political opposition party, belies any claim of fair. The UN has standards for elections and classifies the right to franchise and a free and fair election process as a basic human right. It is characterized as the right to participate in political affairs.

Vis-a-vis the above position, if declaration No.1/90 was to be operative, the elected representatives should have had the freedom to organize the constitutional process, either through a convention and/or the formation of a constituent assembly, without the SLORC control or interference.

What transpired was that the SLORC continued to hold power by force and subsequently issued declaration No.11/92 dated April 24, 1992, titled, "The Convening of a National Convention." This was the first that the people had heard of the idea of a "National Convention" and the SLORC immediately drew up a working plan. Until this declaration was issued, the SLORC had stayed silent on their intentions about declaration No.1/90 and the transfer of power to the elected representatives.

The SLORC maintained control of the National Convention process and out of the 485 elected representatives, only 99 were permitted to attend. The other 603 members were chosen by the SLORC to represent their interests.

The absolute control of the process continued to dominate the National Convention to the extent that delegates were not allowed to have free discussions without fear of persecution by the authorities.

The National Convention is commonly referred to as the 'sham' conven-
tion and given the manner in which the SLORC has manipulated the process to specifically serve their interest and silence the interests of the people, the Ethnic Peoples and those democratically elected, the descriptor 'sham' is a fair comment.

The Australian Federal Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into Human Rights and Progress Towards Democracy in Burma found that the Convention was not representative nor a forum for free discussion and further that the claims of the work of the Convention as outlined by the Burmese Ambassador to the United Nations in February 1995, have failed the test of scrutiny when examined with the information presented to the committee (p 70 Final Report).

The UN Special Rapporteur on Burma came to the view that the Convention was marred by excessive control, surveillance and harassment of delegates, and a lack of true representation and free exchange of ideas. Moreover, he believed that, despite the assurances of the Government of Burma to the contrary, they did not intend to transfer power....(pp 72-73 Final Report)

Cease-fires with Ethnic Peoples, SLORC's Political Attempt to bring the Ethnic Peoples into the euphemistically called legal fold

Ethnic resistance has been a feature of Burmese political life for many decades and it was not until recent times, with the 1988 popular democracy uprising, that the ethnic peoples were offered a real choice to participate in political life through a democratic federal union. This was evident by the overwhelming vote recorded for Daw Aung San Suu Kyi's political party, the National League for Democracy (NLD), in the 1990 elections. The NLD won 392 of the 485 seats. The Ethnic Peoples clearly expressed their desire for democratic government through their voting power.

To strengthen their claim to legitimacy the SLORC knew that they had to have a forum which included the tri-partite groups; them, the Ethnic Peoples and the pro-democracy forces led by Daw Aung San Suu Kyi. The National Convention provided such a forum and a legal form, but left the SLORC in absolute control and involved no devolution of their power. It is a claim, with reasonable justification, that the SLORC negotiated the cease-fires to get the Ethnic Peoples into the National Convention, thus demonstrating their credentials in having all parties involved in a political
process.

To gain some understanding of why the Ethnic Peoples agreed to the cease-fires with the SLORC, one has also to factor in the historical and contemporary relationship between the Thais and the Peoples of Burma.

Burma's neighbours in the adjoining Association of South East Asian Nations (ASEAN) countries, have adopted consensus view that a policy of the constructive engagement is the best method for dealing with the SLORC's isolation and human rights problems. The constructive engagement policy is a recent political development, which has impacted on Burma's close neighbour, the Thai Government in their relations with the SLORC.

The Thai's traditionally accepted the fact of the Burmese living in their territory and particularly along the border between the two countries. This gave the added security to the Thai's as they had been historical enemies with the Burmese. It suited their political purposes.

The ASEAN policy of constructive engagement combined with the new policy direction of the Thai Government combined to put the organizations of the ethnic peoples of Burma under pressure to enter the cease-fire agreements with the SLORC. The above changes in policy direction of ASEAN and the Thai Government aided the SLORC in their efforts to effect the cease-fires.

Key terms of the agreements were that material assistance would be provided by the SLORC so that the Ethnic Peoples could develop their regional economies. They would also continue to hold their arms. The non-negotiable term put forward by the SLORC was that the Ethnic Peoples would declare to "Return to the Legal Fold", by the fact of entering the agreements.

The Ethnic Leaders knew that the SLORC's assertion that they were returning to the legal fold would not further the SLORC's claim to legitimacy. Only the SLORC could achieve this by transferring power to the those lawfully elected, which would have no direct impact on their relationship with the SLORC. The Ethnic peoples had never been part of the SLORC's so called "legal fold" as they had no previous political relationship them. Further that the Ethnic Peoples recognized the SLORC's military power but not their legitimate power.

The agreements would be used to promote their legitimacy to their
ASEAN neighbours and the international community. This legitimacy would in fact add weight to the SLORC's argument that they are legally entitled to hold power. They would further claim that only they had secured and could continue to maintain peace in Burma.

This would also be seen as important in terms of regional security issues. It was also promoted as the SLORC having the peoples support for the National Convention process. Another feature of the cease-fire agreements was that the SLORC coerced the Ethnic Peoples Organizations to attend and be delegates to the National Convention.

This peace had previously been secured and affirmed by the 1990 election result. At the election it was done of the ethnic peoples' own volition and not by force. History demonstrates that political compacts entered into willing and as equals, is more likely to survive and strengthen, while peace secured in conditions of force and threats of future force, is a tenuous peace at best.

Ethnic Peoples have not publicly stated their support for the view that the SLORC is a legal government, nor a legitimate one and they have never endorsed the National Convention, even when they have participated. They have now stated the contrary view.

**Endeavors of the Democratic and Ethnic Forces to Resist Legitimizing the SLORC's Rule**

The democratic and ethnic forces have publicly and repeatedly declared their position against the National Convention since its commencement.

U Khun Mar Ko Ban and U Daniel Aung, two elected representatives from Phe Khon and Mong Ping constituencies in 1990 May election, originally participated in the National Convention. After a brief encounter they boycotted it. At the time, 1994, they also fled to the ethnic controlled area. They were forced to take this action because they knew that the SLORC would be likely to charge them with "offenses" for their public declarations of boycott. (They could be charged under either the 1950 Emergency Provision Act or the 1975 State Protection Act)

U Daniel Aung had taken responsibility as a member of the presidium, by chairing sessions in the National Convention, therefore quite experienced in the operations of the Convention.
In October 1994, under the sponsorship of the National Council of the Union of Burma (NCUB), a "Constitutional Seminar" was held in the Marnerplaw liberated area, which was the headquarters for the democratic and ethnic resistance forces. The focus of the seminar was the issue of the illegitimacy of the National Convention. 159 delegates and 66 observers from 40 various democratic and ethnic organizations from inside and outside the country convened to the biggest seminar ever held in the liberated area.

Addressing the seminar, U Daniel Aung, urged the delegates participating in the National Convention as follows:

I think this is the time for all delegates who are now attending the National Convention to decide bravely and bluntly whether to become so-called historical defendants or heroes of the nation. In conclusion, may I say that let us, all pro-democracy revolutionaries here, join hands together and strengthen our unity to destroy all anti-democratic principles brought about by the SLORC's National Convention. (excerpt from U Daniel s public address, for detailed analysis see the BLC publication cited following)

The seminar delegates unanimously agreed to the following position statement on SLORC's National Convention:

As the SLORC is not a legally elected government, it has no right to convene a National Convention. The National Convention being held by the SLORC is merely a fraudulent one. It is concluded that the basic principles for a state constitution laid down by the convention are for the legalization of the rule of the military dictatorship. Therefore, all the delegates reach the position to totally repudiate the SLORC's National Convention and results emanating from it.

The Burma Lawyers' Council published the Constitutional Seminar Record "Analysis of SLORC's National Convention", April 1995. It has been published in English and distributed widely both inside and outside the country.

In Mandalay, the second capital of Burma, seven people were arrested by the SLORC, charged with the distribution of the above publication. They were all sentenced to seven years term for the charge.
Following the release of Daw Aung San Suu Kyi in July 1995, the leaders of the NLD analyzed the SLORC's National Convention and made a political decision to have the NLD delegates boycott it in September, 1995 with the following reasons:

Mae-Tha-Raw-Hta Seminar in 1997; The Ethnic Peoples Major Political Challenge to the SLORC's Legitimacy through the National Convention Following the boycott of SLORC's National Convention by the National League for Democracy led by Daw Aung San Suu Kyi, it is now the case that almost none of the 1990 elected representatives are convention delegates.

As a result the SLORC were forced to adjourn the National Convention and have as yet to set a date to resume sessions. During the past year that the Convention has been in adjournment, the political activities of the Ethnic Peoples Organizations designed to challenge the legitimacy of the SLORC's National Convention have intensified.

The Ethnic Peoples have found no discernible difference in the living standards in their areas, contrary to a term of agreement in the cease-fire policies. The SLORC had contracted with the ethnic organizations leaders to fund development in the largely rural and regional area of the ethnic peoples. Enough time has now elapsed since the signing of the cease-fire agreements, for the Ethnic cease-fire groups to realize that the cease-fires have not led to political solutions to their and the country's political problems.

They are also of the view supported by their experience and evidence, that the National Convention is not a mechanism capable of resolving the current political situation, because both its formation and its process is terminally compromised and they recognize that it is fraudulent in intent and practice.

In 1996, cease-fire and non-cease-fire Ethnic Peoples groups have developed a closer working relationship than previously existed. The unambiguous objective is to exert their efforts to promote political activities which are designed to discredit the military dictatorship and further weaken its major political agenda, the National Convention.

Under the initiative of the National Democratic Front, the biggest and authoritative Ethnic alliance in Burma and member organization in the National Council of the Union of Burma, the Ethnic Nationalities semi-
A seminar was held at Mae-Tha-Raw-Hta in the Karen National Union controlled area in January, 1997. The seminar was attended by 111 delegates and observers from the ethnic nationality organizations mentioned below:

1. Karenni National Progressive Party  
2. Pa-Oh Peoples' Liberation Organization  
3. Wa National Organization (WNO)  
4. United Wa State Party (UWSP)  
5. Palaung State Liberation Front  
6. Kachin Independence Organization  
7. All Arakan Students and Youth Council  
8. Lahu Democratic Front  
9. New Mon State Party  
10. Arakan Liberation Party  
11. Kayan New Land Party  
12. Shan United Revolutionary Army  
13. Shan Democratic Union  
14. Karen National Union  
15. Chin National Front  

Following 1988, that was the largest and most significant Ethnic Nationalities political gathering in which the cease-fire as well as non-cease-fire Ethnic Peoples groups participated.

The key resolution of the seminar with regard to the SLORC's National Convention was as follows:

We demand the dissolution of the SLORC's sham National Convention and the holding of a Tri-Partite Dialogue comprised of the representatives of the SLORC, Daw Aung San Suu Kyi and the pro-democracy forces, and the ethnic nationalities, for the solution of political problems by political means.

On February 12, 1997, in the ceremony of the Union Day, Daw Aung San Suu Kyi publicly made a reference to the Mae-Tha-Raw-Hta agreement and expressed her appreciation to it.

The political importance of the above mentioned seminar and position statement cannot be overestimated, as it directly but passively resists any
attempt by the SLORC to obtain political legitimacy through the legal device of the national Convention or similar means. This denies them the opportunity to legitimate their power both politically and legally.

**Economic Investment and its influence on democratic development in Burma**

Foreign companies have already invested over SIX billion US dollars in Burma.

**Investment in Burma (Until 30.6.97)**

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<th>No</th>
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According to SLORC, following the year 1988, the Gross Domestic Product (GDP) of Burma is 5.8 percent. Inspite of these claims the inter-
The national economic situation has been steadily declining. The average person receives no benefits from the money flowing into the country.

Despite the opening of Burma to foreign investment and propaganda about liberalization, the military still controls vital aspects of the economy through a series of restrictive practices. For example, prices of essential commodities are regulated by the Committee for the Reduction of the Consumer Prices, chaired by military generals. That Committee seeks to suppress inflation through price control. Farmers are compelled to sell a proportion of their harvest to the State at prices well below the market value. Transportation of goods across township boundaries is regulated by local military authorities.

Reports of inflation in the cost of rice is particularly troubling as rice is the staple food of Burma. The price per pyi (a small basket which can feed a family of four for one day) rose to 70 Kyat (Burma Currency) in low land and 125 Kyat in Shan State while the salary of a high school teacher is about 1,500 Kyat. Wages for other government servants and workers remain extremely low. In spite of restrictive regulatory controls, inflation is running at 40-50 percent a year.

The small Burmese middle class, made up of business people, professionals and intellectuals and traditionally the source of democratic political change, also is not free to pursue business activities unencumbered by military interference. Even with the current level of foreign investment, it seems the middle class will never have a chance to grow because of the relentless supervision of the ruling military regime over the economy.

The mass influx of illegal Burmese labourers into neighbouring countries and the departure of Burmese academic and professionals to other countries is a clear signal that something is terribly wrong with the economic stability of the country.

Under the SLORC's so-called "Open Market Economy", the whole economy is monopolised by the Army, military elite, Union Solidarity and Development Association and Myanmar Holding Co. Ltd, SLORC's lackeys association and company. Estimate place the military budget as high as 60 percent of the country's income. Although the tourist and hotel industries have become one of the main businesses, it is the military elite who gain, and few higher paying skilled jobs are available for the local people. The health care system lacks basic medicines and medical workers. It is now common for the people to say they go to hospital to die rather than to get well. The rural areas face even more desperate economic problems than the urban centres.
Under current policies of constructive engagement, within Burma foreign investment is benefiting only the SLORC regime, not the people. That the SLORC "economic boom" is not benefiting an overwhelming majority of the people of Burma becomes daily more obvious. In short, Burma's economy is a military monopolised economy which is having a devastating impact on its own people.

The economic crisis is the state of the SLORC's economy which has a least developed country (LDC) rating. Despite its attempts to enter the world economy, Burma is categorized high risk and international investors are wary of Burma, due to both the combined political and economic situation. A significant number of investors have ceased operations in Burma as a result of political factors and the American company UNOCAL is defending a legal suit in a US jurisdiction for alleged wrongs in the Burmese jurisdiction.

According to SLORC, for the 1996-1997 budget year, there are deficit of 54470 Million Kyat for finance and 5577.2 Million Kyat for trade. The collapse of SLORC's "Visit Myanmar Year" and other economic plans are also attributed to unskilful management, lack of infrastructure, a large amount of military expenses and political unstability such as the student demonstration in December, 1996. "Open Market Economy" articulated by SLORC remains, in practice, unsuccessful. Without political liberalization, modernization in Burma is quite inconceivable.

**Constitution making process for political liberalization in Burma**

Article 21(3) of the Universal Declaration of Human Rights mentions that the will of the people shall be the basis of the authority of government. A constitution should be based on the free will of the people and with provisions guaranteeing their rights and, as they themselves would protect it, only then would it be durable. As such, the people should have the rights to participate in the constitution making process freely. Contrary to this, SLORC has controlled and monopolized all other constitution making processes of the people.

On the sixth anniversary of May 27,1990 multi-party general election in Burma, the conference organized by the National League for Democracy (NLD) between 26 to 28 May 1996, laid down a resolution to draft a constitution for future Burma. Nevertheless, after that, SLORC provided Law No (5/96) and Article (3) (d), restricted the actions of the NLD and
other people to draft a constitution. According to Article (4), the punishment for the violation of this provision is from five to twenty years term imprisonment.

The Democratic Alliance of Burma (DAB) is composed of 21 pro-democratic and ethnic resistance organizations. It started the process of drafting the basic law in 1990, and was able to present the draft at its 1993 congress for approval. Subsequently, the National Council of the Union of Burma, a defacto parliament formed with the DAB, National Democratic Front (NDF), the National League for Democracy-Liberated Area (NLD-LA), and the Members of Parliamentarian Union (MPU) as a base, held a constitutional seminar in October 1994, in Manarplaw, in order to broaden the process, and advice and opinions given were collected. With the aim of continuing the effort to produce a draft constitution acceptable to all the indigenous nationalities and the entire people of Burma, an international constitutional seminar was held in Philippine.

The NCUB adopted the Draft Constitution of the Federal Union of Burma as a first draft constitution on its conference held from 16-23 May 1996. The draft constitution is to be refined by integrating the advice of international constitutional experts as well as the Burmese people through organized workshops to be held by democratic and ethnic opposition groups. The input of these discussions will result in an amended version of the draft constitution.

Proposed political program including a constitutional reform to achieve democracy and modernization in Burma?

The National Council of the Union of Burma (NCUB), the legitimate government body the National Coalition Government of the Union of Burma (NCGUB), and other Burma democracy organizations, that have always requested dialogue on the basis of equality and mutual respect. Tripartite dialogue participated by pro-democracy forces led by Daw Aung San Suu Kyi, the ethnic nationalities forces and the SLORC is the grand political program.

The following steps are the proposed political program of the NCUB in order to achieve the national reconciliation through the tripartite dialogue.

(1) After signing an agreement based on the position formed by the leaders in the tripartite dialogue, the SLORC is to declare a nation wide
cease-fire, release all political prisoners and rescind all repressive laws and orders.

(2) A People's Assembly consisting of representatives elected in May 1990 general election is to be convened.

(3) The People's Assembly is to declare a general amnesty, to form an interim coalition government consisting of persons chosen pursuant to an agreement reached during the tripartite dialogue and to adopt an interim constitution for the interim coalition government.

(4) The interim coalition government is to organize and hold a genuine National Convention for laying down principles for the constitution of a future federal union.

(5) The People's Assembly is to draft a constitution based on the principles laid down by the National Convention and to enact it.

(6) A government of the people is to be elected and formed in accordance with this new constitution.

This article concludes with a recommendation which we hope the readers will be able to utilize to assist those who genuinely seek democracy and the rule of law to obtain it.

**Recommendation**

In order to achieve the transfer of power to the democratically elected representatives, the cessation of human rights abuses in Burma, the international community is requested to extend their assistance to the efforts of the oppressed people in Burma by not taking any action which would provide legitimacy to the SLORC.