Part (3)

Work Schedule of the Emergence of the Constitution

(a) Work program of the Opposite Political groups

The parliamentary members of the National League for Democracy (NLD), which won more than 82% of the total seats in the 1990 multiparty general election, gathered at Gandhi hall in Kyauktadar Township, Rangoon, on the 28th and 29th of July, 1990. They discussed the general affairs of the state, the calling of people's parliament for the benefit of the people and unanimously decided and announced the “Gandhi Hall Declaration”... In this declaration concerning the transfer of power in accordance with the law (or) the power in accordance with the law, NLD had already drafted the constitution. The parliamentary members of NLD asked the State Law and Order Restoration Council (SLORC) to convene the People's Parliament in September 1990, in conformity with the people's desire and in accordance with chapter (2), article (3), of the People's Parliamentary election law, and with the essence of the democratic system and international practices.

On 29th August, 1990, representatives of the NLD, United Nationalities League for Democracy (UNLD) met to discuss and release the Bo Aung Kyaw Road Joint Statement which stated, to the SLORC, that the people's parliament would be convened during September of 1990, according to article (3) of chapter (2).

Article (4-b) of the Bo Aung Kyaw Road Joint Statement No (1) states as follows:

After members of parliament have been elected, and government and par-
liament formed, a National reconciliation convention, to include the ethnic nationalities, organizations and individuals, will be convened as soon as possible under the initiatives of parliament and guiding principles will be laid down for the establishment of the union. The NLD and UNLD unanimously agree that parliament must make and draft the constitution according to these guidelines.

On the 16th September, 1998, the NLD and four ethnic parties legally formed the Committee Representing People’s Parliament (CRPP). It was formed according to the mandate conferred by the 251 members of Parliament, in order to meet the people’s aspirations successfully.

Nobel Peace Prize laureate Daw Aung San Suu Kyi, general secretary of the NLD and member of the CRPP, appealed to the people on 19th September, after the CRPP had been formed, that “the parliament elected in 1990 was in agreement with the public and the life of the parliament would expire after the constitution in accordance with the policies of democracy was prescribed.”

On the 30th August, 2003, the then Prime Minister, General Khin Nyunt, announced the seven steps in the road map for the building of the state. He definitively stated that these seven steps were the military regime’s policies by which Burma would proceed forthwith. The seven step road map was later reaffirmed by the current Prime Minister, Lt General Soe Win and Lt General Thein Sein, Secretary 1, of the SPDC. On the 16th September, 2003, the CRPP released its statement on its stance regarding the seven step road map, it stated: “Such a road map can tackle neither the political and economic crisis currently facing the people nor the neglected the result of the 1990 election which demonstrated the will of the people. This was the SPDC’s intention to create a future of Burma based upon its own will. The people of Burma do not accept the SPDC’s decision to hold the next election, especially after the results of the 1990 election were rejected. The SPDC’s policies do not work towards national reconciliation, democracy, human rights, or the formation of a genuine union that respects the self-determination of the ethnic nationalities.”

The guidelines of the military does not take into account the aspirations of the people and, in addition, the NLD, UNLD and SNLD all firmly announced that these guidelines are policies that do not aim at building a genuine union as
above-mentioned. In 1997, on the seventh anniversary of winning the election, the NLD also firmly announced the following:

Reference to the statement (1/90) of the SLORC, which stated that Members of Parliament are the people responsible for writing the constitution and its slogan that the emergence of the constitution is the responsibility of the entire people of Burma, all together 80 pages were compiled in regard to constitution.

The constitution cannot, however, be approved by a person or by an organization, as the NLD firmly believes that the conference should be attended by genuine representatives of the ethnic nationalities - as happened in the Panglong - and that only then can the constitution be approved. As such the NLD decided to back the proposal that the draft compilation should not be submitted to the state and be suspended.

Similarly, since 1990, the Democratic Alliance of Burma (DAB), an umbrella political alliance, drafted a constitution and in 1993 the first draft was approved. The leaders of the above organizations widely studied and exchanged the draft in a seminar held in October of 1994. In May of 1996, the first draft of the constitution of the future federal Union of Burma was approved, in the fourth conference of the National Council of the Union of Burma (NCUB). The NCUB formed a drafting committee to promote the federal constitution draft and is still, currently, trying to make the second draft public.

The ethnic armed groups are currently working on state constitutions with respective drafting teams. There is, however, little interest in the constitution from the country as a whole. Even though the state constitution is being drafted, the people cannot widely participate in the process, and it is now at the stage where the leaders of the organizations are discussing and adjusting it themselves.

The positions of the NLD on the Union are expressed in the Multi-party General Election Statement of the NLD, inter alias, as follows:

A Multi-Ethnic Nationalities National Convention will lay down the guidelines for the future union, and will be held, like the Panglong conference, for the purpose of adopting the foundations for a democratic society - endurance, development, peace and pleasure of the union.
Therefore, all political strengths throughout the union and outside the country are consistently working towards the emergence of a genuine constitution for the whole nation. Thus we, the CCRPA, are trying to determine the genuine aspirations of the people by reaching out to the nation as far as possible.

(b) The process implemented by the SPDC (military rulers)

In Burma, the democratic uprising broke out in 1988. After the 18th September, the day the SLORC brutally cracked down on the uprising and took control of the country. The SLORC held a multi-party general election according to the People’s Parliament Election Law on the 25th May, 1990 and admit that it was both free and fair. The SLORC had approved and enforced this People’s Parliament Election Law since 1988.

Yet even though they stated that this election was free and fair, they refused to implement the results of the election, and, to this day, have not allowed the people’s representatives of parliament to convene.

Article (3) of the People’s Parliament Election Law plainly and clearly prescribed that “the parliament must be formed with the representatives elected from their constituencies.”

Official Speeches, from Authoritative Figures within the Burmese Military Regime

1. On the 23rd September, 1988, a former chief of staff from the army said: “We are soldiers and our organization formed from the gratitude of the state, so we will not breach that promise under any circumstances. We want the people to believe what we say.”

2. On the 27th March, 1988: “We, soldiers, go back to the barracks and try to serve our original primary duties, from the past to the present day.”

3. On the 3rd July, 1990, he expressively stated: “After the multiparty election has been held, what are we going to do? Are
we to draw the constitution? We have already said that the SLORC won’t draw it and so we cannot accept this accusation against us. The representatives from the elected parties must draw the constitution”.

4. General Khin Nyunt, former Secretary (1) of the SPDC, at the 100th press release held on 13th July, 1990, said:

“The parties which won the election have to draw up a constitution for the future sake of the people of Burma. The responsibility for the constitution lies on the political parties”.

5. He mentioned the following at the 104th press release held on the 11th September, 1990:

“The SLORC should not draw the constitution; the representatives of the people must draw it. As we have said before so plainly and clearly, the people’s representatives from the currently elected political party must draw the constitution”.

Despite these public announcements, the military regime, through various means, refused the transference of power to the elected parties, and prohibited the writing of the constitution and the convening of the People’s Parliament of the NLD and CRPP - the election results were never officially recognized. The military group promised that they would hold the election, transfer power and convene the People’s Parliament and they proclaimed in statement no. (1/90), that the people’s representatives must make the constitution. However, within the same statement, they also specified that they would not accept the establishment of a government with a temporary constitution in order to retain state power.

On April 24, 1992, the military regime released statement no. (11/92) and announced that they would hold a National Convention within next six months, in order to adopt the concrete constitutional principles. And, accordingly, they convened the National Convention on the 9th January, 1993.

Section (12) of statement (1/90), released on the 27th July, 1990, and article (3) of the People’s Parliament Election Law stated: “according to the law, parliament must be formed with the representatives elected from the constituencies.” According to this provision, they firmly stated that the SLORC would arrange
the convening of parliament. In addition, section (20) of that statement read, “At the present time, the responsibility of the representatives, elected by the people, is to draw up the constitution”. However, even though there were 702 people who could officially attend the National Convention, the number of representatives, who could actually participate, was only 107. This figure is only 15.24% of the total number of attendees - they are always the minority in the National Convention. The NLD won 392 of the total 485 seats in the 1990 election. Therefore, the authority’s procedures for holding the convention are not in line with democratic principles. Furthermore, these responsible persons are unilaterally undertaking the attitude of the military group. In protest, the NLD did not participate, and has awaited a fair and proper convention since the 29th November 1995.

The commission holding the National Convention neglected to notify the NLD regarding the commencement of the convention, thus ensuring that the NLD wouldn’t be able to attend. The commission also took away the status of NLD representatives, according to section (48) of the procedures for holding the National Convention.

The military group limited the activities of, and oppressed, the NLD by various means and detained the NLD representative in May and June of 1996. The SLORC proclaimed Order No (5/96) on the 7th June 1996. This order prohibits the addressing of speeches, discussing, writing or spreading information about the constitution, and clearly states that any person who does not adhere to these restrictions will be sentenced to imprisonment.

After the National Convention finished, the then Prime Minister, General Khin Nyunt, on the 30th August 2003, officially announced the seven steps of the Road Map for the building of the state. The military group held the next National convention on the 17th of May 2004, in accordance with the above statement. In this convention there were only 1088 people who could attend; with only 15 representatives elected in the 1990 election - a percentage of 1.38%. This figure dropped significantly from the 15.24% who were allowed to attend the National Convention in 1993. Furthermore, this figure indicates that the people’s representatives were taking part only nominally.
The military regime's plan for the constitution excludes the participation of the people. This process allows the National Convention to create a constitution that favors the military regime and forces the people to approve it.