



**Burma Centre for Ethnic Studies**  
PEACE AND RECONCILIATION

# Institutional Design for Divided Societies

A Blue-print for a multi-ethnic Burma

Zaceu Lían

Working Paper No.1

# **Institutional Design for Divided Societies**

## **A Blue-print for a multi-ethnic Burma**

**Zaceu Lian**

©2012 Zaceu Lian

Published in May 2012 by

The Burma Centre for Ethnic Studies  
PO Box 49  
Chiang Mai University  
Chiang Mai 50202  
Thailand

Email: [info@burmaethnicstudies.net](mailto:info@burmaethnicstudies.net)

Website: [www.burmaethnicstudies.net](http://www.burmaethnicstudies.net)

Unless otherwise stated, working papers of the Burma Centre for Ethnic Studies are presented without endorsement as contributions to the public record and debate. Authors are responsible for their own analysis and conclusions.

## Introduction

The retrospective analysis of an institutional breakdown – democratic breakdown – in the union of Burma demonstrates that over six decades of conflict in Burma is rooted in a constitutional arrangement that fails to recognize the existence of ethno-cultural cleavages, resulting in the denial of power to territorially concentrated ethnic national minorities. Therefore, in this article, I argue that an asymmetrical federation with a written constitution is the most viable governance framework for a democratic future Burma due to its multi-ethnic segmental cleavages such as ethnicity, language, religion, culture, and territory. Such a constitutional federation will ensure shared rule for a common Union and self-rule for federating states drawn upon ethnic lines.

To contextualize an institutional design for future Burma in a comparative international perspective, I examine the core arguments put forward by the integrationist and accommodationist camps as a theoretical framework within which to discuss the management of societal divisions, including their implications and applicability to Burma. To prove that a constitutional federation that draws together elements of both integrationist and accommodationist theory, I revisit and analyse reasons behind the constitutional crises of Burma, the basis upon which Burma emerged as a country, the composition of its ethnic fragmentations, and competing visions of the Union of Burma itself. With respect to an institutional design for a future Burma, there are two main components in my proposal: a disproportional upper chamber in the union legislature, whereby I envision an equal number of representatives from each constituent state; and separate legislatures and constitutions for each federating unit, dividing power between central and state governments along the line of US states and Canadian provinces. Lastly, I look at the current provisional constitution drafted by leaders of a democratic opposition – seven ethnic national minorities - in anticipation of a future federal Union of Burma.

### A scholarly debate on ‘institutional design’ for divided societies

The ongoing debate dealing with institutional designs for divided societies has gained prominence among political scientists and constitutional scholars especially following World War II when many formerly colonized countries, particularly plural and multi-ethnic, engaged in their own nation building by designing constitutions for their respective societies. Many of them imported constitutional ideas and structures from other countries, modelling their constitutions on the design of their colonial powers. Importing constitutional ideas from others is a common practice for countries that engage in their

own nation building. However, because the fault lines of divided societies markedly differ from one country to another, blind imitation of others’ constitutions is a failing strategy for many countries, including Burma.

Having a good constitution on paper does not guarantee that it will work in practice. Part of the reasons causing institutional breakdown in many new democracies was due to the failure to understand or - underestimation of - the root causes of conflict facing their societies, leading to an erroneous diagnosis of the conflict and wrong prescription of institutional designs. In fact, the failure to design constitutions that respond to ethnic division and tribalism in a divided society is considered a cause of democratic failure in the newly independent countries of Africa and Asia during the 1960s.<sup>1</sup>

In designing any constitutions, it is vital that any constitutional design created needs to reflect and respond to the aspirations and concerns of the very society that the particular constitution is intended for. Aware of the unfavourable corollary of institutional breakdown caused by the blind imitation of others’ constitutions in the past, contemporary framers of the constitution of African countries such as Eritrea, Ethiopia, and Uganda reject the blind imitation of others’ constitutions arguing that there is no need to reinvent the wheel.<sup>2</sup>

In this paper, we take as our subject the case of multi-ethnic Burma. For the purpose of analysing Burma, among various theories formulated by scholars in an effort to manage divisions, I will mainly compare and contrast the two leading divergent schools of thought on institutional design: they are accommodationists and integrationists.<sup>3</sup> The two leading scholars on these two competing theories are Donald L. Horowitz in the integrationist camp and Arend Lijphart in the accommodationist camp. The two theories clearly diverge in their formulation of institutional design as a mechanism to resolve political conflict facing divided societies.

### The Integrationist-Accommodationist Debate

Before we delve into the two schools of thought, it is essential that we define what we mean by a divided society, the very society that both accommodationists and integrationists are attempting to manage with their respective institutional designs. A divided society refers to a society marked by ethno-cultural divisions based on language, culture, territory, and religion, “which are persistent markers of political identity and political mobilization; what makes a divided society distinct is that these differences are politically salient that they are translated into political fragmentation and political claims are refracted through the lens of such segmental identity.”<sup>4</sup> According to Arend Lijphart, in divided societies,

“cleavages are mutually reinforcing, and not cross-cutting. And, the result is segmental cleavages. As a consequence, political mobilization is often based on segmental cleavages, and the political parties are formed on these bases.”<sup>5</sup>

Acknowledging the central importance of ethno-cultural divisions characterizing divided societies, Lijphart and the accommodationist camp propose a consociation model that aims to accommodate ethno-cultural differences based on segmental cleavages such as language, culture, ethnicity, religion, and territory; they advocate for the institutionalization of ethno-cultural identities, dual and multiple. The core argument of accommodationists stems from a clear recognition that, for a divided society, an ethno-cultural division based on segmental cleavages along the line of ethnicity, territory, culture, and language runs deep and is real. Because ethno-cultural division in divided societies is deep-seated, political mobilization is often based on the fault line of segmental cleavages. The proper response, therefore, according to Lijphart and accommodationists, is a public recognition of cleavages via the institutionalization of ethno-cultural difference, drawing on the strength of their associated identities by way of substantial autonomy for each group, whether by way of federalism or by other mean.<sup>6</sup>

By proposing the primacy of institutional recognition, the consociational model (accommodationist) has developed mechanisms for power-sharing- ensuring the legislative representation and autonomy of ethnic national minorities, including segmental autonomy over education and culture.<sup>7</sup> To encapsulate the mechanisms developed by accommodationists:

There may be grand coalition governments in which all significant groups are represented; proportional representation of different groups in the distribution of legislative seats and in the civil service; segmental autonomy via federalism or similar devices; and a power of veto over key decisions by minority groups.<sup>8</sup>

They suggest the need to incorporate a certain degree of proportionality in the legislative election, which will allow ethnic minorities a certain share of representation, and ensures a quota system is in place whereby ethnic national minorities are given effective representation in police, judiciary, and civil services.<sup>9</sup> The main premise behind the consociational theory is an argument that one cannot underestimate the sentiment of ethno-cultural division that is deep-seated and strong among ethnic minorities; a denial of public recognition means a denial to their distinct ethnicity and rights, be they cultural, territorial, or linguistic. Potentially, the denial to recognize characteristics of ethnic differences that define divided societies can even cause the disintegration of the common Union if ethnic

minorities, for fear of extinction, feel institutionally alienated and marginalized. For reason of ensuring the unity and integration of the Union, accommodationists argue for the primacy of recognizing ethno-cultural division through a constitutional arrangement.

On the other hand, for fear of perpetuating and freezing ethnic divisions within divided societies, Horowitz and the integrationists camp oppose, though accepting diversity in the private realm, public recognition of ethno-cultural divisions or sub-state group identities. They argue that giving a public recognition of their distinctness to ethnic national minorities means compounding the existing divisions based on segmental cleavages among ethnic groups, which will freeze and perpetuate ethno-cultural differences, instead of eliminating it.<sup>10</sup> Integrationists also argue that, “accommodation will fuel instability and deepen divisions, because it empowers elites who have a vested interest in maintaining these divisions.”<sup>11</sup>

Focusing on the integration of all sub-national groups in a divided society into the mainstream society, which will promote a common public identity without demanding ethno-cultural uniformity in private and associational life, Horowitz and integrationists emphasize the paramount importance of designing institutions – constitutional strategies – promoting the emergence of political parties and electoral systems that cut across ethnic cleavages, supporting aggregative political parties which will bring together individuals of different ethnicities and fostering inter-group accommodation.<sup>12</sup> Furthermore, they encourage ethnic-based parties to seek electoral support not just from their own ethnicity, but also from that of different ethnic groups. Heavily relying on the electoral system, “Horowitz preferred choice is ‘vote pooling’ best achieved through single member districts, using a transferable vote to ensure that each elected member is supported by a majority of constituents.”<sup>13</sup>

Looking at the main features of integrationists’ constitutional strategies, one can argue that the eventual goal of integrationists is to establish a monolithic/homogeneous society by integrating all ethnic minorities through an institutional mechanism that denies special rights to ethnic national minorities. Although the proposal by the integrationist camp sounds superb, it is difficult to envision its applicability as a theory for divided societies, characterized manifestly by segmental cleavages such as ethnicity, language, and territory. Because a sense of self-identification based on segmental distinctness – regional consciousness – is primordial among the territorially concentrated ethnic national minorities, the institutional design that does not recognize the existence of such ethno-cultural distinctness could be construed as an assimilation attempt by a clear ethnic

majority against ethnic national minorities. Seeing the impracticality of the integrationist policies for divided societies, accommodationists counter, “promoting integration in this context creates at best an unstable equilibrium that leads to assimilation, accommodation, or secession.”<sup>14</sup>

As laid out above, the main divergence between the two theories can be summarized here: Essentially, Lijphart and proponents of the accommodationist view advocate for a public recognition of dual and multiple identities of ethnic minorities; on the other hand, Horowitz and integrationists’ camp, focusing on the equal protection of all citizens regardless of racial background, argue against the institutionalization of such segmental identities.<sup>15</sup> The distinction of the two theories is pronounced when we apply the two theories to the real cases of ethno-culturally diverse and divided societies, characterized by segmental cleavages along the lines of ethnicity, language, territory, culture, and religion.

In a multi-ethnic country, made up of such ethno-culturally diverse minorities, ethnic national minorities are always protective of their distinct ethnic heritages: language, culture, religion, ethnicity and territorial integrity. Because preservation and promotion of their distinctiveness are so vital to their group’s survival, ethnic national minorities tend to support the political parties and candidates of their own ethnicity or closely align with their groups’ ideological leanings. In that kind of political setting, it is not uncommon to see that many political parties are formed in a way that corresponds to ethnic divisions.

I posit that this accommodationist-integrationist debate among scholars dealing with the formulation of constitutional design is particularly relevant to a multi-ethnic Burma, divided and plural. Now, relying on the central arguments of both theories, I would like to apply their theoretical and practical implication to review the implications for multi-ethnic Burma as our point of analysis in order to observe which one of the two has a more convincing and compelling argument.

### **Integrationist-Accommodationist Debate in the Context of a Multi-ethnic Burma**

The Union of Burma (Myanmar) is a multi-ethnic country made up of eight distinct ethnic nationalities: Namely, Kachin, Karenni, Karen, Chin, Mon, Arakan, Shan, and Burman or Bama in Burmese. They all have their own geographic territory, distinct language, culture, and ethnicity. For instance, Chin state is populated and inhabited by ethnic Chins who form a majority within Chin State, and so do every ethnic group: the Kachins in Kachin state, Karennis in Karenni state, Karens in Karen state, Arakaneses in Arakan state, Mons in Mon state, Shans in Shan state, and Burmans in Burman state. To get

a sense of an unequal population distribution, there is one dominant ethnic group that constitutes a clear majority. They are known as Burman or Bama that accounts for 68% of the entire population, and the rest is made up of the remaining seven ethnic groups and others combined.<sup>16</sup> In this paper, I use the term ‘ethnic national minorities’ to denote those seven ethnic national minorities combined, and the term ‘Burman or ethnic Burman majority’ to refer to one clear dominant Bama or Burman ethnic group. While the term ‘Burman or Bama’ is used exclusively to refer to ethnicity, Burmese is used to refer to nationality that includes all ethnicities in Burma.<sup>17</sup>

To contextualize the integrationist-accommodationists debate in Burma’s political landscape, throughout the history of nation-building in Burma especially after 1948, there emerged two competing visions of the common Union: a centralized view of the Union that focuses on the integration of all ethnic minorities into the mainstream society without necessarily giving special rights to federated units (states of ethnic national minorities) and a decentralized view of the Union that seeks to grant a certain level of regional political autonomy to ethnic national minorities. This fully centralized view of the Union objects to a constitutional design that grants special rights to ethnic national minorities. Our analysis of both Burma’s parliamentary democratic government from 1948-62 and subsequent military governments, wholly dominated by ethnic Burmans, demonstrated that leaders of Burman ethnic race embraced a centralized view of the Union, where power is fully concentrated in the central government. And, they represent the integrationist camp. On the other hand, those who want the decentralized form of the union called for a certain degree of regional self-rule, and this view is embraced by seven ethnic national minorities; they represent the accommodationist camp. Essentially, in the context of Burma, ethnic Burman majority’s view is in line with Horowitz and the integrationist camp, whereas ethnic national minorities’ view of the Union is in sync with Arend Lijphart and the accommodationist camp.

### **Burma’s Constitutional Crises in Historical Context**

In order to fully understand the root causes of political conflicts that have plagued the Union of Burma for over six decades, it is essential that we revisit the historical background giving birth to Burma as a country. The Union of Burma (Myanmar) was born out of a treaty, known as the Panglong treaty that was signed on February 12, 1947 by pre-colonial independent leaders of the Shan, the Kachin, the Chin, and the Burman or Bama.<sup>18</sup> Before the British conquered Burma in 1886,<sup>19</sup> there was no such formal bond binding all ethnic groups living in the territory that became the Union of Burma. As they were separate



nations conquered separately by Great Britain, the issue of Burma's independence became a question during the negotiation for Burma's independence.<sup>20</sup>

Noteworthy here is that those ethnic national minorities- Chin, Kachin, and Shan, who were conquered separately by Britain - cannot be represented by anyone or group outside of their own, especially without their approval (i.e. General Aung San of AFPFL could not represent them in the negotiation unless he secured the consent of ethnic national minorities). In fact, Burma's celebrated independence struggle leader General Aung San and his delegates from Ministerial Burma departed for London to negotiate Burma's independence without securing the prior support and approval of ethnic national minorities.

Rightly, the British government rejected the first appeal for Burma's independence by Aung San and his delegates for their lack of mandate to represent those ethnic national groups - Chin, Kachin, and Shan- who had governed themselves in line with their own political system up until the British came.<sup>21</sup> Knowing that he needed to secure the support of ethnic national minorities if Burma were to attain independence, General Aung San indeed convened a conference at Panglong, Shan state, which was attended by leaders of the Chin, Kachin, Shan, and General Aung San himself in February, 1947. Delegates attending the historic conference collectively reached a landmark agreement, known as the Panglong Accord or Agreement that was signed by delegates on February 12, 1947.<sup>22</sup>

The essential provisions of their agreements were: (a) leaders of ethnic Chin, Shan, and Kachin, agreed to form a United Burma and attain independence together with Burman majority as one nation; (b) in the new Union of Burma, ethnic national minorities would inherently retain their birth rights of regional autonomy or self-rule; and (c) after ten years of joining the Union, ethnic groups such as the Shan and Karenni can secede from the Union if they choose to: ten years meant, the Shan and Karenni states can exercise their secession rights after January 4, 1958.<sup>23</sup> As noted, the signing of the Panglong Agreement or treaty was the basic foundation that gave birth to the Union of Burma as we know it today. According to a native Burmese (Chin) scholar Lian H. Sakhong, "the essence of the Panglong Agreement was, and is, mutual recognition and respect, based on the principles of political equality, self-determination and voluntary association."<sup>24</sup>

The reason why it is important that we re-emphasize the political significance of the Panglong Agreement today is not only because it gave birth to the Union of Burma as one common country, but also because the subsequent provisions of the Union of Burma's constitutions were based on the terms and conditions set forth/laid out in the Panglong

agreement by the founding fathers of the Union of Burma. The Panglong spirit that led to the signing of Panglong Agreement basically is the principle that fully embraces Unity in Diversity - forming a united country among different nationalities with mutual respect, cooperation and understanding - and equality for all constituent member states of the Union. If interpreted correctly, the Panglong spirit is the belief that fundamentally endorses a federal system as the institutional design for a multi-ethnic Burma.

### **The Constitutional Crises of Burma: the majority vs minority conundrum**

The founding fathers, who signed the Panglong agreement, designed the Union of Burma to be a federation, and not a unitary state. General Aung San, who headed Burma's independence movement as well as the interim government as the acting Prime Minister of independent Burma, fully espoused a federal system which he believed was most appropriate functional governing framework for a multi-ethnic Burma. In the Anti-Fascist People's Freedom League (AFPFL) convention in May, 1947, he asked, "now when we build our new Burma, shall we build it as a Union or as a unitary state?" And, he answered, "In my opinion, it will not be feasible to set up a unitary state. We must set up a Union with properly regulated provisions to safeguard the rights of the national minorities."<sup>25</sup>

After the Panglong Agreement was signed, Burma's future constitution that was based on the basic principles laid down in the Panglong Agreement was drafted under General Aung San's leadership. In the draft provisions of the 1947 constitution that was approved at the AFPFL Convention, ethnic national minorities were granted the right to self-determination, a certain degree of regional autonomy, and separate state legislature in accordance with the terms and conditions of the historic Panglong Agreement. For instance, a constitutional provision that prescribed constituent State power in section (I) enumerated, "each constituent state shall have its own constitution in conformity with the constitution of the Union and its own specific characteristics and features" and also in section (3), "the state legislature may exclusively make laws in relation to matters coming within the classes of the subjects next hereinafter enumerated such as constitutional affairs, direct taxation within the state, other than federal taxes and the list goes on."<sup>26</sup> Unfortunately, before Burma gained actual independence and prior to the already-approved constitution of 1947 came into effect, General Aung San was assassinated along with his designated cabinet Ministers by his political rival Galone U Saw on July 9, 1947.<sup>27</sup>

Two months after the assassination of General Aung San, the new leadership of AFPFL led by U Nu, who served as the Prime Minister of Burma from 1948 to 1962, and his

constitutional advisor U Chan Htoon revised and amended the already-approved provisions of 1947 constitution. After abolishing some of the provisions that granted special rights to ethnic national minorities, “Prime Minister U Nu moved a motion to adopt the amended constitution in September, 1947, which came into effect on January 4, 1948, the day Burma gained actual independence from Great Britain.”<sup>28</sup> In the subsequent provisions of the 1948 constitution, the rights and powers of ethnic constituent states enumerated in 1947 under General Aung San were completely modified and, even some of the original provisions got nullified. For instance, the 1948 constitution no longer contained any mention of a separate ‘state legislature’ for federating units. Rather, the Union constitution had separate provisions for every state designating them as ‘State council’. The case in point is a provision that deals with Shan State which stipulated, “all members of the Parliament representing the Shan State shall constitute the Shan State Council” and section (155), “the state council may recommend to the passing of any law relating to any matter in respect of which the Council is not competent to legislate.”<sup>29</sup> Literally, even the so-called state council lacked the ability to pass law on matters of state jurisdiction without central government approval.

The Union that General Aung San of AFPFL and pre-colonial independent leaders of ethnic national minorities built with the aim of building federation based on a genuine federal principle became a unitary state. To better put it, the federal principle-based version of the 1947 constitution was modified as a unitary state version of the 1948 constitution that nullified provisions granting separate state legislature for ethnic national minorities. One of the principal engineers of 1948 Burma’s constitution, U Chan Htoon, admitted, “our constitution was federal in theory, but unitary in practice” and he further added, “the structure of the Union is not like the United States or Switzerland, there are no separate state legislatures.”<sup>30</sup> According to the 1948 Constitution, Burma became a unitary state with a fully centralized Union constitution enabling dominant Burman ethnic group to direct the country as they wished. One of the major flaws of 1948 constitution was that it did not provide “separate state legislature” to constituent states, which meant that constituent states or federating units had no legislative, administrative, and judicial power of their own such as constituent states in the United states of America and provinces in Canada.

Worse, not only was there no separate state legislature for sub-units of the Union, but the national legislatures – both houses of parliament - were wholly dominated by the Burman majority during the period of parliamentary democracy (1948-1962). For instance, even

though the Union constitution provided bi-cameral legislatures, the representation to the Upper House (Chamber of nationalities) was not designed on an equal number of representatives from member states, but based on the population of each constituent state - Shan 25, Karens 24, Kachin 12, Chin Special Division 8, and Karenni 3.<sup>31</sup> Since the representation to both houses of the parliament was based on population, ethnic national minorities lacked equal and effective representation in the Union government.

Such enactment of simple majority rule in both parliaments meant that majority Burman politicians had unparalleled as well as unstoppable advantage to pursue any policy they aspired to. With the constitution being the supreme and the highest law of the land in a democratic country, Prime Minister U Nu and his government completely controlled the legislative functions of the Union government. In fact, given the unstoppable legislative power that his government had, it was not surprising to many that Prime Minister U Nu, a devout Buddhist, even attempted to promulgate Buddhism as state religion in 1961.<sup>32</sup>

According to the constitution, separate ethnic-based states were created, but the legislative power of state council was devolved from the central government with a complete control from the center. The state council that Burma’s constitution created for different states in 1948 was somewhere close to the devolution of power practiced in Scotland, in the United Kingdom. Through the Scotland Act,<sup>33</sup> the British government accommodates the aspiration of Scottish nationalism by empowering the Scottish legislature to legislate in a certain devolved areas of jurisdiction. However, as the term devolution suggests, power is devolved from the Center that means the U.K central government has absolute power over Scotland. For Burma, such devolution did not and will not suffice to meet the aspirations of federating units.

Institutional arrangements under a unitary constitution indicated that the Burman majority disproportionately enjoyed systemic institutional favouritism at the expense of ethnic national minorities. As Lijphart correctly spells out, “majority rule in plural societies spells majority dictatorship and civil strife,”<sup>34</sup> Burman majority dictatorship against ethnic national minorities was what exactly occurred in the Union of Burma. For the ethnic national minorities, the Union of Burma they co-founded on an equal footing at the historic Panglong conference in 1947 turned out to be a lopsided Union, totally dominated by the Burman majority; institutionally, the smaller ethnic national minorities were totally disenfranchised, alienated, and unrepresented.

A considerable lack of representation in the federal politics that ethnic national minorities

faced at the hands of the Burman majority can be best described as both institutional and systemic suppression and alienation. “With extremely lopsided majority (Burman majority) and minority (ethnic national minorities), simple majority rule was not sufficient in divided societies like Burma. It resulted in the exclusion of minorities or civil strife or both.”<sup>35</sup> Subsequently, the institutional suppression of ethnic national minorities by Burman majority was systemic alienation that had compounded the problem of lack of trust among ethnic groups- especially: lack of trust existed between Burman majority and that of collective ethnic minorities.

Having practical experiences of being suppressed and dominated by the majority Burman, ethnic national minorities realized that a simple democratic system with majority rule meant they were institutionally and systemically alienated from the common institutions. Therefore, with the objectives of reforming the dysfunctional Union according to a genuine federal-system based constitution as agreed in the Panglong agreement, leaders of seven ethnic national minorities, to the exclusion of the Burman ethnic majority, convened a constitutional conference from June 8 to 16, 1961 at Taungyi, Shan State. “We convened this conference to address the serious flaws of 1948 Unitary constitution according to the basic principles of a genuine federal Union constitution based on the right of self-determination to ensure equal rights and regional autonomy for ethnic nationalities’ states as we were promised in the Panglong Agreement”<sup>36</sup> declared, U Kya Pu, one of the main architects behind the constitutional reform movement.

The conference was attended by over three hundred political leaders, constitutional experts and other professionals from seven ethnic national minorities. Reading through all the meeting minutes and discussion papers, it was quite remarkable to note that none of the presenters and speakers called for secession; they all were committed to reforming the common Union based on a genuine federal principles, ensuring that ethnic national minorities had effective legislative representation in the Union government. Unfortunately, before the realization of their dream of reforming the federal constitutions in accordance with federal principles, “the then Chief of Staff General Ne Win, who was considered Burman chauvinist, staged a military coup on March 2, 1962.”<sup>37</sup> Since then, the Union of Burma has been under the military rule.

### **The Integrationist-Centralist view of the Union: Ethnic Burman majority’s view of a ‘Stable Union’**

Leaders of the majority ethnic Burman, especially leaders of the successive military

governments who hold the centralist view of the Union, strive to build a strong Union by fully integrating all ethnic groups into one national citizenry- Bama/Burman race. To them, by setting aside ethno-cultural backgrounds, they envision all ethnic groups fully embracing the spirit of one nation (Burma), one language (Bama), and one race (Bama). Objecting to an institutional arrangement that gives special rights to ethnic national minorities, their aspiration is to institutionalize a single political system. In their view, a simple democratic system with a majority rule is considered adequate without necessarily creating additional system accommodating the aspiration of ethnic national minorities.

Given the sizable population advantage that the Burman majority enjoys over the rest of ethnic national minorities combined (68% against 32 %), it makes sense that Burman politicians defend the majority rule at all costs because the simple majority system works in their favour. For instance, during the short-lived parliamentary democracy from 1948 to 1962,<sup>38</sup> the Union constitution enshrined a simple majoritarian rule that enabled ethnic Burman majority to institutionally marginalize and suppress ethnic national minorities. Basically, by ideologically aligning themselves with the integrationist approach advocated by Horowitz, the view of the majority Burman is that a public recognition of ethnic rights through institutionalization in the constitution would hamper the effort to build a strong monolithic Union.

Such blatant rejection of institutional arrangement that accommodates regional autonomy for ethnic national minorities is obvious when some Burman leaders found constitutional arrangement under federalism as anathema, a prescription, they said, would lead to the break-up of the Union of Burma. Erroneously equating federalism with secession, which is a common misconception about federalism, outright denial of giving special rights to ethnic national minorities has been the prevalent dogma dictating the formulation and implementation of the Burman-dominated military regime’s policies. In the early 1960s, leaders of ethnic national minorities had collectively undertaken an initiative to address the substantive flaws of the Union constitution with the goal of making the Union more accommodating and ameliorating.

Citing the effort of leaders of ethnic national minorities as a plot to break away from the Union, General Ne Win staged a military coup, overthrowing the civilian government, dissolving parliament and ending the federal seminar.<sup>39</sup> Since then, saving the Union from disintegration, which has been the successive military regime’s dictum, is driven by the refusal to accept a greater regional autonomy claimed by ethnic national minorities. In tune with their attempt to build a monolithic society, they systematically deny the



ethno-cultural diversity of the country and pursue the scheme of assimilating all ethnic minorities into Burman/Bama ethnicity.

The problem in the past has been that the over-arching assimilation scheme has been the guiding principle behind their policy formulation of the three national causes: non-disintegration of the Union, non-disintegration of national solidarity, and perpetuation of sovereignty. Consider how governments since General Ne Win have conflated “unity” with unrealistic “uniformity.” Their stubbornly dogmatic characterization of the term “unity” is really one of “monolithic uniformity” where they choose to live in fruitless denial about the existence of territorial-based national minorities. Words matter in this context. The term “non-disintegration” is deceptive because while it sounds like minorities are to be protected, in practice, the term means that all ethnic national minorities will be absorbed into the Burman/Bama ethnicity. This approach has proven futile.

In fact, under this pretext of non-disintegration of the union, the successive military governments’ assimilationist policy only intensifies armed resistance and leads to further mistrust especially between the Bama/Burman and other ethnics combined. With brute force, the successive governments have in reality only achieved conflict, which will continue if the future leaderships repeat the same mistake of the past leaders. Moving forward, to fulfil Burma’s ultimate destiny of national reconciliation and peace, leaders have to bear the same understanding of what it means to form a stable union, and we know from history that “stability” and “unity” do not mean “uniformity,” for forced uniformity only leads to unstable conflict.

On the other hand, the attempt to build a strong centralized Union without acknowledging the existence of ethno-cultural diversity is regarded by ethnic national minorities as a policy of Burmanization equating to an ethnic-cleansing attempt – the policy of assimilating all ethnic minorities into the dominant ethnic Burman group, which would result in the loss of their cultures and ethnic national identities.<sup>40</sup> One way or the other, ethnic nationalism in the Union of Burma is fuelled by an ongoing attempt to build a monolithic society: Bama lomyo in Burmese – meaning Burman race. Throughout the nation building process in Burma, this policy of Burmanization has been pursued in various ways.<sup>41</sup>

The Karen National Union (KNU), one of the leading armed resistance movements in Burma, alleges that leaders of Burman ethnicity – especially the military regime – have been employing the policy of Three “A’s” against ethnic Karen ethnic groups: Assimilation, Absorption, and Annihilation of the Karen peoples.<sup>42</sup> Sujit Choudhry aptly

puts, “In a divided society, if there is a clear ethnic majority, the result is not a temporary minority which will eventually cycle into power, but a persistent minority which will permanently be in opposition and excluded from political office.”<sup>43</sup> In the case of a multi-ethnic Burma, unless there is a constitutional framework along the line of federalism is enacted, the problem will always be, as it has been, the tyranny of the ethnic Burman majority, which constitutes a clear ethnic majority that would always dominate.

For over half a century, driven by the need to defend their national rights to self-determination, distinct cultures, and territorial integrity against the majority Burman-dominated military in particular, all ethnic national minorities have undertaken both above and underground opposition movements including taking up arms to resist the perceived policy of assimilation by the successive military governments, which is seen as an ethnic cleansing policy that attempts to build a single monolithic race. Sujit Choudhry again observes, “If minority is a nation, they might demand secession from the Union as self-defence.”<sup>44</sup> For fear of losing their distinct national identities and territory, ethnic armed groups are, individually and collectively, fighting against the Burman-dominated military government though they do not demand secession. One can argue that the ethnic-minority-based resistance movements in the Union of Burma are a response to the growing centralization of political and economic power at the hands of the Burman majority.<sup>45</sup> For a multi-ethnic state like Burma, where ethnic national minorities once represented self-governing territories with considerable degrees of regional autonomy, designing a fully centralized system that shifts power away from ethnic national minorities is not viable.

As far as a multi-ethnic Burma is concerned, Horowitz’s integrationist approach misses the central issue that confronts ethnic national minorities; integration without acknowledging ethno-cultural difference have backfired, forcing ethnic national minorities to oppose an effort to build a strong monolithic Union of Burma. The situation in Burma, where a sense of self-identification based on segmental cleavage such as ethnicity, culture, language, and territory is so strong, the accommodationists camp view is a pre-requisite; unless there is a constitutional design that acknowledges ethno-cultural difference and guarantees special rights to ethnic national minorities, no ethnic minorities will join the common Union.

The Burman majority, who shares the theoretical formulation of Horowitz and the integrationist camp, may still argue that accommodationist approach will entrench and perpetuate the pre-existing ethno-cultural cleavages in Burma. However, such cleavages were already well-entrenched even before the founding of the Union of Burma. Thus, any constitutional design that fails to acknowledge the ethno-cultural divergence will

surely be viewed as an assimilationist system by ethnic national minorities. They would, therefore, rather engage in their own nation building since they are all minority nations.

### **Collective ethnic national minorities' vision of a common Union: accommodationists and Arend Lijphart**

Burma's ethnic national minorities always advocate for a decentralized form of Union by proposing, "a looser decentralised form of constitution with powers shared equally between the minority states and the Burman-majority areas, which would guarantee both greater self-government for each nationality and prevent the monopolization of all political and economic power by the centre in Naypyidaw."<sup>46</sup> To ethnic national minorities, a common Union stems from a bottom-up structure in the sense that building a strong province/state is essential and pre-requisite. Without a decentralized system that favours a strong state or province system, one cannot imagine these ethnic groups forming a common Union with ethnic Burman majority. As such, an institutional design that accommodates the aspiration of ethnic national minorities must be created as an incentive for them to voluntarily form a stable and common Union. As a constitutional law Professor David C. Williams, who is one of the principal advisors leading the current Provisional Constitution for Burma succinctly summarizes, "it is true that finding a unity for a multinational states such as Burma, nation-building may not be the answer, but it may be state-building."<sup>47</sup>

Because these ethnic national minorities are very protective of their territory and ethno-cultural identities, their immediate concern when they consider forming a common Union with a dominant Burman race is not about how they can fully integrate into mainstream society, but rather is about how best they can create institutional system that would safeguard, preserve, and promote their national interest: their distinct culture, language, national heritage, customs, and territory. In addition, as each ethnic group considers itself distinct from others, a sense of ethnic nationalism runs deep among them.

Culturally and ethnically, identifying as an ethnic Chin, Shan, Karen, or Kachin comes first before identifying oneself as a Burmese citizen. Institutionally speaking, ethnic national minorities want institutional design that would recognize their ethno-cultural distinctness. Such recognition through constitutional arrangement will stand as a guarantee and incentive for ethnic national minorities to join a Union. As McGarry, O'Leary, and Simeon argue, "accommodation is necessary when groups exist powerful enough to resist assimilation but not strong or united enough to achieve secession."<sup>48</sup> In a nutshell, Lijphart and accommodationists are correct to have formulated that segmental cleavages

facing ethnic national minorities are deep-seated and, therefore, a public recognition to their distinct national features through constitutional arrangement is mandatory for ethnic national minorities to join a common union.

### **Basic Features of federalism: why leaderships of democratic opposition call for federalism**

Growingly, federalism is so appealing for plural as well as divided societies like Burma because of its dual principles of allowing federating units to have shared rule for common purposes under one national flag, while allowing self-rule for each member state. Federalism, as an ideology, was theorized in response to, and was born out of societal differences. Taking bases on societal view of federalism, inter-governmental institutions are created to recognize and accommodate differences, and that those institutions must adapt to meet changing patterns of diversity.<sup>49</sup>

Federalism is basically a political system of governance that allows the formation of different levels of government in which sovereign powers are constitutionally divided between a central government and constituent member states. The meaning of federalism can vary and may mean different things to different people, but for the purpose of my analysis, the definition which best captures its essential meaning is "the distribution of sovereignty between two levels of government in such a way that neither level is entirely subordinated to the other."<sup>50</sup> What it means in legal terms is that each level of government is the supreme actor over its respective jurisdiction. According to Raoul Blidencher and Ronald L Watts, "the basic essence of federalism is the notion of two or more orders of government combining elements of shared rule for some purposes and regional self-rule for others. It is based on the objective of combining unity and diversity."<sup>51</sup> The origin of modern federalism as we know it was born out of the United States of America when 13 colonies or confederated states jointly emerged to form a Union in 1789.<sup>52</sup> As of today, many other countries have adopted the federal system. There are currently 35 federal countries around the world and there are more countries proposing the establishment of a federalist democracy, including Iraq, Sri Lanka, and Burma.

Reasons for the growing acceptance of the federal system are varied, but there is certainly increasing interest in federal arrangement, particularly as it relates to ethnically diverse countries, such as the Union of Burma. Obviously, among other factors, one of the key

reasons is its institutional ability to balance the trade-off between self-rule and shared rule through the constitutional divisions of power. “The adoption of a federal system implies a society’s preference for a degree of collective unity offset by genuine autonomy for individual regions, with a written constitution and the rule of law to keep the various elements in check.”<sup>53</sup>

In addition to diversity and regional autonomy, one of the key distinguishing factors giving birth to federalism is territorial connection among sub-units. According to Livingston (1956), “It is this geographic element that distinguishes federal societies from those in which differences may exist – and need governmental accommodation – but are not associated with particular regions.”<sup>54</sup> In discussing two essential aspects in design and operation of any federation, Richard Simeon succinctly puts, “One is recognition of diversity through constitutional division of power which give self-rule to regional unit, and another is driven by unity a shared institution of federal institutions for common action and provide a glue to hold the federation together.”<sup>55</sup>

The conditions that give birth to each federation would be different from one another. How federalism is applied in Switzerland differs from America and vice versa. Common factors that motivate federating units to come together under a shared rule include “military insecurity/ common defense, desire for independence from foreign powers, hope of economic advantage, some form of anterior political association, geographical neighborhood, similarity of political institutions, political leadership.”<sup>56</sup>

Among others, the need to manage unity and diversity in divided multi-ethnic societies such as Burma is the greatest underlying factor behind the adoption of the federal system. As Lawrence Anderson states, “federalism has come to be seen as a way to accommodate territorially based ethnic, cultural and linguistic differences in divided societies, while maintaining the territorial integrity of existing states.”<sup>57</sup> For a divided multi-ethnic society, there is a trade-off between their willingness to live independently and their desire to live inter-dependently by forming a Union with other federating units.

Understandably, there are many features of federalism which cannot be covered here. However, as I focus on the constitutional aspect of federalism, I would like to point out only the major features and practices of constitutional federations which include, but not limited to, (a) the Constitutional division of power between different levels of government, (b) the Supremacy of the constitution, which stands as a contract between governments and people and their governments, (c) Adjudication of jurisdictional disputes by constitutional

court or the Supreme Court, and (d) neither level of government derives power from each other, but only from the constitution which means that both orders of government have a final say or sovereign power to legislate over their respective areas of jurisdiction.<sup>58</sup> The key element in federalism is its emphasis on the primacy of constitution; the notion that constitution is supreme or the highest law of the land. What it means in practical terms is that no law can contravene the constitution. Aside from that, the constitution also acts as a contract between various levels of government.

Talking about a key role played by the Constitution in federations, federalism scholar Cheryl Saunders succinctly explains, “Constitution is viewed as a compact, a contract between the citizens of a country in regard to the manner in which they will jointly shape their collective destiny, manage their affairs, and make its rule.”<sup>59</sup> In the same vein, David Cameron adds, the “Constitution in the federal countries is seen as federalism’s social contract.”<sup>60</sup>

For instances, institutional arrangement under this federalism in Canada not only accommodates a national minority aspiration by allowing a federating unit to have say over education, culture, and immigration, it also ensures the integration of a united Canada as one political community. For example in Canadian federation, through divisions of power, a francophone society that forms a majority within the province of Quebec has control over, “issues that are crucial to the survival of the francophone society, including education, language and culture, as well as significant input into immigration policy.”<sup>61</sup> One key feature of the Canadian model is its institutional arrangement that makes a minority nation in a federating unit a majority, enabling it to exercise undeterred power in areas of jurisdictions where the constitution delegates power to the federating units. “Under these circumstances, federalism can provide extensive self-government for a national minority, guaranteeing its ability to make decisions in certain areas without being outvoted by the larger society.”<sup>62</sup>

For an ethno-culturally, regionally, linguistically, and nationally diverse country like Burma, where a sense of identification based on ethnicity is stronger than common identification as countrymen, a simple democracy will not work, but requires a federal system which ensures the regional autonomy for those ethnic national minorities. No federation means no future Union of Burma. Therefore, as institutional design for a multi-ethnic Burma, I believe that constitutional Federalism with its division of power between different levels of government is a system of governance most viable to accommodate the aspiration of the territorially concentrated national minorities in a multi-ethnic state such



as Burma.

### **The ongoing call for Constitutional Federation in the Union of Burma**

Understanding the root cause behind their long-standing experiences of civil war and subjugation of being under military rule for decades, all ethnic groups of Burma including the mainstream democratic forces believe and come to embrace that constitutional federation is only the most viable system of governance practically workable to ethno-culturally diverse and divided Union of Burma. One of the distinguishing factors that are very encouraging about all ethnic groups in Burma is their collective commitment to a stable union: while all ethnic groups have a strong sense of protecting and preserving the territorial integrity as well as distinct national heritages of their own, they have all opted to form a stable Union. Since the nation-wide protest against the military junta in 1988, the clarion call for establishing a federal Union of Burma has been gaining momentum.

We see that there have been plethoras of memoranda of understanding and agreements signed between ethnic national minorities and the mainstream political parties such as the winner of 1990 general election – National League for Democracy (NLD). With a view to advancing their call for the adoption of federalism as a form of governance, ethnic national minorities formed the umbrella political alliance known as the United Nationalities League for Democracy (UNLD) in 1989. During the 1990 general election, all ethnic based political parties under the leadership of UNLD that contested the general election collectively won 67 parliamentary seats in total.<sup>63</sup> The UNLD and NLD signed memorandum of understanding espousing the need to establish a genuine federal Union.

Likewise, in a liberated area/in exile, the Democratic Alliance of Burma (DAB) was formed in 1989 with the objectives of ending civil war in Burma and establishing a constitutional federation which would ensure regional autonomy for federating units in the future Union of Burma.<sup>64</sup> DAB is one of the largest coalitions ever formed collectively by all Burma's democratic forces and ethnic armed groups that have been fighting for regional autonomy and self-determination.

In December 1990, Members of Parliament elected in 1990 who were exiled also formed the National Coalition Government of the Union of Burma (NCGUB). Among its objectives, "the NCGUB expressly declared its commitment to pursuing the establishment of a genuine federal Union of Burma, building a true federalism and restoring peace and drawing up a constitution for the future federal union of Burma".<sup>65</sup> Similarly, those pressure groups such as students and other grassroots organizations also formed a coalition

such as the National Council of the Union of Burma (NCUB), through which they have been advocating strongly for the establishment of the federal Union of Burma.

As we see the growing acceptance of constitutional federation by democratic opposition groups, we can infer that all democratic forces fully recognize the fact that a mere democracy without federal arrangement in a divided society like Burma will not work. Today, the goal of democratic movement of Burma is not just the restoration of a democratic system, but aims to establish a constitutional federation ensuring self-rule federating units and shared rule for a common Union, whereby all ethnic groups would co-exist peacefully.

### **Common Misconception about Federalism**

One of the prevalent misconceptions about federalism is the equation of federalism with secession by some federalism scholars, who hypothesized that giving more power to a federating unit, will lead to secession, which they argue, will lead to the disintegration of the Union.<sup>66</sup> Their theoretical reasoning here is to suggest that the accumulation of more powers by federating units can create incentive to secede. I understand the rationale behind their proposition. However, I think what they fail to examine, in my view, is to look at the other side of the coin by delving into the core reasons why federating units would ever want to secede from the Union. Would the incentive to secede be more so because of the gradual accumulation of power by a federating unit or because of the political discontent such as lack of representation felt by a federating unit in mainstream politics? To me, I would say the latter. I would counter-argue that the accumulation of powers by the federating unit would not amount to secession, but rather the opposite: that outright secession would rather occur if and when a federating unit experiences institutional suppression, disenfranchisement, and alienation from mainstream national politics.

The case of Quebec in Canada might be referred to as one of such possible scenarios, but Quebec is still within Canada. It is very unlikely that Quebec indeed will secede. By all means, it is worth noting that none of the ethnic nationalities of Burma today seek independence or secession, but are committed to reforming the Union of Burma in line with a federal system. Issues that can lead a federating unit to seek secession may include political discontent felt by a federating unit such as the federal government reneging on its promise to fulfill its responsibility to meet the needs of constituent state and the arbitrary intrusion into state/provincial jurisdiction by the federal government.

I understand that secession in a multi-ethnic society like Burma is viewed as a line of legal defence, constitutional right of self-defence and protection, a clause that would be invoked



as the last resort to opt out of the Union provided that there is a political discontent. In the 1948 constitution of Burma, there is a secession right enshrined in the constitution. According to Chapter X, article 201, and 202:

(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 condition hereinafter prescribed. Any federating unit that is not happy with the Union can secede from the Union. 202. The right to secession shall not be exercised within the ten years. For example, such secession rights can only be exercised by federating units after 10 years of living in the Union. It also makes clear that secession would only be constitutional and accepted only if (a) two thirds of the legislature of the federating unit passes the resolution, and (b) the people of federating unit approve the secession in the plebiscite.<sup>67</sup>

In the context of Burma, there was a constitutional provision enshrined on secession rights ensuring that the rights of ethnic national minorities are constitutionally protected if they were discontented with the common Union. Having such secession rights give them a constitutional path to opt out of the federal Union of Burma if they are politically discontented with the common Union. If any federating units ever seceded from the Union of Burma accordingly as prescribed in the constitutional provision of secession rights, such secession exercised by a federating unit would have been constitutional. To offer my view on the question of Quebec secession right in Canada, the fact that there is no provision or clause in both of the 1867 and 1982 constitutions of Canada enshrining the unilateral right of Quebec secession<sup>68</sup>, it would be unconstitutional for Quebec to secede. For any secession to be constitutional, I would argue that there needs to be a constitutional provision enshrining the unilateral right of secession and how such secession shall be exercised.

### **Why Constitutional Federation is a must for a Multi-ethnic Burma?**

Those who follow Burma's politics closely understand well that the political survival, stability, and longevity of the Union of Burma as a united country lies in how well the collective leadership of all national ethnicities together manage the majority-minority conundrum. I am, of course, referring to the tension between the dominant Bama and the other ethnic national minorities through some kind of institutional arrangement catering to the country's geopolitical diversity.

Segmental cleavage – racial diversity, language, culture, and regional differences - facing a divided society like Burma is so deep-rooted and genuine. As such, any constitutional

arrangement that do not acknowledge the country's diversity and fails to accommodate the aspirations of ethnic minorities will result in discrimination and exclusion, forced assimilation, civil war, ethnic cleansing, and even genocide.<sup>69</sup> As such, the question is what kind of system works best as an institutional design to manage ethno-cultural divisions in a multi-ethnic Burma, divided and plural? Can we design an institution that would accommodate elements of both integrationists and accommodationists? How would we design a constitutional system that would ensure unity among all ethnic groups in a common Union and, at the same time, accommodate diversity for each ethnic national group? I would argue that neither a pure accommodationist approach nor integrationist approach will work, but we need an institutional arrangement that can blend the two theoretical approaches together. Therefore, as an institutional design for a multi-ethnic Burma, where a sense of ethnic nationalism runs deep, I believe a constitutional federalism that ensures both elements of self-rule for a federating units and shared rule for the federal government – Union government – is the most viable governing system practically applicable to a multi-ethnic country like Burma, divided and plural. Like Sujit Choudhry, I embrace federalism as a mechanism for both accommodation and integration.<sup>70</sup>

While a federal system can accommodate the aspiration of federating units within a union, it also can integrate all ethnic groups into one common citizenry through the common institution of its shared rule arrangement. In practical terms, a constitutional federation would allow the creation of two-tier constitutions: the Union constitution stipulating provisions for a common union and state constitution enumerating specific provisions for each constituent member state. Plainly put it, the constitutional federation would mean ethnic national minorities have legislative representation in the Union government, whereby they can be integrated into the mainstream society, while they also freely exercise the legislative power of self-rule in areas of their jurisdiction at their respective state government level, whereby their inherent ethnic rights can be accommodated. On this question of self-rule, I agree with Yash Ghai, who argues, “self-rule is a tool of conflict reduction because it promotes integration, not disintegration; it provides a basis for interaction between the region and the centre that is satisfactory to both. Autonomy should be chosen not because of some notion of preserving sovereignty but in order to enable different groups to live together, to define a common public space.”<sup>71</sup>

Espousing the basic tenet of a constitution as a contract between different levels of government as well as between peoples and the government, leaders of ethnic national

minorities fully embrace the key role played by the constitution in multi-ethnic nation building. To them, having a written constitution is a precondition absolutely essential in order to form a stable Union of Burma. Such a written constitution can only protect and preserve their birth rights of self-determination, equality, and that of the democratic rights. Looking at the essences of Panglong accord that they signed, one can see the degree to which leaders of ethnic nationalities emphasized the primacy of retaining the legislative power of self-rule or regional autonomy over their native homelands.

In line with the long-standing goal of building a federal Union of Burma based on a constitutional division of power between the Union government and the constituent member states of the Union, democratic forces have been taking various initiatives which include the formation of the Federal Constitution Drafting and Coordinating Committee (FCDCC), a committee charged with the task of drafting a constitution for future Federal Burma. In line with its mission mandate, FCDCC has been holding series of constitutional seminars in which proposed provisions of the draft constitution are discussed, debated, reviewed, and revised since late 2002.<sup>72</sup>

Now, the second edition of a draft constitution has been published and widely circulated. The underlying premise behind this ongoing initiative for drafting a future constitution of Burma is driven by the need to have two level of constitutions: one, each and every federating unit will have their own state constitution whereby provisions on matters considered to be integral part of their ethnic polity be enshrined; and second, there will also be a Union constitution where provisions will be enshrined on matters common to the whole Union. It is envisioned that the constitutional relation between a Union and its federating units will be asymmetrical. For instance, constitutional relation between the Union government and Chin State will be different from that of the Union with Kachin state.

To get a sense of the proposed constitution, I would like to look at the jurisdictional divisions of power between the Union government and State government according to the draft federal constitution. Like many federated countries, jurisdictions over which the federal government will have power include Defence, foreign affairs, banking and currency, and national security. Whereas the state government, while having power such as executive, legislative, and judicial power of its own, would have power over education, cultural and social issues, and land ownership to name a few. Article (2) of the Union constitution enshrines, “the Federal Union shall be composed of states with full rights of self-determination and having equal political power vested in by the Constitution.”<sup>73</sup> This

article suggests that each state legislature will enact and codify its own constitution.

According to the provisional constitution drafted by leaders of ethnic national minorities under FCDCC, the future constitution of the Union of Burma has two separate constitutions: the Union or federal constitution for a shared rule and state/provincial constitutions for a federating state. In the division of power, the constitution of Burma provides a separate legislature whereby each federating state has their own legislative, administrative, and judicial power over areas of jurisdiction considered to be integral to their respective state.

Having a state legislature with its own state constitution will ensure that ethnic national minorities can legislate over constitutionally guaranteed areas of jurisdiction. On the other hand, the Union government is also designed to have a bi-cameral legislature composed of Upper Chamber and Lower Chamber. Like many legislatures, the main intention behind designing two chambers – National Assembly– is to ensure that there is a balance of power in terms of representation between a clear majority ethnic group and minority ethnic groups. According to the Article (60), “Assembly of the Federal Union (a) Chamber of Nationalities and (b) Chamber of People’s Representatives.”<sup>74</sup>

### **The Upper Chamber: A Chamber for Ethnic National Minorities**

Since the upper Chamber- Senate - is considered to be a chamber whereby ethnic national minorities will have an effective and equal representation in the federal government, I would like to discuss the composition and function of the Senate in a greater detail. Though the composition and function of the senate varies across federations, most federations adopted a bi-cameral legislature; Upper House and Lower House. The underlying hypothesis behind the adoption of two houses in every federation is the organization of the central legislature not only to represent the electoral majority, but also to reflect and reconcile the diverse linguistic, cultural, economic, social and regional interests.<sup>75</sup> To succinctly phrase it, Senate functions as a chamber to effectively represent, protect, and promote the interests of all constituent member states.

The modern Senate that we understand originated in the United States of America. For example, in the US<sup>76</sup>, regardless of the size of the state, each state has an equal number of two elected senators representing their respective states in the Senate (i.e.. the state of California with 36 million people has equal number of representatives as Wyoming with 515,004 people). Like in the United States, the Australian Senate is designed to have equal representation with six senators for each state regardless of its population size difference.<sup>77</sup>

Having an equal number of senators in the Upper Chamber in the United States ensures that the interests of all constituent states, be small or large, are effectively and equally represented in their common Union. Unlike the United States and Australia, the role that the Canadian Senate plays is very weak and minimal. The representation is not based on the equal number of provinces, but rather based on the size of the population of the regions that there is no equal and effective representation for smaller provinces in the upper house of chamber. For example, the vote-rich province of Ontario has 22 senators, and the province of Manitoba has only 6 senators.<sup>78</sup>

Moreover, Canadian senators are not elected by citizens of the respective provinces, but appointed by the Prime Minister from different provinces. “Appointment by the central government is an arrangement unique to Canada. This has generally been considered inappropriate if the members of the second chamber are to be genuine representatives of regional interests.”<sup>79</sup> The Senatorial system in Canada is not meant to represent the issues of regional and provincial interest in federal politics. As a result, this lack of effective and equal representation of regional or provincial issues by senators in federal or national politics fuel so-called political alienation – a lack of political representation in federal politics – felt by less populated provinces from the Western region. In fact, I would argue that a lack of effective representation of regional interests in national politics by senators prompted provincial governments to expand or broaden their jurisdictions by directly dealing with the federal government, which in turn causes so-called democratic deficits - the bypassing of Parliament by the Prime Minister and the Prime Minister’s Office- that is seen undercutting the legitimacy of Canadian democracy.

I have mentioned the constitutional designs of the Senates in America and Canada with the purpose of advancing my discussion on the institutional design for a Senatorial system in future Burma’s national politics. In the context of Burma, the Upper House is designed to allow less populous ethnic national states to have effective political voice, and counter-balance the influence and lop-sided predisposition of the powerful Lower House dominated by ethnic the Burman majority. In one of the seven basic principles of a federal Union of Burma that guide the drawing up of the current constitution for a future federal Union of Burma, it says, “the Chamber of nationalities (Upper House) shall be composed of equal number of representatives from the respective national states.”<sup>80</sup> Regardless of the sizable difference in population among states, each state/province sends an equal number of representatives to the Upper Chamber of the Legislature.

For ethnically diverse as well as a divided society like Burma, the role the Senate is

designed to play is of enormous importance. We can say that a powerful and effective senate is so crucial and would stand as a life-line to ensure equal representation for ethnic national minorities in federal politics. To put it in context, an ethnic minority like the Chins with 2% of the population are very concerned about the domination of federal politics by ethnic Burman with 68% of the population. Knowing full well that the Lower House of Parliament will be dominated by the majority ethnic Burman, ethnic minorities rely on Senate- Chamber of Nationalities- to counter-balance the Lower House. To them, the powerful Senate will be the only institutional instrument through which they could defend and advance their interest in federal politics and provide a safeguard against the tyranny of the ethnic Burman majority. According to Article (72) of the provisional constitution – the Chamber of Nationalities shall be composed of an equal number of representatives from all constituent member states of the Union (b) number of representatives for each state shall be 6.<sup>81</sup> The belief here is that having a strong and powerful senate along the line of the senatorial system in America will ensure equal and effective representation of each and every national state interest in the federal Union of Burma.

## Conclusion

Looking at pre-colonial history and the subsequent ethnic conflict in Burma, it is clear that the real political crisis is rooted in a constitutional dilemma: the lack of constitutional arrangement to grant regional autonomy, self-determination and equality to federated states. As pointed out, the constitution which was originally designed on federal principles ensuring the rights of ethnic people was reversed into the unitary constitution against the will of ethnic national minorities by leaders of the Burman majority. The sizable population difference between a clear ethnic Burman majority and that of ethnic national minorities has played and will continue to play a significant role in Burma’s politics because the political fault lines are based on ethnicity or race, cultures, religion, and territory. Thus far, politics in Burma is based upon ethnicity, and that will remain the main point upon which political mobilization will be based.

For an ethno-culturally diverse and divided society like Burma, a constitutional federation that would accommodate the aspirations of ethnic national minorities with separate legislatures and simultaneously integrate all federated units into one common polity under one flag is the best suited form of governance for the country. Moving forward, it is important to acknowledge that the ethnic minorities’ fear of tyranny from the Burman ethnic majority is still inherent and real. As such, a written constitution which would stand as a contract between federated units and the Federal government as a prerequisite for



those ethnic national minorities to join and form a federal Union of Burma. Ethnic national minorities of Burma require a written constitution (a) as a bulwark against ethnic Burman majority domination and (b) as a guarantee that their ethnic rights are constitutionally entrenched. Without securing such a prior written constitution first, it is clear that no ethnic minorities of Burma will have any incentive to form a future democratic Union of Burma.

## Endnotes

- 1 Benjamin Reilly. *Democracy in Divided Societies: Electoral Engineering for Conflict Management*. (New York : Cambridge University Press, 2001),1.
- 2 Bereket H. Selassie, "Creating a Constitution for Eritrea," *Journal of Democracy* (1998): 166.
- 3 Sujit Choudhry, "Constitutionalism in a Divided Society," *International Journal of Constitutional Law* (October, 2007) : 574.
- 4 Sujit Choudhry. *Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies: Integration or Accommodation?* (Toronto: Oxford University Press, 2009), 5.
- 5 Ibid, 17.
- 6 Christina Murray and Richard Simeon, "Recognition without Empowerment: Minorities in a Democratic South Africa," *International Journal of Constitutional Law* (October 2007); 699-729.
- 7 Sujit Choudhry. *Bridging comparative politics and Comparative Constitutional Law: Constitutional Design in Divided Societies: Integration or Accommodation?*. (Toronto: Oxford University Press, 2009),19.
- 8 Benjamin Reilly. *Democracy in Divided Societies: Electoral Engineering for Conflict Management*. (New York : Cambridge University Press, 2001), 20.
- 9 R. Kent Weaver, "A new look at Federalism: ELECTORAL RULES AND GOVERNABILITY," *Journal of Democracy*; Volume 13, Number 2 (April 2002):111 .
- 10 Christina Murray and Richard Simeon, "Recognition without Empowerment: Minorities in a Democratic South Africa," *International Journal of Constitutional Law*; (October 2007): 710.
- 11 Sujit Choudhry. *Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies: Integration or Accommodation?*. (Toronto: Oxford University Press, 2009),29.
- 12 Ibid, 28-29.
- 13 Christina Murray and Richard Simeon, "Recognition without Empowerment: Minorities in a Democratic South Africa," *International Journal of Constitutional Law*; (October 2007): 711.
- 14 Sujit Choudhry. *Bridging Comparative Politics and Comparative Constitutional law: Constitutional Design in Divided Societies: Integration or Accommodation?*. (Toronto: Oxford University Press, 2009), p. 29.
- 15 Christina Murray and Richard Simeon, "Recognition without empowerment: Minorities in a democratic South Africa," *International Journal of Constitutional Law* (October 2007): 729.
- 16 US Department of State Country Report, "Background Note: Burma." Accessed 15 May, 2010; available from <http://www.state.gov/r/pa/ei/bgn/35910.htm>; Internet.
- 17 Martin Smith, *Burma: Insurgency and the Politics of Ethnicity*, (Dhaka : University Press, c1999. 2nd (updated) ed), 29.
- 18 Maung Maung, *Burma's Constitution*, 2<sup>nd</sup> Edition. (The Hague : Martinus Nijhoff, 1961): 223-229.
- 19 Stephen H. Hrekio, *Zahre Lian of Burma: The Years of the Britis*. (Douglasville, GA: Published by the Author, 2008), 35.
- 20 During the British rule, the territory inhabited by ethnic Burman majority was then called the ministerial Burma or Burma Proper. At the Panglong conference, General Aung San, who was also the leader of the Anti-Fascist People's Freedom League (AFPFL), the main political party that led Burma's independence struggle against Great Britain, represented the Ministerial Burma.



- 21 Maung Maung, *Burma's Constitution*, 2<sup>nd</sup> Edition. (The Hague : Martinus Nijhoff, 1961), 167-177.
- 22 Matthew J. Wellton, "Ethnicity, Conflict, and History in Burma: the Myths of Panglong Agreement," *Asian Survey*; VOL. XLVIII, NO. 6, (NOVEMBER/DECEMBER 2008): 889-910.
- 23 Josef Silverstein, *Burma: military rule and the politics of stagnation*, (New York: Cornell University Press, 1977), 59.
- 24 David C Williams and Lian H. Sakhong, *Designing Federalism in Burma*. (Chiangmai, Thailand: The UNLD Press, 2005), 12.
- 25 Maung Maung, *Burma's Constitution*. 2<sup>nd</sup> Edition. (The Hague : Martinus Nijhoff, 1961), 167.
- 26 Ibid, 240.
- 27 Ibid, 84.
- 28 Ibid, 254. *Hereafter, I will refer to the 1948 constitution as the Union constitution.*
- 29 Ibid, 286.
- 30 Shan Herald Agency For News, *Records of Ethnic Nationalities' Conference on Burma's Constitutional Reform*. (Chiangmai, Thailand : Shan Herald Agency For News, 1961): 69.
- 31 Josef Silverstein, *Burma: Military Rule and the Politics of Stagnation*, (New York: Cornell University Press, 1977), 56.
- 32 David C. Williams and Lian H. Sakhong, *Designing Federalism in Burma*. (Chiangmai, Thailand: The UNLD Press, 2005), 20.
- 33 Stephen Tierney, "Giving with one hand: Scottish devolution within a unitary state," *International Journal of Constitutional Law* (October 2007):730-753.
- 34 Christina Murray and Richard Simeon, "Recognition without Empowerment: Minorities in a Democratic South Africa," *International Journal of Constitutional Law*; (October 2007): 710.
- 35 Ibid, 710.
- 36 Shan Herald Agency For News, *Records of Ethnic nationalities' Conference on Burma's Constitutional Reform*. (Chiangmai, Thailand : Shan Herald Agency For News, 1961): 71.
- 37 Nick Thompson, "Studies in Conflict & Terrorism: What Makes a Revolution? Burma's Revolt of 1988 and a Comparative: Analysis of the Revolutions of the Late 1980s," (September, 2001): 33- 52.
- 38 Michael W. Charney, *A History of Modern Burma: The Democratic Experiment, 1948-1958*, (New York: Cambridge University Press, 2009).
- 39 Josef Silverstein, *Burma: Military Rule and the Politics of Stagnation*, (New York: Cornell University Press, 1977), 29.
- 40 Ibid, 31.
- 41 A native scholar, Dr. Lian H. Sakhong explains how the successive governments have carried out nation-building process in terms of one race, one language, and one religion. For further information, look David C. Williams and Lian H. Sakhong. *Designing Federalism in Burma*. Chiangmai, Thailand: (The UNLD Press, 2005): 25.
- 42 Martin Smith, *Burma: Insurgency and the Politics of Ethnicity*, (Dhaka : University Press, c1999. 2nd (updated) ed), 29.
- 43 Sujit Choudhry, "Bridging Comparative Politics and Comparative Constitutional Law: *Constitutional Design in Divided Societies: Integration or Accommodation?*," Oxford University Press; (January, 2009): 17.
- 44 Ibid, 18.
- 45 Sujit Choudhry, "Does the World need more Canada? The Politics of the Canadian Model in Constitutional Politics and Political Theory," *International Journal of Constitutional Law*; (October 2007): 610.
- 46 Martin Smith, *Burma: Insurgency and The politics of Ethnicity*, (Dhaka : University Press, c1999. 2nd (updated) ed), 196.
- 47 David C Williams and Lian H. Sakhong, *Designing Federalism in Burma*. (Chiangmai, Thailand: The UNLD Press, 2005): 131.
- 48 Sujit Choudhry. *Bridging Comparative Politics and Comparative Constitutional Law*:  
32

- Constitutional Design in Divided Societies: Ingegration or Accommodation?*. (Toronto: Oxford University Press, 2009),29.
- 49 Herman Bakvis, Gerald Baier and Douglas Brown. *Contested Federalism : Certainty and Ambiguity in the Canadian Federation*. (Don Mills, Ont. : Oxford University Press, 2009): 7.
  - 50 Jan Erk and Lawrence Anderson, "The Paradox of Federlism: Does Self-Rule Accommodate or Exacerbate Ethnic division?" *Regional & Federal Studies*; Vol. 19, No. 2, (May 2009): 191–202.
  - 51 Raoul Blindenbacher and Arnold Koller, *Federalism in a changing world, learning from each other : scientific background, proceedings, and plenay speeches of the International Conference on Federalism 2002*. (Montreal: McGill-Queen's University Press, 2003): 9.
  - 52 David Cameron, "the paradox of federalism: some practical reflections," *Regional and Federal Studies*; (May, 2009): 311.
  - 53 Herman Bakvis, Gerald Baier and Douglas Brown. *Contested federalism : certainty and ambiguity in the Canadian federation*. (Don Mills, Ont.: Oxford University Press, 2009), 2.
  - 54 Ibid, 8.
  - 55 Akhtar Majeed et al., *Distribution of Powers and Responsibilities in Federal Countries*. Vol. 2. (Montreal: McGill-Queen's University Press, 2006), 13.
  - 56 David Cameron, "the paradox of federalism: some practical reflections," *Regional and Federal Studies*; (May, 2009): 314.
  - 57 Jan Erk and Lawrence Anderson, "The paradox of federlism: Does Self-Rule Accommodate or Exacerbate Ethnic division?" *Regional & Federal Studies*; Vol. 19, No. 2, (May 2009): 196.
  - 58 Ronald L. Watts. *Comparing federal systems in the 1990s*, (Kingston, Ont. : Institute of Intergovernmental Relations, Queen's University, 1996), 9.
  - 59 Raoul Blindenbacher and Arnold Koller, *Federalism in a changing world, learning from each other : scientific background, proceedings, and plenay speeches of the International Conference on Federalism 2002*. (Montreal: McGill-Queen's University Press, 2003),222.
  - 60 David Cameron, "the paradox of federalism: some practical reflections," *Regional and Federal Studies*; (May, 2009): 311.
  - 61 Sujit Choudhry, "Does the world need more Canada? The politics of the Canadian model in constitutional politics and political theory,". *International Journal of Constitutional Law* (October 2007): 613-615.
  - 62 Ibid, 622.
  - 63 We can read the reports of UNLD political activities published by UNLD. Lian H. Sakhong. *Peaceful Co-existence: Towards Federal Union of Burma*. (Chiangmai, Thailand: United Nationalities League for Democracy (UNLD), May, 2001), 19-103.
  - 64 Joseph Silverstein, "The Civil War, the Minorities and Burma's New Politics," in *Burma: The Challenge of Change in a Divided Society*, Peter Carey, ed. (New York: St. Martin's Press, 1997), 140.
  - 65 Ibid, 143.
  - 66 Jan Erk and Lawrence Anderson, "The Paradox of Federlism: Does Self-Rule Accommodate or Exacerbate Ethnic division?" *Regional & Federal Studies*; Vol. 19, No. 2, (May 2009): 198.
  - 67 Maung Maung. *Burma's Constitution*, 2<sup>nd</sup> Edition. (The Hague : Martinus Nijhoff, 1961), 295.
  - 68 Supreme Court of Canada. Reference re Secession of Quebec. Canada, 1998.
  - 69 Choudhry, Sujit, "Constitutionalism in a Divided Society," *International Journal of Constitutional Law* (October, 2007) :573- 575.

- 70 Sujit Choudhry, "Does the world need more Canada? The politics of the Canadian model in constitutional politics and political theory," *International Journal of Constitutional Law*; (October 2007): 614.
- 71 Yash Ghai, *Autonomy as a Strategy for Diffusing Conflict*, in P.C. Stern and D. Druckman (eds), *International Conflict Resolution after the Cold War*. (Washington, D.C: National Academy Press), 483.
- 72 David C. Williams and Lian H. Sakhong, *Designing Federalism in Burma*. (Chiangmai, Thailand: The UNLD Press, 2005), 55- 213.
- 73 Ethnic Nationalities Council (ENC). *The Constitution of the Federal Republic of Burma (2<sup>nd</sup> Draft)*. (Chiang Mai, Thailand: Chiangmai University Press, November, 2008), 85.
- 74 Ibid, 100.
- 75 Donald V. Smiley and Ronald L. Watts, *Intrastate Federalism in Canada*. (Toronto: The University of Toronto Press, 1985), 52.
- 76 US Constitution on Senate, accessed 15 December, 2009; available from <http://www.usconstitution.net/const.html#A1Sec3> ; Internet.
- 77 Australian constitution, accessed 15 January , 2010; available from <http://www.aph.gov.au/SEnate/general/constitution/par2cha1.htm> ; Internet.
- 78 Canadian Constitution accessed 15 January , 2009; available from [http://www.solon.org/Constitutions/Canada/English/ca\\_1867.html](http://www.solon.org/Constitutions/Canada/English/ca_1867.html) ; Internet.
- 79 Donald V. Smiley and Ronald L. Watts, *Intrastate Federalism in Canada*. (Toronto: The University of Toronto Press, 1985), 55.
- 80 Lian H. Sakhong. *Peaceful Co-existence Towards Federal Union of Burm: The basic Principles of the Federal Union*, (Chiangmai, Thailand: United Nationalities League for Democracy (UNLD), May, 2001), 131.
- 81 Ethnic Nationalities Council (ENC). *The Constitution of the Federal Republic of Burma (2<sup>nd</sup> Draft)*. (Chiang Mai, Thailand: Chiangmai University Press, November, 2008), 103.

## References

- Bakvis, Herman, Gerald Baier and Douglas Brown. *Contested Federalism : Certainty and Ambiguity in the Canadian Federation*. Don Mills, Ont. Oxford University Press, 2009.
- Cameron, David. "The Paradox of Federalism: Some practical Reflections." *Regional and Federal Studies*; (May, 2009): 309-319.
- Carey, Peter. *Burma: The Challenge of Change in a Divided Society*. New York: St. Martin's Press, 1997.
- Charney, Michael W., *A History of Modern Burma: The Democratic Experiment, 1948-1958*, New York : Cambridge University Press, 2009.
- Choudhry, Sujit. "Constitutionalism in a divided society" in *International Journal of Constitutional Law*. (October, 2007) : 573- 575.
- Choudhry, Sujit. "Does the world need more Canada? The politics of the Canadian Model in Constitutional politics and political theory". *International Journal of Constitutional Law*. (October 2007): 606-638.
- Choudhry, Sujit. *Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies: Ingegration or Accommodation?* Toronto: Oxford University Press, 2009,1-40.
- Ethnic Nationalities Council (ENC). *The Constitution of the Federal Republic of Burma (2<sup>nd</sup> Draft)*. Chiang Mai, Thailand: Chiangmai University Press, November, 2008, 1-110.
- Erk, Jan and Lawrence Anderson. "The paradox of Federlism: Does Self-Rule Accommodate or Exacerbate Ethnic division?" in *Regional & Federal Studies*. Vol. 19, No. 2, (May 2009): 191–202.
- Hirschl, Ran. "The Rise of the Constitutional Theocracy" in *Harvard International Law Journal*. (2008): 72-82.
- Jenne, K. Erin. "The Paradox of Ethnic Partition: Lessons from *de facto* Partition in Bosnia." *Regional & Federal Studies*; Vol. 19, No. 2 (May 2009): 273–289.
- Koller, Arnold and Raoul Blindenbacher. *Federalism in a Changing World: Learning from Each Other : Scientific Background, Proceedings, and Plenay Speeches of the International Conference on Federalism 2002*. Montreal: McGill-Queen's University Press, 2003.
- Kymlicka, Will. "Is Federalism Alternative to Secession?" in *Theories of Secession*, ed, Percy B. Lehning, 111-142. New York: Routledge, 1998.
- Lijphart, Arend. " Constitutional Design for Divided Societies". *Journal of Democracy*.( April 2004): 15.
- Kio, H. Stephen. *Zahre Lian of Burma*. Douglasville, GA: Stephen Hre Kio, 2008.

Majeed, Akhtar, et al. *Distribution of Powers and Responsibilities in Federal Countries*. Vol. 2.

Montreal: McGill-Queen's University Press, 2006.

Maung, Maung. *Burma's Constitution*. 2<sup>nd</sup> ed. The Hague : Martinus Nijhoff, 1961.

McCarthy, Stephen. "Overturning the Alms Bowl: The Price of Survival and the Consequences for Political Legitimacy in Burma." *Australian Journal of International Affairs*. Vol. 62, No. 3, (September, 2008): 298 — 314.

Meadwell, Hudson. "The Political Dynamics of Secession and Institutional Accommodation." *Regional and Federal Studies*. Vol. 19, No. 2, (May 2009): 221–235.

Murray, Christina and Richard Simeon. "Recognition without empowerment: Minorities in a Democratic South Africa". *International Journal of Constitutional Law* (October 2007): 699-729.

Reilly, Benjamin. *Democracy in Divided Societies: Electoral Engineering for Conflict Management*. Cambridge ; New York : Cambridge University Press, 2001.

Roeder, Philip G. "Ethno-federalism and the Mismanagement of Conflicting Nationalisms." *Regional and Federal Studies*. Vol. 19, No. 2 (May 2009): 203–219.

Sakhong, Lian H. *The Fourth Initial Draft of the future Chinland Constitution: A Model for State Constitutions Drafting Process in Burma*. Chiangmai, Thailand: The Chin Forum, 2003.

Sakhong, Lian H. *Peaceful Co-existence: Towards Federal Union of Burma*.

Chiangmai, Thailand: United Nationalities League for Democracy (UNLD), May, 2001.

Sakhong, Lian H. *Religion and Politics among the Chin people in Burma (1896-1949)*: Uppsala: Studia Missionalia Upsaliensia, Uppsala University, 2000.

Selassie, H. Bereket. "Creating a Constitution for Eritrea" in *Journal of Democracy*. (1998): 164-174.

(SHAN), Shan Herald Agency For News. *Records of Ethnic nationalities' Conference on Burma's Constitutional Reform*. Chiangmai, Thailand : Shan Herald Agency for News (SHAN), 1961.

Silverstein, Josef. *Burma: Military Rule and the Politics of Stagnation*. New York: Cornell University Press, 1977.

Silverstein, Josef. "The Civil War, the Minorities and Burma's New Politics." In *Burma: The Challenge of Change in a Divided Society*, ed. Peter Carey, 129-153. New York: St. Martin's Press, 1997.

Smiley, Donald V. And Ronald L. Watts. *Intrastate Federalism in Canada*. Toronto: The

University of Toronto Press, 1985.

Smith, Martin. *Burma: Insurgency and The Politics of Ethnicity*. Dhaka : University Press, c1999. 2nd (updated) ed.

Supreme Court of Canada. *Reference Re-Secession of Quebec*. Canada, 1998.

Thompson, Nick. "Studies in Conflict & Terrorism: What Makes a Revolution? Burma's Revolt of 1988 and a Comparative: Analysis of the Revolutions of the Late 1980s." (September, 2001): 33-52.

Tierney, Stephen. "Giving with One Hand: Scottish Devolution within a Unitary State" in *International Journal of Constitutional Law*. (October 2007): 730-753.

US Department of State Country Report, "Background Note: Burma". Accessed 15 May, 2010; available from <http://www.state.gov/r/pa/ei/bgn/35910.htm>; Internet.

Wellton, Matthew J. "Ethnicity, Conflict, and History in Burma: the Myths of Panglong Agreement." *Asian Survey*; VOL. XLVIII, NO. 6, (NOVEMBER/DECEMBER 2008): 889-910.

Watts, Ronald L. *Comparing Federal Systems in the 1990s*. Kingston, Ont. : Institute of Intergovernmental Relations, Queen's University, 1996.

Weaver, R. Kent. "A New Look at Federalism: Electoral Rules and Governability" in *Journal of Democracy*; Volume 13, Number 2 (April 2002):111.

Williams, David C. and Lian H. Sakhong. *Designing Federalism in Burma*. Chiangmai, Thailand: The UNLD Press, 2005.



The Burma Centre for Ethnic Studies (BCES) is an independent think tank and study centre founded in 2012 to generate ideas on democracy, human rights and federalism as an effective vehicle for “Peace and Reconciliation” in the Union of Burma.

- The main objectives of the Burma Centre for Ethnic Studies are:
- To promote Peace and Reconciliation;
- To promote the ideas and practices of democracy, human rights and federalism;
- To promote constitutional knowledge, the rule of law and good governance;

To expand and consolidate the network of organizations and leaders to promote autonomy and internal self-determination within a federal arrangement as a means of addressing and ending ethnic armed conflict in the Union of Burma.

#### Mission Statement

- To engage in research and publication on democratic principles, human rights and federalism to disseminate knowledge.
- To organize policy studies, forums and conferences to advance public policy for peace and development.
- To conduct activities for the development of the rule of law, human rights, democracy and effective and accountable governance.
- To engage in programs to promote and develop democratic and political institutions.
- To initiate programs and activities to assist the strengthening of good governance and evolving meaningful policies to make effective autonomy and internal self-determination in member states of the Union.
- To develop new strategies and communication networks to strengthen communication between ethnic areas and the central Burma.

The centre welcomes submissions from scholars and researchers wishing to contribute their work on the ethnic situation in Burma and supports and encourages young researchers to add their voice to the current situation in the country.

For submission guidelines please contact the centre at [info@burmaethnicstudies.net](mailto:info@burmaethnicstudies.net)



The retrospective analysis of an institutional breakdown – democratic breakdown – in the union of Burma demonstrates that the six decades of conflict in Burma is rooted in a constitutional arrangement that fails to recognize the existence of ethno-cultural cleavages, resulting in the denial of power to territorially concentrated ethnic national minorities. Therefore, in this paper, I argue that an asymmetrical federation with a written constitution is the most viable governance framework for a democratic future Burma due to its multi-ethnic segmental cleavages such as ethnicity, language, religion, culture, and territory. Such a constitutional federation will ensure shared rule for a common Union and self-rule for federating states drawn upon ethnic lines.