



1. Power Sharing and International Mediation in Ethnic Conflicts

**Timothy D. Sisk Publisher U.S.
Institute of Peace**

2. Policy Papers, Letters and Statements Ethnic Nationalities Council

The book is of great relevance to Burma democratic activists. It deals with ethnic Conflicts in divided Societies. Democratic governance is fundamental human rights and ethnic group claims for self-determination should ideally be accommodated in a democratic frame work within existing set up. It disapproves Secession and discusses power sharing as the effective way of resolving to disputes. At one stage of Burma's political history, it appeared that ethnic problems were the prime reason for conflicts in Burma. However the ethnic nationalities have come to new understanding of the Situation as is succinctly reflected in the book "Policy papers letters and Statements published by Ethnic Nationalities Council (ENC), Union of Burma.

It stated that ENC has been reconstituted in April 2005 Conference being State-based and decision taken for establishment of a future Federal Union of Burma. From the statement of the book under Review it appears that ENC has genuinely grasped the ideas on Conflict resolution as propagated in the first Book. The book presents the debate over power sharing in the Context of ethnic conflict dynamics and identifies the principal approaches to, and practices of, power sharing. It also has given instances where power sharing experiences failed.

International Community's intervention came in different forms depending on situations. Sometimes monitoring, Sometimes Suggesting changes in one form or other is necessary. Some-

times formulas are offered – e.g. institutional blueprints for post conflicts structure, membership of trade / international organizations. The best way is facilitating negotiation instead of mediation or giving other solution. The second book although a good recipe of Burma politics, it however appears there is some confusion. It states in political crisis in the Union it is not just an ideological Confrontation between democracy and military dictatorship or totalitarianism. The problem is rooted in a Constitutional problem, which came about because the 1947 Pang lung Agreement, which formed the basis of Union of Burma, was never fully implemented. “The fundamental problem is Burma to-day, for ethnics or for non-ethnic Burmese is the continuation of political power absolutely under control of the Burma General for decades. Since the ethnics have agreed to a Federal state and the Burmese majority claimed by NCUB has agreed to a Federal State on the basis of its identity being one at par with other nationalities, no disputes on the form of Constitution remain. Basically the Federal Union which ENC and NCUB stated is a power sharing mechanism and to put at in force, it is necessary to push the power-holder to a position from where it will come to negotiation and national reconciliation. The two books read together are enlightening and are likely to help the activists to find way and for peaceful transition.

**In Review: “Law Journal” vol: 5, May 2003. No. 1,
Published by Central Workers’ welfare Committee,
Office of the Attorney General.**

Article – Territorial Jurisdiction and Myanmar Legislation

**Daw Myint Swe
Law officer Grade 1
Officer of Attorney General**

The author in the above article made an effort to explain what is territorial jurisdiction and Myanmar legislation on the subject. The article mostly dwelt with extra- territorial jurisdiction and trial on the basis of nationality. It has completely left out territorial jurisdiction of Civil Suits. Even for criminal cases, it does not discuss where a trial will take place, the place of offence the place of residence or the place where this offender is apprehended.

According to Burma Penal Code, a person who commits offence outside Burma shall be dealt with in Burma according to the provision of this law. The article says that when a per-



son commits an offence outside Burma, only when he is a Myanmar Citizen at the time Constitution came, can be tried in Burma for otherwise foreign Subject can not be tried. The matter is simple. A foreigner who committed a crime outside Burma will be sent back to the Country where he had committed the offence on request of the government of the Country provided there is extradition treaty between the two Countries. Simple matter has been confused by stating "if a person who commits an offence outside the Union of Myanmar is a Myanmar Citizen at the time of commission of the offence he will be Subject to the jurisdiction of the Courts of Myanmar". This is not correct. Supposing a Myanmar Citizen Commits murder in Thailand, Certainly the Thai Court can try him according to the Law of Thailand. The question of citizenship arises only when the offender after having committed a crime in his country runs away to another Country. The Penal Criminal law is that the place of commission of crimes gives jurisdiction to the Court. Foreign Exchange Regulation Act, Narcotic Drugs and Psychotropic substances law are special laws amongst many others. They come within the parameters of Burma Penal Code and Criminal Procedure Code. Offences Committed under these laws are covered in the matter of extra territorial jurisdiction. The subject is of interest and needs further study.

.....