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Burma is a small country inhabited by diverse ethnic nationalities. Burmans are the majority. Other major ethnic groups include the Chin, Karen, Karenni, Kachin, Mon, Shan, Rakhine. Even among the major ethnic groups there are numerous subgroups. These diverse ethnic groups have their own languages, literatures and cultures, and are accustomed to autonomy. Though Burma is rich in natural resources, it has declined to the status of 'least developing country' and is increasingly an agricultural economy.

On the eve of the 21st century, we see that nations are becoming more interdependent and nobody can be isolated from the outside world. The trend toward globalization which promotes the free flow of capital and trade demands that nations expand political as well as economic cooperation in the form of regional blocs such as the European Union, the Organization of American States, the Organization of African Unity and the Association of Southeast Asian Nations. Cooperation and integration, not separation, have become the key to competitiveness in the world market. Geographically, Burma is at a strategic location between two rival regional powers, China and India. The need to have economic strength and protection from the influence of regional powers are our common interests and unity of all ethnic nationalities is the key issue we need to address for national survival. Burma, as a small nation state that is economically weak, is unable to afford either a secession or the separation of states at this historical point, although we may have to consider the right to secede and self-determination in our constitution. We must also keep in mind that it is in the interest of our neighbors to see Burma as politically stable, economically viable, and neutral in foreign policy.

Therefore, it is best to live in cohesion within the context of our specific differences. If we want to live together within a Union, we need to appreciate our similarities as well as diversities.

Federalism has made democracy more viable by providing a way for ethnic, religious, racial and linguistic communities to benefit from political and economic union while retaining considerable autonomy, self-government and communal identity.¹ Our history has proven that a unitary or quasi-federal system is inefficient in bringing about peace and prosperity. Genuine federalism is the best option to bring about national reconciliation and pave the way for rebuilding Burma as a modern nation.

The first Union of Burma that we see on the world map today was established based on the political agreement that came out of the Panglong Conference on the eve of independence from Britain. It should be noted that our predecessors rebuilt the Union not by force but by the voluntary participation of all ethnic nationalities. The Panglong Conference was the focal point in modern Burmese history, laying down the fundamental concrete structure for the future "Federal Democratic Union".

The Anti Fascist People's Freedom League (AFPFL) leaders considered the status of the ethnic minorities seriously in the process of rebuilding the nation and discussed this at different levels in order to appreciate the sentiments of the minorities.

In the preparatory AFPFL convention, General Aung San expressed the doctrine of self-determination and regional autonomy:

"Thus national equality in all forms, language, schools, is an essential element in the solution of the national problem. A State law based on complete democracy in the country required prohibiting all national privileges without exception of all kinds of disabilities and restrictions on the rights of national minorities."²

In relation to self-determination, the General stated:

"The right of self-determination means that a nation can arrange its life according to its own will. It has the right to arrange its own life on the basis of autonomy. It has the right to enter into federal relation with other nations. It has the right to complete secession."³

Mistakes in the past

Unfortunately, General Aung San was assassinated before Burma gained independence and the AFPFL failed to comprehend the "Panglong" agreements appropriately. AFPFL leaders and ethnic leaders were inexperienced and, in their hurry to finalize the first Constitution, they overlooked its shortcomings.

The structural ambiguity in the formation of the central government and regional (or 'State') governments was one of the weaknesses of the 1947 constitution. According to it, the composition of the central government was quasi-federal in nature because it was

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merely the extension of the proper Burman government, so to speak, with State ministers who were Heads of State Councils. It was in contradiction with the principle that State ministers must not interfere in affairs of the central government. The same impact has been inflicted upon States. Though the State ministers were elected by State councils, the nation's Prime Minister had the authority to nominate Heads of States⁴. It created a problem when the State Council elected a person as Head of the State who was not agreeable to the Prime Minister. There were instances when the Prime Minister directly selected a State minister of his preference as the head of a State council. As a consequence, there was interference in the affairs of States by the nation's Prime Minister through the Head of State he selected.

Another weakness of the 1947 constitution is related to financial affairs. Federal finance is indeed the wealth of the whole Union, which also belong to all States. It is the constitutional right of the States to get reasonable allocation of grants from federal distribution pool. However, because of the structural weakness of the 1947 constitution, these financial distributions look more like a donation than a normal budget allocations in a federal union according to a constitution. In addition, ethnic leaders claimed that grants from central government were insufficient and inequitable.

Having two houses in parliament, the Chamber of Nationalities (Lumyosu Hluttaw) and Chamber of Deputies (Pyithuhluttaw), the composition of the Parliament is structurally correct. However, the Chamber of Nationalities was composed of 62 representatives from Burma proper and 63 representatives from the other five states, totaling 125 representatives⁵. This means that five states were equal to Burma proper in terms of political status. Actually, the essence of the Chamber of Nationalities should be to make checks and balances with the House of Representatives dominated by the ethnic majority. The domination of Burman representatives in both houses damaged the checks and balances between the two houses as well as between the ethnic majority and minorities. It is in contradiction with the essence of federalism.

Discontents of ethnic leaders with this situation led to the movement for constitutional reform around 1958. The AFPFL government led by Prime Minister U Nu asked ethnic leaders to put up a proposal for constitutional reform. The Shan State Government hosted a conference of non-Burman ethnic nationalities in Taunggyi and the proposal for federal principle was adopted. The proposal had three main features⁶.

- (1) Burma proper would be turned into a constituent state of the Union, bringing it into parity with all other existing states.
- (2) The two chambers of parliament, namely, the House of Nationalities and the House of Deputies, would be invested with equal powers.
- (3) All constituent states of the Union, regardless of size and population, would have equal representation in the House of Nationalities.

After Taunggyi Conference, Prime Minister U Nu hosted a conference on constitutional reform on 1 March 1962 to discuss the Federal Principle. Rumors had been spread around that there would be a rebellion of all ethnic groups and Shan and Kayah States would secede from the Union in accordance with Chapter 10 of the constitution if the Federal Principle was not accepted by the parliament. It seems to me that a solution for constitutional amendments could have been reached between AFPFL leaders and

March 1962, reasoning that it had to protect the union from disintegration. The hope for federal union had been shattered and the fledging democracy of independent Burma, which was not yet well rooted, had been ended. A remark made by U Nu is a valuable reflection with regard to the factionalism of Burman politicians that finally was exploited by the military. He said, "In his career as Prime Minister, U Nu had often been taken advantage of. But offenders were always Burman, never the minority races."⁷

Prospects for national reconciliation

After the 1988 democracy movement was crushed by the military regime, thousands of students and intellectuals fled to the border areas and took refuge in liberated areas of the Kachin, Karen, Karenni, Mon and PaO. That incident is a very significant political development in Burmese history. It can be said that it is the merging of the urban democracy movement and ethnic resistance movement in frontier areas for the first time in Burmese history. After the 1990 general elections, dozens of elected parliamentarians joined with democratic and ethnic forces in liberated areas and the provisional government called the National Coalition Government of the Union of Burma (NCGUB) was formed in Marnaplaw in December, 1990. In the face of hard struggles against the regime, severe military offensives launched by the regime, suffering from malaria, a shortage of medicine and food, we jointly protected ourselves and shared whatever we had with each other. These bitter life experiences strengthened the mutual understanding and belief in the possibility of peaceful co-existence. I would like to say that these political, cultural and human interactions are grounds for the evolution of the national reconciliation process in a practical field.

The Democratic Alliance of Burma (DAB), the umbrella of the entire border based democratic and ethnic forces started the process of drafting the basic law in 1990, collecting suggestions of the people and different democratic and ethnic organizations. The draft constitution proposed by the DAB was analyzed by the Constitutional Seminar in Marnaplaw in October 1994 and provided eight frameworks⁸ for further drafting. Subsequently, a series of seminars were held and international constitutional experts were asked for suggestions. The draft constitution was approved by the fourth Conference of the National Council of Union of Burma (NCUB) in May 1996. In my view, this draft basically reflects the fundamental principles of a federal arrangement. I see the constitution drafting process, first initiated by the DAB and later, the NCUB, as a consensus building process amongst diverse ethnic nationalities. Though it may not be perfect, it is an open-ended process based on which we can continue to work.

With regard to the national reconciliation process, the NCGUB expressed its view that:

"In 1947, the Burman, Shan, Kachin and Chin people as equal partners, voluntarily signed the Panglong Agreement. This formed the basic for the 1947 Constitution and the Union of Burma which gained independence from Britain in 1948. The 1996 Federal Constitution adopted by the National Council of the Union of Burma is the model envisioned by the NCGUB. However, the peoples of Burma must decide their own future - Independence or a federal partnership with

other states."⁹

Apart from the proposed federal constitution of the NCUB, the National League for Democracy (NLD) and United Nationalities League for Democracy (Umbrella Organization of the 25 non-Burman ethnic nationalities organizations inside Burma) have expressed their view on the question of democratic rights and equality for the nationalities. Though there are some differences of opinion on some matters, it was found that the aspiration for national unity has been well reflected and basic principles of federal union have been agreed upon. The NLD made an appeal that, "In looking forward to national reconciliation, parties concerned should not hold on subjectively to their dogmatic views. Everyone should seek the truth by taking lessons from the weaknesses and short comings evolved from sincere endeavours in the interests of all"¹⁰. I hope that a just solution for equal rights and self-determination of for the nationalities and self-administrative rights for minority groups living in area of a majority groups could be found in the future National Consultative Convention envisaged by the NLD.

Fiscal arrangements in Federal Union

As I said before, fiscal arrangements was one of the weaknesses of the 1947 Constitution and we need to make sure that future federal constitution has a guarantee for financial autonomy of States and even development of States within the union. Burma's economy has already been ruined by the mismanagement of the military regime. The country, which was once known as the rice bowl of Southeast Asia, has reached a 'Least Developing Country' status with the Human Development index of 131 out of 171, as monitored by the United Nations Development Program (UNDP). Poverty and environmental degradation can be seen everywhere, in urban areas, in ethnic minority areas and in war zones. About one third of the rural population live in what can only be described as absolute poverty with no productive assets of their own. For the urban poor, standard of living have been drastically reduced by inflation and forced relocation to the outskirts of the city. Many work in the informal sector for low wages with no job security.

The problem of poverty in ethnic minority areas was compounded when the military regime engaged in massive forced relocation, forced labor, extortion of money, looting of properties and burning of villages and crops in the course of counter insurgency operations. This is better known in Burma as the 'four cuts strategy'.

The problem in the hill areas of frontier states seems intractable. These regions have suffered from long periods of neglect and isolation by successive governments. They have been economically insignificant. Communication and transport with the outside world has been difficult due to natural barriers and sheer distance. The problem of poverty in ethnic minority areas was compounded when the military regime engaged in massive forced relocation, forced labor, extortion of money, looting of properties and burning of villages and crops in the course of counter insurgency operations. This is better known in Burma as the 'four cuts strategy'. Millions of villagers have been driven out from their homelands, which were later declared by the army as free fire zones. People have to leave their lands and assets and either move to new relocation sites where there are no means of livelihood and access to medical care or hide in jungles without having enough food, medical care or security. Thousands could manage to escape from military columns on their way to the border and ended up in refugee camps in neighboring countries. Traditional subsistence in an agrarian village economy has already been destroyed in many parts of ethnic minorities' areas.

The concluding remarks of Dr David Dapice in his report to the UNDP, are unmistakable warning signs with regard to Burma's future:

"If the combination of growing population, a diminishing resource base, and poor policies which aggravate existing problems continue, it is likely that some threshold will be passed in the next decade or so. Having passed this point, recovery will be difficult and increasingly expensive."¹¹

When we think about the revitalization of Burma's economy, we have reached the conclusion that the rapid growth of the economy can only be achieved by allowing the market system to function freely, much more freely than it was allowed to in the past. However, we see at the same time that some degree of income inequality is unavoidable if a market system is to function freely. The possibility of unequal development of States can be foreseen at the beginning stages of introduction of any market economy. It is obvious that central Burma or a Burman State which has relatively better means of communication and transport and human resources than non-Burman States, would have the better opportunity to grab the benefit of a market economy.

In a political sense this can easily give rise to a feeling of injustice on the part of States which lag behind in the national development process. Here, a delicate policy question has arrived in the consideration of economic policy. Should policy, in the pursuit of national growth, give greater assistance to the more economically viable units, trusting that their prosperity will spill over to the rest? Or should policy be directed first to the poor elements, following a policy of "even development" and inter-local income equalization?¹² A 'least developed country' like Burma that has an urgent need for rapid growth of national income is unlikely to spend much on economically non-viable areas. There is no easy solution to this dilemma, and a combination of appropriate policies will be required.

Apart from a general system of grants, we have to formulate other devices. For instance: (1) tax base sharing (competitive exploitation); (2) revenue sharing (a defined percentage of certain national revenues is transferred to the States); (3) bypassing the constitutional allocation of taxes by (effectively) using public utility charges as taxes; and (4) transferring administrative responsibility for a service from lower-level governments to the center (taken over by the national government).¹³

When we look at the NCUB proposed federal constitution of Burma, we find a careful crafting to ensure a balance of fiscal arrangements. The legislative power of the People's Assembly (House of representatives) to introduce budget bills and revenue bills is balanced with the power of National Assembly (Senate) to introduce bills relating to natural resources¹⁴. As the national government has to perform its duties of foreign relation and defense, it is entrusted with the power to control taxes, which impinge on the Federal Union's international position, especially custom duties and import/export taxation. The intention to practice tax-base-sharing between central and state governments can be seen in article 74 in which the legislative powers related to purchase and sales tax, business enterprise tax, income tax, exploration, exploitation and sale of natural resources within a State and investment by foreign governments and companies within a member state are put in the realm of concurrent legislative powers.

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Under a free market system, incomes will differ according to levels of education, training and special skills. Differences in educational qualification are a major source of income inequality. Therefore, the education system should be expanded to all people particularly the poor. Even if the government carries out the reforms with good intentions, the impact of stabilization and adjustment programs can be severe for the poor in the short run.

The central government should focus on the special problems of areas that have limited agricultural potential and fragile ecosystems, especially those situated in the remote border regions where the problems are aggravated by poor infrastructure. Quick-impact projects should be formulated for immediate income generation and sustainable farming. A many-pronged attack is needed to open up opportunities for rural industries, to raise the level of education and to implant financial and technical aid. In order to eradicate the opium-bondage economy in some border areas, effective cooperation with international aid agencies has to be made in crop substitution schemes and border area development programs. The role of non-governmental organizations in these efforts should be recognized in the rehabilitation of border areas.¹⁵

It is unlikely that States will be able to afford to conduct measures for poverty alleviation solely with revenues collected within their own States. The NCUB proposed federal constitution provides that "When a member state, although carrying out its financial matters properly, arrives at a situation where it cannot carry out its function due to a lack of finances for some reason or where it will reach a situation where it will not be able to carry out its functions, the Government of the Federal Union shall have the responsibility to resolve such situations by either permitting the appropriate use of federal finances, or by arranging proportional assistance from other states"¹⁶.

Formulation of a financial equalization program is indeed essential. But it is a complex one, which will need creative adjustment. The Indian method of correcting fiscal imbalances also relies on a Grants (Finance) Commission to make recommendations to the Union Government both as to: (1) the total that should be transferred (in the form of percentages of central revenues from defined taxes); and (2) its distribution between the States. The recommendations hold for five years until a totally new Commission is appointed. But the principle for allocation heavily depends on relative population and this doesn't provide redistribution in favour of poor States¹⁷. The Canadian formula seems to be more realistic. First, the amount of revenue that each province could raise is calculated. Based on this data, average standard for per-capita revenue among states is set. If the revenue raising ability of a province is far short of this standard, its per capita revenues are raised through equalization payments¹⁸.

Can Federalism work in Burma?

The narrow-mindedness and power struggles of Burma's political leaders before the coup are facts. The abuses committed by the Burmese army, applying their military capability upon our ethnic brothers, are also realities. The army operates more on a mercenary basis than for the promotion of broad national interests. But there are good leaders on both sides, with whom we have to build up our new Federal Union. We have to be awakened from these past mistakes and to have an open dialogue to appreci-

ate our differences and to concede autonomous states inside the Democratic Federation.

As Ursula K. Hicks, the author of "Federalism; Failure and Success" said, "The path of federation is no more likely to run smooth than the path of true love". We will need a lot of understanding, culture of non-violence, tolerance, flexibility, political will to compromise and readiness to make adjustment to cope with the unforeseen challenges in order to achieve success in our experiment of federalism in the future.

Notes

1. John Kincaid, *The Relevance of the Federal Idea in the Contemporary World*, presentation made to the Salzburg Seminar, "Perspectives on federalism", May 22-28, 1993, Salzburg, Austria.
2. Ba Maw: *Breakthrough in Burma: Memoirs of a Revolution, 1939-1946*; New Haven, Yale University Press, 1968, p 534
3. Ibid., p 342
4. Constitution of the Union of Burma (1947) section 160: A member of the Union Government to be known as the minister for the Shan State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Shan State Council from among the members of the parliament representing the Shan State. The Minister so appointed shall also be the Head of the Shan State for the purpose of this constitution.
5. Constitution of the Union of Burma (1947) section 87, Second Schedule
6. U Nu, *Saturday's Son*, Bharatiya Vidya Bhavan Press, Bombay, 1976, p 340
7. Ibid, p 340
8. The frameworks for further drafting were:
 - (1) the derivation of sovereignty of the State from the people;
 - (2) the institution of Burma as a Federal Union on the basis of the intents of: the Panglong agreement reached between General Aung San and the ethnic nationalities who have been struggling for over 40 years, Bo Aung Gyaw Street declaration, agreement reached between the National League for Democracy and Union Nationalities League for Democracy (UNLD), the Marnaplaw Agreement, and the historical development of co-inhabitation of various ethnic nationalities;
 - (3) the national equality and right of self-determination of all the ethnic nationalities, with firm guarantees;

- (4) institutionalization of the multi-party democratic system and human rights;
 - (5) the proper division of power between the central and state governments;
 - (6) the system of bi-cameral legislature in which there is a National Assembly composed of representatives from the States, and the people's assembly consisting of representatives of the people;
 - (7) the system in which the legislative, executive and judicial power are exercised separately; and
 - (8) the subordination of the armed forces to the civilian control, and treatment of it only as one of the departments in the service of the State, with no right whatsoever to interfere in politics.
- 9. Position paper of the NCGUB on National Reconciliation, 23 July 1998.
 - 10. The position of the NLD regarding the Nationalities of Burma, 12 February 1996.
 - 11. "Prospects for Sustainable Growth in Myanmar/Burma; Tension between environmental decline and economic progress", by Dr David Dapice, 12 September 1995.
 - 12. Ursula K Hicks, *Federalism: Failure and Success; A Comparative Study*, p 181.
 - 13. Ibid., p 182.
 - 14. Article 67, (b) and (c).
 - 15. Economic Development of Burma: A vision and a strategy; A Study by Burmese Economists by Research Group for the Economic Development of Burma, November 1988
 - 16. Article 123
 - 17. *Federalism: Failure and Success, A Comparative Study* (see fn 12, above) p 185.
 - 18. Federal Equalization Program, Finance Canada, February 1998.