

The original chapters on Fundamental Principles and Detailed Basic Principles adopted¹ by the National Convention

These chapters, *1. State fundamental principles; 2. State Structure; 3. Head of State; 4. Legislature; 5. Executive; 6. Judiciary* were adopted by the National Convention between 1993 and 1996. In 2007, in the process of completing the National Convention, some changes were made to the original versions and incorporated into the document issued as “*Fundamental Principles and Detailed Basic Principles*” (*Adopted by the National Convention*), online at <http://www.ibiblio.org/obl/docs4/DBP-KKH-2.pdf>. For the record, and in case anyone wants to compare the versions, they are presented here, along with the section on Self-Administered Divisions and Self-Administered Zones which was not allocated to a specific chapter.

Sources: “*The New Light of Myanmar*” -- see <http://www.burmalibrary.org/show.php?cat=1314&lo=d&sl=0>

¹ It is frequently unclear whether the language was actually adopted by the National Convention.

Chapter I

State Fundamental Principles (the 104 Principles)

The Principles laid down to serve as bases in prescribing State Fundamental Principles

Sept. 16 [1993]: The plenary session of the National Convention resumed, with 649 of 698 delegates present, and heard clarifications by Convening Work Committee Chairman U Aung Toe and a speech by Convening Commission Chairman Lt-Gen. Myo Nyunt.

U Aung Toe said [full text]:

Esteemed Chairman and National Convention delegates,

In connection with the matter of laying down the principles to form basis in formulating State fundamental principles for the drafting of the State Constitution, proposals contained in 22 papers presented by eight Convention delegate groups have been analysed thoroughly by the Panel of Alternate Chairmen at the National Convention Plenary Session held from 6 to 9 September 1993 and principles that should be laid down as basic principles have been presented in an overall appraisal covering each of the subject matters. The National Convention Convening Work Committee met and coordinated with the Panel of Alternate Chairmen and it is found that appraisals of the Panel of Alternate Chairmen are ones that should be taken seriously. It is also found that virtually all these appraisals are congruent with discussions and proposals of delegate groups on fundamental principles concerning chapter headings as expounded in the National Convention Convening Commission Chairman's address and my clarification in the matter of laying down basic principles for formulating State fundamental principles at the National Convention Plenary Session on 7 June. So, taking the appraisals of the Panel of Alternate Chairmen as a basis, the National Convention Convening Work Committee hereby submits that basic principles for formulating State fundamental principles are laid down as follows:

(1) In connection with the State, it is laid down that--

- (a) Myanmar Naing-Ngan is a sovereign, independent nation;
- (b) the State shall be known as Pyidaungsu Thamada Myanmar Naing-Ngan-Daw;
- (c) sovereign power of the State is derived from the citizens and is in force in the whole country;
- (d) the territorial boundary of the State is as it is on the day this State Constitution comes into force.

(2) In connection with the aims and objectives of the State, it is laid down that: the State is consistently aimed at--

- (a) non-disintegration of the Union;
- (b) non-disintegration of national solidarity;
- (c) perpetuation of sovereignty;
- (d) flourishing of a genuine multiparty democracy system;
- (e) further burgeoning of the noblest and worthiest of worldly values namely justice, liberty and

equality in the State;

(f) for the Tatmadaw to be able to participate in the national political leadership role in the State.

(3) In connection with multiparty democracy, it is stipulated that--

the State practises genuine multiparty democracy system.

(4) In connection with State structure, it is laid down that--

(a) the State is constituted by Pyidaungsu (Union) system;

(b) the existing seven divisions are designated seven regions and the existing seven states are designated seven states. Those seven regions and seven states are of equal status and authority;

(c) the names of those seven regions and seven states are retained as they are at present;

(d) if it is desired to change the name of a region or a state, it shall be done so with enactment of law after ascertaining the wishes of citizens residing in the region or state concerned;

(e) in regions or states, self-administered areas are to be prescribed for national races who reside together in communities on the same common stretches of land in appropriate sizes of population, other than national races who have already got regions or states;

(f) depending on size of population and inhabited area, they are to be prescribed as self-administered divisions or self-administered zones as suitable;

(g) no part of the territory of the State, namely regions, states and self-administered areas etc. shall ever secede from the State.

(5) In connection with the Head of State, it is laid down that--

(a) the Head of State is the President of the State;

(b) the President of the State is elected by presidential electoral college.

(6) In connection with separation and distribution of sovereign State power, it is laid down that--

(a) the three branches of State power, namely, legislative power, executive power and judicial power are separated as much as possible and exert reciprocal control, check and balance among themselves;

(b) the three branches of State power so separated are distributed among Pyidaungsu (Union), regions, states and self-administered areas.

(7) In connection with legislature, it is laid down that--

(a) the legislative power of the State is distributed among Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws; legislative power stipulated by the State Constitution shall be distributed to self-administered areas;

(b) Pyidaungsu Hluttaw consists of two Hluttaws--one Hluttaw elected on the basis of population and the other one with equal number of representatives elected from regions and states;

(c) there will be a Region Hluttaw in each of the seven regions and a State Hluttaw in each of the seven states;

(d) Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws include Tatmadaw servicemen Hluttaw representatives nominated as such by Defence Services Commander-in-Chief in numbers stipulated by the State Constitution;

(e) for national races with appropriate sizes of population, national race representatives are to be permitted to participate in legislatures of regions, states or self-administered areas concerned.

(8) In connection with executive branch, it is laid down that--

(a) the head of executive of the State is the President of the State;

(b) the executive power of the State is distributed among the administrative organs of the Pyidaungsu, regions and states; self-administrative power shall be distributed to self-administered areas as stipulated by the State Constitution;

(c) Pyidaungsu, regions, states, self-administered areas and districts' executive organs include Tatmadaw servicemen nominated by Defence Services Commander-in-Chief to undertake responsibilities of defence, security, border administration etc.

(d) for national races of which representatives are so permitted to participate in legislatures of regions, states or self-administered areas in accord with above paragraph (7) sub-paragraph (e), representatives are to be permitted to participate, mainly to undertake their national race affairs, in administration of respective region, state or self-administered area;

(e) the State is to set up commission and undertake matters stated in above paragraph (4) sub-paragraphs (e) and (f) and paragraph (7) sub-paragraph (e) and this paragraph sub-paragraph (d).

(9) In connection with the judiciary, it is laid down that--

(a) the judicial power of the State is distributed among Pyidaungsu Taya Hluttaw (Supreme Court), Region Taya Hluttaw (Region High Court), State Taya Hluttaw (State High Court) and law courts of different levels including law courts of self-administered areas;

(b) in the Pyidaungsu is constituted one Pyidaungsu Taya Hluttaw. Pyidaungsu Taya Hluttaw is the supreme law court of the State;

(c) Pyidaungsu Taya Hluttaw has powers to issue writs;

(d) a Region Taya Hluttaw is constituted in each of the regions and a State Taya Hluttaw is constituted in each of the states;

(e) the following are stipulated as judicial principles:

-- independent administration of justice in accord with law;

-- administration of justice in public except where restricted by law;

-- giving of right of defence and right of appeal by law in cases.

(10) In connection with the Tatmadaw, it is laid down that--

(a) the Tatmadaw is strong, modern and must be the sole existing Tatmadaw;

(b) the Tatmadaw has the right to independently administer all affairs concerning the forces;

(c) the Defence Services Commander-in-Chief is the Supreme Commander of all armed forces;

(d) the Tatmadaw has the right to administer for participation of the entire people in State security and

defence;

(e) the Tatmadaw is mainly responsible for safeguarding non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty;

(f) the Tatmadaw is mainly responsible for safeguarding the State Constitution.

(11) In connection with citizens and citizens' fundamental rights and responsibilities, it is laid down that--

(a) all persons born of parents both of whom are nationals are citizens; all persons who have become citizens in accord with law on the date the State Constitution comes into force are citizens; and citizenship, naturalization and revocation of citizenship shall be as prescribed by law;

(b) every citizen shall enjoy rights of equality, rights of liberty and rights of justice etc. as prescribed in the State Constitution;

(c) there shall be no right to hold a citizen in detention for more than 24 hours without the permission of a law court;

(d) every citizen has the duty to safeguard non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty;

(e) every citizen is responsible to abide by and uphold the State Constitution;

(f) every citizen shall have the duty to learn military science as prescribed by law;

(g) every citizen shall be responsible to undergo military service as prescribed by law;

(h) public peace and tranquility and prevalence of law and order is the responsibility of every citizen;

(i) necessary law shall be enacted to make citizens' freedoms, rights, benefits, responsibilities and restrictions effective, firm and complete.

(12) In connection with the national races, it is laid down that--

(a) the State shall help develop language, literature, fine arts and culture of the national races;

(b) the State shall help promote solidarity, mutual amity, and respect and mutual help among the national races;

(c) the State shall help promote socio-economic development including education, health, economy, transport and communications of less developed national races;

(13) In connection with the peasantry, it is laid down that--

(a) the State shall enact necessary laws to protect the rights of the peasantry;

(b) the State shall help the peasantry get equitable value for their agricultural produce.

(14) In connection with workers, it is laid down that--

-- the State shall enact necessary laws to protect the rights of workers.

(15) In connection with intellectuals and intelligentsia, it is laid down that--

-- the State shall help promote the interests of the intellectuals and intelligentsia.

(16) In connection with the State service personnel, it is laid down that--

- (a) State service personnel shall be free from party politics;
- (b) the State shall enact necessary laws for State service personnel to have due security in service and sufficiency of food, clothing and shelter, for married women in service to get material benefits, and for welfare to ease livelihood of persons who have retired from service.

(17) In connection with national culture, it is laid down that--

-- the State shall help for development, consolidation and preservation of national culture.

(18) In connection with education and health, it is laid down that--

- (a) the State shall earnestly strive to improve education and health of the people;
- (b) the State shall enact necessary law to enable the national people to participate in matters of education and health of the people;
- (c) the State shall implement free compulsory primary education system;
- (d) the State shall implement a modern education system that will promote all-round correct thoughts and good morals and contribute towards building of the nation.

(19) In connection with agriculture and industry, it is laid down that--

- (a) the State shall provide inputs such as technology, investments, machinery, raw materials etc. as much as it can for changeover from manual to mechanized agriculture;
- (b) the State shall provide inputs such as technology, investments, machinery, raw materials etc. as much as it can for development of industries.

(20) In connection with employment it is laid down that--

-- the State shall, as much as it can, help reduce unemployment among the people.

(21) In connection with mothers, children, the old and the infirm, it is laid down that--

- (a) the State shall care for mothers and children, orphans, fallen Tatmadaw servicemen's children, the old and the infirm, and the disabled;
- (b) the State shall arrange for disabled Tatmadaw servicemen to be able to make a respectable livelihood and get free vocational training.

(22) In connection with the youths, it is laid down that--

-- the State shall strive to imbue youths with strong and dynamic patriotic spirit, correct way of thinking and the five noble strengths.

(23) In connection with religion, it is laid down that--

- (a) every citizen is equally entitled to freedom of conscience and the right freely to profess and practise

religion, subject to public order, morality or health and to the other provisions of the State Constitution;

- (b) the above right shall not include any economic, financial, political or other secular activities that may be associated with religious practice;
- (c) the freedom so guaranteed shall not debar the State from enacting laws for the purpose of social welfare and reform;
- (d) the State recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the State;
- (e) the State also recognizes Islam, Christianity, Hinduism and Animism as some religions existing in the State at the date of the coming into force of the State Constitution;
- (f) the State shall help and protect as much as it can the religions it recognizes;
- (g) the abuse of religion for political purposes is forbidden; and any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to the State Constitution and may be made punishable by law.

(24) In connection with the economy it is laid down that--

- (a) the State economic system shall be market economic system;
- (b) the State permits all economic forces such as the State itself, regional organizations, cooperative organizations, joint venture organizations and private concerns etc. to take part in economic activities for the development of national economy;
- (c) the State shall prevent acts that harm public interests through monopolization or manipulation of prices by an individual or group with intent to jeopardize fair competition in economic activities;
- (d) the State shall strive towards uplift of living standards of the people and development of general investments;
- (e) the State shall assist to acquire technology, machinery and raw materials etc. for development of national economy;
- (f) the State will not nationalize economic enterprises;
- (g) the State will not demonetize currency that is legally put into circulation.

(25) In connection with the land, the waters, the atmosphere and natural resources, it is laid down--

- (a) the State is the ultimate owner of all the land, and natural resources above and below the ground, above and beneath the waters and in the atmosphere within its territorial boundary;
- (b) the State shall enact necessary law to supervise economic forces' extraction and utilization of State-owned natural resources;
- (c) the State shall permit citizens' right of private property, right of inheritance, right of private enterprise, right of initiative and right of patent in accord with law.

(26) In connection with elections, it is laid down that--

- (a) every citizen shall have the right to vote and to stand for election according to law;
- (b) voters concerned shall have the right, in accord with the provisions of the State Constitution, to recall elected people's representatives.

(27) In connection with political parties, it is laid down that--

-- the State shall enact necessary law for systematic formation of political parties for flourishing of genuine multiparty democracy system.

(28) In connection with state of emergency, it is laid down that--

(a) when there arises a state of emergency characterised by inability to perform executive functions in accord with provisions of the State Constitution in a region or a state or a self-administered area, the President of the State is empowered to exercise executive power in that region, state or self-administered area and if necessary in doing so, the President of the State is empowered to exercise legislative powers concerning that region, state or self-administered area in accord with provisions of the State Constitution;

(b) when there arises or there is sufficient reason to arise a state of emergency endangering life and property of the people in a region, a state or a self-administered area, the Tatmadaw has the right, in accord with provisions of the State Constitution, to pre-empt that danger and provide protection;

(c) when there arises a state of emergency that could cause disintegration of the Union, disintegration of national solidarity and loss of national sovereignty, due to takeover of sovereign State power or attempts therefor by wrongful forcible means such as insurgency or violence, the Defence Services Commander-in-Chief has the right to take over and exercise State power in accord with provisions of the State Constitution.

(29) In connection with foreign affairs, it is laid down that--

(a) the State practises independent, active and non-aligned foreign policy, aims at world peace and friendly relations with nations, and upholds the principles of peaceful co-existence among nations;

(b) the State never starts aggression against any nation;

(c) no foreign troops are permitted to be deployed within the borders of the Union.

(30) In connection with punishments, it is laid down that--

(a) there is no right for any penal law to provide for retrospective effect;

(b) there is no right to prescribe punishments that violate human dignity.

(31) In connection with the natural environment, it is laid down that--

-- the State shall protect the natural environment.

(32) In connection with general provisions, it is laid down that--

(a) Myanmar language is the official language;

(b) the State fundamental principles are guidelines to be followed by the legislative hluttaws in enacting laws and in interpreting provisions of the State Constitution and other laws;

(c) a Constitutional Tribunal shall be set up to interpret provisions of the State Constitution, to scrutinize whether or not laws enacted by Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws and functions of executive authorities of Pyidaungsu, regions, states and self-administered areas are in

conformity with the State Constitution, to decide on disputes in connection with the State Constitution between Pyidaungsu and regions, between Pyidaungsu and states, between regions and states, among regions, among states, and between regions or states and self-administered areas and among self-administered areas themselves [and?] to perform other duties prescribed in the State Constitution.

Esteemed Chairman and National Convention delegates,

After the basic principles have been so laid down for formulating State fundamental principles, it will be carried on as follows:

- of those basic principles are to be taken as basis in discussing basic principles in respective chapters;
- of those basic principles, those that should be mentioned in the preamble of the State Constitution should be mentioned also in that preamble;
- principles concerning the State are to be mentioned separately in the chapter heading "The State";
- likewise, principles concerning respective chapters are to be transferred to respective chapters when discussions are held for those respective chapters;
- principles concerning the chapter "State fundamental principles" are to be retained in the chapter on State fundamental principles.

The National Convention Convening Work Committee has reported to the National Convention Convening Commission that the work will be carried on as detailed above. The Commission accepted and confirmed it and directed that it be presented to the National Convention Plenary Session. Hence this clarification.

Esteemed Chairman and National Convention delegates,

As it is known to all delegates, the basic principles for formulating State fundamental principles are the very life of the State Constitution, key points of the State Constitution, and the essence of the Constitution and the work for laying down those basic principles is extremely important and the most primary. For having worked heart and soul for successful completion of such an extremely important and vital task like this, special thanks to all National Convention delegates and all members of the Panel of Chairmen who have led and supervised the proceedings are expressed in conclusion on behalf of the National Convention Convening Work Committee.

Source: "The New Light of Myanmar" 17 September 1993

Chapter II

The State Structure

THE DETAILED BASIC PRINCIPLES FOR THE CHAPTER ‘THE STATE’, ‘THE STATE STRUCTURE’ AND ‘THE HEAD OF STATE’ TO BE INCLUDED IN THE STATE CONSTITUTION AS LAID DOWN BY THE NATIONAL CONVENTION PLENARY SESSION HELD ON 9 APRIL 1994

[Online Burma/Myanmar editor’s note: there are differences between the present text of these chapters (as published in “the New Light of Myanmar” 10 April 1994) and that currently being circulated by the SPDC. The latter text is at [http://www.ibiblio.org/obl/docs/DBP-state\(2\).htm](http://www.ibiblio.org/obl/docs/DBP-state(2).htm)

THE DETAILED BASIC PRINCIPLES FOR THE CHAPTER ‘THE STATE’

- (1) Myanmar Naing-Ngan is a sovereign, independent nation;
- (2) The State shall be known as Pyidaungsu Thamada Myanmar Naing-Ngan-Daw;
- (3) The Naing-Ngan-Daw is a nation collectively inhabited by various national races together;
- (4) Sovereign power of the State is derived from the citizens and is in force in the whole country;
- (5) the territorial boundary inclusive of the land, sea and airspace of the State is as it is on the day the State Constitution comes into force.

THE DETAILED BASIC PRINCIPLES FOR THE CHAPTER ‘THE STATE STRUCTURE’

- (1) The State is constituted by Pyidaungsu (Union) system;**
- (2) The State is delineated and constituted with the seven regions, seven states and Union territories as follows:**

- Kachin State
- Kayah State
- Kayin State
- Chin State
- Sagaing Region
- Tanintharyi Region
- Bago Region
- Magway Region
- Mandalay Region
- Mon State
- Rakhine State
- Yangon Region
- Shan State
- Ayeyarwady Region

(3) Regions and States are of equal status and authority;

(4) If it is desired to change the name of a region or a state, it shall be done after ascertaining the wishes of the citizens who have the right to vote and residing in the region or state concerned;

(5) No part of the territory of the Union, namely regions, states, Union territories and self-administered areas etc. shall ever secede from the Union;

(6) In organizing the Union --

- villages are organized into village-tract,
- wards are organized into town or township,
- village-tracts and wards or towns are organized into township,
- townships are organized into district,
- districts are organized into region or state,
- in a self-administered zone townships therein are organized into the self-administered zone,
- in self-administered division, townships therein are organized into district and districts are organized into the self-administered division,
- if there be self-administered division or self-administered zone in a region or a state, the self-administered division, self-administered zone and districts are organized into region or state,
- regions, states and Union territories are organized as the Union.

(7) In connection with re-delineation for the territorial boundary of the Union--

(a) If the need arises to re-delineate the territorial boundary of the Union, the President of the Union shall first inform the leader of the Pyidaungsu Hluttaw and ask him to seek the opinion of the Pyidaungsu Hluttaw.

(b) The leader of the Pyidaungsu Hluttaw, after receiving the intimation of the President of the Union to re-delineate of the territorial boundary of the Union, shall seek the opinions of the Hluttaw representatives as follows:

- (1) assenting votes of more than half the total number of representatives included in the Hluttaw with equal numbers of representatives elected from regions and states,
- (2) assenting votes of more than half the total number of representatives included in the Hluttaw elected on the basis of population,
- (3) assenting votes of more than half the number of representatives from the region or state involving the boundary concerned in the two Hluttaws.

(c) The leader of the Pyidaungsu Hluttaw, after obtaining the assenting votes as mentioned above, shall inform the President of the Union for re-delineating the territorial boundary of the Union.

(d) If any Hluttaw or representative from the region or state involving the boundary concerned in the two Hluttaws, following the methods mentioned above, dissent in connection with the re-delineation of the territorial boundary of the Union, action shall be taken after obtaining the opinion of the Pyidaungsu Hluttaw. If the three-fourths and upwards of the Pyidaungsu Hluttaw representatives assent, the leader of the Pyidaungsu Hluttaw shall inform the President of the Union for the re-delineation of the territorial boundary of the Union as necessary.

(e) The President of the Union shall take necessary measures for re-delineation of the territorial boundary after

obtaining the opinions of the Pyidaungsu Hluttaw.

(8) In connection with re-delineation of the territorial boundaries of a region or a state--

- (a) If there arises cause to re-delineate the boundary of a region or a state, first of all the wishes of persons with voting rights residing in the township involved in the re-delineation of the boundary shall be sought.
- (b) Re-delineation of the territorial boundary shall not be effected at all without supporting vote of more than half the total number of eligible voters residing in the township involved in the re-delineation of the boundary.
- (c) If more than half the number of eligible voters in the township concerned vote in support of the re-delineation of the boundary, the wishes of the involved region or state Hluttaw representatives shall be sought.
- (d) The President of the Union, with the approval of the Pyidaungsu Hluttaw, shall re-delineate the territorial boundary of a region or state, after getting the supporting vote of three-fourths and upwards of the total number of involved region or state Hluttaw representatives.
- (e) The decision of the Pyidaungsu Hluttaw shall be sought if an involved region or state Hluttaw passes a decision against re-delineation of the boundary.
- (f) The President of the Union shall re-delineate the boundary of the region or state as necessary if it supported by three-fourths and upwards of the total number of representatives in the Pyidaungsu Hluttaw.

(9) If occasion arises to make changes in the boundary, organization or name of a village, village-tract, ward, town, township or district in a region, state, self-administered division or self-administered zone, the region or state executive authority concerned shall submit recommendations to the President of the Union, and the President of the Union shall then act accordingly.

(10) If it is desired to change the name of a self-administered division or self-administered zone, the same methods shall be applied as in the case of a change of name of the region or state.

(11) In connection with designating Union territories--

- (a) Yangon City, that is the Capital of the Union, is designated as Union territory under direct administration of the President of the Union,
- (2) Cocogyun Township which has a special situation is designated as Union territory and under direct administration of the President of the Union,
- (3) if the need arises to designate areas that have special situation in connection with national defence, security, administration and economy etc. as Union territories they may be so designated as Union territories under direct administration of the President of the Union after enacting laws.

(4)

Source: "The New Light of Myanmar" 10 April 1994

Chapter III

The Head of State

THE DETAILED BASIC PRINCIPLES FOR THE CHAPTER ‘THE HEAD OF STATE’

- (1) The Head of State is the President of the Union.
- (2) The President of the Union represents the nation.
- (3) The President of the Union occupies a position of the highest honour in the whole of the Union of Myanmar.

(4) In connection with qualifications of the President and Vice-Presidents--

- (a) The President of the Union shall be loyal to the Union and the citizenry,
- (b) The President of the Union must be a citizen of Myanmar who was, and both of whose parents were, born in the territory under the jurisdiction of the State, belonging to the nationality of Myanmar,
- (c) The elected President of the Union shall be a person who has fully attained the age of 45,
- (d) The President of the Union shall be well acquainted with affairs of State such as political, administrative, economic and military affairs,
- (e) the President of the Union shall be a person who has been residing continuously in the country for at least 20 years up to the time of the election,
- (f) The President of the Union himself, parents, spouse, children and their spouses shall not owe allegiance to a foreign power, shall not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to the rights and privileges of a subject or citizen of a foreign country,
- (g) The President of the Union shall possess specific qualifications required of the President in addition to qualifications required to stand for election to the Hluttaw,
- (h) The Vice-President shall possess qualifications required of the President.

(5) In connection with the election of the President and the Vice-Presidents--

- (a) The President of the Union shall be elected by the presidential electoral college,
- (b) The presidential electoral college shall be organized with three groups of the Pyidaungsu Hluttaw representatives as follows:
 - (1) Group formed with elected Hluttaw representatives in the Hluttaw with equal numbers of representatives elected from regions and states,
 - (2) Group formed with elected Hluttaw representatives in the Hluttaw elected on basis of population,
 - (3) Group formed with Tatmadaw member Hluttaw representatives nominated as such by the Commander-in-Chief of the Defence Services for the said two Hluttaws,
- (c) Each group shall elect a Vice-President from among Hluttaw representatives or from among persons who are not Hluttaw representatives,
- (d) A body comprising the leaders and deputy leaders of the two Hluttaws in the Pyidaungsu Hluttaw shall scrutinize whether or not the Vice-President possess the qualifications prescribed for the President,

- (e) The presidential electoral college made up of all the Pyidaungsu Hluttaw representatives shall vote one of the three Vice-Presidents who are presidential candidates, as the President of the Union,
- (f) Law shall be enacted as required for presidential election.

(6) In connection with the terms of office of the President of the Union or Vice-Presidents--

- (a) The term of office of the President or the Vice-Presidents is five years,
 - (b) After expiry of incumbent term, the President and Vice-Presidents shall carry on in office till the time the new President and Vice President are duly elected,
 - (c) The President and Vice-Presidents shall not serve more than two terms,
 - (d) An interim period to serve as the President or Vice-President shall not be counted as one term of office,
 - (e) If a vacancy is filled for the presidency or vice-presidency for any reason, the term of office of the President or the Vice-President shall be up to the end of the original term of office.
- (7) The President or the Vice-Presidents shall not be representatives of any Hluttaw,
- (8) If a Hluttaw representative be elected President or Vice-President, this person shall be deemed to have resigned from his seat in the Hluttaw, and if a service personnel be elected President or Vice-President, the persons shall be deemed to have resigned or retired from the date of such election,
- (9) If a person elected President or Vice-President happens to be member of a political party, this person shall not participate in party activities of that party organization, from the date of such election, during the term of office,

(10) In taking oath of office by the President and Vice-Presidents, the following points are to be included:

- (a) to be loyal to the Union of Myanmar and the citizenry,
 - (b) to hold always in esteem non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty,
 - (c) to uphold and abide by the State Constitution and to abide by laws of the State,
 - (d) to carry out the responsibilities uprightly to the best of one's ability,
 - (e) to strive for further flourishing of worldly values such as justice, liberty and equality,
 - (f) to solemnly declare and pledge dedication of life and person to the service of the Union of Myanmar,
- (11) The President or the Vice-Presidents shall exercise responsibilities and rights assigned and vested by the Constitution and other laws,
- (12) The President and the Vice-Presidents shall not accept any other office or position of emolument,
- (13) The President and the Vice-Presidents shall furnish lists of assets namely family owned land, houses, buildings, businesses, savings and other valuables --stating their values--belonging to the respective families led by them and send them to the leader of the Pyidaungsu Hluttaw,
- (14) The President and the Vice-Presidents shall be entitled to enjoy the emolument and facilities of office, in accord with law. Each shall also be entitled to have a suitable residence,

(15) Except in the case of removal from office following impeachment, the President and the Vice-Presidents shall enjoy pension and appropriate allowances on retirement after expiry of the term of office.

(16) In connection with methods to be applied in impeachment of the President or the Vice-President--

(a) The President or any Vice-President shall be impeached for one of the following reasons:

(1) treason,

(2) violation of the provisions of the Constitution,

(3) misconduct,

(4) being disqualified for the Presidency or Vice-Presidency under the Constitution,

(b) If it is desired to impeach the President or any Vice-President, not less than one-fourth of the total membership of any of the two Hluttaws included in the Pyidaungsu Hluttaw is to sign a charge and submit it to the leader of the Hluttaw concerned,

(c) Further action shall be taken if not less than two-thirds of the total membership of the Hluttaw concerned support the charge,

(d) If one Hluttaw supports to take action in connection with the charge, the other Hluttaw shall investigate the charge or form a body to investigate the charge,

(e) The President or the Vice-President shall have the right to refute the charge personally or through a representative when it is investigated,

(f) If not less than two-thirds of the total membership of the Hluttaw by which the charge was investigated or caused to be investigated, declares after the investigation that the charge has been sustained and then decides that the offence, the subject of the charge, is such as to render the President or the Vice-President unfit to continue in office, that Hluttaw shall submit it to the leader of the Pyidaungsu Hluttaw to remove the President or Vice-President from office,

(g) The leader of the Pyidaungsu Hluttaw shall proclaim removal of the President or Vice-President immediately after the receipt of the information.

(17) The President or the Vice-President shall be allowed to resign from office of his own volition before the expiry of the term of office,

(18) In connection with the methods to be applied if the post of the President or Vice-Presidents falls vacant--

(a) one of the two Vice-Presidents who has won the second highest votes in the presidential election shall serve as Acting President if the post of the President falls vacant due to his resignation, death, permanent disability or any other cause,

(b) if the vacancy of the President comes about while the Pyidaungsu Hluttaw is in session, the Acting President shall promptly inform the leader of the Pyidaungsu Hluttaw for filling it within seven days,

(c) on receipt of the intimation, the leader of the Pyidaungsu Hluttaw shall move for electing of a Vice-President by the representatives group which had elected the Vice-President who later got elected President but who vacated the Presidency,

(d) after the representatives group concerned has elected a Vice-President, the electoral college made up of all the Pyidaungsu Hluttaw representatives shall elect the President of the Union out of three Vice-Presidents,

(e) if the vacancy comes about when the Pyidaungsu Hluttaw is not in session, the leader of the Pyidaungsu Hluttaw shall summon a Pyidaungsu Hluttaw session within 21 days from the date of receipt of the intimation from the Acting President, and carry on for filling the vacant presidency in the way stated above,

(f) if the post of a Vice-President falls vacant due to resignation, death, permanent disability or any other cause while the Pyidaungsu Hluttaw is in session, the President shall promptly inform the leader of the Pyidaungsu Hluttaw to enable the Hluttaw representatives group which has elected the just vacated Vice-President to elect a new Vice-President within seven days,

(g) if the vacancy comes about when the Pyidaungsu Hluttaw is not in session, the leader of the Pyidaungsu Hluttaw shall summon the Pyidaungsu Hluttaw session within 21 days, and carry on for the filling of the Vice-Presidency by the Hluttaw representatives group in the prescribed method.

Source: “The New Light of Myanmar” 10 April 1994

Chapter IV

Legislature

THE DETAILED BASIC PRINCIPLES FOR FORMATION OF THE LEGISLATURE TO BE INCLUDED IN THE STATE CONSTITUTION AS LAID DOWN BY THE NATIONAL CONVENTION PLENARY SESSION HELD FROM 28 TO 30 MARCH 1996

1. In connection with the legislature,

- (a) the legislative powers of the State are distributed among Pyidaungsu Hluttaw, region hluttaws and state hluttaws;
- (b) legislative power prescribed by the Constitution is distributed to self-administered areas.

2. In connection with the two Hluttaws,

- (a) the Hluttaw formed with Hluttaw representatives elected on the basis of population and Tatmadaw member representatives nominated by the Commander-in-Chief of the Defence Services shall be known as Pyithu Hluttaw;
- (b) the Hluttaw formed with Hluttaw representatives elected in equal numbers from regions and states and Tatmadaw member Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services shall be known as the Amyotha Hluttaw.

3. In connection with formation of the Pyidaungsu Hluttaw --

Pyidaungsu Hluttaw comprises the following two Hluttaws:

- (a) Pyithu Hluttaw formed with Hluttaw representatives elected on the basis of population and Tatmadaw member Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services;
- (b) Amyotha Hluttaw formed with Hluttaw representatives elected in equal numbers from regions and states and Tatmadaw member representatives nominated by the Commander-in-Chief of the Defence Services.

4. In connection with formation of Pyithu Hluttaw --

Pyithu Hluttaw shall be formed with a maximum of 440 Hluttaw representatives, as follows:

- (a) Not more than 330 Hluttaw representatives elected on the basis of population;
- (b) Not more than 110 Tatmadaw member representatives nominated in accord with law by the Commander-in-Chief of the Defence Services.

5. In connection with the leaders and the deputy leaders of respective Hluttaws,

-- the leader who is to lead in supervising the Hluttaw meeting held for the taking of oath of office by Hluttaw representatives and electing of Hluttaw okkahta and deputy okkahta on the day of commencement of the first Hluttaw meeting for each tenure of a Hluttaw concerned shall be called thabapati; the leader and the deputy leader of Pyidaungsu Hluttaw shall be called nayaka and the deputy nayaka; the leader and the deputy leader of Pyithu Hluttaw, Amyotha Hluttaw, region hluttaw or state hluttaw shall be called okkahta and deputy okkahta.

6. In connection with election of thabapati of Pyithu Hluttaw,

- (a) a Pyithu Hluttaw representative shall be elected as thabapati of Pyithu Hluttaw at the commencement of the first meeting of Pyithu Hluttaw for each tenure of Pyithu Hluttaw;
- (b) the thabapati shall take the oath of office before the Pyithu Hluttaw;
- (c) the thabapati shall supervise the Pyithu Hluttaw meeting till completion of election of okkahta and deputy okkahta of Pyithu Hluttaw.

7. In connection with election of okkahta and deputy okkahta of Pyithu Hluttaw,

- (a) in Pyithu Hluttaw,
 - (1) Pyithu Hluttaw representatives shall elect one okkahta and one deputy okkahta from amongst Pyithu Hluttaw representatives;
 - (2) In the event the post of okkahta or deputy okkahta becomes vacant, a replacement shall be elected at the nearest meeting of Pyithu Hluttaw;
 - (3) In the event okkahta is unable to perform the duties of okkahta, deputy okkahta shall temporarily perform the duties of okkahta.
- (b) methods for electing okkahta and deputy okkahta of Pyithu Hluttaw shall be prescribed by law.

8. In connection with performance and terminations of duties of okkahta and deputy okkahta of Pyithu Hluttaw,

- (a) Okkahta and deputy okkahta of Pyithu Hluttaw shall perform their duties up to the time before commencement of the first meeting of the next tenure of Pyithu Hluttaw;
- (b) Okkahta and deputy okkahta, in the event of resigning from the post, being caused to cease to be Pyithu Hluttaw representative, having no right to continue to be Pyithu Hluttaw representative, being withdrawn by Pyithu Hluttaw from duties of okkahta or deputy okkahta, or passing away, shall have been caused to cease to be okkahta or deputy okkahta.

9. In connection with responsibilities, rights and privileges of okkahta and deputy okkahta of Pyithu Hluttaw,

-- responsibilities, rights and privileges of okkahta and deputy okkahta of Pyithu Hluttaw shall be prescribed by law.

10. In connection with the status of okkahta and deputy okkahta of Pyithu Hluttaw,

-- Okkahta of Pyithu Hluttaw is prescribed to be of the same status as Vice-President, and the deputy okkahta is prescribed to be of the same status as Union Minister, for the purpose of reference in prescribing by law responsibilities, rights and privileges of okkahta and deputy okkahta of Pyithu Hluttaw.

11. In Pyithu Hluttaw,

(a) In connection with formation of Pyithu Hluttaw committees,

- (1) Pyithu Hluttaw shall form bills committee, public accounts committee, Hluttaw rights committee, and government's guarantees, pledges and undertakings scrutiny committee with Pyithu Hluttaw representatives;
- (2) In the even occasion arises to have studies made and submitted on defence and security matters or Tatmadaw affairs, Pyithu Hluttaw shall form the defence and security committee with Tatmadaw member Pyithu Hluttaw representatives, prescribing a period of time for it. The defence and security committee so formed may if

necessary co-opt non-Tatmadaw member Pyithu Hluttaw representatives in accord with the requirements at work;

(3) If necessary to have studies made and submitted on legislative affairs, executive affairs, national races affairs, economic affairs, financial affairs, social affairs, foreign affairs or other affairs, Hluttaw committees may be formed with Pyithu Hluttaw representatives, with a period of time prescribed for it.

(4) Pyithu Hluttaw shall prescribe the number of members, duties, rights, privileges and tenures of Pyithu Hluttaw committees.

(5) For forming a joint committee comprising equal numbers from Pyithu Hluttaw and Amyotha Hluttaw, if some matter arises to coordinate with Amyotha Hluttaw, Pyithu Hluttaw may elect and assign Pyithu Hluttaw representatives who will serve on that committee. The tenure of the joint committee shall be up to the time of submitting the report to the Hluttaw concerned.

(6) In the event both Pyithu Hluttaw and Amyotha Hluttaw have some matter to study, apart from matters to be handled by committees as in Sub-paragraphs (1) and (2) mentioned above, okkahtas of these Hluttaws may coordinate between themselves and form a joint committee comprising equal numbers of representatives from Pyithu Hluttaw and Amyotha Hluttaw. Pyithu Hluttaw may elect and assign Pyithu Hluttaw representatives to serve on that committee. The tenure of that joint committee shall be up to the time of submitting the report to the Hluttaw concerned.

(b) In connection with formation of Pyithu Hluttaw commissions and bodies,

(1) If necessary to study matters other than those studied by Pyithu Hluttaw committees, Pyithu Hluttaw may form commissions and bodies with Pyithu Hluttaw representatives or with inclusion of suitable citizens;

(2) When forming those commissions and bodies, Pyithu Hluttaw shall prescribe the number of members, duties, rights and privileges of those commissions and bodies.

12. In connection with the tenure of Pyithu Hluttaw,

-- The tenure of Pyithu Hluttaw is five years from the day of commencement of the first meeting of that Hluttaw.

13. In connection with formation of Amyotha Hluttaw,

-- Amyotha Hluttaw shall be formed with a maximum of 224 Hluttaw representatives, as follows:

(a) 168 Amyotha Hluttaw representatives elected in equal numbers from each region or state inclusive of Union territories, and including one representative from each self-administered division or self-administered zone;

(b) 56 Tatmadaw member Amyotha Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services in accord with law at the rate of four representatives from each region or state inclusive of Union territories.

14. In connection with election of thabapati of Amyotha Hluttaw,

(a) an Amyotha Hluttaw representative shall be elected as thabapati of Amyotha Hluttaw at the commencement of the first meeting of Amyotha Hluttaw for each tenure of Amyotha Hluttaw;

(b) the thabapati shall take the oath of office before the Amyotha Hluttaw;

(c) the thabapati shall supervise the Amyotha Hluttaw meeting till completion of election of okkahta and deputy okkahta of Amyotha Hluttaw.

15. In connection with election of okkahta and deputy okkahta of Amyotha Hluttaw,

(a) in Amyotha Hluttaw,

(1) Amyotha Hluttaw representatives shall elect one okkahta and one deputy okkahta from amongst Amyotha Hluttaw representatives;

(2) In the event the post of okkahta or deputy okkahta becomes vacant, a replacement shall be decided at the nearest meeting of the Amyotha Hluttaw;

(3) In the event okkahta is unsuitable to perform the duties of okkahta, deputy okkahta shall temporarily perform the duties of okkahta.

(b) methods for electing okkahta and deputy okkahta of Amyotha Hluttaw shall be prescribed by law.

16. In connection with performance and termination of duties of okkahta and deputy okkahta of Amyotha Hluttaw,

(a) Okkahta and deputy okkahta of Amyotha Hluttaw shall perform their duties up to the time before commencement of the first meeting of the next tenure of Amyotha Hluttaw;

(b) Okkahta or deputy okkahta, in the event of resigning from the post, being caused to cease to be Amyotha Hluttaw representative, having no right to continue to be Amyotha Hluttaw representative, being withdrawn by Amyotha Hluttaw from duties of okkahta or deputy okkahta, or passing away, shall have been caused to cease to be okkahta or deputy okkahta.

17. In connection with responsibilities, rights and privileges of okkahta and deputy okkahta of Amyotha Hluttaw,

-- responsibilities, rights and privileges of okkahta and deputy okkahta of Amyotha Hluttaw shall be prescribed by law.

18. In connection with the status of okkahta and deputy okkahta of Amyotha Hluttaw,

-- Okkahta of Amyotha Hluttaw is prescribed to be of the same status as Vice-President, and the deputy okkahta is prescribed to be of the same status as Union Minister, for the purpose of reference in prescribing by law responsibilities, rights and privileges of okkahta and deputy okkahta of Amyotha Hluttaw.

19. In connection with the formation of Amyotha Hluttaw committees,

(a) Amyotha Hluttaw shall form bills committee, public accounts committee, Hluttaw rights committee, and government's guarantees, pledges and undertakings scrutiny committee with Amyotha Hluttaw representatives;

(b) In the event occasion arises to have studies made and submitted on defence and security matters or Tatmadaw affairs, Amyotha Hluttaw shall form the defence and security committee with Tatmadaw member Amyotha Hluttaw representatives, prescribing a period for it. The defence and security committee so formed may if necessary co-opt non-Tatmadaw member Amyotha Hluttaw representatives in accord with requirements at work;

(c) If necessary to have studies made and submitted on legislative affairs, executive affairs, national races affairs, economic affairs, financial affairs, social affairs, foreign affairs or other affairs, Hluttaw committees may be formed with Amyotha Hluttaw representatives, with a period of time prescribed for it.

(d) Amyotha Hluttaw shall prescribe the number of members, duties, rights, privileges and tenures of Amyotha Hluttaw committees.

(e) For forming a joint committee comprising equal numbers of representatives from Amyotha Hluttaw and Pyithu Hluttaw, if some matter arises to coordinate with Pyithu Hluttaw, Amyotha Hluttaw may elect and assign

Amyotha Hluttaw representatives who will serve on that committee. The tenure of the joint committee shall be up to the time of submitting report to the Hluttaw concerned.

(f) In the event both Amyotha Hluttaw and Pyithu Hluttaw have some matter to study, apart from matters to be handled by committees as in Sub-paragraphs (a) and (b) mentioned above, okkahtas of these Hluttaws may coordinate between themselves and form a joint committee comprising equal numbers of representatives from Amyotha Hluttaw and Pyithu Hluttaw. Amyotha Hluttaw may elect and assign Amyotha Hluttaw representatives to serve on that committee. The tenure of that joint committee shall be up to the time of submitting the report to the Hluttaw concerned.

20. In connection with formation of Pyithu Hluttaw [sic--Amyotha Hluttaw probably meant] commissions and bodies,

(a) If necessary to study matters other than those studied by Amyotha Hluttaw committees, Amyotha Hluttaw may form commissions and bodies with Amyotha Hluttaw representatives or with inclusion of suitable citizens;

(b) When forming those commission and bodies, Amyotha Hluttaw shall prescribe the number of members, duties, rights and privileges of those commissions and bodies.

21. In connection with the tenure of Amyotha Hluttaw,

-- The tenure of Amyotha Hluttaw is the same as that of Pyithu Hluttaw. The tenure of Amyotha Hluttaw expires on the day that of Pyithu Hluttaw expires.

22. In connection with performance of duties by the nayaka and deputy nayaka of Pyidaungsu Hluttaw --

(a) The okkahta and deputy okkahta of Amyotha Hluttaw shall serve also as the nayaka and deputy nayaka of the Pyidaungsu Hluttaw from the day the tenure of office [of] the Pyithu Hluttaw commences up to the end of 30 months. The okkahta and deputy okkahta of Pyithu Hluttaw shall serve also as nayaka and deputy nayaka of Pyidaungsu Hluttaw for the remaining tenure of office;

(b) in the event the nayaka of Pyidaungsu Hluttaw is unable to perform the duties of nayaka, the deputy nayaka shall temporarily perform the duties of the nayaka.

23. In connection with the formation of the Region Hluttaw or State Hluttaw --

-- Region or State Hluttaw shall be formed as follows:

(a) In Regions or States, Region or State Hluttaw representatives -- two elected from each township;

(b) In Region, Region Hluttaw representatives -- one elected from each national race decided by the authorities concerned as having population which constitutes 0.1 per cent of the population of the State, of the remaining national races other than those who have already got the respective Region or a self-administered area in that region;

(c) in States, State representatives -- one elected from each national race decided by the authorities concerned as having population which constitutes 0.1 per cent of the population of the State, of the remaining national races other than those who have already got the respective State or a self-administered area in that state;

(d) Region or State Tatmadaw member Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services in a number equal to one-third of the total number of Hluttaw representatives elected under sub-paragraphs (a) and (b) or (a) and (c).

24. In connection with election of the thabapati of Region or State Hluttaw --

(a) a Region or State Hluttaw representative shall be elected as thabapati of Region or State Hluttaw at the commencement of the first meeting of Region or State Hluttaw for each tenure of Region or State Hluttaw;

(b) the thabapati shall take the oath of office before the Region or State Hluttaw;

(c) the thabapati shall supervise the Region or State Hluttaw meeting till completion of election of okkahta or deputy okkahta of Region or State Hluttaw.

25. In connection with election of okkahta and deputy okkahta of Region or State Hluttaw,

(a) in Region or State Hluttaw,

(1) Region or State Hluttaw representatives shall elect one okkahta and one deputy okkahta from amongst Region or State Hluttaw representatives;

(2) In the event the post of okkahta or deputy okkahta becomes vacant, a replacement shall be elected at the nearest meeting of the Hluttaw;

(3) In the event okkahta is unable to perform the duties of okkahta, deputy okkahta shall temporarily perform the duties of okkahta.

(b) methods for electing okkahta and deputy okkahta of Region or State Hluttaw shall be prescribed by law.

26. In connection with performance and termination of duties of okkahta and deputy okkahta of Region or State Hluttaw,

(a) Okkahta and deputy okkahta of Region or State Hluttaw shall perform their duties up to the time before commencement of the first meeting of the next tenure of Region or State Hluttaw;

(b) Okkahta or deputy okkahta, in the event of resigning from the post, being caused to cease to be Region or State representative, having no right to continue to be Region or State representative, being withdrawn by Region or State Hluttaw from duties of okkahta or deputy okkahta, or passing away, shall cease to be okkahta or deputy okkahta.

27. In connection with responsibilities, rights and privileges of okkahta and deputy okkahta of Region or State Hluttaw,

-- responsibilities, rights and privileges of okkahta and deputy okkahta of Region or State Hluttaw shall be prescribed by law.

28. In connection with the status of okkahta and deputy okkahta of Region or State Hluttaw,

-- Okkahta of Region or State Hluttaw is prescribed to be of the same status as Union Minister and the deputy okkahta is prescribed to be of the same status as Region or State Minister, for the purpose of reference in prescribing by law responsibilities, rights and privileges of okkahta and deputy okkahta of Region or State Hluttaw.

29. In connection with formation of Region or State Hluttaw committees and bodies,

(a) The Region or State Hluttaw may, if and when necessary, form committees and bodies with the Region or State Hluttaw representatives concerned to study and report on legislative affairs and national races affairs entrusted by the Constitution.

(b) The Region or State Hluttaw may include suitable citizens in the committees and bodies.

(c) When forming committees and bodies, Region or State Hluttaw shall prescribe the number of members, duties, rights, privileges and tenure of those committees or bodies.

30. In connection with the tenure of Region or State Hluttaw,

-- The tenure of Region or State Hluttaw is the same as that of Pyithu Hluttaw. The tenure of Region or State Hluttaw expires on the day that of Pyithu Hluttaw expires.

31. In connection with duties, rights and privileges of Pyithu Hluttaw, Amyotha Hluttaw and Region or State Hluttaw representatives,

-- duties, rights and privileges of Pyithu Hluttaw, Amyotha Hluttaw and Region or State Hluttaw representatives shall be prescribed by law.

32. In connection with the qualifications of the Pyithu Hluttaw representatives --

-- Persons who possess the following qualifications have the right to stand for election as Pyithu Hluttaw representatives:

- (a) having attained the age of 25 years;
- (b) being a citizen born of parents both of whom are also citizens;
- (c) having settled in the Union of Myanmar for at least 10 consecutive years up to the time of being elected Pyithu Hluttaw representative;
- (d) possessing qualifications prescribed in the election law.

33. In connection with those who have no right to stand for election as Pyithu Hluttaw representatives --

-- The following persons shall not have the right to stand for election as Pyithu Hluttaw representatives:

- (a) a person serving prison term, having been convicted by the court concerned for having committed an offence;
- (b) person still within the period the authorities have prescribed that he or she has no right to be elected as Pyithu Hluttaw representative for having been punished for a commitment of an offence that makes him or her lose qualifications required of Pyithu Hluttaw representative before or after the State Constitution comes into force;
- (c) persons adjudged to be of unsound mind as provided for in the relevant law;
- (d) person who has not yet been cleared from being declared destitute;
- (e) person owing allegiance to a foreign government, or a subject of a foreign government or a citizen of a foreign country;
- (f) person who is entitled to rights and privileges of a subject of a foreign government, or a citizen of a foreign country;
- (g) person who obtains and makes use or member of an organization that obtains and makes use of money, land, housing, building, vehicle, property etc. directly or indirectly from a foreign country's government, or religious organization or other organizations;
- (h) person who commits or abets or member of an organization that commits or abets acts of inciting, making speeches or issuing declarations to vote or not to vote;
- (i) members of a religious order;
- (j) civil service personnel;

Proviso: The expression shall not apply to Tatmadaw member Hluttaw representatives;

- (k) person who obtains and makes use or member of an organization that obtains and makes use of State funds,

land, housing, buildings, vehicles or property directly or indirectly;

Proviso: (1) The expression 'State funds' does not apply to pension or allowances officially granted by the State for services rendered for the benefit of the State.

(2) The expression 'land, housing, buildings, vehicles and property belonging to the State' does not apply to State-owned land, housing, building and apartments, State-owned aircraft, trains, vessels and motorcars and

property etc. which have been permitted by the State to be used under an existing law or as required by duty, or leased from the State on payment;

(l) person still within the period the authorities have prescribed that he or she has no right to be elected as Pyithu Hluttaw representative for commission of an unlawful act or for failure to act in conformity under the election law making him or her lose qualifications required of a Pyithu Hluttaw representative before or after the State Constitution comes into force.

34. In connection with qualifications of Tatmadaw member Hluttaw representatives--

-- Tatmadaw members nominated by the Commander-in-Chief of the Defence Services as Pyithu Hluttaw representatives in accord with law shall possess qualifications prescribed for Pyithu Hluttaw representatives.

35. In connection with qualifications of Amyotha Hluttaw representatives --

-- Amyotha Hluttaw representatives

(a) shall have completed 30 years of age;

(b) shall possess qualifications to have the right to stand for election as Pyithu Hluttaw representatives other than the age limit;

(c) shall be subject to provisions which disqualify a person from standing for election as Pyithu Hluttaw representative.

36. In connection with the qualifications of Tatmadaw member Amyotha Hluttaw representatives --

-- Tatmadaw members nominated by the Commander-in-Chief of the Defence Services as Amyotha Hluttaw representatives in accord with law shall possess qualifications prescribed for Amyotha Hluttaw representatives.

37. In connection with the qualifications of the Region or State Hluttaw representatives --

-- Region or State Hluttaw representatives

(a) shall possess qualifications to have the right to stand for election as Pyithu Hluttaw representatives;

(b) shall be subject to provisions which disqualify a person from standing for election as Pyithu Hluttaw representative.

38. In connection with the qualifications of Tatmadaw member Region or State Hluttaw representatives --

-- Tatmadaw members nominated by the Commander-in-Chief of the Defence Services as Region or State representatives in accord with law shall possess qualifications prescribed for the Region or State representatives.

These are the detailed basic principles laid down for formation of Legislature.

Source: "The New Light of Myanmar" 29 March 1996

Chapter V

Executive



TAILED BASIC PRINCIPLES OF THE FORMATION OF THE EXECUTIVE

1. In connection with formation of the Pyidaungsu (Union) government,

- (a) The Executive Head of the State is the President of the State;
- (b)(1) the executive power of the State is distributed among the Pyidaungsu, regions and states;
(2) self-administrative power is distributed to self-administered areas as stipulated by the State Constitution.
- (c) The Union government of the State shall be formed with the following persons:
 - (1) the President of the State;
 - (2) Vice-Presidents;
 - (3) Union ministers;
 - (4) the Attorney-General of the Union.
- (d) With the approval of the Pyidaungsu Hluttaw, the President of the State shall --
 - (1) designate the Union government ministries as necessary. Moreover, he can make changes in and addition to the designated ministries;
 - (2) allocate the number of Union Ministers as necessary. Moreover, he can increase or reduce the allocated number.
- (e) Union ministers shall possess the following qualifications:
 - (1) they must have attained the age of 40 years;
 - (2) with the exception of age limit, they shall possess qualifications prescribed for Pyithu Hluttaw representatives;
 - (3) they shall be loyal to the State and citizenry.

2. In connection with appointment of Union ministers --

- (a) The President of the State shall appoint Union ministers --
 - (1) he shall select suitable persons who possess prescribed qualifications from among the Hluttaw representatives or non-Hluttaw representatives;
 - (2) he shall obtain a list of nomination of suitable Tatmadaw members from the Commander-in-Chief of Defence Services for ministries of defence, security/home affairs and border affairs;
 - (3) he shall consult with the Commander-in-Chief of Defence Services if he desires to appoint Tatmadaw members as Union ministers for the ministries other than defence, security/home affairs and border affairs.

- (b) The President is to prepare together the list of persons he has selected and that of Tatmadaw members from the Commander-in-Chief of Defence Services, submit them to the Pyidaungsu Hluttaw and seek its approval.
- (c) Pyidaungsu Hluttaw has no right to refuse a person nominated by the President of the State for the appointment of Union Minister unless it can prove the person concerned does not possess qualifications prescribed for Union Ministers.
- (d) The President of the State has the right to submit again the list furnished with new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Union Minister.
- (e) The President of the State shall appoint persons approved by the Pyidaungsu Hluttaw as Union Ministers; in appointing them, the President of the State is to allocate the ministry or ministries which each Union Minister is to take charge.
- (f) The President of the State shall inform the Pyidaungsu Hluttaw whenever he appoints the Union Ministers.
- (g) The Union Ministers shall be responsible to the President of the State.

3. In connection with appointment of and assigning of duties to Deputy Ministers,

- (a) The President of the State shall have the right to appoint the following persons, from among Hluttaw representatives or non-Hluttaw representatives, who possess the following qualifications, as the Deputy Ministers to assist the Union Ministers --
 - (1) must be persons who have attained 35 years of age;
 - (2) with the exception of age limit, all who possess the qualifications prescribed for Hluttaw representatives;
 - (3) must be loyal to the State and the citizenry.
- (b) If the President is to appoint and assign duties to Deputy Ministers for defence, security/home affairs and border affairs, he shall obtain a list of nominations including suitable Tatmadaw members from the Commander-in-Chief of Defence Services.
- (c) The President of the State shall consult with the Commander-in-Chief of Defence Services if he desires to appoint and assign duties to Tatmadaw members as Deputy Ministers for ministries other than defence, security/ home affairs and border affairs.
- (d) The President of the State, in appointing and assigning duties to Deputy Ministers, shall allocate the ministries concerned.
- (e) The Deputy Ministers shall be responsible to the respective Union Ministers, and, through the respective Union Ministers, to the President of the State.

4. In connection with impeachment of any Union Minister,

- (a) Any Union Minister shall be impeached for one of the following reasons:
 - (1) treason;
 - (2) violation of any provision of the Constitution;
 - (3) misconduct;

- (4) being disqualified for Union Minister under the Constitution.
- (b) When any Union Minister is impeached, it is to proceed in accord with provisions of the Constitution regarding impeachment of the President or the Vice-President.
- (c) However, when the charge against any Union Minister who is impeached is maintained and the Hluttaw concerned decides that he is not fit to continue to hold office as a Union Minister and informs the President of the matter, the President shall remove the Union Minister from office.
- (d) If the Hluttaw concerned decides that the charge has been refuted, the okkahta of the Hluttaw shall inform the President.

5. In connection with the term of office, resignation, removal from office and replacement of Union Ministers and Deputy Ministers,

- (a) The term of office of Union Ministers and Deputy Ministers shall generally be the same as the term of office of the President.
- (b) If the Union Minister or Deputy Minister desires to resign from office of his own volition due to a certain cause before the expiry of the term of office, then he shall do so only after tendering his written resignation to the President.
- (c) The President shall --
 - (1) have the right to order the resignation of a Union Minister or Deputy Minister, who has failed to discharge his duties, and can remove him from office if he fails to comply with the order;
 - (2) coordinate with the Commander-in-Chief of Defence Services and take steps if it is concerned with a Tatmadaw member Union Minister or Deputy Minister who is to be caused to resign or to be removed from office.
- (d) If the post of Union Minister or Deputy Minister falls vacant due to resignation, removal from office, death or any cause, the President shall have the right to appoint and assign duties to a new Union Minister or Deputy Minister in accordance with the provisions of the Constitution regarding appointment of the Union Minister or Deputy Minister. The term of office of newly appointed Union Minister or Deputy Minister shall be the same as the remaining term of office of the President.
- (e) If the Union Minister or Deputy Minister is a representative of a Hluttaw, it is to be assumed that he has resigned as a Hluttaw representative from the date he is appointed Union Minister or Deputy Minister.
- (f)(1) If the Union Minister or Deputy Minister is a civil servant, then it is to be assumed that he has retired as a civil servant according to the civil service rules and regulations from the date he is appointed Union Minister or Deputy Minister;
 - (2) Tatmadaw members who have been appointed Union Ministers and Deputy Ministers for defence, security/home affairs and border affairs need not retire and resign from the Tatmadaw.
- (g) If the Union Minister or Deputy Minister is a member of a political party, then he shall refrain from participating in party activities during the term of office from the date he is appointed Union Minister or Deputy Minister.
- (h) (1) When the post of the President who appointed and assigned duties to Union Ministers and [Deputy] Ministers has fallen vacant due to resignation or death or any cause before the expiry of the term of office, the Union Ministers and Deputy Ministers shall continue to perform their duties until the new President, who has been elected and replaced the vacant post, has appointed and assigned duties to

new Union Ministers and Deputy Ministers;

(2) The term of office of the newly appointed Union Ministers and Deputy Ministers shall be the same as the remaining term of office of the new President.

(i) Responsibilities, rights and privileges of Pyidaungsu Ministers and Deputy Ministers shall be prescribed by law.

6. In connection with the term of the Attorney-General,

-- it shall be called Pyidaungsu Attorney-General.

7. In connection with the appointment and assignment of duties of Pyidaungsu Attorney-General,

(a) with the approval of the Pyidaungsu Hluttaw, the President of the State shall appoint a person, from among the Hluttaw representatives or persons who are not Hluttaw representatives, having the following qualifications, Pyidaungsu Attorney-General so as to get advice on legal matters and assign duties of a legal character:

(1) having attained the age of 45 years;

(2) apart from the age limit, having qualifications prescribed for Pyithu Hluttaw representatives;

(3)(aa) who has been for at least five years a judge of the Region or State Taya Hluttaw (High Court),
or

(bb) who, if he is a judicial officer or a law officer, has been for at least ten years in a position not lower than region or state level, or

(cc) who has been an advocate of the Taya Hluttaw (High Court) of at least 20 years standing, or

(dd) who is assumed by the President to be a legal expert of prominent reputation,

(4) being a person who is loyal to the State and the citizens,

(b) Pyidaungsu Hluttaw shall not have the right to reject the person nominated by the President to be appointed Pyidaungsu Attorney-General unless it can prove clearly that he is not qualified for being Pyidaungsu Attorney-General,

(c) the President of the State has the right to submit new nomination to the Pyidaungsu Hluttaw in place of a person who has not been approved to be appointed and assigned duties as Pyidaungsu Hluttaw Attorney-General,

(d) Pyidaungsu Attorney-General is a member of the Pyidaungsu government,

(e) Pyidaungsu Attorney-General is responsible to the President of the State.

8. In connection with impeachment of Pyidaungsu Attorney-General,

(a) Pyidaungsu Attorney-General shall be impeached for one of the following reasons:

(1) treason,

(2) violation of any of the provisions of the Constitution,

(3) misconduct,

(4) being disqualified for the post of Pyidaungsu Attorney-General under the Constitution.

(b) if it is desired to impeach Pyidaungsu Attorney-General, it shall proceed in accordance with

provisions regarding the impeachment of the President of the State or Vice-President,

(c) if the respective Hluttaw submits that the charge has been sustained and the offence or the subject of the offence, is such as to render the Pyidaungsu Attorney-General unfit to continue in office, the President of the State shall terminate the Pyidaungsu Attorney-General from duties,

(d) if the respective Hluttaw decides that the charge has been refuted, the Hluttaw Chairman shall report the decision to the President of the State.

9. In connection with appointment of Deputy Attorney-General --

(a) The President of the State shall appoint of his own volition a person having the following qualifications from among Hluttaw representatives or persons who are not Hluttaw representatives as Deputy Attorney-General to assist Pyidaungsu Attorney-General:

(1) being a person who has completed the age of 40,

(2) apart from the age limit, having qualifications prescribed for Pyithu Hluttaw representatives,

(3) being a person

(aa) who has been for at least five years a judge of the region or state Taya Hluttaw (High Court), or

(bb) who, [if] he is a judicial personnel or a law personnel, has been at least ten years in a position not lower than region or state level, or

(cc) who has been the advocate of the Taya Hluttaw (High Court) of at least 15 years standing, or

(dd) who is assumed by the President to be a legal expert of prominent reputation,

(4) being a person who is loyal to the State and the citizenry,

(b) Deputy Attorney-General is responsible to the Pyidaungsu Attorney-General and to the President of the State through the Pyidaungsu Attorney-General.

10. In connection with the term of office, resignation, termination of duties and filling the vacant post of the Pyidaungsu Attorney-General or Deputy Attorney-General --

(a) The term of office of the Pyidaungsu Attorney-General or Deputy Attorney-General shall generally be the same as that of the President of the State;

(b) The Pyidaungsu Attorney-General or Deputy Attorney-General may resign of his own accord before the expiry of the term of office after submitting his resignation to the President of the State;

(c) The President of the State may instruct the Pyidaungsu Attorney-General or Deputy Attorney-General who cannot perform duties fully to resign and shall have right to remove him from office for failure to follow the instruction;

(d) The President of the State shall, if the post of the Attorney-General or Deputy Attorney-General becomes vacant in the event of resignation, or being removed from office, or death, or any cause, appoint a new Attorney-General or Deputy Attorney-General in accord with the provisions under the Constitution. The remaining tenure of office of the President of the State shall be prescribed for the term of office of the new Attorney-General or Deputy Attorney-General;

(e) If Pyidaungsu Attorney-General or Deputy Attorney-General is a representative of a Hluttaw, he shall be deemed to have vacated his seat in that Hluttaw from the date he is appointed the Attorney-General or the Deputy Attorney-General;

(f) If Pyidaungsu Attorney-General or Deputy Attorney-General is a civil servant, he shall be deemed to have retired in accord with the existing rules and regulations from the date he is appointed the Attorney-General or the Deputy Attorney-General;

(g) If Pyidaungsu Attorney-General or Deputy Attorney-General is a member of a political party, he shall not perform the duties of that party during his tenure of office from the date he is appointed the Attorney-General or Deputy Attorney-General;

(h) (1) When the post of the President of the State who had appointed and assigned duties to the Pyidaungsu Attorney-General and Deputy Attorney-General falls vacant in the event of resigning, passing away or any other reason, the new President of the State who has been elected as replacement shall continue to assign duties to them, or appoint and assign duties to new Pyidaungsu Attorney-General and new Deputy Attorney-General according to the provisions of the Constitution. If so, the Pyidaungsu Attorney-General and Deputy Attorney-General shall be allowed to continue to perform their duties up to the time when the new Pyidaungsu Attorney-General and Deputy Attorney-General have been appointed and assigned duties.

(2) The remaining tenure of office of the President of the State shall be prescribed for the term of office of the new Attorney-General or Deputy Attorney-General;

(i) The duties, powers and privileges of Pyidaungsu Attorney-General or Deputy Attorney-General shall be prescribed by law.

11. In connection with prescribing the status of Pyidaungsu Attorney-General and Deputy Attorney-General,

-- Pyidaungsu Attorney-General is prescribed to be of the same status as Pyidaungsu Minister and the Deputy Attorney-General is prescribed to be of the same status as Deputy Minister, for the purpose of reference in prescribing by law responsibilities, rights and privileges of Pyidaungsu Attorney-General and Deputy Attorney-General.

12. In connection with the term of the Auditor-General,

-- It shall be called Pyidaungsu Auditor-General.

13. In connection with the appointment of and assignment of duties of Pyidaungsu Auditor-General,

(a) with the approval of the Pyidaungsu Hluttaw, the President of the State shall appoint a person, from among the Hluttaw representatives or persons who are not Hluttaw representatives, having the following qualifications, Pyidaungsu Auditor-General so as to audit State Budget and report to the Pyithu Hluttaw and Amyotha Hluttaw;

(1) being a person who has completed the age of 45;

(2) apart from the age limit, having qualifications prescribed for Pyithu Hluttaw representatives;

(3)(aa) who has been for at least ten years an auditor of not lower than the region or state level, or

(bb) who has been for at least twenty years a Registered Accountant or a Certified Public Accountant, or

(cc) who is assumed by the President to be a well-known accountant, statistician or economist of good reputation,

- (4) being a person who is loyal to the State and the citizens;
- (b) Pyidaungsu Hluttaw shall not have the right to reject the person nominated by the President to be appointed Pyidaungsu Auditor-General unless it can prove clearly that he is not qualified for being Pyidaungsu Auditor-General,
- (c) the President of the State has the right to submit new nomination to the Pyidaungsu Hluttaw in place of a person who has not been approved to be appointed and assigned as Pyidaungsu Auditor-General,
- (d) Pyidaungsu Auditor-General is responsible to the President of the State.

14. In connection with impeachment of the Auditor-General of the Union,

- (a) The Auditor-General of the Union may be impeached for any of the following:
 - (1) breach of allegiance to the State,
 - (2) violation of a provision of the Constitution,
 - (3) moral turpitude,
 - (4) default in qualifications of the Auditor-General of the Union,
- (b) If it is desired to impeach the Auditor-General of the Union, it shall be proceeded in accord with the provisions for impeachment of the President of the State or the Vice-President of the State;
- (c) If the Hluttaw conducting the inquiry decides and submits that the impeachment is true and that the person impeached is not fit to keep on serving as the Auditor-General of the Union, the President shall terminate that person's performance of duties as the Auditor-General of the Union;
- (d) If the Hluttaw conducting the inquiry decides and submits that the impeachment is false, it shall so be reported to the President of the State by the okkahta of the Hluttaw concerned.

15. In connection with the appointment of the Deputy Auditor-General,

- (a) The President of the State shall at own discretion appoint a person who possesses the following qualifications, from among Hluttaw representatives or non-Hluttaw representatives, as the Deputy Auditor-General to assist the Auditor-General of the Union:
 - (1) person who has completed 40 years of age,
 - (2) person who possesses qualifications prescribed for Pyithu Hluttaw representatives, except for the age limit,
 - (3)(aa) person who has served at least ten years in an auditor's post not lower than Region or State level, or
 - (bb) person who has served as Registered Accountant or Certified Public Accountant for at least 15 years, or
 - (cc) person whom the President of the State regards as one competent in statistics, or accounting or economics with high repute,
 - (4) person loyal to the State and the citizenry,
- (b) The Deputy Auditor-General shall be responsible to the Auditor-General, and through the Auditor-General to the President of the State.

16. In connection with the tenure of post, the right to resign from the post, the right to effect termination of duties, and the right to make appointments to fill vacant posts of the Auditor-General of the Union and the Deputy Auditor-General etc. --

- (a) The tenure of the Auditor-General of the Union and the Deputy Auditor-General shall normally be the same as that of the President of the State.
- (b) The Auditor-General of the Union or the Deputy Auditor-General, in the event of wishing to resign on own volition for some reason before the end of the tenure, may submit so in writing to the President of the State and do so.
- (c) The President of the State may order the resignation of the Auditor-General of the Union or the Deputy Auditor-General who is unable to discharge the given duties fully, or, in the event of non-compliance, shall order termination of duties of the same.
- (d) In the event there comes about a vacancy in the post of the Auditor-General of the Union or the Deputy Auditor-General due to resignation, termination of duties, death or any other cause before the end of the tenure of post, the President of the State may appoint a new Auditor-General of the Union or Deputy Auditor-General in accord with the provisions on appointment of the Auditor-General of the Union or the Deputy Auditor-General as contained in the State Constitution. The tenure of the Auditor-General of the Union or Deputy Auditor-General shall be only for the remainder of the tenure of the President of the State.
- (e) In the event the Auditor-General of the Union or the Deputy Auditor-General happens to be a representative in a Hluttaw, this person shall be deemed to have resigned as a Hluttaw representative from the date of appointment as the Auditor-General of the Union or the Deputy Auditor-General.
- (f) In the event the Auditor-General of the Union or the Deputy Auditor-General happens to be a civil servant, this person shall be deemed to have retired as a civil servant in accord with existing service regulations from the date of appointment as the Auditor-General of the Union or the Deputy Auditor-General.
- (g) In the event the Auditor-General of the Union or the Deputy Auditor-General happens to be a member of a political party, this person shall not participate in Party activities of that party organization during the tenure of the post from the date of appointment as the Auditor-General of the Union or the Deputy Auditor-General.
- (h) (1) In the event there comes about a vacancy in the post of the President of the State who has appointed the Auditor-General of the Union and the Deputy Auditor-General due to resignation, termination of duties, death or any other cause before the end of the tenure of office, the new President of the State elected as replacement may retain them or appoint a new Auditor-General of the Union and Deputy Auditor-General in accord with the provisions on appointment of the Auditor-General of the Union and the Deputy Auditor-General as contained in the State Constitution. In such even the President of the State may have the incumbents carry on in their posts till the new ones are appointed.
(2) The tenure of the Auditor-General of the Union and Deputy Auditor-General so appointed as replacements shall be only for the remainder of the tenure of the new President of the State.
- (i) Duties, rights and privileges of the Auditor-General of the Union and Deputy Auditor-General shall be prescribed by law.

17. In connection with the status of the Auditor-General of the Union and the Deputy Auditor-General --

-- The Auditor-General of the Union is prescribed to be of the same status as Union Minister, and the Deputy Auditor-General is prescribed to be of the same status as Deputy Minister, for the purpose of reference in prescribing by law duties, rights and privileges of the Auditor-General of the Union and Deputy Auditor-General.

18. In connection with the formation of the Union Civil Service Board --

(a) The President of the State shall form the Union Civil Service Board to carry out duties of selecting and training personnel of civil service and laying down regulations of civil service.

(b) The President of the State shall appoint persons who possess the following qualifications as chairman and members of the Union Civil Service Board:

(1) person who is fully 50 years old,

(2) person who possesses qualifications prescribed for Pyithu Hluttaw representatives except for the age stipulation,

(3) members of the intelligentsia and intellectuals mature in experience,

(4) person loyal to the State and the citizenry,

(5) person who is not a member of a political party,

(6) person who is not a Hluttaw representative.

(c) The chairman of the Union Civil Service Board shall be responsible to the President of the State and members of the board shall be responsible through the chairman of the board to the President of the State.

(d) The tenure of the chairman and members of the Union Civil Service Board shall normally be the same as that of the President of the State.

(e) Formation of the Union Civil Service Board duties, rights and privileges of the chairman and members, resignation and termination of duties shall be prescribed by law.

19. In connection with the status of the chairman and members of the Union Civil Service Board,

-- the chairman of the Union Civil Service Board is prescribed to be of the same status as Union Minister, for the purpose of reference in prescribing by law duties, rights and privileges of the chairman of the Union Civil Service Board.

20. In connection with the terms referring to leader of Region or State and members of Region or State government,

(a) the leader of Region or State shall be known as Chief Minister of the Region or State;

(b) members of Region or State government shall be known as Minister of the Region or State.

21. In connection with formation of Region government or State government and appointing of the Chief Minister of Region or State,

(a) Region government is formed in a Region and State government is formed in a State,

(b) Region or State government is formed with the following persons:

- (1) Chief Minister of Region or State,
- (2) Ministers of Region or State,
- (3) Advocate-General of Region or State.

(c) With the approval of Region or State Hluttaw concerned, the President of the State --

- (1) may prescribe Region or State ministries as necessary, and may make changes or additions to the ministries so prescribed;
- (2) may prescribe the number of Region or State ministers as necessary and may decrease and increase this number so prescribed,

(d) Chief Minister and Ministers of Region or State shall possess the following qualifications:

- (1) person who is fully 35 years old,
- (2) person who possesses qualifications prescribed for Region or State Hluttaw representatives except for the age stipulation,
- (3) person who is loyal to the State and the citizenry,

(e) For appointment of the Chief Minister of Region or State, the President of the State shall --

- (1) select a suitable Hluttaw representative who possess prescribed qualifications from among Region or State Hluttaw representatives concerned,
- (2) send the nomination of the selected Hluttaw representative to the Region or State Hluttaw concerned and seek its approval thereof,

(f) The President of the State shall appoint the Hluttaw representative approved by Region or State Hluttaw as the Chief Minister of Region or State,

(g) Region or State Hluttaw shall have no right to turn down the Hluttaw representative nominated by the President of the State for appointment as Chief Minister of the Region or State, unless it can clearly show that person does not fully possess the qualifications prescribed for the post of the Chief Minister of the Region or State,

(h) The President of the State has the right to submit a new nomination to the Region or State Hluttaw in place of the person who does not get approval of the Region or State Hluttaw for appointment as the Chief Minister of Region or State.

Source, "The New Light of Myanmar" 30 March 1996

22. In connection with the appointment of Region or State Ministers,

(a) In order to appoint Region or State Ministers, the Region or State Chief Minister shall --

- (1) select suitable persons who possess prescribed qualifications from among the Region or State Hluttaw representatives or non-Hluttaw representatives;
- (2) ask a list of names of suitable Tatmadaw members from the Commander-in-Chief of Defence Services to assign security and border affairs responsibilities;
- (3) ask the nomination of the Okkahta from the self-administered division or self-administered zone leading body in the respective region or state;

- (4) obtain the list of Hluttaw representatives elected to undertake the affairs of national races in the respective region or state from the respective Election Commission.
- (b) The Region or State Chief Minister shall prepare together the list of persons he has selected and that of Tatmadaw members nominated by the Commander-in-Chief of Defence Services, submit them to the respective Region or State Hluttaw and seek its approval;
- (c) Region or State Hluttaw has no right to reject a person nominated by the Region or State Chief Minister for the appointment of Region or State Minister unless it can prove clearly the person concerned does not possess qualifications prescribed for Region or State Ministers;
- (d) the Region or State Chief Minister has the right to submit again the list furnished with new names replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Region or State Minister;
- (e) The Region or State Chief Minister shall submit the names approved by the Region or State Hluttaw, that of Okkahta of the self-administered division or self-administered zone and that of Hluttaw representatives elected to undertake the affairs of national races for appointment as Region or State Ministers;
- (f) The President of the State shall appoint persons submitted by the Region or State Chief Minister as Ministers; in appointing them, he shall allocate, in consultation with the respective Region or State Chief Minister, the ministry or ministries [of] which each Region or State Minister is to take charge;
- (g) The President of the State shall --
- (1) assign duties to the self-administered division Okkahtas or self-administered zone Okkahtas, who are Region or State Ministers, to undertake the affairs of respective self-administered division or self-administered zone;
- (2) assign duties to the Hluttaw representatives elected to undertake the affairs of national races, who are Region or State Ministers, to undertake the affairs of the national races concerned;
- (h) The President of the State may exercise relaxation of stipulation on age limit in the State Constitution in appointing Region or State Ministers, the Okkahta of the self-administered division or self-administered zone or Hluttaw representatives elected to undertake the affairs of national races;
- (i) The President of the State, in consultation with the Prime Minister, may appoint Ministers for the self-administered division or self-administered zone and Ministers for national race affairs as Ministers concurrently in charge of other ministries as well;
- (j) The Region or State Chief Minister, if desirous of assigning Tatmadaw members as Region or State Ministers for other responsibilities other than security and border areas affairs responsibilities, shall coordinate with the Commander-in-Chief Defence Services, obtain the approval of the respective Region or State Hluttaw, and submit it to the President of the State;
- (k) The President of the State is to send intimation of the appointments of Region or State Chief Minister and Ministers to the Region or State Hluttaw and Pyidaungsu Hluttaw;
- (l) (1) The Region or State Chief Minister shall be responsible to the President of the State;
- (2) The Region or State Ministers shall be responsible to the Region or State Chief Minister concerned, and through the Chief Minister, to the President of the State;
- (m) The term of office of the Region or State Chief Minister and Ministers shall normally be the same as that of the President of the State.

23. In connection with impeachment of Region or State Chief Minister or any of the Ministers,

(a) Region or State Chief Minister or any of the Ministers, shall be impeached for one of the following reasons:

- (1) treason,
- (2) violation of any of the provisions in the Constitution,
- (3) misconduct,
- (4) being disqualified for the post of Region or State Chief Minister or Minister under the Constitution;

(b) if it is desired to impeach a Region or State Chief Minister or Minister for any of the above reasons, a proposal in writing signed by not less than one fourth of the total membership of the Region or State Hluttaw shall be submitted to the Okkahta of the Hluttaw concerned;

(c) The Okkahta of the Hluttaw concerned shall form an investigation commission and cause the charge to be investigated. The term pending the completion of the investigation shall be determined depending on the magnitude of the charge;

(d) The Region or State Chief Minister or Minister thus charged shall have the right to appear or to be represented at the investigation of the charge and be given the chance to refute it;

(e) (1) The Okkahta of the Hluttaw shall report to the Region or State Hluttaw concerned the results of the investigation submitted to him by the investigation commission by which the charge against the Region or State Chief Minister or Minister has been investigated, and then report to the President of the State if a resolution is passed, supported by not less than two-thirds of the total membership of the Hluttaw concerned, declaring that the charge has been substantiated and that of [sic] the offence, the subject of the charge, is such as to render Region or State Chief Minister or Minister unfit to continue in office;

(2) The President of the State, upon receipt of the submission, shall proceed to remove the Region or State Chief Minister or Minister who has been impeached;

(3) If the Hluttaw concerned decides that the charge has been refuted, the Okkahta of the Hluttaw concerned shall report the decision to the President of the State.

24. In connection with resignation, removal from office and filling the vacated post of a Region or State Chief Minister or any of the Ministers,

(a) If a Region or State Chief Minister desires to resign on his own volition or any reason before the expiry of the term of office, he shall be permitted to do so after he has submitted his letter of resignation to the President of the State.

(b) The President of the State shall --

(1) instruct the Region or State Chief Minister or Minister, who is incapable of performing duties properly, to resign, and proclaim removal from office in the event of failure to comply with his instruction,

(2) coordinate with the Commander-in-Chief of Defence Services if the person to resign or be removed from office is the Tatmadaw member Region or State Minister nominated by the Commander-in-Chief of Defence Services.

(c) If the post of the Region or State Chief Minister or Minister becomes vacant in the event of resignation, or being removed from office, or death or any reason, the President of the State shall take

steps to fill the vacant post in accord with the provisions of the Constitution in coordination with the Region or State Hluttaw. The remaining tenure of the President of the State shall be prescribed for the term of office of the newly-pointed person.

(d) (1) If the Region or State Minister is a civil servant, he shall be deemed to have retired from his position as civil servant in accordance with the existing rules and regulations from the date he is appointed the Region or State Minister;

(2) Tatmadaw members who have been appointed Region or State Ministers for Security and Border Affairs of the Region or State Governments need not retire or resign from the Tatmadaw.

(e) Responsibilities, rights and privileges of the Region or State Chief Minister and Ministers shall be prescribed by law.

25. In connection with prescribing the status of the Region or State Chief Minister and Minister,

-- The Region or State Chief Minister is prescribed to be of the same status as Pyidaungsu Minister and the Region or State Minister is prescribed to be of the same status as Deputy Minister, for the purpose of reference in prescribing by law responsibilities, rights and privileges of the Region or State Chief Minister or Minister.

26. In connection with the head of the General Administration Department of the Region or State concerned,

-- The head of the General Administration Department of the Region or State concerned shall act ex officio as secretary of the government of the Region or State concerned. Moreover, the General Administration Department of the Region or State shall be the office of the government of the Region or State concerned.

27. In connection with the term referring to the Attorney-General of the Region or State,

-- It shall be called Advocate-General of the Region or State.

28. In connection with the appointment of and assigning duties to Advocate-General of the Region or State,

(a) The Chief Minister of the Region or State shall get the approval of the Region or State Hluttaw concerned in appointing and assigning duties to a person, from among Hluttaw representatives or non-Hluttaw representatives, having the following qualifications as the Region or State Advocate-General in order to get legal advice and assign duties of a legal character and submit the matter to the President:

(1) being a person who has attained the age of 40 years;

(2) being a person who possesses qualifications, except for age limit, prescribed for Region or State representatives;

(3)(aa) being a person who has been for at least five years a judicial officer or a law officer not lower than the Region or State level, or being a person who has been for at least ten years a judicial officer or a law officer not lower than district level, or

(bb) being a person who has been an advocate of the Taya Hluttaw (High Court) of at least 15 years standing;

(4) being a person loyal to the State and the citizenry.

- (b) The Chief Minister of the Region or State concerned shall send a nominee, after obtaining approval from the Hluttaw concerned for assignment of duties as the Advocate-General of the Region or State concerned, to the President who shall then appoint him the Advocate-General of the Region or State concerned.
- (c) The President has no right to reject the nominee to be appointed Advocate-General of the Region or State concerned unless it can be clearly proved that he does not fully possess qualifications prescribed for the post of the Advocate-General of the Region or State.
- (d) The Chief Minister of the Region or State has the right to submit again a new list furnished with a new nominee replacing the person who has not been approved by the Region or State Hluttaw concerned for appointment as the Advocate-General of the Region or State concerned.
- (e) The Advocate-General of the Region or State is member of the government of the Region or State.
- (f) The Advocate-General of the Region or State is responsible to the President through the Chief Minister of the Region or State concerned, to the Pyidaungsu Attorney-General and to the Chief Minister of the Region or State concerned.
- (g) If there arises a cause to impeach the Advocate-General of the Region or State, it shall be proceeded in accordance with the provisions of the Constitution regarding impeachment of the Chief Minister or a Minister.
- (h) The Advocate-General of the Region or State is subject to provisions of the Constitution prescribed for the Chief Minister of the Region or State or Ministers concerning resignation, termination from duty, filling the vacant post and deeming a person to have retired in case of being a civil service personnel.
- (i) Responsibilities, rights and privileges of the Advocate-General of the Region or State shall be prescribed by law.

29. In connection with prescribing the status of the Advocate-General of the Region or State,

-- The Advocate-General of the Region or State is prescribed to be of the same status as the Region or State Minister for the purpose of reference in prescribing by law responsibilities, rights and privileges of the Advocate-General of the Region or State.

30. In connection with the term regarding the Auditor-General of the Region or State,

-- It shall be called the Auditor-General of the Region or State.

31. In connection with appointment of and assignment of the Auditor-General of the Region or State,

(a) The Chief Minister of the Region or State shall select a person from among Hluttaw representatives or non-Hluttaw representatives who possesses the following qualifications for appointment of and assigning duties to the Auditor-General of the Region or State concerned to be able to audit the Region or State budget and submit it to the Region or State Hluttaw concerned, obtain approval of the Region or State Hluttaw concerned and report the nomination to the President:

- (1) being a person who has completed the age of 40;
- (2) with the exception of age limit, being a person who has qualifications prescribed for Pyithu Hluttaw representatives;

(3)(aa) being a person who has been for at least five years an auditor not lower than Region or State level, or who has been for at least ten years an auditor not lower than district level, or

(bb) being a person who has been for at least 15 years a Registered Accountant or a Certified Public Accountant;

(4) being a person who is loyal to the State and the citizenry.

(b) The Chief Minister of the Region or State shall send a nominee, after obtaining approval from the Hluttaw concerned for assignment of duties as the Auditor-General of the Region or State concerned, to the President who shall then appoint the person the Auditor-General of the Region or State concerned.

(c) The President has no right to reject the nominee to be appointed Auditor-General of the Region or State concerned unless it can be clearly proved that he does not fully possess qualifications prescribed for the post of the Auditor-General of the Region or State.

(d) The Chief Minister of the Region or State has the right to submit again a new list furnished with a new nominee replacing the person who has not been approved by the Region or State concerned for appointment as the Auditor-General of the Region or State concerned.

(e) The Auditor-General of the Region or State is responsible to the President through the Chief Minister of the Region or State concerned, to the Pyidaungsu Auditor-General and to the Chief Minister of the Region or State concerned.

(f) If there arises a cause to impeach the Auditor-General of the Region or State, it shall be proceeded in accordance with the provisions of the Constitution regarding impeachment of the Chief Minister of the Region or State or a Minister.

(g) The Auditor-General of the Region or State is subject to the provisions of the Constitution prescribed for the Chief Minister or Ministers concerning resignation, termination from duty, filling the vacant post and deeming the person to have retired in case of being a civil service personnel.

(h) Responsibilities, rights and privileges of the Auditor-General of the Region or State shall be prescribed by law.

32. In connection with prescribing the status of the Auditor-General of the Region or State,

-- The Auditor-General of the Region or State is prescribed to be of the same status as the Region or State Minister for the purpose of reference in prescribing by law responsibilities, rights and privileges of the Auditor-General of the Region or State.

33. In connection with the term referring to the administrative body of the self-administered division or self-administered zone,

-- The administrative body of the self-administered division or self-administered zone shall be called the oo-zi aphwe (leading body) of the self-administered division or oo-zi aphwe (leading body) of the self-administered zone.

34. In connection with the formation of the self-administered division leading body and the self-administered zone leading body,

(a) Being self-administered areas, self-administered divisions and self-administered zones are of equal status;

- (b) There are self-administered division leading bodies and self-administered zone leading bodies formed in the self-administered divisions and the self-administered zones respectively. The leading bodies exercise legislative power vested in them under the Constitution.
- (c) There shall include at least 10 members in the self-administered division leading body or the self-administered zone leading body.
- (d) The self-administered division leading body or the self-administered zone leading body shall be constituted with the following persons:
- (1) Region or State Hluttaw representatives elected from townships in the self-administered division or the self-administered zone concerned;
 - (2) Tatmadaw member representatives nominated according to law by the Commander-in-Chief of Defence Services in order to assign duties regarding security or border affairs;
 - (3) additional representatives chosen and assigned by persons stated in sub-paragraphs (1) and (2).
- (e) Members of the self-administered division leading body or self-administered zone leading body stated in above paragraph (d)(1) and (2) are to choose, after consultations among themselves, a suitable person as the self-administered division Okkahta or self-administered zone Okkahta out of the region or state Hluttaw representatives elected from the townships in the self-administered division or self-administered zone. The person thus chosen is to be submitted to the President of the State through the respective Region or State Chief Minister.
- (f) The President of the State is to appoint the person in the nomination submitted as the Okkahta of the respective self-administered division or self-administered zone.
- (g) The Okkahta of the self-administered division or self-administered zone is Minister in the Region or State concerned. As such, provisions in the Constitution applying to the Ministers of the Region or State will also apply to the self-administered division Okkahta or self-administered zone Okkahta.
- (h) The Okkahta of the self-administered division or self-administered zone and members of the leading body concerned shall --
- (1) choose one representative for each national race, if there is any, the population of which is upwards of at least 10,000, residing in the self-administered division or self-administered zone as leading committee member with the exception of national races who have already got regions or states of their own. The person chosen and appointed as leading committee member shall possess qualifications prescribed for Region or State Hluttaw representatives.
 - (2) choose suitable persons as members from among those residing in the self-administered division or self-administered zone concerned, who possess qualifications prescribed for Region or State Hluttaw representatives, if the membership is not up to ten in the self-administered division leading body or the self-administered zone leading body concerned so that membership will become at least ten.
- (i) The Commander-in-Chief of Defence Services shall assign as necessary one fourth of the total membership with Tatmadaw members in the self-administered division leading bodies or self-administered zone leading bodies.
- (j) Tatmadaw members nominated according to law by the Commander-in-Chief of Defence Services to be assigned as members of the self-administered division leading bodies or self-administered zone leading bodies shall possess qualifications of the Region or State Hluttaw representatives.
- (k) (1) The Okkahta of the respective self-administered division leading bodies or self-administered zone leading bodies shall announce the names of the members of the self-administered division leading body or self-administered zone leading body.

- (2) The Okkahta of the self-administered division leading body or self-administered zone leading body shall be responsible to the respective Region or State Chief Minister, and through the Chief Minister to the President of the State.
- (3) Members of the self-administered division leading bodies or self-administered zone leading bodies shall be responsible to the Okkahta.
- (4) The term of office, taking action, resignation, removal from duty, termination of duty and filling up vacant posts of the Okkahta and members of the self-administered division leading bodies or self-administered zone leading bodies shall be prescribed by law.
- (l) Duties, rights and privileges of the Okkahta and members of the self-administered division leading bodies or self-administered zone leading bodies shall be prescribed by law.
- (m) The head of General Administrative Department in the respective self-administered division or self-administered zone shall serve as secretary of the self-administered division leading body or self-administered zone leading body. Moreover, the General Administrative Department in the self-administered division or self-administered zone shall be the office of the self-administered division leading body or self-administered zone leading body.
- (n) In place of the clause "The State shall form a commission to undertake matters included in abovementioned Paragraph (d) Sub-paragraph (5) and (6), Paragraph (g) Sub-paragraph (5) and this Paragraph Sub-paragraph (4), the following shall be substituted "The National Convention shall forthwith carry out matters included in above-mentioned Paragraph (d) Sub-paragraphs (5) and (6), Paragraph (g) Sub-paragraph (5) and this Paragraph Sub-paragraph (4)."

35. In connection with administration of Yangon City that is Union territory,

- (a) Yangon City, that is Union territory, shall include all districts and townships within Yangon city development limits that exist on the day this Constitution comes into force.
- (b) The President of the State may, as necessary, effect changes in demarcation of districts and townships in Yangon City that is Union territory.
- (c) The President of the State --
 - (1) shall constitute a Yangon City Council;
 - (2) shall appoint persons who possess prescribed qualifications as chairman and members of Yangon City Council;
 - (3) shall obtain from the Commander-in-Chief of the Defence Services a nomination of suitable Tatmadaw member or members who possess prescribed qualifications for appointment as Council member or members for coordination of matters of security of Yangon City that is Union territory.
 - (4) may, as necessary, prescribe, in accord with law, the number of members, including the chairman, to serve on Yangon City Council.
- (d) The chairman and members of Yangon City Council shall possess the following qualifications:
 - (1) person fully 35 years old;
 - (2) person who possesses qualifications prescribed for Pyithu Hluttaw representatives except for the age stipulation;
 - (3) person who possesses other qualifications prescribed by the President of the State;
- (e) The chairman of the Yangon City Council shall be responsible to the President of the State;

members shall be responsible to the chairman of Yangon City Council and through the latter to the President of the State.

(f) In connection with tenure, right to resign, termination of duties, and appointment to fill vacant posts of the chairman and members of Yangon City Council,

(1) The tenure of the chairman and members of Yangon City Council shall normally be the same as that of the President of the State;

(2) The chairman or member of Yangon City Council, in the event of wishing to resign of own volition for some reason before the end of the tenure, may submit so in writing to the President of the State and do so;

(3) The President of the State --

(aa) may order the resignation of the chairman or a member of the Yangon City Council who is unable to discharge the given duties fully or, in the event of non-compliance, shall order termination of the duties of the same,

(bb) shall act in coordination with the Commander-in-Chief of the Defence Services in the case of a Tatmadaw member who is a member of the Yangon City Council that is to resign or is going to get termination of duties.

(4) In the even there comes about a vacancy in the post of the chairman or a member of Yangon City Council due to resignation, termination of duties, death or any other cause, the President of the State may appoint a new chairman or member of Yangon City Council in accord with the provisions of the State Constitution. The tenure of the new chairman or member of Yangon City Council shall be only for the remainder of the tenure of the President of the State.

(g) In the event the chairman or member of Yangon City Council happens to be a representative in a Hluttaw, this person shall be deemed to have resigned as a Hluttaw representatives from the date of appointment as the chairman or member of Yangon City Council.

(h) In the event the chairman or member of Yangon City Council happens to be a civil servant, this person shall be deemed to have retired or resigned as a civil servant in accord with existing service regulations from the date of appointment as the chairman or member of Yangon City Council.

(i) Tatmadaw member or members who are appointed member or members of Yangon City Council for coordination of matters of security of Yangon City need not retire or resign from the Tatmadaw.

(j) In the event the chairman or member of Yangon City Council happens to be a member of a political party, this person shall not participate in party activities of that party organization during the tenure of the post from the date of appointment as the chairman or member of Yangon City Council.

(k) Formation of Yangon City Council, duties, rights and privileges of the chairman and members of Yangon City Council shall be prescribed by law.

(l) The head of General Administration Department of Yangon City is the secretary of Yangon City Council. General Administrative Department of Yangon City is the office of Yangon City Council.

36. In connection with prescribing of status of chairman and members of Yangon City Council,

-- The chairman of Yangon City Council is prescribed to be of the same status as Union Minister, for purposes of reference in prescribing by law duties, rights and privileges of the chairman and members of Yangon City Council.

37. In connection with administration of Coco Island township that is Union territory,

-- administration of Coco Island township that is Union territory shall be carried out in coordination with administration of Yangon City that is Union territory.

38. In connection with administration at district and township level,

-- administration at district and township level shall be carried out, assigned to State service personnel.

39. In connection with administration at ward or village-tract level,

-- administration at ward or village tract level shall be carried out, assigned in accord with law, to a person of integrity respected by the community.

Source: "The New Light of Myanmar" 31 March 1996

Chapter VI

Judiciary

DETAILED BASIC PRINCIPLES OF THE FORMATION OF THE JUDICIARY

1. In connection with the distribution of judicial powers of the State,

The judicial power of the State is distributed--

- (a) in accordance with the State Constitution or by other laws, among the Supreme Court of the Union, High Courts of the Regions, High Courts of the States, Courts of the self-administered divisions, Courts of the self-administered zones, District Courts, Township Courts, other courts constituted by law and judges appointed in accordance with law,
- (b) in accordance with the State Constitution or by other laws, among Courts Martial,
- (c) in accordance with the State Constitution, to the Constitutional Tribunal.

2. In connection with the constitution of the Supreme Court of the Union,

- (a) In the State is constituted one Supreme Court of the Union. The Supreme Court of the Union is the supreme law court of the State which shall not affect judicial powers vested in the Constitutional Tribunal and Courts Martial.
- (b) (1) The head of the Supreme Court of the Union shall be called Chief Justice of the Union;
(2) In the Supreme Court of the Union, judges of the Supreme Court of the Union including the Chief Justice of the Union shall be appointed from a minimum number of seven to maximum 11.
- (c) (1) The President of the State shall submit the nomination of person suitable to be appointed as the Chief Justice of the Union to the Pyidaungsu Hluttaw and seek the approval of it.
(2) Pyidaungsu Hluttaw shall not have the right to reject the persons nominated by the President for appointment of the Judges of the Supreme Court of the Union [sic-- should probably read Chief Justice of the Union] unless it can clearly prove that the persons do not meet the qualifications for the post prescribed in the Constitution.
- (3) The President of the State has the right to submit again the list furnished with new name replacing the one who has not been approved by Pyidaungsu Hluttaw for the appointment of the Judge of the Supreme Court of the Union [sic--should probably read Chief Justice of the Union].
- (4) The President of the State shall appoint the person who has been approved by the Pyidaungsu Hluttaw as the Chief Justice of the Union.
- (d) (1) The President of the State, in consultation with the Chief Justice of the Union, shall submit the nomination of persons suitable to be appointed as the Judges of the Supreme Court of the Union to the Pyidaungsu Hluttaw and seek the approval of it.
(2) Pyidaungsu Hluttaw has no right to reject persons nominated by the President of the State for the appointment of Judges of the Supreme Court of the Union unless it can prove clearly the persons do not possess qualifications prescribed for Judges of the Supreme Court of the Union in the Constitution.
- (3) The President of the State has the right to submit again the list furnished with new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of a Judge of the Supreme Court of the Union.

(4) The President of the State shall appoint persons approved by the Pyidaungsu Hluttaw as Judges of the Supreme Court of the Union.

3. In connection with qualifications of the Chief Justice of the Union and Judges of the Supreme Court of the Union, the Chief Justice of the Union and Judges of the Supreme Court of the Union shall --

- (a) be not younger than 50 years and not older than 79;
- (b) possess qualifications, except for age limit, prescribed for Hluttaw representatives;
- (c) (1) have been for at least five years as a judge of the High Court of a region or state, or
(2) have been a judicial officer or law officer for at least ten years not lower than region or state level, or
(3) have been an advocate of a High court of at least 20 years' standing,
(4) have been assumed by the President to be a legal expert of prominent reputation.
- (d) be loyal to the State and the citizenry;
- (e) not be a member of a political party;
- (f) not be a Hluttaw representative.

4. In connection with the powers to be vested in the President of the State,

(a) The President of the State shall impeach the Chief Justice of the Union or a Judge of the Supreme Court of the Union for any of the following reasons,

- (1) treason,
- (2) violation of any of the provisions of the Constitution,
- (3) misconduct,
- (4) being disqualified for the post of the Chief Justice of the Union or a Judge of the Supreme Court of the Union under the Constitution.
- (b) If it is desired to impeach the Chief Justice of the Union or a Judge of the Supreme Court of the Union, the President of the State shall submit the charge to the Nakaya of the Pyidaungsu Hluttaw.
- (c) The Nayaka of the Pyidaungsu Hluttaw shall form an investigation commission and cause the charge to be investigated according to law.
- (d) In forming the investigation commission, equal number of representatives of the Pyithu Hluttaw and the Amyotha Hluttaw shall be included and a suitable person out of the commission members shall be appointed as chairman of the investigation commission.
- (e) The term pending the completion of the investigation shall be determined depending on the magnitude of the charge.
- (f) The President of the State may explain the charge made by him before the investigation commission personally or through a representative. He has the right to submit evidence and witnesses.
- (g) The person thus charged shall have the right to appear or to be represented at the investigation of the charge and be given the chance to refute it.
- (h) The Nayaka of the Pyidaungsu Hluttaw shall report to the Pyidaungsu Hluttaw the findings of the investigation commission.

(i) If a decision is passed, supported by two-thirds of the total membership of the Pyidaungsu Hluttaw, declaring that the charge has been substantiated and the Chief Justice of the Union or a Judge of the Supreme Court of the Union thus charged is such as to render him unfit to continue in office, the Nayaka of the Pyidaungsu Hluttaw shall report the decision to the President of the State.

(j) The President of the State [shall] then proceed to remove the Chief Justice of the Union or a Judge of the Supreme Court of the Union who has been impeached.

(k) If the Pyidaungsu Hluttaw decides that the charge has been refuted, the Nayaka of the Pyidaungsu Hluttaw shall report the decision to the President of the State.

5. In connection with the impeachment of the Chief Justice of the Union or a Judge of the Supreme Court of the Union,

(a) The Chief Justice of the Union or a Judge of the Supreme Court of the Union shall be impeached for any of the following:

(1) breach of allegiance to the State,

(2) violation of any of the provisions of the Constitution,

(3) moral turpitude,

(4) being disqualified for the post of the Chief Justice of the Union or a Judge of the Supreme Court of the Union under the Constitution.

(b) If it is desired to impeach the Chief Justice of the Union or a Judge of the Supreme Court of the Union, it shall be done so in accord with the provisions of the Constitution regarding the impeachment of the President or Vice-President of the State.

(c) However, if the Hluttaw concerned submits report that the charge has been substantiated and the offence, the subject of the charge, is such as to render the Chief Justice of the Union or a Judge of the Supreme Court of the Union unfit to continue in office, the President of the State shall proceed to proclaim the removal of the Chief Justice of the Union or a Judge of the Supreme Court of the Union.

(d) If the Hluttaw concerned decides that the charge has been refuted, the Okkahta of the Hluttaw concerned shall report the decision to the President of the State.

6. In connection with the term of office of the Chief Justice of the Union and Judges of the Supreme Court of the Union,

The Chief Justice of the Union and Judges of the Supreme Court of the Union are to hold office up to the age of 70 unless asked to resign by the President of the State or removed from office, or until one of the following occurs:

(a) resignation of own accord;

(b) being removed from office after impeachment in accordance with the provisions of the Constitution;

(c) permanent disability due to either physical or mental defects shown by medical board of examinations prescribed by law, or any other cause rendering them unfit to carry on duties;

(d) death.

7. In connection with the Chief Justice of the Union and Judges of the Supreme Court of the Union having to be free from party politics and retiring from civil service,

(a) the Chief Justice of the Union and Judges of the Supreme Court of the Union must be free from party politics;

(b) the Chief Justice of the Union and Judges of the Supreme Court of the Union, if he happens to be a civil servant, must be deemed to have retired from civil service in accord with existing service regulations from the date of appointment as the Chief Justice of the Union or Judges of the Supreme Court of the Union.

8. In connection with duties, rights and privileges of the Chief Justice of the Union or Judges of the Supreme Court of the Union,

-- duties, rights and privileges of the Chief Justice of the Union or Judges of the Supreme Court of the Union shall be prescribed by law.

9. In connection with the status of the Chief Justice of the Union or Judges of the Supreme Court of the Union,

-- The Chief Justice of the Union is prescribed to be of the same status as the Vice-President and Judges of the Supreme Court of the Union are prescribed to be of the same status as Union Minister, for the purpose of reference in prescribing by law duties, rights and privileges of the Chief Justice of the Union or Judges of the Supreme Court of the Union.

10. In connection with formation of High Courts of Region or State,

(a) there is a High Court of the Region in every Region, and a High Court of the State in every State.

(b) (1) The leader of High Court of the Region or High Court of the State shall be known as Chief Justice of the High Court of the Region or Chief Justice of the High Court of the State.

(2) In a High Court of the Region or High Court of the State, a minimum of three and a maximum of seven Judges of the High Court of the Region or the High Court of the State, inclusive of the Chief Justice of the High Court of the Region or Chief Justice of the High Court of the State, may be appointed.

(c) (1) The President of the State, in coordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, shall prepare a nomination of the Chief Justice of the High Court of Region or State, and the Chief Minister of the Region or State concerned, in coordination with the Chief Justice of the Union, shall prepare a nomination of the Judges of the High Court of the Region or State concerned, and they shall send them to the Region or State Hluttaw concerned.

(2) Region or State Hluttaw concerned shall not have the right to reject the person nominated by the President of the State in coordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, to be appointed Chief Justice of the High Court of the Region or State, or the persons nominated by the Chief Minister of the Region or State concerned, in coordination with the Chief Justice of the Union, to be appointed Judges of the High Court of the Region or State concerned, unless it can prove clearly that the person or persons do not fully possess qualifications prescribed for the Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State as contained in the Constitution.

(3) There is right to present new nomination as prescribed in place of persons rejected in Sub-Paragraph 2 above.

(4) The President of the State shall appoint persons approved by Region or State Hluttaw as the Chief Justice of the High Court of Region or State and Judges of the High Court of the Region or State.

11. In connection with the qualifications of the Chief Justice of High Court of Region or State or Judges of the High Court of Region or State,

-- the Chief Justice of the High Court of Region or State and Judges of the High Court of Region or State shall possess the following qualifications:

- (a) person not younger than 45 and not older than 65 years of age;
- (b) person who possesses qualifications prescribed for Region or State Hluttaw representatives except for the age stipulation;
- (c) (1) person who has served at least five year as judicial service personnel or law service personnel of not lower than Region or State level or at least ten years as judicial service personnel or law service personnel of not lower than district level, or
- (2) person who has service as advocate for 15 years, or
- (3) person whom the President of the State regards as one of high repute as learned in law.
- (d) person loyal to the State and to the citizenry;
- (e) person who is not a member of a political party;
- (f) person who is not Hluttaw representative.

12. In connection with empowering the President of the State and the Chief Minister of Region or State,

(a) The President of the State may impeach the Chief Justice of the High Court of Region or State, and the Chief Minister of Region or State may impeach a Judge of the High Court of Region or State, for any of the following:

- (1) breach of allegiance to the State,
 - (2) breach of a provision of the Constitution,
 - (3) moral turpitude,
 - (4) losing qualifications prescribed for the Chief Justice of the High Court of Region or State or Judges of the High Court of the Region or State.
- (b) In the event the President of the State wishes to impeach the Chief Justice of the High Court of Region or State, or the Chief Minister of Region or State wishes to impeach a Judge of the High Court of Region or State, he shall send the impeachment to the Region or State Hluttaw Okkahta.
- (c) Region or State Hluttaw shall form an inquiry committee and have it conduct inquiries in accord with law.
- (d) The inquiry committee shall be formed with Region or State Hluttaw representatives, and a suitable one from among them shall be appointed chairman of the inquiry committee.
- (e) The time allowed to conduct and complete the inquiry shall also be prescribed, with due consideration of the volume of work involved in the inquiry.
- (f) The President of the State or the Chief Minister of Region or State may, in person or through a representative, explain the impeachment before the inquiry committee, and has also the right to produce evidence and witnesses.

- (g) The person impeached shall be given the right of self-defence, in person or through a representative, in the inquiry.
- (h) The Okkahta of the Region or State Hluttaw shall report to the Region or State Hluttaw on the results of the investigation on the charge submitted to him by the investigation committee.
- (i) If it is decided that the charge is correct and that the Chief Justice or Judge of the High Court of the Region or State is not fit to continue in office, then it is to be supported by not less than two-thirds of the total membership of the Hluttaw of the Region or State and the Okkahta of the Hluttaw shall submit the matter to the President if it is the case of the Chief Justice of High Court of the Region or State and the Chief Minister of the Region or State concerned if it is the case of a judge of the High Court of the Region or State. The Chief Minister of the Region or State concerned, on receiving the report, shall submit it to the President.
- (j) The President, on receiving the report, shall order the removal from office of the Chief Justice or judge of the High Court of Region or State.
- (k) If the Hluttaw of the Region or State concerned decides that the charge against the Chief Justice or judge of the High Court of Region or State has been refuted, the Okkahta of the Hluttaw concerned shall report the decision to the President if it is the case of the Chief Justice of High Court of the Region or State and to the Chief Minister of the Region or State concerned if it is the case of the judge of High Court of the Region or State.

13. In connection with impeachment of the Chief Justice or any of judges of High Court of Region or State,

- (a) The Chief Justice or a judge of the High Court of Region or State shall be impeached for any of the following:
 - (1) treason,
 - (2) violation of any of the provisions of the Constitution,
 - (3) misconduct,
 - (4) being disqualified for the post of Chief Justice or judge of the High Court of Region or State as prescribed in the Constitution.
- (b) If there arises a cause to impeach a Chief Justice or a judge of the High Court of a Region or State for any of the above offences, a proposal in writing signed by not less than one-fourth of the total membership of the Region or State Hluttaw shall be submitted to the Okkahta of the Hluttaw concerned.
- (c) The Okkahta of the Hluttaw concerned shall cause the charge to be investigated by a committee. The term pending the completion of the investigation shall be determined depending on the magnitude of the charge.
- (d) The Chief Justice or judge of the High Court of the Region or State who is charged shall have the right to appear or to be represented at the investigation of the charge and given the chance to refute.
- (e) The finding made by the investigation committee on the charge made by the Region or State Hluttaw against the Chief Justice or judge of the High Court of a Region or State shall be submitted to the Okkahta of the Hluttaw concerned. If a resolution is passed, supported by not less than two-thirds of the total membership of the Hluttaw concerned, deciding that the charge is such as to render the Chief Justice or judge of the High Court of the Region or State unfit to continue in office, the Okkahta of the Hluttaw concerned shall submit the decision to the President if it is the case of the Chief Justice

of the High Court of Region or State and to the Chief Minister of the Region or State concerned if it is the case of a judge of the High Court of the Region or State. The Chief Minister of the Region or State concerned, on receiving the report, shall submit it to the President.

(f) The President, on receiving the reports, shall order the removal from office of the Chief Justice or judge of the High Court of Region or State.

(g) If the Hluttaw of the Region or State concerned decides that the charge against the Chief Justice or judge of the High Court of the Region or State has been refuted, the Okkahta of the Hluttaw concerned shall submit the decision to the President if it is the case of the Chief Justice of the High Court of Region or State and to the Chief Minister of the Region or State concerned if it is the case of a judge of the High Court of Region or State.

14. In connection with term of office of the Chief Justice or judge of the High Court of the Region or State,

-- the Chief Justice or judges of the High Court of the Region or State shall have the right to serve till they are fully 65 years of age if there does not arise any of the following reasons:

- (a) voluntary resignation,
- (b) termination of service after impeachment in accordance with the provisions of the Constitution,
- (c) becoming unfit to continue service for permanent disability due to physical or mental impairment as certified by the medical board prescribed by law,
- (d) death.

15. In connection with the need for the Chief Justice or judges of the High Court of the Region or State to be free of party politics and to retire from civil service,

- (a) the Chief Justice or judges of the High Court of the Region or State shall be free of party politics;
- (b) the Chief Justice or judges of the High Court of the Region or State, if they happen to be civil servants, shall be considered as having retired from civil service in accordance with existing civil service regulations from the date they are appointed the Chief Justice or judges of the High Court of the Region or State.

16. In connection with responsibilities, rights and privileges of the Chief Justice or judges of the High Court of the Region or State,

-- Responsibilities, rights and privileges of the Chief Justice or judges of the High Court of the Region or State shall be prescribed by law.

17. In connection with the status of the Chief Justice or judges of the High Court of the Region or State,

-- The Chief Justice of the High Court of the Region or State is prescribed to be of the same status as Union Minister and the judge of the High Court of the Region or State is prescribed to be of the same status as Deputy Minister for the purpose of reference on prescribing by law responsibilities, rights and privileges of the Chief Justice or judges of the High Court of the Region or State.

18. In connection with formation of various levels of courts under the High Court of the Region or State,

Under the High Court of the Region or State, there are the following levels of courts:

(a) if there is no self-administered area in the Region or State,

(1) district courts,

(2) township courts;

(b) if there is self-administered area in the Region or State,

(1) in the self-administered division,

(aa) court of the self-administered division,

(bb) township courts;

(2) in the self-administered zone,

(aa) court of the self-administered zone,

(bb) township courts;

(3) in other areas,

(aa) district courts,

(bb) township courts;

(c) in the Union territory,

(1) district courts,

(2) township courts;

(d) other courts set up by law.

19. In connection with appointment of judges, giving them judicial powers, prescribing their duties, rights and privileges and formation of service organizations at these courts and their duties, rights and privileges,

(a) appointing judges at various levels of courts under the High Court of the Region or State, giving them judicial powers and prescribing their duties, rights and privileges shall be in accordance with law;

(b) forming service organizations comprising officers and other ranks at the Supreme Court of the Union, High Courts of Regions or States and other courts and prescribing duties, rights and privileges of service personnel in them shall be in accordance with law.

Source: “The New Light of Myanmar” 1 April 1996



DETAILED BASIC PRINCIPLES FOR PRESCRIBING SELF-ADMINISTERED DIVISIONS OR SELF-ADMINISTERED ZONES AS LAID DOWN BY THE NATIONAL CONVENTION PLENARY SESSION HELD ON 7 APRIL 1995

(a) In regions or states, self-administered areas are to be prescribed for national races who reside in communities on the same common stretches of land in appropriate sizes of population, other than national races who have already got Regions or States.

Explanation (1): 'appropriate size of population' means population of a national race must be highest in each of the townships in self-administered area concerned and must be more than half of the total population of those townships.

Explanation (2): 'same common stretches of land' means that territories of townships concerned are contiguous and there exist conditions to be contiguous.

(b) depending on size of population and inhabited area, they are to be prescribed as self-administered divisions or self-administered zones as suitable;

(c) they are to be prescribed by the National Convention right away;

(d) in a self-administered zone, townships therein are organized into the self-administered zone; in a self-administered division, townships therein are organized into districts and districts are organized into the self-administered division.

Explanation (1): 'townships' means at least two townships.

Explanation (2): 'districts' means at least two districts.

Detailed principles

Esteemed Chairman and delegates,

In connection with prescribing of self-administered division or self-administered zone in accord with these basic principles, the following detailed principles are laid down:

1. to group together Leshi, Lahe and Namyun Townships in Sagaing Division and prescribe it Naga Self-Administered Zone;
2. to group together Ywangan and Pindaya Townships in Shan State and prescribe it Danu Self-Administered Zone;
3. to group together Hopong, Hsiseng and Pinlaung Townships in Shan State and prescribe it Pa-O Self-Administered Zone;
4. to group together Namhsan and Manton Townships in Shan State and prescribe it Palaung Self-Administered Zone.
5. to group together Konkyan and Laukkai Townships in Shan State and prescribe it Kokang Self-Administered Zone;
6. to group together Hopang, Mongmao, Panwaing, Naphan, Manphant and Panyang Townships -- six townships in Shan State -- into two districts and prescribe it Wa Self-Administered Division.

Source: “The New Light of Myanmar” 11 April 1995

It is unclear whether these principles were actually adopted by the NC. The report on the debate can be seen at <http://www.ibiblio.org/obl/docs/BPS-NC-1995-04.htm>

