

Kachin State Constitution (Draft)



*Kachin State Constitution Drafting Committee
2006*

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Preface

Our Federal Union of Burma is a country inhabited with different nationalities such as Kachin, Karen, Karenni (Kayah), Chin, Burman, Mon, Rakhine and Shan. As the areas inhabited by these nationalities are different, the languages, literature, and cultures are also different. When we study the background history of these nationalities, it is found that they had been ruled by their own kings or chieftains and they had been independent from foreign rule. When they were about to get independence from the British Rule, they agreed to establish a Federal Union that would give genuine autonomy to the member nationalities to rule their own autonomous states.

When Burma was actually independent, the Union of Burma did not emerged as it was originally agreed but as a chauvinistic Union of Burma. We have seen that the various nationalities did not use the rights written in the Constitution to separate their States as the independent countries. Instead, they tried to build up genuine Union of Burma democratically.

However, the military authoritarian regime led by Bo Ne Win seized the power; giving the reason that the country was falling apart and established military dominated totalitarian Burmese Socialist Program Party. They have tried to eliminate the languages, literature, cultures etc. of other nationalities. The original meaning of the "Federal principle" which means "the principle of a Union" was changed into "separatism". Non-Burmese nationalities were also suspected as separatists and they suffered racial and religious discrimination. They seized the power of the country illegally to build up the Burmese chauvinism. It is evident that their Burmese chauvinism never changed during the successive groups of military rulers. The Revolutionary Council led Bo Ne Win tried to establish strong footing of their power for over twelve years and formed the totalitarian political system. The present military leaders are also seen trying to write the military

dominated constitution that will give them the chance to pull the string of the regime and the right to seize the power whenever they like.

In order to be evident and understood, that the Federal principle of Kachin people is not the separatism as the military regime accused; that we Kachin people are democratically trying to establish a genuine Federal Union of Burma in which all the different nationalities have their own autonomous states and having equal right in all areas; this Draft Constitu-tion of Kachin State is written.

The Kachin State Constitution Drafting Committee does not consider this Draft Constitution of Kachin State is complete. We believe that the Constitution of Kachin State that would give the democratic rights, equality and self-determination desired by the Kachin people to live peacefully amongst the indigenous people of the Federal Union of Burma would be complete only if we receive suggestions from the people.

We therefore, submit this Draft Constitution of Kachin State to the citizens of the Kachin State for suggestions and criticism.

Kachin State Constitution Drafting Committee

Kachin State Constitution (Draft)

We, the citizens of Kachin State, in order to establish a genuine Federal Union, to enjoy equal political, economic, and social self-determination, to improve the social security and individual freedom of the citizens of Kachin State, to establish peace in the State, and to enjoy the essence of freedom for us and for our descendants, do hereby enact the Kachin State Constitution in the Kachin State Legislative Assembly onyear.....month.....day and adopt it as our fundamental law.

Chapter (1)

Kachin State

Article 1 Kachin State

Kachin State is a member national state of the federal union of Burma. It **shall be** known as Kachin State.

Article 2 Sovereignty

- (A) Kachin State is a sovereign state in accordance with the constitution of the Federal Union of Burma.
- (B) The sovereignty of Kachin State rests in the hands of Kachin State Citizens.
- (C) The sovereignty of Kachin State shall be exercised through the people's representatives elected by free, fair, and regular elections, with universal suffrage.

Article 3 Separate Exercise of Powers

The Legislative Power, Executive Power, and Judicial Power of Kachin State shall be exercised by separate and independent branches with a system of mutual checks and balances.

Article 4 Political System

Kachin State shall establish and preserve a system of multiparty democracy.

Article 5 Boundaries

The legal territory of Kachin State shall remain unchanged from the day this constitution came into force.

Article 6 Kachin State Administrative Organization

Kachin State administration shall be organized into the following divisions:

- (A) wards shall be grouped together as ward-tracts;
- (B) villages shall be grouped together as village-tracts;
- (C) ward-tracts or village-tracts shall be grouped together as towns;
- (D) ward-tracts or village-tracts or towns shall be grouped together as townships; and
- (E) townships shall be grouped together as Kachin State.

Article 7 Capitol

Myitkyina shall be the capital of Kachin State.

Article 8 Official Languages

English and Kachin shall be the official languages of Kachin State.

Article 9 Division of Powers

- (A) The Legislative Assembly of Kachin State shall have the authority to legislate regarding the following matters except insofar as the constitution of the Federal Union prohibits these powers to Kachin State or on the matters exclusively delegates to the government of the Federal Union of Burma:
 - (1) Citizenship in Kachin State
 - (2) Defense of Kachin State
 - (3) Forest and Environment Conservation
 - (4) Development and Marketing of Natural Resources
 - (5) Sales Tax, Business Tax, Income Tax, Excise Tax, and Port Tax;
 - (6) International Trade

- (7) Customs Duties, Export and Import Taxes
- (8) Trade and Commerce in Kachin State
- (9) Education
- (10) Health
- (11) Social Welfare
- (12) Property Transfers
- (13) Energy and Development Planning
- (14) Customary law, including, inter-alia, marriage, divorce, and inheritance
- (15) Cultural Affairs
- (16) Gambling
- (17) Kachin State Budget
- (18) Kachin State Civil Service
- (19) Narcotics
- (20) _____
- (21) _____

The Assembly of the Federal Union of Burma shall have the authority to legislate regarding the following areas if the legislation is beneficial to Kachin State or to other Member States of the Federal Union or for the Federal Union of Burma as a whole.

- (1) Sales Tax, Business Tax, Beverage Tax, and Port Tax
- (2) Environmental Conservation
- (3) Harmful Drugs
- (4) Birth and Death Registration
- (5) Copyrights, Patents, and other intellectual property issues
- (6) Production, Sales, Export, and Import of Arms and Explosives
- (7) Energy Development matters within Kachin State
- (8) Foreign Direct Investment in Kachin State
- (9) Local Television and Radio Broadcasting
- (10) Banking and Insurance Business
- (11) University, Vocational and Professional Education
- (12) Navigable Interstate Waterways

- (13) Refugees and Asylum
 - (14) Criminal Laws and Civil Laws
 - (15) Training of Civil Servants within Kachin State
- (C) Kachin State delegates to the legislative assembly of the Federal Union of Burma the exclusive authority to legislate in the following areas.
- (1) Foreign Affairs
 - (2) Defense of the Federal Union of Burma
 - (3) Postal Services and Telecommunications
 - (4) Printing of currency notes, minting of coins, and their distribution
 - (5) Weights and measurements of the Federal Union
 - (6) Annual budget of the Federal Union
 - (7) Transportation of the Federal Union, Railway of the Federal Union, Internal water navigation of the Federal Union, sea navigation and aerial navigation
 - (8) Citizenship of the Federal Union and Immigration rules and regulations
 - (9) Armed forces of the Federal Union
 - (10) Emergency matters of the Federal Union
 - (11) National Census of the Federal Union
 - (12) Rules and regulations pertaining post graduate education
 - (13) Matters concerning marriage, divorce and inheritance between people of different cultures and beliefs.
 - (14) Election of the members the national parliament of the Federal Union.

Article 10 Local Government

- (A) Township administrations and their subdivisions shall be considered to be local government administrations.
- (C) The powers and responsibilities of local government administrations

shall be prescribed by the Kachin State Legislative Assembly.

Article 11 Constitutional Supremacy

The Constitution of the Federal Union of Burma and the Kachin State Constitution are the supreme laws of Kachin State.

Chapter (2)
Fundamental Rights and Freedoms

Article 12 Absolute Rights

Every person living in Kachin State:

- (A) shall be equal before the law irrespective of native birthplace, religion, class, gender, color, ethnicity, and age;
- (B) shall have freedom of thought and belief;
- (C) shall be recognized as a human being and shall have the right to respect and protection for his or her human dignity; and
- (D) shall have the right to life.

Article 13 Absolute Freedoms

No person living in Kachin State:

- (A) shall be enslaved;
- (B) shall be subjected to forced labor except as punishment by law for a criminal offense of which the person has been duly convicted; and
- (C) shall be subjected to torture, or cruel, inhumane, and degrading treatment.

Article 14 Individual Rights to Thought, Speech, and Belief

Every person living in Kachin State shall have:

- (A) the right to freedom of expression and publication, the right of access to information, and the right to disseminate information;
- (B) the right to worship and practice religion;
- (C) the right to assemble and peacefully demonstrate;
- (D) the right to seek political asylum; and
- (E) provided that, the Kachin State Legislative Assembly may enact laws to restrict the exercise of the rights defined in this article insofar

as the exercise of those rights contravenes democratic principles, endangers public health, or injures public morality.

Article 15 Privacy Rights

Any person living in Kachin State shall be secure from:

- (A) illegal disturbance of his or her own premises; illegal intrusion on his or her personal correspondence; illegal interference with his or her personal freedom; and illegal injury to his or her reputation and dignity; and
- (B) illegal searches and seizures of the person, home, or property.

Article 16 Freedom of Travel and Settlement

Every citizen of the Kachin State shall have the right

- (A) to travel freely, to move his or her residence, and to pursue business and employment within Kachin State
- (B) to move his or her residence from Kachin State to any other member state of the Federal Union of Burma, and to pursue business and employment in accordance with the prescriptions of the law of the state to which he or she has relocated.

Article 17 The Right to Form Organizations

Every citizen of the Kachin State:

- (A) shall have the right to freely form, join, and participate in organizations, associations, and labor unions in accordance with the law; and
- (B) shall not be forced to participate in any organization, association, or union.

Article 18 Rights to Education

Every citizen of the Kachin State shall:

- (A) have the right to freely pursue an education;

- (B) have the right to freely choose his or her desired subject, course or vocational training, and higher education; and
- (C) be provided nine years of mandatory free education.

Article 19 The Right to Work

Every citizen of the Kachin State shall have the right to work and the freedom to choose his or her occupation free of discrimination based on birthplace, religion, class or social status, gender, color, race or ethnicity or age.

Article 20 The Right to Marry

Every person who has attained the age of legal maturity shall have the right to marry in accordance with his or her free will, without discrimination based on race, religion, or social status.

Article 21 Freedom to Travel Abroad

Every citizen of the Kachin State shall have the right to leave and return to Kachin State if the countries concerned permit accordingly.

Article 22 Property Rights

- (A) Every citizen of the Kachin State shall have the right to own, transfer, dispose, trade, sell, devise and inherit lawfully acquired property.
- (B) The property of any citizen of the Kachin State shall be revoked or restricted only for the benefit of the public at large in accordance with the law. In revoking these private rights for public interests, proper and adequate compensation must be paid in accordance with law.

Article 23 Arrest and Detention

- (A) No person living within Kachin State shall be arrested, detained, or held as a suspect on the basis of mere suspicion.

- (B) Every person arrested, detained or imprisoned shall be treated with respect for his or her human rights and human dignities.
- (C) Any person arrested without a warrant shall not be detained more than twenty-four hours. Before a person may be detained for more than twenty-four hours, the arrested persona must be brought before a competent court and the court must issue a detention order. The court shall issue such a detention order only if it finds that there are sufficient grounds to detain the person in accordance with the existing laws.

Article 24 The Rights of Criminal Defendants

- (A) Every person charged with a criminal offense shall have the right:
 - 1. to be informed without unreasonable delay of the charge and alleged specific offense;
 - 2. to be tried within a reasonable time;
 - 3. not to be compelled to confess to the offense;
 - 4. to offer a full legal defense to the charge;
 - 5. to be provided with an attorney for his or her defense;
 - 6. to be tried in a language that he or she understands; if it is not possible to conduct the proceedings in that language, then he or she shall have the right to seek an interpreter.
- (B) The public shall be allowed to attend every court hearing unless the defendant's legitimate interests would be infringed.

Article 25 The Writ of Habeas Corpus

- (A) The writ of habeas corpus may be demanded and shall be issued in every criminal case except trials for the invasion of The Federal Union of Bunna or Kachin State or for severe aggression against or infringement of public security.
- (B) When a competent court is requested to issue a writ of habeas

corpus, the court must issue the writ without delay and without fee.

Article 26 Procedures and Penalties

- (A) No person shall be tried for an offense except under the laws existing at the time of the offense.
- (B) No penalty degrading to human dignity shall be imposed.
- (C) A person acquitted of an offense shall not be retried for the same offense.
- (D) No person shall be punished more than once for the same offense.
- (E) No person shall be punished with imprisonment for debt except for commission of financial fraudulence.

Article 27 National Languages

Every citizen of the Kachin State shall have the right to freely learn his or her own language, including but not limited to his or her ethnic language, and shall have the right to develop and promote his or her own languages and literatures, including but not limited to his or her own ethnic languages and literatures.

Article 28 Cultural Rights

Every citizen of the Kachin State shall have the right to develop and promote his or her cultures, customs, and traditions.

Article 29 The Right to Establish Educational Institutions

Every citizen of the Kachin State shall have the right to establish private schools, universities, colleges, science and vocational training institutions, and higher academic institutions in accordance with the existing laws of Kachin State.

Article 30 Political Rights

Every citizen of the Kachin State at the age of maturity shall have the right:

- (A) to participate in the conduct of political affairs, directly or indirectly through freely elected representatives;
- (B) to vote and to run for office in elections that shall be conducted by free, fair, direct, and secret voting.

Article 31 Women's Rights

- (A) Women shall have equal rights in politic, economic, social and cultural matters; they shall enjoy the same rights as men.
- (B) Mothers, children, and pregnant women shall enjoy the rights prescribed by the law.
- (C) Women shall have the right to marry, divorce, receive assets, inherit and own properties, and take custody of children, Kachin State legislative assembly shall laws pertaining the said matters.

Article 32 The Rights of Children

- (A) Every child shall have the right to protection and care in his or her status as a minor, and shall be entitled to assistance and care from society as a whole.
- (B) Children shall not be separated from their families without the consent of their parents or guardians, except where the parents or guardians have neglected their responsibilities or where the children need to be removed in order to be protected and where separation is conducted only in accordance with the law.
- (C) Children shall be protected from exploitation for economic benefits. They shall be protected against employment which imposes negative impact on their morality, health, lives, or physical development.
- (D) The Kachin State legislative assembly shall prescribe the minimum age of employment for children.

Article 33 Human Rights Commission

- (A) Any person whose human rights are violated shall have the right to protection by the Human Rights Commission.
- (B) An Independent Human Rights Commission shall be established as prescribed by laws made by the Kachin State legislative assembly.

Article 34 Constitutional Protection

- (A) Every person living in Kachin State shall be entitled to seek constitutional protection from the Kachin State Supreme Court whenever it is necessary.
- (B) This right shall not be revoked under any conditions.

Article 35 The Right to Become a State Citizen

In accordance with the Kachin State constitution, every person living in Kachin State shall have the right to seek Kachin State citizenship.

Article 36 The Right of Intellectual Property

Every citizen of the Kachin State shall have the right to freely

- (A) pursue, invent, and learn creative science;
- (B) compose, invent, and think in order to develop fine arts and creative arts.

Article 37 Copyright

Every citizen of the Kachin State shall enjoy the freedom to engage in creative work and to establish rights to intellectual property.

Article 38 Rights not Prescribed

The fact that this constitution prescribes certain rights shall not give the

government the permission to prohibit the exercise of other rights still retained by the citizens of the Kachin State.

Chapter (3)

Kachin State Legislative Assembly

Article 39 Kachin State Legislative Assembly

The legislative power of Kachin State shall be vested in the Kachin State Legislative Assembly. The Kachin State Legislative Assembly shall be formed by representatives of the people elected by eligible voters through free and fair elections.

Article 40 Separate Legislative Power

- (A) Although the Kachin State Legislative Assembly shall have the power to pass laws, the Kachin State citizenry shall have the power to approve or reject such laws, as a whole or parts thereof, and to adopt new laws by referendum.
- (B) The Kachin State Legislative Assembly shall legislate in accordance with the results of such referenda.

Article 41 Terms

The term of the Kachin State Legislative Assembly shall be four years counting from the first day of the session. In the first session of the Kachin State Legislative Assembly, the elected people's representatives shall be divided equally into two groups, and the term of one group shall be two years.

Article 42 Kachin State Legislative Assembly Pro-tempt Presidia

- (A) In the first session of the Kachin State Legislative Assembly, the members of the assembly shall elect three presidia from among their number.
- (B) The three elected presidia shall elect a Chairman from among their

number.

- (C) The three elected presidia shall take an oath before the members of the Kachin State Legislative Assembly.

Article 43 Powers and Duties of Pro-temp Presidia

Pro-temp Presidia shall

- (A) conduct orderly sessions of the Kachin State Legislative Assembly. Any Legislative Member who refuses to conform his conduct to the orders of the presidia shall be removed from the chamber of the Kachin State Legislative Assembly.
- (B) conduct the taking of oaths by the Chairman of the Kachin State Legislative Assembly and the Members of the Kachin State Legislative Assembly.

Article 44 Term of Pro-Temp Presidia

The term of Pro-temp Presidia shall cease upon the completion of the taking of oaths by the Chairman of the Kachin State Legislative Assembly and the Members of the Kachin State Legislative Assembly.

Article 45 Chairman and Vice Chairman of the Kachin State Legislative Assembly

In the first session of the Kachin State Legislative Assembly, the Chairman and Vice Chairman of the Kachin State Legislative Assembly shall be elected by the members from among their number.

Article 46 Powers and Duties of the Chairman and Vice Chairman of the Kachin State Legislative Assembly

- (A) The rank of the Chairman of the Kachin State Legislative Assembly is equivalent to the rank of the Deputy Chief Minister of Kachin State.

- (B) The Chairman of the Kachin State Legislative Assembly shall serve as Deputy Chief Minister when the Deputy Chief Minister acts as Chief Minister of Kachin State.
- (C) The Chairman of the Kachin State Legislative Assembly shall have the authority and responsibility to ensure that the members of the Kachin State Legislative Assembly follow the Assembly's rules and regulations during the session over which the Chairman presides.
- (D) The Vice Chairman of the Kachin State Legislative Assembly shall assume the duties and functions of the Chairman when the Chairman is incapable of performing his or her duties and functions. The rank of Vice Chairman of the Kachin State Legislative Assembly is equivalent to the rank of a Minister of Kachin State.

Article 47 Legislation

- (A) In accordance with the Constitution of the Federal Union of Burma, the Kachin State Legislative Assembly shall make laws with respect to any matters relevant to Kachin State.
- (B) In order to make a law or to repeal an existing law, any Kachin State Legislative Assembly Member may submit a bill to the Legislative Assembly, and laws may be made or repealed only upon such submission. Any Kachin State citizen may also submit a bill to the Kachin State Legislative Assembly through any member of the Assembly.
- (C) In special cases, a bill submitted to the Kachin State Legislative Assembly shall become the law only when it receives 75 percent of the votes cast by the members of the Assembly. In ordinary cases, a bill submitted to the Kachin State Legislative Assembly shall become law when it receives a simple majority of the votes cast by the members of the Assembly.
- (D) By simple majority vote, the members of the Kachin State Legislative Assembly shall determine whether a particular bill shall be deemed a special bill, such that its passage requires 75 percent of the vote,

or an ordinary bill, such that its passage shall require only a simple majority vote.

Article 48 The Sessions of the Kachin State Legislative Assembly

- (A) The regular session of the Kachin State Legislative Assembly shall be held at least once every year. However, if it is necessary, a special or emergency session also may also be convened.
- (B) A special or emergency session shall be convened whenever demanded by the Chief Minister of Kachin State or by 35 percent of the members of the Kachin State Legislative Assembly.

Article 49 Quorum for a Session

The quorum for a session of the Kachin State Legislative Assembly shall consist of 50 percent plus one of the members of the Assembly.

Article 50 Rules and Procedures

The Kachin State Legislative Assembly shall prescribe by law the rules and regulations and procedures of the Kachin State Legislative Assembly.

Article 51 Referenda

Whenever it is necessary, the Kachin State Legislative Assembly shall conduct referenda.

Article 52 Committees

The Kachin State Legislative Assembly shall form any such committees as shall be necessary.

Article 53 Exemption

During a session of the Kachin State Legislative Assembly, no member shall be arrested in the chamber or while traveling to or from the chamber without the permission of the Chairman of the Kachin State Legislative Assembly.

Article 54 Impeachment

- (A) The Chief Minister, Deputy Chief Minister, Ministers, and Deputy Ministers of Kachin State, and the Justices of the Kachin State High Court may be impeached for commission of:
 - (1) high treason
 - (2) bribery
 - (3) violation of a criminal law or
 - (4) gross misconduct. If one third of the members of the Kachin State Legislative Assembly vote to impeach, the Assembly shall form an enquiry commission to conduct the impeachment.
- (B) After one third of the members of the Kachin State Legislative Assembly votes to impeach and the Assembly has formed an enquiry commission, the accused shall be relieved of his or her official duties.
- (C) If two-thirds of the members of the Kachin State Legislative Assembly agree with the findings of the enquiry commission, appropriate and necessary action shall be taken.

Article 55 Supreme Legislative Body

The Kachin State Legislative Assembly is the supreme legislative body of Kachin State.

Chapter (4) Kachin State Government

Article 56 Kachin State Government

- (A) The Government of Kachin State shall be comprised of Ministers led by the Chief Minister of Kachin State. The Kachin State Government is the supreme administrative body of Kachin State.
- (B) The term of the Government of Kachin State shall be equivalent to the term of the Kachin State legislative assembly and shall be four years.

Article 57 Composition of Government

The Kachin State Government shall be comprised by

- (A) A Chief Minister
- (B) A Deputy Chief Minister
- (C) Ministers
- (D) The Kachin State Attorney General.

Article 58 Chief Minister

- (A) The Chief Minister shall be elected by the members of the Kachin State Legislative Assembly from among their number to lead the government.
- (B) No member of the Kachin State Legislative Assembly shall serve as Chief Minister for more than two terms.

Article 59 Kachin State Government

- (A) The Kachin State Legislative Assembly shall form the following Ministries. In addition, if it is necessary, the numbers of ministries shall be increased or decreased.

- (1) Ministry of Foreign Affairs
- (2) Ministry of Security and Defense
- (3) Ministry of Interior
- (4) Ministry of Economics
- (5) Ministry of Finance
- (6) Ministry of Health
- (7) Ministry of Education
- (8) Ministry of Energy
- (9) Ministry of Agriculture
- (10) Ministry of Communication
- (11) Ministry of Labor
- (12) Ministry of Transportation
- (13) Ministry of Environmental Conservation
- (14) Ministry of Welfare
- (15) _____
- (16) _____

- (B) The Chief Minister of Kachin State shall nominate the Deputy Chief Minister, Ministers, Deputy Ministers and Attorney General of Kachin State with the advice and consent of the Kachin State Legislative Assembly.

Article 60 The Duties of Government

The duties of the Kachin State Government are:

- (1) to supervise the administration, economy, finance, social affairs, foreign affairs, and security of Kachin State on behalf of the Kachin State Legislative Assembly;
- (2) to implement the decisions of the Kachin State Legislative Assembly;
- (3) to guide and facilitate Kachin State Ministries and Local Governments in accordance with this constitution;
- (4) to supervise law and order and to maintain peace in Kachin State;
- (5) to coordinate with the Government of the Federal Union of the Re-

- public of Burma in any matters relevant to Kachin State and the Federal Union in accordance with Constitution of the Federal Union of the Republic of Burma; and
- (6) to represent the Kachin State Legislative Assembly.

Article 61 The Duties of the Chief Minister

- (A) The Chief Minister is the head of Kachin State and of the Government of Kachin State.
- (B) All armed forces in Kachin State shall be under the command of the Chief Minister of Kachin State except those armed forces that are under the command of the Government of the Federal Union of the Republic of Burma. The Chief Minister is the Commander-in-Chief of all armed forces. The armed forces of Kachin State shall never be deployed for political purposes.
- (C) The Chief Minister shall perform the duties of the Government of Kachin State and those duties assigned to him or her by the Kachin State Constitution and the Constitution of the Federal Union of the Republic of Burma.

Article 62 The Duties of the Deputy Chief Minister

- (A) perform those duties and responsibilities assigned by the Chief Minister;
- (B) act as the Chief Minister when the Chief Minister is incapable of performing his or her duties;
- (C) provided however that the Deputy Chief Minister may act as the Chief Minister pursuant to 62(B) only for a period not to exceed the remaining term of the Chief Minister, and further provided that this provision shall not be affected by the prescription of Article 58 (B).

**Article 63 The Duties of the Members of the Kachin State
Legislative Assembly**

Every member of the Kachin State Legislative Assembly shall interact with the people of his or her constituency in order to receive their views and ideas. He or she shall regularly report on his or her performance to the people of his or her constituency. He or she shall perform the duties assigned by the Constitution of Kachin State and the Legislative Assembly.

Article 64 Salary, Remuneration, and Compensation

The Kachin State Legislative Assembly shall prescribe by law the salary, remuneration, and compensation of the Chief Minister, Deputy Chief Minister, Ministers, and the Members of the Kachin State Legislative Assembly.

Article 65 Attorney General of Kachin State

- (A) The Chief Minister of Kachin State shall appoint the Kachin State Attorney General from the list of nominated persons by and with the approval of the Kachin State Legislative Assembly.
- (B) The rank of Attorney General of Kachin State is equivalent to the rank of Minister of Kachin State.
- (C) The Attorney General of Kachin State shall provide legal advice to the Government of Kachin State and shall act on behalf of the Government of Kachin State in legal matters.
- (D) The Kachin State Legislative Assembly shall make such law as shall be necessary and appropriate to carry this provision into effect.

Article 66 No Confidence Motion

- (A) A no confidence motion may not be moved within one year from the formation of Kachin State Government.

- (B) The government shall be dissolved if a majority of the members of the Kachin State Legislative Assembly support a motion of no confidence. In such event, the Chairman of the Kachin State Legislative Assembly shall issue an order to the Kachin State Legislative Assembly to form a new Kachin State Government.
- (C) Not more than fourteen days after the issuance of an order by the Chairman of the Kachin State Legislative Assembly under Article 66(B), the Kachin State Legislative Assembly shall form a new government. Upon such formation, the outgoing government shall transfer its governmental functions to the incoming new government.
- (D) If the Kachin State Legislative Assembly fails to form a new government within 14 days after the issuance of an order by the Chairman of the Kachin State Legislative Assembly, the Chairman of the Kachin State Legislative Assembly shall dissolve the Assembly and form an interim government from those persons whom he or she deems fit. The interim government shall then carry on the functions of government and shall call a new election for the Assembly within six months of the dissolution of the old government.
- (E) The interim government shall be dissolved after the new election has been held and a new government has been formed, at which time the interim government shall transfer its governmental duties to the new government.

Chapter (4) Suffrage and Elections

Article 67 Elections

The Kachin State Legislative Assembly may

- (A) without contradicting the laws of the Federal Union of the Republic of Burma, prescribe laws for electing members of both the Chamber of the People's Representatives and the Chamber of Nationalities of the Federal Union of the Republic of Burma and
- (B) prescribe laws for electing members of the Kachin State Legislative Assembly.

Article 68 Voting Rights

Every citizen of the Kachin State with the following qualifications shall have the right to vote in elections in Kachin State:

- (A) citizenship status in Kachin State for at least 90 days prior to the election;
- (B) residence in his or her constituency for at least 2 years;
- (C) attainment of 18 years of age; and
- (D) such other requirements as shall be prescribed in the election law adopted by the Kachin State Legislative Assembly.

Article 69 In Absentia Voting

The Kachin State Legislative Assembly shall prescribe law to govern voting by any Kachin State Citizen who resides outside of his or her constituency or Kachin State or the Federal Union of the Republic of Burma.

Article 70 The right to candidacy

- (A) Every person, at least one of whose parents is or was a citizen of the Kachin State citizen shall be eligible to cast a vote.
- (B) Every person who has attained the age of twenty five shall be eligible for membership in the Kachin State Legislative Assembly.
- (C) Every person who has attained the age of thirty five shall be eligible for membership in the Chamber of Nationalities of the Federal Union of the Republic of Burma.
- (D) Every person who has attained the age of thirty shall be eligible for membership in the Chamber of the People's Representatives of the Federal Union of the Republic of Burma.
- (E) Any person who is eligible to run for office under the constitutions and statutes of the Federal Union of the Republic of Burma and of Kachin State may compete in any election.
- (F) Every citizen of the Kachin State, who is illegible to vote may stand for election for membership in only one legislative body and only in one constituency.

Article 71 Impeachment, Resignation and Replacement

- (A) Any member of the Kachin State Legislative Assembly may be impeached according to law for commission of any of the following offenses:
 - 1. violation of any provision of the Constitution of the Federal Union of the Republic of Burma or of the Kachin State Constitution;
 - 2. failure to perform the duties of his or her office; or
 - 3. gross misconduct.
- (B) Any member of the Kachin State Legislative Assembly may resign from his or her position by submitting his or her resignation to the appropriate entities as prescribed by law.
- (C) Midterm vacancies in the Kachin State Legislative Assembly

shall be filled through elections conducted in accordance with the law.

Chapter 6

Judiciary

Article 72 Independence of the Judiciary

The judiciary shall be independent.

Article 73 The Judicial Power

The judicial power of Kachin State shall be vested in the Kachin State High Court and subordinate courts established by this constitution. The structure of the Kachin State judicial system shall be prescribed by legislation adopted by the Kachin State Legislative Assembly.

Article 74 Kachin State High Court

The High Court of Kachin State shall be the highest court of Kachin State.

Article 75 Formation

The High Court of Kachin State shall be composed of seven Justices.

Article 76 Appointment

The Chief Minister of Kachin State shall nominate citizens of the Kachin State to serve as Justices of the Kachin State High Court by and with the advice and consent of the Kachin State Legislative Assembly. Neither the Chief Minister nor the Kachin State Legislative Assembly shall discriminate on the grounds of race, religion, color, or gender in the choice of Justices.

Article 77 Qualification

Every citizen of the Kachin State who has at least ten years of experience in jurisprudence shall be eligible to be appointed as a Justice of the Kachin State Judiciary.

Article 78 Chief Justice of Kachin State

The Justices of the High Court of Kachin State shall elect a Chief Justice from among their number.

Article 79 Salary, Allowance, and Emolument of the Chief Justice of Kachin State

The salary, allowance, and emolument of the Chief Justice of the Kachin State High Court shall be equivalent to that provided to the Chief Minister of Kachin State.

Article 80 Salary, Allowance, and Emolument of the Justices of the High Court of Kachin State

The salary, allowance, and emolument of the Justices of the Kachin State High Court shall be equivalent to that provided to the Deputy Chief Minister of Kachin State.

Article 81 Judicial Independence

The Justices and Judges of the High Court and subordinate courts of Kachin State established under this constitution and laws adopted by the Kachin State Legislative Assembly shall perform their judicial duties in accordance with this constitution and the laws of the Kachin State Legislative Assembly. They shall perform their duties without interference by the government or individuals.

Article 82 Duties and Privileges

No judge may be removed from chambers or denied the appurtenance of his or her office unless and until:

- (A) he or she violates prescribed laws, rules or regulations;
- (B) he or she submits his or her resignation;
- (C) he or she is incapable of performing the duties of his or her office;
- (D) he or she has reached the age prescribed by law for retirement.

Article 83 Prohibition of Secondary Employment

The Justices of the High Court of Kachin State shall perform their judicial duties and shall not undertake:

- (A) employment with salary or benefits other than their employment as justices of the High Court of Kachin State;
- (B) managing membership in any business for-profit business organization; or
- (C) membership in any Legislative Assembly or membership in any governmental body.

Article 84 Annual Budgets

The High Court of Kachin State shall prepare the annual budgets of the High Court and Subordinate Courts of Kachin State for submission to the Kachin State Legislative Assembly within the prescribed time.

Article 85 Supremacy

Decisions of the High Court of Kachin State in accordance with this constitution shall be final except with respect to the question of law.

Article 86 The Power to Issue Writs

The High Court of Kachin State shall have the power to issue writs.

Article 87 Interpretation of the Kachin State Constitution

The High Court of Kachin State shall have the power authoritatively to interpret and determine the meaning of the Kachin State Constitution.

Chapter 7

Inter-Governmental Relations

Article 88 Relationship with the Federal Union of the Republic of Burma

The Kachin State government and the Federal Union of the Republic of Burma shall interact with and assist each other to implement the tasks of the Federal Union of the Republic of Burma and of Kachin State.

Article 89 Kachin State Delegation

So that the government of the Federal Union of the Republic of Burma and the government of Kachin State may regularly interact, the Kachin State Legislative Assembly shall form a committee on such interaction, the term of which committee shall not exceed one year.

Article 90 Inter-State Relations

The Kachin State Legislative Assembly shall prescribe laws to promote the co-ordination of its activities with the other member states of the Federal Union of the Republic of Burma. In addition, the Kachin State Legislative Assembly shall have authority to prescribe law to determine the amount that Kachin State will allocate to improve the inter-relationship between Kachin State and other member states of the Federal Union of the Republic of Burma.

Article 91 Laws for Local Governments

The Kachin State Legislative Assembly shall prescribe uniform laws for local governments.

Chapter 8 Emergencies

Article 92 Emergency

The Kachin State Chief Minister shall have the power to declare a State of Emergency under any of the following circumstances:

- (A) Invasion of Kachin State by any country or countries; or in extreme situations a threat of invasion;
- (B) Abridgement of the rule of law and the public peace; or visible endangerment or derogation of public security and tranquility;
- (C) Extreme destruction, suffering, or death due to natural disasters or imminent threat of such disaster.

Article 93 Declaration of a State of Emergency

- (A) The Chief Minister of Kachin State shall have power to declare a State of Emergency in all or part of Kachin State under any of the conditions specified in Article 92.
- (B) Whenever Article 92(a) or (b) provides the ground for a declaration of a state of emergency, the Chief Minister of Kachin State must seek the approval of the Kachin State Legislative Assembly during its regular session if ongoing or otherwise at an emergency session called for this purpose. If the Kachin State Legislative Assembly rejects the declaration of a State of Emergency, the State of Emergency shall immediately terminate.
- (C) The Chief Minister of Kachin State shall use the resources of Kachin State to deal with a State of Emergency declared **under** Article 92 of this constitution. If the Chief Minister of the Kachin State has reason to believe that Kachin State needs assistance from the Federal Union of the Republic of Burma, he or she shall bring the issue to the Kachin State Legislative Assembly, and if two-thirds of the Assembly concur, appropriate action may be

taken.

- (D) The Kachin State Legislative Assembly shall prescribe laws to implement this provision.

Article 94 The Duration of a State of Emergency

- (A) The declaration of a State of Emergency must clearly specify the duration of the declaration, which shall not in any event exceed three months.
- (B) With the agreement of the Kachin State Legislative Assembly, a State of Emergency may be extended for another three months. Such extension of a State of Emergency may be made only with the approval of a majority of the members of the Kachin State Legislative Assembly.
- (C) Any extension of a State of Emergency for more than 6 months shall be made only with the approval a majority of the members of the Kachin State Legislative Assembly.

Article 95 Powers and Duties

During a State of Emergency declared under Article 92 (a) of this constitution, the Chief Minister of Kachin State shall

- (A) be the head of the Armed Forces of Kachin State with the power of Commander-in-Chief of the Armed Forces; and
- (B) deploy the Federal Security and Defense forces only when the Armed Forces of Kachin State are incapable of dealing with the emergency.

Article 96 Judicial Review

The High Court of Kachin State shall have the power to review the following actions for conformity with this constitution:

- (A) a declaration of a State of Emergency

- (B) extension of a State of Emergency; and
- (C) prescription of the law applicable during a State of Emergency.

Article 97 Judicial Functions during a State of Emergency

At all times during any State of Emergency, the courts shall continue to exercise their judicial functions. Judges appointed by pre-existing laws shall continue to preside over the administration of justice.

Article 98 Irrevocable Rights

During a State of Emergency, no law may invade the rights to life, liberty, or dignity, nor may any law be enforced in such a way as to invade the rights to life, liberty, or dignity of the citizens of the Kachin State. No one shall be forced to work.

Article 99 Prescription of the Law during a State of Emergency

Except for those rights specified in Articles 12 and 13, the Kachin State Legislative Assembly shall have the power to limit the rights of individuals and the ownership of property during a State of Emergency.

Article 100 Termination of a State of Emergency

- (A) A State of Emergency must be terminated when the declared duration expires or when the Chief Minister of Kachin State revokes its declaration.
- (B) The termination of a State of Emergency by expiration of its duration or by revocation by the Chief Minister of Kachin State shall be declared and recorded in the Kachin State Gazette.

Chapter 9 General Provisions

Article 101 Flag

The Kachin State flag shall be.....

Article 102 Emblem

The Kachin State emblem shall be.....

Article 103 Government Seal

The Kachin State government seal shall be.....

Article 104 National Anthem

The Kachin State National Anthem shall be.....

Finance

Article 105 Taxation

The Kachin State Legislative Assembly shall prescribe uniform laws for the prescription and collection of taxation.

Article 106 Prohibition

No governmental branch shall appropriate the revenue of Kachin State other than as provided in legislation made by the Kachin State Legislative Assembly.

Article 107 Report

In accordance with legislation by the Kachin State Legislative Assembly, all governmental branches and organizations that receive revenue from Kachin State shall prepare income and expenditure reports, which shall be submitted to and made public through the Kachin State Legislative Assembly.

Article 108 Borrowing Money

The Kachin State Legislative Assembly shall never enter a contract to borrow money on behalf of Kachin State nor confer on others the power to borrow money on behalf of Kachin State except under the following conditions:

- (A) To cover a shortage of revenue;
- (B) To pay the interest on the Kachin State debt;
- (C) To repel an invasion;
- (D) To suppress insurrection or treason;
- (E) To control a threat to public security.

Article 109 Annual Budget

The Chief Minister of Kachin State shall prepare the annual budget for Kachin State and submit it to the Kachin State Legislative Assembly at least three months prior to the end of the fiscal year.

Article 110 Auditor General

The Kachin State Legislative Assembly shall appoint an Auditor General to audit the appropriation of income and expenditure of the Kachin State Government and subordinate departments and organizations. The Auditor General shall audit income and expenditure and report to the Kachin State government once every three months with recommendation and analysis.

Article 111 Public Service

The Kachin State Legislative Assembly shall prescribe law to govern the appointment, training, promotion, salaries, privileges, and duties of those in public service.

Article 112 Public Welfare

The Kachin State Legislative Assembly shall prescribe law to provide for public education, health, welfare, and housing programs. The Kachin State Legislative Assembly may prescribe law to allow private agencies to conduct such programs.

Article 113 Investigation/Auditing

Any agency or charity working for the public benefit, whether in conjunction with the Kachin State Government or independently, shall be subject to investigation to ensure that it complies with all relevant laws, rules, and regulations.

Article 114 Conservation

The Kachin State Legislative Assembly shall prescribe laws for the conservation, development, and use of agricultural, mineral, forest, water and other natural resources.

Article 115 Security and Defense Service

- (A) In accordance with the Constitution of the Federal Union of the Republic of Burma, the following armed forces shall be established to provide security and defense:
1. Kachin State Defense Force
 2. Kachin State Police Force

- (B) The Kachin State Legislative Assembly shall prescribe laws for the formation of the Kachin State Security Forces and Defense Forces. The Kachin State Defense Forces shall be comprised of a permanent force and an auxiliary force.

Article 116 Head of the Armed Forces

- (A) The Chief Minister of Kachin State shall be the head of the Kachin State Security and Defense Forces.
- (B) The Chief Minister of Kachin State shall appoint a Deputy Head of the Kachin State Security and Defense Forces with the advice and consent of the Kachin State Legislative Assembly.

Article 117 Mandatory Military Service

Every citizen of the Kachin State who has attained the age of seventeen years shall serve in the Armed Forces of Kachin State except when the law provides an exemption. The Kachin State Legislative Assembly shall prescribe law to carry this provision into effect.

Article 118 Citizenship of Kachin State

Every person, at least one of whose parents is or was a citizen of Kachin State citizen, shall be a citizen Kachin State.

Article 119 Citizenship of the Federal Union

Every person whom Kachin State recognizes as its own citizen shall automatically be a citizen of the Federal Union of the Republic of Burma.

Article 120 The Right to Kachin State Citizenship

Every person who legally resides in Kachin State shall have the right to be

recognized as a citizen of Kachin State citizen. The Kachin State Legislative Assembly shall prescribe law to carry this provision into effect.

Chapter 10 Transitional Provisions

Article 121 Existing Laws

- (A) At the time of this constitution comes into effect, all existing laws and acts that conform to this constitution shall remain in force unless and until the Kachin State Legislative Assembly repeals or amends them.
- (B) At the time of this constitution comes into effect, all existing rules, regulations, orders, directives, and programs that conform to this constitution shall remain in force unless and until the Kachin State Legislative Assembly repeals or amends them.

Article 122 Existing Courts

All the courts existing at the time that this constitution comes into force shall continue to function until a new judicial system comes into existence in accordance with this constitution.

Article 123 Civil Servants

All government servants who were in service before this constitution came into force shall remain in their original position unless and until the government of Kachin State provides otherwise.

Chapter 11

Amendment of the Constitution

Article 124 Procedure for Amending the Constitution

- (A) A bill to amend, repeal, replace, or add to this constitution, in part or in whole, may originate only in the Kachin State Legislative Assembly. When such a bill has been introduced, it shall become law if
 - 1. Two-thirds of the Kachin State Legislative Assembly supports it; or
 - 2. The people support it in a referendum held for this purpose.
The Kachin State Legislative Assembly shall decide whether to extend to a bill the procedure prescribed in (A) (1) or the procedure prescribed in (A) (2).
- (B) The Kachin State Legislative Assembly shall decide whether to extend to a bill the procedure prescribed in (A) (1) or the procedure prescribed in (A) (2).