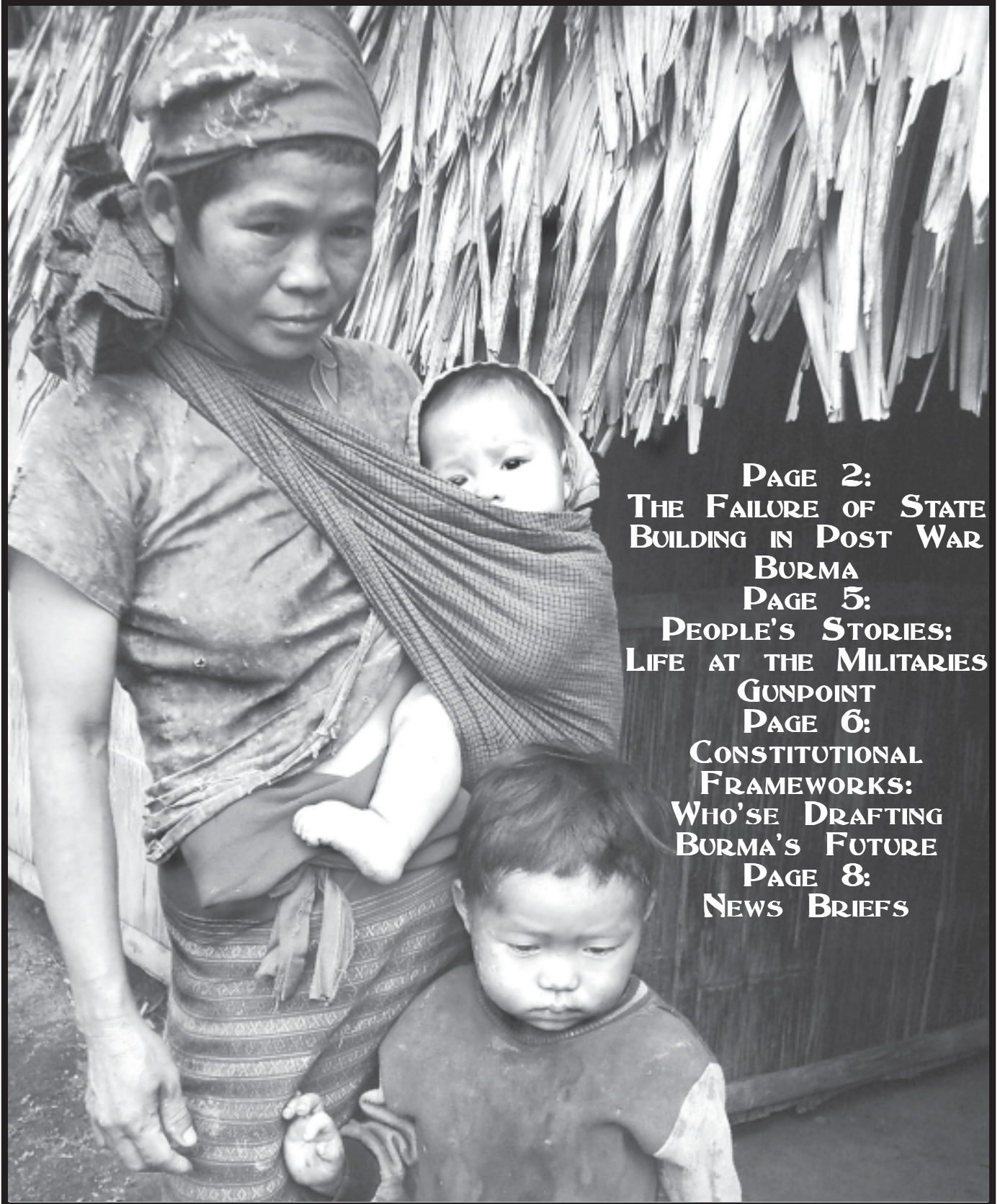




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**PAGE 2:
THE FAILURE OF STATE
BUILDING IN POST WAR
BURMA**

**PAGE 5:
PEOPLE'S STORIES:
LIFE AT THE MILITARIES
GUNPOINT**

**PAGE 6:
CONSTITUTIONAL
FRAMEWORKS:
WHO'S DRAFTING
BURMA'S FUTURE**

**PAGE 8:
NEWS BRIEFS**

THE FAILURE OF STATE BUILDING IN POST WAR BURMA

By M McAteer

Since gaining independence after the Second World War, the ruling administrations of Burma have been unsuccessful in creating a state apparatus that fosters a common sense of nationhood among the citizens of the Union of Burma. There has never been a state framework which guarantees a sense of political equality for all ethnic groups or nationalities. Achieving this was always going to be an extremely difficult task. Burma's ethnically diverse population has differing interpretations of their shared history which has installed a sense of separateness between the different ethnic nations. However, whatever their intentions, previous attempts at state and nation building by those in charge, have left the people who inhabit a land with a wealth of natural resources, poverty stricken and facing a desperate future.

Arguably it was colonization by the British, which began in 1824 and was completed in 1885, which shaped the political, economic and cultural development of the people of Burma. In "Ministerial Burma", where the majority of the people were Burman, the British governed directly through a form of home rule. Infrastructure could be built at low cost and the land was productive particularly in the Irrawaddy basin. By 1920 Burma had become the world's largest exporter of rice. In the "Frontier areas", which constituted present day Shan,

Kachin and Chin States as well as parts of the current Karen and Arakan States, authority remained with local traditional rulers under the loose supervision of colonial officers.

Different colonial experiences meant there were significantly different feelings toward the colonial masters in Burma. Anti-British tendencies grew strong among Burmese nationalists and it manifested itself in the deep hostility toward the mass migration of many Chinese and Indians who were brought in to operate businesses and run the country's administration. In contrast the arrival of the British was welcomed by many of those in the mountainous areas. Christian missionaries, at this time, also promoted education and the transcription of ethnic languages which helped forge a sense of modern ethnic identity among a peoples who had previously been scattered or politically disparate¹. New political and cultural organizations followed, in particular the Karen National Association in 1881. These new influences and institutions sat uneasily with Burmese nationalists and left a legacy of tensions that have been frequently voiced in the last one hundred years.²

The Second World War, after there had apparently been some improvement in ethnic relations in the 1930s, brought tensions once more to the forefront. Aung San and his compatriots of the Burma Independence Army (BIA) had first fought on the side of Imperial Japan while, minority peoples such as the Karen and Kachin aligned themselves with British. There were outbreaks of violence and the Karen, in particular, were targeted. In 1945, the BIA changed their allegiance and attempted to build bridges with the ethnic political leaders.

By 1947, there was hope that foundation stones for the building of modern Burma were in place with the signing of the Panglong Agreement by the Kachin, Shan and Rakhine. This agreement sought to promote the concept of "unity in diversity". All national groups were envisioned as being equal. The right to autonomy and self determination was to underpin the future Union of Burma³. However, it must be noted at that not all ethnic groups were represented at the Panglong meeting, significantly the Karen National Union (KNU), the successor to the Karen National Association, boycotted the meeting.

Despite this, the 1947 constitution attempted

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to create a sense and structure of national unity for the different groups of people who were previously ruled by individual administrations. However this formula for nation building did not reflect what was envisioned at Panglong, and it would prove insufficient in allowing for the development of a modern, sustainable, unified state.

The concept of power sharing between Ministerial Burma and the Ethnic Nationality States was put on the table, and there were to be two legislative chambers namely the Chamber of Deputies and the Chamber of Nationalities. However, there were marked inconsistencies in how territories were allocated to the different ethnic groups which invoked significant tensions. Only four groups Kachin, Karen, Karenni and Shan, were given independent states, and among these only the latter two were to be awarded the right of secession after ten years. The Chin on the other hand were only awarded what was known as “a special division” and others like Mon, Pao and Rakhine were not given any degree of independent control. Independence and parliamentary government arrived in 1948 but they were short lived and did not signal a new a sense of political parity between the different ethnic nationalities.

Instead what followed was protracted armed conflict, despite the fact that many ethnic political leaders, including Shan and Karen, were invited to take senior positions in the government. The assassination of Aung San, seen as the one person who could have prevented all out conflict between the central government forces and the armed ethnic groups, in July 1947 would prove to be a bitter blow.

The new central government faced escalating armed insurgency from various ethnic groups including the Karenni, Mon, Rakhine, Pao and the Karen, for whom the KNU took up arms to fight for an independent Karen State in January 1949. At this time they were also facing armed opposition from the Communist Party of Burma, who began their campaign in March 1948, just two months after independence had been declared. Throughout the 1950s, much of the countryside and the ethnic regions remained under the control of insurgent groups. The difficulties of the government were compounded by the entry of the Chinese nationalist Kuomintang troops, into Shan State, after the communist victory in their home country.

Against this backdrop, the military was developing itself as a powerful, and crucially, independent body. With the ensuing conflict came a massively consequential growth and reorganization of the army as they sought to neutralize factionalism and insurgencies against the

state. In 1951 the Defense Services Institute was established, and this allowed the army to become a major commercial institution, with tax exemption status, outside civilian control. As well as this, in response to the Koumintang invasion in 1952, the army set about a major reconstruction of its internal apparatus. Under Lieutenant Colonel Maung Maung the War office was transformed and the Defense Services Academy for officer training was established. By 1962 the army had increased to some 100,000 troops from 5,000 in 1948

The Army got its first taste of control, as a caretaker government in 1958, before returning power to Prime Minister U Nu in 1960 following elections. U Nu had been the Burmese Prime Minister since parliamentary democracy began in 1948. This election was unable to secure a parliamentary government that would stabilize the country. Insurgencies grew in Shan State and also in Kachin State, where Christians objected strongly to U Nu’s move to make Buddhism the State religion.

At this time ethnic politicians, established a Federal Movement in 1960, under Sao Shwe Thaik, in an attempt to make the union more equitable. They set out plans to create explicit federalism, rather than the token efforts previously seen, which guaranteed equal rights and opportunities for all. They sought initiatives that would prevent the monopolization of power and government by those in Rangoon. However both U Nu and Ne Win, who had led the *Tatmadaw* since 1949, were distinctly unenthusiastic about ethnic rights of autonomy or secession, including those laid out in the 1947 constitution.

In 1962, as U Nu was preparing to meet Federalist leaders, Ne Win seized power in a military coup, claiming Federalism to be “impossible”. The military began its own process of “nation building” which amounted to creating a one party state which set out to control every sector of society. Sustained attempts to stamp out all political opposition and dissent followed as well the complete nationalization of all major industries. The government followed a bizarre “ideology”, the “Burmese Way to Socialism”, a mixture of socialist, nationalist and Buddhist principles. The economy fell into freefall and ethnic insurgencies escalated. Through the actions of the military government relations between the state and society became increasingly dysfunctional. The state became politically insulated and isolated and as a result totally unresponsive to the needs of the Burmese people.

This was felt particularly in the ethnic segments of society. Independent and religious schools were closed and the use minority lan-

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guages in education and in publications virtually disappeared. Ethnic minority peoples were also excluded from senior levels in the *Tatmadaw* and the government. As well as this a brutal counter insurgency campaign followed. The "four cuts policy" which attempted to cut off support for rebels by brutally attacking civilians and forcing them to move to government controlled areas from insurgent controlled and disputed areas, began in earnest in the early 1970s.

By the 1980s, two main opposition blocks emerged, one under the Communist Party of Burma and the other under the National Democratic Front, who sought a federal Union of Burma. The ethnic borderlands remained out of the government's control and the authority of the central state remained highly contested. Under Ne Win's leadership the Burma Socialist Program Party's (BSPP) military government failed in their self appointed role as "nation builders". Political institutions withered, infrastructure decayed and the state had no answer to the country's ever declining economic problems and the impoverishment of the people.

Amid a wave of student protests, Ne Win resigned and the BSPP government collapsed in July 1988. The State Law and Order Restoration Council (SLORC) took control of the country's administration and declared a state of emergency and martial law. They also announced that free and democratic general elections would be held in 1990. The National League for Democracy, under the leadership of Aung San Suu Kyi, secured 82 per cent of the vote in the election however SLORC refused to honour the result. SLORC (since 1997 known as the State Peace and Development Council, or SPDC) as well as being completely illegitimate, has also demonstrated that it is incapable of creating a state which serves the people who live within its borders.

Today the extent of central authority over matters within the country remains unclear. Indeed, in certain parts of the country the central state has no clear demarcations of authority. After 1990 there has been distinct rise in the authority and power of the regional commanders in the army. After dismantling the old socialist state and party, at the request of SLORC, the new and transformed administrative and economic arrangements put in place, created a state structure which has often allowed regional heads to ignore ministerial directives from the central government⁴. The economic and political clout of regional commanders has at no point since independence been as significant as it has become under the SLORC/SPDC regime⁵. This has led to what has been described as "warlord-ism", a situation where the structure of the state allows for connected individuals within

the military to use their position for significant financial gain.

The military junta, in its various guises since 1962, under the pretext of upholding stability and national unity has simply sought to either neutralize or destroy its enemies⁶. Despite the charade of the national convention, which was suspended in early 2006, a part of the supposed "roadmap to democracy", the military has shown no credible desire for national reconciliation. The state in Burma remains a tool which allows the upper echelons of the *Tatmadaw* and their families to live a privileged existence. The military have retained a tight grip on the Union of Myanmar Economic Holdings and the Myanmar Economic Corporation companies, which "operate as a slush fund on behalf of the military leadership", bringing them substantial wealth whilst the rest of the country faces grinding poverty. Whilst stating "stability" and "nation building" as prime concerns, the policies of the SPDC in reality, have not established a consensual identity and have contrived a state where the rights of a small elite subjugate those of the vast majority of people in the country. Armed conflict, militarization and large scale repression of ethnic peoples' rights are still widespread, as the recent forced displacement of more than 16,000 Karen civilians in the largest offensive by the Burmese army in ten years illustrates.

Burma's post independence history has shown that imposing solutions from one group or groups on others is incompatible with developing a sense of nationhood or a state that guarantees and gives protection to the rights to all those who live within its territorial boundaries. Any future attempts need to be completely inclusive and must be based on visions regarding a shared future rather than on what each groups' interpretation of history tells them they are owed. Nearly all political, economic and social activities are controlled by the military and therefore significant major structural changes are required. All ethnic groups in Burma must be incorporated in the decision making process about how the future Burma should look.

Endnotes:

- ¹ Burma (Myanmar): The Time for Change, Minority Rights Group International Report, 2002
- ² Burma and National Reconciliation: Ethnic Conflict and State Society Dysfunction, C Yawngwe, 2001
- ³ Burma and National Reconciliation: Ethnic Conflict and State Society Dysfunction, C Yawngwe, 2001
- ⁴ Beyond Politics: Societal Imperatives in Burma, State Building, Marin B Pedersen, 2005
- ⁵ Junta Dreams or Nightmares? Observations of Burma's Military Since 1988, Callahan, 1999
- ⁶ Making Enemies and State Building, Callahan, 2005



PEOPLE'S STORIES

LIFE AT THE MILITARY'S GUNPOINT

BY KANYAMAW

The prolonged civil war in Burma has been occurring for more than five decades now, resulting in an exodus of refugees to neighbouring countries and thousands of internally displaced person (IDPs) hiding within the country, in the worst possible situation.

Despite the fact that Burma's generals are highly criticized and pressured by the international community to implement reform, it is obvious that there has been no improvement in the country's human rights situation. The military still uses arms against the ethnic people. Human rights abuses such as forced labour, porters and forced relocation occur often.

These violations cause people from Burma to constantly flee to borderline areas and many stories we hear from grassroots people reveal how hard it is to survive in a country where there is no justice or rule of law.

Last month, about one hundred Karenni villagers from the Shan-Karenni border and Loikaw Township fled to the Thailand because of increased militarization near their villages. There were more human rights abuses following the military's increased presence in the area.



IDP woman with child, photo BI

Among them, a Karenni women, Nan Mu (not her real name), experienced a tragic event that happened to her family when living in Burma. Nan Mu's husband was killed about four years ago by troops from the Karenni National People's Liberation Front (KNPLF), a group affiliated with the State Peace and Development Council (SPDC). "When he came back from the field, someone sent from the KNPLF came to tell him to go with him. After that, I never saw him alive again."

Nan Mu's husband was the chief of the village (every man in the village has to take this position in rotation). The KNPLF took him, interrogate him and after that they shot him dead. They did not give a reason.

"The next morning, other villagers told me that they had heard a gunshot coming from the area where my husband was detained. As soon as I heard that I told my eldest daughter and together we went there to see what has happened. When we arrived there I saw him lying on the ground. His head was covered with blood. He was dead."

Although her husband has been killed four years ago, there is still no answer for Nan Mu and her children as to why the KNPLF him in such brutal way. He had committed no offense. After her husband passed away, Nan Mu struggled to support her family. Her ten years old daughter had to quit school and help Nan Mu working on the farm.

Unexpectedly, this family faced another tragedy when Nan Mu's father-in-law, who was 80 years old, was shot dead by a Burmese soldier in June last year. "On that night, he was walking home after visiting his grandchildren when he accidentally run into a drunk Burmese soldier. Without any search or question, the soldier took out his gun and shot him without any mercy," Nan Mu said.

Even though the soldier had murdered a villager, the military took no action against the culprit claiming that it was just accidental fire.

But Nan Mu's stories, while tragic, are not unique. Many villagers live a very difficult life under the SPDC and the *Tatmadaw*. Another story from Karenni woman described her experience with the Burmese army. "The Burmese soldiers detained me when I was about eight month pregnant, together with my

two sons who are twelve and three years old after they couldn't find my husband," Bel Raree Sen said.

The Burmese troops wanted to arrest Bel Raree Sen's husband after a clash between SPDC troops and Karenni National People's Party soldiers took place near Kayan Taryar village. At the time Bel Raree Sen's husband, U Ta was not in the village. He was working in his paddy field. Because he was not in the village the army accused him of helping the Karenni armed group.

After they can't find the U Ta, the soldiers arrested his wife and children instead of him and imprisoned them for 15 days. "In the prison, they interrogated me, asking if I knew where my husband was. When questioning me, they slapped my face and hit me with bamboo," she said.

These are just some Karenni families who managed to escape from life at the military's gunpoint. Many other villagers still live under the harsh rules of those who they call themselves the guards of the country.

CONSTITUTIONAL FRAMEWORKS:

WHO'S DRAFTING BURMA'S FUTURE?

BY SANTIPAP

Constitution: *noun:* a system of laws and principles according to which a state or other organisation is government

The Oxford Dictionary



To most people their national constitution is a legal framework that receives very little attention. Except in the case when someone or an institution tries to infringe on rights protected by this document. However, a national constitution is an extremely important legal document. It defines the fundamental political principles and establishes the power and duties of each government. In most cases it also guarantees certain rights to the people.

Prior to the military dictatorship that has ruled with an iron fist since 1962, Burma was a fledgling democracy. Since independence in January 1948 from British colonial rule, sovereignty had been divided between a central governing authority and state authorities. However the decentralization of power was not large enough to constitute Burma being considered a Federation. This lack of autonomy or self-determination for ethnic states within the Union of Burma led to friction between political groups and eventually civil war.

The Constitution of this time was drafted in 1947 and while it upheld democratic ideals, it failed to unify the country, especially the ethnic groups. Aung San, the leader of Burma's independence movement and key negotiator in bringing the ethnic groups together, dreamt of Federation that created "unity through diversity". For a country with such a diverse ethnic make-up, each group with an unquenchable thirst for self-determination, federalism was a good option. Perhaps, if Aung San had not been assassinated, Burma's political landscape would have been different, and his vision realized.

Following the 1962 military take-over by General Ne Win, he and his compatriots, the Revolutionary Council, ruled Burma with little, if any, regards for the 1947 constitution. In 1974 the Revolutionary Council drafted another constitution which merged the legislative and judicial arms of the so-called government. This constitution was suspended in 1988 following the large non-violent democracy protests that occurred across the country.

At the moment there is no constitution in place. The military body that rules Burma, the State Peace and Development Council (SPDC), is in the process of a National Convention that is charged with drafting a new constitution. However, delegates for the convention were hand-picked by the SPDC and have been given strict instructions not to waiver from the pre-set agenda. Furthermore, discussions are limited to "constructive" comments and ideas. In other words, the convention has been stacked with SPDC "yes men" who will guarantee the constitution will be exactly what the SPDC wants - further legitimization and consolidation of the military leadership of Burma - but with the illusion of being created as a result of open dialogue between all sectors of society.

However, the SPDC is not the only group drafting a new constitution for Burma. Many opposition groups, from political parties to armed groups that are either boycotting or excluded from participating in the National Convention are in the process of creating alternative constitutional frameworks. The National League for Democracy and the National Council of the Union of Burma have drafts of a national constitutions, while ethnic groups are in the process of designing a constitution for their respective States.

The idea of a constitution is to unite different sectors of society under a common framework. This unification should not occur after the constitution has been written, but at the very beginning - during the drafting process. The groups should be working together, to ensure that the process is inclusive. As the conflict in Burma has isolated people, there is a great need to build bridges and involving everyone in the drafting of the constitution is one way to achieve this. Furthermore, this bottom-up approach ensures that from the start people's needs and wants are included, crafting a constitution that is for the people.

There are many examples of constitution drafting from around the world and Burma itself. However, the Shan State Constitution Drafting Commission (SSCDC) has developed a system

that involves the grassroots people at every step of the process. Representatives of the SSCDC have visited villages and discussed issues associated with the constitution. Throughout these visits, representatives discussed with people about what a constitution is, what it does, about different political systems and what their rights are. After these discussions, the grassroots people began suggesting ways to protect their rights.

Through out the two years that the drafting process has been underway, the people and the SSCDC have identified a number of issues that are very important to the development of the Shan State constitution. One of these is the need to document all of the traditional, or customary, laws to ensure that village level wisdom is given appropriate emphasis in designing the state constitution. In some situations the traditional laws are very similar in every village however, in others they vary dramatically. In these situations villagers want assurances that their traditional ways will receive precedent over external administration structures.

Another concept that has emerged from discussion with the grassroots people is the need for people to be involved in the decision making process. Under the current political structure (which has no legitimate claim to power) there is no space for the people to be involved in deciding the policies and future of the country. This must change. Moreover, the people's rights to be involved in the political process needs to be protected by the constitution.

However people's rights are not the only elements that need to be clearly set out in the constitution. For federalism to re-emerge and to have a chance there needs to be special emphasis to ensure there is a clear separation of power between the central and the state governments. Furthermore, there needs to be a clear description of each institution, their role and responsibilities and checks and balances to ensure that these institutions are operating in a transparent manner.

Past constitutions and administrations were not clear in the separation of powers and their activities, which led to confusion, further fragmentation of an already fragile Burmese society and civil war. Care needs to be taken to ensure that this does not happen again. One way this is possible through Tripartite Dialogue.

In 1994 the United Nations General Assembly passed a resolution calling for Tripartite Dialogue between Burma's military dictatorship, the National League for Democracy and the ethnic groups. The objective of these talks, which



Delegates at the National Convention, photo AP

are yet to take place, is to create a solution to the political impasse that has plagued the country for decades.

For the Tripartite Dialogue to be effective each party needs to be an equal stakeholder. Due to the international awareness and unwavering support for the NLD, the current stranglehold the military has on Burma and the decades of systematic oppression of minority groups, there are genuine concerns that the ethnic groups would not be given an equal platform at the talks. However, the Ethnic Nationalities Council, which was formed in March 2004, aims to create a "United Ethnic Nationalities Voice and Platform" for Tripartite Dialogue. One way that the ethnic groups have been working towards created a unified position is through the drafting of state constitutions, like the previously mentioned Shan State. This process allows states to identify the needs and wants of the people in a systematic manner, and to then use these state constitutions as a starting point to create an ethnic platform.

The drafting of a constitution is a long and arduous task filled with limitless potential. It has the possibility to ensure equality for all and to protect the vulnerable, or to consolidate the power-base of the already powerful at the expense of other citizens. It can merely define the legal parameters of the executive, legislative and judiciary (the first three estates) or to go further and provide a legal framework that protects the rights of the population.

While it will take a long time for peace to come, it is necessary to start developing the constitution now. Without a strong constitution that fairly shares power between the central and state authorities, society will again fragment. Most importantly the constitution is a legal document for the people. Consequently it should be put to the people before it is accepted and they should be the final arbiters of any constitutional changes or amendments.

news brief

Junta steps up attacks on ethnic groups: Thousands of people have fled the jungle in Eastern Burma as the army increases their military activities in the area, human rights groups said.

Human Rights Watch's Burma consultant Sunai Phasuk said the military had stepped up its attacks during the dry season because it was easier and quicker to move troops around the country.

He said reports from Burma indicated that Karen villagers were being uprooted and targeted for human rights abuses.

Sunai said "we think women and children have also been killed".

Similar concerns have been reported by other groups including the Free Burma Rangers, who said up to 11,000 people have been displaced since November. The group said the crackdown included torture and killings.

NLD rejects links to terrorists: The National League for Democracy

has rejected a threat by the military government to ban the party for alleged illegal activities.

"They cannot dissolve the party without sound evidence," NLD secretary U Lwin said.

Kyaw Hsan said the NLD "has connections with expatriate groups, terrorists and destructive groups" which had attacked the former Burma. "The government has firm evidence to declare the NLD unlawful," he said.

Pay Increase for Government workers: About one million government-employed workers received up to 1,000 per cent increases in their pay packets, sparking fears of a new boost to Burma's inflationary spiral.

When the anticipated salary increases of between 500 and 1,000 per cent were announced in March commodity prices leapt upwards and the kyat fell to an all-time low of 1,450 kyat to a US dollar.

In the month since the salary in-

creases were announced the prices of such commodities as rice, cooking oil and other foodstuffs have increased 10-20 per cent.

Traders along Burma's borders say business has dropped considerably since the salary hikes were first announced.

Disgruntled Burmese diplomat dies in arson attack on embassy: A former Burmese diplomat was killed when he torched his embassy in an attack that completely gutted the building in Malaysia's capital.

A senior Malaysian foreign ministry official said "the fire was done by a former staff who had returned to the mission to demand his salary. He then burnt the upstairs of the building. He died in the fire".

Malaysia's Foreign Minister Syed Hamid Albar said "it is important that the sanctity of any embassy in the country is protected. I am saddened by the fire and express our condolence."

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