



**Myanmar's civilian constitution process:  
challenges, opportunities, and international  
support for domestic transition**

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Kristina Simion





## Abstract

After the military coup in Myanmar on 21 February 2021, ousted civilian leaders mobilised a constitution process to break with the 2008 Constitution, which affords the military significant influence and control. The process also aims to establish interim arrangements to prepare the country for a democratic future. This is a process that has the potential to be an inclusive forum for broad participation and to strengthen the capacity of Myanmar's exiled politicians and officials to one day rule the country by more democratic means. Thus, with increased international support to the constitution process there is the potential to successfully challenge long-term military rule in Myanmar. This report explores the constitution process currently being undertaken by Myanmar's civilian governance actors. It outlines the formation of civilian governance structures and the constitution process, provides brief background on Myanmar's previous constitutions and the reasons why constitutional reform is needed. The report assesses the potential for international support for the process and its political implications.



**Kristina Simion**

Associate Research Fellow at the Asia Programme, The Swedish Institute of International Affairs



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## Abbreviations

CDM	Civil Disobedience Movement
CRPH	Committee Representing the Pyidaungsu Hluttaw
EAO	Ethnic armed organizations
FDC	Federal Democracy Charter
FPNCC	Federal Political Negotiation and Consultative Committee
JCC	Federal Joint Coordination Committee – Federal
NCGUB	National Coalition Government of the Union of Burma
NLD	National League for Democracy
NUCC	National Unity Consultative Council
NUG	National Unity Government
PDF	People’s Defence Force
SAC	State Administration Council
SAC-M	Special Advisory Council for Myanmar
SPDC	State Peace and Development Council



## Introduction

After the military coup in Myanmar on 21 February 2021, ousted civilian leaders moved to establish civilian governance structures, which stretch from the national to the local levels and challenge the military's hold on power.<sup>1</sup> Building on decades of initiatives to amend the country's undemocratic constitutions, a constitution process was quickly mobilised by these actors to break with the 2008 Constitution, which affords the military significant influence and control (Crouch, 2019). The constitution process challenges military rule and seeks to establish interim arrangements and prepare the country for a democratic future.

New constitutions are often formed as part of a reform agenda following civil war or regime change. On many such occasions, development cooperation partners support the processes leading up to the adoption of a new constitution (EBA, 2022). The international community has failed to provide military support to protect Myanmar's civilians from a military regime of terror. Behind the scenes support is slowly building, however, to design the various structures that would make up a legitimate and more democratic alternative system of governance for Myanmar's future and to support the constitution-building process.

Support for the constitution process in Myanmar is not just about a future redrafting of the country's basic law. It is a process that has the potential to be an inclusive forum for broad participation and to strengthen the capacity of Myanmar's exiled politicians and officials to one day rule the country by more democratic means. Thus, with increased international support, in the form of capacity strengthening, mentoring and advice, as well as official recognition of the civilian structures, there is the potential to successfully challenge long-term military rule in Myanmar.

Drawing on personal observations, informal interviews with key actors in the process and a review of key documents and articles produced thus far, this paper explores the constitution process currently being undertaken by Myanmar's civilian governance actors. It outlines the formation of civilian governance structures and the structure of the constitution process, provides brief background on Myanmar's previous constitutions and the reasons why constitutional reform is needed, and assesses the potential for international support for the process. The paper does not provide a substantive analysis of the documents produced by the constitution process thus far. Several such analyses have already emerged.<sup>2</sup> Rather, the aim is to provide a brief introduction to how the process is being

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<sup>1</sup> On 21 February 2021, the State Administration Council (SAC), with Myanmar's military chief Min Aung Hlaing at its helm, seized power and declared a state of emergency under Article 417 of the 2008 Constitution on the state-owned *Myawaddy* Television channel. The SAC declared that "terrible fraud in the voter list during the democratic general election" and an inability by the Union Election Commission to "settle" the matter necessitated the state of emergency. In this coup d'état, "governance and jurisdiction" was "handed over" to the commander in chief,

Min Aung Hlaing, through the 2008 Constitution's Article 418, sub article (a) (No author. 2021). In the months preceding the coup attempt, the Myanmar military faced a plethora of existential threats: a declining voter base, mounting pressure from the International Court of Justice for their complicity in the Rohingya genocide and reduced authority in the bicameral parliament.

<sup>2</sup> See especially, *My Constitution*, International IDEA Constitution Building Publications, available at: <https://constitutionnet.org/myanmar-publications>.



supported by outside actors and the political implications of such support.

## Civilian Governance Structures in Myanmar

Following the military coup in Myanmar in February 2021, parallel governance structures made up of an alliance of elected parliamentarians and civil society groups asserted their domestic authority and legitimacy internationally. These civilian structures are the National Unity Consultative Council (NUCC), the National Unity Government (NUG) and the Committee Representing the Pyidaungsu Hluttaw (CRPH), the bicameral parliament, as well as the People's Defense Force (PDF) and the Civil Disobedience Movement (CDM).<sup>3</sup>

These structures have been formed to shadow, oppose, and topple the pillars of legitimacy of the State Administration Council (SAC), a body that has faced mass resistance from Myanmar civilians, as well as criticism from the international community. These bodies have formed an alliance to topple the SAC by mobilizing their support networks to assume grassroots control of the conflict and gain momentum internationally (Myanmar Now, 2021). The "civilian governance actors" seek to deprive the SAC of the characteristics of government and to maximize their own power by shadowing, and thus contesting, the *pillars* of the SAC's regime: the armed forces, the media, and bureaucratic structures. The methods used by this alliance to gain control include peaceful protest against the regime, incapacitating SAC-appointed ward or village administration offices, accepting defectors from the Myanmar armed forces and

reciprocating the use of force in self-defence (Ibid).

The term civilian governance actor is used to distinguish them from the military dictatorship under the SAC. These actors are legitimate representatives of Myanmar's democracy movement, even if in some respects they are a "parallel" or "shadow" government. The term parallel government indicates that conflicting governing institutions exist as distinct entities, thereby fomenting civil war. In Myanmar this is manifest in the parallel rule of the SAC (the military), on the one hand, and the NUG/CRPH/NUCC, on the other.<sup>4</sup> The power of being a shadow government should not be underestimated. Non-violent revolution is made possible through the establishment of parallel governments, and they are central to theories of politics. Historical examples have included governments in exile, such as Free France during the Vichy period and Nazi occupation, and the African National Congress in South Africa and the Palestine Liberation Organisation, which started out as parallel power challenging alternatives (Sharp, 2012). However, the leaders of the democracy movement, its international advisers and a limited number of states emphasise that the civilian government in Myanmar is the only "legitimate government", and that it should not be referred to as "parallel". In addition, as the civilian government makes every effort to shadow the military by setting up mirroring structures as professionally and systematically as possible (Nyein Swe,

<sup>3</sup> The NUG and its legislative branch the CRPH have gained widespread support from the civilian population many of whom also joined the Civil Disobedience Movement (CDM)—an anti-coup movement where healthcare workers, teachers, and civil servants echo a 'no recognition, no

participation' message by refusing to work under the new regime. Myat Thura and Khin Su Wai (2021).

<sup>4</sup> In addition, for decades parallel governance structures have been operated by ethnic armed groups in minority areas, see Kyed (2020).



2022),<sup>5</sup> if there is any shadow to speak of in this conflict it lays on the military SAC, while civilian structures enjoy broad popular support.

The SAC and the democratically elected civilian governance actors vie for legitimacy internationally and territorial dominance domestically. Examples of the contested space both sets of actors currently inhabit can be seen in the haphazard ways in which international entities accidentally invite SAC officials to global meetings, or sometimes strategically choose to prominently display NUG representatives (Reuters, 2021). With regard to territorial dominance, while the SAC has the upper hand in terms of arms, territorial legitimacy is increasingly moving towards NUG domination (The Irrawaddy, 2022).

I outline below some of the political civilian governance actors in Myanmar's struggle for democracy. I do not aim to outline the exact power balance between these different governing bodies, but it should be recognised that there is a division of power between them and that they each have their separate, independent powers and responsibilities.

### *Committee Representing the Pyidaungsu Hluttaw*

The Committee Representing the Pyidaungsu Hluttaw was formed by lawmakers ousted by the SAC. Its principal *raison d'être* is to perform the duties of the previous Myanmar government's legislature, the Pyidaungsu Hluttaw (CRPH, 2021). The CRPH comprises representatives from the majority National League for Democracy (NLD), pre-existing ethnic armed revolutionary organizations

and other minority groups. The CRPH has 20 members who sit on 12 committees: on legal affairs, vetting, finance, defence and security, public affairs, international relations, press and information, federal affairs, NUCC affairs, education, labour and women, youth and children (CRPH, n.d.).

The majority of its members are either in exile or hidden in border areas, but the CRPH still performs legislative, oversight and representative functions. It also engages with parliaments internationally, as well as the Inter-Parliamentary Union, parliamentarians, parliamentary bodies and other international organizations. It convenes humanitarian work in support of the democracy movement and its Federal Affairs Committee is supported by international advisers. Representatives, such as U Yee Mon, the CRPH spokesperson (The Irrawaddy, 2021), and CRPH member Lwin Ko Latt, have spoken publicly about the constitution process (CRPH, 2021). The CRPH has initiated a broad dialogue with a range of stakeholders and organised parallel structures at the regional and state levels with the aim of establishing a civilian administration (Frontier, 2021).

### *The National Unity Government*

The National Unity Government (NUG) was formed on 16 April 2021. According to the Interim Constitution, it serves as Myanmar's democratically elected and legitimate government, thereby undermining the SAC's bid for absolute legislative, executive and judicial power (National Unity Government, 2021).

The structure of the NUG is fundamentally democratic.<sup>6</sup> Its executive comprises the

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<sup>5</sup> In 2022, a letter to the UN Secretary-General signed by more than 600 civil society organisations demanded that UN entities stop legitimizing the Myanmar military junta and instead present letters of appointment and sign letters of agreement with the legitimate

government of Myanmar, the NUG and the ethnic revolutionary organizations (Progressive Voice of Burma, 2022).

<sup>6</sup> The NUG is indeed dominated by the National League for Democracy (NLD) but representatives



heads of state and government: President Win Myint, Vice President Duwa Lashi La, State Counsellor Aung San Suu Kyi and Prime Minister Mahn Winn Khaing Thann (The Irrawaddy, 2021b). However, Duwa Lashi La is serving as acting president while Mahn Winn Khaing Thann is acting Vice President, due to the detention of Win Myint and Aung San Suu Kyi by the military. The NUG has also established 17 ministries led by ministers appointed from a variety of ethnic and political backgrounds.<sup>7</sup>

The NUG's Ministry of Federal Union Affairs has a role in the constitution process. Lian Hmung Sakhong, who heads the ministry at an undisclosed location with the support of two vice-ministers (Ministry of Federal Union Affairs, 2022), has been vocal in drawing global attention to the constitution process. In September 2021, he spoke about "Federalism in Myanmar's Future" together with long-term friend of Myanmar and its constitutional process Janelle Saffin, a former Member of Parliament in Australia. Lian Hmung Sakhong is active at awareness-raising events and is occasionally interviewed by the local press where he resides in Sweden (Kärnstrand, 2021). He has long advocated federalism as the key to achieving equality for ethnic minorities. He is a Baptist theologian, a descendant of the tribal Chin chiefs and a former member of the Chin National Front. He participated in peace negotiations as a representative of Ethnic Armed Organisations (EAOs) and held talks at the Myanmar Peace Centre (Myint-U, 2019: 174). In the 1990s, Lian Hmung Sakhong was granted asylum in Sweden, from where he led discussions and debates around constitutional reform and federalism in his home country, and especially his ethnic constituency where the question of federal

authority is important for the effective distribution of resources.

The ministry's goal is said to be the drafting of a constitution with "principles and guidelines" that echo the spirit of the 1947 Panglong Conference—primarily, "secular values of equality and justice", "mutual recognition of various ethnic groups" and self-determination for constituent ethnic parties (Ministry of Federal Union Affairs, n.d.). Achieving ethnic alignment will be key to the NUG's international recognition and expansion of domestic support networks. There are more than 135 officially defined ethnic groups on Myanmar's sovereign territory, however, which makes this task extremely arduous. To this end, Chapter 5 of the NUG's founding Federal Democracy Charter (FDC) establishes a National Unity Consultative Council (NUCC) to "consult, discuss and work with federal democracy forces" in "implementing...strategic plans". Multilateral collaboration with relevant parties considerably increases the chances that the NUG will be recognized, and able to form alliances with foreign states with a similar vision, and set of values, goals and objectives (CRPH, 2021b). There are therefore several constellations of actors involved in the constitution process.

### *National Unity Consultative Council*

On 16 November 2021 it was announced that decision making by the NUCC (Democratic Voice of Burma, 2021), made up of 28 participating organisations, would be based on achieving consensus under collective leadership (Hlaing Lin, 2021). Under the Federal Democracy Charter, the NUCC is the platform for discussing issues related to state and regional governance, security and defence arrangements, and preparations for

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from parties connected to ethnic minority groups have also been given several ministerial posts.

<sup>7</sup> In Myanmar, main minorities and indigenous communities include: Shan 9 per cent, Karen 7 per

cent, Rakhine 4 per cent, Chinese 3 per cent, Indian 2 per cent, Mon 2 per cent, others 5 per cent (2016). (Minority Rights Group International, n.d.)





convening a People’s Congress to develop a new constitution to replace the 2008 Constitution, the drafting of which had been dominated by the military. Discussions on key questions therefore take place within the NUCC, which is a broad platform for representatives from different groups within the democracy movement, with especially broad ethnic minority representation (Min Tun and Thuzar, 2022).

The key tasks of the NUCC are to bring together ethnic groups, promote federalism, and gain and maintain trust in a nationally led process. The challenge of trust building springs from decades of broken promises and majority, Bamar domination over key political processes. However, while the military coup has presented new opportunities for Myanmar’s ethnic groups to come together to fight a brutal dictatorship, there is still a long road ahead for the actors involved and those not yet involved. The NUCC’s work has been fraught with disagreements and lengthy processes that threaten its ability to cohere and reconcile different interests. This analysis is exemplified by Htet Myet Min Tun and Moe Thuzars who point out that key EAOs “whose buy-in is crucial for tipping the power balance in favor of or against the anti-junta movement” have not yet joined the NUCC.<sup>8</sup> Nonetheless, according to foreign observers, there is still a wider hope that the NUCC has the potential to promote inclusion and

equality, and movement towards sustainable peace (USIP, 2021).

## A Civilian Constitution Process

The constitution process in Myanmar brings together representatives from the CRPH,<sup>9</sup> the NUG, EAOs, political parties, the CDM and civil society organizations. Many of these are linked to the NUCC, which has a mandate, among other things, to be a platform for inclusive discussions about the constitution.<sup>10</sup> Much of the work within the process is convened by the NUCC’s joint coordination committee (JCC Federal), which comprises technical preparation teams, a working group of NUG ministers and NUCC representatives (International IDEA, 2022a). The JCC Federal recently concluded its work on coordinating a constitutional roadmap to a federal democratic union, a draft for a transitional constitution that is a first step towards a future permanent constitution.

This process was organised primarily through extensive online zoom meetings or, whenever possible, gatherings in border areas, since representatives are based in various locations across the globe or in hiding closer to home. The military’s campaign against any form of political opposition puts the actors engaged in the constitution process at high risk. The modalities for conducting this process at this stage complicate some of the fundamentals of any constitution processes. For example, constitutional reform requires the active

<sup>8</sup> “To date, [eight EAOs are on board](#) with the NUCC in various capacities. Three have disclosed their names: the KNU, the Karenni National Progressive Party (KNPP) and the Chin National Front (CNF). NUCC members also include five ethnic-based consultative councils representing the Kachin, Chin, Karenni, Mon, and Taang-Palaung peoples. They coordinate interests of different resistance groups, such as EAOs, CDM networks and civil societies, and administrative plans in the respective states” (Min Tun and Thuzar, 2022).

<sup>9</sup> After the 2021 coup, the elected members of Myanmar’s national legislature, the Pyidaungsu Hluttaw, set up a parallel governance structure through resolution 2/2021 establishing the CRPH.  
<sup>10</sup> Su Mon Thazin Aung (2022) suggests that the NUCC has been able to reach a consensus in support of ethnic minorities’ struggle for equality and over identity issues but sequencing problems exist mainly because the NUG was formed before completion of FDC Part II, and the lack of clarity on the check-and-balance function of the NUCC.



engagement of citizens through extensive consultation procedures and integrated public participation. If it successfully matches the constitutional culture (law in practice) of its people, a country's constitutional order can have a strong impact on political stability and economic performance.<sup>11</sup> However, the current process is focused on interim arrangements and on defining the basic principles that regulate civilian institutions and their role until the military coup can be overturned.<sup>12</sup> During the country's "liberation phase", a transitional constitution can help to lay the foundations for a more permanent constitution, the legitimacy of which would be based not on the type of consultations that are possible to carry out while the SAC still enjoys control over territory, but following new elections when there is access to the whole country.

As a first step in this process, on 31 March 2021 the CRPH announced a Federal Democracy Charter and a Declaration of Federal Democracy Union, which establish Myanmar as a federal democratic state and lay the foundations for a future constitution, while an Interim Constitutional Arrangement defines new institutions and their role during the transition period (Committee Representing Pyidaungsu Hluttaw, 2021). It is not clear exactly who was involved in drafting the charter, mainly due to security concerns for the individuals involved.<sup>13</sup> However, there are indications that the drafting process involved representatives of the CRPH, the

NUG and EAOs, and of political parties and civil society in the NUCC.

In a second step, the NUCC revised the FDC and had it approved at a People's Assembly held on 27–29 January 2022. The FDC now comprises two parts: one which sets out the fundamental principles that should bind the constitution-making process, interim governing institutions and goals for institutions during the interim period; and the other that sets out the process for elaborating a new permanent constitution.<sup>14</sup> The development of a more inclusive constitutional process is presented in an in-depth analysis by International IDEA:

During the weeks when the earlier version of the Charter was being developed, many potential stakeholders or members of the NUCC had not yet formally joined the body. It is also the more inclusive NUCC that undertook the task of revising the document and organizing the first People's Assembly in January 2022, which approved the revised Charter. At the same time, the composition of the NUCC has also expanded from four to five member groups by including Interim State/Federal/Ethnic Representative Committees, called 'Members of the Charter' in both versions of the Charter. Therefore, the highest consultative committee has become more inclusive and representative. When the NUCC held its first press conference on 16 November 2021, it claimed to have 28

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<sup>11</sup> See Wenzel's (2010) analysis of post-war constitutional choice in Japan and the Philippines where "Both countries adopted similar, US-influenced constitutions, under Allied military occupation. The Japanese constitution matched the underlying constitutional culture and stuck, leading to stability and growth. The Filipino constitution, on the other hand, did not match the underlying culture, and was rejected, leading to dictatorship and economic stagnation".

<sup>12</sup> For an overview of practical approaches to for public participation in constitution processes see International IDEA (2021).

<sup>13</sup> Memo on Myanmar's Federal Democracy Charter (2021) (on file with the author).

<sup>14</sup> For an in-depth analysis of the Federal Democracy Charter, see <https://www.idea.int/publications/catalogue/myanmar-federal-democracy-charter-analysis-and-prospects>.



members. That number increased to 33 in January 2022, including 8 unnamed EAOs or ethnic resistance organizations (EROs) (International IDEA, 2022b: 4).

### *Key Concepts in the Constitution Process: Federalism and Panglong*

The idea of a federal democracy has been contested and formed part of the basis for decades of civil war in Myanmar. It is therefore a question of key importance to the current constitution process (Yawnghwe, n.d.). As Myanmar scholars Htet Myet Min Tun and Moe Thuzar eloquently put it:

The holy grail of a federal union is decades old. In February 1947, the year before then Burma gained independence from British colonial rule, independence hero Aung San, representing the Interim Burmese Government, reached an agreement with Kachin, Chin and Shan ethnic leaders at Panglong in Shan State on a future federal union. This included autonomy for the ethnic areas, particularly those that the British had administered separately as 'Frontier Areas'. The 1947 Panglong Agreement (1947), and a draft constitution prepared by Aung San's party, provided the foundation for further discussions. However, Aung San's assassination in July 1947 disrupted those discussions, and dissatisfaction over elements of the 1947 constitution caused ethnic separatist movements (Min Tun and Thuzar, 2022).

In Myanmar, the foundation for federalism outlined in the 1947 Panglong agreement is considered key to finally establishing an

agreement on ethnic lines and thereby laying the foundations for a peaceful democratic future (Williams and Sakhong, 2005; Nilsen & Tonnesson, 2012). Establishing a federal system in Myanmar would also be a way to relocate centralised power to the regions and states. This has the potential to empower and include more significant local participation, which has previously been absent from governance in Myanmar.<sup>15</sup> For this reason, questions of federalism and decentralisation have been a key focus of several internationally supported development projects in Myanmar (Hans Seidel Stiftung, n.d.).

### *Why the Need for a new Constitution?*

Before 2021, the NLD had long sought to reform the military-dominated 2008 Constitution (Nyi Nyi Kyaw, 2019), a document that clearly prescribes the military's continued control over important civilian functions and parliament (Crouch, 2019). The constitution also prevented Aung San Suu Kyi from becoming the country's president. The 2008 constitutional arrangement meant that the military enjoyed autonomy and impunity, and could get away with genocide and other inhuman treatment of minorities while at the same time benefiting from foreign direct investment and appearing to favour a democratic transition. Aung San Suu Kyi challenged the military's power by advocating constitutional reforms. Her legal adviser, Ko Ni, was murdered, probably because of that work. The democratization process could only proceed on the terms of the military. By challenging the constitution, the military considered that Aung San Suu Kyi had exceeded her room for manoeuvre. A fundamental challenge for the current

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<sup>15</sup> Raynaud (2021) suggests that this focus on federalism and decentralisation "will have to respect 'the constraints of reality', and their realization will therefore present certain

difficulties. To overcome these difficulties, the democracy movement must do more to focus on substantive issues of governance".



constitution process will be the major task of removing the undemocratic features found in the 2008 Constitution and taking account of the principles and mechanisms for establishing federal constitutionalism,<sup>16</sup> while maintaining flexibility and remaining inclusive towards ethnic groups and minority religions.<sup>17</sup>

### *Past Constitutions in Myanmar*

Earlier constitutions lack the democratic and inclusive features required by the parties involved to shape the current constitution process.<sup>18</sup> Since Myanmar's independence from British rule on 4 January 1948, there have been three constitutions, each of which varied significantly in terms of ideology (Tinker, 1986). The first was drafted in 1947 by Chan Htoon, the Attorney General and Associate Justice of the Supreme Court of Burma. Chan Htoon's Constitution was instituted by U Nu's Anti-Fascist People's Freedom League and a federal democracy was formally established in Burma in 1948 (Constituent Assembly of Burma, 1947). Under chapter 10, articles 201–206, this constitution granted Karenni state, Karen state, Kachin state, Shan state and Chin State special status, allowing them the right of secession after 10 years (Human Rights Watch, 2008). This post-colonial constitution along with the 1947 Panglong Agreement, which gave "Full autonomy in internal administration for the Frontier Areas", set the stage for an egalitarian and multicultural nation (Walton, 2008). This democratic spirit, however, would be undermined in the following decades by the ethno-centric hegemony and authoritarianism of General Ne Win's Burma Socialist Programme Party.

Following Ne Win's 1962 military coup d'état, the 1947 Constitution was annulled and an

age of autarky ensued. In 1973, a referendum on drafting a new constitution, which was deemed rigged by international observers such as Human Rights Watch, voted 94.5% in favour on a 95.5% turnout (Nohlen et al., 2001). A new constitution drafted by Ne Win's administration was implemented in March 1974. The 1974 Constitution recognized seven Bamar majority states and seven ethnic minority states (Ibid: 18), established a unicameral system and adopted socialist and autarkic characteristics (Taylor, 1979). Deteriorating socio-economic conditions prompted mass demonstrations in 1988, which eventually led to the suspension of the 1974 Constitution under former military leader Than Shwe's State Law and Order Restoration Council (SLORC) (Ibid: 18).

Myanmar would be without a constitution until 2008, when the State Peace and Development Council (SPDC) adopted a new constitution that established a bicameral legislature, in which the military retained roughly 25% of the parliamentary seats—enough for a veto, and gave the military control of key ministries (Robertson, 2015). The 2008 Constitution was drafted as a supposed "roadmap to democracy". According to the SPDC's Chief Justice, Aung Toe, "In drafting the constitution, the commission adhered strictly to the six objectives, including giving the Tatmadaw [Myanmar military] the leading political role in the future state" (Reuters, 2008). Most ministerial, governmental and gubernatorial roles were also given to people heavily associated with the military, such as former generals. The SPDC also made amending the constitution essentially impossible by requiring more than 75% of votes in favour in both parliamentary chambers.

<sup>16</sup> *Towards a Democratic Constitution for the Federal Union of Myanmar: A Concept Paper* (undated, on file with the author).

<sup>17</sup> For an overview of the role of Buddhism in past constitutions, see Frydenlund (2022).

<sup>18</sup> For an overview of past constitutions, see Maitrii Aung Thwin (2019).



Adoption of the 2008 constitution was preceded by a national convention, which had been announced in 1992, to draft the guidelines for a new constitution. The guiding principles of the 2008 constitution were laid down at this time, including ensuring the military's permanent control over a future civilian government. Even though presented as a "national convention" the process was in essence exclusive and driven by the military. The nationwide referendum to endorse the 2008 Constitution was held just two days after the devastating Cyclone Nargis had caused at least 135 000 deaths in the country (Taylor, 2019).

#### *Previous Civilian Constitution Processes*

Myanmar's history of problematic constitutions means that it is no surprise that civilian governance actors have in the past engaged in processes to challenge and amend the constitution. For example, in December 1997 a government in exile, the National Coalition Government of the Union of Burma (NCGUB), based in Rockville, Maryland, with Aung San Suu Kyi's cousin Sein Win as prime minister, drafted a constitution in cooperation with various ethnic parties. Its preamble echoed the ethos of the Panglong Agreement: the Union of Burma under the NCGUB would strive for "democratic rights and the rights of all the

ethnic nationalities, lasting peace, and ... the formation of a union of multiple States" (Burma Lawyers' Council, 1979).

In a process that took 18 years, the Federal Constitutional Drafting and Coordinating Committee, with representatives from ethnic states and provinces drafted a Federal Constitution (2008, second draft). The United Nationalities Federal Council (UNFC) then produced a draft constitution in 2016 which was based on the 2008 draft (International IDEA, 2022b). These earlier drafts, together with the Federal Democracy Charter of 2021, have fed into the current constitution process.<sup>19</sup>

At the state level, ethnic groups have also organised their own state constitution drafting processes. This work has been ongoing for decades and built on the work of the previous constitution processes outlined above. While these were carried out as separate initiatives, regular connections were made with other ethnic-based drafting initiatives.<sup>20</sup> The Euro Burma Office (EBO), a Brussels based non-profit organisation established in 1997 to promote the development of democracy in Myanmar, and funded by foreign donors such as Swedish Sida, supported this work through capacity building (Euro Burma Office, n.d.-b; Kelpin et al., 2014).<sup>21</sup>

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<sup>19</sup> *Towards a Democratic Constitution for the Federal Union of Myanmar: A Concept Paper* (undated, on file with the author).

<sup>20</sup> Informal interview, representative from Karen State Constitutional Development Committee Board. The Karen National Union leads the committee.

<sup>21</sup> In 2009, a report on EBO activities stated that "Special allocations were earmarked for women and youth, recognising that these groups need special attention in the process. Constitutional development committees are now operating in all states and each of them has produced at least the first drafts of their respective state constitutions. Constitutional consultations are on-going in all

states. All state constitutional development activities are now coordinated ... [and] constitutional positions reflected in the 'New Panglong Spirit' have been adopted by consensus by all groups" (p 21). In 2001, the EBO was conducting workshops and seminars on federalism and states-federal relations. Seminars drew on the US constitution as example and discussed guiding principles and frameworks. Study tours were organised to study state constitutions and local government in other federations (including Germany, Belgium, Thailand) with participants from the Federal Constitution Drafting Committee and State



### *Prospects for success*

To be sustainable and lay the foundations for a lasting peace, the constitution process must be attuned to the broad range of groups and interests that have come together to agree on common rules and a future social contract. In particular, it is key that ethnic representation is successfully achieved in civilian governance. Ethnic minorities have traditionally found it difficult to get involved in constitutional discussions.

The NUCC is to serve as the body for facilitating multilateral dialogue on constitution drafting. If there is to be a stable and feasible roadmap to a federal union, insights from ethnic minorities will need to be integrated. The People's Defence Force (PDF) is an important component in this (National Unity Government of Myanmar, 2021a). It is conducting a nationwide armed struggle, the success of which is contingent on its ability to consolidate the EAOs. While the EAOs have already informally aligned themselves with the civilian government by carrying out joint operations with the PDF, their formal involvement in the civilian government's goals for a federal union can only be ensured in a constitution that is inclusive of ethnic diversity and that demands, in the spirit of Panglong, a departure from past notions of Bamar hegemony (National Unity Government of Myanmar, 2021b).

The key here is that the constitution must be negotiated by a broad and inclusive range of actors that will find it difficult to agree on a common text. It will be hard to justify differences in the level of autonomy for various ethnic homelands, or to define

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Constitution Drafting bodies. This work led EBO to conclude that, while the process provided unique opportunities to bring ethnic groups together to lay the foundations for a future federal state, many challenges lay ahead in terms of establishing enhanced cooperation and

borders between states and autonomous areas. Another difficulty will be to define the rights of minorities within minorities, and how the federal government can protect those rights without restricting the autonomy of the minority above the sub-majority. A further difficulty will be building a minimum level of trust in the civilian governance structures among the NLD and EAO representatives. The constitution process could disrupt the degree of unity that has been established between the various civilian governance actors. A workable constitution must therefore remain vague and flexible, and reflect local power relations.

Another question is that of territorial governance, which is touched on above. While an interim arrangement is in place, the process must be sustainable until territorial control is achieved.

In all cases, the international community could do more to lend support to the democracy movement and Myanmar's civilian governance actors. In the shadow of Ukraine, it is obvious that Myanmar remains isolated not only because of its xenophobic military dictatorship, but also because of a lack of interest from the international community.

### **International Support for the Constitution Process**

International support for processes leading to constitutional reform is a common tool in development assistance intended to strengthen democratic governance. Globally, considerable competence around constitutional processes can be mobilised by

coordination among ethnic groups, as well as those pertaining to the lack of human resources management, information gathering, data collection and knowledge exchange (Euro-Burma Office, n.d.-a: 22).



a community of constitutional advisers and professional conflict mediators that is active in constitution-building around the world (Constitution Net, n.d.; Kendall, 2015). Major multilateral and international organisations, as well as bilateral donors invest in these processes. Sweden is one such donor, which has supported constitution processes in countries from Guatemala to Somalia, Turkey and Myanmar (EBA, 2022). Other donors, however, such as Japan, have been criticised for prioritising “economics before politics”, which in a place like Myanmar can contribute to deepening social and ethnic conflicts (Seekins, 2015; Ichihara, 2015; Yuka Kaneko, 2022).

In the constitution process in Myanmar, advisers affiliated with bilateral and multilateral actors, academia and private foundations (Ministry of Federal Union Affairs, n.d.) navigate political sensitivities to find opportunities to lend their support. Some have been explicit and vocal in their support, while others operate under the radar. These individuals include international lawyers, consultants, government officials, academics and programme managers entangled with various entities and processes driven by an array of actors linked to various factions of the NUG, the CRPH and the NUCC. Many have been working on Myanmar-related questions from outside or inside the country for many years. Some have experience of working in ethnic minority areas, delivering training in regional and central areas, participating in high-level meetings, providing political and legal advice to a range of stakeholders, and drafting articles on questions around the 2008 Constitution and constitutional reform.

They are known to actors within the constitution process, most often due to their

long-term relationships rather than their institutional links to a specific donor (Simion, 2021). They now participate in advocacy tours, meetings with governments, fundraising, coordination, lectures and training, workshops with key stakeholders in the constitution process, the initiation of study groups to discuss constitutional questions, and official visits with NUG representatives. They provide sincere and constructive legal and political advice on initial governance suggestions, act as a sounding board in the formation of new structures and ideas, and organize coordination meetings between actors that, with different capacities, strengthen the constitutional work.

One of the most vocal supporters of the constitution process is the International Institute for Democracy and Electoral Assistance (International IDEA).<sup>22</sup> The MyConstitution Programme, supported by Norway, Luxembourg, Finland and Sweden, which now operates from outside Myanmar, “supports partners in Myanmar to strengthen their expertise on constitution building with a view to building a home-grown, well-informed and inclusive constitutional culture” (International IDEA, n.d.). This work is led by a country manager who engages in extensive advocacy and activism for the Myanmar cause. To raise awareness of the constitution process and advocate for global support for the process led by a parallel government, International IDEA distributes monthly MyConstitution Myanmar Briefings, a monthly press review and extensive draft knowledge products on topics covering key constitutional questions. International IDEA also organises high-profile ministerial visits and meetings that include CRPH/NUG/NUCC representatives, global organisations such as the IPU, and ministers and parliamentarians (International IDEA,

Sudan with financial support from donors, including the EU and Sida.

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<sup>22</sup> Via “Constitution Net” the multilateral organisation supports constitution processes in Chad, Chile, Mali, Myanmar, South Sudan and



2022c). In addition, International IDEA has held a range of workshops in Thailand and webinars focused on interim government arrangements. Webinars have also analysed the Federal Democracy Charter, key elements of transitional constitutional building frameworks, including federalism and decentralization, and sub-state constitution-building (International IDEA, 2022a, 2022c). Lessons are drawn from comparative constitutions and constitution processes in places such as Nepal and Indonesia.

A policy advisers' course is offered in cooperation with the Hertie School of Government in Berlin to strengthen the interim government's institutional capacity to effectively engage in the current transitional constitutional process; and a MyConstitution self-guided Constitution Academy course presents the fundamentals of constitutionalism in the context of Myanmar in English and Burmese. The course uses international experts and selected ministers in the NUG government as speakers and is available for all those interested in learning about constitutions and federalism in the context of Myanmar (Myanmar Constitution Academy, n.d.). To this end, the Edinburgh Centre for Constitutional Law at the University of Edinburgh convenes a study group to bring together individuals who have engaged with Myanmar to review, assess and coordinate comparative learning on constructive steps for providing international support to the

people of Myanmar (Edinburgh Centre for Constitutional Law, n.d.).

This type of international support for constitutional reform in Myanmar is nothing new. Various donors, academics and others spent time in the country under its democratically elected government, and for many years before,<sup>23</sup> to support debate and discussion on improving general and specialized knowledge of constitutional reform. Activities extensively focused on federalism, decentralisation and constitutional awareness. While not always explicitly stated, many had as their end goal to provide a basis for reforming the 2008 Constitution, which is seen as a central obstacle to a transition from military to democratic rule (UNSW Sydney, 2013).

Since the military coup, these actors have operated in a much-changed political landscape. The advent of the elected government as a parallel structure, and the departure of several foreign donors from Myanmar due to security concerns have made donor support much more problematic. Formalized collaborative activities could be perceived as contributing to tacit recognition of the NUG, which is a delicate political question.<sup>24</sup> Under these circumstances, questions are also being asked about territorial control and the ability to affect future governance in Myanmar.<sup>25</sup>

<sup>23</sup> For example, International IDEA worked with actors in exile under previous repressive governments. In the 2000s the organization worked with the Burmese opposition in exile, including the Burma Fund and Mizzima News and ethnic organisations, and hosted workshops in Thailand on questions of ethnic constitutional concern, International IDEA, Scenario Planning for International IDEA's MyConstitution Programme, March 2021 (on file with the author).

<sup>24</sup> "The decision to recognise a new government can be made bilaterally by other States, but as a

general rule most States avoid doing this, One reason is so that in situations like Myanmar after the 2021 coup, a State can seek to maintain a diplomatic presence in the country, while trying to avoid legitimising an entity that has taken power unlawfully", Special Advisory Council for Myanmar, Briefing Paper: Recognition of Government, 2021.

<sup>25</sup> For a comparative examples, see Constitution Net, "Constitutional history of Somalia" <https://constitutionnet.org/country/somalia>





### *Political sensitivities and questions of state recognition*

While the international community is seeking ways to support the civilian government's constitution process, interaction and the level of support are influenced by legal and political questions of state recognition, at one level, and individual motives for supporting the country's democracy movement, at another (Special Advisory Council for Myanmar, 2021). These two poles do not always align but conflicts are sometimes resolved through work carried out "under the radar";<sup>26</sup> or through donor agencies' use of advisers and consultants, on the one hand,<sup>27</sup> or more explicit open political support, for example via recognition of the civilian government as legitimate, on the other.

Questions over recognition of a government typically only arise in situations like that which exists in Myanmar, where government is contested. As Phil Robertson, Deputy Director of Human Rights Watch Asia Division explains, western governments might be reluctant to formally recognize the NUG because "many...opened embassies based in Yangon during the 10-year period of civilian rule, meaning a decision to recognize the NUG would also result in a closure of their embassy" (Hutt, 2021). Maintaining a diplomatic presence in the country is of central importance as it allows a channel of communication to remain open so that foreign states can engage in dialogue with the SAC to protect their interests on the ground. The presence of foreign diplomats also ensures that the junta's actions are monitored to a certain degree. Some therefore argue that formal recognition of

Myanmar's civilian government is unlikely due to the need for foreign governments to maintain embassies in the country and because of the established political and diplomatic practice of recognising states (Murphy, 1999).

However, state recognition is not so much a legal question as a political one. In his analysis of democratic legitimacy and the recognition of states and governments, Sean Murphy argues that there are many aspects to state recognition. In the name of diplomatic interests, for example, the welfare of peoples and promoting a transition from non-democracy to democracy should be considered priorities in finding solutions that foster democratic governance and legitimacy (Ibid). Statements that recognise Myanmar's civilian as the legitimate government therefore play a powerful role in mobilising international and domestic support for the democracy movement.

While many foreign governments have refrained from recognising SAC's legitimacy, only a few have taken an explicit stance on formal recognition of the civilian government. For example, a resolution of the European Parliament supports: "the CRPH and the NUG as the only legitimate representatives of the democratic wishes of the people of Myanmar" (point 5) (NoanVo and Antalikova, 2022). International IDEA takes the position that the coup is unconstitutional, and that there should be no engagement with the military. International IDEA has had a long-standing partnership with the Myanmar Parliament, through a Memorandum of Understanding (MoU) that predates the military coup. Since the coup, it

<sup>26</sup> Personal conversation with international adviser.

<sup>27</sup> For example, one foreign donor agency suggested to its government that signing an MoU with the NUG would be desirable, but this was met with a negative response based on an

assessment that other state actors within the EU have not signed corresponding agreements, and because the ruling military junta perceives the NUG as a terrorist organization. This could risk the foreign authority's continued ability to operate in Myanmar.



has therefore continued to treat the elected parliamentarians as the legitimate representatives of Myanmar and for that reason extended the MoU with the CRPH, and held official meetings with the chair and members of the CRPH. This is in alignment with regular statements by the United Nations and by the European Union, which demand an end to human rights abuses and the restoration of democracy and peace (International IDEA, n.d.).

In lieu of formal recognition, foreign states have expressed their *partial* recognition through different actions, related for example to decisions on who attends a meeting or who is allowed to access money held abroad (Special Advisory Council for Myanmar, 2021). The international community has progressively enhanced its contacts with representatives of the CRPH and the NUG, especially through foreign minister Daw Zin Mar Aung, who has been invited to meetings at the UN Security Council and for an official meeting with the US deputy foreign minister. Meetings like these demonstrate the success of the civilian government's increasing outreach efforts to the international community and a positive response, but here also there are variations in how public the international actor chooses to be in its communications around these meetings, which ranges from tweeting about the meetings to trying to conduct them unnoticed (Saifuddin, 2022). Moreover, at the UN level, Ambassador Kyaw Moe Tun, Myanmar's permanent mission to the United Nations who has allied himself with the NUG, has retained his seat at the General Assembly (Ibid). In addition, foreign states such as New Zealand, Japan and Australia have invited members of the NUG to official proceedings of their governmental committees, while actors such as the United Kingdom, the EU and the United States have put in place travel bans and asset freezes on junta officials and foreign reserve holdings (Lewis, 2021). The NUG has also opened a representative office in Canberra (International IDEA, 2022c).

Another vocal supporter of Myanmar's civilian governance actors is Malaysia's foreign minister, who hosted a delegation of the NUCC, the CRPH and Myanmar's permanent representative at the UN (Saifuddin, 2022), and has repeatedly stressed that the Association of Southeast Asian Nations should engage with the NUG and the NUCC to work towards a framework that returns democracy to Myanmar. Such actions are common tactics to informally discredit the political legitimacy and authority of a given administration (Special Advisory Council for Myanmar, 2021). Nonetheless, foreign actors must navigate through issues around political sensitivities as a stance based on *de jure* recognition but *de facto* repudiation results only in incoherent foreign policy.

Some countries express their support for the NUG while facing criticism for some of their actions that instead tacitly recognise the military junta. For example, the European Union fears that the United Kingdom might have indirectly recognized the SAC to a limited extent by appointing a new ambassador (Perria, 2021). In a 16 July statement (UK Parliament, 2021), the British Government asserted its "belief" that the NUG represents "the expressed and legitimate will of the Myanmar people" (Global Movement for Myanmar Democracy, 2021, para.3), but argued that it is prevented from formally recognizing the NUG due to its policy of recognising states not governments (Ibid, para.11). The moral obligation on the British Government and the broader international community is strongly voiced by a statement that stresses support for the NUG as the main tool for delegitimising the SAC regime and preventing its international recognition:

The National Unity Government comprises the legitimate representatives of the people of Myanmar, whose election has been found valid by third party observers.



Rather than an exile government, the NUG should be treated as a government-in-waiting. (UK Parliament, 2021)

In addition, NUG's work on drafting a constitution is mentioned as a central tool for showcasing its commitment to human rights and the rights and equality of different ethnic groups, which merits support by the UK Government (Ibid).

Thus, states have generally remained non-committal and are yet to formally recognize the NUG as the legitimate government of Myanmar. Unless that happens, which is deemed unlikely in the majority of states, legal questions of state recognition will influence the ability of some donors to interact with the constitution process. Nonetheless, international bodies and governments have positioned themselves to aid the NUG by providing advisers or other means of support to help with the reconciliation and drafting processes. Recognition of a new government usually goes through three tests: "the entity's effective control of the territory; its democratic legitimacy; and its adherence to international law" (Special Advisory Council for Myanmar, 2021). In Myanmar, effective control over territory through both military means and the constitution process is now increasingly seen as a way forward for effective governance. International law is being enshrined in the constitution process and democratic legitimacy can be achieved through this process if it is well supported in the future.

## Conclusion

Following the 2021 military coup in Myanmar, the ousted civilian leaders stepped forward to establish sophisticated

governance structures that challenge the military's quest for power. While the international community has failed to provide military support to protect Myanmar's civilians from a terrorizing military regime, behind the scenes both tacit and explicit support are slowly building for the structures that make up a parallel but legitimate and more democratic alternative §1 governance for Myanmar's future. Support is especially strong for the constitution process that builds on decades of similar struggles to conduct extensive constitutional consultations and draft both state level constitutions and national constitutional alternatives. To be sustainable and lay the foundations for lasting peace, this process must be attuned to a broad range of groups and interests that should come together to agree common rules and a future social contract.

History has seen many examples of constitution drafters confusing their own interests with those of the general population, and of constitutions drafted with too much focus on the current generation rather than those to come.<sup>28</sup> The constitution process in Myanmar has an unprecedented opportunity to involve broad interests while staying attuned to law in practice and broad public participation. This is a process that can be long-lasting in gathering stakeholders' commitment to eradicate military rule and build a federal and democratic future.

The constitution process provides a possible agenda on which the international community can engage with the civilian government beyond the limitations posed by formal diplomatic recognition. Increased international support together with broader official recognition of the civilian government

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<sup>28</sup> See e.g., an analysis of the Philippines experience of constitution drafting (Villacorta, 1988).



have the potential to successfully challenge long-term military rule in Myanmar.

While some foreign governments and international organisations have taken a strong stand in support of the civilian government of Myanmar, others are more ambivalent about their ability to work with such structures even if, morally, they wish to

do so. While foreign governments verbally support the civilian government, few have taken a public stance on working openly to support it. With well-judged foreign support, the constitution process can be aligned with the various priorities that the international community has pursued in its work in Myanmar over the past decade for peace and democracy.



## Bibliography

- BBC Interview with U Lwin Ko Latt. (2021). Available at, <https://www.youtube.com/watch?v=piQYtvW6GpQ> (accessed 7 November 2022).
- Burma Lawyers' Council. (December 1997). *NCGUB proposed first draft constitution*. National Council of the Union of Burma.
- Chan, A., & Ford, B. (2021). *A New Myanmar Forum Aims to Unite Democratic Forces*. United States Institute of Peace, November, 3.
- Constitution Net. (2018). *Constitutional history of Somalia*. Available at: <https://constitutionnet.org/country/somalia> (accessed 5 November 2022).
- Constitution Net. (n.d) *Voices from the Field: Current Analysis from International IDEA*. <https://constitutionnet.org/> (accessed 7 November 2022).
- Constituent Assembly of Burma. (1947). *Constitution of the Union of Burma, 1947*.
- Committee Representing Pyidaungsu Hluttaw (2021). *Federal Democracy Charter Part I §*. <https://crphmyanmar.org/wp-content/uploads/2021/04/Federal-Democracy-Charter-English.pdf> (accessed on 25 November 2022).
- Committee Representing Pyidaungsu Hluttaw. February 8, 1947. *Announcement No. (1/2021)*.
- Committee Representing Pyidaungsu Hluttaw (n.d.). *History and Formation*. <https://crphmyanmar.org/history-and-formation-of-crph/> (accessed 5 December 2022).
- Crouch, M. (2019). *The constitution of Myanmar: A contextual analysis*. Oxford: Bloomsbury Publishing.
- Democratic Voice of Burma. (2021). *We will not return to the 2008 constitution: NUCC holds seminal press conference 16 November*. Available at: <http://english.dvb.no/we-will-not-return-to-the-2008-constitution-mnucc-holds-seminal-press-conference/> (accessed 7 December 2022).
- EBA. (2022). *Invitation for proposals: Lessons learned from support to constitution-building processes*, Expertgruppen för Biståndsanalys.
- Euro-Burma Office. (n.d.-a). *Working to promote democracy in Burma, Report on over a Decade of Activities*.



- Euro Burma Office. (n.d.-b). *About us*, <http://www.euro-burma.eu/about-us/about-ebo/> (accessed on 7 November 2022).
- Edinburgh Centre for Constitutional Law. (n.d). *Proposal for a study group to support actors in Myanmar*, <https://www.research.ed.ac.uk/en/projects/proposal-for-a-study-group-to-support-actors-in-myanmar> (accessed on 10 December 2022).
- Federal Constitutional Drafting and Coordinating Committee. (2008). *Federal Constitution (second draft)*.
- Forum of Federations. (2022). *The forum in Burma*, <https://forumfed.org/countries/burma/> (accessed on 7 November 2022).
- Frontier. (2021). *Communities rally against 'pets of the junta' in local administration*, <https://www.frontiermyanmar.net/en/communities-rally-against-pets-of-the-junta-in-local-administration/>.
- Frydenlund, I. (2022). 'Buddhist constitutionalism beyond constitutional law: Buddhist statecraft and military ideology in Myanmar, Buddhism and comparative constitutional law'. Cambridge: Cambridge University Press.
- Global Movement for Myanmar Democracy. (17 May 2021). *Written evidence from Global Movement for Myanmar Democracy*.
- Hans Seidel Stiftung. (n.d.) *Our work in Myanmar*. Available at: <https://southeastasia.hss.de/myanmar/our-work-in-myanmar/> (accessed 7 December 2022).
- Human Rights Watch. (2008). *Chronology of Burma's Constitutional Process*. <https://www.hrw.org/reports/2008/burma0508/burma0508chronology.pdf> (accessed on 3 November 2022).
- Hutt, D. (2021). 'Why the West won't recognize Myanmar's NUG', *Asia Times*, 16 July. Available at: <https://asiatimes.com/2021/07/why-the-west-wont-recognize-myanmars-nug/>.
- Htet Myet Min Tun and Moe Thuzar. (2022). *Myanmar's National Unity Consultative Council: A Vision of Myanmar's Federal Future*, Fulcrum Analysis on Southeast Asia.
- Ichihara, M. (2015). *Japan's faltering support for Burmese democracy*, Carnegie Endowment for International Peace.



- International IDEA. (2021). *Scenario Planning for International IDEA's MyConstitution Programme*, (on file with the author).
- International IDEA. (n.d.). *Where we work: Myanmar*, <https://www.idea.int/our-work/where-we-work/asia-pacific/myanmar> (accessed on 25 October 2022).
- International IDEA. (2021). *Practical considerations for public participation in constitution-building What, When, How and Why*.
- International IDEA. (2022a). *MyConstitution Myanmar Briefing: July-August 2022*.
- International IDEA. (2022b). *A new constitution for Myanmar: Towards consensus on an inclusive federal democracy*.
- International IDEA. (2022c). *MyConstitution Myanmar Briefing: September 2022*.
- Kendall, S. (2015). 'Constitutional technicity': Displacing politics through expert knowledge', *Law, Culture and the Humanities*, 11(3), 363–377.
- Kelpin et al. (2014). *Evaluation of Sida's Core Support to the Euro-Burma Office (EBO): Promotion of Human Rights and Democracy in the Union Burma/Myanmar*. Sida Decentralized Evaluation.
- Kyed Helene (ed.). (2020). *Everyday justice in Myanmar: Informal resolutions and state evasion in a Time of contested transition*, Copenhagen, NIAS Press.
- Lewis, S. (2021). 'Sanctions imposed against Myanmar's generals since they seized power', Reuters. Thomson Reuters, <https://www.reuters.com/article/us-myanmar-politics-sanctions-factbox-idUSKBN2BE2PY>.
- Maitrii Aung Thwin. (2019). 'The Making of Myanmar's 1947 Constitution: Geography, Ethnicity, and Law', in Kevin Y. L. Tan and Bui Ngoc Son, eds. *Constitutional Foundings in Southeast Asia*. London: Hart.
- Ministry of Federal Union Affairs. (n.d.). "About Us", <https://mofua.nugmyanmar.org/about-us> (accessed on August 19, 2021).
- Minority Rights Group International. (2020). 'World Directory of Minorities and Indigenous Peoples', <https://minorityrights.org/country/myanmarburma/> (accessed on 27 December 2022).



Murphy, S. (1999). "Democratic legitimacy and the recognition of states and governments", *International and Comparative Law Quarterly*, 48(3).

Myanmar Constitution Academy. (n.d.). 'Online Course', <https://apmyanmar.lms.idea.int/> (accessed on 15 November 2022).

Myanmar Now. (2021). 'New Report Slams UN's Handling of Myanmar Crisis', <https://www.myanmar-now.org/en/news/new-report-slams-uns-handling-of-myanmar-crisis>.

Myat Thura, and Khin Su Wai. (2021). 'Nay Pyi Taw, Mandalay Healthcare Staff to Join 'Civil Disobedience Campaign'', *The Myanmar Times*, <https://www.mmtimes.com/news/nay-pyi-taw-mandalay-healthcare-staff-join-civil-disobedience-campaign.html>.

National Unity Government of Myanmar. (2021a). 'Four Commitments of the People's Defense Forces', Burma Library.

National Unity Government of Myanmar. (2021b). 'Announcement on Counter Terrorism and Designation of Terrorist Organizations', <https://gov.nugmyanmar.org/2021/06/18/announcement-on-counter-terrorism-and-designation-of-terrorist-organizations/>.

National Unity Government. Undated. 'About NUG', <https://gov.nugmyanmar.org/about-nug/> (accessed on July 13 2022).

Nilsen M., & Tonnesson, S. (2012). 'Can Myanmar's 2008 Constitution be Made to Satisfy Ethnic Aspirations?', *PRIO Policy Brief*.

NoanVo, Y. & Antalikova, R. (2022). 'European resolution offers no solution for people of Myanmar', *Asia Times*.

No Author. (2021). 'Full text of Myanmar army statement on state of emergency', *Al Jazeera*, <https://www.aljazeera.com/news/2021/2/1/full-text-of-myanmar-army-statement-on-state-of-emergency>.

Nohlen, Dieter, Florian Grotz, and Christof Hartmann. (2001). *Elections in Asia and the Pacific. II*", Southeast Asia, East Asia, and the South Pacific. Vol. II. Oxford: Oxford Univ. Press.

Nyan Hlaing Lin. (2021). 'NUCC outlines goals as it seeks to widen membership', *Myanmar Now*, <https://www.myanmar-now.org/en/news/nucc-outlines-goals-as-it-seeks-to-widen-membership>.





Nyein Swe. (2022). 'In Myanmar's north, resistance seeks to restore rule of law, *Myanmar Now*.

Nyi Nyi Kyaw. (2019). 'Democracy First, Federalism Next? The Constitutional Reform Process in Myanmar', *ISEAS Yusof Ishak Institute*, Issue 2019 No. 93.

Omvärlden. (2021). 'Myanmars skuggminister: 'Nu slåss vi tillsammans''.

Panglong Agreement. (1947). 12 February. Available at:

[https://peacemaker.un.org/sites/peacemaker.un.org/files/MM\\_470212\\_Panglong%20Agreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/MM_470212_Panglong%20Agreement.pdf).

Progressive Voice of Burma. (2022). 'Full Letter to the UN Secretary-General: Regarding UN agencies, funds, programmes and other entities engagement with the military junta'.

Perria, S. (2021). 'European Allies Alarmed by UK's 'De Facto Recognition' of Myanmar Junta', *Independent Digital News and Media*, <https://www.independent.co.uk/asia/southeast-asia/uk-myanmar-ambassador-junta-eu-b1908736.html>.

Raynaud, M. (2021). 'Asymmetric Territorial Arrangements and Federalism in Myanmar', *ISEAS Yusof Ishak Institute*, ISEAS Perspective 2021/160.

Reuters. (2008). 'New Myanmar Constitution Gives Military Leading Role', *Thomson Reuters*, <https://www.reuters.com/article/worldNews/idUSBKK10184120080219>.

Reuters. (2021). 'UN chief delayed ASEAN talks to avoid Myanmar junta envoy'.

Robertson, P. (2015). 'Can Aung San Suu Kyi Control Myanmar's Military?', *Cable News Network (CNN)*, <https://edition.cnn.com/2015/11/12/opinions/myanmar-aung-san-suu-kyi-military/index.html>.

Saifuddin, A. (2022). 'Hosted a meeting with the delegation comprised of representatives from the @NUGMyanmar, the National Unity Consultative Council (NUCC), Committee Representing Pyidaungsu Hluttaw (CRPH), and Myanmar's Permanent Rep to the UN, where we discussed the latest developments in Myanmar', <https://twitter.com/saifuddinabd/status/1572005553848877056> (accessed on 1 November 2022).

Seekins, D. M. 2015. 'Japan's Development Ambitions for Myanmar: The Problem of 'Economics before Politics'', *Journal of Current Southeast Asian Affairs*, 34(2), 113–138.

Sharp, G. (2012). *From Dictatorship to Democracy* (4th ed.), Serpent's Tail.



- Simion, K. (2021). *Rule of law intermediaries: Brokering influence in Myanmar*. Cambridge: Cambridge University Press.
- Special Advisory Council for Myanmar. (2021). 'Briefing Paper: Recognition of Governments', <https://specialadvisorycouncil.org/2021/08/briefing-paper-recognition-of-governments/>.
- Su Mon Thazin Aung. (2022). 'Myanmar's Quest for a Federal and Democratic Future: Considerations, Constraints and Compromises', ISEAS Yusof Ishak Institute, ISEAS Perspective 2022/28.
- Taylor, R. H. (2009). *The state in Myanmar*. London: Hurst & Company.
- Taylor, R. H. (1979). 'Burma's national unity problem and the 1974 constitution.' *Contemporary Southeast Asia* 1(3), 232-48.
- Tinker, H. (1986). 'Burma's struggle for independence: The transfer of power thesis re-examined', *Modern Asian Studies* 20(3), 461-81.
- Myint-U, T. (2019). *The hidden history of Burma: Race, capitalism, and the crisis of democracy in the 21st Century*. London: Atlantic Books.
- The Irrawaddy. (2021). 'Shadow government outlines federal union plan for Myanmar's future'.
- The Irrawaddy. (2022). 'NUG: We control over half of Myanmar's territory', <https://www.irrawaddy.com/news/burma/nug-we-control-over-half-of-myanmars-territory.html>.
- The Irrawaddy. (2021). 'Who's who in Myanmar's national unity government', <https://www.irrawaddy.com/news/burma/whos-myanmars-national-unity-government.html>.
- UK Parliament. (2021). 'The UK government's response to the Myanmar crisis', [https://publications.parliament.uk/pa/cm5802/cmselect/cmfaaff/203/20305.htm#\\_idTextAnchor003](https://publications.parliament.uk/pa/cm5802/cmselect/cmfaaff/203/20305.htm#_idTextAnchor003).
- UNSW Sydney. (2013). 'UNSW helps Myanmar edge closer to new constitution', <https://newsroom.unsw.edu.au/news/law/unsw-helps-myanmar-edge-closer-new-constitution> (accessed on 5 December 2022).
- Villacorta, W. (1988). "The dynamics and processes of writing the 1987 Constitution", *Philippine Journal of Public Administration*, (32) 3 & 4.



Walton, M. J. (2008). 'Ethnicity, conflict, and history in Burma: The myths of Panglong.' *Asian Survey*, 48(6), 889-910.

Wenzel, N. (2010). 'Constitutional culture in Japan and the Philippines: Success and failure in post-war constitutional choice', *Pacific Focus*, 25(3), 396–416.

Williams, D. C. & H. Sakhong, L. H. (2005). *Designing federalism in Burma*. Books by Maurer Faculty. 122.

Yawnghwe, H. (n.d.). *Bringing about change in Burma*, Euro Burma Office. Available at: <https://library.fes.de/pdf-files/iez/05219.pdf> (accessed on 30 January 2023).

Yuka Kaneko. (2022). 'Model conflict between the donors: case of Myanmar,' SpringerBriefs in Economics, in: *Insolvency Law Reforms in Asian Developing Countries*, pp. 45–61, Springer.



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