

The Right of Secession in Burma's First Constitution

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ABSTRACT

An agreement between Burmese nationalists and the British government in early 1947 set forth the basic steps of an “independence roadmap” designed to not only take Burma to full independence via a democratic process, but to unify Burma Proper and the Frontier areas under a governmental system the Frontier peoples would help to craft. However, the semi-federal constitution adopted in 1947, which granted two minorities a right of secession, failed in its role of achieving the second of these lofty objectives, for by the early 1960's several of the major frontier peoples were in revolt, while those still loyal to the government sought to fundamentally reform it. This paper explores the role of the constitutional right of secession in the creation of the Union of Burma, why only two of the major minorities received it and how the right became a political liability for both. It also explores how it was used to justify the military's permanent entry into the political arena in 1962, not with an intent to stabilize it temporarily as in 1958, but to replace it entirely with one more to its liking.

Keywords: Burma, 1947 Constitution, right of secession, Shan State, federalism

INTRODUCTION

The British acquisition of upper Burma in 1885 from the weakened Konbaung Dynasty meant the extension of British rule over a considerable population of minority peoples and tribes with which the British were unfamiliar, and for this reason they chose to govern these areas through traditional rulers. Under the system of ethnographic classification practiced in the British Empire at the time [5], more than 100 distinct tribes were eventually recognized in these hill areas, but the vast majority were in the words of the Frontier Areas Committee of Enquiry (FACOE), “too small to be of political importance and the four largest, Shans, Kachins, Chins, and Karens, dominate more than 95 percent of the Frontier Areas between them” [1] [2] (p. 18-19). The Shans, arguably the most numerous of the major minorities, migrated into upper Burma approximately a thousand years earlier and were throughout this period ruled by traditional princes called in the Shan language, a dialect of Thai, *saohpa*, or in Burmese, *sawbwa*. When the Burmese monarchs were strong, the *sawbwas* experienced various degrees of vassalage under them, the severity of which oftentimes depended on the distance of the *sawbwa's* principality from the Burmese capital. When the Burmese kings were weak, the *sawbwas* enjoyed greater freedom or at times were able to expand their rule over certain portions of upper Burma [2, 3]. During the Konbaung Dynasty, governance of these chieftains was largely dependent upon the dynasty's ability to extend and maintain military control, which was particularly necessary if they refused to make the expected tributary payments or showed other signs of revolt. Permanent military garrisons were stationed in several of the

Shan states, which could be used to discipline the *sawbwas* if the need arose. Yet the bonds between the Burmese kings and the Shans were cemented in other ways as well; the sons of Shan *sawbwa* frequently served in the Konbaung capitals to learn court procedures and the daughters often married Burmese princes and kings as a means of building and maintaining political relationships [3]. Indeed, the last Konbaung monarch, King Thibaw, was reportedly half Shan [2].

Under the British system of indirect rule, the *sawbwas*, who numbered over 30 by the late nineteenth century, were given patents or *sanads* that recognized their authority over their people and territory and set forth various terms with which they were expected to comply. Typical language recognized the *sawbwas* as feudatory chiefs entitled to govern their territories, raise revenues, oversee traditional legal practices and nominate successors, provided they pay annual tribute to the crown, relinquish any rights to forests and mineral assets and permit the British Superintendent to advise them on such matters as the settlement of disputes between respective *sawbwas*. Consistent with British political theory of the time, the *sawbwas* were also expected to rule over all their subjects in a wise manner and promote their general well-being. The British, however, did reserve the right to disapprove a proposed successor to a particular *sawbwa* if they held, he was not qualified to rule. If the *sawbwa* complied with these terms, the British would not interfere in their administration [4]. In other words, the British pursued a system of indirect administration in the Shan states whereby they governed the *sawbwas* rather than the subject peoples [5]. In the view of Chao Tzang Yawng hwe, the son of the last *sawbwa* of the Inle Lake region, interactions between the Shans and the British, whom they called *kula-khao*, or White Indians, were minimal even in the urban areas. But he asserts the Shans were grateful for British rule since it had eliminated the occasionally oppressions of the Burmese kings, and perhaps more importantly, had put an end to the ageless fighting between feudal states “often at the behest of the Burmese overlord. This total absence of strife was novel and cherished. For those who experienced life under the British umbrella, that period remained etched in their minds as a ‘Golden Age’” [6].

However, this “absence of strife” did not pertain to every *sawbwa*, and in the case of *sawbwas* of the Kayah people, formerly called Karenni, or red Karen, the British had to adopt a different form of political relationship in light of historical circumstances. And this unique political relationship would eventually become a significant issue during Burma’s independence movement and in the crafting of the nation’s new constitution. The origin of this complex set of circumstances can be traced to events following the Second Anglo-Burmese War of 1852. After the conflict, the Burmese king Mindon refused to sign a peace treaty that would have clarified the boundary between British Burma and his kingdom, and even though Governor General Dalhousie decided to leave the matter of a treaty unresolved, he had other plans for the boundary. He ordered a survey be done, and when the survey team reached the Western Kayah state, they encountered officials who insisted it was an independent nation recognized as such by the Burmese. The survey was discontinued, but Dalhousie announced that the British would take measures to prevent the Burmese from asserting sovereignty over Western Kayah. In November 1873, the Burmese wrote the British to insist both Western and Eastern Kayah states were part of their royal domain and the Burmese intended through whatever means necessary, including force, to “ensure obedience and to introduce civilization” in these states. The British Chief Commissioner recommended that any Burmese assertion of sovereignty over Western Kayah should be resisted as Britain’s recognition of its independence had been repeatedly

represented. In March 1875, the King sent a delegation to meet with British officials in Calcutta to discuss the matter. Both sides reiterated their arguments and positions, but no resolution could be reached. Thus, it was decided to send Douglas Forsyth to Mandalay with stern instructions to inform the Burmese that all previous British positions have been cancelled and Britain would take whatever steps it deemed necessary to protect the independence of Western Kayah. Moreover, it would act to protect its interests as circumstances demanded concerning the territory of Eastern Kayah, and “any interference by force on the part of the Burmese Government with Western Karennee will be deemed an act of war and will be dealt with accordingly” [7] (p. 211).



Figure 1: 1876 map showing the “Red Karen”: *The Library Atlas*. London: William Collins, 1876

Although interactions between Forsyth and the Burmese appeared cordial on the surface, the final outcome was complete Burmese capitulation to British pressure. King Mindon, fearful of giving the British an excuse to take what was left of his kingdom, was forced to concede and within four days of Forsythe's arrival, executed on June 21 a treaty whereby both parties recognized the independence of Western, but not Eastern, Kayah. It read as follows: "It is hereby agreed between the British and Burmese Governments that the State of Western Karennee shall remain separate and independent, and that no sovereignty or governing authority of any description shall be claimed or exercised over that State" [7] (p. 212). The treaty caused the withdrawal of Burmese officials from the western Kayah region and, in the words of Thant Myint U, served as a "clear diplomatic humiliation" for King Mindon that lowered his esteem in the eyes of his court and people [3, 7]. See Figure 1 for an 1876 map showing the "Red Karen" region as separate from both British and Konbaung Burma.

But the story did not end here. Despite the ability of the British to force the Burmese out of Western Kayah, trouble eventually arose in Eastern Kayah, which was not a party to the 1875 treaty. After the British annexation of upper Burma and the Shan states in 1886, its *sawbwa*, Sao Lawpaw, refused to accept the idea of British paramountcy. Woodman describes him: "He was a powerful man, full of self-confidence, and prosperous, since he owned practically the whole of the Nam Pawn forests, as well as those of the Salween" [7] (p. 439).



Figure 2: 1931 British map showing the Kayah states: *The Imperial Gazetteer of India*. Oxford, Clarendon Press, 1931.

In 1887 Sao Lawpaw raided the nearby Shan state of Mawk Mai, which had submitted to British rule, and after efforts to resolve the matter diplomatically failed, a British expeditionary force marched into Eastern Kayah, killed 100 of its fighters, deposed the *sawbwa* and replaced him with his son, who subsequently accepted a *sanad* on the same terms and conditions as the Shan *sawbwas*. Due to subsequent consolidations of territories, the number of Kayah feudal states over time was reduced to three: Kantarawaddy, Kyebogyi and Bawlake [7, 8]. This series of events resulted in an unusual political relationship between the British and the three states. According to the FACOE report, "The three Karenni States have never been annexed to the British Crown and have the status of feudatory States" [2] (p. 26). Furnivall, a former colonial official in Burma, describes the relationship as a "subordinate alliance with the British Government...and [these states] were treated as outside Burma but under the political control of the Governor" [1] (p. 10, 12). See Figure 2 for a 1931 British map showing the Kayah states labeled as an "Indian State" separate from British Burma.

As the twentieth century progressed, the British experimented with several forms of governance over both the Frontier areas and the plains of Burma. On October 1, 1922, the British divided the Federated Shan States into Northern and Southern sections and established a Federal Council of *sawbwas* headed by a British commissioner to administer them. The *sawbwas* could not act through the Council, but could use it to put forward their views on the budget and the administration of the Federation. The establishment of these institutions also witnessed the creation of a Frontier Service staffed primarily by European officials. The 1935 Burma Act, which separated Burma from British India effective April 1, 1937, witnessed the creation of a Standing Committee of Chiefs made up of six *sawbwas* who were chosen by the larger Federal Council. The Standing Committee was given access to the Governor from time to time, enabling the members to express their views and concerns to him without the filtering of the Frontier Service [9].

The 1935 Burma Act also introduced the first form of parliamentary democracy in colonial Burma. Political parties were permitted and many of the Governor's cabinet members were Burmese as recommended by an elected legislature. Of course, the important ministries remained in the hands of British officials. A two-chambered legislature was created featuring a Senate, the upper house, with 36 members, half of which were elected by the House of Representatives and the rest nominated by the Governor. The House had 132 members, all elected through either proportional or communal schemes of representation [10]. Those districts that elected representatives to the legislature were collectively called Ministerial Burma, or Burma Proper, while areas that were less politically advanced and not yet ready for democracy, at least in the minds of the British, were labelled the Scheduled or Excluded Areas, or sometimes just the Frontier areas. In 1947, the Scheduled Areas constituted 47% of Burma's land area, supporting a population of approximately 2,400,000, or 16% of the total [2]. The 1935 Act also recognized that certain valley regions in the Frontier areas, featuring mixed populations of tribal peoples, Bama¹, Indians and Chinese, had become more economically and politically advanced than the surrounding hill regions. For this reason, the Act divided the Frontier areas into two parts: Part I which in the words of the FACOE report, was "less politically advanced...still to be administered by the Governor in his discretion"; and Part II

¹ To avoid confusion, this paper will use the term "Bama" and not Burmese or Burman to refer to the majority ethnic group of Burma whose native language is Burmese.

which was “more politically advanced...the administration of which was within the ministerial sphere, though the Governor had a special responsibility over these and could over-rule the decision of ministers in respect to these areas” [2] (p. 28). Part II was further divided between Constituency Areas that elected representatives to the legislature and Non-Constituency Areas that did not. It was envisioned under the Act that Part II areas would join Ministerial Burma if they developed further, and Part I areas would be reclassified as Part II if they did the same. By 1939, no area had made sufficient progress to be reclassified [10]. All of the Shan and Kayah states were Part 1 Scheduled areas [2].

Not all of these measures were wholly embraced by the *sawbwas* and many felt their status as independent monarchs was being deliberately eroded both by the British and growing demands by educated Burmese, including Shans who had received higher education in Rangoon, to abolish their status as feudal lords [5]. Although many *sawbwas* believed the 1935 Act had resulted in a loss of certain powers (being reduced to the role of royal revenue collectors was the most frequently cited complaint), they were in the main satisfied with its measures despite the occasional friction between the *sawbwas* and arrogant or inexperienced British administrators. However, the 1935 Burma Act appeared to have an additional long term objective; it created a London-based Burma Office in the Foreign Ministry that was advocating an eventual union of the Frontier areas with Burma Proper, but since this process was seen as being very gradual, concerns over its implementation were minimal before World War II [11].



Figure 3: a map of colonial Burma under the 1935 Burma Act [13]

This historical background, with its seemingly artificial terms and distinctions, may have little meaning today, but unless one grasps the nomenclature and political divisions of the 1935 Act, one will not be able to understand why two of the four minority states created by the 1947 Constitution were denied the right to secede, and conversely why the other two states received the right. And one ambiguity within the terminology will remain unresolved and become subject of seeming manipulation, namely the true status of the Part II Constituency areas. Since they elected representatives to the legislature, some will include these areas in Ministerial Burma, while others will consider them technically Scheduled or Frontier areas. An example of this is seen in Figure 3, a map of colonial Burma under the 1935 Act that classifies the Part II Constituency areas encompassing the towns of Bhamo and Myitkyina as part of Ministerial Burma [13].

THE POST-WAR INDEPENDENCE STRUGGLE

In the briefest of words, World War II brought wholesale destruction to Burma. Two major military campaigns swept across the country, first when the Japanese invaded in early 1942, followed by the return of the Allies in 1945 after having repulsed the Japanese invasion of India. Much of the nation's infrastructure was damaged or destroyed, its agricultural output greatly reduced, its animal stocks decimated and its labor force denied the services of hundreds of thousands of Indians who had fled the advancing Japanese. Despite the economic toll, the political impact of the war was even greater. It shattered the myth of an invincible British Empire in the minds of the Burmese people, and more importantly, provided them a taste of political freedom, no matter how nominal, when the Japanese granted them independence on August 1, 1943. And although one could argue that freedom was mostly illusory, it was made all the more real by the existence of the Japanese-created Burmese Independence Army, led by a Burmese nationalist named Aung San, one of the Thirty Comrades who had received military training from the Japanese before the invasion of Burma. Armed and determined to lead Burma to independence, this native military force rose up against the Japanese in March 1945 and provided the Allies significant assistance in chasing the remaining Japanese forces out of the nation. The returning British, although triumphant, now faced a nation awash with as many as 200,000 weapons and a nationalist movement determined not to allow affairs to return to pre-war conditions [48]. On August 19, 1945, shortly after the end of the war, a broad coalition of nationalist forces seeking independence met in Rangoon to adopt the name of the Anti-Fascist People's Freedom League (AFPFL). It passed resolutions denouncing fascism and supporting the Atlantic Charter and other international agreements calling for the freedom of all peoples previously denied self-determination. The British, having developed plans during the war for the reconstruction of Burma, now encountered a nationalist movement larger and more organized than any in the past, posing a serious challenge to the newly elected Labor Government of Prime Minister Clement Attlee [9, 12].

The British reconstruction plan for Burma after the war, called the White Paper, was developed by Governor Dorman-Smith and his staff while in exile in Simla, India and was subsequently refined by London officials. It proposed a lengthy extension of the Governor's emergency powers under the 1935 Burma Act and guaranteed a major role for British private firms in reconstruction of key infrastructure with financial assistance from the British Treasury. But the Burmese administrators who accompanied Dorman-Smith to Simla counseled that unless Britain offered a clear path to independence for Burma after the war, the nationalists, whom they considered traitors for supporting the Japanese, would nonetheless prevail over the

moderate political groupings and eventually win the broadest support of the Burmese people. The people would prefer near-term independence over lengthy British reconstruction if they were given that choice, and would naturally follow the leaders who offered the quickest path to that goal. Despite this advice, the basic conditions of the White Paper, finalized in May 1945, proposed cautious steps towards self-government: 1) the Governor's emergency powers would last three years; 2) economic reconstruction would be necessary before any progress towards self-government on the model of the 1935 Burma Act; 3) the Governor would establish a small executive council to advise him and eventually assume administrative tasks; 4) an interim legislature may be established, and if so, it would cease upon the holding of new elections; 5) a new constitution would be drafted once sufficient agreement had been reached between the Burmese and London on Britain's future political and financial obligations to Burma; and 6) the Frontier areas would continue to be governed in the Governor's discretion until such time these people expressed a desire to unite with Burma Proper. Once these measures were taken, self-government within the Commonwealth would be granted to a Burma that would have equal status with other dominion nations and Britain itself [12, 48].

Once the paper was made public, the Burmese reaction was overwhelmingly negative. A number of items were considered offensive: the overall lack of Burmese participation in political development, economic planning and reconstruction; the return of British firms and even Indian labor to positions of pre-war dominance; and the continued and indefinite separation of the Frontier areas from the governance of Burma Proper. In fact, Burmese opposition to it was so prevalent that Cady notes, "It came to have in actuality little more than academic importance" [12]. Even Lord Mountbatten, who had worked with Aung San immediately after the war in the demobilization of the Japanese-era Burmese forces, realized that the war had transformed the political landscape in Burma and that the AFPFL had become the largest and most respected coalition of political groupings in the nation. However, Dorman-Smith refused to pursue Mountbatten's suggestion to give Aung San and the AFPFL a role in the Governor's cabinet for the reason that the AFPFL considered itself a provisional government and was opposed to the Governor's emergency powers. A meeting between the AFPFL and the Governor in late 1945 regarding seats on his Executive Council (EC) and the terms under which AFPFL officials would serve led to no resolution, and the AFPFL withdrew its nominations. Dorman-Smith had no choice but to fill his cabinet with pre-war politicians and administrators who enjoyed little popular support. In early 1946, Dorman-Smith tried to appoint his old friend U Saw, a prominent politician before the war who had recently returned from detention in Uganda, to a council post. By this appointment the Governor hoped to build a coalition of so-called moderates to undermine AFPFL leadership as U Saw was widely seen as a rival to Aung San. But the proposal only stiffened AFPFL resistance to the government. Moreover, U Saw failed to accept the posting, arguing the Governor's councilors lacked genuine authority, and in fact put forward many of the same demands of the AFPFL. Again, Dorman-Smith could not compromise as he had no authorization from the Attlee government to depart from the White Paper's framework of negotiating only with the winner of the elections planned for 1947. Even direct communications between Dorman-Smith and Attlee during May did not result in a breakthrough in policy. Attlee found the situation very complex, if not confusing, and was reluctant to abandon the policy of permitting negotiations with the AFPFL only if it was the winner of the proposed elections [9, 12, 48].

Nothing demonstrated Attlee's exasperation better than his reaction in April 1946 to a paper from the Burma Office regarding the legal and diplomatic status of the Kayah states, no doubt an unwelcome reminder of Britain's recognition of their independence in 1875. Distracted as he and his government were by the tumultuous events in India, he reacted to the paper with irritation, responding "It should be obvious to the Burma Office that at a time when we are considering the future of the Indian states it is most inopportune to deal with this question" [50] (p. 75). Apparently, a government official added the word "petulant" to the paper, further evidence that the London government had little time or patience for the political struggles in Burma [50].

While all eyes in early 1946 appeared to be on Governor Dorman-Smith's endeavor to build a political coalition to implement the White Paper in the face of concerted AFPFL opposition, the AFPFL initiated a series of actions to reach out to Burma's minorities whose support for independence could not be taken for granted. As best as can be determined, in early 1946 the AFPFL published a document titled *From Fascist Bondage to New Democracy: The New Burma in the New World* that contained a section on the "Provisional Rules of the Supreme Council of the Anti-Fascist People's Freedom League," which were still in force as late as January 1946, per Silverstein. These rules had four goals, one of which was "to create a new Burma based on voluntary union recognizing the right of self-determination for all national minorities, including the right of secession" (pages 54-56 in the AFPFL document). Silverstein says this about the document: "This small volume is a documentary history of the AFPFL to 1946. It contains copies of documents unavailable in any other printed source. The writer has checked those items that were otherwise available and found them to be accurate" [4] (p. 66, n. 3). Silverstein does not explain how the issue of secession became one of the AFPFL's goals so soon in the struggle for independence, particularly when the AFPFL had done little in the way of political outreach to the minorities by early 1946. Indeed, the AFPFL's support in minority regions was in Silverstein's words "nominal" at the time and only in January 1946 were efforts made by Aung San to travel in the frontier areas to generate support for its goals, demonstrated by his attendance at a Kachin festival in Myitkyina (also attended by Dorman-Smith) where he requested Kachin support of the independence movement. At the time, the only constituent mass organizations representing minorities within the AFPFL were the Karen Youth League and the All-Burma Muslim Congress. Only later in 1947 would evidence emerge that could explain the origin of the emphasis on minority secession [4].

Although the dating of the above Provisional Rules is uncertain, a series of AFPFL resolutions passed during a Congress in mid-January 1946 clearly fix in time early AFPFL efforts to address the minority issues. Resolution no. 7 set forth the following principles as a basis for understanding between the Bama and the minorities: 1) cultural autonomy; 2) equality of opportunity; 3) voluntary union with the right of self-determination; and 4) freedom of worship. It vehemently opposed the exclusion of the hill areas from Burma Proper as envisioned in the White Paper, and declared that the issue of uniting the Frontier areas with Burma Proper should be decided by Frontier leaders and the representatives of Burma Proper and not by British dictates [13]. Missing from the resolution, however, was any mention of a right of secession as found in the Provisional Rules.

However, the minority leaders, particularly the Shan *sawbwaw*s, were not waiting for the AFPFL to determine a political framework around which union with Burma Proper could be discussed.

During March 26-28, 1946, the *sawbwa* of Laikha state sponsored a conference in the small Shan town of Panglong to discuss the economic, cultural and welfare objectives of minority peoples now that independence of some sort was coming to Burma. Although none of the sources confuse this Panglong conference with the much more famous Panglong conference held later in February 1947, there is still a considerable amount of confusion in the sources regarding the dating of the first conference and which AFPFL representative attended. Several sources date it to late 1946, apparently confusing the conference with a tour of minority regions in late 1946 by Aung San, while others contend that Aung San was the AFPFL's most prominent representative at the March conference [10, 11, 14, 15]. The Laikha *sawbwa* invited all 34 *sawbwas*, a representative of Dorman-Smith, several Bama political leaders, such as U Saw of the Myochit (Patriots) Party and observers from the Karen, Chin and Kachin communities. Thakin Nu and other representatives of the AFPFL did attend, but only at the invitation of the Shan Youth League, not the *sawbwa* of Laikha. This directly contradicts any assertion the *sawbwas* were trying to reach out to the AFPFL through this conference. There is no evidence Aung San attended the gathering [4, 8]. Convincing evidence that this conference occurred in March 1946 are the dates of the Governor's speech, March 26, and H.N.C. Stevenson's April 30 report on the conference [8].

The Governor's speech, delivered by Stevenson, the Director of the Frontier Area Administration (FAA), declared that British administration of the Frontier areas would continue as before the war and unification with Burma Proper would be permitted only once the Frontier peoples had chosen to do so, a principle of the White Paper. He believed the Bama desired union with the Frontier peoples and the latter should seriously consider the issue. In Stevenson's secret political report submitted after the conference, he highlighted two speeches: one by Thakin Nu, which severely criticized the British for separating the administration of the Frontier Areas from Burma Proper, and another by U Saw, which was much more favorably received. In Thakin Nu's opinion, British administration had created a mutual hatred between the Bama and Frontier peoples, a point made with such vehemence that Stevenson called it a "diatribe against the British couched in immoderate terms, and it was a grievous shock to the *Sawbwa*, who were incensed at having one section of their guests publicly insulted by another at a meeting of this nature." It also offended the Chin and Kachin delegates, per Stevenson, and their opinion of the AFPFL "fell to zero" while their opinion of U Saw and his Myochit Party rose as the latter presented a much more reasonable approach to self-government [8] (p. 572). In fact, a Kachin representative spoke out against Thakin Nu's assertion that the British were responsible for the divisions among the peoples of Burma and reminded those present that Bama nationalists helped lead the Japanese invasion under the slogan of one blood and one voice, yet the Japanese treated many minority peoples with cruelty. He believed the British had done more for the country than any previous government, including the Burmese kings, and demanded the Bama change their ways. Only when this became evident would the Kachins seek to enter the proposed union. In the meantime, their primary desire was to preserve their culture and identity and be treated as equals [4].

U Saw appeared to deliver the most important speech of the conference as it helped to dissipate much of the distrust of Bama nationalists and politicians on the part of Frontier leaders. He spoke for over an hour and made many proposals regarding the future of the Frontier areas. If elected, a Myochit government would appoint a minister for Frontier Affairs who would be nominated by the people. He also made specific constitutional proposals regarding the form of

union between the Frontier areas and Burma Proper, which Stevenson, apparently unaware of the January 1946 AFPFL resolutions, incorrectly alleged were the first concrete proposals of the sort by any Bama politician. Frontier peoples would retain local autonomy with no central government interference in their customs and religious practices. But while he spoke, the *sawbwa* of Hsa Htung interrupted to complain about the treatment of his people during the war, which compelled the presiding *sawbwa* to suspend U Saw's presentation to maintain decorum and avoid the nastiness of the previous day's speech by Thakin Nu. Therefore, U Saw had to continue his comments during a question-and-answer session on March 28, when he encouraged the Frontier people to join in a federal union of Burma similar to the United States where the only interference in their affairs would concern common subjects, such as defense. More importantly, once this independent union was created, they could decide to leave the union if the arrangement no longer satisfied them. Citing as his source the *Summary of Speeches made by U Saw at the Panglong Conference*, Sai Aung Tun paraphrases his words: "If they were dissatisfied with their inclusion in Myanmar they could secede as the constitution guarantees their right of secession at any time. That, U Saw said, would be the policy of any party in power, whether Myochit or AFPFL, and added that if the Myochit Party were in the opposition it would adhere to the same policy and recommend it to the party in power" [8] (p. 213). It is possible U Saw's comments on secession were a retort to the AFPFL Provisional Rules document published earlier in 1946, which may have sparked an escalation of secessionist promises to minority leaders that would continue into 1947 with the AFPFL's draft constitution and 14-point constitutional template, to be addressed below.

All in all, Stevenson's report and the Kachin leader's rejoinder to Thakin Nu do little to support the assertion that Frontier leaders demonstrated a strong desire to join with Burma Proper at the first Panglong conference. The *sawbwa* of Tawngpeng was particularly wary and reportedly warned the participants that union with Burma would not only abolish the feudal system but result in the enslavement of the Shan people [11]. It would be safer to conclude the majority was somewhat ambivalent about union with Burma, which Stevenson described in this way: "...instead they wished for self-government, *on the dominion level*, for a 'Frontier Areas Administration'" [italics in original] [8] (p. 573). The Frontier leaders did agree on two things, however: to act in unison and not as separate nations on the issue of amalgamation with Burma and to meet again at Panglong the following year [8].

Although we can view Stevenson's characterization of the sentiments of Frontier leaders as a self-serving endorsement of continued British presence in Burma, other events in 1946 indicate the ambivalence and even distrust demonstrated at the Panglong conference were not isolated to those in attendance. A mass meeting of Karens held on April 25-27, 1946, adopted a resolution tabled by the "Liberated Karens of Burma" that requested Britain and the United Nations expand the Frontier Part II area of Tenasserim to include the rest of Tenasserim and much of the Pegu District and append to this territory adjacent areas of Karen habitation in Thailand. The resulting state would be designated the United Frontier Karen States to be administered by Karens under a Governor. This polity would have the same form of sovereignty as granted to Burma and would be governed by Karens "under the guardianship of the British" and within the Commonwealth of Nations [13].

The AFPFL appeared cognizant of these resolutions and was not allowing them to go unanswered. In response to fears the British intended to establish a separate state for the

Karens under British protection, revive the federation of Shan states similar to that which existed before the war and create similar structures for Kachins, Chins and Nagas, the AFPFL issued a statement on May 26, 1946, demanding "the independence of Burma and all these states." It further called for a conference with Frontier representatives to discuss the creation of a Union of Burma as a "free federated state." We see in this statement a clear willingness of the AFPFL to openly oppose British plans for the Frontier area and secure minority support by promising a federal arrangement that, unlike a unitary state, would protect ethnic minorities [4].

But for the Karens, much of this must have fallen on deaf ears. In July 1946 a Karen delegation traveled to London to advocate the formation of a Karen state in the Commonwealth of Nations, or in the alternative, participation in a larger Frontier areas dominion also within the Commonwealth. The Labor government expressed no enthusiasm for these proposals and the delegates, from a number of Karen organizations, did not hesitate to accuse the British of breaking representations made to them during and after the war [10]. In mid-1946, the Kayah were equally unwilling to join a proposed Union of Burma, at least not initially. Kayah leaders travelled to Rangoon to insist upon their continued independence from both the British and any future Burmese state, a belief no doubt based upon the historical interactions between the Kayah *sawbwas* and the British and Konbaung Dynasty. They would be willing to consider joining a Union of Burma, but only after it had achieved an independence that included participation by the other major minorities, such as the Shans and Karens. It appears they preferred to examine the final product before making any decision to buy [4]. We have already seen the Attlee government's lack of patience for this issue. Another demonstration of Kayah defiance was seen on September 11, 1946, when the Kayah leader Bee Tu Re declared the United Karenni Independent States a sovereign government with the purpose of preserving the independence of the three Kayah states of Bawlake, Kyebogyi and Kantarawaddy. His belief in Kayah independence was derived, no doubt, from the 1875 treaty with the British and the Burmese crown [16].

As 1946 progressed, London became increasingly dissatisfied with the viability of Dorman-Smith's cabinet, and upon becoming ill with dysentery Dorman-Smith had to sail to London in June for discussions with Prime Minister Attlee. Once in Britain, his doctors advised him not to return to Asia, and on August 4, 1946, Dorman-Smith resigned and was replaced by Hubert Rance, a former general who had contacts with Burmese nationalists after the war. His appointment marked a dramatic shift in British philosophy on the Frontier areas and cooperation with the AFPFL [48]. Prior to his departure, Rance recommended to Attlee that he be given authorization to open up the membership in the EC on a truly representative basis and put into action plans for a nation-wide election of a new legislature. Upon his arrival, he was immediately faced with an on-going general strike by government workers, not over wages and benefits, but over British reluctance to abandon the White Paper and make a clear commitment to Burma's independence. The Burma Communist Party, one of the most important constituents of the AFPFL, was the most aggressive in mobilizing workers to strike and place pressure on the British. In an effort to persuade government workers to return to work, Rance met with nationalist leaders on September 21, and by September 27 announced the formation of a new EC that included many AFPFL members and Aung San as deputy chairman. A Karen and several veteran politicians such Thakin Ba Sein and U Saw also joined. More importantly, Rance announced that his cabinet members would exercise similar powers as wielded by the

ministers of the pre-war EC. The strike quickly ended, resulting in the resignation from the EC of Thakin Thein Pe, the only communist member, who protested the decision to end it. Later in October, the Burmese Communist Party was expelled from the AFPFL over its refusal to recognize the new council and renounce the use of violence to achieve political aims, leaving the Socialist Party as the dominant political force in the AFPFL [4, 9, 12, 48].

Although these events were evidence of a clear victory for the AFPFL, broader factors were in play behind the scenes and contributed to the sudden British change of course. The AFPFL thwarted British efforts to implement the White Paper throughout 1945 and 1946, and finally succeeded in doing so through a general strike. Its occasional threats of violence to achieve independence, backed up by the large number of weapons the war had brought to Burma, made it clear the British would have to fight to keep Burma in its orbit. But a decisive factor was the position communicated to Mountbatten and the Attlee government by the Indian National Congress that Indian forces within the British armies of Asia would not participate in any action to suppress "freedom movements" in British possessions, leaving European forces alone to do the job [48]. Such a struggle would have been unpopular in Britain now that war fatigue had set in, and if it resulted in a victory by Burmese communists, would have threatened Britain's other holdings in South and Southeast Asia. Therefore, the British had no choice but to negotiate a roadmap to independence that would hopefully preserve some British presence in the nation and keep Burma friendly to the Western world [5].

Now that they had adequate representation in the Governor's cabinet, with Aung San holding the post of de-facto prime minister, the AFPFL in the final months of 1946 strove to achieve independence as quickly as possible and incorporate the Frontier areas into the administration of Burma Proper. In early November 1946, it passed a number of resolutions calling on the EC to organize elections to a Constituent Assembly (CA) in April 1947 that would include Frontier area representatives, and announce by January 31, 1947, that Burma would achieve full independence within a year. The resolution declared that the proposed union or federation of Burma would be formed with the willing consent and participation of the Frontier peoples. It read: "...it is not our intention to impose on the races inhabiting these areas any form of union which they themselves do not desire and should such union be formed; it will be our policy to leave to the States such autonomy as they may need for the control and management of their own internal affairs" [4] (p. 94). In late November and early December, Aung San travelled to many minority regions to assure their peoples that the AFPFL intended to live by the resolution's high-sounding commitments. Visiting the Kachin, Chin, Shan, Karen and Kayah districts, he was said to have been warmly received in the Kachin region, despite previously expressed reservations from Kachin leaders regarding Bama intentions. In fact, Kachin leaders passed a resolution asking for the creation of a Kachin state within the union [4, 11, 12]. As previously discussed, this tour of minority regions has been confused with the first Panglong conference in a number of sources. Cady avoids this problem, but does allege the following with respect to the tour: "He promised the frontier peoples separate status with full autonomy within the Burma Union, active participation at the center in a kind of states' Senate, protection of minority rights, and the privilege of secession" [12] (p. 539). To substantiate this, he cites a Ph.D. dissertation by David G. Hinnners titled "British Policy and the Development of Self-Government in Burma 1935-1948", University of Chicago, 1951. We have obtained this dissertation and it does not support Cady's characterization of Aung San's promises. Hinnners says only that Aung San gave some speeches and met with local leaders and organizations

affiliated with the AFPFL [52]. In light of the AFPFL's position on secession prior to the tour, it is possible he did promise the right to the major minorities during the tour, but nothing in Hinners' dissertation substantiates this. In fact, various accounts of the Panglong conference of February 1947 indicate he was reluctant to make any political commitments to the minorities, probably reflecting the restricting influence of the Aung San-Attlee agreement executed a month earlier. In the Aung-Thwins' history of Myanmar, they allege, citing Cady, that Aung San visited Panglong in late 1946 and made promises that would "later become a curse" [14] (p. 237), which is their way of saying, whether he mentioned secession or not, that he promised too much. For now, we must reserve judgment.

Given the stunning changes of late 1946, it came as little surprise that Attlee advised Parliament on December 20 that he would invite a delegation of Burmese representatives to London to discuss the nation's future, with no preconditions, which many interpreted as an admittance the previous British positions on self-government were untenable and most of the AFPFL's demands would have to be met [12].

THE AUNG SAN-ATLEE AGREEMENT

The Aung San-Attlee agreement set forth the basic steps of an "independence roadmap" designed to not only take Burma to full independence as soon as possible via a democratic process, but to unify Burma Proper and the Frontier areas under a governmental system the Frontier peoples would play a role in crafting and hopefully support in full. Such was the optimistic spirit evoked by the agreement, and although it was indeed a major breakthrough in understanding between the nationalists and the British, subsequent events would demonstrate the difficulties of completing each step of the roadmap.

On his way to London to meet with Prime Minister Attlee, Aung San visited New Delhi and addressed the minority issues at a reception: "Our policy towards the frontier peoples is to offer them the option of joining us with a great measure of autonomy. I have been to some parts of the frontier areas and I have met some of their leaders and I can say that all this propaganda about the loyalty of the frontier peoples to the British Government is not true. If there is a struggle for the independence of Burma, I shall not be surprised if there is a deep stir among the peoples all over the country" [17] (p. 105). Once he arrived in London, he told British officials the following: "When we speak of Burma, we envisage a Burma united and free. There are no insurmountable obstacles in the way of achieving that unity. If all the racial groups in the country are offered full freedom, and if they but meet together and work together without outside interference, they will unite. This is true also of the people of the so-called independent Karenni States" [17] (p. 106). These seemingly innocuous statements reveal a number of issues: one, the Burmese government was expecting a certain amount of "outside interference," most probably from British Frontier administrators, in its efforts to build support for independence among the Frontier peoples; and two, he was sceptical of assertions that the Kayah states were independent of colonial Burma and under no obligation legally or historically to join the proposed union. After the meetings with Attlee, Aung San alleged at a press conference the amalgamation of the Frontier areas with Burma Proper would be a "comparatively simple matter" and that Frontier peoples would be given autonomy if they requested it [17]. Subsequent events would demonstrate this comparatively simple matter would not be simple at all.

Executed on January 27, 1947, the agreement negotiated between the Burmese and His Majesty's Governments, usually called the Aung San-Attlee agreement, set forth a series of understandings by which Burma would achieve independence from Britain in or out of the Commonwealth "as soon as possible." A series of mutual undertakings were specified to reach that objective. First, elections to a Constituent Assembly (CA) tasked with drafting a future constitution for Burma would take place in April employing the electoral districts and mechanisms of the 1935 Burma Act. Second, the current government and its EC would act as the interim government of Burma, have the powers of a Dominion Government and would have full authority to address a number of ministerial matters (defense, finances, etc.) in the interim. Third, the British government would support applications for Burma's membership in the United Nations and other international organizations. Fourth, and most importantly, the parties agreed that it was the objective of both governments "to achieve the early unification of the Frontier Areas and Ministerial Burma with the free consent of the inhabitants of those areas". In areas of common interest, the Frontier peoples "should be closely associated" with the peoples of Ministerial Burma, exemplified by "free intercourse" of people between the two areas "without hindrance". Fifth, the leaders of the frontier peoples "shall be asked...at the Panglong Conference...to express their views upon the form of association with the Government of Burma which they consider acceptable during the transition period", with this conference to be held in February. After the Panglong conference, the governments "will agree upon the best method of advancing their common aims in accordance with the expressed views of the peoples of the Frontier Areas". Sixth, a "Committee of Enquiry shall be set up forthwith as to the best method of associating the frontier peoples with the working out of the new constitution for Burma", to be composed of an equal number of representatives of Ministerial Burma and the Frontier areas, with the former chosen by the EC and the latter by the Governor after consultation with Frontier leaders, all to serve under a "neutral Chairman from outside Burma selected by agreement" [9] (p. 44-46).

Not all the Burmese delegates, however, endorsed the agreement: U Saw and Thakin Ba Sein, in the words of the agreement itself, refused to "associate" with the pact because it excessively favored the British. Despite this opposition, the AFPFL and the Governor's EC approved it on February 5. The prestige of Aung San and other AFPFL cabinet members was crucial in securing AFPFL approval and deflecting any communist opposition to the agreement. But some minority leaders complained that no Frontier representatives were invited to London to express their views. Whether this was intentional or an oversight is not known. In fact, on March 4 shortly after Aung San's return to Burma, Saw U Ba Kyi, a Karen member of the cabinet, resigned in protest over the lack of minority representation in London and, despite the provision regarding minority input on the form of association, the agreement's apparent objective of incorporating the entire Frontier area into Burma without any specified arrangements for autonomy. His resignation led to a further split in Karen opinion on associating with Burma [9, 12, 16, 18].

Some British observers have criticized the Aung San-Attlee agreement as a repudiation of minority aspirations for either separate states or complete independence. In the opinion of F.S.V. Donnison, a former colonial official, the only area where the Burmese delegation did not obtain everything it sought concerned the Frontier areas. The delegation's proposed amalgamation of the Frontier areas with Burma Proper, without stipulations for autonomy, placed the British in a difficult position as many British officials believed the minorities legitimately feared Bama domination, and to agree to such a union without their consent would

be an act of betrayal. Therefore, the British modified the delegation's demand by making any such association requisite upon the prior "free consent" of Frontier inhabitants. The reluctance to accept an unconditional union was further driven by the fact that the minorities, particularly the Chin, Kachin and Karen communities, had assisted and fought for British forces during the war while Aung San and most of the Bama favored the Japanese, a fact cited by several British officials and the Conservatives to justify putting the brakes on the independence process. Therefore, the Attlee government insisted on the free consent language. Per Donnison: "The only thing that separated the parties was the question of the minority areas. Failure to gain the 'free consent' of the minorities was unthinkable, for this could only result in the rejection of the offer by the A.F.P.F. L.... In the circumstances both British and Burmese were deeply committed to obtaining that 'free consent'. Indeed, it is pretty clear that the British government was not prepared to take no for an answer from the frontier areas" [15] (p. 135). If this free consent was not obtained, the British would be faced with the prospect of retaining the Frontier areas as a separate protectorate no matter the military and logistical difficulties of doing so. Therefore, it was in the interests of both Britain and the AFPFL to vigorously seek this free consent [5, 18]. Donnison is almost alone in noting that the wording of the minority provisions in Aung San-Attlee never established a standard by which one could determine whether the free consent had, in fact, been obtained. Moreover, Panglong would only give minority leaders an opportunity to "express their views upon the form of association...during the transition period," and once this transition presumably came to an end at independence, the expectation would be that the association would continue and never once was the possibility raised that it would not [15]. Another example of this logic was the proposed Committee of Enquiry, which was tasked solely with determining the best of way of involving the Frontier peoples in the drafting of the new constitution, not whether they actually wanted to join the nation created by the constitution. The only issue then was the *form* of involvement and association.

Putting these issues aside for now, the parties saw the Aung San-Attlee agreement as merely a beginning since three more important steps were needed to complete the independence roadmap: a second conference of minority leaders at Panglong, the Committee of Enquiry and the Constituent Assembly.

INDEPENDENCE ROADMAP: THE SECOND PANGLONG CONFERENCE

The amount of inaccurate information in academic literature and media sources concerning the second Panglong Conference is almost as great as the amount of accurate information. The most common misconception characterizes it as the moment when *all* of Burma's minorities agreed to join the proposed Union of Burma, or seen less frequently, when Aung San granted the minorities a number of political protections, such as the right to secede, not found anywhere in the agreement [8, 16, 19, 20]. The facts are far less impressive: only three of the five *major* minorities signed the agreement--the Chins, Kachins and Shans--the Karens attended only as observers and the Kayah boycotted the conference out of the belief they still possessed an independent nation. As for the Mons and Arakanese, they were not even invited, nor were a multitude of smaller minorities, such as the Wa, Naga and Palaung [8]. At the time, in fact, many Bama leaders considered the Mons and Arakanese so assimilated into mainstream Bama culture they did not even deserve minority status, a sentiment seemingly buttressed by the fact that under the 1935 Burma Act their territories were not classified as Frontier areas and were entirely within Burma Proper (see Figure 3) [9, 13, 21]. As for the Pa-O, the largest ethnic group in the Shan region outside the Shans themselves, we can say that at least a segment of their

community signed off on the Panglong Agreement since one of the “Shan” signatories, the *sawbwa* of Hsa Htung state, also known as Hsi Hseng and located north of the Kayah region, (see Figure 2) was a Pa-O whose representative, U Pyu, another Pa-O, actually signed the agreement. Ninety percent of the population of Hsi Hseng reportedly came from the Pa-O community [58]. Having noted this, we can still conclude the Panglong agreement only partially obtained the sought-after free consent of the minority peoples. In spite of these shortcomings, the second Panglong Conference remains a powerful symbol to this day, invoked by the central government as a great achievement to be celebrated every year with a national holiday and by the minorities as a promise unfulfilled, if not betrayed [22, 23].

The second Panglong conference was not just a political gathering of Bama and Frontier leaders as stipulated in the Aung San-Attlee agreement; it featured a series of educational lectures, a trade fair, cultural exhibitions, film showings and a variety of amusements to attract as many as possible. A brochure in English, Burmese and Shan set forth a schedule of events for participants, the front page of which is reproduced as Figure 4 [8] (p. 285). It had all the appearances of a traditional Shan *poy*, or festival (*pwe* in Burmese), including a variety of games of chance, probably a means of defraying the costs of the conference [8, 11].

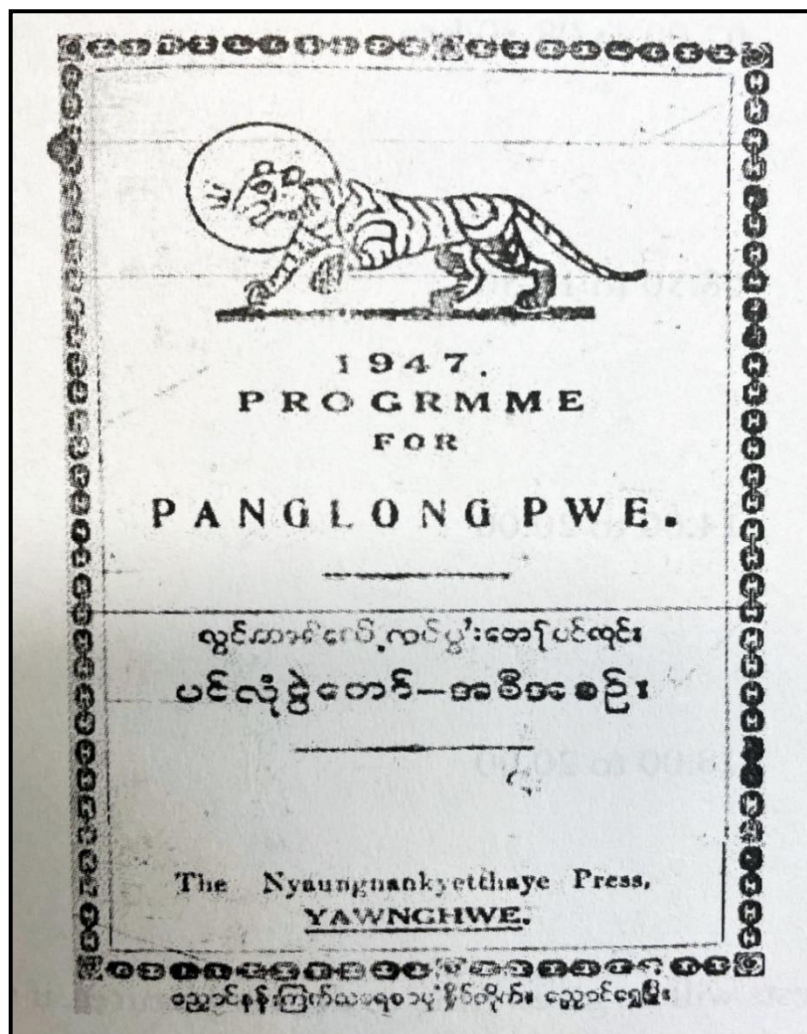
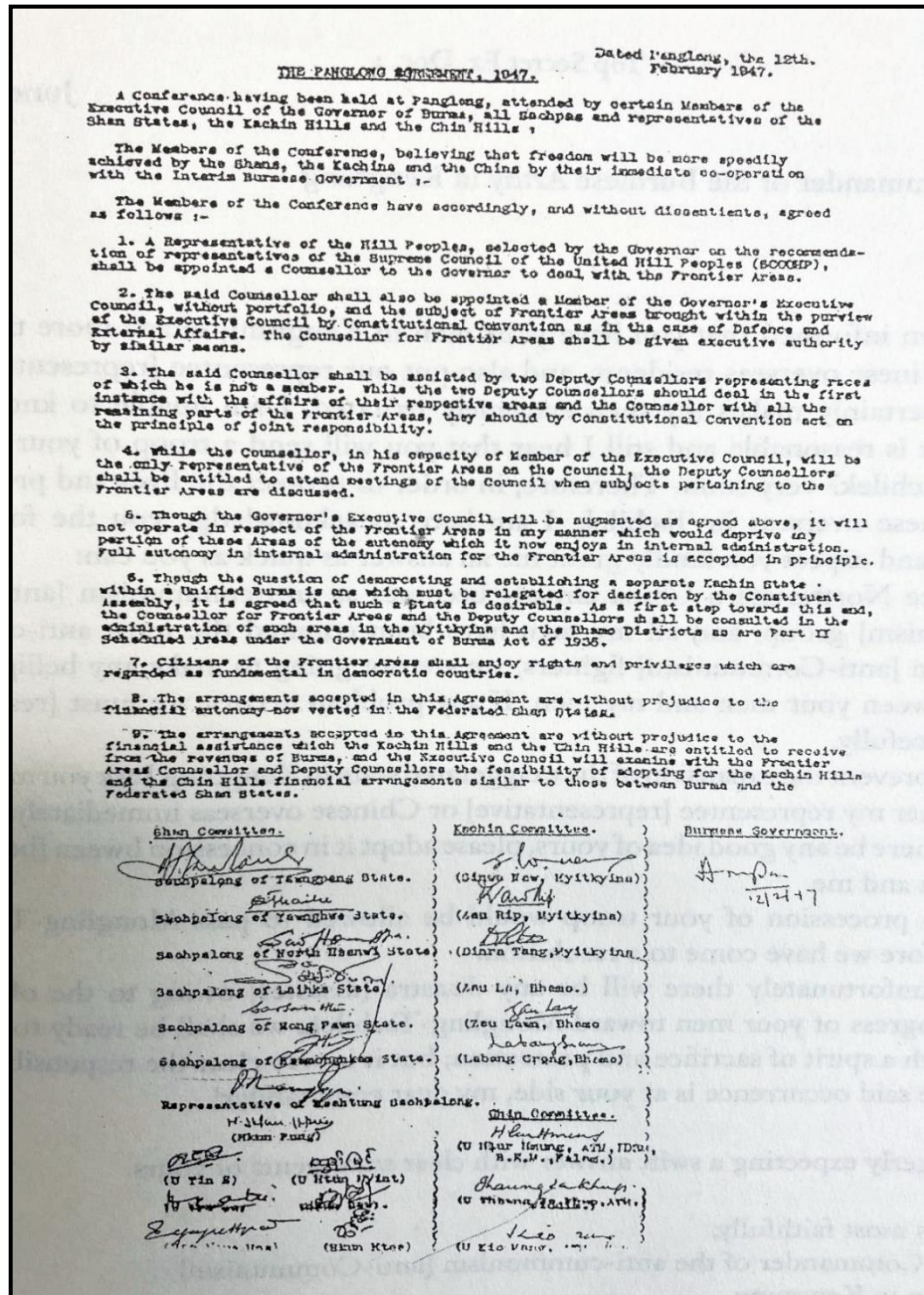


Figure 4: brochure for the Panglong Conference [8]

It officially opened on February 6, 1947, and closed on February 12, which was also the date of the final agreement. The most prominent leaders were Aung San, U Tin Tut and Bo Khin Maung Gale of the AFPFL; Sao Shwe Thaik of Yawngghwe (Nyaungshwe) and the *sawbwa* of Mong Pawn for the Shans; Sima Duwa Hsinwa Nawng of Myitkyina for the Kachins; and Vum Ko Hau for the Chins. The Karens sent four observers to the conference, but in the words of Tinker “they were not consulted” [18] (p. 24). Saw Sankey, one of the four Karen representatives, alleged they acted solely as observers for the somewhat technical reason that they represented the Karen people in general, but not the Karens of the Salween District, the only Karen majority area that was part of the Frontier areas (see Figure 3) [24]. During a meeting with Governor Rance and five Karens shortly after the conference, the following was attributed to Saw Tha Din, a Karen leader: “He stated that four Karen delegates had been sent to Panglong but on their arrival they found that arrangements had been made for certain Sawbwas to sign the Agreement, so they took no further part in the proceedings” [25] (p. 437-38). This somewhat confirms the statement of Saw Sankey, but adds a further element of Karen disagreement with the process. A. G. Bottomley, the Undersecretary of State for the Dominions, John Leyden and W. B. J. Ledwidge represented the British [8, 18].

The Aung San-Attlee agreement proposed several ways to unify the Frontier areas and Burma Proper in the interim, but regardless of the routes proposed, Frontier representatives to Panglong no longer had time to weigh the various options, nor could they put matters off for another year as was done at the first Panglong conference. The AFPFL and the British were now asking them to make a decision on their political future [4]. Therefore, on February 6, three to four days before the arrival of Aung San and Bottomley, the Shan and Kachin leaders met and passed a resolution stipulating that independence would be achieved sooner by cooperating with the AFPFL and joining the Governor’s EC, on these conditions: 1) the same status, rights and privileges as enjoyed by the Bama; 2) Shan and Kachin members in the EC would be responsible for their internal affairs and jointly responsible on common subjects; 3) the Kachins to have a separate state (the resolution presumably assumed the Shans already possessed one); 4) the Aung San-Attlee agreement was not binding on them; and 5) the right to secede from the proposed Union at any time. On the following day, Chin representatives unanimously agreed to the Shan-Kachin resolution, but did not amend it to include a demand for a Chin state. The leaders of the three communities formed a sub-committee of six members (two each of Shans, Kachins and Chins) to negotiate with the AFPFL [6, 26].

After three days of negotiations, the AFPFL and the representatives of the three communities finalized a one-page agreement in English that contained these salient features: 1) a representative of the hill peoples would be selected by the Governor based on recommendations from Frontier leaders to serve as a Counsellor on the Executive Council, without portfolio, assisted by two Deputy Counsellors, and the EC shall commence to administer the Frontier areas on the matters of defense and external affairs; 2) this expansion of EC powers over the Frontier areas would not deprive them of autonomy over internal affairs—“full autonomy in internal administration for the Frontier Areas is accepted in principle”; 3) a recommendation to create a Kachin state subject to various matters to be settled during the upcoming Constituent Assembly (CA); although a Chin state was not mentioned in the agreement, the “Federated Shan States” were, but only in the context of Burma Proper’s financial assistance to the minority regions, thus falling short of an official recommendation; and 4) “Citizens of the Frontier Areas shall enjoy rights and privileges which are regarded as



A number of reasons have been offered over the years to explain the agreement's endorsement of a Kachin State and its silence on the matter of states for the Shans and Chins. Trager sees it as a simple matter: "The Federated Shan States already existed" [10] (p. 82), while ignoring the fact that the British created this particular polity and the AFPFL would be reluctant to endorse its perpetuation prior to the Constituent Assembly. The Shan Federal Proposal of 1961, to be

addressed below, has this to say about the matter: “The establishment of a future Federation, consisting of Burma Proper and the Frontier Areas, although prescribed in the [Shan-Kachin-Chin] decision of 6th February 1947, was not mentioned in the Panglong Agreement as it was understood that the matter should be considered in detail at the Constituent Assembly which was yet to be convened....General Aung San...requested that the demand for the Right of Secession from Burma at any time after attaining freedom, should be decided at the Constituent Assembly” [26] (p. 13). This may explain why statehood for the Shans and Chins was not mentioned, but does not explain why Kachin statehood garnered special notice.

In his autobiography, Vum Ko Hau, the Chin representative, provides a detailed account of the negotiations with Aung San that confirms in part, at least, the above assertion that Aung San was extremely reluctant to commit to any particular form of federal structure prior to the CA. Speaking in the third person, Vum Ko Hau describes it this way: “The drafting of the historic document took two days as it had to be amended three times as the first two drafts which included a clause stipulating immediate statehood for the three frontier races — the Shans, the Chins and the Kachins — was not acceptable to Bogyoke Aung San. On the last day of the conference the Chin leader Vum Ko Hau told his opposite numbers that since Bogyoke Aung San had promised all other things that he had asked for his people, he was prepared to postpone demand for immediate statehood for the Chins for decision at the Constituent Assembly. This decision paved the way for further modification of the Agreement to be signed before the end of the conference” [27] (p. 108). This would explain the lack of any mention of Chin statehood, but left unresolved the issue of Shan statehood. He continued: “When a deadlock continued up to the final day of the Conference, I appealed to other Frontier leaders and Bogyoke. I said that if we could not sign the draft Agreement and acted in haste and accepted partition of the Frontier Areas and ministerial Burma into approximately 51% and 49% respectively as already envisaged in the map of the Frontier Areas Administration, it would jeopardize strength and unity of the country...Bogyoke said he agreed but that he had no mandate to give statehood to the Chins, Shans and the Kachins then and there. Arthur Bottomley, the British labour party observer was quite frank with us.... Had we left Panglong to divide the whole country into two nearly equal parts no one could foresee the political repercussions and there would be no chance of retracing our steps in the midst of this predatory world...” [27] (p. xiii-xiv). To confuse matters further, Aung San supposedly told Vum Ko Hau that statehood for the Chins and Shans was more probable than for the Kachins since the latter would require additional review due to the fact the mixed-population areas of Bhamo and Myitkyina were part of Ministerial Burma. In any event, he had no clear mandate from the EC to agree to statehood. The best the minority representatives could obtain was a verbal commitment from Aung San to address the issue at the CA, and when all three agreed to this the agreement got signed [27]. The above indicates two things: one, there was a certain amount of British pressure applied to the Frontier leaders, and two, it fails to explain why Kachin statehood was mentioned in the agreement. Since Aung San saw it as the most problematic, it should have been the least likely of the three to be included. Indeed, based on the overall reasoning of Vum Ko Hau’s account, statehood should not have been mentioned for any of the communities!

Other accounts of the Panglong conference fail to clarify matters. Leyden’s report, classified Secret, notes the presentation and discussion of two drafts before resolution of the final draft: Aung San’s initial draft and a counter draft prepared by Frontier representatives the following day. The Frontier draft differs from the final in two significant ways. First, internal autonomy is

phrased as follows: "Full autonomy in internal administration for the Frontier Areas is accepted", with no mention of "in principle." Second, human rights for Frontier peoples are described as the "same status and same fundamental democratic rights and privileges vis-à-vis citizens of Burma", and not as "fundamental in democratic countries". The Frontier draft also recommends the creation of a Kachin State, but similar to the final agreement makes no mention of a Chin state and references the Federated Shan States only in the context of financial assistance to the Frontier areas [25]. The absence of an explicit endorsement of a Shan state is a mystery that may never be solved.

Adding further confusion, Sai Aung Tun, without citing a source, alleges the following transpired at Panglong: "Aung San very boldly offered the right of secession to the Shan leaders and representatives if their desire and wishes were not fulfilled as promised. Those very fine and sweet words of assurance came like a magic wand touching the nerve centers of all the frontier peoples removing all doubts and suspicions from their minds and electrifying them to shout slogans like 'Unity with Myanmar'..." [8] (p. 301). This directly contradicts Vum Ko Hau's account of the negotiations. Although the right to secede was indeed requested in the initial Shan-Kachin-Chin resolutions, we have already noted its complete absence in the final agreement. If Aung San did agree to it, it was an abject failure on the part of the Frontier representatives not to get it in writing.

Sai Aung Tun is not the only Shan to ascribe statements to Aung San at Panglong that lack support; another appears to be an appropriation of a position taken by another minority leader. Ferguson, citing Shan writer Hang Hseng Yawd, characterizes an alleged Aung San promise at Panglong this way: "The phrase most associated with this sentiment is Aung San's declaration, 'If Burma gets a *kyat*, Shan will get a *kyat*'...The latter quotation is taken as evidence of the promise of equality in distribution of state resources" [57] (p. 57). This is most probably an appropriation of the statement by Karen leader Saw Chittee before the Frontier Area Committee of Enquiry, which did not precede but followed Panglong, who testified that if the Bama get a rupee, the Karens should get a rupee: "Constitutional questions like these are beyond our understanding. Our view, in brief, is that, if Burma gets one rupee, we want one rupee. The Karens must have equality with the Burmans" [24] (p. 124). It is almost inconceivable that Aung San would promise the three minority signatories of the Panglong Agreement three out of every four *kyat* accruing to the Union government.

After the conference, Aung San further added further ambiguity by seemingly backtracking from the spirit of Panglong in a letter to the Karen National Union dated March 3, 1947. The matter of a Karen state, he wrote, can only be resolved in the CA, but the EC would "view with sympathy the natural desire of the Karens to have a semi-self-governing area of their own within a unified Burma." The "semi-self-governing" expression appears to be a step down from the broader commitments made at Panglong, particularly the statement, "Full autonomy in internal administration for the Frontier Areas is accepted in principle." In putting off resolution of the Karen state to the CA, he noted that the Kachin Hills, which had at that time a more clearly defined boundary than a Karen State, "was *not* accepted *in principle* at the recent Panglong agreement, though the representatives of the Executive Council expressed the view that such state is desirable" [emphasis added] [25] (p. 446). The expression "in principle," now used multiple times, had seemingly become a mechanism by which the Rance-Aung San government could argue it never really meant what it had put in writing.

Looking back on these matters, critics within the minority communities would contend that their leaders' acceptance of Aung San's verbal reassurances regarding a variety of issues in lieu of having them more clearly spelled out in the Panglong agreement would enable the AFPFL to maneuver them into accepting at the Constituent Assembly something less than what had been promised. The unfortunate assassination of Aung San on July 19 [18] not only furthered this, but would eventually lead to a war of words over what he actually intended, most noticeably during the federalism campaign in the early 1960's to rewrite the Constitution.

INDEPENDENCE ROADMAP: THE FRONTIER AREAS COMMITTEE OF ENQUIRY

Since most of the Frontier peoples did not live in Ministerial Burma and had no experience of democracy, they were unable to participate in the April elections to the Constituent Assembly, nor was there sufficient time to establish democratic systems and hold elections in these regions by the time the CA was to convene. For this reason, the Aung San-Attlee agreement envisioned the establishment of a "committee of enquiry," eventually called the Frontier Areas Committee of Enquiry (FACOE), to determine the best way of "associating" the minority peoples with the CA's task of drafting the new constitution. Prime Minister Attlee approved the appointment of D. R. Rees-Williams, a Labor parliamentarian from the district of Craydon South, as Chair, who was assisted by Burma Proper members U Tin Tut of the Executive Council, Thakin Nu (later to be called U Nu) and U Khin Maung Gale of the AFPFL and Saw Myint Thein of Karen Youths' Organization, which was affiliated with the AFPFL. Frontier members were the *sawbwa* of Mongpaw, Counsellor to the Governor for the Frontier Areas and member of the EC, Sima Duwa Hsinwa Nawng (Kachin) and Vum Ko Hau (Chin), both Deputy Counsellors on the EC, and Saw Sankey of the Karen National Union, who was the only member not affiliated with the AFPFL or the Governor's cabinet [18, 28].

The FACOE held 24 meetings in March and April 1947, with the formal hearing of witnesses conducted in Rangoon and Maymyo (today called Pyin U Lwin) and informal meetings in Myitkyina, Bhamo, Lashio, Loilem, Taunggyi, Loikaw, Mawchi and Taungngu. It heard testimony from the Bama, Chin, Kachin, Shan, Wa, Kokang, Nepalese, Kayah and Karen communities and representatives of the Shan States Peoples' Freedom Congress and the Supreme Council of the United Hills Peoples. Regarding the best mechanism for associating Frontier representatives with the CA, the Committee recommended unanimously to employ disproportionate representation by assigning the Frontier areas 45 delegates due to its geographic fragmentation and kaleidoscopic ethnic situation, or ten more than strict demographics would warrant. These 45 delegates would either be appointed by existing leaders and chiefs after consultation with their peoples or chosen at mass meetings held in urban centers. To ensure a democratic process at the CA, it also recommended that no decisions regarding the creation of states be approved unless a majority of the affected delegates approved the measure [28].

In light of the testimony the Committee received, the following recommendation is noteworthy: "We further recommend that the participation of representatives from various parts of the Frontier Areas in the work of the Constituent Assembly should not be regarded as committing them to union or federation with Burma" [28] (p. 44). Yet this valuable caveat would be meaningful only if the Committee consistently advised witnesses that participation in the CA was not such an *a priori* commitment. It does not appear it did. Besides its report, the only action the Committee took in this regard is found in question no. 11 of the Basic Questionnaire provided to witnesses 24 hours before their testimony: "Would they [the subject people or

group] regard to the entry of Frontier Areas representatives into the Constituent Assembly as involving the inclusion of the Frontier Areas in a United Burma?" This poorly worded question only posed the issue, but never explicitly stated that participation in the work of the CA did not require an agreement to join the union [24]. Perhaps the Committee felt the CA should be responsible for this disclosure, but it does serve as further evidence of "burking of the real issue" as Donnison called it [15].

The Committee did concede the impossibility of addressing singularly the relatively dry, ministerial issue of how best to involve the Frontier peoples in the CA's work without also hearing evidence regarding the larger question of the future of these peoples under that Constitution and what form of association with Burma Proper would best serve their aspirations [28]. However, in exploring the larger question they appeared to have avoided the more direct issue of whether the Frontier peoples desired union with Burma Proper in the first place. As Western critics such as Trager and Donnison would point out, the Committee appeared to frame the issues before it so as to presume the desire of union by focusing only on the form of union. If a witness opined on the form of union, it could be assumed the witness had already consented to amalgamation with Burma. Since the Committee discovered that nearly all the witnesses desired to participate in the work of the CA--only two Shan states declined--the willingness to join Burma that the AFPFL, the British and the Committee so ardently sought seemingly could be taken for granted [10, 15, 28].

In response to all the varying testimony, the FACOE made additional recommendations: "The picture that emerges from this welter of evidence is that of a federated Burma with the Federated Shan States and the Kachin Hills as two constituent states and with the Karenni States possibly another, but with Burma proper enlarged by the possible incorporation of the Chin Hills," which with the "probable" addition of the Salween district of the Karens, would in the words of the Committee, "reduce the craziness of the patchwork quilt which the present administration of the Frontier Areas resembles" [28] (p. 46). The Committee was less certain in recommending states for the Kayah and Karens for the following reasons: "The representatives from the Karenni States, while stating clearly that they wished to be represented in the Constituent Assembly, did not definitely commit themselves to any views in regard to the entry of the Karenni States into a federated Burma. A group of witnesses from the Salween District, appearing before us early in our meetings, expressed views in favour of forming a state within a Burma federation. Another group, appearing before us later, supported by a letter from the leaders of the first group, stated that, after further consideration at a mass meeting of the residents of the district, they now desire the incorporation of the district as a part of ministerial Burma" [28] (p. 46). As for the right to secede, the Committee said this: "The majority of the witnesses who favoured a federation of Burma asked for the right of secession by the states at any time. Few federal constitutions contain provision for secession of states. It seems to us that, if any such right is to be contained in the federal constitution for Burma, it will have to be carefully limited and regulated" [28] (p. 48). It further noted the unwillingness of some of the Shan and Bama residents of the Part II urbanized areas of the Kachin Hills to amalgamate with the Part I areas in a Kachin state. The Committee felt the matter should be left to the CA to resolve. It did note, however, that Kachin witnesses were willing to safeguard the political rights and the cultural freedoms of non-Kachins in a future Kachin state [28].

However reasonable the Committee's conclusions may appear upon initial reading, a careful examination of its Volume 2, which contain the transcripts of the witness testimony, only strengthens the arguments of Western observers, such as Trager and Donnison, that the British and AFPFL were determined to demonstrate they had obtained the free consent of the Frontier peoples to joining Burma when they actually had not. Of major note was the seemingly deliberate misrepresentation, if not tangible manipulation, of the testimony of Kayah and Karen witnesses, which in the main indicated a great reluctance, if not outright refusal, to join the proposed union. Indeed, if one was asked in 1948 about the prospects for Bama-minority relations and all one had to go by was Volume 2 of the FACOE Report, one would have to conclude that pessimism would be the only appropriate response. Much of what has transpired since would come as no surprise. Let us start with the Kayah.

Representatives of the Kayah states and the Shan state of Mongpai appeared at Maymyo, including the *sawbwa* of Kyebogyi State, the son of the *sawbwa* of Kantarawaddy and the administrator of Bawlake, which did not have a *sawbwa* at the time. Although administered by the British Frontier Administration, they affirmed their claim to be independent states. They submitted a memorandum setting forth their views, some of which are difficult to understand in light of the terminology employed. They sought union with a "Frontier Areas Administration," which for the time being would be separate from Burma, as long as their independence was not affected, and if they joined such an administration, they wished to have a seat on its "Supreme Council," "full autonomy" for their three states and a right to secede "if and when our people feel that our future peace and prosperity are at stake." Even if Burma joined the Commonwealth, the Kayah representatives were reluctant to commit to union as there was considerable distrust of the Bama in the Kayah community. Clearly, they wanted much more than Commonwealth status to join the proposed union, but how the AFPFL could satisfy them was not made clear. What is clear is that none of this is reflected in the Committee's final report, which simply stated that the Kayah were non-committal as regards joining a federated Burma. One could conclude they were much more than non-committal; a better characterization would be outright refusal for the immediate future at least, but the Committee's conclusions failed to note any of this [24].

In the matter of the Karens, the misrepresentation continued. On March 19, 1947, Saw Chittee testified in Rangoon that at a mass meeting in March 1946 Karens of the Salween district resolved to remain in the Frontier Area "under the direct control of the British Government" and not join Burma Proper. When the Chair asked why they did not want to join Burma, Saw Chittee related tragic stories of mistreatment at the hands of Burmese forces during World War II. When further questioned about the split in the Karen community over the establishment of what U Khin Maung Gale of the AFPFL sarcastically termed "Karenistan," he responded that the majority of Karens sought an independent state and only a minority desired to stay in Burma. U Khin Maung Gale then replied, "I think that is only your guess." Saw Chittee conceded Karens have considered joining a federated Burma, but declined to do so out of distrust of the Burmese government. The subject of the Panglong agreement then arose and Saw Chittee testified: "We do not know what happened at Panglong. The Conference coincided with the Karen National Congress Meeting. Nonetheless, we sent 4 representatives to Panglong, but they were not consulted" [24] (p. 123-24). Saw Sankey, the Karen member of the Committee, then noted his attendance at Panglong, but he went as a representative of the Karen people, not the Salween District, and therefore acted solely as an observer. The testimony of this group then quickly

came to an end, as if the Committee wished to deflect any serious consideration of the fact that no Karens signed the Panglong agreement and that this group, at least, wished to remain out of Burma. Yet the Report made no mention of the desire of the Salween District Karens for a completely independent state. What it did say, quoted above, was that a Karen group from the Salween District appeared early in the proceedings and "expressed views in favour of forming a state within a Burma federation," while a later Salween group alleged that a mass meeting of Karens "after further consideration" expressed a desire to join Ministerial Burma only as a district [28] (p. 46). Since Saw Chittee spoke on March 19 and the second group headed by Saw Lulu appeared on April 14, the Committee decidedly misstated the position of Saw Chittee's group, and we must suspect it was intentional. The same could be said about the position of the Shwegyin Karen Association; Marshall Shwin, its spokesperson, expressed a desire to abide by the wishes of the Karen National Union (KNU) regarding the form of union with Burma. They wanted federation only with the other minority areas, not with Burma Proper, and if there was federation with Burma Proper it should be an experimental arrangement. They called their envisioned polity a "separate Colony for the Karens", but the Committee's report made no mention of this testimony [24].

Moreover, Cady has questioned the sincerity of the testimony of the second Karen delegation from the Salween District mentioned above, alleging that the AFPFL essentially bought their testimony by extending government contracts to its representatives. Apparently, the Karen National Union, whose views were consistent with those of Saw Chittee, the first testifier, was unable to deliver forestry leases and other contracts to the second group, but the AFPFL government, through the intervention of U Tin Tut, a member of the Committee and the Governor's EC, successfully extended the contracts in exchange for their testimony favoring union with Burma Proper [12]. U Tin Tut justified the granting of these contracts as part of an indigenization program to favor native Karens over Indian merchants, about which Cady expressed skepticism. In his opinion, their favorable testimony was paid for and the record appears to support this [24].

But the controversy over the sentiment of the Karens did not end there. Later, the KNU wrote to the Governor on May 6, 1947, to protest the statements of Saw Lulu and other Karens--the second Salween group mentioned above--who testified that a mass meeting of Karens in the Salween district during April 1947 expressed a desire to join Burma Proper only as a district. The KNU vehemently denied the mass meeting took place or that such sentiments were expressed. They requested an investigation by Chair Rees-Williams, but as the FACOE Report had already been finalized two weeks before the KNU letter, Rees-Williams would be unable to investigate the allegations and the truth of the matter was never determined [24, 25].

The KNU's unhappiness found further expression in a June 25 Press Release, where it strongly protested the "gross misrepresentation" of Chair Rees-Williams, now back in London and quoted in a *Sunday Times* article of June 22, 1947: "The Chins are so divided geographically that it is difficult for them to effect any cohesion among themselves. The Karens are equally at variance politically; the Animist Karens have no interest in the Constitutional issue, the Buddhist Karens are inclined to side with the Burmans, while the Christian Karens, who are about 25 per cent of the whole, and the educated ones at that are divided among themselves into two groups, one of which supports Aung San and the other is against him." In response, the KNU asserted that much of its testimony was not reflected in the FACOE Report and that Rees-

Williams had misrepresented Karen sentiment as one of “disunity and confusion” [25] (p. 610-12). We find his parsing of Karen sentiment by religious affiliation indeed bewildering, as there was virtually no evidence before the Committee regarding the religious beliefs of the witnesses.

We will eventually learn that Saw Sankey, one of the Karen members of the FACOE and a KNU leader, later alleged that he did not dissent from the committee’s conclusions, which he knew or probably knew, departed from the true sentiments of the Karens, because his life had been threatened. Marshall Shwin, one of the Karen testifiers whose statements were ignored in the report, asked Saw Sankey afterwards why he had not questioned the testimony of Saw Lulu, the second Salween testifier, and he responded: “They told me that if I said or did anything contrary to the interests of the AFPFL they would have me liquidated.... If I had given a negative answer, I would have been denied the privilege to fight [later]” [50] (p. 472). Saw Sankey eventually became one of the leaders of the Karen revolt [50].

Despite these controversies, the Committee’s recommendations served as the basis for the selection of the 45 Frontier delegates to the Constituent Assembly, and upon the election of the remaining 210 delegates in April, the drafting of a new constitution of the Union of Burma could begin.

INDEPENDENCE ROADMAP: THE CONSTITUENT ASSEMBLY

Having established the Karen Youth League as a constituent group, the AFPFL had formed by mid-1947 organizations in most of Burma’s ethnic groups and was in a position to dominate the proceedings of the Constituent Assembly. It was agreed that the CA would be larger than the legislature under the 1935 Act with a total of 255 delegates, 182 members of which would come from the “noncommunal” areas, 24 from Karen regions outside the Salween district and four representing Anglo-Burmans. The remaining 45 delegates would come from the Frontier areas as recommended by the FACOE. Decisions by both the National United Front (NUF) and Karen National Union to boycott the vote only contributed to a greater level of AFPFL domination. Consequently, members of the Karen Youth League took most of the Karen seats. The AFPFL won the vast majority of the noncommunal seats (173 out of 182) as it either ran unopposed or was opposed by little known candidates not affiliated with a political party. When the AFPFL delegate from Mergui (present-day Myeik) died of drowning, Aung San talked U Nu into running for the seat, and the Assembly unanimously elected him President [4, 29].

Prior to the convening of the CA on June 9, the AFPFL held a national convention from May 20 to May 23 in Rangoon during which it unanimously adopted two important documents: one, a 14-point constitutional template putting forth the fundamental principles of the proposed constitution, and two, a draft constitution for consideration by the CA. Both documents reveal not only the AFPFL’s views on minority issues at the time, but also establish a baseline by which we can identify the provisions that survived the Assembly’s scrutiny and the provisions that did not [4]. Thakin Mya, one of the most important AFPFL leaders, stressed at the convention how the organization had to place greater emphasis on the minority situation and determine a form of nation state that would meet acceptance with the majority of the country, not just the AFPFL. He is reported to have said that the constitution had to be “acceptable not only to the Burmese and Karens, but also to a substantial majority of all the races inhabiting Burma” [4] (p. 121).

The AFPFL's 14-point constitutional template set forth the major elements of the proposed constitution, and the following paragraphs directly concerned the Frontier areas. Paragraph 2 listed the five major territories of the proposed Union of Burma: British Burma, the Federated Shan States, the Kayah States and the Kachin and Chin Hill districts. Paragraph 3 outlined the cultural and societal elements to be considered in determining the level of political autonomy for the four minority areas listed above, being: "(i) a defined geographical area with a character of its own, (ii) Unity of language different from the Burmese, (iii) Unity of culture, (iv) Community of historical traditions, (v) Community of economic interests and a measure of economic self-sufficiency, (vi) a fairly large population, and (vii) the desire to maintain its distinct identity as a separate Unit, shall possess the status of the 'Union state,' 'Autonomous state' or 'National Area' as may be determined by the Constituent Assembly..." [1, 9]. Unfortunately, the template provided no guidance as to which of the above elements would be necessary for designating each of these states and areas. In addition, paragraph 7 set forth the rights of "National Minorities", apparently in response to Karen demands, as the second part of the paragraph called for the creation of a Karen Affairs Council to assist the Union government in matters concerning the Karens: "(1) human rights, (ii) national and cultural rights, (iii) freedom of association with cultural autonomy, and (iv) due representation in the legislature, shall be guaranteed to a group of citizens who differ from the majority in race, language, culture and historic traditions, and form at least one tenth of the population of the Unit concerned" [1, 9]. However, without a clear specification of the "Unit concerned" it would be difficult to determine whether the population of any minority would constitute ten percent of the subject whole. Both Silverstein and Furnivall concluded that the provision for National Minorities was primarily crafted to address the portions of the Karen population outside the Salween District and generally considered too scattered to be included in the Karen state, and in fact were not [1, 4]. Clearly, the proposed Union State, Autonomous State and National Area would entail the creation of a defined geographic district where the respective minority was the majority, or at least could claim to be or had been in the past, while the status of National Minority would apply to peoples who constituted at least ten percent of the population of a certain administrative unit, such as one of the states or districts within the union. The 14-point template, however, provided no specific guidance on what sort of democratic representation these four entities would be entitled to, and for that one must look at the AFPFL's draft constitution.

In the draft constitution, a Union State would be appropriate for minorities having a language different from Burmese, a distinct culture and historical tradition, common economic interests and a certain amount of economic self-sufficiency, a "fairly large" population, a definite geographic area and the "desire to maintain its distinct identity as a separate Unit" [30] (p. 231). It would also have its own constitution similar to the Union's constitution, its own elected legislature that would select a State Governor and a significant measure of autonomy. These latter features were not found in the final Constitution. An Autonomous State would be suitable for minorities with qualifications similar to the above but lacking economic self-sufficiency. It would enjoy an elected State Council that chooses a chief executive, but with an overall lesser degree of autonomy. A National Area would be for peoples who could not qualify for the two prior arrangements but have a distinct language and a territory where they are found in "appreciable numbers" and, of course, a desire to maintain their identity as a minority. The President of the Union would appoint an Administrator to govern the area supported by an Advisory Council [30]. National Minorities would receive seats in the Chamber of Deputies in

proportion to their population and “greater weightage” would be afforded to them regarding seats in the Chamber of Nationalities, the upper house of the proposed legislature.

The technical issues of whether the states would enjoy their own constitutions, legislatures and judicial bodies, as proposed in the draft constitution, occupied the drafters of the CA to a considerable extent. A perceived hurdle to establishing such structures was whether the Union possessed sufficient numbers of qualified individuals to serve on this collection of bodies, and ultimately it was decided not to pursue this approach. U Chan Htoon, the CA’s chief constitutional law authority, was instrumental in arguing that the nation could not financially support the number of public servants needed to fill all the positions these institutions would require [30].

The draft constitution did provide for a right of secession to be granted to all Union and Autonomous States, subject to the following provisions: 1) it could not be exercised for ten years following the date upon which the subject state was established; 2) a resolution to secede must be passed by two-thirds of the State’s legislature; 3) the Union legislature would then approve the holding of a plebiscite to ascertain the will of the people of the respective State; and 4) a commission consisting of an equal number of members of the Union and the State concerned would be established to supervise the plebiscite and ensure its fairness [30]. The above provisions indicate that the right was to be granted to all Union and Autonomous states without exception and that the ten-year limit upon exercising the right was not a compromise that came out of the CA, but was the intent of the AFPFL at the outset. In the final constitution, only two states would receive secession rights similar to the above.

Although Silverstein believed these proposals were the first time the AFPFL put to paper comprehensive ideas for federalism, they did appear to follow the earlier commitments of Panglong and the recommendations of the FACOE. To further enhance the autonomy and rights of minorities, the draft constitution also proposed the creation of a Chamber of Nationalities of 160 seats, having 32 seats for the Shan states, 13 for the Kachin region, nine for the Chin region, four for the Kayah, 32 for the Karens and the remaining 70 representing the rest of Burma. These numbers would give the collected minorities a majority of seats in this Chamber, but curiously many of the members would be appointed by various councils and not elected directly [4, 30].

On June 16, Aung San moved the CA to approve a “directive Resolution” that reduced to seven the 14-points of the constitutional template approved previously at the AFPFL congress. This more condensed resolution eliminated any mention of a Chamber of Nationalities, a Karen Affairs Council, Union and Autonomous States, National Areas and National Minorities and substituted much more general language regarding minority autonomy and rights [1]. It was rather brief, but did recognize, like the preamble of the final Constitution, the particular status of the Karenni States: “Whereas the representatives of the people of Burma, including the Frontier Areas and the States of Karenni, are hereby assembled...” [9] (p. 93). Specific mention of the Kayah states would indicate the AFPFL had realized they possessed a special legal status different from the rest of the Frontier areas. Sections relating to minority peoples follow: paragraph 2, “That the Union shall comprise such units as shall be specified by the Constitution and the units so specified shall exercise such autonomy as shall be defined in the Constitution;” paragraph 4, the Constitution shall guarantee to all the peoples of the Union a variety of rights

and equality of treatment and opportunity, "subject to law and public morality;" and paragraph 5, "That the Constitution shall provide adequate safeguards for minorities" [9] (p. 93).

Silverstein argues that the AFPFL's seven-point constitutional template, as well as an address by Thakin Mya before the Assembly, are evidence of an evolution in the AFPFL's thinking from one stressing various forms of autonomy and representation for minorities to one stressing national unity and uniformity in political rights. Although there is no official document explaining this shift, the differences between the seven-point template and the earlier 14-point template and draft constitution are indeed stark [4]. Sai Aung Tun's *History of the Shan State* provides an alternative explanation for the absence of the Union and Autonomous States, National Areas and National Minorities by citing Aung San's decision to eliminate the four-tier system with the more general language of the seven-point template. In the *Proceedings of the Constituent Assembly of Myanmar, vol. 1, Meeting Minutes, No. 4*, Aung San reportedly said: "At first the proposal I was to make was the one decided upon at the AFPFL Convention. But on reading the proposal, I found that it needed revision...so I altered these provisions...so it could not be held that we had already decided clearly as to which states would be included in the Union. In the proposal presented at the AFPFL Convention, we did mention these states, but we did so without having given much thought to it. However, after some reflection, we believed that since these units would automatically be included in the Union, we have made no mention of the constituent states and have now made only a general statement" [8] (p. 611). However, upon a careful reading, it is not at all clear Aung San was referring to the four tiers of constituent units cited above; he appeared to be referring to the actual states, which under Paragraph 2 of the 14-point template were the Shan, Kachin, Chin and Kayah States. In fact, he further confused the matter by saying the reason for not specifying them was that they would be "automatically" included anyway. So, we must conclude the evidence of an evolution in thinking is ambiguous, at least in terms of the granting of states.

At the opening of the AFPFL Congress in May, Aung San said: "Now when we build our new Burma shall we build it as a Union or as a Unitary State? In my opinion, it will not be feasible to set up a Unitary State. We must set up a Union with properly regulated provisions to safeguard the rights of the national minorities. But we must take care that 'United we stand' and not 'United we fall.'" [30] (p. 169). How to reconcile the conflicting demands of national unity and minority autonomy would perplex the drafters of the Constitution and lead to a number of compromises, but the consensus of opinion is that unitary thinking predominated. U Chan Htoon, Burma's attorney general, was alleged to have described the 1947 Constitution, in Silverstein's paraphrase, as "federal in theory but unitary in practice" [4] (p. 185). Silverstein sees it as an attempt to unify the different peoples of Burma by devising a "unique federal system" that on the surface bestowed self-governance on the minorities but in reality, provided insufficient self-rule for them. He characterized the real nature of federalism in the Constitution this way: "...the federal structure was more nominal than real" [4] (p. 205). He is not alone among Western scholars in questioning the depth of the commitment to federalism; Donnison characterizes the final product a "curiously mixed unitary-federal constitution" [15], while Butwell describes the Union as "semi-federal," and the constitution as a "...hastily assembled, largely paste-and-scissors product...borrowing from the democracies and the Communist countries alike..." [29] (p. 89). It is true the constitutions of Ireland, Yugoslavia and India were referred to frequently for ideas and guidance [30]. Marin Smith is even harsher in his

assessment: "The result was a constitution as lopsided and riddled with inconsistencies as any treaty drawn up in the era of British rule" [50] (p. 79).

What emerged after three months of work was a constitution that created lower and upper legislative bodies, the former called the Chamber of Deputies with 250 seats (Article 83) apportioned by population; it nominated the Prime Minister (PM) (Article 56). More representative of the minorities was the upper house called the Chamber of Nationalities with 125 seats allocated as follows: 25 to the Shan State; twelve to the Kachin State; eight to the Chin Special Division; three to the Kayah State; 15 to the Karen State (by the 1951 Constitution Amendment Act); and 62 to the remaining territories of the Union (also by the 1951 Constitution Amendment Act) (Second Schedule and Article 87) [30]. Budget and financial bills were introduced in the Chamber of Deputies and once passed were forwarded to the Chamber of Nationalities for its recommendations, but not approval. Its recommendations had to be returned within 21 days, but the lower house was not required to accept them and if it did not, the bill was forwarded to the President for implementation [30]. With the ability to nominate the PM and the power of the purse, the Chamber of Deputies clearly had greater powers than the Chamber of Nationalities, an issue the minorities would raise in the early 1960's.

As the Assembly proceeded, representatives of Burma Proper and the Frontier areas negotiated the terms of minority autonomy and representation within the new Union, reaching an agreement that the Chins would be organized as a Special District, less than a full state since they had requested financial assistance from Burma Proper. The Shans and Kachins, however, would be granted full statehood. In all the states, the delegates elected or chosen to the Chambers of Nationalities and Deputies would also serve as members of a State Council that would have the power to legislate on the state level. The PM would appoint a member of the State Council as Head of State, who would also serve as a Minister in the PM's cabinet. No provision was apparently made for the significant minorities within the Shan State, such as the Pa-O, Wa, Lahu and Akha. The Kachins would have a similar arrangement, but with protections for the large non-Kachin population residing in the urban areas. Discussions with the Karens did not proceed as smoothly as those with the Shans, Chins and Kachins as an agreement on the boundaries of the Karen state could not be reached, further complicated by the initial absence of the Kayah delegation and consequent inability to obtain its input on whether the Kayah states would be included in the proposed Karen State or organized as a separate state. It was eventually organized as a separate state. The status of the Karens in the delta area also posed difficulties now that the National Minorities solution proposed earlier appeared to be off the table. U Nu eventually negotiated a compromise to include language in the constitution conceptually granting the Karens statehood and establishing an advisory council to resolve the boundary issue.

The Constitution did not provide a "one size fits all" solution for minority representation, as demonstrated by the Special District for the Chins that would theoretically facilitate eventual assimilation with Burma Proper and statehood for the Shans, Kayah and Kachins, with some degree of protection for non-Kachins in the latter state who feared political domination by the majority ethnicity. These compromises may have seemed contradictory to some, but in the end they were satisfactory to the delegates as demonstrated by their unanimous adoption of the Constitution on September 24. However, the delta Karens did not receive the representation or protections they sought, and Mon and Arakanese leaders complained that they were not

granted statehood along with the major minorities, complaints that would all contribute to future problems [4]. Let us examine each state individually.

The Shan State was the largest of all the states and, along with the Kayah State to be discussed below, received a major concession whereby the *sawbwas* would be granted all the seats in the Chamber of Nationalities without having to run in an election. Article 154(2) provided that all 25 Shan seats to the Chamber of Nationalities were reserved for Shan *sawbwas*, who were chosen by a special council made up entirely of *sawbwas*. As with the other states, all the delegates to the Union Parliament also served on the State Council, meaning there were no separate elections for the State Council and once Parliament was dissolved there would be no State Council until the next parliamentary election (Article 154). Based on a 1951-52 nationwide apportionment of seats to the Chamber of Deputies, the Shan State received 25 seats in that body, for a total of 50 delegates to Parliament. (Articles 92(2), 96(1), 155, Third Schedule List 2 and Fourth Schedule). The Union PM, after consulting with the State Council, appointed one of its members as the Head of State, who also served as the Minister for the State in the PM's cabinet (Article 160), an arrangement followed in the other States [4, 30]. Silverstein concludes the following about the Head of State: "His first responsibility was to the prime minister and not to the State Council....a peculiar arrangement...[an] example of state inferiority to the Union and of the unique interlocking of state and Union institutions and personnel" [4] (p. 191). As half the members of the State Council were *sawbwas*, they retained much of their traditional administrative, taxing and judicial powers, while the State government appeared to be active only in the more populated urban centers. Silverstein noted that the AFPFL counter-balanced this concession to the *sawbwas* by prohibiting them from holding seats in the Chamber of Deputies, thus ensuring that all those seats would go to non-*sawbwa* citizens of the State (Article 154(2)). Silverstein contends this compromise ensured the participation of the *sawbwas* in the parliamentary process, while guaranteeing that the "real work of legislating on the Union level fell to the representatives of the people" [31] (p. 47-48). Another peculiar consequence of the Constitution's provisions for the states was role of the Ministers of the four States and the Chin Special Division in the PM's cabinet. Being able to vote on all matters before the cabinet, they could thereby influence the conduct of the Union government and the governance of Burma Proper, another example of interlocking between the Union and the states [1].

As suggested by U Nu during the CA, the constitutional provision privileging the *sawbwas* in the Chamber of Nationalities was supposed to be tried for three years and then reviewed, but other events took precedence and the government took no effective action. After the National United Front, a left-leaning political party that had boycotted the CA elections, gained a significant number of parliamentary seats in the 1956 election, it annually introduced legislation to eliminate the provision, but surprisingly the AFPFL majority voted it down despite its philosophical leanings towards the eradication of feudalism. The AFPFL apparently felt the elimination would be premature, even though more than three years had passed [30].

The Kayah State was created in the final sessions of the CA after a number of complications regarding its delegation and the terms of its statehood were overcome. Kayah delegations to the Assembly did not participate in any of the proceedings until September 15, because the Assembly voted unanimously to prohibit their participation due to a strong disagreement with the Kayah position regarding union with Burma. Indeed, in June 1947 when the CA was

convening, the Kayah position had not changed; they claimed to be an independent nation under no obligation to participate in the drafting of the constitution or to even join the proposed union. In a “circular” issued by Kayah leaders dated June 26, 1947, they announced their refusal to take part in the CA’s work because the Kayah region had a different status than Burma and the Shan States. Governor Rance allegedly had informed them on June 20 that they were “independent with full sovereign rights” and the British government could not determine their future without their consent. Since the British Parliament would have to approve the new constitution, the Burmese government had no power by itself to sanction it and the Kayah had no obligation to participate. The circular: “an independent country like Karenni cannot take part in an Assembly which is now merely framing a proposed constitution for a country merely about to become independent. When Burma has achieved independence, Karenni will be prepared to enter into a *treaty of alliance* with her, or with whatever party is in power at that time” [emphasis in original] [25] (p. 619). No doubt such sentiments did not endear them to the AFPFL. Upon receiving authorization from Kayah leaders at a mass meeting in September to join the Union, a new delegation arrived at the CA and agreed to statehood with the same terms and conditions as the Shans, meaning the right to secede from the Union after ten years [4]. With this matter resolved, the Assembly unanimously approved the Constitution on September 24 [18].

Martin Smith contends that the Kayah delegation the CA refused to seat actually boycotted the proceedings; the delegation consisted of Bee Tu Re and San Thein, the former a well-known advocate of Kayah independence. Moreover, Smith depicts the arrival of the second Kayah delegation this way: “...a new delegation suddenly materialized in Rangoon, headed by the AFPFL activist U Sein. Privately British officials doubted their credentials, but again took no action” [50] (p. 86). To support this, he cites a telegram from R.E. McGuire to Sir Gilbert Laithwaite dated September 22, 1947. We have reviewed this telegram, classified Top Secret, and although it provides evidence of a boycott by the first delegation, it does not support Smith’s characterization of the second delegation in any way. We quote McGuire: “The delegation was fully representative and fully empowered by the people of the Karenni who now regard U Bee [Tu Re] as utterly discredited whilst not hiding their faces from the fact that he will endeavor still to make trouble in the States” [25] (p. 756). In fact, McGuire lists all eight delegates with their credentials, noting how they had been chosen by the Kayah Supreme Council and represented all three Kayah states, including the Shan State of Mongpai which was considering joining the Kayah State. Apparently, the Council had turned on Bee Tu Re when they discovered he had misled them into believing the British were willing to loan the Kayah £1,000,000 if they remained independent. When Bee Tu Re arrived in Rangoon, the British firmly advised him no such loan was forthcoming and that all financial assistance from the Burma government would cease if the Kayah refused to join the Union. The new delegation tried to contact Bee Tu Re when it arrived in Rangoon, but per McGuire “he ran away without seeing them” [25] (p. 756). As predicted by McGuire, the seating of the second delegation and its agreement to join the Union resulted in preparations for armed struggle by the Bee Tu Re faction [50].

But there was an additional complication. By the time the second Kayah delegation arrived on September 15, the draft of the Constitution was close to adoption and there was no time for the Kayah to make any changes, meaning they could not object to the article proposing that a Karen State be built out of the Kayah region, the Salween District and adjacent areas if a majority of

Karens so desired (original Article 180(1)). Soon after independence, the Kayah people, upon learning what had transpired, strongly protested this provision empowering the Karens to potentially swallow up the Kayah State. Thus, a constitutional amendment supported by the Kayah and approved in 1951 revised Article 180(1), repealed the related Article 195 and changed the name of the state from Karenni to Kayah to put an end to much of the confusion surrounding the labels. Contributing to the Kayah desire to remain separate from the Karen State was the temporary occupation of the Kayah region after independence by Karen rebels, which resulted in much hostility towards the Karen movement [1, 30].

As in the Shan State, the three Kayah chiefs, which in the Constitution were also called *sawbwas* and whose states were specifically identified (Article 183(1)), automatically held all the Kayah seats to the Chamber of Nationalities, but similar to the Shan State could not run for seats in the Chamber of Deputies. Local government in the Kayah State was jointly administered by the three chiefs and the State Head. Similar to the Shan State, the chiefs enjoyed exclusive power in their respective districts over matters of customary law, which included local judicial and taxing powers. [4, 30].

The governance of the Kachin State operated similarly to the Shan State, with two notable exceptions: one, the Kachin chiefs received no special recognition or rights; and two, special rights were reserved to non-Kachin residents of the State. The final boundaries of the state resulted in a situation where non-Kachins constituted approximately 50% of the state's population, a districting which Bama delegates to the FACOE strongly protested [24]. The state's demographics were further complicated by the fact that much of the urban areas were Part II Constituency areas that elected representatives to the legislature under the 1935 Burma Act. As previously mentioned, these areas were sometimes considered part of Ministerial Burma or Burma Proper, although technically they were Frontier areas. As Furnivall noted: "The people in the constituency areas, largely Burmese or Shan-Burmese, with Indian and Chinese traders, were reluctant to forfeit their privileges of representation in Rangoon. It was impossible however to create a viable State without them" [1] (p. 104). Therefore, the twelve seats to the Chamber of Nationalities had to be equally split between Kachins and non-Kachins (Article 166(2)), but the Minister in the PM's cabinet and Head of State had to be a Kachin (Article 173). No such requirements were placed on the seven delegates to the Chamber of Deputies (Article 166). To maintain ethnic balance in the *state* cabinet, the Constitution required that no less than one half of its members be non-Kachins (Article 175(3)) [1, 4, 30]. U Nu allegedly negotiated this compromised arrangement with the Kachins by granting their request to include the urban areas in their state but denying them the right to secede [29].

The 1947 Constitution created a Karen State, but only in concept as there was no agreement on the boundaries. Its political structure was similar to that of the other states, but with no special rights to minorities within the State or reserved to the Karen chiefs. The Constitution authorized a Karen Affairs Council to study the issue of the boundaries and make recommendations, and in October 1951 Act LXII amended Articles 180 and 181 of the Constitution to create the Karen State by incorporating the Salween District as its core. A second amendment, Act XIV of September 1952, transferred five townships adjacent to the Salween District into the Karen State, which determined the final boundaries. Despite these measures, Furnivall alleged that only one-third of the Karens actually lived within the state. Once fully established by these constitutional amendments, its State Council and Head of State were

appointed and had powers as in the other states, but the right to secede was specifically denied (amended Articles 180 and 181) and the state government exercised little influence in the state prior to the mid 1950's due to the Karen insurgency [1, 4].

Identifying the origin of the secession provision to the states in the 1947 Constitution has engaged scholars for some time. In his early writings, Silverstein concludes it originated with the requests of minority representatives at the FACOE and the recommendation of the FACOE Report to provide secession under stringent conditions. In later writings, however, he acknowledges it appeared a full year earlier in the Provisional Rules of the Supreme Council of the AFPFL, wherein we find the objective of creating a nation "based on voluntary union...including the right of secession." We also saw the right of secession promoted in March 1946 at the first Panglong Conference by the politician U Saw, who viewed it a virtual necessity for creating the new nation. Maung Maung and Butwell contend that it was a simple matter of giving the Shans and Kayah what they demanded at the CA, as both nations were uneasy about joining Burma without the right to secede [29, 30, 31]. Taylor implies that the Burmese Communist Party, a major constituent of the AFPFL until its expulsion in October 1946, had a major influence in the federal features of the Constitution: "...Burma's Communists, borrowing from Stalinist doctrines about nationalities...along with notions about nationality common in liberal thought at the time...shaped the 'federal' nature of the Union of Burma" [5] (p. 288). Although Taylor takes us close to identifying a possible source, Silverstein's later writings on Burma take us even closer by emphasizing a speech by Aung San at the May 1947 AFPFL Congress, where the 14-point constitutional template and the draft constitution both called for the right of secession for Union and Autonomous states. In this speech, Aung San analyzed Burma's nationality and minority issues in the light of Joseph Stalin's *Marxism and the National and Colonial Question* and concluded that under Stalin's criteria, with the exception of the Bama, only the Shans would qualify as a separate nation within Burma. The Shans had a clear territory, were a separate ethnicity, had their own language, culture and traditions and most importantly had a separate economic base. The other ethnicities had separate languages, cultures and traditions and constituted at least ten percent of the total population, but they did not possess a separate economic base and therefore should be considered only minorities. Thus, he advocated a union that would institute various measures and safeguards to protect the rights of its minorities, but failed to set out exactly how the Shan nation would be treated differently from the minorities [4].

Looking deeper into Stalin's book, we do find numerous references to a right of secession as an inherent right of all nations as well as an essential element of nation building in the context of federalism. In a chapter titled "Marxism and the National Question" (1913) Stalin writes: "The right of self-determination means that a nation can arrange its life according to its own will. It has the right to arrange its life on the basis on autonomy. It has the right to enter into federal relations with other nations. It has the right to complete secession. Nations are sovereign and all nations are equal." Even more revealing are sections from the chapter titled "The National Question Presented" (1921): "...a revolutionary slogan [is necessary], which would serve to dissipate the atmosphere of mistrust entertained by the toiling masses of the non-sovereign nations towards the proletarians of the dominant nations and to clear the way for the equality of nations and for the unity of the toilers of all nations. Such a slogan is the slogan issued by the Communists demanding the right of non-sovereign nations and colonies to political secession...It removes all grounds of suspicion that the toilers of one nation entertain

annexatory ambitions towards the toilers of another nation, and therefore creates a basis for mutual confidence and voluntary amalgamation..." [32] (p. 19, 112-13). Once stripped of the Marxist jargon, a right of secession would eliminate the distrust one nation might have of another in the context of a proposed union, relieve any fear of annexation by a more dominant nation and result in "voluntary amalgamation". In fact, Stalin's book also contains a copy of the first Soviet Constitution of 1922 that granted the right of "unhampered secession" to the four confederate republics [32]. Knowing that Aung San had studied Stalin's book, it appears probable, though not certain, that Stalin's views were the source of the AFPFL's secessionist proposals that first emerged in early 1946 when the Burmese communists were still a major force in the AFPFL, and continued as a solution to minority problems even after the communists had been expelled. By mid-1947, the minorities themselves, particularly the Shans, Kachins and Chins, having been encouraged by U Saw at the first Panglong meeting, had become champions of the concept and the AFPFL had no choice but to offer it, but with safeguards.

Under the Constitution, the designated states enjoyed the right to secede from the Union, unless they were specifically excluded from doing so, which the Karens were under amended Article 181(10) and Kachins under Article 178. The sections of the Constitution concerning secession were Articles 201 to 205. Article 201 stated: "Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed." The expression "every State" was somewhat misleading as it applied to only two of the four states, meaning half of what Article 201 so generously gave was taken away by Articles 181 and 178. The right to secede could be exercise only after ten years from the day the Constitution became effective, identified as January 4, 1948 in the Constitution's Preamble, or on January 4, 1958 (Article 202). If a state chose to do so, a resolution to that effect would have to pass its State Council by a two-thirds majority and then be sent to the Union President who would be tasked with establishing a commission to undertake a plebiscite "ascertaining the will of the people of the State concerned" (Article 204). Silverstein notes how the Constitution and subsequent Parliaments never clarified who could vote in such a plebiscite or what majority would be required for one to pass, and no state ever made an effort to clarify these issues [4, 30]. We can only question whether this demonstrated an insincerity in granting the right in the first place. In other words, were the so-called safeguards so vaguely worded to, in effect, prevent it from ever being exercised, or in the alternative would they make it impossible for the proponents of secession to ever successfully argue that it was improperly denied? Given the tight schedule the AFPFL set for finalizing the Constitution and presenting it to the British for approval, it is more likely these ambiguities were the result of haste rather than plan.

However, once examined in detail, the commonly used shorthand label, "the right to secede," is something of a misnomer. More accurately, it was a right to initiate a process to secede, but with no guarantee of success. The absence of a definite outcome from its initiation has led many observers, such as Silverstein, to essentially dismiss the right as a political and legal mechanism seemingly full of significance for those who received it, and indicative of compromise, if not generosity, on the part of those who granted it, but in the end having little effect on the societies of both grantor and grantee [4, 31]. Subsequent events will prove this only partially true, as the right of secession, although never initiated by either minority, would become a powerful and contentious symbol of what some would claim were excessive nationalist demands.

Identifying why the Karen and Kachin States were denied the right of secession is an easier matter than identifying why the Shan and Kayah States received the right. In *Burmese Politics*, Silverstein offers this explanation for why the Kachins and Karens did not receive the right: "It was the belief of the informed that the Kachin and Karen states were excluded from the right of secession because the states were created out of territory that was originally part of Burma Proper (interviews with Saw Butler and Myint Tun)." He also notes how Maung Maung's *Burma's Constitution* "gives substantially the same reasons as the Karen State Ministry" [4] (p. 200 and n. 80). From this we presume Saw Butler and Myint Tun represented the Karen State. This reasoning is predicated on the legitimacy of the administrative divisions of the 1935 Burma Act to appropriately separate Frontier from Bama majority areas. Leaving this aside for now, did these states, once created, include area that was classified Burma Proper? On this question, it is easier to examine the Kachin State than the Karen State. According to the FACOE Report, the combined area of the Kachin-majority Bhamo and Myitkyina Frontier districts was 23,910 square miles. Per Wikipedia, the area of the Kachin State is 34,379 square miles, significantly larger than the older districts combined, indicating that approximately 30% of the state, or over 10,000 square miles, was outside the two Frontier districts as the British defined them, the result of the inclusion of Bhamo, Myitkyina and other areas [2, 33]. As for the Karen State, the FACOE Report described the Salween District, the only Karen majority region belonging to the Frontier areas, as having an area of only 2,582 square miles, while the Karen State possesses an area of 11,731 square miles, meaning the Salween District was only 22% of the Karen State. The remaining 78% was located in Burma Proper or in nearby Part II Constituency Areas that were predominantly Karen [2, 34]. Although the FACOE Report itemizes these Karen districts, it provides no areas for them, so it is impossible to estimate how much of the Karen State they occupy. But when comparing the current configuration of the Karen State with the map of the Frontier Areas in Figure 3, possibly as much as 50% of the Karen State was carved out of Burma Proper [13]. Therefore, when considering only the statistics and not the reasoning, the available figures support the above explanation for denial of the right. Consequently, U Nu, having become the Prime Minister upon independence, agreed to the 1951 constitutional amendment to give the Karens statehood if they agreed to forego any special privileges or representational rights that may have been promised during the Constituent Assembly, such as a right of secession or dedicated seats in parliament for Karens residing outside their state boundaries [4]. In addressing the denial of the right of secession to the Karens, Maung Maung cited an additional factor: "The reason is obvious. The State itself was built after insurrection and bitterness. What has cost so much to create must not be lost" [30] (p. 194).

Phrased differently, he appeared to be saying that if blood was shed to create a state within Burma, more blood would be shed to prevent one from leaving. Denying the Kachins and Karens the right to secede by arguing that significant portions of their states were once part of Burma Proper appears rather hypocritical in light of how the Bama nationalists condemned the British for separating the indigenous peoples of Burma. Essentially, the majority Bama were saying they would not let any of the minorities walk out the door with territory that the hated British had dedicated solely for the Bama. Thus, the arbitrary mechanisms of colonial-period separation, of divide and rule, had now become historic and sacrosanct grants to be defended with blood.

The reason cited above for giving the Shans and Kayah the right of secession, namely a condition necessary to obtain their consent to join Burma in lieu of seeking alternatives, such as British protection, or in the case of the Kayah independence outside of Burma, remains the most supported, although explicit documentation is lacking [11]. In the case of the Kayah, we know for certain it was not granted after lengthy negotiations, since their delegation arrived at the CA only on September 15, close to the deadline for finalizing the Constitution, and hastily agreed to accept the same terms as the Shans to resolve matters and prevent a possibly worse outcome. The Assembly quickly granted these terms to tie up a loose end.

One of Silverstein's most salient critiques of the Constitution is the haste in which it was drafted and adopted, buttressed by the naïve belief on the part of the drafters that any shortcomings could be easily resolved after independence: "Rather than test it in severe debate or allow it to incubate while the peoples of Burma became familiar with its provisions and had time to think about how they would be effected, its drafters were willing to adopt it unanimously and test it in action, believing it could be amended or changed if the need arose" [4] (p. 247). Shan observers have repeatedly noted how their leaders were told of the need to rush the drafting of the Constitution to comply with a timeline necessary to obtain independence within one year and that necessary changes could be made once the British were gone. They were advised the Constitution was an "interim" document that could be amended when circumstances required, but the insurgencies and Kuomintang incursion preoccupied the government after 1948 and only studies of various issues ensued [6, 11].

With the Constitution completed, PM Attlee and U Nu, now the deputy chairman of the EC and soon to become Burma's first Prime Minister, signed a treaty for Burma's independence on October 17, 1947. During the debate in Parliament, Winston Churchill spoke passionately against the treaty, calling Aung San, now dead, and other Burmese nationalists "quislings" and accused Britain of shirking its responsibilities to the former colonies and their peoples. In defending the measure, Attlee appeared satisfied to proclaim that only one group of Karens out of all the minority peoples had rejected the terms and conditions of union with Burma, failing to note that the Karen National Union represented much of the Karen people. Nonetheless, the Burma Independence Bill passed parliament in December on a vote of 288 to 114 [10, 12, 52]. Cady believed the disapproval of the U Nu-Attlee treaty in the Karen regions of Burma was even more vehement than that found in conservative British circles, declaring: "The Karen 'nationalists' were probably angrier with the British than with the Burmans" [12] (p. 572).

POST-INDEPENDENCE EVENTS

The Karen National Union's (KNU)'s dissatisfaction with the proposed Karen state, created only conceptually by the Constitution, sparked a revolt that erupted in mid-1948 and eventually extended from the Salween and Thaton districts into the southern Shan State and by early 1949 was just north of Rangoon. The KNU proposed a state of considerable size that would have included the Salween District and adjacent Karen majority areas plus all of Tenasserim down to Myeik, and as government control of Lower Burma slowly slipped away in 1948, much of the delta area as well. It is interesting to note that in October 1947, supposedly under pressure from the British, the AFPFL offered the Karens what would have to be labeled a "super state" that would have included the Kayah region, the Shan state of Mong Pai, the Salween district and the Part II areas of Thaton, Taungngu and Pyinmana, as well as a Karen Affairs Council to represent the delta Karens. Smith comments that this offer would be "generous" compared to

prior offers, but the KNU demanded even more and in the end received a much smaller state and no representative mechanism for Karens outside the state [50]. The establishment of the Union Military Police (UMP) in late 1948 by the Socialist Party, the largest constituent unit of the AFPFL, and its placement under the Home Ministry and not General Smith-Dun, the commander in chief of the armed forces and a member of the Karen community, further incited the revolt. Karen leaders saw the UMPs as a private army under political direction, causing fears in their minds of more violent clashes with the Bama similar to those during the war. The Karen revolt would eventually render Smith-Dun's command of the armed forces untenable, and he would be replaced in early 1949 by General Ne Win, a member of the Thirty Comrades and commander of the 4th Burma Rifles, one of the few army units that remained loyal to the government [5, 10]. Reports in late 1948 of Mon and Kayah rebel activity only added to the crisis [10, 12, 30].

The U Nu government responded to the minority revolts by establishing in October 1948 the Regional Autonomy Enquiry Commission, headed by the Chief Justice Sir Ba U and purposed to investigate the "legitimate aspirations" of the Karens, Mons and Arakanese, the latter two denied statehood in the Constitution. Out of sync with the AFPFL leadership, the Mons and Arakanese apparently did not consider themselves thoroughly assimilated peoples in need of no special recognition in the new Burma. The membership of the commission was much more representative of the minorities than the Frontier Areas Committee of 1947, featuring six Karen members, six Mons, five Arakanese, seven Bama and four members representing smaller minorities. The Karens rejected the recommendations of the report, completed in February 1949, when it called for a Karen state consisting only of the Salween District and adjacent Karen areas to the west and south, a territory the KNU had already declared insufficient. The report did not recommend the amalgamation of the Kayah and Karen States, to the relief of the Kayah people [10, 12, 18, 30]. Except for its recommendations regarding the general boundaries of the Karen State, the Commission's report resulted in no further developments.

After the Karens had gone into revolt, U Nu announced before Parliament in February 1949 that as a result of discussions with Karen leaders, a Karen State would be created within the Union of Burma, not outside it. U Nu proclaimed: "The Union Government is fully determined to prevent the secession of the Karen State from the Union even at the risk of a Civil War" [21] (p. 167-77). Although this threat of violence may have placated the majority Bama, it hardly built any bridges to the minorities that in increasing numbers were exploiting the government's current woes to press their demands. Later in 1951, the Constitution Amendment Act of 1951 officially created the Karen State, but reduced the number of seats it had previously received from 24 to 16 in the Chamber of Deputies and from 25 to 15 in the Chamber of Nationalities [30].

As if the minority revolts were not enough for the young nation, it faced another challenge in early 1950 when Kuomintang forces (KMT), fleeing the victorious Chinese communists and unable to reach Taiwan, began to cross over the Burma-China border into eastern Shan State and occupy portions of the Kengtung region. Under the overall command of General Li Mi, they initially numbered approximately 1,700, but by mid-1951 numbered several thousand. During the early 1950's, these KMT forces reorganized themselves with American and Taiwanese aid and launched several incursions into Yunnan Province, but were repulsed by the Chinese military. Fearing these incursions would result in a Chinese invasion of the Shan State, the

Burmese army conducted five separate operations against the KMT from mid-1950 to late 1951, but met with only limited success [6, 8, 16, 31].

Once established in their camps near the Chinese border, KMT agents contacted various *sawbwas* in an effort to enlist them in their campaign of retaking China. The *sawbwas* showed little interest in the endeavor and declined to participate [6]. Undeterred by this rejection and realizing they needed to build local support for their continued presence, in July 1952 KMT leadership issued a directive to its operatives and allies to encourage the *sawbwa* and village headmen to resist Burmese government efforts, commenced earlier in 1950, to abolish the traditional powers of the *sawbwas*. It characterized such efforts as a ruse to establish Bama domination over the minorities and encouraged KMT agents to obstruct Burmese government officials from entering KMT controlled areas to recruit villagers or disseminate political messages. The KMT even offered cash assistance to the *sawbwas* if they would take up arms against the government and incited other minorities to secede from the Union. There is no evidence any *sawbwa* took up these offers [8].

When KMT forces had swelled to 12,000 strong in 1952, the President of the Union, Sao Shwe Thaik, the *sawbwa* of the Inle Lake region, declared in September an official emergency under which the *sawbwas'* police forces would be joined with those of the State and placed under military command. The emergency permitted the Army to not only fight against Karen and KMT forces in the Shan State, but authorized it to take-over the local administration in 22 of the 33 State districts. Military administration stripped away from the *sawbwas* all tax collection functions and the power to appoint village headmen, placing taxes in the State's hands and permitting the headmen to be elected [5, 31]. In actuality, the emergency resulted in three levels of government: the *sawbwas*, the State government and the military administration. They did not work well together and were plagued by the on-going problems of conflicting orders and lack of sufficient authorization from seniors to address administrative issues. The *sawbwas* and State officials did not appreciate the military administration, but had no choice but to accommodate it. When military administration terminated on September 10, 1954, having demonstrated sufficient progress in containing the KMT, all of the military's powers over the police, courts and general administration were transferred back to the State government and *sawbwas* [8].

These Burmese army campaigns against the KMT were for many Shans their first encounter with Burmese people or the Union government, and in the main the experience was negative. Complaints of rape, looting of private property and forced and unpaid labor were common and became the foundation of a Shan nationalist movement, particularly among students and young people [35]. In fact, Chao Tzang Yawngghwe asserts that the KMT units rarely committed similar acts and showed greater respect to Shan culture and customs than the Burmese army [6]. Another Shan observer, Sao Sanda Simms, describes it this way: "They [the Burmese] were in no way an exemplary army. Villagers were raped, tortured and generally treated very badly by Tatmadaw [Burmese army] officers and soldiers alike. Although complaints were made to both Premier U Nu and the senior members of the military, no action seemed to have been taken to curb such shocking behavior" [11] (p. 91).

As if the presence of the KMT was not vexing enough, the *sawbwas* faced other challenges to their traditional powers. Encouraged by a faction in the AFPFL that was uncomfortable with the

compromises struck with the Shan and Kayah *sawbwas* at the Constituent Assembly, a growing number of organizations and individual Shans viewed the *sawbwas* as representative of a feudal past that should be abolished. The largest of these groups was the Shan State Peoples Freedom League (SSPFL), modeled after the AFPFL, which had a membership in the thousands and represented the more politically active Bama, Kachins and anti-feudal Shans in the State. Its leader, U Tun Aye, a MP from Namkhan, was a relative moderate in this movement who supported the payment of compensation to the *sawbwas* as the best way of taking them off the political stage [31]. In 1950, the Union government encouraged the *sawbwas* to submit proposals for the relinquishment of their traditional and legislative rights and powers in the Shan State. In December 1950, they offered to surrender the judicial powers but keep their administrative and legislative privileges. Additionally, they proposed the establishment of an Enquiry Commission to study the issue and make proposals, which after completing its study, recommended maintaining the status quo, with only one member dissenting [18]. On August 18, 1951, the *sawbwas*, under continued pressure from the SSPFL and the smaller minorities in the Shan State, such as the Pa-O who had resented *sawbwa* rule for some time, did agree to relinquish their rights, but the agreement was tentative, did not result in an actual transfer of powers and such issues as the compensation for the rights and the best way to transfer them remained unresolved. In early 1952, the Union government created the Shan State Administrative Enquiry Commission to examine the possible abolition of *sawbwa* rule and different structures to replace it, but the commission never completed its work [4]. At a press conference on October 25, 1952, the Head of the Shan State, Sao Hkun Hkio, announced that the *sawbwas* had agreed to relinquish their traditional powers out of a desire to establish greater democracy in the Shan State, but again, details of the arrangement were not made available [8]. Later in 1952, in an effort to seek solutions, the Union government sponsored a Shan State Reforms Fact-finding delegation to tour India and study how that nation had dealt with its many princely states. It submitted its report in January 1953, but the emergency declared in the Shan State delayed action on its recommendations, and not much came of this either [18, 31]. After the 1952 announcement, the government and *sawbwas* continued to negotiate the surrender of their rights and on July 17, 1953, the *sawbwas* submitted 17 demands to the government, the major points of which were: 1) retention of their titles; 2) compensation for the tax revenues they would forego; 3) retention of their seats in the Chamber of Nationalities; 4) the right to hold other offices "according to their ability"; 5) Union government assumption of the educational costs of their children; 6) the right to retain family-held lands; and 7) the right to pass on their titles, rights and property to their heirs. No mention was made of the amount of compensation, but rumors claimed it was somewhere between two and thirteen million US dollars in *kyat*, a compensation intended to replace the tax income they had been collecting since 1922. Naturally, some in the State were opposed to these measures, but the SSPFL supported a financial settlement as it would be the quickest way of transferring the *sawbwas's* powers. The SSPFL also had realized that a large segment of the Shan people still believed in traditional rule and would resist the taking of their powers in a manner perceived as unjust [8, 31]. In 1954, when emergency rule was lifted in the Shan State, the government commenced talks with the *sawbwas* to determine what they truly wanted to surrender their rights. They apparently demanded too much and the matter was dropped, but two years later in 1956 the government raised the matter again and this time the *sawbwas* expressed no real interest in discussing it [4]. One reason for the ascendancy of such uncooperative behavior was the surprisingly strong performance of the pro-*sawbwa* party, the Shan State Hill People's Organization (SSHPO), and the relatively poor performance of the AFPFL in the 1956 elections.

The SSHPO won 14 of the 25 seats in the Chamber of Deputies, while four seats went to independents, refuting allegations the Shan people were largely opposed to feudalism [8, 31]. Even the *Mahadevi* (queen) of Sao Shwe Thaik won a seat in the Chamber of Deputies in 1956 [30].

When the 1956 Union budget for the Shan State was released, U Tun Aye of the SSPFL noticed that it included *Kyat* 5,000,000, or approximately \$1,000,000 at the official exchange rate, for the settlement and that another *Kyat* 5,000,000 would be budgeted in 1957 to complete the payment [31]. We shall see that the *sawbwas* would demand and receive a much higher amount. As the 1950's progressed, many of the *sawbwas* were no longer enthusiastic about surrendering their rights. The support they were receiving from a variety of political groupings, such as the Pa-O National Organization (which reportedly reached an understanding with the *sawbwas* in 1955 that in past years would be considered next to impossible) and the SSHPO, contributed to this shift in thinking, but an additional factor was the edging closer of the effective date of the right of secession. As January 4, 1958 approached, the *sawbwas* perceived that their negotiating position against the Union government would only strengthen—the right to secede was a sabre in their scabbard they could now rattle. After the 1956 election, U Nu announced that a settlement would be made before September 1957, but by January 1958 nothing had been made public, nor did the Shan *sawbwas* initiate a secession vote in the State Council [31, 58]. Tinker summarizes these events well: “The Sawbwas continue to rule through their traditional officials, to collect the revenues, to maintain their own police forces, and even to administer justice (nominally renounced in 1950). Tradition and custom still reign, and Rangoon is very far away” [18] (p. 162-63).

Due to the KMT incursions, the emergency from 1952 to 1954, and the presence of three layers of security forces (*sawbwa* police, Shan State police and the armed forces), by the mid 1950's the Shan State was awash with arms. Fearing possible rebellion, the army conducted periodic efforts to disarm the Shan population, the first coming in 1956, which further alienated the Shan people as word of its brutal tactics of arrests, interrogations and torture of village headmen spread throughout the State. These sweeps were all the more objectionable to the Shan people as the carrying of firearms, many of them antique, had been permitted since British times and had become a Shan tradition. The campaigns naturally put Shan politicians and the *sawbwas* in a very difficult position since criticism of these tactics, over which the State government had no control, would result in slanderous allegations of disloyalty and secessionism. While silence became the wisest course of action for the politicians, rebellion appealed more and more to the common man [6].

And talk of secession *was* in the air. In 1956, several *sawbwas* formed a new political party called the Shan State United Party that passed resolutions calling for secession from Burma and the retention of the *sawbwas'* powers. These resolutions were covered in the Rangoon press [31, 35]. More signs of Shan agitation against the Union followed in December 1956 when 150 Shan activists reportedly met at the home of Sao Maung, vice chair of the Shan State Council, in the town of Mong Yai in northern Shan State to protest the activities of the armed forces and advocate secession. We will later learn that at least one person in attendance was actually from military intelligence. This was followed by a series of rallies in other Shan towns on February 7, 1957, where calls for greater Shan autonomy and control over Union activities were heard. Attended by *sawbwas*, villagers, students and Shan politicians, these meetings caused great

concern within the Union government as the Shan right to secede would commence in early January of the following year [8, 11, 16]. Evidence that the Union government was indeed alarmed came in April 1957, when U Nu spoke at a political rally in Lashio and reminded the Shan people of the terrible death and destruction the secession of the southern states brought during the American Civil War. Only national unity could bring a better life to all Burmese and he hoped the American lesson would not be lost on the Shan people. But to a number of young Shans, U Nu's speech came across as a threat—Rangoon would not honor the right to secede and would resort to war to prevent it. This was not the first time U Nu had threatened civil war to prevent secession; he had done so earlier with the Karens. Many Shan students in Rangoon began to speak of joining armed ethnic organizations, such as the Karens, since a Shan rebel movement had not yet emerged [16].

U Nu's threats should come as no surprise as he had believed for a long time that statehood to minorities was not in the best interests of Burma and was in fact a concession that ran counter to the better judgment of the drafters of the Constitution. After U Nu had returned from a brief time-off from politics in 1957, he addressed the Chamber of Deputies and declared that the Kachins, Shans, Karens and Kayah were given states not out of the drafters' sincere beliefs in statehood, but due solely to British Frontier policies that separated these people from the Bama and resulted in the minority demands for states as a condition of joining the Union. At one point in his presentation, the *Mahadevi* of Yawngghwe, who had been elected in 1956, interrupted him to demand an explanation of what he meant by a state being "given" to the Shans. She admitted her knowledge of Burmese may be the cause of the misunderstanding, but was he discussing how the Shans entered the Union of Burma when they already had a state? U Nu replied: "The Shans asked for a State and we gave them what they wanted." She reminded him that the Shans already had a state when they entered the Union, and their situation differed greatly from the Karens, for instance, who did not have a pre-existing state and were given one in the Constitution [30] (p. 193). Nothing could be more revelatory of the wide gap in thinking between Union and minority leaders on the issue of statehood.

Rumors of Shan secessionism spread rapidly across the nation in 1957, fed by speculation in the Rangoon newspapers that Shan villagers were preparing for violence and secret communications had been made with agents of the Southeast Asian Treaty Organization (SEATO) to secure an American air base in the Shan State. We even find note of this in the records of the Shan State Council [8]. The critics branded the Shan *sawbwas* as separatists and the Shan State government complicit in the separatism as result of its inaction on the matter. In an effort to head off further hysteria, on July 6, 1957, the Head of Shan State held a press conference to deny the rumors, declaring them sensational and groundless, but no doubt the damage had been done [8].

As the commencement date for the initiation of secessionist proceedings passed and no action had been taken, a number of younger Shans decided to take matters into their own hands. In May 1958, Saw Yanda, aka Sao Noi, a native of Yunnan whom Lintner calls an "adventurer" who had attended the Mong Yai conference in late 1956, established the *Noom Suk Harn*, or "Young, Brave Warriors," the first Shan rebel group. With the assistance of the *sawbwa* of Mong Pan, a feudal state supporting a largely rural population of only 20,000 southwest of Kengtung, it constructed a base just north of the Thai border that survived on taxing KMT opium caravans. By early 1959, it had over 400 fighters in its ranks [16, 35, 36]. Sao Sanda Simms alleges the

sawbwas had no role in the formation of the *Noom Suk Harn*, but does concede some may have been in sympathy with its goals. However, Lintner's research is extremely detailed about the role of the Mong Pan *sawbwa* and even alleges the *sawbwa* of Kengtung, the largest feudal state, had assisted Saw Yanda in choosing Mong Pan to put down stakes [11, 16]. The queen of the *sawbwa* of Hsipaw admits her husband, Sao Kya Seng, met clandestinely several times with leaders of the *Noom Suk Harn* in response to their requests for support. But he refused to join their secessionist movement and told them the grievances of the Shan people would be better advanced through legal, non-violent means. The representatives of the rebel group were, of course, disappointed with his response [37].

Upon the passing of the ten-year limit on secession, the Union government and the highest-ranking officers of the armed forces were increasingly convinced the Shans would eventually attempt secession, even though no major Shan leader had advocated it and many had declared their loyalty to the Union to tamp down allegations of disloyalty. Discrediting the advocates of greater federalism or secession became a pastime of the press and popular media, who particularly depicted the *sawbwas*, in the words of Chao Tzang Yawngnhwe, as "despotic, indolent, exploitative, disloyal, and feudal reactionaries who plotted with KMT opium warlords, SEATO agents, Thai pimps, American war-mongers and British neo-colonists to destroy the Union" [6] (p. 107). Most of these depictions backfired with the Shan people, not out of sympathy for the *sawbwas*, but from a perception that these characterizations were a deliberate campaign to interfere in Shan affairs by the Bama who had demonstrated scant regard in the past for the well-being of the Shan people [6]. In fact, many saw these campaigns as not at all helpful in overcoming the feudal past. Through these clumsy and at time hysterical depictions many younger people became convinced that secession from the Union was the only route to true self-determination and modernization for the Shan people [4, 6]. Soon, however, the attention of the nation would be focused on a more immediate problem than Shan secessionism and the *Noom Suk Harn*; the ruling AFPFL, the dominant political party since independence, would split in two in a rapid if not shocking fashion that would paralyze the national government, and even the state governments, at practically all levels.

Although tensions between the major leaders of the AFPFL had slowly mounted for years, resulting largely from long hours of closely working together and having occasional disagreements, all mutual trust broke down in early 1957 when U Ba Swe, the temporary PM during U Nu's leave from office, met with other AFPFL leaders and General Ne Win, the commander in chief of the armed forces, to discuss a proposal to give U Nu, then visiting Sri Lanka for a Buddhist event, a figure-head position in the League that would put him above politics while still maintaining his status as Burma's leader on the international scene. Even Thakin Tin, U Nu's closest supporter in the AFPFL, thought the matter worth pursuing, and the leaders agreed that General Ne Win would discuss the matter with U Nu when he returned from Sri Lanka. After his return, however, U Nu became incensed at these behind-the-back maneuvers and decided to terminate his temporary time-off from the Premiership and resume the post immediately. All subsequent efforts to tell him that the plan was well-intentioned failed, and he came away from the affair convinced U Ba Swe and another major AFPFL leader U Kyaw Nyein wanted to oust him [38]. The hostilities openly erupted in April 1958 when U Nu fired Home Minister Thakin Tha Khin for his role in recommending the arrest of a number of criminal suspects who were mostly followers of the Nu-Tin faction. In discussions with representatives of the Ba Swe-Kyaw Nyein faction in the following days, U Nu announced he

could no longer work with them and it was best to peacefully split the AFPFL into two parties. After further maneuvers, Ba Swe and Kyaw Nyein chose to call their faction the Stable AFPFL while U Nu and Thakin Tin adopted the Clean AFPFL label, implying the other faction was riddled with corruption. At their last meeting on May 5 the Cabinet agreed to hold a special session of the Chamber of Deputies on June 9 to vote on a no-confidence measure that would either leave U Nu as PM or permit Ba Swe and Kyaw Nyein to form a new government [38]. This of course soon led to a mad scramble within Parliament to line up supporters for the upcoming no-confidence vote. At first the Stable felt confident it could marshal enough votes to form a new government, as the majority of the AFPFL parliamentarians appeared to side with them, but it soon became clear that the Clean had successfully wooed the 45 members of the National United Front to their side, giving them a slim numerical advantage [38].

The split in the AFPFL divided state governments as well. In both the Karen and Kachin State Councils, the opposition to U Nu held slim majorities, meaning that even if U Nu had replaced pro-Stable State Heads with Heads of his own, the opposition would still control the state-level ministers as they had the votes to keep them in place. U Nu did replace his Karen and Kachin Ministers with men acceptable to him, but without apparently consulting with the State Councils per the Constitution. His opponents took the matter to the Supreme Court, but it ruled that the provision in the Constitution requiring consultation was “directive and not mandatory” and refused to invalidate the appointments [1, 4]. Once the votes were counted, all the state delegations were split between the two factions except for the two Kayah MPs, both of whom sided with the Clean. With these two MP’s and 16 of the 27 Shan members, the Clean was able to secure a slim victory of 127 to 119, thus surviving the no-confidence vote and maintaining power. Also crucial to its victory were the six votes of the Arakan United National Organization, which demanded a commitment to establish an Arakanese state as the price for its support. Only U Nu, despite his expressed preferences for a unitary government devoid of states, was willing to make a commitment to Arakanese statehood. Yet just weeks earlier U Nu had proclaimed at a conference of Mon leaders that he was firm in his refusal to entertain any proposals for new states [38].

Since 97 out of 148 AFPFL MP’s, or 65%, voted for the no-confidence vote, i.e., against U Nu’s government, he survived with the support primarily of the NUF and minority MP’s, both of whom no doubt expected rewards for their support. For the NUF, it was the maintenance in office of their member Dr. E Maung the justice minister, the importance of which will be seen during U Nu’s second government [38]. On September 22, the U Nu government announced the dates of September 29 for the dissolving of Parliament, September 30 for the passage of a budget by Presidential Ordinance (necessary because there would be no Parliament in session to pass one) and the month of November for the holding of new elections. Yet four days later on September 26, he cancelled all these plans as the security conditions in the various electoral districts had so deteriorated that elections could not be held and the reins of government had to be turned over to the armed forces [38]. To understand how this occurred so rapidly, we need to look at the impact of the AFPFL split on the government itself.

The split crisis went far deeper than an inability to pass a budget in late 1958. The removal of Swe-Nyein supporters across government boards and ministries fed widespread resentment and recriminations, resulting in much of the government administrative machinery grinding to a halt. Even the state governments were similarly affected, as Stable AFPFL members were

removed from state offices to be replaced by Clean loyalists. Since Nu-Tin loyalists had deserted the Trade Union Congress headed by Ba Swe to establish their own labor union, the split also spread to the labor unions that represented the railroad and dock workers.

Sein Win, whose account of the split is the most detailed, marshals substantial evidence, without explicitly concluding as much, that the Clean faction was actually engaged in a power struggle not with the Stable faction but with the Burmese armed forces. The Clean faction's close alliance with the so-called "crypto communist" NUF during the AFPFL split was the primary cause of the Army's distrust of the Clean faction. Since the army had been fighting the underground Burmese Communist Party since 1948, it had little tolerance for a political party it considered an above ground front for the Communists. The distrust only grew when on June 24 U Nu announced an Indemnity Act that would provide complete amnesty to all rebels, including the communists, for crimes committed before July 31, 1958, shortly followed by an Indemnity Order on August 1 and a promise of legalization of all banned political parties provided they signed a Charter of Democracy. Sein Win sees the hand of the NUF behind all these actions. As for the Clean faction, its distrust of the armed forces arose from a belief the military favored the Stable faction and would assist them in the next election, but rather than purge the army of politically biased officers, the Clean chose, per Sein Win, to challenge the entire armed forces. The Clean's hostility towards the military was most dramatically demonstrated during a three-day political rally commencing August 31 and held only fifty meters from U Nu's residence where many officers identified by name were criticized for their support of the Stable faction; some Clean participants even called the armed forces a public enemy. Although he initially denied any knowledge of the name-calling, it is difficult to believe U Nu was unaware of the vehemence of these accusations, and in fact during the 1959-1960 electoral campaign he repeatedly pinned the "fascist" label on his opponents in the armed forces and Stable faction [29]. On September 3, a number of officers met with U Nu to complain about the accusations made during the political rally, and he assured them that action would be taken against the Clean activists responsible for them. In spite of this peace offering, two close associates of U Nu, Bo Min Gaung and Bo Hmu Aung, both members of the Thirty Comrades, sincerely believed the army had enough of U Nu and his followers and was planning a coup in late September [50]. Preparing for the worst, they began to quietly transfer two and a half battalions of Union Military Police (UMP), under the control of the Home Ministry, from Mandalay to Rangoon for "security reasons". Whether U Nu had ordered the transfer, or whether it was the actions solely of Bo Min Gaung and Bo Hmu Aung, is not known. U Nu was touring upper Burma at the time and it is possible he was unaware of the transfer. Since the army opposed the UMP transfers, other efforts were made to relocate trustworthy rural militia units and even armed officers of the Forestry Department to Rangoon as well. These transfers would defend the government against any coup meant to block the plan to dissolve parliament and pass a budget by Presidential Ordinance. Clean leaders also intended to transfer disgruntled military officers to districts where they could not effectively oppose the government. Army Intelligence became aware of the transfers and by September 22 the armed forces had blocked the important highways into the city, resulting in the disarming of several UMP units north of Rangoon, but not before approximately 500 UMP's had made it into the city. By September 23, the armed forces had gotten the upper hand and had effectively sealed off Rangoon, but in Sein Win's words: "The atmosphere was very tense and everything was cloaked in mystery. [The] official reason was for security. But no one knew exactly against what these security measures were being taken. The air was filled with rumours..." [38] (p. 80). In a

number of meetings in late September, Colonels Aung Gyi and Maung Maung advised U Nu that his adherence to proper constitutional procedures on the budget might relieve the tense situation, but the government's current course of action created the appearance it had little regard for the constitution and would do anything to stay in power. They also accused the U Nu faction of planning to assassinate key army figures and warned U Nu they would defend themselves. Whether U Nu or his followers actually had such plans, or the accusation simply reflected unfounded fears, is not known, but these actions clearly exhibited preparations by both parties for violent clashes [38].

Eventually, U Nu realized elections in November could not be held and his government's hold on power was slipping away. Since one miscalculation could lead to widespread violence, he made the decision to transfer the reins of government to the armed forces in order to restore order and hold elections at the next possible opportunity. After convincing his colleagues of the urgency of the matter, U Nu met with the colonels again on September 26 and presented them with drafts of two letters detailing the transfer: one from U Nu to General Ne Win and the other by the General accepting the arrangement. Despite their mostly ministerial tone, paragraph 5 of U Nu's letter reveals deep dissatisfaction with the army's treatment of the nation's people and serves as further evidence of deep divisions between U Nu and the armed forces: "I believe that the armed forces are generally well-disciplined forces. But during my recent tour of the country, I received in quite a number of places very sad complaints of acts of oppression, atrocious cruelty and murder, committed by some members of [the] armed forces. These complaints were made to me by the victims themselves, who showed me their wounds, and stated their sufferings with tears in their eyes. I would request the Government formed by you to give prior and particular attention to the suppression of such wrongful acts of violence" [38] (p. 85). In the General's letter, he states he too had learned of these abuses and pledged to take action to suppress them. Sein Win claims the colonels made changes to the General's letter, but we do not know whether they modified the General's pledge or allowed it to remain as U Nu had originally drafted it [38].

In U Nu's autobiography, he asserts the armed forces had forced him out of office, but Sein Win dismisses allegations that the transfer of government was a coup d'état [39]. Rather, it was an expedient maneuver by U Nu: "The real cause that led U Nu to decide what he did was simple and prosaic. It was the prevailing circumstances of the moment which led U Nu to decide to step down in favour of a third party, but not for the rival faction" [38] (p. 89). In his view, it was pure politics, making the best of a bad situation by denying his opposition any advantage of incumbency at the next election. After the 1962 seizure of power, however, Brigadier Aung Gyi, having been promoted from colonel, would let slip a statement about 1958 that would support U Nu's allegation of a coup.

Coup or not, U Nu had few options. Since transferring power to the Stable faction after it had lost the no-confidence vote was not constitutionally viable and the disturbed conditions in the country prevented an immediate election, the only realistic option for U Nu was to accept the military's promise to hold honest elections and work to emerge victorious once the people were given a choice. Considering the totality of the events of 1958, nonetheless, we have to conclude the armed forces won the first round in this struggle for power. They now had an opportunity to prove to the people they could govern more competently than the politicians.

History labels General Ne Win's first government as the Caretaker government; it commenced on September 26, 1958, when the actual transfer of power took place (Parliament formally approved it on October 28) and terminated on April 4, 1960 [1, 16, 38, 40]. Its primary purpose was to stabilize the nation, reduce insurgency and disorder and hold new elections, but it adopted another priority, not necessarily envisioned by the parties at the outset: to complete the on and off negotiations with the *sawbwas* to relinquish their feudal rights within the Shan State and their privileges under the Constitution. To initiate this effort, the army persuaded (Silverstein says pressured) the Shan State Council to pass a resolution in early March 1959 calling for an end to feudal rule and the introduction of a constitutional amendment to enact it, and on March 17 the Union Parliament passed the amendment by a vote of 318 to 46 [4, 8]. The Constitution Amendment Act of 1959 (second) applied to both Shan and Kayah *sawbwas*, but allowed them to keep their seats in the Chamber of Nationalities until the end of the next electoral cycle in 1964. At that time, any eligible citizen of these states would be able to run for seats in the Chamber of Nationalities [4, 8].

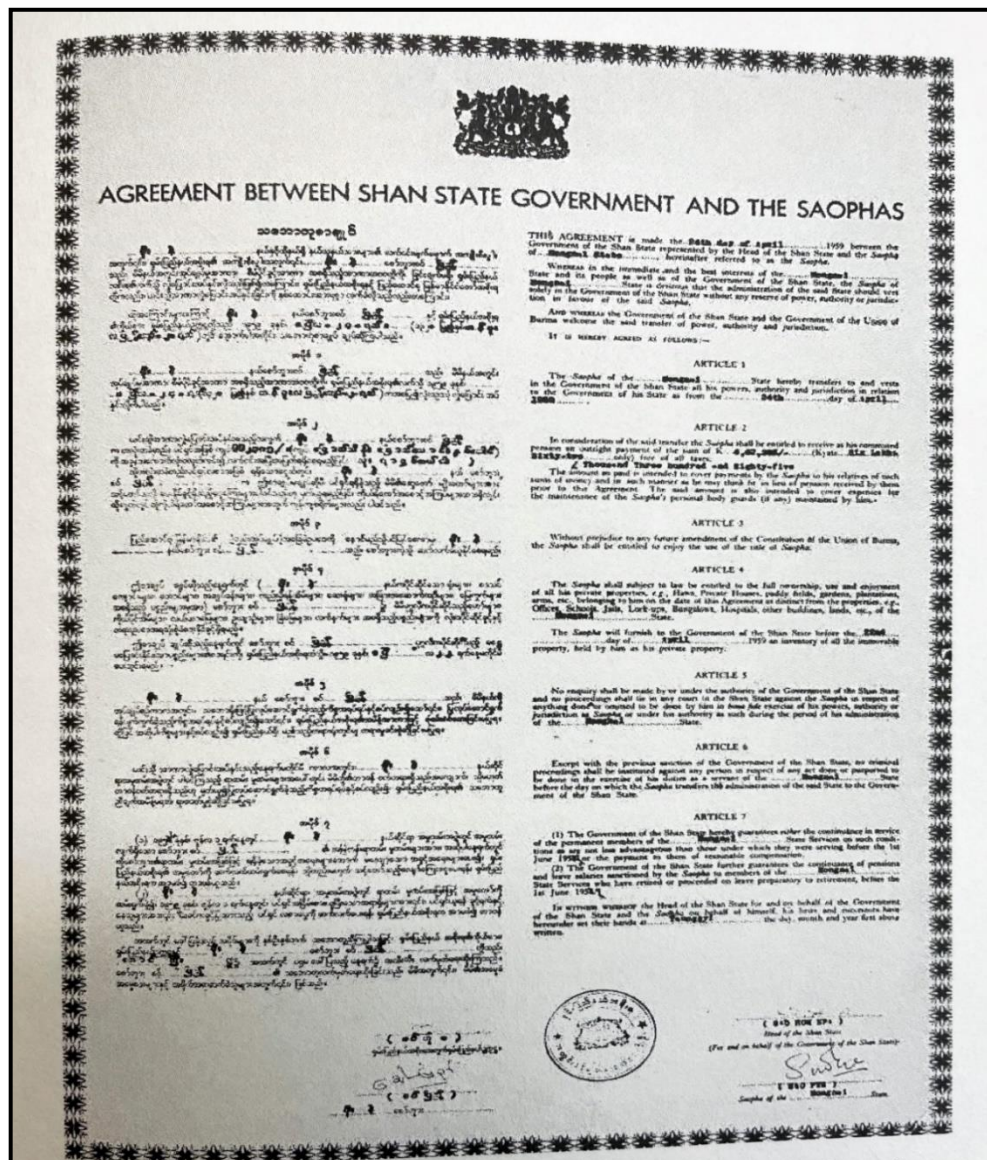


Figure 6: a representative Agreement between the Union Government and *Sawbwas* [8]

Later in April all 33 Shan *sawbwas* signed agreements with the Shan State government to relinquish their rights and powers in the Shan State for a total compensation of *Kyat* 25,863,029, or approximately \$5,200,000 at the official exchange rate, to be apportioned to the *sawbwas* based on determinations of the “commuted pensions” that would accrue from 15 years of tax revenue to which were added the average forest and mineral royalties for the same period of time. In modern terminology, these calculations would be comparable to the present value of 15 years of tax and royalty revenues. See Figure 6 for a representative agreement [8] (p. 375). Under these agreements, the *sawbwas* could maintain their titles, properties and other assets. Curiously, the three Kayah *sawbwas* were not parties to the settlement agreement. A careful review of the list of all 34 *sawbwas* who received compensation verifies that the three Kayah states of Kantarawaddy, Kyebogyi and Bawlake are not listed [8]. The reason for this is not known. In the list of *sawbwa* states participating in the settlement, the state of Mong Pai is noted as a Kayah State, but traditionally it was considered Shan and its inclusion increased the total number of *sawbwas* under the settlement to 34 [8].

In a speech at the official relinquishment ceremony in Taunggyi on April 28, General Ne Win claimed that Aung San had agreed to the special legal protections for the *sawbwas* to diminish fears among the Shan people that the Bama would seize their state after independence and govern it for their own benefit. Despite this compromise, Aung San hoped that these privileges would eventually be surrendered and the Shan and Kayah States would shed feudalism in favor of modern administration. The general proudly announced that Aung San’s wishes had been finally fulfilled through the settlement. However, not all Shans were as proud of these developments as the general. A military intelligence report made available to Sai Aung Tun after the 1988 uprising claims that the *sawbwa* of Yawngghwe and the nation’s first President, Sao Shwe Thaik, was rather dissatisfied with the financial terms and had expressed his unhappiness by not attending the Taunggyi ceremony [8]. Shan discontent with the Union government had been building for years and in fact may have been aggravated by a financial settlement that some *sawbwas* saw as inadequate [4]. Both Martin Smith and Sao Sanda Simms allege that during the passage of the Constitutional Amendment, General Ne Win also sought to revoke the Shan State’s right of secession. Simms cites no source for this, while Smith cites an article by Silverstein that does not explicitly support the allegation. Silverstein does report that during the Shan State Council’s consideration of the Constitutional Amendment, MP U Tun Aye introduced a resolution calling for the revocation of the Shan right to secede, but at the request of the State government he withdrew the resolution and it was never voted upon. The State government reasoned that such a resolution should not be acted upon until the issue was submitted to the Shan people for consideration and approval. To support his resolution, U Tun Aye cited recent speeches by the General calling for greater national unity and decrying Shan threats to secede, indicating the General could have been behind the resolution. The ties between him and the General were further cemented by his appointment after the 1962 coup as Head of Shan State in reward for his many years of agitation against feudalism and the Federal Proposal [8]. The failure of the resolution demonstrates, nonetheless, continued support for the right of secession by the majority of the Shan political establishment [11, 50, 55].

During the Caretaker period, Shan politicians and administrators became mere by-standers in their own state as they had no authority to regulate the army’s activities, and with no check on its actions the army was steadily alienating most of the rural populace [6]. If we can believe

Caretaker government statistics, rebel forces were ground down everywhere except the Shan State, where their growth appeared to be a direct reaction to increased military presence. The seizure of vehicles and the imposition of corvée labor on villagers for counter-insurgency operations only contributed to the problem. Richard Butwell, U Nu's biographer, claims he personally witnessed some of these practices [29]. The Caretaker government's own statistics confirm the growth of the Shan insurgency; per its own account of its performance, at the commencement of General Ne Win's government Shan strength was so negligible it could not be estimated, but soon it had grown to as many as 1,500: "The Shan insurgents showed more group activity after the assumption of office by the Government of General Ne Win. They do not have a fixed standing strength and are estimated to be between 500 and 1,500 strong" [40] (p. 19). But by the end of the Caretaker period, they estimated Shan strength at exactly 274 insurgents, an impressive demonstration of both counter-insurgency and head counting! [40]. In light of the events of 1959, it is impossible to find these numbers credible.

The government's statistics could not hide the reality of a growing Shan insurgency, demonstrated by its first direct encounter with the Burmese army. In early 1959, some of the student members of *Noom Suk Harn* had become dissatisfied with its leadership and requested permission to travel north to Mong Yai state, southeast of Lashio, to establish a rebel movement. Mong Yai was the location of several Shan nationalist meetings during 1956 and 1957 where talk of secession was heard. Once they had succeeded in building a force, their objective was to seize the town of Tang-yan, about 100 kilometers southeast of Lashio, which contained a Burmese army base and local command center. The rebels even received the support of 50 Union Military Police deserters led by a Wa commander. They planned a complicated series of diversionary attacks in the area, and despite running into some Burmese forces prematurely, enabling Tang-yan to be warned, they were able to seize the town on November 22, 1959, after killing 26 Burmese troops. This brought on a fierce Burmese counter attack that retook the town a week later, but the propaganda value of its brief seizure was immeasurable as word of the victory quickly spread throughout the Shan State, generating more volunteers [6, 16, 34]. The *sawbwas* had nothing to do with this attack; all of the leaders and fighters were either villagers or policemen from the northern Shan states or former students and monks [6]. In the same month of November, during a speech to soldiers in a Mandalay military facility, General Ne Win strongly hinted that if the politicians make matters worse again after the next election, the military might have to "rise to the call of higher duty to save the country" [44] (p. 276-77). Apparently, the General had failed to realize that the armed forces could make matters worse too.

U NU'S SECOND GOVERNMENT AND THE FEDERAL PROPOSAL

Having removed the privileges of the Shan and Kayah *sawbwas* and extended its term in office to early April 1960, the Caretaker government began preparations for new elections in late 1959, with municipal elections scheduled for November and December and national elections in February 1960. U Nu kicked off his own electoral campaign in September 1959 under the banner of a new party, the Union Party, declaring support for preserving democracy and expanding his left-leaning economic policies. To take the initiative away from his opponents in the Stable AFPFL, he introduced two new proposals: giving statehood to the Mons and Arakanese and making Buddhism the state religion. Since the military's authoritarianism and bullying of simple people overshadowed all of its administrative efficiencies and progress against disorder, the real issues of the election were unhappiness with the tactics of the

Caretaker government and the overall attractiveness of U Nu over the politicians of the Stable AFPFL, who had become tainted by association with the army. The armed forces favored the Stable AFPFL not out of real affection or shared beliefs, but because it was in its view the lesser of two evils. Now that the military had gained valuable experience in governance, it probably believed the parliamentary politicians, regardless of party, were incapable of managing the nation competently, but if it had to choose it preferred the Stable over the Union Party, which it considered riddled with corruption and communist influence, the latter stemming from its association with the National United Front.

Therefore, the army's preference for the Stable, widely recognized among the people, damaged the Stable's chances more than any other factor. The electoral results could not have been any clearer; the Union Party dominated the municipal elections of November and December, and in the February 1960 national elections U Nu and his allied parties in the states achieved a stunning victory. They won more than two-thirds of the contests in the Chamber of Deputies, and even more embarrassingly both leaders of the Stable AFPFL, U Ba Swe and U Kyaw Nyein, went down to defeat, the former at the hands of the ex-Justice Minister Dr. E Maung, a member of the NUF. He would soon play an important role in the emergence of the Federalism movement. The Stable won a mere 45 seats and the NUF only three, way less than the previous 45 they held after the 1956 elections. Close to 75% of Rangoon voters chose Union candidates over the others [29].

Two issues in consecutive order dominated U Nu's second government: Buddhism as a state religion and the Federal initiative advanced by minority leaders in response to a resolution passed in the Chamber of Deputies soliciting proposals to amend the Constitution [8, 29]. The campaign to make Buddhism a state religion generated considerable controversy in minority communities, especially those having large numbers of animists, Christians or Muslims. Although U Nu eventually prevailed on this issue in August 1961 through a constitutional amendment, followed by another amendment guaranteeing religious freedom to appease minority leaders--which many considered superfluous as the Constitution already guaranteed religious freedom--there is no question it damaged relations with the minorities and fed the perception that U Nu's favorite programs, despite the genuineness or popularity of his intentions, were only making matters worse [10, 41].

In Taylor's insightful words, U Nu and all iterations of the AFPFL often faced "contrary political interests enunciating first principles as non-negotiable and axiomatic" [5] (p. 251). Demands for greater autonomy for the minorities were countered by calls for greater national unity; ultimatums from monks to make Buddhism a state religion countered with demands for religious freedom; the construction of socialism countered with requests for greater incentives to private business and less state regulation. In this maelstrom of contradictory demands, U Nu's leadership often foundered on the rocks of temporary solutions and accommodations that satisfied few [5]. When U Nu announced he might resign from politics after the next election in 1964, the competition within the Union Party to replace him began in earnest, resulting in similar divisions that plagued the AFPFL in 1958. Taylor says it best: "While the split in the AFPFL in 1958 might have been seen, at least by the League's sincere supporters, as a tragedy, the factionalisation of Nu's Union Party had, by 1961, assumed the proportions of a farce...By early 1962 the ruling party had lost what little popular support it had still retained" [5] (p. 251).

And popular support was not the only thing the Union Party was losing; also quickly evaporating was what little faith the armed forces had in U Nu and the people surrounding him. Rumors of serious dissatisfaction among the officer corps had begun to circulate, compelling U Nu to speak with General Ne Win in February 1961 about the alleged intentions of a number of his officers to install another military government. The General apparently agreed that the officers' sentiments were unacceptable and relieved two Brigadiers and five colonels of command and forced five other colonels to resign. They were either appointed as ambassadors and military attaches or went into business. The nation never received an official explanation for the resignations, but most saw political fragmentation within U Nu's party as a major reason for the officers' unhappiness with the government [10]. But this did not put to an end to the armed force's dissatisfaction with U Nu and the parliamentary politicians, as rumors of possible coups continued to circulate throughout 1961. More evidence of the unhappiness is seen in Brigadier Aung Gyi's complaints about the economy: "We've had 12 years of independence and what have our politicians given us? We still cannot manufacture even a needle. At this rate our country will go to the dogs sooner or later" [50] (p. 188). Chao Tzang Yawngnaw believes U Nu did not act against the armed forces because he lacked solid support from his party and had been deceived by General Ne Win's purge of the disaffected officers [6]. Yet it seems more likely that the overriding issues of that year—Buddhism as a state religion, the Federalism movement and growing insurgency throughout the nation, the latter two to be discussed below—so distracted U Nu that he paid insufficient attention to the threat of a coup. At one point, he complained of the "16,000 problems," a Buddhist expression, he and the nation faced [10]. In spite of the impressive democratic mandate he received in 1960, U Nu's second government was a disappointing and erratic exercise in bickering and irrelevance, and what measures he did take to control the military, discussed briefly below, proved to be too little too late.

In February 1961, an armed secessionist movement called the Kachin Independence Army arose in the Kachin State in reaction to both the establishment of Buddhism as a state religion and a recently executed Sino-Burmese border treaty that transferred 153 square kilometers of the Kachin State to China [16, 29]. Meanwhile, the Shan rebel movement, whose strength was previously estimated by the Caretaker government at 500 to 1,500 fighters, had grown to 2,850. In March 1961, the army listed the strengths of the various insurgents: 2,300 of all communist organizations, 4,100 Karens, 2,850 Shans, 50 Mons, 50 Kayah and approximately 600 KMT's, the latter being the number of remaining KMT's after 5,000 had been repatriated earlier in the year [29]. The number of KMT and communist insurgents had declined since the Caretaker government, but the most noticeable change in rebel ranks was the growth of the Shan revolt. In fact, a secret military intelligence report not released until 1990 estimated the Shan insurgency at 4,000, considerably higher than the number above [8]. As 1961 progressed, ethnic rebel movements continued to grow stronger, and U Nu had to admit in October that they controlled approximately 10% of the country. He responded by re-establishing the Caretaker-era local security councils he had disbanded shortly after assuming office in April 1960 [29].

The Shan rebels, constituting only one organization located in a small camp just north of the Thai border, appeared to have metastasized during U Nu's second government, foreshadowed by the attack on the town of Tang-yan in November 1959. In April 1960, another group of students disaffected with the leadership of the *Noom Suk Harn* established a new rebel group, the Shan State Independence Army (SSIA), also located near the Thai border. Approximately a

year later, a bookish young man named Sao Khun Thaw Da or Khun Thawda, a son of a Hsipaw princess and related to Sao Kya Seng, the *sawbwa* of Hsipaw, became its leader, which may have provided the military with a basis for suspecting Sao Kya Seng of surreptitiously supporting the Shan rebellion [35, 36, 50]. But the SSIA was not the only new Shan group; later in July 1961 the Shan National United Front appeared in Laikha, a feudal state north of Taunggyi, led by former communists [36].

U Nu held a press conference that month to insist that there was no need to panic over the “Shan problem”. He declared that the just completed Federalism conference in Taunggyi, discussed below, was held with the prior knowledge and permission of his government. Sao Hkun Hkio, the Foreign Minister and a Shan, was also present and pointed out that the recent calls for greater federalism came after the outbreak of the Shan revolt, meaning government disagreement with these demands could not have been the revolt’s cause. The two were not connected, and if anything, the Federalism movement was an effort to stem the tide of Shan unhappiness. He claimed that the conference participants had denounced armed insurrection as a means to reach their aims and further advised that the leaders of the States Unity Organization, formed at the conference, had come to Rangoon to state their views and dispel “confusion and suspicion.” He also denied Shan leaders had sought foreign aid—allegedly from Thailand or SEATO—to secede from Burma [42].

The federalism movement has been most frequently associated solely with the Shan State government for the simple reason that the Shan State government authored the formal proposal that emerged from a convention of Shan delegates held in Taunggyi on February 25, 1961. But representatives of the other major communities also played a role its formulation. Various called the “Revision of the Constitution of the Union of Burma Submitted by the Shan State,” the “Resolutions of the Steering Committee (Shan State) for Reform of the Constitution” and the “The Proposed Amendments to the Constitution of the Union of Myanmar Submitted by the Shan State,” it will be called in these pages the “Federal Proposal” [6, 8, 26]. Sai Aung Tun in his *History of the Shan State* devotes over 100 pages across three chapters to the federal movement, a recognition of its importance to Shan history.

Its origins can be traced to a resolution passed in the Chamber of Deputies after the convening of the new parliament in 1960 soliciting proposals to amend the Constitution. In response, the Shan State government formed a committee composed only of Shan representatives that met in Taunggyi on November 7, 1960, to discuss various ideas. The Chamber of Deputies resolution set forth three guidelines for amendments: one, eliminating difficulties in governmental execution without conflicting with existing fundamental principles; two, amending provisions contrary to democratic practice, again without impairing fundamental principles; and three, amending provisions contrary to the perpetuation of the Union and the solidarity of the nation [8]. Although the latter could be seen as an indirect reference to the right of secession, no iteration of the Federal Proposal would address that provision. After reviewing the resolution and encountering difficulties in understanding the “existing principles” of the Constitution, the Shan committee consulted Dr. E Maung, the justice minister. In a meeting with committee members on December 22, 1960, in Rangoon, Dr. E Maung reportedly said, “Do not bother about principles. It is all right, so long as our Union of Myanmar remains a democratic state, and does not become a Communist or a fascist state” [8] (p. 380). Dr. E Maung’s seemingly permissive nod would come to haunt U Nu’s government, as it would be taken by the Shans and others as

an invitation to not just amend certain provisions of the Constitution, but to propose a fundamental rewriting that would have resulted in a dramatic shift of power from the Union government to the states.

The primary objection to the Constitution was a perceived imbalance of power between the Union government and the state governments, with the latter enjoying little self-determination or autonomy despite the stirring words of Panglong, a condition worsened by dependency on the finances of the Union over which they had little control. The basic solution was to make Burma Proper another state of the Union on equal terms with the rest. As in the United States and Australia, all territory (except for the capital) would be part of one state or another, with the central government above them all and theoretically not favoring Burma Proper over the other states [8, 26]. Sai Aung Tun notes the radical nature of this proposal, writing: "From such studies the committee concluded that a partial amendment to the constitution would be inadequate and that a revision of the entire constitution was necessary" [8] (p. 381).

The proposal advanced five principles:

1. The establishment of a Bama State equal in powers to the other states, or in essence a "United States of Burma";
2. Equal powers to be established in both chambers of parliament, which, although not stated, would give the Chamber of Nationalities budgetary powers;
3. All states to send an equal number of representatives to the Chamber of Nationalities, similar to the United States Senate;
4. The following departments to be vested with the Union government with all other powers and functions to be transferred to the states: foreign affairs, union defense, union finance including currency and coinage, Union judiciary, customs and duties, postal affairs, telecommunications, railways, airways and waterways;
5. "Union revenue to be distributed equally," the application of which the proposal never clarified, perhaps to avoid having to address potential complaints from larger states if smaller states received more than their populations would justify [26].

The above principles were formulated to resolve a host of complaints regarding the 1947 Constitution, the most serious concerned Article 8 which stipulates that all the powers of Burma Proper (being the "remaining territories of the Union of Burma" outside the existing or proposed states) were exercisable by officials of the Union government. This has resulted in an excessive influence of Burma Proper in the civil service, the development of plans and projects and the establishment of boards and corporations for economic development. Further Union dominance in national affairs was facilitated by the way the English word "state" had been translated in the Burmese version of the Constitution. The Constitution was originally drafted in English by a number of Bama legal scholars and then translated into Burmese by U Thein Han, the Librarian of Rangoon University [8, 30]. In English, "state" can mean a number of things depending on the context, such as a nation as a whole, the government of a nation-state, or a constituent unit of a nation, such as the Shan State. Article 9 of the Constitution stipulates that the "term 'State' means the executive or legislative authority of the Union or of the unit concerned according as the context may require", but the Burmese version translated "state" in such a way as to eliminate any reference to the context. According to the Federal Proposal, "state" had been translated everywhere as *naing ngan daw*, the meaning of which was "ambiguous", or so it claimed, although in modern Burmese it is defined as "sovereign state" or

“country”. But more importantly it was never translated as *pyi neh*, which are the Burmese words to express the “state” of Shan State [8, 43]. For this reason, state governments and state-based political parties were unable formulate clear policies and proposals regarding matters within the states. Due to this translation and the concomitant refusal to refer to the English version of the Constitution, whenever a state government or party tried to apply provisions of the Constitution to the states, the official interpretation would be that they apply only to the *naing ngan daw*, meaning the Union government or Parliament. For example, we can confirm that Article 30 (1-3) in the Burmese translation stipulates that all lands belong to the *naing ngan daw*, which according to the Federal Proposal was interpreted as the Union government and not the state governments, inhibiting the states’ ability to develop governmental lands within their own boundaries [26]. When discussing the states and their governments, the Burmese translation consistently uses the word *pyi neh* [54].

An additional issue concerned Article 93, which requires the prior consultation by the Union government with the state minister regarding the exploitation of any natural resources within his state, but in almost all cases the Union government would not do so and acted as it wished regarding these resources [8, 26]. Additional complaints follow: state governments had no right to broadcast in their own states; export and import taxes were not shared with the state governments and the states had no powers to assess income taxes on their citizens; states could not acquire land and Union expropriations of land within the states resulted in great unhappiness; no state-run publication was permitted; the Electricity Supply Board did a poor job and state governments were unable to step in where the Board could not perform; and the revenues raised through the State Revenue List (Fourth Schedule) were continually inadequate [26].

Although the Federal Proposal contends the Shan State could have been a separate nation, it chose to join the Union of Burma on the basis of equality, but at the Constituent Assembly Shan representatives insufficiently scrutinized and too readily accepted the Constitution due to political immaturity, an excessive trust in Bama leadership and a rush to attain independence. This resulted in an unequal relationship between the states and the Union government. The solution would be a truly federal system where both legislative houses have equal powers and the states have “complete autonomy,” meaning the central government or other states would have no power to interfere in their internal affairs. Each state would have its own constitution, legislature, state government and judiciary as long as they were not inconsistent with the nation’s constitution. For areas not able to constitute a state, “national areas” would be established with various guarantees to protect their rights. This was a revitalization of the multiple levels of minority representation found in the AFPFL’s draft constitution and 14-point template which the Constituent Assembly rejected. Using similar terminology, the Proposal’s Annexure 1 set out the governmental structures of three constituent units: Union State, Autonomous State and National Area [26].

Yet in all these proposed constitutional revisions, we find nothing regarding the fate of the Shan and Kayah right of secession. Was it to be kept by these two states, or relinquished in order to establish true equality among the states, including the proposed Bama state? It is difficult to believe the Shans and Kayah would readily give up this right so emblematic of their earlier sovereign status, but it is also reasonable to believe they might be willing to bargain it away if

they received true federalism in exchange. We will uncover only one piece of evidence regarding its fate, coming not from minority leaders but from the Prime Minister himself.

At the Taunggyi convention in February 1961, U Tun Aye, a member of the federal committee representing the Shan State People's Liberation Party (SSPLP), formerly known as the Shan State People's Freedom League, disagreed with the committee's findings and refused to sign its final draft, indicating not all Shans were in agreement with the proposal [8]. It was then submitted in early March to two parliamentary committees, the States Scrutiny Committee and the Constitution Amendment Committee, and while some state leaders disagreed, the majority approved it. The Kayah members supported the proposal, but the Kachin leader Duwa Zau Rip believed the timing was not favorable and proposed instead the formation of a committee to study the matter. He believed the major problem facing the states was not constitutional but financial in nature. The Chin Minister U Zahre Lian had a similar view, contending the proposal went too far and should focus only on amending certain provisions to transfer greater powers to the states to improve their finances. Leaders of the states then agreed to hold an All-States Conference in Taunggyi for further discussions [8].

While meeting with Shan leaders in Lashio, Kengtung and Taunggyi in late April, U Nu repeatedly declared their unhappiness would be best dealt with through negotiations with Union officials on specific issues. He reminded the participants that if the Shans felt the Bama were bullying them, it is equally true certain minorities within the Shan State, such as the Pa-O, felt similarly about the Shans. They replied that the Federal Proposal had been carefully drafted with a view of getting to the bottom of the fundamental issues facing the states and there was no intention of seceding from the Union. Again, U Tun Aye of the SSPLP spoke out against the proposal, saying no amendments of the Constitution should take place until the Shan insurgency had been suppressed and the *sawbwas'* special rights to seats in the Chamber of Nationalities surrendered, an event that would not transpire until 1964. Amid all these discussions, U Nu contended that some of the *sawbwas* were indeed aiding the insurgents and requested the state government condemn the insurgency to dispel any doubts about its loyalties [8].

The All-States Conference in Taunggyi opened on June 8, 1961, and was attended by 226 representatives of the four states, the Chin Special Division and the Mon and Arakanese areas; Bama politicians and the SSPLP were not invited. Consistent with past statements, the Ministers of the Kachin and Chin regions refused to attend because they believed the Federal Proposal was not realistic. In a press conference, the kachin minister felt the Shan proposal would actually hurt the Kachin State, while the chin minister believed it could never be implemented as proposed. Later, these two relented and agreed to attend the conference, but not necessarily endorse its proposals. Nor were they alone; during discussions regarding the formation of a States Unity Organization to promote the Federal Proposal, Karen delegates resigned and left Taunggyi out of disagreement with the movement. When the States Unity Organization took up the Federal Proposal later on June 14, the executive council concluded it could not be tabled in parliament as that body only had the power to amend the Constitution, not convene as a constitutional convention to draft an entirely new constitution. Yet many other delegates defended the proposal, arguing it was drafted with care and in good faith, had followed the guidelines set by Dr. E Maung, had been approved in several conferences after many had a chance to provide input and was free of any foreign influence, despite allegations from Bama

leaders and the press. Nor was it an attempt to exploit the Shan insurgency for political gain. One Shan delegate, U Kya Bu, a signatory to the Panglong Agreement, reminded the delegates of U Nu's statements after the finalization of the Constitution, admitting the document had flaws in light of the speed by which it was drafted, but promised that any subsequent problems would receive a fair hearing after independence. He claimed minority delegates approved the Constitution on that understanding, knowing full well they had not gotten everything they had wanted [8]. However, it is difficult to believe that an entire rewrite of the Constitution was what U Nu had in mind. Despite the potential procedural issues, the majority of the speakers endorsed the Federal Proposal and supported its advancement to parliament. On June 16, the final day of the conference, the delegates passed resolutions in support of the Federal Proposal in principle, the establishment of a national convention to consider redrafting the Constitution and full statehood for the Chins and states for the Mons and Arakanese. It should be noted that the Chin and Kachin Ministers had departed before June 16 and a Karen delegate, U A. Soe Myint, dissented to the resolutions [8, 50].

Following the All-States Conference, minority leaders, including the SSPLP, traveled to Rangoon to meet with Union government and major party leaders regarding the Federal Proposal. The SSPLP did not hesitate to claim the Shan State government was aiding the Shan insurgency and the Federal Proposal was a transparent *sawbwa* effort to regain powers they had relinquished in 1959. Of course, various Shan officials vigorously refuted the party's allegations, but in all these refutations nothing was said regarding the fate of the right to secede under the proposal. U Nu was only willing to endorse the convening of a national conference to consider the matter, and in the meantime had forwarded the proposal to Dr. Ba U, one of the chief justices, who would head up an Advisory Committee to study it [8].

The Advisory Committee began its work in April 1961 and submitted its report on January 8, 1962. Frankly, it showed little sympathy for what it called the states' "nine major grievances" and in general urged better consultation and administrative interaction between the Union and state governments as solutions. It reminded the states that the Union government had no legal obligation to consult with the states on any number of issues and merely urged greater courtesy on the part of Union officials. If the states found these solutions unacceptable, they had the remedies of the legal system. As for the constitutional issues, the Committee showed a similar lack of sympathy. It defined true "federalism" in such a liberal fashion as to render it impractical in any society, and cited the experience of the United States during its Civil War as a prime example of what could occur if such a system was adopted. This point appeared to be predicated on the false belief the Confederate states had a constitutional right to secede from the Union—an essential element of true federalism—which the confederate states never did [31, 51]. For this reason, federal societies such as the United States, Switzerland and Australia had become more unitary and less federal over time. Mischaracterizations of the actual situation in Burma then followed: "The three essential characteristics of true federalism are (1) association of free states on a voluntary basis, (2) the right to secede, and (3) the right to complete autonomy. So far, two essential characteristics out of the three are present. They are (1) association of free states on a voluntary basis and (2) the right to secede." As for the third point, the Committee upon examining the Legislative Lists concluded that "each government is supreme and independent in its own sphere," and therefore complete autonomy too was present [8] (p. 436-37). In other words, Burma had "true federalism" and nothing needed to be changed. To argue that the first and second points above were present in Burma in 1962 is laughable; only the

Shans and Kayah were separate states prior to independence and only they had the right to secede, and neither of these elements pertained to the Chins, Kachins and Karens. Furthermore, the states would argue vehemently that they were hardly "supreme" in their own sphere given how the Legislative Lists had been interpreted to date. Having set up a straw man only to knock him down, the Committee concluded that the Federal Proposal would result in "constant bickering...The Union will thus break up in no time...the Shan State government's proposal for a federal form of government cannot, for these reasons be accepted" [8] (p. 437).

But the poverty of the analysis did not there. Only two pages after concluding the states were "supreme" in their own spheres and Union interference in state administration could not be found, the Committee concluded the states had genuine complaints regarding their inability to develop their own economic resources, such as forests, minerals and land! Yet in its analysis of the states' nine grievances, no mention of this complaint was made. The Committee declared: "In this respect their feelings of frustration are real and intense. We must do something to allay their feelings; otherwise, they may become desperate and endanger the stability of the Union..." [8] (p. 437-38). To remedy the situation, they proposed the drafting of a Concurrent Legislative List to be appended to the Constitution that would permit overall Union policy making for resource development, but give the states the actual power to develop them. They even appended to their report a proposed draft of a Concurrent List [8].

How the Committee could reconcile such conflicting conclusions is beyond comprehension. On the one hand, there was little substance to the states' grievances and the Constitution and its form of government were "ideal" for Burma, while on the other the states had genuine grievances and changes needed to be made. But this was essence of the Committee's report. Its proposed changes to the Constitution were submitted to the Constitution Amendment Committee under Dr. E Maung, but shortly thereafter proponents of the Federal Proposal met with U Nu to request holding off on submitting any draft amendments to parliament. He agreed to do so and proposed as a next step the formation of a national conference to study the matter, to which the parties agreed [8].

The national conference opened on February 24, 1962, in Rangoon, attended by representatives of the states and the three major political parties: the Union Party, Stable AFPFL and National United Front. U Nu himself presided over the conference and made the opening speech. His program for the conference called first for presentations by minority leaders on the Federal Proposal, after which the conference would prorogue until March 1 to give representatives and the Advisory Committee time to study the proposal. Upon reconvening on March 1, representatives of the three national parties, the SSPLP and the Advisory Council would give presentations. After these presentations, a committee composed of representatives of the States Unity Organization and the above organizations, chaired by U Nu, would discuss the various points of view and report back to the national conference [8].

The following are highlights of the first round of speeches. U Nu asked the delegates to discuss the issues in a family spirit with the overall objective of preserving national unity. Sao Hkun Hkio, the Foreign Minister and chair of the States Unity Organization, argued that the principles of Panglong were equality of opportunity, autonomy for the minority regions and the right to secede, which were restated at the FACOE and confirmed at the AFPFL convention in May 1947. Due to the assassination of Aung San, minority leaders resolved to present a united front and

hastily adopted the Constitution without sufficient scrutiny, failing to realize that under its provisions the states would become inferior to Burma Proper as the Union government had been made the government of Burma Proper. Equality would be established only by making Burma Proper one of the constituent states. The nation was not federal, but essentially unitary, and the minority peoples were very dissatisfied with the arrangement. The comments of Duwa Zau Lawn, a Kachin State representative and delegate to Panglong, and Captain Mang Tung Nung, representative of the Chin Special Division, echoed much of the above. U Htun Myint of Taunggyi, another Shan in favor of the proposal and a signatory to the Panglong Agreement, recalled Aung San lecturing U Chan Htoon at the Constituent Assembly about his overly complex proposals, arguing there was little time to review such details and only broad principles would do. Aung San believed any unresolved matters could be remedied after independence. The Federal Proposal was being advanced in that spirit. Kayah U Sein, a representative of the Kayah State, in an interesting argument compared the Federal Proposal to efforts in the past to purify the Buddhist religion and ensure the Buddha's original teachings were being propagated and practiced. The Federal Proposal was a similar effort: to return the nation to the original intent of Aung San and the other cabinet members who died with him [8].

The conference reconvened on March 1 to hear the views of the political parties, and due to the complexity of the issues, U Nu determined they could not be addressed in one day and the conference would have to reconvene on March 7. Thakin Chit Maung of the leftist National United Front spoke first. His party did not support the proposal, although he admitted there was widespread dissatisfaction in the nation, which he attributed to its feudal and colonial past. This was the true enemy of Burma, not the various peoples that have been cited as oppressors. Likewise, the American imperialists, through SEATO and the KMT, were the source of the nation's disunity, not the provisions of the Constitution. The central government, representing Burma Proper as was intended in the Constitution, had failed to raise up the minority peoples to the level of the Bama, resulting in the current unhappiness. "We therefore believe that the present constitution represents the federal type that is most suitable for us in the present period of history and the existing circumstances" [8] (p. 468). The states wrongly believed the priority was to "build fences and create states on a true Federal Principle" and then solve the problems of inequality. Basically, they had it backwards and the NUF could not support the proposal. But it did concede some constitutional improvements could be made in the meantime, and proposed fourteen economic, political and administrative reforms [8].

U Ba Swe of the Stable AFPFL also did not approve the proposal. He argued the Constitution reflected Aung San's wishes, was thoroughly debated and discussed and was unanimously approved. The AFPFL took the same position as the NUF; Burma Proper should not be made a constituent state as the nation needed a strong Burma Proper to assist the development of the existing states. Of course, the proponents of the Federal Proposal would respond that that was precisely the problem—Burma Proper was not playing its assigned role. Nevertheless, he asserted that Burma Proper as a constituent state would probably be less willing to share its wealth with the other states, a solid rejoinder. As he proceeded, U Ba Swe's lack of knowledge of the United States became apparent: "If you look at the United States you will notice that there is not much disparity between the states, whereas it is not so in our Union of Burma" [8] (p. 475). Sai Aung Tun found this so inaccurate that he inserted a footnote saying, "The following information is put in, because not to do so would make U Ba Swe appear very casual with his facts" and noted the significant differences between US states in terms of size, population and

wealth. But this was not the only error; U Ba Swe believed that all nations with a bicameral legislative system grant budgetary powers only to the chamber that is elected on a population basis, ignoring the fact that in the US a budget bill cannot pass without Senate approval. But there was even more falsehoods, this time regarding the right to secede: "That right was accepted by the Americans at the time of the establishment of the United States of America, but today it is no longer invoked.... the [American] right of secession became something undesirable, and as such was opposed and defeated by President Abraham Lincoln. A civil war was waged to enforce that right contained in the American Constitution. It is because he effectively deleted that undesirable right of secession that Lincoln is recognized as a historic figure by the world today" [8] (p. 477). In actual fact, the Confederate states seceded from the Union without the right to do so, triggering the Civil War, and there was no effort to eliminate the right from the Constitution as it never existed [51]. Despite advancing an historical narration against secession, he unexpectedly did not support the abrogation of the Shan and Kayah right to secede [8].

After U Ba Swe's presentation, U Nu adjourned the conference until March 7, when Dr. E Maung, representing the Union Party, was to give his presentation. Since his speech had already been printed, Sai Aung Tun is able to summarize it. He argued that the Constituent Assembly's Union-States Subcommittee had agreed to fashion the constitution on the basis of the AFPFL template and not make Burma Proper a constituent state due to its size and the need to forego the expenses of additional layers of government. Therefore, the Union Party could not accept the Federal Proposal as it differed radically from Aung San's wishes, was in some respects anti-democratic and would encourage the disintegration of the nation. Instead, he endorsed the recommendations of the Advisory Committee previously submitted.

Several Western and Bama observers have characterized the Federalism conference as a gathering dominated by secessionists whose demands drowned out more reasonable voices. In his biography of U Nu, Butwell claims "Shan leaders had even threatened to secede from the Union" at the conference, citing a *New York Times* article of March 6, 1962. We could find no threat of secession in Sai Aung Tun's lengthy treatment of the various speeches. Citing an editorial in the Rangoon-based *Guardian* newspaper, Butwell adds this: "There was a feeling in the country that the Nu government was unwilling or unable to deal strictly enough with such talk of secession" [29] (p. 240). Maung Maung in his *Burma and General Ne Win* describes the climate just prior to the coup: "Threats of secession were made. The constitution, curiously enough, provided for the secession of the Shan state and the Kayah state, after a trial period of ten years—if the people of the state concerned expressed their desire to secede" [44] (p. 290-91). Why this right was "curious" he does not say—in his book *Burma's Constitution*, he sets forth various reasons why these two states received the right while the others did not, but none of these were then characterized as inexplicable. Regarding the conference and the question of secession, U Nu wrote in his autobiography: "If the Shan and Kayah leaders demanded to leave the Union, [I] would be helpless to prevent them" [39] (p. 340-41), which was not entirely true as a number of steps would have to be undertaken with no guarantee of success. But the most extraordinary account of the conference is found in a secret military report on Shan political activity titled "Shan State Political Movements and the Origins of the Federal Principle", prepared by the No. 2 Military Intelligence unit and found in the Yangon University History Department files made available to Sai Aung Tun. Its version of U Htun Myint's speech at the conference is far more dramatic than Sai Aung Tun's treatment. He is alleged to have said: "We

are acting in a family and in a democratic manner. If we fail to achieve it [the Federal Proposal] by such means, we will inform the people of the Shan State that we will have to turn to the last resort: in accordance with the right granted in Chapter (10) of the constitution, the Shan State would have to secede from the Union. If after secession, we were to offer to set up a true federal union, would the Bamar leaders still refuse to offer us equal treatment? In that case, we will willy-nilly have to use force.... Down with Bamar chauvinism!" [8] (p. 497). Nothing like this is found in Sai Aung Tun's eight-page rendition of the speech, wherein U Htin Myint consistently advocated constitutional change through legislation [8]. Either the military intelligence report fabricated these statements, or Sai Aung Tun's sources on the conference are inaccurate. We suspect the former explanation, but for now the matter remains unresolved.

While Dr. E Maung's views on the Federal Proposal are preserved in a speech he never made, U Nu's personal sentiments were not known until 1990 when the Yangon University History Department files were made available to Sai Aung Tun. One excerpt provides key information regarding the fate of the right of secession under the Federal Proposal. U Nu is alleged to have said: "Delete that chapter in the constitution which provides for the right of secession. Don't keep it. You keep asking for more power, saying that you were not given enough....If you want more powers, we will discuss the matter in a brotherly way. After discussion we will willingly hand over to you all that you demand, without stint and without heartburn. Just delete the chapter on the right of secession" [8] (p. 498). The quote appears genuine and the tone informal and extemporaneous, indicating they were either minutes of a meeting he had with minority leaders or notes of proposed talking points. It is also possible his office had been bugged. It is, nonetheless, the only indication we have of the fate of the right of secession. Although they confirm that the Shans and Kayah had not planned on surrendering it, they demonstrate that U Nu had demanded, or intended to demand, its surrender as a condition for granting the changes the States Unity Organization had requested. Clearly, U Nu saw such a bargain as the only realistic path forward for the Federal initiative. It had no chance of passage in Parliament without the surrender of the secession right, a constitutional feature that due to the passions it routinely stirred in the press had become a political barrier to constitutional reform. Sai Aung Tun believes that state representatives might have accepted U Nu's offer, a conclusion with which we must agree, but the coup prevented any such grand bargain [8].

Two conclusions emerge from the positions taken at the Federalism conference: both sides were fond of invoking the thoughts and intentions of Aung San to support their positions; and the political establishment in Rangoon was largely against the Federal Proposal. Although both the Union Party and the NUF were willing to consider certain amendments, such as those of the Advisory Committee, they were opposed to the general thrust of the proposal, particularly making Burma Proper another state in the union. The opposition of the Stable AFPFL, perhaps reflecting the views of the military, was so narrow-minded that even false historical narrations were marshalled to dismiss the Federal Proposal. Its only response to the states' complaints was to propose reprimanding or dismissing from government service Union officials who had treated state officials unfairly. Since the AFPFL was not in power, this would be a politically advantageous position to take as it would cast a bad light on the governance of their opponents, U Nu's Union Party.

Now that the military had tasted power during the Caretaker period and emerged confident it could govern the nation—despite the message of disapproval from the voters in 1960—the

Federal Proposal found itself in a political environment fundamentally changed from that before the AFPFL split. Its proponents naively believed the 1960 election so strengthened U Nu that he would be able to hold the military at bay and allow these proposals a fair hearing. They failed to realize that the military had by early 1962, or even late 1961, tired of U Nu and the parliamentary politicians and felt it had no choice but to seize power to prevent any further deterioration of the nation. The assembling of so many minority leaders in Rangoon for the Federalism conference provided the military an unprecedented opportunity to sweep them all up in one strike, which is what it did in the early morning hours of March 2. Chao Tzang Yawng hwe believes the initial Shan revolt of 1958-1959, propelled by every-day Shans angry at their treatment by the military, would have by the mid 1960's exhausted itself if the Shan State government could have demonstrated the establishment of credible federalism. Unfortunately, that did not occur and the 1962 coup only strengthened the Shan resistance to the Union government, again in the hands of the armed forces [6].

THE 1962 COUP

In the early morning hours of March 2, 1962, units of the armed forces arrested a total of 48 individuals including the President of the nation, Prime Minister U Nu, members of his cabinet and a good number of *sawbwas* and participants at the Federalism conference. The coup was relatively bloodless. One of the sons of Sao Shwe Thaik was killed during his father's arrest under circumstances disputed to this day, and Sao Kya Seng, the *sawbwa* of Hsipaw, was arrested later in the day near Heho Airport, west of Taunggyi, and was never seen in public again. His *Mahadevi*, Inge Sargent, has presented persuasive evidence that the military had him killed shortly thereafter, perhaps from the belief he was involved in the Shan insurgency through his cousin, Khun Thawda, a leader of the Shan State Independence Army [37]. On March 3, the new government, calling itself the Revolutionary Council, abolished all the State Councils and the Chin Affairs Council; they replaced the Shan State Council with the Shan State Supreme Council, headed by officers and U Tun Aye, the head of the Shan State People's Liberation League who had opposed the Federal Proposal since its inception. Upon appointing U Tun Aye, General Ne Win reportedly told him to do his best in the Shan State, but "if you fail just hang yourself" [8] (p. 489). Other State Supreme Councils were formed the same day or in coming days [8]. In addition to the State Councils, the Mon and Arakanese ministries created to help usher in these new states were abolished and replaced with new administrative bodies under the control of the central government. In addition, two special districts under the control of the PM's office, one in Arakan for Muslims called the Mayu Administrative District, and one along the Chinese border, were also abolished [5].

On the day of the coup, General Ne Win reportedly told the Chin Affairs Minister U Zahre Lian after his arrest, "Federalism is impossible; it will destroy the Union" [5] (p. 196), a surprising rebuke since U Zahre Lian had consistently demonstrated concerns regarding the proposal. Later on March 4, the general met with leaders of the three major political parties to explain more fully the reasons for the coup, citing inflation, the deteriorating law and order situation and the divisions stemming from the Federal Proposal. He advised them that the Constitution had to be replaced and pledged to consult with the parties on that task. Only the NUF pledged to support the Revolutionary Council and its programs [8]. At a press conference on March 7, Brigadier General Aung Gyi, the second most powerful officer in the Council, explained why the military came to power: "In Burma we had economic, religious and political crises with the issue of federalism the most important reason for the coup...A small country like Burma cannot afford

division. The states enjoy autonomy and the right of secession guaranteed by the Constitution, but if secession were to be exercised, small and newly independent Burma would sink like Laos or Vietnam” [29] (p. 240-41). He continued: “Because of the crisis caused by the federal issue, power had been seized for the second time in order to safeguard the state” [8] (p. 491). This comment is quite revelatory as it demonstrates what many, such as U Nu, had alleged for a while--that the so-called voluntary transfer of power to the armed forces in 1958 was in fact a coup. He had more to say: “Myanmar is a small country. It is not proper for such a small country as Myanmar to be divided into several states. It is true that our constitution provides for the right of secession ten years after gaining independence...In Myanmar, fifteen years after independence, the situation was such that the cry for secession has grown louder and louder, day by day. But look at what is happening in neighboring countries like Laos and Vietnam. We cannot allow such a situation to take place in our country...Shans and Kayahs are demanding secession. Even the smallest of our states, the Kayah State with a population of 87,000 wants to be independent” [8] (p. 491). Finally, the Shan *sawbwas* were “forcing the issue beyond the control of other Shan and Union leaders” by forwarding exorbitant demands that would have to be rejected, with their rejection then serving as an excuse for rebellion [42].

Although the armed forces’ justification for the coup focused on a number of domestic difficulties, Brigadier Aung Gyi’s reference to problems in Laos and Vietnam evidenced a fear of Cold War complications stemming from the Federalism movement. He also severely criticized *sawbwa* management of the Shan State and claimed that under their rule there had been no economic progress for the Shan people since independence. The *sawbwas* had allegedly taken state tax revenues and spent them on homes and automobiles instead of hospitals, schools and development projects. The same fate awaited revenue sent to the Shan State from the central government. The finances of the Shan and Kayah States were chronically in deficit, he alleged, and in fact a proper audit had never been made of the Kayah State budget. For this reason, the Kayah State had to rely on revenue from gambling and opium dens, and even this money went mostly into the pocket of the head of Kayah State, Sao Wunna [42]. Yet when these charges are examined, we find little evidence of a secessionist movement among Shan and Kayah leaders just prior to the coup. In all the speeches made at the Federalism conference, except for the alleged comments of U Htun Myint in the military intelligence report that are not found in lengthy quotations of his speech, not a single call for secession was made.

In another press conference on March 9, Brigadier Aung Gyi further highlighted the permissiveness of the past government towards the Federal Proposal: “Had the problem been handled with firmness, disorders would not have been so bad. Because the government had been too magnanimous, narrow nationalistic ideas had sprung up.... Anything could have happened, if one had waited until the end of the national conference...If the states were not given what they wanted, there would be secession and conflict” [8] (p. 492). Yet if one closely analyzes the responses of the three major parties and the Advisory Committee, they reacted to the proposal with skepticism, if not subtle contempt, and in the end offered only relatively modest measures to enhance the states’ economic powers.

By mid-1962, the Revolutionary Council was still beating the same drum. The June 21 edition of the *Burma Weekly Bulletin* featured an article titled, “The Feudalist Conspiracy,” which obviously reflected the regime’s opinion of the *sawbwas*. It accused them of using the issue of federalism to disguise their true intentions of seceding from Burma and establishing “tiny,

independent, sovereign states." The article does admit that the Constitution gave the Shans the right to secede, but if they exercised this right "the resulting plight of the Union of Burma could hardly be imagined." It also criticizes *sawbwa* treatment of the Shan people, and contends their poverty was the result of the oppressive taxation and greed of the feudal lords. They allegedly enacted a ten percent customs duty on all goods passing from one feudal fiefdom to the next and further enriched themselves by maintaining the custom of "paying obeisance to the sawbwa," whereby the lords would receive lavish gifts at pagoda festivals. These festivals, the article alleges, were just an excuse for holding massive gambling operations where some of the lords could make as much as a million *kyat* per year in commissions. Additionally, they were involved in the smuggling of opium, gold and government-owned timber, but despite their great wealth, the *sawbwas* spent "not a single *kyat*" to uplift the masses, a rather unfair assertion [37]. On September 21, Brigadier Aung Gyi continued with this theme by censoring earlier administrations for their dealings with the *sawbwas*. In a speech made in the Shan State, he declared that independence did not bring freedom to the Shan people because the administration of the State had been handed back to the *sawbwas* after 1948. He called this the first mistake of the "revolutionists," i.e., U Nu and the other nationalist politicians who gained Burma's freedom from the British. He failed to mention that the leader of those revolutionists was Aung San, who had promised the Frontier peoples "full autonomy in internal administration" in the Panglong agreement [45].

There is no question the Revolutionary Council was using the *sawbwas* as a whipping boy to justify its seizure of power, but the strained and highly partisan tone of the remarks prompts one to wonder whether other motivations might have been operating behind the scenes. And indeed, the secret military intelligence report on Shan political activity made available to Sai Aung Tun provides a litany of allegations regarding secessionist activities on the part of the *sawbwas*, detailed below, indicating that military intelligence had probably infiltrated the Shan nationalist movement. The Mong Yai meeting held in December 1956 was attended by several *sawbwas* who resolved to secede from the Union and form a Shan Republic. The *Mahadevi* of Sao Shwe Thaik and several *sawbwas* attended another meeting at Lashio in 1957, where a similar decision was made. A pamphlet in the Shan language published by the White Tiger Press in Hsipaw, the feudal state of Sao Kya Seng, also called for secession. In 1957 at a meeting held at the Lashio home of the Tawng Peng *sawbwa*, it was concluded that secession by constitutional methods would be close to impossible and only armed revolt would succeed. As for the Federal movement, the report traces its origins to a meeting at the home of the Head of the Shan State, Sao Hkun Hkio, on May 18, 1958, in the midst of the AFPFL split, where he encouraged other Shan leaders to exploit the weakness of U Nu's government by pressing demands for constitutional change. Consequently, the Shan State United Hill Peoples' Organization demanded that U Nu's AFPFL faction grant the Shan State greater autonomy by interpreting certain sections of the Constitution in a more favorable light and require Union ministers to consult with the Shan State on matters not normally needing consultation. Other demands concerned the operations of the armed forces in the Shan State, the involvement of members of the military in politics and many of the complaints spelled out in the Federal Proposal. The military intelligence report alleges the leadership of the Clean AFPFL agreed to these demands in exchange for Shan political support in Parliament, which proved to be crucial for U Nu's political survival [8]. Although Lintner confirms the role of two *sawbwas* in the formation of the *Noom Suk Harn* and the presence of *sawbwas* at the meetings in 1956 and 1957 where calls for secession were heard [16], we cannot evaluate the reliability of the other

allegations. We have already questioned the credibility of the report's version of U Htun Myint's speech at the Federalism conference. One observation is unavoidable, however. Influenced by a report like this, it is no wonder the leadership of the armed forces had such a low regard for the *sawbwas* and the nation's political leaders.

Another document made available to Sai Aung Tun presents an alternative explanation for the 1962 coup: the military's opposition to the proposed National Service Act that Union Party officials were seriously considering as a means of preventing future military take-overs. The Act would have transformed the Burmese armed forces from a professional force into a draft army and in many ways weaken the power of the officer corps. In the opinion of an unnamed ex-defense minister, the armed forces considered it such a threat that they seized power and used the Federal Proposal as a cover. Based on the available sources, the National Service Act was the only legislative measure to control the military that U Nu pursued during his second government. Whether it would have saved Burmese democracy is speculative, but it did demonstrate a renewed commitment to democratic processes following the missteps of 1958. When Brigadier Tin Pe, the officer who led the charge to contest it, was interviewed after the 1988 uprising he insisted the threat of Shan secession was the major reason for the coup and that it had been planned since November 1961 [8]. Alternative theories for the coup are outside the scope of this paper, but they certainly deserve further investigation.

After the coup, the "cultural plurality" of Burma was the only minority policy the Revolutionary Council would embrace. In all other respects administration of the minority areas was made uniform with the rest of the nation, but this policy apparently did not entail the preservation of the Shan language, as publication and broadcasting in Shan became even more difficult [5, 57]. Under the Council there would be no further discussion of federalism or the holding of national conventions to air proposals granting greater powers to the states or making Burma Proper a state like the others. Burma's experiment in federalism had come to an end.

CONCLUSIONS

After considering the first fourteen years of Burma's independence, it is reasonable to conclude that the right of secession, an important political privilege for the peoples who received it and an act of generosity on the part of those who granted it, ultimately became a serious political liability for both grantor and grantee. Even before January 1958, the right acted as a highly divisive factor that increased, but was not the primary cause of, tensions and distrust between the majority and minorities and lessened respect for the Constitution. Many in the majority came to see the Constitution as fundamentally flawed, while the minorities questioned its ability to protect their rights and eventually sought to radically reform it. After the 1962 coup, the Revolutionary Council would blame its supposed flaws, particularly the right of secession, on the "revolutionists" of the nationalist movement, ignoring the fact that Aung San was the leader of the revolutionists and prior to his death presided over an AFPFL that repeatedly proposed the right as an integral element of its federal philosophy, measures which could be viewed as having his endorsement.

We have observed, however, that Aung San's thinking on other minority issues is in many ways subject to interpretation. For instance, on the issues of autonomy and statehood for the minorities, the ambiguity of his thinking did indeed lend itself to varying interpretations, as seen in the hedging language regarding minority autonomy in the Panglong agreement and his

advocacy of “semi self-governing” states. Yet on the matter of the right of secession, we find a persuasive body of documentation establishing his belief that such a mechanism would be necessary to create the Union of Burma. It first appeared in early 1946 in the provisional rules of the AFPFL's supreme council, then again in both the draft constitution and 14-point constitutional template adopted unanimously at the May 1947 AFPFL Congress. The origin of his conviction in the right can most probably be traced to his study of Stalin's writings on nationalities, and although the influence of the Burmese Communist Party in the AFPFL could have been a factor early on, by May 1947 the communists had been expelled from the party yet the right of secession remained an element of the AFPFL's federal philosophy. We *can* say with certainty that it did not originate in February 1947 at the second Panglong Conference, since both the AFPFL's provisional rules and U Saw's advocacy of the right at the first Panglong conference pre-date second Panglong. Therefore, we must conclude with a degree of confidence that he believed the right of secession, with the safeguards seen in the draft constitution, would be appropriate for some of the minorities, and since he deduced from Stalin that the Shans were the only ethnic group besides the Bama which constituted a true nation, it is reasonable to assume that he believed they at least should receive it. After his death, it was granted to the Kayah in order to tie up one of the last loose ends of the constitution.

Yet by the early 1960's, the Shan and Kayah right of secession had become a political liability, and there is no question that it served as the most notable justification of the 1962 coup. In fact, defenders of the coup frequently contextualized the right as a privilege possessed by all the states, thus elevating it to a dire threat to national unity. But when we place the coup in an historical context that includes the military's actions during the Caretaker period, we question the sincerity of this justification. In the Caretaker period, the military finally accomplished what the prior U Nu governments could not, which was forcing the Shan State Council and the *sawbwas* to the table to accomplish two things: one, the transfer of the *sawbwas*' traditional administrative rights and powers to the Shan State government; and two, the relinquishment through a constitutional amendment of their right to seats in the Chamber of Nationalities. If the right to secede was so odious to the armed forces, why was its relinquishment not included in the constitutional amendment? It appears the failure of U Tun Aye's State Council resolution calling for its surrender, the introduction of which might have been at the behest of General Ne Win, sent a clear message to the armed forces that the Shan political establishment was not in favor of its elimination. What is undeniable from the General's public statements, however, was his thorough opposition to the right of secession. If so, then why did he not approach U Nu in early 1962, once the outline of the Federal Proposal was well known, to express military acceptance of some constitutional strengthening of the States' financial, economic and cultural powers in exchange for the relinquishment of the right? Such a grand bargain was entirely realistic, yet we have no evidence the military did so, and in fact we have evidence the coup was planned as early as November 1961, prior to the convening of the Federalism conference. By that time, the armed forces had no doubt tired of the political games and had concluded a radical realignment of power was needed if Burma was to progress.

Thus, seen in the light of twelve years of AFPFL and Union Party rule, or misrule as one may have it, the most likely explanation for the coup remains a widespread belief within the officer corps that the parliamentary politicians had proven themselves incapable of leading the nation competently and only a disciplined military government could take the nation forward. In this struggle for power, objections to specific policies and rights were mere window dressing. The

Federalism conference, having summoned most of the important minority leaders to Rangoon, not only gave the military a perfect opportunity to sweep them up and seize power, but provided them with the perfect excuse as well. Having won the struggle for power with the parliamentary politicians, the military could now govern the nation without the restraints of a constitution they perceived as seriously flawed. Yet we must not forget how poorly the Revolutionary Council governed the nation, for in the final analysis they had less to show from their act of “national salvation” after 26 years than the parliamentary politicians had after only twelve.

Taking a broad view of Burmese history since independence, the Frontier Areas Committee of Enquiry and the Federal Proposal, despite their many shortcomings, were the only instances when Burma entertained truly honest discussions of majority-minority relations. The many consultations leading to the 2008 Constitution, held in an environment of “disciplined democracy” which dictated a very restricted airing of ideas and the suppression of any mention of federalism, fell significantly short of the standards set by these two events [5, 14]. Even the right of secession in the 1947 Constitution, apparently still haunting the political landscape of Myanmar an entire 46 years after its eradication by the 1962 coup, had to be thoroughly exorcised by one of the basic principles of the 2008 Constitution: “No part of the territory constituted in the Union...shall ever secede from the Union” [56]. On the other hand, surprisingly, the national minority areas and other minority representation schemes rejected by the Constituent Assembly in 1947, and which reappeared briefly in the Federal Proposal, were resurrected in the 2008 Constitution in the form of Self-Administered Zones, Ethnic Affairs Ministers and other democratic mechanism [5, 19, 46, 47]. Therefore, we again see the wisdom of Aung San’s observation before the Constituent Assembly that a unitary system would not be suitable for Burma and only a federalism offering democratic representation and a variety of safeguards for the rights of minorities would create a lasting union. The February 2021 coup’s suspension of the 2008 Constitution, after only 13 years in effect, and subsequent events have persuaded us that most of Myanmar’s citizens would resist its restoration without serious changes. Thus, we see in the recent calls by the National Unity Government, the underground rebel government, for a new constitution [53] the continuing promise of a genuine form of federalism as the only solution to the nation’s long-standing ethnic revolts. We doubt, however, whether such a constitution, if it ever emerges, will grant a right of secession to any minority or nation.

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