

Report of the Joint Committee to Amend the Republic of the Union of Myanmar Constitution (2008): Findings and Observations

Date: 12 July 2019

1. The Joint Committee to Amend the Republic of the Union of Myanmar Constitution (2008) was formed and assigned duties by Pyidaungsu Hluttaw (Union Parliament) on 19 February 2019. The Joint Committee meetings were held from 20 February 2019 to 13 June 2019, attended by representatives from the 14 political parties in the Hluttaw, and representatives from the Group of Independent Representatives and Defence Services Representatives.
2. At the 21st meeting of the Joint Committee, all the proposals for amendment, addition and removal as well as proposals to make no changes in relation to the Sections and Sub-Sections of the Constitution (2008) were consolidated. To prepare a report on the basis of the consolidated proposals for submission to Hluttaw, the Joint Committee held further meetings from 8 July 2019 to 12 July 2019.
3. The Joint Committee implemented the duties assigned to it on the basis of the following 5 objectives mentioned in Paragraph 3 of the Notification No. 15/2019 of the Pyidaungsu Hluttaw Office.
 - (a) To review and amend the Constitutional provisions in the light of the evolving times and systems so that they are in line with democratic norms, are consistent and contain no contradictions among themselves, while posing no obstacle to multi-party democracy.
 - (b) To enable the systematic amendment in line with democratic norms of those provisions that undermine the checks and balances among the three powers, the legislative, the executive and the judiciary, those provisions that fail to protect equality among citizens, and those provisions that create impediments to the holding of free and fair elections.
 - (c) To have the Constitution the implementation of which is compatible with the agreement "to form the Union on the basis of democracy and federalism" contained in Part 1 of the Union Accord, which has been approved by the 21st Century Panglong Conference with a view to achieving peace in the country and furthering efforts for national reconciliation.
 - (d) To enable the compilation of a report that reflects the genuine desire and views of the entire national people through analysis, discussion and resolution of the Constitutional provisions in Pyidaungsu Hluttaw by the Hluttaw Representatives from various political parties that have been elected to serve by the People through a system of representative democracy, Hluttaw Representatives from various ethnic peoples, and Defence Services Representatives.
 - (e) To enable the drafting of a bill to amend the Constitution after the Representatives of Pyidaungsu Hluttaw have discussed, reviewed and made recommendations on the Report of the Joint Committee, followed by a Hluttaw resolution.

Findings of the Joint Committee

4. For Chapter 1 "Basic Principles of the Union", proposals for amendment, removal and addition were recorded for 59 Sections and Sub-Sections. No proposals were made for 39 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 13
- b) Arakan National Party: 36
- c) Shan National League for Democracy: 45
- d) Ta'Ang (Palaung) National Party: 29
- e) Zomi Congress for Democracy: 1
- f) Pa'O National Organization: 27
- g) Kachin State Democracy Party: 10
- h) Kokang Democracy and Unity Party: 7
- i) National Unity Party: 1
- j) Mon National Party: 44
- k) National United Democratic Party: 19

5. For Chapter 2 "State Structure", proposals for amendment, removal and addition were recorded for 37 Sections and Sub-Sections. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) Arakan National Party: 32
- b) Shan National League for Democracy: 22
- c) Ta'Ang (Palaung) National Party: 6
- d) Zomi Congress for Democracy: 5
- e) Pa'O National Organization: 4
- f) Kachin State Democracy Party: 1
- g) National Unity Party: 2
- h) Mon National Party: 26
- i) National United Democratic Party: 13

6. For Chapter 3 "Head of State", proposals for amendment, removal and addition were recorded for 49 Sections and Sub-Sections. No proposals were made for 5 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 3
- b) Arakan National Party: 38
- c) Shan National League for Democracy: 49
- d) Ta'Ang (Palaung) National Party: 29
- e) Zomi Congress for Democracy: 13
- f) Lisu National Development Party (Dulay Party): 7
- g) Kachin State Democracy Party: 23
- h) Mon National Party: 30
- i) National United Democratic Party: 26

7. For Chapter 4 "Legislature", proposals for amendment, removal and addition were recorded for 326 Sections and Sub-Sections. No proposals were made for 33 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 14
- b) Arakan National Party: 215
- c) Shan National League for Democracy: 324
- d) Ta'Ang (Palaung) National Party: 15
- e) Pa'O National Organization: 18
- f) Kachin State Democracy Party: 1
- g) Mon National Party: 206
- h) National United Democratic Party: 66

8. For Chapter 5 "Executive", proposals for amendment, removal and addition were recorded for 397 Sections and Sub-Sections. No proposals were made for 59 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 27
- b) Union Solidarity and Development Party: 8
- c) Arakan National Party: 294
- d) Shan National League for Democracy: 358
- e) Ta'Ang (Palaung) National Party: 61
- f) Zomi Congress for Democracy: 12
- g) Pa'O National Organization: 60
- h) Lisu National Development Party (Dulay Party): 19
- i) Kachin State Democracy Party: 21
- j) Kokang Democracy and Unity Party: 15
- k) Mon National Party: 178
- l) National United Democratic Party: 158

9. For Chapter 6 "Judiciary", proposals for amendment, removal and addition were recorded for 200 Sections and Sub-Sections. No proposals were made for 29 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 5
- b) Union Solidarity and Development Party: 1
- c) Arakan National Party: 183
- d) Shan National League for Democracy: 173
- e) Ta'Ang (Palaung) National Party: 16
- f) Pa'O National Organization: 15
- g) Kachin State Democracy Party: 1
- h) Mon National Party: 123
- i) National United Democratic Party: 115

10. For Chapter 7 "Defence Services", proposals for amendment, removal and addition were recorded for 11 Sections and Sub-Sections. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 3
- b) Arakan National Party: 3
- c) Shan National League for Democracy: 10
- d) Ta'Ang (Palaung) National Party: 5
- e) Pa'O National Organization: 1
- f) Kachin State Democracy Party: 3
- g) Mon National Party: 11
- h) National United Democratic Party: 6

11. For Chapter 8 "Citizen, Fundamental Rights and Duties of the Citizens", proposals for amendment, removal and addition were recorded for 40 Sections and Sub-Sections. No proposals were made for 44 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 2
- b) Arakan National Party: 3
- c) Shan National League for Democracy: 37
- d) Zomi Congress for Democracy: 6
- e) Pa'O National Organization: 2
- f) Kachin State Democracy Party: 2
- g) Kokang Democracy and Unity Party: 1
- h) Mon National Party: 1
- i) National United Democratic Party: 4

12. For Chapter 9 "Election", proposals for amendment, removal and addition were recorded for 28 Sections and Sub-Sections. No proposals were made for 47 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 3
- b) Union Solidarity and Development Party: 1
- c) Arakan National Party: 9
- d) Shan National League for Democracy: 17
- e) Kachin State Democracy Party: 5
- f) Kokang Democracy and Unity Party: 2
- g) National United Democratic Party: 8

13. For Chapter 10 "Political Parties", proposals for amendment, removal and addition were recorded for 7 Sections and Sub-Sections. No proposals were made for 14 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 1
- b) Arakan National Party: 2

- c) Shan National League for Democracy: 6
- d) Ta'Ang (Palaung) National Party: 1
- e) Zomi Congress for Democracy: 1
- f) Pa'O National Organization: 1
- g) Kachin State Democracy Party: 3
- h) Kokang Democracy and Unity Party: 1
- i) Mon National Party: 1
- j) National United Democratic Party: 3

14. For Chapter 11 "Provisions on State of Emergency", proposals for amendment, removal and addition were recorded for 34 Sections and Sub-Sections. No proposals were made for 3 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 28
- b) Arakan National Party: 21
- c) Shan National League for Democracy: 33
- d) Pa'O National Organization: 2
- e) Kachin State Democracy Party: 24
- f) National United Democratic Party: 20

15. For Chapter 12 "Amendment of the Constitution", out of the Chapter Heading, 4 Sections and 4 Sub-Sections, proposals for amendment, removal and addition were recorded for 4 Sections and Sub-Sections. No proposals were made for the Chapter Heading, the first part of 1 Section and 2 Sub-Sections, which are together recorded as the provisions that should remain as they are. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 2
- b) Arakan National Party: 4
- c) Shan National League for Democracy: 4
- d) Ta'Ang (Palaung) National Party: 1
- e) Zomi Congress for Democracy: 1
- f) Pa'O National Organization: 2
- g) Kachin State Democracy Party: 2
- h) Kokang Democracy and Unity Party: 2
- i) Mon National Party: 4
- j) National United Democratic Party: 2
- k) Independent: 3

16. For Chapter 13 "State Flag, State Seal, National Anthem and the Capital", proposals for amendment, removal and addition were recorded for 8 Sections and Sub-Sections. No proposals were made for 1 Section or Sub-Section, which is recorded as the provision that should remain as it is. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 1
- b) Shan National League for Democracy: 8
- c) Zomi Congress for Democracy: 1

- d) National United Democratic Party: 3

17. For Chapter 14 "Transitory Provisions", proposals for amendment, removal and addition were recorded for 10 Sections and Sub-Sections. For this Chapter, the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 10
- b) Arakan National Party: 10
- c) Shan National League for Democracy: 10
- d) Ta'Ang (Palaung) National Party: 10
- e) Zomi Congress for Democracy: 10
- f) Pa'O National Organization: 3
- g) Kachin State Democracy Party: 10
- h) Kokang Democracy and Unity Party: 10
- i) National Unity Party: 10
- j) Mon National Party: 10
- k) National United Democratic Party: 9

18. For Chapter 15 "General Provisions" and "Schedules 1 to 5", proposals for amendment, removal and addition were recorded for 15 Sections and Sub-Sections. No proposals were made for 3 Sections and Sub-Sections, which are together recorded as the provisions that should remain as they are. For Chapter 15 "General Provisions" and "Schedules 1 to 5", the numbers of Sections and Sub-Sections for which amendment proposals were received from political parties and groups are as follows:

- a) National League for Democracy: 2
- b) Arakan National Party: 8
- c) Shan National League for Democracy: 16
- d) Ta'Ang (Palaung) National Party: 5
- e) Zomi Congress for Democracy: 3
- f) Pa'O National Organization: 5
- g) Kachin State Democracy Party: 5
- h) Kokang Democracy and Unity Party: 3
- i) National Unity Party: 4
- j) Mon National Party: 7
- k) National United Democratic Party: 10

19. The total number of proposals for each Chapter from political parties, various groups and an independent Representative is given below:

- a) Chapter 1: 231
- b) Chapter 2: 111
- c) Chapter 3: 218
- d) Chapter 4: 859
- e) Chapter 5: 1211
- f) Chapter 6: 632
- g) Chapter 7: 42
- h) Chapter 8: 58
- i) Chapter 9: 45
- j) Chapter 10: 20
- k) Chapter 11: 128

- l) Chapter 12: 27
- m) Chapter 13: 13
- n) Chapter 14: 102
- o) Chapter 15: 68

A total of 3765 proposals for amendment, addition and removal that were presented are listed in the table in the Appendix. The Chapter Headings, Sections and Sub-Sections that are not listed in the table in the Appendix were proposed to remain as they are.

20. Appendix page numbers on which proposals for each Chapter can be found are given below:

Chapter 1: Appendix page 1-19 (Myanmar), 1-12 (English Translation)
Chapter 2: Appendix page 20-32 (Myanmar), 12-21 (English Translation)
Chapter 3: Appendix page 33-49 (Myanmar), 21-34 (English Translation)
Chapter 4: Appendix page 50-116 (Myanmar), 34-80 (English Translation)
Chapter 5: Appendix page 117-215 (Myanmar), 80-145 (English Translation)
Chapter 6: Appendix page 216-264 (Myanmar), 145-177 (English Translation)
Chapter 7: Appendix page 265-270 (Myanmar), 177-181 (English Translation)
Chapter 8: Appendix page 271-277 (Myanmar), 181-186 (English Translation)
Chapter 9: Appendix page 278-283 (Myanmar), 186-189 (English Translation)
Chapter 10: Appendix page 284-285 (Myanmar), 189-190 (English Translation)
Chapter 11: Appendix page 286-301 (Myanmar), 191-201 (English Translation)
Chapter 12: Appendix page 302-305 (Myanmar), 201-204 (English Translation)
Chapter 13: Appendix page 306-307 (Myanmar), 204-205 (English Translation)
Chapter 14: Appendix page 308-309 (Myanmar), 205-207 (English Translation)
Chapter 15 and Schedules 1-5: Appendix page 310-353 (Myanmar), 207-241 (English Translation)

Observations of the Joint Committee

21. The proposals for amendment, addition and removal made by political parties, various groups and an independent Representative listed in the table in the Appendix to the Report of the Joint Committee are compiled for submission to Pyidaungsu Hluttaw in order that Pyidaungsu Hluttaw representatives may discuss them and make recommendations.

22. As mentioned in Sub-Paragraph (l) of Paragraph 4 of the Notification forming the Joint Committee, Pyidaungsu Hluttaw representatives will hold discussions on the Report of the Joint Committee and the Hluttaw will then pass a resolution, after which a Bill to amend the Constitution (2008) will be drafted for submission to Pyidaungsu Hluttaw.

23. As mentioned in Sub-Paragraph (f) of Paragraph 5 of the Notification forming the Joint Committee, in order to draft a Bill to amend the Constitution (2008) on the basis of the proposals listed in the table in the Appendix to the Report of the Joint Committee, taking into consideration the recommendations and discussions of Pyidaungsu Hluttaw representatives, the Joint Committee will obtain input from the following individuals, departments and organizations:

- a) Representative of Union Government;
- b) Representatives from the Supreme Court and other judicial institutions;
- c) Chief Ministers of Regions and States;
- d) Speakers of Region and State Hluttaws;

- e) Ethnic Affairs Ministers;
- f) Representatives of Self-Administered Divisions and Self-Administered Zones;
- g) Representatives of ethnic nationalities;
- h) Representatives from political parties;
- i) Jurists.

24. On the basis of discussions and consultations with the individuals, departments and organizations mentioned in the preceding paragraph, the Joint Committee will compile appropriate provisions to be part of a Bill to amend the Constitution (2008) and proceed in accord with the provisions in Chapter 12 "Amendment of the Constitution", the Law relating to Pyidaungsu Hluttaw and the Rules related to the Law.

Comment of the Joint Committee

25. Thus, in order to proceed with the drafting of the Bill to amend the Constitution (2008), the Joint Committee to Amend the Constitution (2008) submits its Report to the Hluttaw to be adopted.

The Joint Committee to Amend the Republic of the Union of Myanmar Constitution (2008)

Comment of the representatives of the Defence Services Representatives Group

1. As the formation of the Joint Committee to Amend the Constitution (2008) was not in accord with Chapter 12 of the Constitution, Defence Services Representatives raised their objections even as the proposal was submitted to form the Joint Committee.
2. However, given that the said Committee was formed by means of a resolution of Pyidaungsu Hluttaw adopted through voting, Defence Services Representatives participated in the Joint Committee out of respect for a resolution of Pyidaungsu Hluttaw.
3. Despite their participation, Defence Services Representatives did not make any amendment proposals, or any comments, except that the processes associated with this Report of the Joint Committee were not in accord with the Constitutional amendment provisions contained in Chapter 12 of the Constitution.