



Institut für Föderalismus  
Institut du Fédéralisme  
Institute of Federalism

**IFF Working Paper Online No 32**

## **Federalism in Myanmar**

### **Practical Application of Federalism as a Modern Confederation**

KELVIN

November 2022

Citation: Kelvin, Federalism in Myanmar – Practical Application of Federalism as a Modern Confederation, IFF Working Paper Online No 32, Fribourg, November 2022.

<https://doi.org/10.51363/unifr.diff.2022.32>

University of Fribourg  
Institute of Federalism  
Av. Beauregard 1  
CH-1700 Fribourg

Phone +41 (0) 26 300 81 25

[www.federalism.ch](http://www.federalism.ch)



**UNIVERSITÉ DE FRIBOURG** FACULTÉ DE DROIT  
**UNIVERSITÄT FREIBURG** RECHTSWISSENSCHAFTLICHE FAKULTÄT

The IFF Working Paper Online series and other publications of the Institute of Federalism, Fribourg are available on the IFF website [www.unifr.ch/federalism/en/research/](http://www.unifr.ch/federalism/en/research/).

© IFF, 2022

Institute of Federalism, University of Fribourg  
Avenue Beauregard 1  
1700 Fribourg  
Switzerland  
[federalism@unifr.ch](mailto:federalism@unifr.ch)



This work is published under a Creative Commons Attribution 4.0 International License (CC BY 4.0): <https://creativecommons.org/licenses/by/4.0>.

Author: Kelvin

The papers are published in the name of the author. Her/his view does not necessarily reflect the view of the Institute of Federalism.

DOI: <https://doi.org/10.51363/unifr.diff.2022.32>

ISSN: 2813-5261 (Online)

## Table of Contents

1. Introduction .....	3
2. Theoretical Background.....	3
3. Federalism in Myanmar .....	4
3.1. Historical Background.....	4
3.2. Motivations behind Federalism in Myanmar .....	5
3.3. Challenges of Federalism in Myanmar .....	7
4. Implementation of the Confederate Model in Myanmar .....	9
4.1. Approaches to the Confederate Model.....	9
4.2. Practical Application of the Confederate Model in Myanmar	10
5. Conclusion.....	12

### 1. Introduction

The concepts of federalism and decentralisation became popular in mainstream politics after the Second World War when more countries in the colonial world became independent and adopted federalism as a political regime. The Panglong Agreement, signed in 1947, inaugurated the federal concept of state-building in Myanmar (then Burma). The ideology of federalism in Myanmar is also rooted in the nation-building of various stakeholders before the country's independence. There are both advantages and disadvantages to adopting federalism in Myanmar. This article will discuss the confederate model as a potential solution for implementing federalism properly and functionally without jeopardising its core principles and values. The article is divided into three main sections: theoretical background of federalism, motivations and challenges of federalism in Myanmar, and implementation of the confederate model in Myanmar.

### 2. Theoretical Background

The definitions of federalism vary based on different perspectives and approaches to the emergence of federalism in those countries. However, in general terms, it can be understood that “in a federal system of government, sovereignty is shared and powers divided between two or more levels of government, each of which enjoys a direct relationship with the people” (Hueglin & Fenna, 2006, p. 32). In this regard, the core principles of federalism can be identified as self-rule and shared rule, subsidiarity and residual powers, intergovernmental relations, constitutional protection of federalism, and federal democracy. These federal principles are fundamental to guarantee federal values of democratic decision-making, respect and recognition, cooperation and consensus, equality and equity, peace, and social cohesion. Additionally, the concepts of decentralisation are vital for the practical implementation of federalism. Decentralisation in the field of federalism can be political, administrative, and fiscal, and all are equally important for a state to function as a federation.

The practices of federalism in different historical, political, and economic situations are broad and diverse. Based on the institutional arrangements of federalism, federal political systems can be classified into decentralised unions, federations, and confederations. Decentralised unions are unitary states with a significant degree of administrative decentralisation despite not being protected by the constitution (commonly known as devolution). Federations are the combination of strong central and regional governments; both are directly elected by the citizens and constitutionally protected (Watts,

2008). In contrast, confederations are the integration of powerful regional governments into a weaker central government, lacking democratic legitimacy and highly depending on the subnational units (Watts, 2008). According to these criteria, federations are more centralised, and confederations are more decentralised in the spectrum of self-determination.

The government structure of these three types is also different in how they are elected, which powers they can exercise, and how the process of decentralisation is applied. Nevertheless, the common framework of different applications has at least two government layers: union level and regional level, and they are highly rooted in territorial power-sharing. The central government is the most powerful in the decentralised unions, while the regional governments are the most powerful in confederations. In contrast, the power analysis of federations is not in a similar pattern – both levels are substantially strong to a large extent. Therefore, the federation is widely assumed as the standard model of federalism.

### **3. Federalism in Myanmar**

#### **3.1. Historical Background**

Myanmar (formerly known as Burma) is a country in Southeast Asia, between the two great powers of China and India, on the route of the Asia-Pacific-Indian trade way. It is a multicultural country with more than a hundred ethnicities and languages used all over the country. The cultural heritage of each ethnic tribe dates back to their traditional monarchy and rule of indigenous leaders. The modern history of the Union of Burma can be traced back to the Panglong Agreement in 1947, signed by General Aung San and other ethnic leaders from the Kachin Hills, Chin Hills, and the Federated Shan States. The agreement served as the declaration of the ethnic leaders on the intention to be jointly independent of British colonialism and the basic principles of the foundation of the future Union. Article 5 of the Panglong Agreement states that “full autonomy in internal administration for the Frontier Areas is accepted in principle” to ensure the self-determination of each federal unit (Members of the Panglong Conference, 1947). Although the agreement had not been signed by all ethnic leaders of that time, lacking accession, for instance, from the Kawthoolei (Karen State), the Arakan, and Mon ethnic leaders, this agreement has been addressed as the foundation of the Union by the public still today. The 21<sup>st</sup> century Panglong Conference held between 2016 and 2020 is an obvious reflection of the influence of Panglong in Myanmar.

Derived from the principles of the Agreement, Chapter X of Myanmar’s first constitution in 1947 mentioned the right to external and internal secession of states, although such rights cannot be exercised within ten years from independence (Constituent Assembly of Burma, 1947). Myanmar’s history of independence, however, was not smooth and linear. As soon as the country got its independence, the first shots of nationwide civil wars were fired by the revolution of the Communist Party of Burma (CPB) against Prime Minister U Nu’s Anti-Fascist People’s Freedom League Government (AFPFL) as a result of a series of political disagreements between CPB and AFPFL since the end of the Second World War. At the same time, some ethnic armed resistance groups, mainly in the southern part of the country, such as the Karen National Defence Organisation (KNDO) and Mon National Defence Organisation (MNDO), rebelled against U Nu’s Government to demand self-determination of ethnic states. The civil wars lasted from 1948 until now; the number of ethnic revolutionaries increased to demand their rights and freedoms. Some of the ethnic politicians in the government attempted to reconcile the fractions and integrate them into a federal union in the early 1960s, including the 1961

Taunggyi Conference. Nevertheless, the military coup d'état of 1962 by General Ne Win led to the collapse of the possibilities of the Federal Union, and instead faced the country with the authoritarian regime and the state-sponsored Burmanization in the frontier regions until 1988.

When the 1988 revolution broke out nationwide in Burma, the discourse and political demand for federalism became reemergent among ethnic resistance organisations (ERO) and some Burmese politicians. The elected members of the 1990 election, to whom the military caretaker government refused power, formed the National Coalition Government of the Union of Burma (NCGUB). While the Tatmadaw grabbed power for two decades until 2010 with the formation of the State Law and Order Restoration Council (SLORC) and State Peace and Development Council (SPDC) and drafted and ratified the 2008 Constitution, which ensured military dominance in politics with very few efforts in decentralisation, the parallel developments in Myanmar's politics are worth mentioning. In early 1992, democratic groups and ethnic leaders agreed upon the "Manerplaw Agreement" to ensure the formation of ethnic-based nation-states and nationality-states in the future federal Union. These various coalitions between ethnic groups initiated the formation of the Federal Constitution Drafting and Coordinating Committee (FCDCC) and the constitution drafts. These constitution drafts are regarded as milestones of federalism in Myanmar.

After the Tatmadaw transferred power in 2011, various federalisation movements became widespread throughout the country. This transition period is sometimes referred to as "Liberal Transition", which is governed by soft power negotiation tables and peace conferences, especially among elite politicians. The Nationwide Ceasefire Agreement (NCA) was signed between President Thein Sein's Government and eight EROs on 15 October 2015, which two other EROs later joined on 13 February 2018. The most crucial transition period was the Union Peace Conference – 21<sup>st</sup> Century Panglong, held four times between 2016 and 2020 during the NLD Government. Different stakeholders initially anticipated the peace processes, but there were no significant outcomes from the agreement and conferences.

Very soon after the coup, the elected members of the parliament in the 2020 Election or the Committee Representing Pyidaungsu Hluttaw (CRPH), EROs, strike committees, civil society organisations (CSOs), and ethnic and federal representative committees from states coalited to form the National Unity Consultative Committee (NUCC) and the National Unity Government (NUG). The Federal Democracy Charter (FDC) was drafted by the NUCC and ratified by the People's Assembly in January 2022. The FDC consists of two parts: a Declaration of Federal Democratic Union (Part 1) and Interim Constitutional Arrangements (Part 2). FDC Part 1 guides the current political roadmaps of the 2021 Spring Revolution and guarantees the federal values, principles, and mechanisms for drawing a federal constitution, while FDC Part 2 modifies the interim constitutional mechanism, including administrative procedures of the National Unity Government during the revolution (The Committee Representing Pyidaungsu Hluttaw, 2021). On the other hand, the Tatmadaw established the State Administrative Council (SAC) and has been trying to negotiate with some ethnic groups while simultaneously massacring and bombing Sagaing and Karenni States. As a result, the country is now in an inevitable civil war between the SAC, the NUG, and their respective alliances.

### **3.2. Motivations behind Federalism in Myanmar**

The federalisation in Myanmar has been supported by various concepts and perspectives of different stakeholders. Some think of historical approaches to federalism, while some beliefs remain in federal implementation in contemporary administrative procedures. Whether coming together or holding

together, the debate on the way to federalism is a contested issue. However, there is a broad consensus on the general concepts of why Myanmar should be a federal state. The subsequent discussions on the topic will mainly be based on the concepts of territory, multiculturalism and history (the rule of the military regimes and its 70 years of civil wars since the independence).

First, Myanmar is a territorially large country. Indeed, it is the second-largest country in Southeast Asia after Indonesia. It is divided into seven states, seven regions, seven self-administrative zones, and one union capital (Naypyitaw). Being a large country, Myanmar would require a federalised decentralisation which guarantees political, administrative, and financial decentralisation in all three branches of government, including adequate power-sharing and subsidiarity. The 2008 Constitution, declared to have been abolished by CRPH, mentioned administrative decentralisation to some extent, but the system is inherently locked in a deconcentration model. As the federal principle of subsidiarity prescribes decision-making at the nearest local level to the directly related citizens (Keil & Heinemann-Grüder, 2019), it would ensure that policies would meet the needs of the citizens from different geographies. In this way, the practices of subsidiarity could also enable the government to expand minority inclusion at the decision-making level by implementing the federal rule of subsidiarity at the regional and local levels. Territorially huge countries like the US and Canada have already adopted decentralisation to a local level by encouraging strong regionalism, which may be either symmetrical or asymmetrical (Watts, 2008). Therefore, regional autonomy (self-rule) and internal self-determination can be constructively achieved with parallel development in rural and remote areas by applying the principle of subsidiarity in Myanmar.

Secondly, Myanmar is a multinational and multicultural country which is extensively diverse in ethnicity, tribes, geographical terrain, religion, and historical background. The country is at the point of divergence between Chinese-oriented East Asian culture and Indian-oriented South Asian culture, so diversity is deep-rooted. Different wars in feudal Burma between the 12<sup>th</sup> and 18<sup>th</sup> centuries are directly rooted in their cultural influence on the rival nations. Therefore, multinationalism in Myanmar is a sensitive issue for all ethnic groups. Unlike Myanmar, a classic federation like Switzerland is famous for its multicultural democratic society. Switzerland is diverse in both linguistics and religions – four official languages including German, French, Italian and Romansh, and two dominant faiths of Christianity, which are all spread across the country (Watts, 2008). During the Confederacy Period, Switzerland similarly experienced the cultural influences of neighbouring countries and feudal civil war in the early and mid-19<sup>th</sup> centuries. The Swiss Confederation has adopted the principle of “proportionality” and “double majorities” for representing all communities in the decision-making process to promote diversity, tolerance, and social cohesion among different groups (Burgess, 2006). Lessons from Switzerland can be applied to Myanmar due to their similarities in multiculturalism. Shared rule can be applied through a second chamber in Myanmar. It can enhance the participation of different groups in decision-making to protect their self-rule.

Thirdly, federalism in the context of Myanmar should serve as a tool for conflict resolution and peace-building. Myanmar’s long-last sustainable civil war is contested and can be further categorised into intra-ethnic, inter-ethnic, and nationwide conflicts. Intra-ethnic wars are primarily in the Shan State, between the Restorative Council of Shan State or Shan State Army (RCSS/SSA) and the Shan State Progress Party or Shan State Army (SSPP/SSA). Both of them have recognised themselves as the Shan State Army. Although there are other different groups in each ethnicity, they are not generally at war against each other except in the Shan Armies. At the same time, Shan state is another battleground for inter-ethnic conflicts between the United Wa State Army (UWSA), the Ta’ang National

Liberation Army (TNLA), and RCSS. UWSA is the largest non-state armed group in Myanmar, belonging to Wa self-administrative division in Northeast Shan State. The final type of conflict is between the Tatmadaw and the EROs, from the Hkakabo Razi Mount to the Tanintharyi Peninsula.

On the one hand, the nationwide ceasefire agreement (NCA) was signed by ten EROs between 2015 and 2018. However, significant actors like UWSA and the Northern Alliance (estimated to be nearly 70% of non-state armed groups in Myanmar) were not involved in the process. On the other hand, the newly emergent resistance groups like People's Defence Forces (PDF) under the command of NUG and other hundreds of Local Defence Forces (LDF) and urban guerrilla groups are now fighting against the rule of the military across the country. In this regard, even after the successful abolishment of the military junta, the politics of Myanmar will not become immediately peaceful. Instead, they will require complex disarmament processes, security sector reform and political negotiations in which federal principles will become core topics and essential tools, serving as both ends and means.

Federalism can also be vital in national reconciliation, especially in trust-building between groups and recovering bitter memories from the past. The recent adoption of federalism in Nepal (2015) is a contemporary application of federalism in conflict transformation, diversity management, and decentralisation (Anderson & Keil, 2017). The conflict resolution in Belgium using federalism also provides an important comparison with Myanmar. The linguistic and territorial conflicts in Belgium between two groups of Flemings and Walloons have been solved by applying institutionalised federalism to protect cultural identities and minority rights (Burgess, 2006). Learning from these conflict histories of different nations, federalism can be utilised as a crucial tool for positive peacebuilding in Myanmar.

### **3.3. Challenges of Federalism in Myanmar**

There are considerable challenges in the practical application of federalism in the context of Myanmar alongside the opportunities. Watts (1996, p. 31-32) claimed that "a balance between the independence and interdependence of the federal and regional governments" is crucial to maintain unity in the spectrum of diversity. The primary challenge of federal implementation in Myanmar is state formation, especially the formation of a Burmese ethnic state, the dominant ethnicity in Myanmar. Historically, there has been no Burmese ethnic state since British colonial rule. Instead, the "Burma Proper" or British Burma is divided into several regions or divisions. These structures were integrated into seven Burmese-dominated divisions, while frontier regions of other ethnicities were transformed into seven states in 1974 by Ne Win's socialist constitution. Since 1974, the military rulers have initiated the propaganda of 14 states and divisions and legalised "Burmanization" territorially and administratively. In this way, Burmese ethnic people have the exact representation at the union level as the combination of all other ethnic states. The 2008 constitution, which was drawn by military juntas, followed a similar route.

According to the 2008 constitution, one of the underlying disputes regarding the formation of States is that the Burmese people represent half of the upper house because the upper house is composed of equal members from each state or region, even if we neglect the participation of the Burmese-dominated military. In theory, states and regions are equally represented in the upper house but are neither equal nor equitable in practice. Therefore, on the one hand, other ethnicities prefer establishing a separate Burmese state to be politically equal and equitable in line with other states in the Union. On the other hand, there is another concern that if seven regions are transformed into a unified Burmese state, the bulk economy of this newly created state will be larger than the combination of other states, so it

can cause an enormous unbalance of power between states and even lead to dysfunction of the Union. At the same time, it is unlikely to represent the Burmese People, nearly 70% of the total population, in a single state. The collapse of the Soviet Union is a notable example here, due to the disparate power relations between one leading state and other subordinate states.

State formation and territorial disputes are the fundamental conflicts to resolve in the context of Myanmar. The state formation of a modern federation of Ethiopia is a comparable case study to Myanmar because of its similar historical background and diversity. Article 8 of Ethiopia's constitution states that "All sovereign power resides in the Nations, Nationalities, and Peoples of Ethiopia" (Constituent Assembly, 1995). The constitution allows the evolution of states based on ethnicity, nationalities, and people. Therefore, the emergence of state formation is applied in combination with both ethnicity and territory. This dual approach could be adopted in the situation of Myanmar. In other words, regions with two or more dominant ethnicities with a long history of coexistence can be integrated into States of Nationalities. For example, the territorially and economically united region like Tanintharyi becomes the Tanintharyi State of Nationalities. Similarly, the unofficial constitution of FCDCC has mentioned establishing the state of nationalities in addition to the state of nations (Federal Constitution Drafting and Coordinating Committee (FCDCC), 2008).

Another significant challenge of federalism in Myanmar is language diversity – counting approximately a hundred languages. The current official language of the country is the Burmese language of the majority Burmese community. In contrast, other ethnic groups have been practising their languages and culture in their regions, although they are not officially recognised and protected by the constitution. In practical application, neither the Burmese language is used as the only official language of the country nor all regional languages of nationalities could be enacted as official languages of the Union. The dilemma of official language disputes could be compared to the case of India, which is vastly diverse in terms of languages. The federal procedure of India allowed utilising two official languages for the Central Government and other ethnic languages at the state level, creating 22 official languages in total (Keil & Heinemann-Grüder, 2019). The diversification of language issues at different government levels is remarkably encouraged by federal principles of subsidiarity and equality to a large extent. The experience of India can be applied to the case of Myanmar – separating official languages for each layer of government.

Unfortunately, trust-building is the most tricky and strenuous part of the whole issue. The underlying root causes of mistrust between different groups are more profound than meets the eye – long-term militarisation, state-sponsored Burmanization, 70-year civil wars, unproductive peace attempts, and religious and cultural affairs. Moreover, the living history of the bitter past still reminds the ethnic leaders how negotiations and mediations have failed. Furthermore, the self-determination promises of Burmese politicians since the Panglong Agreement have never been fulfilled, even in times of democratic civilian rule. Finally, the lack of trustworthiness is seen in the ethnic regions where the government has attempted to assimilate their cultural and religious autonomy into one unified "Myanmar Culture".

Consequently, the peace negotiations of the Tatmadaw since the early 1990s are widely believed to be a technique for breaking the unity of other ethnicities – maintaining peace with one while conquering the other so that it could effectively wage war within their available resources while not being threatened by the other. The prominent examples of these strategies can be seen in the fall of Manerplaw in 1995, the Kachin conflicts in the early 2010s, the Arakan conflicts in the late 2010s, and the present

conflicts with PDFs and LDFs in the Sagaing region. Therefore, ceasefire agreements and peace negotiations are being thought of as just clichés in the modern politics of Myanmar.

Finally, the deteriorating trust-building between ethnic leaders and Burmese politicians is also linked to the administrative disputes between 2016 and 2021. During the parliamentary discussions on the amendment of the 2008 constitution, the NLD-dominated Pyidaungsu Hluttaw rejected the effort of ethnic groups to amend Article 261 of the constitution. Article 261 mentions that the authority to appoint the Chief Minister of the states and regions is the responsibility of the President (National Convention, 2008). In other words, the state parliament can only have the authority to approve the person selected by the President. The ethnic parties who have represented dominance in the state parliament wanted to elect their chief minister directly to the state parliament. However, the central government has appointed chief ministers without negotiating with state parliaments. This clash between ethnic and Burmese politicians leads to political conflicts between democratic groups. Besides, between 2016 and 2020, the NLD administration has been widely criticised for neglecting the voices of other ethnicities and minorities by assimilation of Burmese identity in states, for example, the attempt to rename a bridge in Mon state to General Aung San Bridge. In addition, the government turned down the memorial ceremonies of Karen National Leader Saw Ba U Gyi while some ethnic politicians and activists were detained. Therefore, political and social cohesion between Burmese and other ethnic groups remains a contested issue to deal with constructively.

## **4. Implementation of the Confederate Model in Myanmar**

### **4.1. Approaches to the Confederate Model**

Federalism is a double-edged sword with both incredible opportunities and substantial challenges in the case of Myanmar. The primary standpoints from the side of federalism are to implement self-determination and decentralisation by ensuring the federal principles of self-rule and shared rule. However, trust-building remains the biggest challenge in building a federal state, which emerges from the unitary institutional structure. Although all stakeholders in Myanmar unanimously agree upon the basic concept of federalism, there is no consensus between institutional mechanisms of federal state formation. Some politicians from the side of geopolitics and globalisation argue that Myanmar should be a strong federal state with some levels of autonomy to federal units. In contrast, others from the side of ethnonationalism insist on full autonomy and self-determination of federal units. However, there is no doubt that the current political dimensions in Myanmar are leading toward decentralisation and self-determination thanks to the rise of the Spring Revolution. Therefore, the confederate model is the most suitable form of the practical application of federalism in Myanmar.

The primary advantage of the confederate system is that it guarantees the self-determination of confederal units as sole sovereign components of the confederation. In contrast to self-rule applied in the contemporary federal procedure, the confederal model of self-rule would ensure the absolute authority of the state within their territory, which ethnic leaders in Myanmar highly appreciate. Myanmar has already experienced the failure of a centralised state formation for more than seven decades. Due to the unitary state structure of Myanmar since its independence in 1948, there has been great inequality in urban structure and social welfare institutions, like healthcare and education systems, between the regions (Burmese-dominated units) and states (ethnic-dominated units). These structural inequalities

have also grown into psychological grievances between different groups. Therefore, the confederal model will not only fill the structural gaps but also help build trust between stakeholders.

Secondly, the confederation model would heal the psychological grievances of structural and cultural violence from 1948 onwards. We should not miss that self-determination is the primary political demand of nearly all EROs, from the strongest Northern Alliances to the democratically organised Karen National Union (KNU) in the southern part of the country, from the Arakan Army (AA) in the westernmost Arakan State to the EROs in the easternmost Shan State. The two most potent EROs, UWSA and AA, have publicly announced that their political target is to build a confederation. Consequently, Burmese people, who are the majority of the country, have also realised the grievance of ethnic groups and taken responsibility for the actions committed by the Burmese-dominated central governments during the military rule. The perspective of Burmese people on EROs has significantly changed after the military coup – from negative prejudices to positive approaches. In this regard, the 2021 revolution uncovered the hidden parts of state-sponsored Burmanization. It made the general public realise the political demand of ethnic groups, which have been concealed partly by antifederal propaganda of military regimes.

Thirdly, the confederate model encourages building trust between different ethnic groups. Trust-building is a delicate long-term process with complicated levels of engagement and cooperation. The confederate model would raise the openness of political and social demands among stakeholders to pave the first step of trust-building between different groups. In this way, trust-building between different stakeholders can be established by self-determination and decentralisation of the confederate model. Contemporarily, these concepts of self-determination have already been implemented in some EROs-controlled regions. Additionally, decentralisation mechanisms are applied in healthcare and educational reformation processes led by the National Unity Government (NUG) and EROs. Therefore, establishing a confederation is not just a theoretical solution but a realistic approach that has already been partly implemented in Myanmar.

#### **4.2. Practical Application of the Confederate Model in Myanmar**

Unlike the federal model of state formation, confederation is less prevalent in the modern world. While approximately 40% of the world's population resides in federal states, none of them has applied the confederal model of federalism. Historically, old-world confederate models had been used during the late 18<sup>th</sup> and early 19<sup>th</sup> century in the United States, Switzerland and Germany. The historical understanding of a confederation is forming a weaker union with limited authority of the centre over the states. In other words, the central government is “dependent upon the constituent governments, being composed of delegates from the constituent governments and therefore having only an indirect electoral and fiscal base” (Watts, 2008, p. 8). In this regard, this ancient confederation approach is perhaps ill-suited in the modern world. However, the confederate model for Myanmar should not be confused with the old-world application methods of Confederalism. Instead, the principles and values of Confederalism are modified in line with the current political situation in Myanmar in order to be put into practice.

In the confederate model in Myanmar, the sovereignty of the confederation lies with the confederal units (which may be called either states or regions or even modified according to the unanimous agreement between stakeholders). Like in the federal model, there are three layers of government: central, regional, and local governments, all of which are democratically elected by the people. Both

confederal and state governments constitute three governmental branches: executive, legislative, and judiciary. In the executive branch, the confederal level does not hold any exclusive powers; instead, its primary role is to harmonise the shared powers of states. In other words, the confederal ministries will work like a cooperative mechanism between state ministries and apply horizontal relations with the state. Policymaking in affairs that must be unanimously decided, such as foreign affairs or military, must be developed in a consensus decision made by both confederal and state governments. Apart from such affairs, all other powers that the regional levels could carry are the exclusive powers of the state governments themselves.

In the legislative branch, the parliament, at both the confederal and state levels, will constitute a bicameral legislature to ensure state representation in the confederal parliament and minority representation in the state parliament. In the confederal legislature, the lower house must be directly elected by the people, like in the federal model. It will have legislative powers to make confederal laws only with the agreement of the upper house. The upper house of the confederal parliament is composed of an equal number of parliament members from each confederal unit, who are directly chosen from the state legislature. The second chamber will serve as the committee of states to oversee the confederal legislation and have veto powers if the confederal laws do not align with the state's primary laws or national interests. Similarly, the upper house of the state legislature will also give a minority veto to the micro-minority groups in the state to protect their minority rights. Both confederal and state constitutional mechanisms must also protect this representation of minorities in the confederal and state legislative branch. In this way, the legislature will reflect the confederal principles of self-determination in lawmaking and integrate the democratic legitimacy of both confederal and state legislatures.

In the judiciary branch, state governments freely establish the courts as the primary judicial mechanisms. In contrast, according to the confederal constitution, the confederal court will solve conflicts between state or state and confederal governments. As constitutionalism is fundamental to operating a confederal state system, the constitution must be rigid; it can only be amended by the consensus approval of all states except for eternal clauses (which are the fundamental rights of citizens). Additionally, the state constitutions aligned with the confederal constitution are flexible compared to the confederal constitution as they function as the specific frameworks for governmental processes. However, state constitution amendments must be approved by the state majority and minority groups. These strict procedures of constitutional mechanisms will be the foundations to protect the minority rights within the majority rules at both confederal and state levels. Moreover, these foundational arrangements will also serve as the basis for trust-building between different stakeholders.

The governmental mechanisms of the confederal system require a strong democracy, institutionalism, and constitutionalism. The classical confederations have not experienced substantial democratisation and institutionalism in the modern world. Democracy flourished throughout the globe after the end of the Second World War and the Cold War. Myanmar has also passed a short ten-year period of liberalisation between 2011 and 2020. During this period, institutional formation and institutionalism were built with the waves of liberal democracy. When the military coup occurred in early 2021, the democratisation movements of Myanmar people shook the world again. Even with less support from the international community, Myanmar citizens have shown their courage and enthusiasm toward democracy. These two foundations, institutionalism and democracy, distinguish Myanmar from other classical confederal origins. Therefore, institutional and democratic measures will be the basis for confederal state formation in Myanmar, while constitutionalism will build trust between different stakeholder groups.

The foundational principles of a strong democracy, institutionalism, and constitutionalism can be learned from the experience of the European Union (EU), a supranational organisation composed of 27 independent countries. In the European Union, the constituent countries are bound by different political and social institutions while they preserve their national self-determination within the states. The EU comprises seven institutions: four take on government functions, including the European Council, the European Parliament, the Council of the European Union, and the European Commission (European Union, n.d.). The European Parliament and the Council of the European Union (the Council) serve as the lower and upper houses of the bicameral legislature (European Union, n.d.). The EU citizens directly elect the parliament, while delegates of member countries constitute the Council. In contrast, the European Commission resembles the executive branch of a government. The EU government structures are highly supported by strong EU institutions and bodies, including the Court of Justice of the European Union, the European Central Bank, and the European Court of Auditors (European Union, n.d.). The strong institutionalism and liberal democracy help the European Union's unity within diversity to come closest to a modern confederation.

The confederal model has potential advantages in the trade sector. The states of Myanmar are disparate in economic structure and development. Regions like Yangon and Mandalay have enormously profitable incomes from the international trade and service industries, while rural states heavily rely on agriculture and rare natural resources. Some agricultural regions will need to emphasise their developmental processes in farming and foreign exports. Meanwhile, more developed states will expand their manufacturing and service industries. For instance, a trade route of agricultural product exports will travel from the agricultural centre of the Lower Irrawaddy Delta, across the central parts of the country, Shan state, and other ethnic regions near the cross border with China, to the People's Republic of China. Similarly, the manufacturing products of the Yangon region will go up to the Kachin Hills and down to the Tanintharyi Coastlines. Therefore, states need to cooperate to benefit all. These state-to-state horizontal cooperations will enhance the cross-border trade routes and encourage the local economy of each confederal unit.

Similarly, some states have lower income and resources in the development sector than others. The primary reason behind underdevelopment in the rural regions is due to the centralised rule of the union government and inequitable budget arrangements. If economic autonomy is transferred to the state, the state government can innovate different economic patterns regarding their geographical terrains and local economic situations. For example, a land-locked state with adequate natural resources, like the Chin state, can emerge the state economy and trade routes to India, which is enhanced by interstate cooperation with its neighbour like the Arakan state through horizontal governmental agreements. Likewise, a state like Karenni, with rich tourist sites, can develop the state economy based on tourism. The confederal units can also establish bilateral or multilateral agreements to cooperate in the development sector. Each state will find a way to develop itself if decentralisation is fully applied in the confederal model.

## **5. Conclusion**

In conclusion, the concepts of federalism can be understood based on its core principles of self-rule and shared rule, subsidiarity and residual powers, intergovernmental relations, constitutional protection of federalism, and federal democracy. The practically applicable routes to federalism include decentralised unions, federations, and confederations. On the one hand, the large area, multinationalism

and multiculturalism, as well as the need for a tool for conflict resolution, are primary motivations for federalism. On the other hand, the problems of state formation, vast language diversity, and lack of trustworthiness between stakeholders are considerable challenges to federalism in Myanmar. Therefore, the confederation state structure should be applied as the primary implementation of federalism in Myanmar's context to ensure self-determination and decentralisation. The practical application of the confederal model would be based on three factors; strong democracy, institutionalism, and constitutionalism. The confederate system could offer advantages in the trade and development sector, with enhanced cooperation and trust-building between stakeholders.

## References

- Anderson, P., & Keil, S. (2017). *Federalism: A Tool for Conflict Resolution?* Retrieved June 22, 2022, from 50 Shades of Federalism: <http://50shadesoffederalism.com/federalism-conflict/federalism-tool-conflict-resolution/>
- Burgess, M. (2006). *Comparative federalism: Theory and practice*. London and New York: Routledge.
- Constituent Assembly. (1995, August 21). *Ethiopia's Constitution of 1994*. Retrieved June 28, 2022, from Constitute: [https://www.constituteproject.org/constitution/Ethiopia\\_1994.pdf](https://www.constituteproject.org/constitution/Ethiopia_1994.pdf)
- Constituent Assembly of Burma. (1947, September 24). *Constitution of 1947*. Retrieved June 22, 2022, from Myanmar Law Library: <https://www.myanmar-law-library.org/law-library/laws-and-regulations/constitutions/1947-constitution.html>
- European Union. (n.d.). *Types of institutions and bodies*. Retrieved June 28, 2022, from [https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/types-institutions-and-bodies\\_en](https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/types-institutions-and-bodies_en)
- Federal Constitution Drafting and Coordinating Committee (FCDCC). (2008, February 12). *The Constitution of the Federal Republic of the Union of Burma (Second Draft)*. Retrieved June 28, 2022, from Myanmar Peace Monitor: <https://www.mmpeacemonitor.org/images/pdf/The-constitution-of-the-federal-republic-of-the-union-of-burma-second-draft.pdf>
- Hueglin, T., & Fenna, A. (2006). *Comparative federalism: A systematic inquiry*. Peterborough: Broadview Press.
- Keil, S., & Heinemann-Grüder, A. (2019). *Understanding federalism*. (A. K. Phyoo, & A. S. Min, Trans.) Yangon: Hanns Seidel Foundation Myanmar Office.
- Members of the Panglong Conference. (1947, February 12). *The Panglong Agreement (1947)*. Retrieved June 22, 2022, from Myanmar Law Library: <https://www.myanmar-law-library.org/law-library/laws-and-regulations/constitutions/the-panglong-agreement-1947.html>
- National Convention. (2008, May 29). *Constitution of 2008*. Retrieved June 28, 2022, from <https://www.myanmar-law-library.org/law-library/laws-and-regulations/constitutions/2008-constitution.html>
- The Committee Representing Pyidaungsu Hluttaw. (2021, March 31). *Federal Democracy Charter Part I: Declaration of Federal Democracy Union*. Retrieved June 22, 2022, from <https://crphmyanmar.org/wp-content/uploads/2021/04/Federal-Democracy-Charter-English.pdf>
- Watts, R. (2008). *Comparing federal systems* (3rd ed.). Kingston and Montreal: McGill-Queens University Press.