

Myanmar's Kingship and Judicial System in Konbaung Period

Thuzar Ko*

Abstract

Myanmar people did not believe in “Divine Right Theory” of the West. In Myanmar Kingship theory, the King was supreme. But at his coronation, he had to undertake to rule his subjects justly and benevolently and is threatened with fearful curse if he failed to do so. Myanmar concepts of Kingship and court and ceremonies were based on Indian tradition, especially the Bhiseka ceremonies. The legal system is the most important component in any administration. According to Myanmar tradition the earliest *Dhammathat* is *Duttaboung Dhammathat* mentioned by the chronicle. Myanmar *Dhammathats* are the highest legislative on which the Myanmar administration depended. During Konbaung period, the Kings relied on the traditional legal system, but additions were occasionally made by Royal Edicts and declarations as circumstance demanded. Moreover, new legal treatises were also written to complement the existing ones.

Traditionally, Myanmar Kings were entrusted with absolute power. Myanmar people did not believe in Divine Right Theory of the West. For example, the Egypt Kings were Divine Right King. They were as a son of the sun. Egyptian believed the King as the God. Divine Right Theory is not applicable to the Myanmar King. Myanmar ideas on Kingship come from the Buddhist theory that the most it person shall rule because of his intrinsic merit.

Myanmar believed in reincarnation together with the concept that one's good in this life give best opportunities in his life after death and as such, the King must have a very meritorious past and extended the greater the King, more meritorious he becomes and therefore the nearer a future Buddha. Another thing that counts in Kingship is traditional and blood. Konbaung dynasty, when Alaungmintaya become King, the chronicle attempted to trace his descent from *Anawrahta* of Bagan King and *Anawrahta* was also traced to *Mahathamada*, the first on earth King.

Myanmar Kings were also aware of the Buddhist religion as a cohesive force, a solid factor contributing toward centralization of the states. Myanmar kingship has two distinct features. Firstly it has to ascertain the right to rule through conquest and secondly through descent. In these two features the first one is the most important and therefore we have frequent rebellions of royal blood, massacre of the king and blood purges whenever the throne was in danger.

There was no restraint of any form on the power of a King. The only limitation to his powers was his voluntary respect and obedience of the preaching of Buddha. Otherwise he was the lord and master of the life and property of every one of his subjects. The *Abhiseka* (Royal coronation) is taken as another possible check on despotism it called for rigid acceptance of responsibility as a king of law under some fearful oaths and the king who had undergone the *Mudabhiseka* had the right to expect complete loyalty and subordination from all his people. This is process of transforming a de facto rule into a de jure ruler. De facto means actual ruler and de jure means the ruler by right. And this tradition of *Abhiseka* is believed to have come down its origin from *Mahathamata*.

During the early stages of the creation, the world was a peaceful garden. Men did not have to worry about their existence. There was free food in abundance, but later mankind became mischievous there arose many quarrels among the people. So a group of wise people

*Dr., Lecturer, Department of History, Dagon University

searched for a man of penetrating intelligence to distinguish carefully the truth from lies and a worthy person name Manu was elected *Mahathamata*.

Mahathamata was elected by people saying “be you our Lord and Govern us and do the criticize and put to shame to those who so deserve and do the esteem and raise those who deserve in a righteous manner according to the laws. For the responsibility of ruling thus you will be given one tenth of the wealth that each people earned. Then Manu underwent three modes of *Abhiseka* and was raised to throne. This first king on earth was called *Mahathamata* (the great elected king) or *Khatiya* or *Raja* (the just and the wise).

According to this tradition, Myanmar Kings concept *Abhiseka* ceremonies, he had to undertake to rule his subject justly and benevolently and fearful oaths and the Kings who had the *Mudabhiseka* ceremonies, he had to undertake to rule his subject justly and benevolently and fearful oaths and the kings who had the *Mudabhiseka* right to expect complete loyalty from all his people. If a King misbehaved there would be drought in the country and if the crops failed, the blame would be put on the King. This idea of elective kingship on contractual basis was accepted by Myanmar King. Myanmar Kings did not claim to rule by Divine Right and the oath taken by the king during the coronation clearly indicated this fact.

Judicial system is the most important component in any administration. Judicial system was gradually started from *Sriksetra* period. *Duttaboung Dhammathat* is the first *Dhammathat* mentioned by the Myanmar chronicles. King *Duttaboung* founded the city of *Srikestra*. It is stated that King *Duttaboung* in consultation with 3,000 Buddhist monks, compiled the *Dhammathat* for the benefit and welfare of future generations.

This system was passed through the Bagan, Pinya, Sagaing, Inwa and Nyaungyan period. Konbaung period this judicial system and collected the many of laws, codes and proceedings. In Konbaung period there had various codes in the whole of dynasty. King Alaungmintaya had *Dhamawinaysara Dhammathat*, Naundawgyi had *Wanna Dhamma Shwemyin Dhammathat*, Singu Min had *Raza Bala Dhammathat*, Tharawaddy had *Dhammathara Myintzu* and Mindon Min reign Kinwun Mingyi had written *Attasamikhepa Wanna Dhammathat*.

Dhammathat was based upon the Myanmar traditionally and culturally. Pyathons was the famous in judicially of count who were well experts in law and proceedings, for example, Yaysaogyo Kontaw Pyathons by Yatameta Kyawhtin. *Razathat* mean in Administration and Judicial, there are many guidance and principle will be followed by the leaders. Amendaw (or) Pyandan occasionally declared by king to supplement the *Dhammathat* in deciding the criminal cases. As social and economic and political changes in times, the royal orders were occasionally proclaimed, so that existing legal code should be in accordance with the changing circumstances.

Some assume that Indian laws adopted by Mon. Basing on the Mon code of law *Wargrigu Dhammathat*, Myanmar Kings wrote their *Dhammathat*. Myanmar scholars were not accepted the law of Myanmar was derived from Indian Laws. Myanmar scholars were known about Myanmar laws and codes were independently developed from traditionally and culturally.

Myanmar’s way of judging cases, there is saying that “*Razathat* can dominate *Dhammathat*, but agreement can dominate *Razathat*.” If legal cases cannot be solved by *Dhammathat*, judge depended in *Razathat*, and if *Razathat* failed, settlement could be made by asking the plaintiff and defendant to make amicable agreement among themselves.

Some of the case has no evidences, witness. Myanmar traditional judicial system had many of traditional methods. According to Buddhist tradition to undergo trails by fire, by

water, by molten lead and by rice chewing. In 1156, King Badon was ordered A Royal Order for administration and judicially affairs. The Judge may be corrupted is the no knowledge in legal affairs. In Badon Min was worried about the bribery and corruption. So he ordered strictly to prohibit the bribery and corruption. During the reign of King Mindon was established the Tayakhondaws in the Naypyidaw and Awe' Myo. National library had a parabeik that mentioned about the appointed of the judges in Myanmar Era 1228. Mindon Min appointed Naymyo Maha Sithu Yaza at Madara, Taung Pyone Gyi as a judge. He gave promise to judge without of bribery and corruption. The King issued an order about the rules to interpret the law honestly without any impartial for the rank, wealth and prestige, to keep a sharp lookout in the local officials and to report the King. King Mindon was worried for the bribery and corruption. First time he may be sentenced one month in prison, second time he may be sentenced two months in prison and the third time he may be sentence on three months and resigned his post for his bribery and corruptions. Mindon Min took action many of judicial staffs for corruptions during Mindon reign good judicial system and developed in judicial affairs.

King Thibaw was not satisfied Mindon Min judicial system. So he wanted to reform many of judicial systems. The judge assigned other duties such as;

1. To make the maps of the district with boundaries.
2. To make a monthly list of the number of headmen head of groups, Athi units, number of houses, extant of land under cultivation, vegetable garden and housing land.
3. To discover whether the local officials took more than the amount laid down in the regulations.
4. To find out whether the local officials oppressed the people and disobeyed the orders sent to them.
5. To report on the rainfall in the district and the state crops.
6. To report on the peace and tranquility in the province.
7. To suggest means of improving the lot of the people.

The judge was to have knowledge of all the happenings in his province and reported to King monthly. If he failed in any of these duties he could be punished. Traditionally in Myanmar administration, there are seven officials who could judge the cases. They are Kalan, Thanbyin, Thayathugyi, Amatgyi, Royal princes, chief Queen and King. In addition Myothugyi and Ywathugyi can judge any cases in their estate.

According to this system, if a case could not be decided at the local level, the plaintiff could put up his cases to the court at Royal capital and lastly chance to appeal directly to the king. The Hluttaw was the court of final appeal. It is necessary to know some terms of the Hluttaw. Sekagyet (comment) is the report from subordinate officers. Hmathagyet is the temporary ruling of the Hluttaw. Hmatsu is the digest of reports and rulings. The combination of reports, rulings and decisions is termed as update (law) no update is final until the King ratifies it by a royal order. There are no records of the legislation of the early Konbaung kings but many of rulings etc. During the times of Mindon, Thibaw, rules and regulations are collected and published by the Government Book Department. In Myanmar legal system roughly six types of cases were categorized concerning;

1. Civil cases (Tayamahmu)
2. Criminal Cases (Yazawuthmu)
3. Hereditary sussion (Yoyaset Khanhmu)
4. Religious cases (Bathayehmu)
5. Revenue cases (Akundawhmu)

6. Political cases (Naingyanyehmu)

The civil cases included the cases of residence, debt and servant. The criminal cases included theft, rebellion and seduction of princess and royal ladies. The revenue cases included the complaint of taxation on and collection of taxes. The case of hereditary succession was the case dealing with customary inheritance.

According to the Myanmar customs and practices there are six kinds of judgments:

- (1) That the parties may reach a compromise among themselves;
- (2) That the parties may accept the decision of a private arbitrator;
- (3) That the parties may accept the decision of official arbitrators;
- (4) That the parties may accept the decision of the Myowun or District Officer;
- (5) That the parties may accept the decision of the Chief Court of the capital i.e. Tayayon; and
- (6) That the parties have to accept the decision of the Hluttaw and the King which is final.

Every royal edict or proclamation is issued by Hluttaw. Its functions were Legislative, Executive and Judicial. A royal order appointing a magistrate instructed that there magistrate, when giving judgements should have to adhere to Dhammathat, Razathat and traditional customary Pyathons.

In conclusion if the defendants were found guilty they were imprisoned according to the sentence carried out by the Royal Order. By the intervention of revered monks some criminals were pardoned and some even from sentence death. The king had ordered the officials to examine judicial cases thoroughly so that no misjudgements could be carried out.

References

- Ba Thaug, U, (1975), "ukew;abmifacwfw&m;pD&ifa&pepf" (Judicial System in Konbaung Period), M.A Thesis, University of Mandalay
- Htin, Mg, (1960), "ရာဇဓမ္မသင်္ဂဟကျမ်း" (Yaza Dhamma Thinkhara Kyan), Kuthalawaddy Press, Yangon
- Kyu Sein, Mg, (1986), "The Origin and Development of the Dhammathats", Rangoon, *JBRS*, part II
- Than Tun, Dr., (1998), "The Royal Order of Burma AD-1598-1850", Kyoto, Kyoto University Press
- Thaug, Dr., (1959), "Burmese Kingship in Practice during the Reign of Mindon", *JBRS XL*, Volume II, Yangon
- Tin Chone, U, (1991), "မြန်မာမင်းခမ်းမင်းနားများကျမ်း" (Myanmar Minkhan Minnar Kyan), M.A, Thesis, University of Mandalay
- Yi Yi, Daw, (1962), "Judicial System of King Mindon", *Journal of the Burma Research Society*, Vol. XIV, Part I