



တိုင်းရင်းသား
လူမျိုးများရေးရာဗဟိုဌာန
(Ethnic
Nationalities
Affairs Center)

Research Brief

(သုတေသနစာတမ်းတို)

2023, June

About ENAC

Established in July 2013, the Ethnic Nationalities Affairs Center (ENAC) is an independent resource, training, and education center supporting the peace process and development of democratic institutions in Myanmar. Our mission is to help achieve sustainable peace, develop democratic institutions and bring about democratic federal union in Myanmar by engaging with political stakeholders, civil society organizations, community-based organizations and the international community. Additionally, ENAC provides technical supports for the peace process in Myanmar.

For more information, please visit <http://www.burmaenac.org/> or contact info@burmaenac.org.

Federalism as an Instrument for the Accommodation of National Minorities : Consideration for Burma/Myanmar

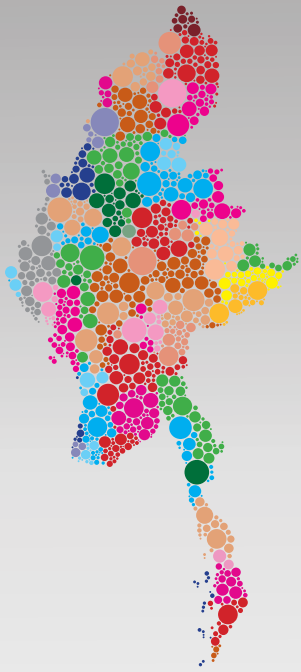
Abstract

This paper identifies and explores federal arrangements for the accommodation of national minorities that can be considered when designing a federal system for a multinational or multiethnic country like Burma/Myanmar. It also looks at the political history of Burma/Myanmar and examines the constitutional recognition of ethnic minorities in the country's 2008 Constitution. Finally, the paper provides some recommendations for designing special arrangements for the accommodation of national minorities in Burma/Myanmar.



Contents

Abstract	1
1. Introduction	2
2. Understanding Majority and Minority Relations	4
2.1. Defining Majority and Minority	4
2.2. Majority and Minority Relation	6
3. A conceptual overview: Federalism and the Accommodation of National Minorities	7
3.1. Multinational vs. Territorial Federalism	8
3.2. Arrangements that must be made in any federal constitution	10
3.3. Special arrangements for national minorities that can be made in a federation.....	12
3.4. Challenges and Opportunities to accommodate national minorities .	15
4. Accommodation of national minorities in Burma/Myanmar	17
4.1. A historical overview: why Burma/Myanmar fails to build a federal union?	17
4.2. Special arrangements for national minorities in Burma/Myanmar	19
4.3. Considerations for accommodating national minorities in Burma/Myanmar	21
5. Conclusion	22
References	24



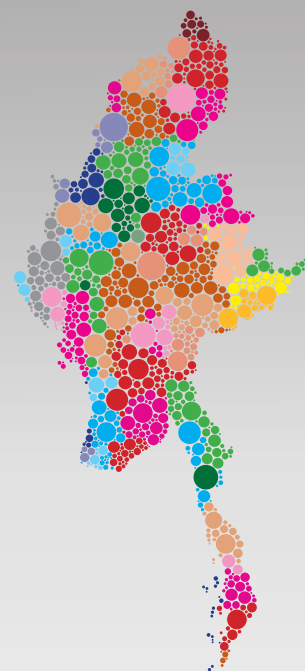
1. Introduction

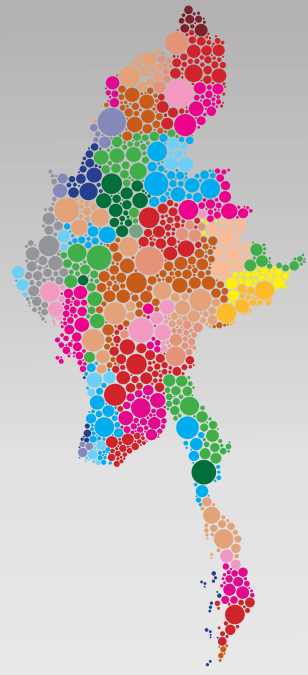
Federalism, a political arrangement that constitutionally guarantees self-rule and shared rules among two or more tiers of governments, has been increasingly presented as a potential instrument to accommodate diversity in multinational or multiethnic states. Given the fact that identities tend to be divergent but overlapping in such states, federalism offers the possibility that ‘different communities can share states in which members have multiple identities and affiliations and look to different orders of government to assure the flourishing of their identities and to facilitate peaceful relations between groups’ (Karmis and Norman, 2005: 8). Since the basic structure of federalism is often of territorial arrangement of power (i.e., power is divided between the center and the constituent units), ethnic or national minority groups¹ can be protected and empowered to form a dominant majority group in constituent units. However, the territorial arrangement can also lead to the creation of new ethnic or national minority groups in constituent units of a federation. These new minority groups which are referred to as ‘minorities within minorities’ often ‘fear domination and oppression by the local majority’ which can lead to ‘continuing conflict, human rights violation and fragmentation of the country into smaller ethnic units’ (Bisarya, 2020: 1).

There is a vast array of examples on how minorities and minorities within minorities, in particular ethnic minorities, have been mistreated by national majority or local majority groups, especially those that refuse to grant any autonomy rights to minorities and seek to integrate and/or assimilate minorities into the dominant majority culture. The majority groups here are national federalists who ‘aims to make the sovereign polity congruent with one national culture’ (O’Leary, 2001: 280). Their attempts to nation-building are often challenged by multinational or multiethnic federalist who ‘seek to express, institutionalize and protect at least two national or ethnic cultures, often on a permanent basis’ (O’Leary, 2001: 280)². This tug of war between national federalists and multinational federalists has been a major contributing factor to many of the continuing conflicts, instabilities and injustices in multinational or multiethnic states.

1 The English terms “ethnicity”, “ethnic group”, “national race” and “ethnic nationality” are used interchangeably in this paper to refer to the Burmese term “Tine-Yin-Thar Lu-myo” which literally means ‘ethnic nations’ or “ethnic people”. In Burma’s 2008 Constitution, the official English translation for “Tine-Yin-Thar Lu-myo” is “National race”. Although successive government of Burma/Myanmar have officially recognized 135 ethnic groups in Burma/Myanmar, many of them are considered or known as the subgroups of the eight major ethnic groups in Burma - Kachin, Kayah, Karen, Chin, Mon, Bamar, Rakhine, Shan. In this paper, the national majority or ethnic majority refers to the Bamar ethnic group while the national minority or ethnic minorities refers to the non-Bamar ethnic groups, especially the other seven major ethnic groups who would prefer the terms ‘ethnic nationalities’ when referring to them in English.

2 “National Federalist believes that powers should be concentrated on the majority group and majority culture should be the national culture, whereas multinational or multiculturalists believe that the power sharing arrangement between majority and minority ethnic groups should protect minority cultures to be free from domination of majority ethnic group.





Thus, it is important to understand the nature of the relationship between majorities and minorities before designing and adopting appropriate mechanisms for regulating any potential conflicts or building unity and harmony among them.

This paper will explore the different mechanisms and approaches to protecting minorities within minorities in multiethnic or multinational states/federations. The minorities here refer to national minorities or ethnic minorities. The paper aims to identify how minorities within minorities can appropriately or justly be protected and the desire for self-government and autonomy be accommodated both at the federal level and state/local level when designing federalism in Burma/Myanmar. Burma/Myanmar has miserably failed to build unity among its diverse ethnic groups and establish a peaceful federal union since its independence from the British about seven decades ago. The paper argues that federalism, if designed properly, can be a potential solution to ending all conflicts between majority and minority ethnic groups in Myanmar, and can help build a durable peace in Burma/Myanmar. The main content of the paper is divided into three sections: understanding majority and minority relations; a conceptual overview on federalism and the accommodation of national minorities; and accommodation mechanisms for national minorities in Burma/Myanmar.

2. Understanding Majority and Minority Relations

2.1. Defining Majority and Minority

Over the last few decades, minority rights have become a widely recognized component of the international and domestic rights regimes (Preece, 2014: 3). A growing list of authoritative texts to reference includes article 27 of the International Covenant on Civil and Political Rights (ICCPR), the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Council of Europe's Framework Convention for the Protection of National Minorities, the European Charter for Regional and Minority Languages, and various recommendations and guidelines issued by the High Commissioner on National Minorities (HCNM) (Preece, 2014: 3). These texts provide the kind of arrangements currently identified as important for the protection, preservation and promotion of minorities with distinct identities. However, as the question regarding minorities is different across countries, these texts fail to provide a universally accepted definition of the term 'minority' despite many attempts by scholars and practitioners.

The definition given by Francesco Capotorti, Special Rapporteur of the then UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, has been widely used. According to Capotorti's definition, a minority group is

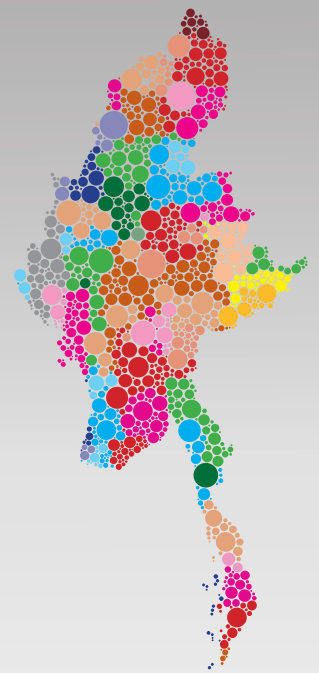
'a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state

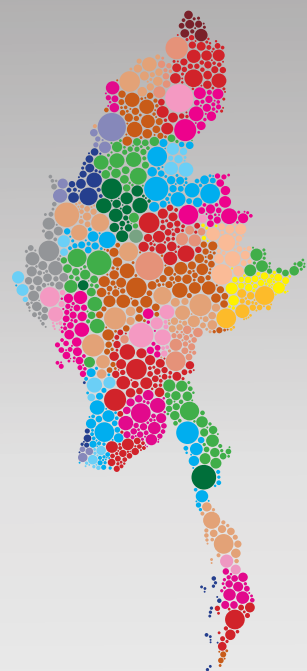
– possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, regions or language’ (Capotorti, 1991),

In this definition, ‘the essential elements of deciding who is a minority (and therefore should benefit from internationally recognized minority rights) are (1) objectively, that a linguistic, national/ethnic or religious group exists; (2) subjectively, that individuals choose to define themselves as members of a particular group – the right to self-definition is crucial; (3) when such groups exist, that they are in a minority situation and lack power to decide their own affairs’ (Chadda, 2006: 3). In other words, minority groups are ‘groups set apart by both objective characteristics (national/ethnic, religious and linguistic) and subjective characteristics (sense of solidarity) in circumstances of powerlessness (‘numerical inferiority’ and ‘non-dominance’) relative to an implied majority’ (Preece, 2014: 5). Usually this will mean that a group will become a minority group in a country or a part of a country if the power is devolved. It should also be noted here that in a federal setting, a national minority can be a local majority, and the national majority can also be local minority while some minorities can be both national and local minorities. For example, Shan is a national minority in Burma/Myanmar. In Shan State, however, it becomes a local majority. Conversely, Bamar is a national majority but becomes a local minority in Shan State. The Lahu people is a minority both in Burma/Myanmar (national minority) and in Shan State (local minority).

Many of the definitions of minorities developed later are quite similar to the one proposed by Capotorti in ‘highlighting various combinations of objective, subjective and power criteria’ (Preece, 2014: 5). ‘While it is not for the state to decide who the minority is, the protection of groups requires codification in the legislation and policies: minorities must be designated as such to gain state protection’ (Chadda, 2006: 3). In doing so, there is a tendency for countries ‘to privilege autonomous groups over and above groups comprised of migrants that might otherwise satisfy the Capotorti criteria’ by designating specific groups as national minorities and openly excluding non-citizens and/or migrants (Preece, 2014: 6). This goes against international rights regimes that recognize minority groups to include both nationals and non-national groups. According to article 27 of ICCPR, minorities ‘needs not be nations or citizens’ nor ‘permanent residents’ to be entitled to minority rights. But it is quite common that national minority groups have stronger rights or entitlements than those considered as non-national minority groups.

Some other definitions take a more liberal approach to the problem of identifying minorities by leaving it to individuals to decide whether or not they wish to belong to a minority group and come under the protection of minority group rights. For example, paragraph 32 of the 1990 Copenhagen Document maintains that ‘to belong to a national





minority is a matter of individual choice and no disadvantage may arise from the exercise of such choice' (Preece, 2014: 8). Another approach taken by international organizations to questions of minority is the primacy of fact over definition. That is whether or not a person belongs to a minority is a question of fact and not solely one of intention. For example, article 27 of ICCPR prioritizes facts (here articulated as existence) over intention.

'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group to enjoy their own culture, to profess and practice their own religion, or to use their own language.'

In line with this approach, Max van der Stoep, the first HCNM, determines a national minority as follows (Preece, 2014: 9):

'It is a group with an identity of its own which clearly distinguishes it from that of a majority and in addition it has the clear wish to maintain or even to strengthen that identity.'

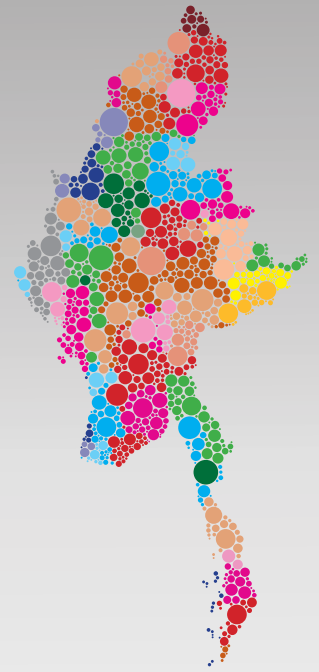
The different approaches to the definition of minorities highlight 'the divergent views of identity (what comprises it) and power (who ought properly to exercise it)' (Preece, 2014: 9).

2.2. Majority and Minority Relations

This paper will focus on national or ethnic minorities, not on any other minority groups that are determined on other identities such as gender, religion or language. It will use the definition of national minority as formulated by Max van der Stoep assuming that 'the wish to maintain or even to strengthen the identity' of minority groups is not always accommodated by the majority groups in some, if not all, multinational or multiethnic states. Some national minorities 'do not think of themselves merely as ethnically distinct; they feel that they constitute a nation or a people with a right to self-determination' (Karmis and Norman, 2005: 13). If the desire of these national minorities is not properly accommodated, they may attempt to assert their rights to some form of national self-determination and cultural autonomy which may lead to separatist movements. However, if a political system is properly integrated in terms of 'ethnic power sharing, adequate representation at state and national level and shared access to state benefits,' the national minority groups and their assertion of rights can be transformed into 'a willing part' of a country or part of a country or 'a force for democracy' (Chadda, 2006: 5).

Having the rights of national minority groups recognized and accommodated by the national majority groups is not only about the national minorities being consistently assertive of their rights, but also about the national majority having the political will to

become more open and tolerant to diverse identities and to explore the possibilities of transforming them into a united force for harmonious coexistence in multinational federations.³ As there is an inherent possibility for the tyranny of majority and power imbalance both at the national and local levels, it needs careful configuration to regulate any existing conflicts or prevent any potential conflicts between majority and minority groups both at the national and local levels of a multinational federation. This configuration does not necessarily mean that the power sharing should be equal. Equal power sharing can sometimes be viewed by the majority as unjust, especially when the decision-making powers of minority groups do not correspond to or are disproportionate to their numerical importance. Moreover, ‘there is always a danger that groups insisting on the safeguard of freedom, on the quality of life, and on the responsibilities of the individual will themselves turn into tyrannical, egoistic minorities’⁴ (Staub, 1980: 168). Thus, any power sharing arrangement between a majority and minorities must be carefully designed to prevent any potential danger of the tyranny of majority or minority groups.



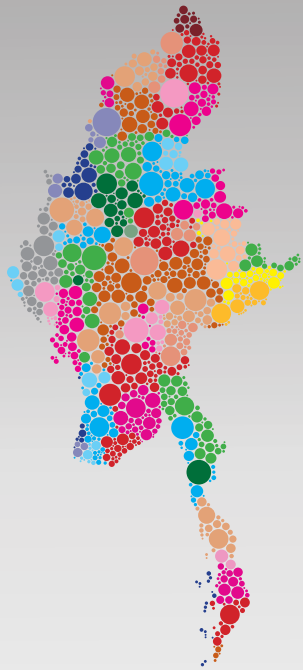
3. A Conceptual Overview: Federalism and the Accommodation of National Minorities

With the success of federalism in accommodating national minorities both in historical multinational federations, like Switzerland and Canada, and more recent multinational federations, like Belgium and Spain, which have not only managed conflicts arising from competing identities in a peaceful and democratic way, but have also secured a high degree of economic prosperity and individual freedom for their citizens, federal arrangement is increasingly being considered as one of the best solutions available to problems of multinational or multiethnic states (Kymlicka, 2005: 270). However, it should be noted that federalism is no panacea for the conflicts of multinational or multiethnic states. Not all federal systems were designed to accommodate multinational or multiethnic diversity. Sometimes, national majority groups can use federalism as a tool for disempowering national minorities by rigging federal units in order to reduce the powers of national minorities as in the case of American federalism (Kymlicka, 2005, 273).

As federal systems differ across countries and since whether federalism can provide a feasible mechanism to accommodate national minorities depends on the design of federalism for a particular country, it is important to distinguish multinational

3 A state can be unitary or federal. In this paper, the term “Federations” refers to federal states or federal countries whereas the term ‘Federalism’ refers to a federal system.

4 There are two possibilities of the tyranny of the minority. One is when a national minority become a local majority, they can become tyrannical when dealing with other local minorities. The other is the internal discrimination – their hierarchical structure may allow them to mistreat some members of their own groups.



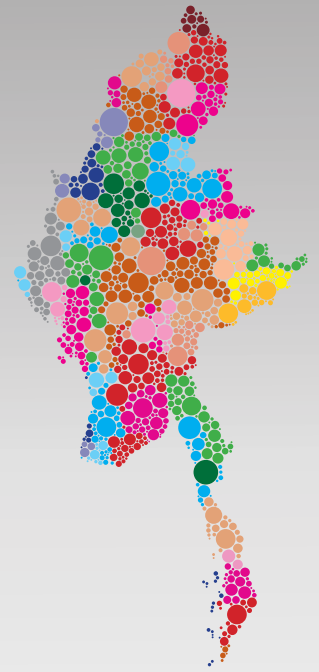
federations which seek to accommodate national minorities from territorial federations which do not. Then, before considering what special arrangement for national minorities can be justified, it is also important to clarify what types of arrangements must be made in any federal constitution. Finally, it should be examined how a balance of power among national majority and minority groups can be conducive to both stable and unstable federation. These areas of concerns for designing federalism for a multinational country will be examined in the following subsections.

3.1. Multinational vs. Territorial Federalism

Before distinguishing multinational federalism from territorial federalism, it is important to understand how and why existing federal states come into being. According to Ronal L. Watts, federations can be established by four different processes: 1) aggregation of partners, 2) the creation of new partners through devolution, 3) the combination of the processes of aggregation and devolution, and 4) the breakup of an existing union or federation, followed by a new partnership (Watts, 2005: 248-249). The first type of process for the creation of a federation is often known as ‘coming-together’ meaning formerly distinct political units aggregate into a political partnership. For example, the United States and Switzerland first took the form of a confederation (or a voluntary union of independent states in which constituent units maintain a large degree of autonomy), but later transformed into a federation (or a union of states in which the supremacy of the common government is recognized) (Britannica:2023). The second type of federations are ‘holding-together federations’ in which existing regional units have been given increased powers and autonomy or new regional units have been created. For example, Belgium and Nigeria have been transformed to federations from previously unitary systems. The third type of process for the creation of a federation is a combination of aggregation and devolution. For example, Canada, India and Malaysia were created by such a combined process. The fourth type of process has occurred in the USSR where secession and separation movements by regional units were followed by a new form of partnership by separated units.

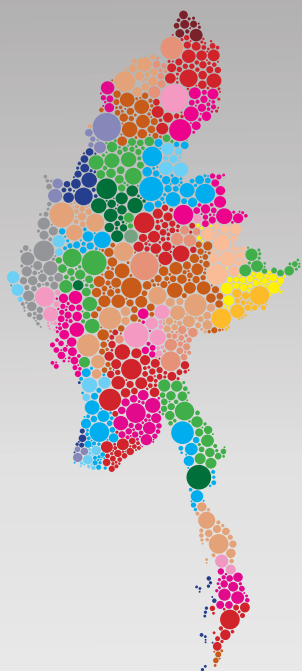
All the federations that have been established by one of the four processes mentioned above seem to have been inspired by the necessity to come together as a stronger force to fight against an external threat; to prevent potential secession of regional units or disintegration of the existing aggregation; to use a combination of a different approach in accommodating regional units; and to reconfigure the existing partnership that fail to hold the diverse regional units together. However, all the four processes for the creation of federation have mainly focused on power sharing between the whole (the federal government) and the part (the federal or constituent units) without necessarily considering the national majority and minority relations or making any efforts to accommodate the national minorities for self-government or cultural autonomy.

Thus, many of the existing federations can be identified as territorial federations in which the federal units do not correspond in any way with distinct ethno-cultural groups who desire to retain their self-government and cultural distinctiveness (Kymlicka, 2005: 270). For example, the American federal system was not designed to accommodate ethno-cultural divisions. Instead, federalism was used as a tool to deliberately deny the self-government rights of national minorities who are ethno-culturally distinct people and who were already living on the territory before the Anglo-Saxon settlers arrived. This was done either by recognizing no territory as a state unless these national groups were outnumbered within that state, or in some cases by drawing boundaries so that these national groups were outnumbered. Since the original 13 colonies that formed the United States were ethno-culturally homogenous, American federalism ensuring the division of powers among tiers of government and separation of powers within each tier of government was seen as a way of reducing the chance of tyranny that may occur as a result over-concentration of power in a tier of government or on a branch of government of either tier. But it does not mean that none of the national minorities in the U.S. have achieved self-government. The national minorities that have achieved self-government are those that have been outside the federal units or those that are from non-federal units such as the “commonwealth” of Puerto Rico, the “protectorate” of Guam, or the “domestic dependent nations” status American Indian tribes.⁵



Contrary to territorial federalism, multinational federalism in which federal units correspond to distinct ethno-cultural groups has the potential to accommodate the desire of national minority group for self-government and cultural autonomy. For a federal system to qualify as a genuine multinational federation, decisions about how boundaries of federal units are drawn and which powers are allocated to which tiers of government must be made with the conscious intention of empowering the national minorities. And for federalism to serve as mechanism for self-government, it must be possible to draw federal units in such a way that the national minority forms a majority within a particular federal unit. But this is simply not possible for some national minorities who are fewer in numbers. For such groups, self-government can only be achieved outside the federal system through some political institutions such as “commonwealth”, “federacies,” “protectorates,” or “associated states”. Even if boundaries can be drawn in such a way that national minorities form a majority in their federal units, division of powers among different tiers of government can lead to intractable conflicts, because different units may seek different powers and it is difficult for federalism to accommodate these divergent aspirations.

5 The Anglo-Saxon settlers that formed the original 13 colonies are ethno-culturally homogenous. However, the U.S also accommodate some national minorities that are ethno-culturally distinct. How these national minorities that are outside the federal units have achieved their self-government status is assumed to be linked to their historical background and will not be elaborated in this paper.

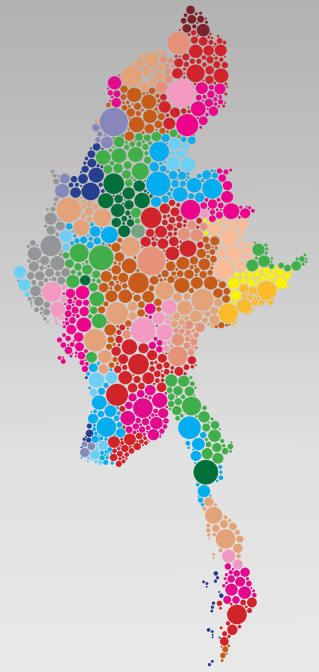


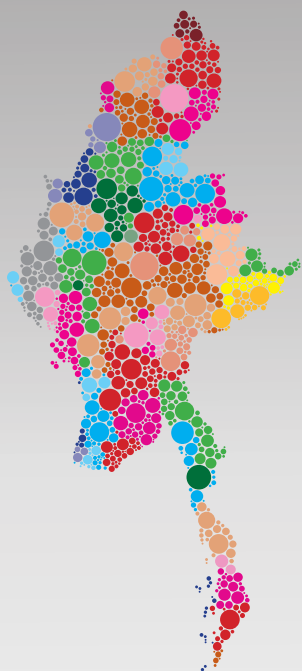
It is likely that in multicultural federations with ethno-culturally heterogeneous identities, the federal units will see centralization as a threat to their national identity and will want more decentralized division of powers whereas in territorial federations with ethno-culturally homogenous identities, the federal units will not see centralization as a threat to the survival of anyone's national group and will accept a gradual weakening of their powers. For example, the United States which are a territorial federation began as a strongly decentralized federation but have gradually become one of the centralized federations whereas Canada which is a hybrid form of a territorial and a multinational federation began as a strongly centralized federation but has gradually become one of the most decentralized federations. Similarly, in a federation, some federal units embody the desire of national minorities to remain culturally distinct and political self-governing societies (these units are 'nationality-based' units) while other federal units embody the desire to reflect the decision of a single national community to diffuse powers on a regional basis (these units are 'region-based units'). So, it is likely that the nationality-based units will seek different and more extensive powers than the region-based units. This is reflected in many federations. For example, in the United State, the region-based states have gradually lost their powers while the nationality-based non-federal units or quasi-federal units that have been outside the federal system, have sought to achieve greater powers of self-government. In Canada, the province of Quebec secured self-government for the Québécois, but the nine remaining provinces reflect regional divisions within English-Canada. In Spain, the nationality-based Catalonia and the Basque Country seek greater autonomy than the region-based units of the country. The same pattern is also found in France in which the nationality-based Corsica seeks greater powers than the region-based units.

3.2. Arrangements that must be made in any federal constitution

After identifying some shortcomings of existing federations that provide no guarantees for the accommodation of national minorities, and before considering an "appropriate or just" or "special" arrangement for national minorities for a particular country, it is important to be clear about the types of arrangement that must be made in any federal constitution or the constitutions of constituent units. As a general rule, a federal system is typically built upon some key principles: division of powers (which is sharing powers among different tiers of government), separation of powers (which is distribution of legislative, executive and judiciary powers within each order of government), the subsidiary principle (which is the bottom-up decision making that ensures that decisions are made as closely as possible to the citizens) and the entrenchment of fundamental rights (which is a critical pillar for the protection of both the national minorities in a federation and the minorities within minorities in in constituent units). These federal principles typically guide the argument for and against specific arrangements of the following four types identified by Karmis and Norman (2005).

- (a) **The “Division of Powers”** : Powers in a federation are shared both vertically and horizontally. On the one hand, there is a division of sovereign powers among different tiers of government that make up the federation. On the other hand, sovereign powers are distributed within each tier of government among the three branches of government: the legislative, executive and judiciary powers. This division creates a check and balance among tiers of government and, at the same time, within each tier of government providing double security to the rights of people. The vertical division of powers involves decisions on which subject matters will be allocated to either tier of government as exclusive powers and which subject matters will be allocated to both tiers of government as shared or concurrent powers. The subsidiarity principle is widely used as a guide to the division of powers among the different tiers of government. But other principles such as efficiency and equity are also used in such division of powers.
- (b) **Representation in Central Institutions** : A federal system is a combination of ‘shared rule’ (participation) and ‘self-rule’ (autonomy). representation in federal institutions, such as parliament, the executive and the judiciary, allows citizens, minority groups and constituent units to exercise these shared rule competences. Often the federal parliament is bicameral with one chamber (the lower house) representing unity or all citizens of the state and the other chamber (the upper house) representing diversity or the constituent units. In territorial or uni-national federal system, federal units are likely to have equal representations in the second chamber while the national minorities of a multinational federation may be underrepresented in federal institutions. However, minorities may be granted a constitutional guarantee of a certain minimum representation in certain federal institutions.
- (c) **The Integration of Markets and Legal Systems** : For a federal system to function well and maintain stability, not only the political powers but also the economic powers must be allocated among different tiers of government. The federal government is typically assigned to ensure a free market across the country while the powers to regulate commerce and trade are allocated to federal units. However, the constituent units’ power to regulate economics, especially for interstate commerce and trade, should be allocated with certain limits or restrictions so as to prevent any potential political, economic and social disharmony that may interfere with the stability of a federation. Likewise, the legal and judicial characteristics of federalism or the essential features of judicial federalism will need to be understood before considering the integration of the different legal systems of federal units into a larger legal and judicial system of a federation.





- (d) **The Amending Formula and Provisions for Secession** : The constitutions of most federations include provisions on the constitutional amendment process. Although some federations (e.g., Switzerland) may have a relatively easy constitutional amendment process, most federal or state constitutions are difficult to amend because their amendment procedures are deliberately made difficult, e.g., any amendments require to be ratified by all or most of the federal units, along with the majority or supermajority of the federal parliament. Usually, the amendment process for certain provisions is set to be rigid while that of other provisions is flexible. For example, in Burma/Myanmar, constitutional provisions are distinguished into two groups in terms of how easy or difficult their amendment process is – one involves a difficult process and the other can be amended relatively easily. This has to do with the constitution’s framers’ or drafters’ perception of what is significant and insignificant, which will differ across countries. Secession has been a significant provision for some countries. While some countries (e.g., Burma/Myanmar and Ecuador) explicitly prohibit secession rights of federal units, a few countries (e.g., Ethiopia, Saint Kitts and Nevis, Sudan and Uzbekistan) have an explicit secession procedure and allow the unit to secede according to the procedure. Sometimes, the Supreme Court or Constitutional Court may provide some legal rules for secession when the federal constitution (e.g., of Canada and Spain) is silent on secession (Ginsburg and Versteeg, 2019)

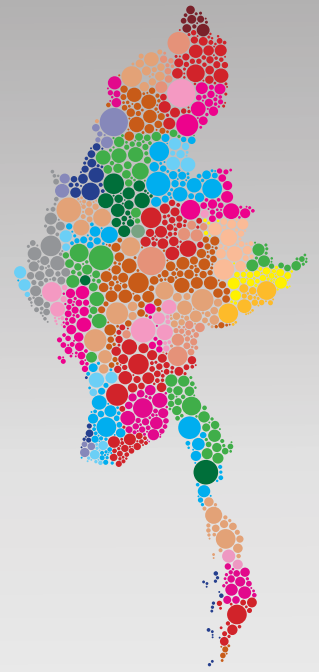
Different federations will have different arrangements of the above four types to suit their particular situation and social, political and economic contexts. Already-established federations, whether uninational or multinational, may need to or choose to reform some or all of the four types of arrangements depending on the political will of the ruling government and the demands of their citizens or the persistent assertion of their rights by particular minority groups in an attempt to strike a balance of power in any one of the four federal arrangements. In order to achieve a particular aim for modifying the original design or drawing of a new design of federalism for a particular country, special federal arrangements must be justified before they can be adopted for implementation. Since any radical or incremental but significant change to original or existing design of federalism or any new design of federalism for a particular country can affect the long-term stability of that country, designing an inclusive and meaningful process is equally important.

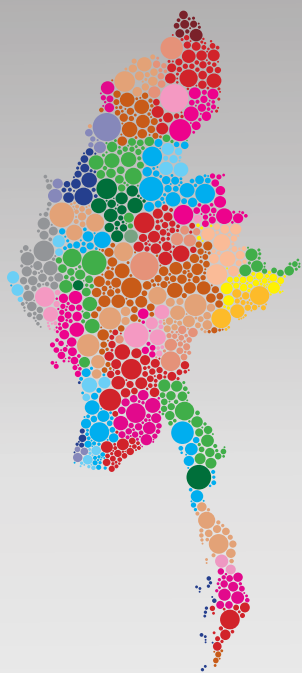
3.3. Special arrangements for national minorities that can be made in a federation

No federation is ethno-culturally homogenous. National minority groups will be found not only in multinational federations but also in ‘uninational’ federations or territorial federations. All federations have some kinds of special arrangements

for national minorities but not all national minority groups may be accommodated. Naturally, most of the national or ethnic minority groups of a federation, especially those who see themselves not just as distinct ethnic groups but also as a nation or peoples or the founder of the federation, are inclined to maintain themselves as culturally distinct and politically autonomous societies. Unlike the past attempts to suppress the desire of national minorities to retain themselves as distinct cultures, and to assimilate them into the majority culture, it is increasingly recognized that this desire of national minorities should or must be accommodated, not suppressed. Some of the special arrangements for national minority groups that have been adopted by some federations are discussed below.

- (a) **Fundamental rights protection** : ‘Judiciary enforceable fundamental rights offer key protections for marginalized and minority groups and individuals’ (Bisarya, 2020: 2). These fundamental rights are typically enshrined as bills of rights in both the federal constitution and the constituent units’ constitutions, where they exist. These rights may not be seen as special arrangement for minorities especially if they include only individual rights or only non-justiciable collective rights. But these rights may be particularly important for minorities if they include both individual and cultural rights of minority groups and are protected against any infringement by both the central and constituent unit governments. This fundamental rights’ protection may be most effective not just for national minorities but also for minorities within minorities – that is a national majority group which constitutes a regional/local minority group or a minority group both at the national and the local level.
- (b) **Local territorial autonomy** : Granting local territorial autonomy may be another mechanism for protecting minorities and minorities within minorities in a federation. (Bisarya, 2020: 2). ‘Where national minorities are regionally concentrated, the boundaries of federal subunits can be drawn so that the national minority forms a majority in one of the subunits’ (Kymlicka: 2005: 271). Special autonomy areas can also be created to smaller territorially concentrated communities within the federal subunits. This mechanism offers protection for both national minority groups who are majority groups in a federal unit and minorities within minorities in federal subunits. This mechanism also reflects the self-rule that can be exercised by the national minority groups at the state or regional level and by the minorities within minorities at the local level within a federal unit.
- (c) **Recognition and representation at the national or state/regional level** : Both the federal constitution and the constituent units’ constitutions ‘can make declarations of both symbolic and legal importance regarding the political





community' (Bisarya, 2020: 4). In other words, they can recognize explicitly the existing pluralism within the country or within federal units. In addition to recognition, national minority groups or minorities within minorities can be allowed to exercise shared rule at the federal or/and state/regional levels by providing guarantees of representation in certain federal or state/regional institutions. Electoral systems, quotas and affirmative actions can also be used to promote equitable representation of national minorities or minorities within minorities in federal or state/regional institutions.

- (d) **Non-territorial autonomy** : In addition to the different forms of territorial organization of power, mechanisms for non-territorial autonomy (NTA) should be considered particularly for ethnic communities that are geographically dispersed (Bisarya: 2020: 5). NTA can be allowed in different forms but generally it involves formal institutions that are assigned to govern certain aspects of the lives of particular ethnocultural group. For example, in South Tyrol, an autonomous province in the north of Italy, the Autonomy Statute granted the NTA in education, language and culture to the two main linguistic groups, the Germans and Italians who live intermingled. Also in Brussels, the capital of Belgium and the European Union, through a statutory community council, NTA in language and cultural affairs is given to the three language communities – Dutch, French and German who live intermingled. (Villiers: 2018: 585-586) Often any design of NTAs considers their scope, their powers and their financing. The scope of responsibilities of NTA institutions varies but generally they cover sectors relating to cultural identity. The powers NTA institutions may vary from the right to be consulted to the right to actual governing powers while decision on how NTA institutions can be financed matter in determining their effectiveness and reach. It should be noted here that many of NTA mechanism involves self-identification of individual as belonging to a particular minority group or national minority group.
- (e) **Religious law and Official Language** : In addition to mechanisms for ensuring political expression of minorities, mechanism for ensuring cultural expression of minorities can be adopted (Bisarya: 2020: 7). Many federations provide certain laws protecting religious freedom of individuals regardless of where they are located. These federations may also consider the language of some national minority groups to be recognized as an official language for official communication. Similarly, the federal units may recognize the language of minorities within minorities in their jurisdiction as an office language of the units. These mechanism for ensuring cultural expression of minorities give national minorities and minorities within minorities the freedom to practice one's own religion and to use at least some, if not all, of their languages for official communication.

- (f) **Federacy** : As it may be impossible for a small national minority group to form a majority group in one of the federal units, ‘the aspiration of national minorities’ for self-government ‘can be achieved through political institutions which operate outside the federal system’ or the state/regional jurisdiction ‘as “commonwealths,” “federacies,” “protectorates” or “associated states...’ (Kymlicka, 2005: 285). These national minority groups mostly exercise self-rule within their jurisdictions but some federations may allow a ‘light’ or limited form of representation in certain federal institutions, but not in state/regional institutions.

3.4. Challenges and Opportunities for the accommodation of national minorities

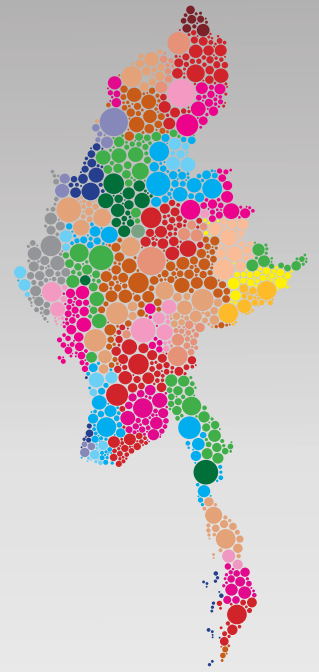
Although a federal system can be a potential mechanism to accommodate of national minorities in a multinational state through various special arrangements described above, it is important to understand the challenges of accommodating national minorities and transforming them into opportunities for resolving conflicts, preserving autonomy and promoting equality, inclusiveness and tolerance in a multinational state. Some of the potential challenges and opportunities to accommodate national minorities are described below.

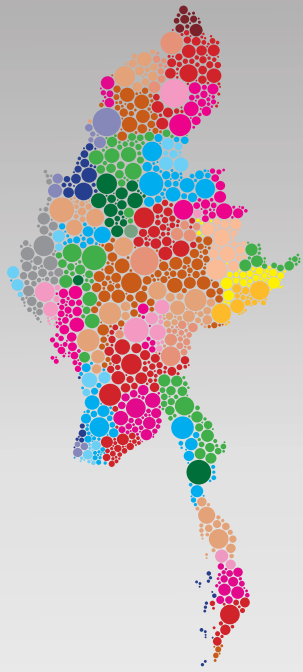
3.4.1. Challenges

Homogeneity : No territory or constituent unit is ethnically homogenous in a multinational or multiethnic state. Even if a territory or constituent unit is ethnically homogenous at the beginning but over time, it can become ethnically heterogeneous. So, the drawing of territorial boundaries for certain national minorities so that they form majority in the newly created territorial units, will inevitably create new ethnic minority groups. Thus, unless a territory is ethnically homogenous, it is almost impossible for a national minority, who are dispersed across the country to have a territorial autonomy within the country.

Shared or collective identity : Although self-government rights and other types of devolution of power can help national minorities who are territorially concentrated to build and strengthen their identities, they can also lead to the weakening of a shared or collective identity of a political community. National minorities with territorial autonomy and those without territorial autonomy can become intolerant towards each other and the potential divide among them can become a barrier to build unity and a strong cohesive common identity of diverse ethnic groups in a multiethnic state.

The paradox of multicultural vulnerability : State accommodation designed to enhance the autonomy of minority groups may end up reinforcing power





in group hierarchies. A well-meaning accommodation of national minorities by state can leave certain members of minority groups vulnerable to severe injustice within the group. This phenomenon is known as the paradox of multicultural vulnerability (Shachar: 2000: 65). It can grant minority groups 'a carte blanche license to subordinate certain of their group members, namely women, in the name of cultural preservation' (Shachar: 2000; 78).

Secession or disintegration/dissolution : The very success of federalism in accommodating self-government may simply encourage national minorities to seek secession (Kymlicka, 2005: 286). There could be a number of different reasons why certain federal units or national minority groups want to secede from a federation. The national minorities may not find some or all of the arrangements to be fulfilling their wish to be recognized as distinct "peoples" and their desire for self-determination or self-government. Secession of more and more territorial units can lead to the dissolution of the federation.

3.4.2. Opportunities

Conflict Resolution : Many of the prolonged and ongoing conflicts in multi-ethnic states stem from unequal power sharing arrangements among different ethnic groups. If that is the case, granting territorial autonomy to the ethnic minorities who are territorially concentrated or non-territorial autonomy to the ethnic minorities who are dispersed across a political unit can lead to resolution of conflicts between majority and minority ethnic groups, and also among minority ethnic groups.

Preservation of Autonomy and Identity : Accommodating national or ethnic minorities who are culturally distinct from the ethnic majority can also help preserve their unique cultural identities without being forcefully assimilated or systematically but unwillingly integrated into a majority culture which can become a source of conflict between majority and minority ethnic groups. Since there is a potential risk of secession linked to the accommodation of national minorities, building a sense of common identity for all members of a multiethnic state is imperative.

Promotion of Equality, Inclusiveness and Tolerance : If national minorities are treated equally, are involved in important decision making while their distinct cultural identities are tolerated, it is likely they will become a willing part of a whole which can make building unity in diversity easier in multinational or multiethnic state. Thus, it is important that accommodation of ethnic minorities involves equal treatment of ethnic minorities, inclusive decision making that involve them and tolerance to their cultural identity, which can be considered as important elements for building sustainable peace among ethnic groups.

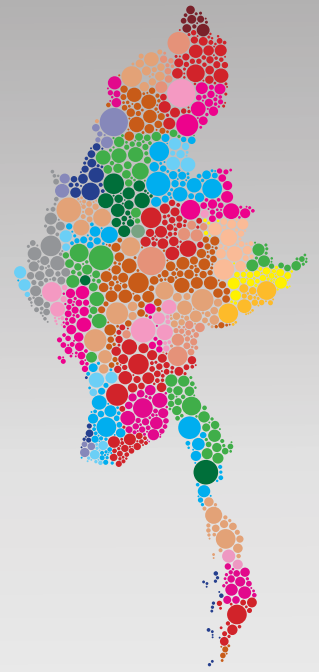
4. Accommodation of national minorities in Burma/ Myanmar

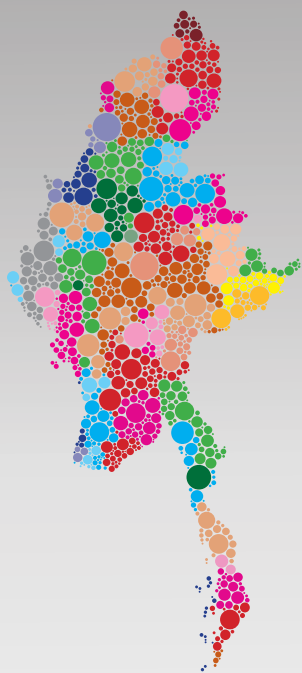
Burma/Myanmar is a country that is composed of several ethnic nationalities, with Bamar ethnic nationality being the majority ethnic nationality group over seven other minority ethnic nationalities and smaller ethnic groups. The idea of building a federal system in Burma/Myanmar has initially been conceived even before the country gained independence from British colonial rule in 1948. However, it has been more than seven decades since its independence and Burma/Myanmar has not yet achieved its goal of establishing a federal union. Despite systematic oppression and persistent political and cultural assimilation by successive ruling regimes, in particular the military regime, the minority ethnic nationalities' struggle for self-determination and autonomy has never been completely wiped out and has survived and inspired the federal movement across the country. Thus, it is worth looking at the history of Myanmar in term of minority ethnic nationalities' struggle for self-determination and autonomy before exploring any special arrangements for the accommodation of their demands for political equality and self-determination and justice.

4.1. A historical overview: why Burma/Myanmar fails to build a federal union?

Burma/Myanmar with a total population of more than 54 million is composed of eight major ethnic peoples (Kachin, Kayah, Karen, Chin, Mon, Bamar, Rakhine and Shan) and a multitude of minority peoples, some of them are subgroup of major ethnic peoples. There are two main historical narratives with regard to how today's Myanmar came into existence. According to the narrative by Bamars, who are the majority ethnic group, the territories of non-Bamar ethnic groups had been annexed by Burmese kings and were part of several Burmese Kingdoms before the British colonialists occupied Burma (now called Myanmar) and installed British colonial rule which lasted over 60 years. On the other hand, non-Bamar major ethnic groups claim that their ancestors have lived independently in their homelands under their own kings or rulers and their territorial homelands had never come under the full control of Bamar kings. Under British rule, the country was divided into Ministerial Burma or "Burma Proper" (that was comprised of Tennassarim, Arakan, Pegu and Irrawaddy divisions) and Scheduled Areas, also known as "secluded areas" or "frontier areas" (that included the Shan kingdoms, Chin Hills and Kachin tracts) (Frontier Myanmar, 2017). The British installed direct rule in Ministerial Burma but indirect rule in the Scheduled Areas which were inhabited by Kachin, Chin, Shan and Karenni, allowing some level of autonomy in those areas.

When the British decided to leave Burma on the eve of independence, a meeting called Panlong Conference was held between Bamar nationalist hero Aung San who





represented Ministerial Burma and representatives of ethnic groups from Frontier Areas, namely the Chin, Shan and Kachin. The outcome of the meeting was the 1947 Panglong Agreement in which these groups agreed in principle to form the Union of Burma. Although the agreement did not mention the terms ‘secession’ and ‘federalism’, with the phrase such as ‘the inclusion of full administrative and financial autonomy’ and ‘fundamental democratic rights’, it reflects the aspirations of democracy, rights of self-determination, equality and democracy and was ‘meant to form a political system of federal union’ (BNI Multimedia Group, 2016). The secession clause was included in the 1947 Constitution of Burma that granted secession rights only to Shan State and Karenni State ‘but the right is not be exercised during the first 10 years of the union’ (Rau, 1948: 119). The Panlong agreement and the secession provision in Burma’s first constitution reflects the entrenched trust deficit between dominant Bamar ethnic nationalities and major non-Bamar ethnic groups that seems to have existed long before the arrival of the British and was reinforced by the British colonial ‘divide and rule’ approaches (Bečka, 1991: 416). It means that at independence, the country was facing deep division and inter-ethnic group tensions.

Thus, since its independence, Burma has experienced prolonged civil wars and armed conflicts as well as political, social and economic instability, which have created tens of thousands of Internally Displaced People (IDPs) and refugees and triggered significant internal and external migration. ‘The government’s consistent refusal to address the questions of ethnic diversity constitutionally is the fundamental root-cause of the civil wars in the country’ (The IRRAWADY, 2010). The major non-Bamar ethnic peoples have consistently sought to be recognized as ‘distinct peoples’ whose demand for self-determination, autonomy and political equality is accommodated through certain types of special arrangement in the national constitution. However, successive governments, especially the military regimes that came to power through violent military coups, have persistently ignored those demands. Instead, they have chosen to systematically oppress and politically and culturally assimilate the non-Bamar minority ethnic peoples. It is an irrefutable fact that the military (or the armed forces of Burma) have abolished the 1974 Constitution of Burma and illegitimately governed the country for several decades until the new quasi-civilian governments came to power in 2011 under the 2008 Constitution of Burma. However, the military continued interfering in the country’s political affairs under the two short-lived quasi-civilian governments, which were followed by another military coup in 2021. The military which is one of the key actors in Burma/Myanmar’s politics, has always been a major obstacle to many of the previous attempts to end armed conflicts and bring peace to the country.

Another key actor involved in the politics of Burma/Myanmar are the Ethnic Armed Organizations (EAOs), also known as the Ethnic Resistance Organizations (EROs). Since Burma/Myanmar gained independence from the British, many non-Bamar

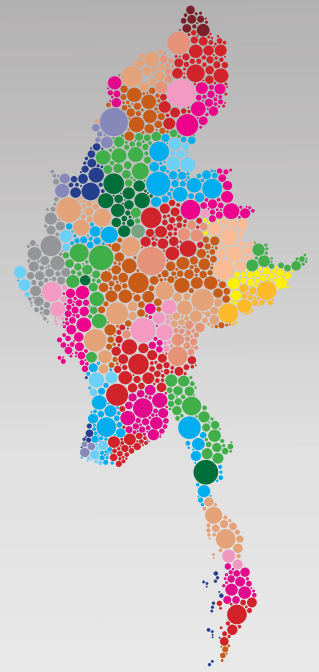
minority ethnic nationalities/peoples have peacefully demanded for the rights to self-determination, autonomy and political equality. However, when their peaceful demands were repeatedly ignored and violently cracked down by successive Burmese governments, they had to resort to taking up arms as an alternative means to protect their ethnocultural identities and to achieve their political goals of being recognized as distinct peoples that have the rights to self-determination and self-government along with cultural autonomy. The numbers of ethnic resistance groups have increased over time as the military regimes and successive Bamar-dominant governments continue to refuse to address the demands of non-Bamar minority ethnic peoples to build a genuine federal union in which the constituent units or states which are mostly inhabited by non-Bamar minority ethnic people have sovereign powers to govern their own affairs (self-rule) and to participate in the country-wide affairs (shared rule). Until the recent military coup in 2021, although there have been some Bamar armed resistance groups against the military, most of the resistance armed groups are non-Bamar minority ethnic groups that have relentlessly resisted the military's oppression and majority Bamar's dominance in the affairs of the state and have mainly led the federal movements across the country. However, in the wake of 2021 military coup, a large portion of the majority Bamar population have chosen to resist and revolt against the ruthless Burmese military and joined existing minority ethnic resistant groups in their attempt to eliminate any kind of dictatorship and set up a federal system in Burma/Myanmar.

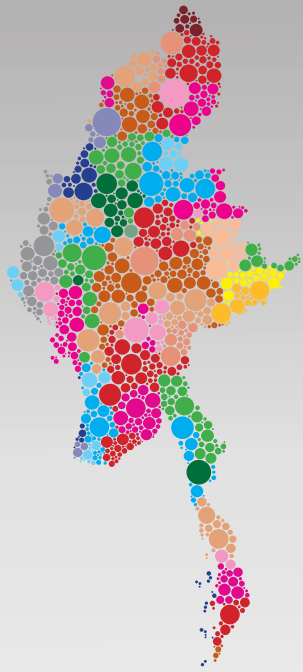
Now it has been more than two years since the military took over power but neither military side nor the resistance side comprised of EROs and other resistant groups, are in control of the country. Although both sides agree in principle to build a federal system in Burma/Myanmar, certain federal arrangements that address the root cause of the political problem of the country will need to be explored and adopted in a future federal constitution of Burma/Myanmar.

4.2. Special arrangements for national minorities in Burma/Myanmar

The political and legal reform process that took place under the two quasi-civilian governments (2011-2020) has renewed discussions on federalism as part of the constitutional amendment process either via parliament or through the peace process under the Nationwide Ceasefire Agreement (NCA) in Burma/Myanmar. 'Yet, the 2008 Constitution' under which the reform process was initiated contains 'already contains several provisions that appears to give some forms of recognition to certain ethnic nationalities' (Crouch: 2015: 1). Crouch (2015) identifies the following constitutional rights that ethnic nationalities in Myanmar have been given by the 2008 Constitution.

- (a) **Symbolic Recognition** : Territorial division of the seven states and regions: The seven states are the major non-Bamar minority ethnic-based states and the





seven regions are the Bamar-based regions.⁶ Under the 2008 Constitution, the recognition is symbolic because the state and regional leadership appointments are controlled by the Union Government. The President selects the Prime Ministers of States and Regions from the elected Hluttaw (State/Region's unicameral legislature) members. However, this form of constitutional recognition is a recognition of the rights of major national minority groups (who constitute a majority group in their home State/Region) to have their own territorial States/Regions. So, only major national or minority groups or major ethnic minority groups, not relatively smaller ethnic groups) will have this kind constitutional recognition.

(b) Special Representation : Ministers for National Races Affairs: A State/Region or Zone can appoint a 'Minister of National Races Affairs'. Any national race that has at least 0.1 percent or more of the population in a State/Region or Zone, shall have representation in that State/Region or Zone. This ensures some ethnic diversity but at the same time, this allows Burmans to have representative in areas where ethnic nationalities are a majority. These Ministers who operate only at the State/Region or Zonal level remain under the control of the central government, as their role is determined by the President. This form of constitutional recognition is recognition of the minorities within minorities (who are minority ethnic groups in States/Regions), not of the major national minority groups.

(c) Limited Self-Governance : Self-administered Zones and Divisions: Zone status of certain ethnic groups was granted through their application process in the 1994 sessions of the National Convention. Ethnic groups that already had a state were not allowed to apply for Zone status. Only 6 out of 15 ethnic groups that applied for self-administered status received the Zone status, the rest does not meet the criteria that are largely numerical. The Zones have a legislative, executive and judicial branch but the Zones' leadership is also controlled by the Union Government as the President has the authority to dismiss them before the end of their five-year terms on ambiguous grounds. The legislative power of the Zones is also limited as their legislative list (Schedule III of 2008 Constitution) is quite narrow. It should be noted here that the constitutional status as a Zone was granted to some of these ethnic groups (namely the Wa, Kokang, Pa-oh and

6 Burma/Myanmar is currently made up of 14 constituent units – seven states and seven regions (formerly known as divisions). Although there are many other ethnic groups, the names of the seven states are the names of seven of the eight major ethnic groups – Kachin state, Kayah state, Karen State, Chin state, Mon state, Rakhine state and Shan state who are originally considered to be majority in each of the states. The names of the seven regions/divisions are based on the geographical name that have long existed in history. Like the other states, many different ethnic groups are present but the Bamar ethnic groups are considered to be the majority ethnic groups in all the seven regions. Other smaller ethnic groups such as pa-oh, Lahu, Palaung etc., do not have their own states but a few of them have their self-administered area or self-administered zone status.

Palung) as part of a broader process of ceasefire deal with ethnic armed groups. The Danu was the only ethnic group with Zone status that never had an armed group. And the Naga Zone is the only zone that is situated in Sagaing Region while the rest of Zones is concentrated in Shan State. This form of constitutional recognition is similar to the second form of recognition described above. It is a recognition of minorities within minorities (who are minority ethnic groups both at the State/Region level and the national/union level.)

In addition to the above constitutional rights of ethnic nationalities, the following constitutional rights of ethnic groups can be found in the 2008 Constitution.

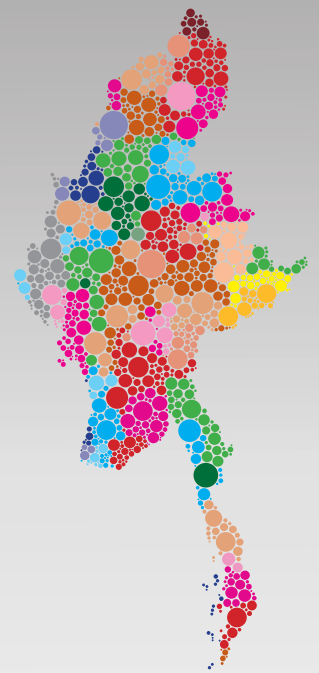
(d) Fundamental Rights protection : The 2008 Constitution of Burma/Myanmar contains some fundamental rights provisions that include both individual and collective rights of ethnic nationalities/peoples. However, in a conflict-affected country like Burma/Myanmar, the protection of or enforcement of such rights is rarely guaranteed in practice as the country's judiciary is weak, inefficient and seldom robust in their independence. The country's Constitutional Tribunal that is expected to be active in defending fundamental rights has been completely passive.

(e) Representation of Ethnic Voters at the national level : The creation of the seven Bamar-majority-based Regions and the non-Bamar major ethnic groups-based seven States does not truly reflect the representation of major ethnic groups on the national level. Rather, it allows only the representation of ethnic voters in the upper house (or the Amyotha Hluttaw) of the national Parliament (or the Pyidaungsu Hluttaw) that accords equal seats to each State or Region. So, though the elected members of the upper house may speak for ethnic issues, by constitutional design, they are encouraged to speak mainly for their constituent units (States or Regions).

In summary, the 2008 Constitution does not provide adequate protections for ethnic minorities within a minority. In order to protect them, the following accommodation should be considered.

4.3. Considerations for accommodating national minorities in Burma/Myanmar

Historically, national minorities in Burma/Myanmar have neither been substantively nor sufficiently accommodated, which has been one of the underlying causes for prolonged conflict and civil war in the country. Thus, a federal system that accommodates ethnic minority groups should be designed to bring about peace to Burma/Myanmar. For whoever is responsible for designing a federal system for Burma/Myanmar, this paper would like to make the following recommendations for accommodating



national minorities.

- 1) Equality among ethnic groups should be recognized and guaranteed in both the national and the state constitutions of Burma/Myanmar as it can serve as a binding element for diverse ethnic groups in a multiethnic state like Burma/Myanmar.
- 2) The minority within minority rights should be protected in all tiers of government—federal, state/region and local – in order to prevent forced assimilation by the dominant cultural group since the current geographical units of Burma/Myanmar are becoming ethno-culturally more diverse.
- 3) Depending on their territorial concentration or dispersal, ethnic minorities should be granted territorial autonomy or non-territorial autonomy rights so that they can build their distinct identity and sense of belonging.
- 4) Whatever accommodation model is adopted for national minorities, it should recognize a potential problem of accommodating minority groups, the paradox of multicultural vulnerability within accommodated national minority groups, and adopt appropriate mechanisms to deal with it so that the traditionally less powerful categories of group member do not have to bear the cost of accommodation disproportionately.
- 5) A sense of common identity in all tiers of government – federal, state and local – should also be cultivated so that unity in diversity can be built and sustained in a multiethnic state, and disintegration and dissolution of state can be prevented.
- 6) The choice for accommodating national minorities – the different ways of exercising non-territorial autonomy or/and the how the sense of common identity can be built - should come from a bottom-up devolved approaches through extensive debates and consultations, rather than top-down centralized ones.

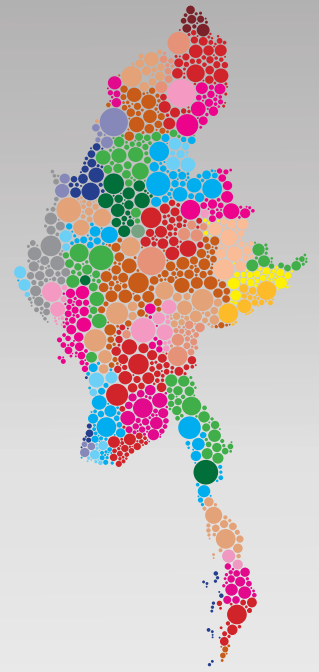
5. Conclusion

Federalism, if properly designed, can be an instrument to solve problems faced by multinational of multiethnic societies because powers is shared or distributed both vertically between the different tiers of government and horizontally among the different institutions within each tier of government. Doing so can help prevent both the tyranny of the national majority and the minority groups while at the same time help accommodate the desire of national or ethnic minority groups for self-government and in some cases the desire to be recognized as distinct peoples. As federalism can be a potential solution for many of the problems faced by a multinational or multiethnic country, it is important

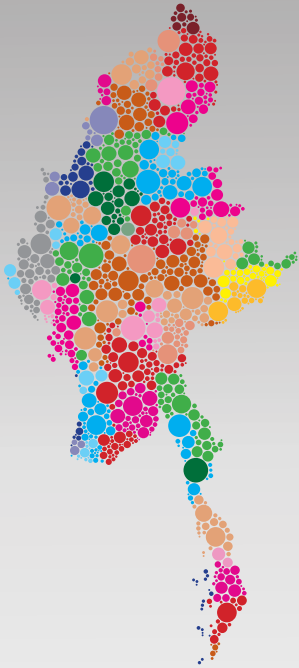
to first understand the necessary federal arrangements with regard to shared rule and self-rule that must be negotiated before they can be provided in the constitution of a prospective federation. While special arrangements for the accommodation of national minority groups explained in section 3.3 can be adopted, it should be noted that the success of a multiethnic federation can encourage secession of certain ethnic groups or some federal constituent units, which may inspire other ethnic groups or constituent units to demand their right to secession to the point of disintegration of the federation.

For a multiethnic country like Burma/Myanmar with prolonged and ongoing armed conflicts and civil wars since its independence, a federal arrangement can be an alternative mechanism to address the root causes of the armed conflicts and civil wars. The history of the country is shaped by the struggle to strike a balance of power between the majority Bamar people and minority non-Bamar ethnic peoples. Although the country's 2008 Constitution contains some provisions that grant some rights to certain ethnic peoples, they are rather symbolic and far from being substantive in accommodating the national ethnic minorities of the country. When considering national minority rights to be enshrined in the national constitution or the constitution of constituent units, the existing arrangements for the accommodation of national minorities should be made more federal and the term 'national minorities' in Burma/Myanmar case should include three types of national minorities, namely the national minorities who constitute majority groups in some if not all constituent units but minority groups in the national level; the minorities within minorities ethnic groups who constitute majority groups in national level but minority group in some if not all constituent units; and national minorities who constitutes national minority groups both at the national level and the state/regional levels.

The 2008 Constitution is inadequate in accommodating national minorities and a new constitution that seeks to adequately address the question of ethnic diversity is crucial to help end all armed conflicts and bring about peace to the country. The ethnic peoples of Burma/Myanmar (both Bamar and non-Bamar ethnic peoples) have been fighting each other for more than 70 years for a political end – a federal democratic union, which they have now agreed in principle. Thus, it is time to create platforms for dialogue and peaceful negotiations for the details of building a peaceful federal system in Burma/Myanmar.



References

- 
- Bečka, J. (1991). Burma - "Divide et impera"? Britische Minderheitenpolitik in Burma 1917–1948. By Roland Bless. Stuttgart: Franz Steiner Verlag, 1990. Pp. xx, 376. Maps, Tables, Notes, Index, Bibliography. *Journal of Southeast Asian Studies*, 22(2), 414-416. <https://doi.org/10.1017/S0022463400004094>
- Bisarya, S., (2020). Protecting Ethnic Minorities within Minorities. International IDEA. Available at: <https://www.idea.int/sites/default/files/publications/protecting-ethnic-minorities-within-minorities.pdf>
- Britannica, The Editors of Encyclopaedia. "federation". Encyclopedia Britannica, 7 Feb. 2023, <https://www.britannica.com/topic/federation>. Accessed 18 May 2023
- Chadda, M. (2006). *Minority rights and conflict prevention: Case study of conflicts in Indian Jammu and Kashmir, Punjab and Nagaland*. Minority Rights Group International. Available at: <https://minorityrights.org/wp-content/uploads/old-site-downloads/download-82-Minority-Rights-and-Conflict-Prevention-Case-Study-of-Conflicts-in-Indian-Jammu-and-Kashmir-Punjab-and-Nagaland.pdf>
- Crouch, M. (2015). Ethnic Rights and Constitutional Change: The Constitutional Recognition of Ethnic Nationalities in Myanmar/Burma. *Forthcoming) A Harding (ed) Constitutional Reform and Legal Change in Myanmar., UNSW Law Research Paper, (2015-11)*. <https://ssrn.com/abstract=2592474>
- De Villiers, B. (2018). *Community Government for Cultural Minorities – Thinking beyond “Territory” as a Prerequisite for Self-government*. *International Journal on Minority and Group Rights*, 25(4), 561–590. <http://dx.doi.org/10.1163/15718115-02503007>
- Downing, Jared (2017, April 11) ‘Myanmar 101: British Burma.’ *Frontier Myanmar*. <https://www.frontiermyanmar.net/en/myanmar-101-british-burma/>
- Ginsburg, T., & Versteeg, M. (2018). From Catalonia to California: Secession in constitutional law. *Ala. L. Rev.*, 70, 923. <https://ssrn.com/abstract=3359967>
- Jackson-Preece, J. (2014). Beyond the (non) definition of minority. Available at: https://www.ecmi.de/fileadmin/redakteure/publications/pdf/Brief_30.pdf
- Karmis, D., & Norman, W. (2005). The revival of federalism in normative political theory. In *Theories of Federalism: A reader* (pp. 3-21). Palgrave Macmillan, New York. http://dx.doi.org/10.1007/978-1-137-05549-1_1
- Kymlicka, W. (2005). Federalism, nationalism, and multiculturalism. In *Theories of Federalism: A reader* (pp. 269-292). Palgrave Macmillan, New York. DOI: http://dx.doi.org/10.1007/978-1-137-05549-1_24

- O’Leary, B. (2001). An iron law of nationalism and federation? A (neo-Diceyan) theory of the necessity of a federal Staatsvolk, and of consociational rescue. *Nations and nationalism*, 7(3), 273-296. <http://dx.doi.org/10.1111/1469-8219.00017>
- Oo, Naw May (2010, April 1) ‘The Same Old Road to Nowhere’ *The IRRAWDDY*. https://www2.irrawaddy.com/article.php?art_id=18174&page=1
- Rau, B. N. (1948). The Constitution of the Union of Burma. *Wash. L. Rev. & St. BJ*, 23, 288.
- Shachar, A. (2000). On Citizenship and Multicultural Vulnerability. *Political Theory*, 28(1), 64–89. <https://doi.org/10.1177/0090591700028001004>
- Wansai, Sai (2016, May 23) ‘Rebuttal: On Secession Clause and Panglong Agreement’. *BNI Multimedia Group*. <https://www.bnionline.net/en/opinion/op-ed/item/1722-rebuttal-on-secession-clause-and-panglong-agreement.html>
- Watts, R. L. (2005). Comparing forms of federal partnerships. In *Theories of Federalism: A reader* (pp. 233-253). Palgrave Macmillan, New York. http://dx.doi.org/10.1007/978-1-137-05549-1_22

Acknowledgement

We would like to express our special thanks to the organization that provided financial support to the publication of this research brief. Our appreciation also goes to ENAC’s executive director and the international federal and constitutional experts and their institutions for their substantive reviews, and to ENAC’s researchers and research intern for their proofread of this research brief.

တိုင်းရင်းသားလူမျိုးများရေးရာစင်တာ
(ပြည်ထောင်စုမြန်မာနိုင်ငံ)
Ethnic Nationalities Affairs Center
(Union of Burma)