

Union of Myanmar

The State Peace and Development Council

The Union Judiciary Law

(The State Peace and Development Council Law No. 20 / 2010)

The 5th Waning Day of Thadingyut, 1372 M.E.

(28th October, 2010)

Preamble

Since it is provided in Section 443 of the Constitution of the Republic of the Union of Myanmar that the State Peace and Development Council shall carry out the necessary preparatory works to implement the Constitution, it has become necessary to enact the relevant laws to enable performance of the legislative, administrative and judicial functions of the Union smoothly, to enable performance of works that are to be carried out when the various Hluttaws come into existence and to enable performance of the preparatory works in accord with law.

As such, the State Peace and Development Council hereby enacts this Law in accord with section 443 of the Constitution of the Republic of the Union of Myanmar, in order to implement the judicial works smoothly in accord with the Constitution of the Republic of the Union of Myanmar.

Chapter I

Title, Enforcement and Definition

1. (a) This Law shall be called **the Union Judiciary Law**.
- (b) This Law shall come into force commencing from the day on which the Constitution comes into force.

2. The following expressions contained in this law shall have the meanings given hereunder:

- (a) **Constitution** means the Constitution of the Republic of the Union of Myanmar.
- (b) **Original case** means a case adjudicated by a relevant court under the original jurisdiction.
- (c) **Appeal case** means a case appealed to the Appeal Court against the judgment, decree or order passed by a Court in accord with law.
- (d) **Revision case** means a case opened by a Revisional Court to review judgment or order passed by a court in accord with law.
- (e) **Special appeal case** means a case admitted for special appeal against the final judgment, decree or order passed by the Supreme Court of the Union by exercising its original jurisdiction or appellate jurisdiction or revisional jurisdiction.

Chapter II

Judicial Principles

3. The administration of justice shall be based upon the following principles:

- (a) to administer justice independently according to law;
- (b) to dispense justice in open Court unless otherwise prohibited by law;
- (c) to obtain the right of defence and the right of appeal in cases according to law;
- (d) to support in building of rule of law and regional peace and tranquillity by protecting and safeguarding the interests of the people;
- (e) to educate the people to understand and abide by the law and nurture the habit of abiding by the law by the people;

- (f) to cause to compound and complete the cases within the framework of law for the settlement of cases among the public;
 - (g) to aim at reforming moral character in meting out punishment to offender.
4. No penal law shall have retrospective effect.
5. Any person who committed an offence shall be convicted only under the relevant existing law at the time of its commission. Moreover, he shall not be sentenced with a penalty more than that which is applicable under the said law.
6. Any person is convicted or acquitted by a competent court for an offence, he shall not be retried for such offence unless a superior Court sets aside such convicting or acquitting judgment and passes order for retrial.

Chapter III

Supreme Court of the Union

Formation

7. A Supreme Court of the Union is formed in accord with the provisions of the Constitution in the Republic of the Union of Myanmar.
8. Without affecting the jurisdiction of the Courts-Martial and the Constitutional Tribunal of the Union, the Supreme Court of the Union is the highest Court of the Union.
9. The Head of the Supreme Court of the Union shall be called the Chief Justice of the Union.

10. The Supreme Court of the Union shall sit in Nay Pyi Taw. If it is necessary, it may also sit at any other suitable place within the country.

Jurisdictions

11. Only the Supreme Court of the Union has original jurisdiction in the following matters:

- (a) matters arising out of bilateral treaties concluded by the Union;
- (b) other disputes between the Union Government and the Region or State Government except the Constitutional problems;
- (c) other disputes among the Regions, among the States, between the Region and the State and between the Union Territory and the Region or the State except Constitutional problems;
- (d) piracy, offences committed at international water or airspace, offences committed at ground or international water or airspace by violating the international law;
- (e) cases prescribed under any law.

12. Subject to any provision of the Constitution or any other law, the Supreme Court of the Union, has the jurisdiction on:

- (a) the appeal against the judgment, decree or order passed by the Supreme Court of the Union by exercising its original jurisdiction.
- (b) the appeal against the judgment, decree or order passed by the High Court of the Region or the State.

- (c) the appeal against the judgment, decree or order passed by other Court in accord with law.
- 13. The Supreme Court of the Union has the jurisdiction on revision in accord with law against the judgment or order passed by a Court.
- 14. The Supreme Court of the Union has the jurisdiction on confirming death sentence and appeal against the death sentence.
- 15. The Supreme Court of the Union:
 - (a) has the jurisdiction on a case transferred to it by its own decision;
 - (b) has the jurisdiction for the transfer of a case from a Court to any other Court.
- 16. The Supreme Court of the Union:
 - (a) has the power to issue the following writs;
 - (i) Writ of Habeas Corpus;
 - (ii) Writ of Mandamus;
 - (iii) Writ of Prohibition;
 - (iv) Writ of Quo Warranto;
 - (v) Writ of Certiorari.
 - (b) shall suspend the applications for the issue of writ in the areas where the state of emergency is declared.
 - (c) At the time of the occurrence of the following situation, the right to claim the rights contained in section 377 of the Constitution shall not be suspended unless it is required for public security;
 - (i) in time of war;
 - (ii) in time of foreign aggression;
 - (iii) in time of insurrection.

17. The power to issue writs by the Supreme Court of the Union shall not affect the power of other Courts to issue order that has the nature of writs vested according to the existing laws.

18. The judgments of the Supreme Court of the Union in all cases are final and conclusive and there shall be no right to appeal against them. However, the judgment, decree or order passed by the Supreme Court of the Union in the exercise of its original jurisdictions is entitled to be appealed against in order not to lose the right of appeal in accord with sub-section (c) of section 19 of the Constitution.

19. Special appeal may be allowed against the final and conclusive judgment, decree or order passed by the Supreme Court of the Union in the exercise of its original jurisdiction or appellate jurisdiction or revisional jurisdiction in accord with the procedures.

20. Except the case adjudicated by the special Appeal Court or the Full Bench, if the Chief Justice of the Union considers, that any problem on which action should be taken for the benefit of the public has arisen in any case finally adjudicated by the Supreme Court of the Union, he may cause the retrial of such problem by the special Appeal Court or by the Full Bench.

21. The Supreme Court of the Union may, in exercising its jurisdiction cause to adjudicate by one judge or by more than one judge as stipulated by the Chief Justice of the Union.

22. (a) Being the highest Court of the Union, the Supreme Court of the Union is the Court of final appeal.

(b) The Judgments of the Supreme Court of the Union which comprises the Chief Justice of the Union are final and conclusive in all cases and there shall be no right of appeal against them.

Duties and Powers

23. The Supreme Court of the Union:
- (a) shall supervise all Courts in the Union;
 - (b) may direct to adjudicate the important cases of the High Court of the Region or State, Courts of Self-Administered Division, Self-Administered Zone and District Courts by a bench consisting of more than one judge.
24. The Supreme Court of the Union is entitled to submit the bills relating to the judiciary to the Pyidaungsu Hluttaw in accord with the stipulated manners.

Appointing and Assigning Duties

25. From a minimum of 7 to a maximum of 11 judges, including the Chief Justice may be appointed in the Supreme Court of the Union.
26. The President shall appoint a person who fulfils the qualifications contained in section 301 of the Constitution and section 30 of this Law as the Chief Justice of the Union, with the approval of the Pyidaungsu Hluttaw.
27. The President shall, in co-ordination with the Chief Justice of the Union, appoint the persons who fulfil the qualifications contained in section 301 of the Constitution and section 30 of this Law as the Judges of the Supreme Court of the Union, with the approval of the Pyidaungsu Hluttaw.
28. The Chief Justice of the Union or the Judges of the Supreme Court of the Union shall be free from party politics.

29. If the Chief Justice of the Union or any Judge of the Supreme Court of the Union:

- (a) is a Civil Services Personnel, it shall be carried out in accord with the provisions of sub-section (b) of section 300 of the Constitution;
- (b) is a person who will contest in any forthcoming general election, if it is in conformity with the provisions of sections 120 and 121 of the Constitution, he is entitled to carry out the works of electoral party-organization and territory organization, commencing from the day of the announcement of the Union Election Commission to hold election, in order not to lose the right of being elected given under sub-section (a) of section 38 of the Constitution.

Qualifications

30. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall fulfil the following qualifications:

- (a) be a person not younger than 50 years of age and not older than 70 years of age;
- (b) be a person who has qualifications, prescribed in section 120 of the Constitution for Pyithu Hluttaw representatives with the exception of the age limit;
- (c) be a person who has not infringed the provisions of section 121 of the Constitution which disqualify him from standing for election as a Pyithu Hluttaw representative;
- (d) (i) be a person who has served as a Judge of the High Court of the Region or State for a minimum of five years;
or
(ii) be a person who has served as a Judicial Officer or a Law Officer not lower than that of the Region or State level for a minimum of 10 years;

or

- (iii) be a person who has practised as an Advocate for a minimum of 20 years;
- or
- (iv) be a person who, in the opinion of the President, is an eminent jurist;

- (e) be a person loyal to the Union and its citizens;
- (f) be a person who is not a member of a political party;
- (g) be a person who is not a Hluttaw representative.

Term of Office

31. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall hold office up to 70 years of age, unless any of the following causes occurs;

- (a) resigning from office on his own volition;
- (b) being impeached in accord with the provisions of the Constitution and terminated from office;
- (c) being found to be unable to continue in service due to permanent physical or mental disability according to the examination of the medical board stipulated by law;
- (d) death.

Filling and Appointing at the Vacant Office

32. If the Office of the Chief Justice of the Union or Judge of the Supreme Court of the Union is vacant for any cause contained in section 31, the President may appoint and assign duties to the new Chief Justice of the Union or new Judge of the Supreme Court of the Union, in accordance with the relevant provisions of the Constitution for the appointment of Chief Justice of the Union or Judges of the Supreme Court of the Union.

Impeachment

33. If it is necessary to impeach the Chief Justice of the Union and Judges of the Supreme Court of the Union, it shall be carried out in accord with the provisions of the Constitution.

Chapter IV

High Courts of the Region or the State

Formation

34. The High Court of the Region is formed in the Region and the High Court of the State is formed in the State in accord with the provisions of the Constitution.

35. The Head of the High Court of the Region or the State shall be called the Chief Justice of the High Court of the Region or the State.

36. (a) For the purpose of the judicial matter, the High Court of Mandalay Region is the High Court of the Courts situated in Nay Pyi Taw.
- (b) If any area within the Region or the State is designated as a Union Territory, for the purpose of the judicial matter, the High Court of the relevant Region or State is the High Court of the Courts situated in the said Union Territory.

37. The High Court of the Region or State shall sit in the city where the Government establishes office in the Region or State. If it is necessary, it may also sit in any suitable place in the Region or State.

Jurisdictions

38. The High Courts of the Region or State have the following jurisdictions in accord with law:

- (a) adjudicating on the original case;
- (b) adjudicating on the appeal case;
- (c) adjudicating on the revision case;
- (d) adjudicating on the cases prescribed by any law.

39. The High Court of the Region or State has the appellate jurisdiction on the judgment, decree and order passed by the Court of the Self-Administered Division, Court of the Self-Administered Zone or the District Court and the revisional jurisdiction on the judgment and order in accord with law.

40. The High Court of the Region or State has the jurisdiction:

- (a) to adjudicate on a case transferred to it by its own decision within its jurisdiction of the Region or State ;
- (b) to adjudicate on transfer of a case from any court to any other court within its jurisdiction of the Region or State.

41. The High Court of the Region or State may, in exercising its jurisdiction, adjudicate on cases by a judge or a bench consisting of more than one judge as determined by the Chief Justice of the Region or State.

Duties and Powers

42. The High Court of the Region or State shall supervise the judicial matters of the following Courts within its jurisdiction of the Region or the State in accord with the guidance of the Supreme Court of the Union:

- (a) if there is no Self-Administered Area in the Region or State:
 - (i) District Courts;
 - (ii) Township Courts.
- (b) if there is Self-Administered Area in the Region or State:
 - (i) in the Self-Administered Division:
 - (aa) Court of the Self-Administered Division;

- (bb) District Courts;
 - (cc) Township Courts.
- (ii) in the Self-Administered Zone:
 - (aa) Court of the Self-Administered Zone;
 - (bb) Township Courts.
- (iii) in the remaining areas;
 - (aa) District Courts;
 - (bb) Township Courts.
- (c) in the Union Territory:
 - (i) District Courts;
 - (ii) Township Courts.
- (d) other Courts established by law.

Appointing and Assigning Duties

43. From a minimum of 3 to a maximum of 7 judges of the High Court of the Region or State including the Chief Justice of the High Court of the Region or State may be appointed in each High Court of the Region or State.

44. The President shall, in co-ordination with the Chief Justice of the Union, relevant Chief Minister of the Region or State appoint a person who fulfils the qualifications under section 310 of the Constitution and section 48 of this Law as the Chief Justice of the relevant Region or State, with the approval of the Region or State Hluttaw.

45. The President shall appoint the persons in respect of whom the Chief Minister of the Region or State co-ordinates with the Chief Justice of the Union, and who fulfil the qualifications under section 310 of the Constitution and section 48 of this Law as the Judges of the High Court of the Region or State, with the approval of the Region or State Hluttaw.

46. The Chief Justices of the High Court of the Region or State and Judges of the High Court of the Region or State shall be free from party politics.

47. If any Chief Justice of the High Court of the Region or State and Judge of the High Court of the Region or State:

- (a) is a Civil Services Personnel, it shall be carried out as prescribed in sub-section (b) of section 309 of the Constitution.
- (b) is a person who will contest in the forthcoming general election if it is in conformity with the provisions of sections 120 and 121 of the Constitution, he is entitled to carry out the works of electoral party-organization and territory organization, commencing from the day of the announcement of the Union Election Commission to hold election, in order not to lose the right of being elected given under sub-section (a) of section 38 of the Constitution.

Qualifications

48. The Chief Justices of the High Court of the Region or State and Judges of the High Court of the Region or State shall fulfil the following qualifications:

- (a) be a person not younger than 45 years of age and not older than 65 years of age;
- (b) be a person who has the qualifications, prescribed under section 120 of the Constitution for the Pyithu Hluttaw representatives with the exception of the age limit;
- (c) be a person who has not infringed the provisions of section 121 of the Constitution which disqualify him from standing for election as a Pyithu Hluttaw representatives;
- (d) (i) be a person who has served as a Judicial Officer or Law Officer not lower than that of the Region or State level for a

minimum of five years or as a Judicial Officer or Law Officer not lower than that of the District level for a minimum of 10 years;

or

- (ii) be a person who has practised as an Advocate for a minimum of 15 years;

or

- (iii) be a person who, in the opinion of the President, is an eminent jurist;
- (e) be a person loyal to the Union and its citizens;
- (f) be a person who is not a member of a political party;
- (g) be a person who is not a Hluttaw representative.

Term of Office

49. The Chief Justices of the High Court of the Region or State and the Judges shall hold office up to 65 years of age, unless any of the following causes occurs:

- (a) resigning from office on his own volition;
- (b) being impeached in accord with the provisions of the Constitution and terminated from office;
- (c) being found to be unable to continue in service due to permanent physical or mental disability according to the examination of the medical board stipulated by law;
- (d) death.

Filling and Appointing at the Vacant Office

50. If the Office of the Chief Justice of the High Court of the Region or State or Judge of the High Court of the Region or State is vacant for any cause contained in section 49, the President may appoint and assign duties to the new

Chief Justice of the High Court of the Region or State or Judge of the High Court of the Region or State in accord with the relevant provisions of the Constitution relating to the appointment of the Chief Justice of the High Court of the Region or State or Judge of the High Court of the Region or State.

Impeachment

51. If it is necessary to impeach the Chief Justice of the High Court of the Region or State or Judges of the High Court of the Region or State it shall be carried out in accord with the provisions of the Constitution.

Chapter V

Courts

Formation

52. The following levels of Courts are formed in the Region or State, in accord with the provisions of the Constitution:

- (a) Court of Self-Administered Division;
- (b) Court of Self-Administered Zone;
- (c) District Courts;
- (d) Township Courts;
- (e) other Courts established by law.

Jurisdictions

53. The Court of Self-Administered Division, Self-Administered Zone and District Courts have the jurisdiction according to law, on the original criminal cases and original civil cases and the cases prescribed by any law.

54. The Court of Self-Administered Division, Self-Administered Zone and District Courts have the appellate jurisdiction according to law on judgment,

decree, order passed by the Township Courts and other Courts constituted by law and the revisional jurisdiction on judgment, order in accord with law.

55. The Court of Self-Administered Division, Self-Administered Zone and District Courts have the jurisdiction:

- (a) to adjudicate on the case transferred to it by its own decision within its jurisdiction of the Self-Administered Division or Self-Administered Zone or District.
- (b) to adjudicate on the case transferred from any Court to any other Court within its jurisdiction of the Self-Administered Division or Self-Administered Zone or District.

56. The Township Courts have the jurisdiction on the original criminal cases and original civil cases and the cases prescribed by any law.

57. The other Courts constituted by law have the jurisdiction on the cases stipulated by law.

Duties and Powers

58. The Courts of Self-Administered Division, Courts of Self-Administered Zone and District Courts, shall supervise the judicial matters of all Township Courts within its relevant jurisdiction in accordance with the guidance of the Supreme Court of the Union, High Court of the Region or State.

Chapter VI

Matters relating to the Constitution of the Union

59. In hearing a case by a Court, if a dispute arises as to whether the provision contained in any law is contrary to or in conformity with the Constitution or not;

- (a) if no resolution has been made by the Constitutional Tribunal of the Union on the said dispute, the said Court shall stay the trial and submit its opinion to the Constitutional Tribunal of the Union in accord with the stipulated manners and obtain a resolution;
- (b) in respect of the said dispute, the resolution of the Constitutional Tribunal of the Union shall apply to all the said cases.

60. The Chief Justice of the Union is entitled to submit matters directly to the Constitutional Tribunal of the Union, to obtain interpretation, resolution and opinion of the Constitutional Tribunal of the Union.

Chapter VII

Miscellaneous

61. The preparatory work done by the State Peace and Development Council before this Law comes into force for the implementation of this Law shall be deemed to have been carried out in accord with the Constitution.

62. After this law came into force, the Supreme Court of the Union, the High Court of the Region or State and Courts which have the jurisdiction in accord with the provisions of this Law shall adjudicate on the original case, appeal case, revision case and miscellaneous applications.

63. The Supreme Court of the Union shall prescribe the jurisdiction of the Courts of Self-Administered Division, Courts of Self-Administered Zone,

District Courts, Township Courts and other Courts established by law to adjudicate on the criminal cases and civil cases.

64. The Supreme Court of the Union shall carry out conferring of the jurisdiction, prescribing of the duties to the Judicial Officers to carry out as Judge in the Courts of Self-Administered Division, Courts of Self-Administered Zone, District Courts, Township Courts and other Courts established by law.

65. The Chief Justice of the Union and Judges of the Supreme Court of the Union are entitled:

- (a) to explain, converse and discuss in respect of the bills or matters relevant to the Supreme Court of the Union when they are attending the session of the Pyidaungsu Hluttaw with the permission of the Speaker of the Pyidaungsu Hluttaw, when they are attending the session of the Pyithu Hluttaw with the permission of the Speaker of the Pyithu Hluttaw, and when they are attending the session of the Amyotha Hluttaw with the permission of the Speaker of the Amyotha Hluttaw;
- (b) to explain, converse and discuss in respect of the bills or matters relevant to the Supreme Court of the Union, when they are attending the sessions of the Pyithu Hluttaw or Amyotha Hluttaw committees, commissions and bodies, with the permission of the Head of the said committee, commission or body.

66. The Chief Justice of the Union may submit, from time to time, important judicial situation relating to the Union or the public, either in the session of the Pyidaungsu Hluttaw or the session of the Pyithu Hluttaw or the Amyotha Hluttaw.

67. The Chief Justice of the Union and Judges of the Supreme Court of the Union may inspect prisons, prisoner camps and police lock-ups throughout the Union, for enabling convicted persons and those under detention to enjoy lawful rights to which they are entitled and for preventing undue delay in the trial of cases.

68. The Chief Justices and Judges of the High Court of the Region or State, Judges of the Court of Self-Administered Division, Self-Administered Zone and Judges of the District Courts may inspect prisons, prisoner camps and police lock-ups within their jurisdiction, for enabling convicted persons and those under detention to enjoy lawful rights to which they are entitled and for preventing undue delay in the trial of cases.

69. The Chief Justices and Judges of the High Court of the Region or State are entitled to explain, converse and discuss on the matters relating to the High Court of the Region or State when they are attending the Hluttaw sessions, with the permission of the Speaker of the Region Hluttaw or the State Hluttaw.

70. All courts existing on the day of coming into force of this Constitution shall continue to exercise their jurisdiction until courts established by the Constitution come into existence. The pending civil cases, criminal cases and revenue cases in the said Courts shall be disposed of in accord with laws applied at the time of initiation of the trial.

71. The existing rules, rulings, procedures, notifications, orders, directives and manuals may continue to be applied in so far as they are not contrary to the Constitution or this Law.

72. This Law may be amended, inserted or repealed by the Pyidaungsu Hluttaw formed in accord with the Constitution of the Republic of the Union of Myanmar. This Law shall remain in force in so far as it is not repealed by the Pyidaungsu Hluttaw.

73. The Supreme Court of the Union may issue rules, regulations, notifications, orders, directives, procedures and manuals as may be necessary.

74. The Judiciary Law, 2000 (The State Peace and Development Council Law No. 5/2000) is hereby repealed.

Sd/ Than Shwe

Senior General

Chairman

The State Peace and Development Council

The Union Judiciary Law

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