

Myanmar's Kingship and Judicial System in Konbaung Period

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Abstract

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

Key words: Kingship Theory, Dhammathat

Introduction

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

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

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Myanmar believed in the glorious status of the king. He was regarded as "one who possessed unparalleled power," which could not be matched by anyone, because he got his by virtue of his past meritorious deeds, *Kutho*, that created his power and glory in present life, and thus he became a powerful lord (or) possessor of an ultimate power. (*phun rhan kan rhan bkef; & Sifu H& Sif*). He was also entitled "king of law" *Tayamin* and *Tayasawngthaw Min Myat* "exalted holder of law and Justice" (*w&m; apmifhaomrif; jrwf*). These titles illustrated how the king could not survive unless he ruled according to the law. But the people accepted absolute sovereignty without any resentment because of their strong belief in *kama* (uH). The

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King's unassailable position and high status was the result of his past "kutho" merit accumulated in his previous existence.¹

Myanmar believed that benevolent kings not only commanded the love and esteem of his subjects but also those of the nats (spirits) who controlled the country's climatic conditions. If a king misbehaved there would be drought in the country and if the crops failed, the blame would be put on the king. Good harvest implied favors of gods and people would extol the virtues of their kings as their true protector and would pray for his longevity.²

Myanmar kings had more than one kind of bhisik, these were the

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| (1) Muddhabhisik | - anointing of the head |
| (2) Rajabhisik | - coronation of the throne |
| (3) Mahesibhisik | - coronation of the chief queen |
| (4) Uparajabhisik | - installation of the crown prince |
| (5) Jeryyabhisik | - to win victories |
| (6) Scriyabhisik | - to renew one's glory |
| (7) Mangalabhisik | - to celebrate the possession of white elephant. |
| (8) Ayudhigabhisik | - consecration to gain long life |
| (9) Mahabhisik | - celebrated to increase prosperity |
| (10) Sakalabhisik | - held to ensure peace in the empire. ³ |

Many of the concepts of kingships and courts and ceremonies were based on Indian tradition, especially the bhisik ceremonies, Myanmar Kings also claimed their descent from Mahathamata and the Sakya, According to the Hindu belief the election of the first King Mahathamata on earth was necessitated by lawlessness in the country and the king was bound by a contract in the form of coronation oath to rule over his subjects humanely and according to the law of the land, This idea of elective kingship on contractual basis was accepted by the king. Myanmar kings did not claim to rule by "Divine Right" and the oaths taken by the king during the coronation clearly indicated this fact. Coronation oaths administered to the king were by people representing various strata of society, such as Princess, Brahman, and rich men. Only the greatest and the strongest of kings dared to subject themselves to the stringent requirements of the Muddha Bhisik Ceremony. King Mindon performed the Muddha Bhisik and his prestige was greatly enhanced in the eyes of his subjects. The king's role as protector of the people was revealed as he vowed to watch over them as though they were his sons and daughters.⁴

Myanmar kings were also aware of the Buddhist religion as a cohesive force, a solid factor contributing towards centralization of the state. The king's meritorious deeds, such as construction of pagodas and temples, great zeal in protecting and promoting the religion, shows his appreciation of the spiritual and material values of Buddhism. Buddhist concepts also played an important role in sustaining Buddhism and the support of the Sangha by the king was an important factor in strengthening the king's position as a patronage of sasana.⁵

¹ Dr. Thoun, Myanmar Kingship in practice during the reign of Mindon, Yangon, JBRS, XI, Dec, 1959. P-20, (Hereafter cited as Dr. Thoun, Myanmar Kingship.)

² Ibid. P-21.

³ U Tin, jrefrmrif;tkyfcKyfyHkpmwrf;ESifh bdk;awmfbk&m;\&mZowfac:aom trdefYawmfwrf;BuD; yxrydkif; (Myanmar Kingship Administration paper and Bodawpaya's Rajathat or Royal Order, Part I, Yangon, Baho Press, 1970, P-55. (Hereafter Cited as U Tin, Bodawpaya's Rajathat or Royal Order)

⁴ Dr. Thoun, Myanmar Kingship, P-24.

⁵ Ibid, P-25.

Myanmar traditional belief that a king must be virtuous demanded exemplary, good in behavior, and his virtue should be a source of inspiration to his people. In Magadewa, the king's position was "if the leader walked straight, the rest would walk in like manner." If he showed good example, the moral aspects of his rule would have a great impact on his subjects.¹

Judicial system is the most important component in any administration. From time immemorial, Myanmar had possessed a legal system, on which the administrators had relied on when judging civil and criminal cases. During Konbaung period, the kings relied on the traditional legal system, but additions were occasionally made by Royal Edicts and declarations as circumstance demanded. Moreover, new legal treatises were also written to complement the existing ones.²

In the early history of Myanmar, the Pyu and Bagan kingdoms had relations with India and there were Brahman astrologers and scholars at the court of kings. Scholars in Myanmar (who were Buddhist monks or ex-Buddhist monks were well versed in Buddhism and also were acquainted with Indian code of law.) There were similarities between the Mon code of law, "Wagaru Dhammathat" to the code of Manu. Indian law was probably introduced prior to 10th century AD from Southern India into Myanmar and this law was adopted by Mons. Basing on their law code Myanmar kings wrote their Dhammathat. During Konboun period Manukye Dhammathat (Alaungmintaya) Shwe Myin Dhammathat (Naungdawgyi) Souhta Manu (Shinbyu Shin) Warulunka (Sagaing Min) Dhammathara Pyinsara (Tharawaddy Min) were written and used as Myanmar Dhammathats.³

In deciding legal cases both civil and criminal the Myanmar Dhammathats are the highest legislative treatise on which the Myanmar administration depended. Razathat or Ameindaw pyandan were occasionally declared by the king to supplement the Dhammathat in deciding the criminal case. As the social and material values change in times, the royal orders were occasionally proclaimed, so that existing legal code should be in accordance with the changing circumstances. Even in the decision by Razathat, if a legal dispute could be settled (or) solved by the agreement of both parties (ie a compromise). For that reason, in Myanmar's way of judging cases, there is a saying that "Razathat can dominate Dhammathat, but agreements can dominate Razathat". If legal cases cannot be solved by Dhammathat, judge depended on Razathat, and if Razathat failed, settlement could be made by asking the plaintiff and defendant to make amicable agreement among them.⁴

In Myanmar legal system roughly, six types of cases were categorized concerning:

- (i) Civil cases (Yayamahmus)
- (ii) Criminal cases (Yazawuthmus)
- (iii) Hereditary Succession (Yoyasetkhanhms)
- (iv) Religious cases (Bathayehmukhins)
- (v) Revenue cases (Akundawhms)
- (vi) Political cases (Naingganyehmukhins)

¹ Dr. Thoun, Myanmar Kingship, P-25.

² U Tin, jrefrmrif;tkyfcKyfyHkpmwrf;ESifh bdk;awmfbk&m;\&mZowfac:aom trdefYawmfwrf;BuD; wwd,ydkif; (Myanmar Kingship Administration paper and Bodawpaya's Rajathat or Royal Order, Part III, Yangon, Baho Press, 1970, P-25. (Hereafter Cited as U Tin, Bodawpaya's Rajathat or Royal Order, Part III.)

³ Mg Kyu Sein, The origin and Development of the Dhammathats, Yangon, JBRs, XVII Part-II, 1966, P-20. (Hereafter Cited as Mg Kyu Sein, The origin and Development of the Dhammathats.)

⁴ U Aung Than Tun, acwfav;acwfjrefrmhw&m;pD&if&; (Myanmar's Judicial System of Four Periods), Yangon, KalaungPyan Press, 1997, P-30. (Hereafter Cited as U Aung Than Tun, Myanmar's Judicial of Four Periods.)

Kinwun Mingyi had written Attasamikhepa Wannana Dhammathat (တၢ်မိၤကွၢ်ပုၤဝၢ်) and Digest of Myanmar Buddhist law on inheritance and marriage. (ဝဲးဟံး; န့ၣ်မိၤကွၢ်ပုၤဝၢ် တၢ်မိၤကွၢ်ပုၤဝၢ် ဝဲးဟံး; န့ၣ်မိၤကွၢ်ပုၤဝၢ်) Specific subjects such as (Kabha le Yat Ciyinhon) The law concerning the contracting of debt, the law of giving and taking (in marriage) the law of sale and purchase, the law of slavery, the law of inheritance, the law of gambling, the law of assault, the law of theft, the law regarding the employment of persons, the law of purchase of property, the law dealing with adultery, the law of divorce.²

When punishment were given to the judicial officers because of their corruption, these punishments are meted out according to their status and if an official repeated the offence the second time he would get a harsher punishment and if it is repeated again he will get more severe punishment. For example, the first offender will get a week, second offender will get one month's imprisonment and third offender will get three months imprisonment.⁴

If the defendants were found guilty they were imprisoned according to the sentences carried out by Royal order. By the intervention of revered monks some criminals were pardoned, and some even from death sentences. The king had ordered the officials to examine judicial cases thoroughly so that no misjudgments could be carried out. Death penalties were to be given only by the Hluttaw; cases of thefts and dacoits are to be considered leniently.⁶

⁶ U Tin, *Bodawpaya's Rajathat or Royal Order*, Part III, P-70.

A judge had to swear an oath to take no bribes, to interpret the law honestly without any impartiality for the rank, wealth and prestige, to keep a sharp lookout on the local officials and to report to the king if they break rules and regulations. From these it is evident that the king wanted his officials to be honest, straightforward and kind to the common people. The judges had to pledge that while in office he would not take a concubine or mistress.¹

In Myanmar judicial system no arbitrary decisions were made as the British accused because the Myanmar judges had to base their decisions on Dhammathat, customary law and Phyathtons. When Myanmar went to court, he hoped to have an amicable settlement of their disputes with the arbitration of a man, who had wisdom and authority.²

Conclusion

Kongaung dynasty, when Alaungmintaya become king, the chronicle attempted to trace his descent from Anawrahta of Bagan King and Anawrahta was traced to Mahathamata, the first on earth King. Myanmar Kings were also aware of the Buddhist religion as cohesive force, a solid factor contributing toward centralization of the state. Myanmar traditional belief that a King must be virtuous demanded exemplary, good in behavior, and his virtue should be a source of inspiration to his people. When one examines the judicial system of King Mindon, it was found that the laws from time immemorial had been incorporated into the written treatises. Myanmar Dhammathats based on that of Mon Dhammathat could be traced back to Manu Dhammathat of the Indians. But as time goes on Myanmar Kings had occasionally proclaimed Ameindaws (or) Razathat which were also regarded as law. As practical cases were decided, Phyathtons were recorded by the judges and these Phyathtons were also included as part of the legal system.

References

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| Aung Than Tun, U | ခေတ်လေးခေတ်မြန်မာတရားစီရင်ရေး (Myanmar's Judicial System of Four Periods), Yangon, Kalaungpyan Press, 1997. |
| Ba Thaung, Mg | ကုန်းဘောင်ခေတ်မြန်မာတရားစီရင်ရေး (Myanmar Judicial System of Konbaung Period) M.A Thesis, Mandalay University, 1975. |
| Kalar , U | မဟာရာဇဝင်ကြီး တတိယပိုင်း (Great Chronicle Part-III) Yangon, Pyay Gyi Man Daing Press, 1962. |
| Kyu Sein , Mg | The Origin and Development of Dhammathat, Yangon, JBRS, XVII, Part-II, 1966. |
| Tin, U | မြန်မာမင်းအုပ်ချုပ်ပုံစာတမ်းနှင့် ဘိုးတော်ဘုရား၏ ရာဇသတ်ခေါ်သော အမိန့်တော် တမ်းကြီး၊ ပထမပိုင်း (Myanmar Kingship paper and Bodawpaya's Razathat or Royal order, Part-I) Yangon, Baho Press, 1970. |
| Tin, U | မြန်မာမင်းအုပ်ချုပ်ပုံစာတမ်းနှင့် ဘိုးတော်ဘုရား၏ ရာဇသတ်ခေါ်သော အမိန့်တော် တမ်းကြီး၊ တတိယပိုင်း (Myanmar Kingship paper and Bodawpaya's Razathat or Royal order, Part-III) Yangon, Baho Press, 1970. |
| Tin Chont, Mg | မြန်မာမင်းခမ်းမင်းနားများကျမ်း (Myanmar Minkhanminnar thesis) M.A Thesis, Mandalay University, May, 1991. |
| Thoung, Dr. | Myanmar Kingship in practice during the reign of Mindon, Yangon, JBRS, XI, Dec, 1959. |
| Yi Yi, Daw | Judicial System of King Mindon, JBRS, XIV, June, 1962. |

¹ U Aung Than Tun, Myanmar's Judicial of Four Periods, P-35.

² Mg Ba Thaung, Myanmar Judicial system of Konbaung period.