

Presentation on Constitutional Justice Doctrine and Practice for Chairperson of the Constitutional Tribunal of the Republic of the Union of Myanmar

Since the democratization changes determines the role, Constitutional Tribunal of Myanmar, the very first of its kind in Myanmar, play an important role in the promotion of democracy and constitutional order.

Constitutional Tribunal of Myanmar has the judicial power and obligation to decide all constitutional cases if the jurisdictional and procedural requirements are met. The core function of the Tribunal is linked closely to the adjudication of constitutional cases, constitutionality of laws, constitutionality of the activities of the executive authorities, constitutional review of the legislature, executive and judicial power.

Principal position of the Tribunal, through the process of adjudication, render to guaranteeing constitutional principles, freedom and constitutional development. The Tribunal takes into account of the national values, norms and standards enshrine in the Constitution if it deems necessary and relevant.

Speedily democratization, achievement in rule of law, economic and social development are the essential feature in the constitutional practice which ensure a judicially balance between the authorities and freedom.

The Constitutional Tribunal of Myanmar is of the view that the fundamental rights and constitutional values (in other words) constitutional norms should be implemented systematically, so as to make the systematic social development in practice.

Improvement of constitutional review will contribute to the successful implementation of constitutional justice. Myanmar, newly democratic state, views constitutional review as a cornerstone of the judicial power. This power

entails the implementation of rule of law and to check the action of the executive branch in accord with constitutional guarantees.

The independence and impartiality of the Constitutional Tribunals lead to the credibility and trust in the Tribunal to prove as an important institution. It also promotes protection as well as integrity of the Constitution.

The objective is to build the constitutional order and uphold the constitutional principles and provisions against any legislation or other governmental action that might contravene the Constitution.

The Constitution endows the Constitutional Tribunal with the power to settle disputes between a state and a region, as well as disputes among the regions and states themselves. The Tribunal evaluates, through legal proceedings, legislation and other government acts to ensure that they are in compliance with the Constitution.

Under the provisions of Myanmar Constitutional Tribunal Law, constitutional review occurs only in the context of a specific case or dispute. In other word, review procedures take place when the dispute complains directly submitted to the Tribunal alleging a violation of the constitution or interpretation of the constitution. The Tribunal considers only disputes or laws brought before it by authorized persons or other branches of government in accordance manner prescribed in law.

Since the mandate of the Tribunal is not available for the individual complaints, the important role in promotion and protecting of citizens' constitutional rights is under the authorization of the Union Supreme Court. A citizen whose right and liberties recognized by the Constitution has been violated may file the Supreme Court by applying writs. Furthermore, the citizen can also request the Supreme Court to make a referral to the Constitutional Tribunal for a

decision that a provision of law appeared in their case is contrary to or inconsistent with the Constitution.

As for the conclusion, I want to note down some words: the effective implementation of constitutional review guarantees the constitutional stability and prevent social injustice in light of constitutional principles and values.

Constitutional Courts are entrusted the responsibility for the implementation of constitutional provisions and demonstrably the essence and substance of the Constitution.

As the Constitutional Courts are resulted from the process of functional and institutional establishment, its functions and powers should be strong, balanced and the systemic character of constitutional control.

An appropriate balance can improve the function of the government and improve the legitimacy of the actions of other branches.

The Constitutional Tribunal of Myanmar will strive, to enhance the collaboration of all the Constitutional Courts, Tribunal and similar Institutions so as to ensure beneficial outcomes for all of us.
