

Courts Administration in Konbaung Period

Aye Aye Myaing*

Abstract

An important point in Konbaung Period judicial administration was the establishment of various courts of justice for hearing legal cases. For administering justice expeditiously and unerringly, different levels of courts were established both at the royal capital and in the provinces including rural areas as follows: the *Hluttaw* (Supreme Court), the *Taya-yon* or *Tayama Yon* (Civil Court), the *She-yon* or *Yazawut Yon* (Criminal Court), the *ANauk-yon* or Western Court (Women's Court), the courts of *Khayaing Wuns* (divisional *wuns*), *Myo-wuns* (district *wuns*) and *Thugyis* (town and village headmen). Moreover, in the reign of King Mindon *Khonyondaws* (courts of law) and *Twe-bet-yon* (the mixed court) were established. In the reign of King Thibaw the *tayahtanagyoat-yon* (Chief Court) and *asiawewinhmudaw mattawmya -yon* (Court of the Council of Ministers) were established.

Key words : various courts of justice, different levels of courts, King Mindon, King Thibaw

Introduction

In Myanmar judicial administration of the Konbaung Period, there were Yazathat and Dhammathat. All personal matters of the king had to be decided in accordance with the king's wishes and the cases involving common citizens, such as theft, legal cases involving a family disputes and inheritance suits, had to be decided according to the Dhammathat. The administration of justice in the Konbaung Period fell into two categories: that in the royal capital and that in the provinces.

Regarding the administration of justice in the Konbaung Period, the courts that decided the legal cases that took place in the royal capital were: the *Hluttaw*, *She-yon*, *Nauk-yon*, *Taya-yon*, *Windaw Lemyethna Win Yon* (Offices of the commander of the troops guarding the four cardinal points of the palace) and the *Pyin-ein Wun-eins* (The houses of the *Pyin-ein Wuns* of the *She-yon* and the *Nauk-yon*. *Pyin-ein* "outside house" means "concerned with the women") concerned.¹ The *Hluttaw* in the royal capital where the legal cases were decided served as the Supreme Court, the appellate jurisdiction of which was subordinate only to the king. It had jurisdiction in suits without pecuniary limit.² The officials of the *Hluttaw* were four *wungyis*, the *myinzu wungyi* (the *wun* charge of cavalry units), the *athiwun* (the *wun* in charge of other service units), the *myedaing amat* (the *amat* for land survey), four *wun-dauks* (deputy *wuns*), four *nagandaws* (receivers of orders), two *sayeidawgyis* (head clerks), two *myinsayegyis* (clerks of the cavalry units), four *ameindawyes* (writers of orders), four *ahmadawyes* (writers of instructions), four *athonsayes* (general clerks), four *aweyauks* (officers in charge of strangers), four Myanmar *thangans* (Myanmar interpreters), three Shan *thangans* (Shan interpreters), two Yun *thangans* (Yun interpreters), two Khasi *sabyans* (Khasi translators), two *tayoke sabyans* (Chinese translators), four *athisayes* (clerks of the *athiwun*), four *ameindawyas* (lawyer, pleader), the *thitsadawye* (writers of oaths), the *pyaw neyacha thwethaukkyi* (Pyaw usher), the *hlutsaunt thwethaukkyi* (the *thwethaukkyi* for the *Hluttaw* guard), the *letnettaik wun* (the *wun* in charge of the armoury), two *letnettaiks* (controllers of the armoury), the *kathaungmyaungtaikso* (controller of the national treasury), the *letsaungyutaikso* (controller of

* Lecturer, Dr, Department of History, Yadanabon University

¹ "Myan-mar-min Do Yon A-sint-sint Htabon" (How Myanmar Kings established Different Levels of Courts), *Parabaik* MS.199, Yangon, National Library

² U Maung Maung Bya, "Myan-mar-min-mya Let-htet Ôke-chôke-pôn" (Administration under Myanmar Kings), Yangon, National Library, Tms, p.28 (Henceforth: Maung Maung Bya, Tms)

the gifts repository) and the *lessaungyutaiksaye* (clerk of the gifts repository).¹ All these officials were appointed by the king, and the number of *Hluttaw* officials varied with the wishes of the king.²

The *She-yon* served as a criminal court. For the crimes committed within the city limits, the criminal cases would be tried and determined in the *She-yon*.³ The *She-yon* was empowered to try the cases of the theft, robbery, armed robbery, concealment of weapons, arson, destruction of religious edifices, murder, rape, prostitution, fraudulent use of false weights, measures and scales, bootlegging, production of opium, marijuana, slaughter of cattle and buffaloes and lese majesty.⁴ King Mindon ordered in 1853, about a year after he ascended the throne, that all the criminal cases were to be tried at the *She-yon*.⁵ This clearly indicates that the cases were heard elsewhere formerly. The officials of the *She-yon* were four *myo-wuns*, four *htaung-hmus* (prison directors), four *myo-sayes* (city clerks), four *shwe-pyi-sos* (alderman of the city), four *htaung-sachis* (prison secretaries), twelve shwemyodaw *dagabos* (Golden City gate wardens), and the myogyi *dagabos* (gate wardens for the whole city). However, the number of officers varied according to the wishes of the kings. The officials appointed in King Thibaw's reign were: three *myo-wuns* (*wun* in charge of a district, i.e provincial governor), four *htaung-hmus* (prison directors, there were some *htaung-hmus* in charge of villages with the same rank as *thu-gyis* during the early Konbaung Period), seventeen *myo-sayes* (city clerks), sixteen *htaung-sachis* (prison secretaries), twelve shwemyodaw *dagabos* and the myogyi *dagabos*.⁶ The cases triable by the *She-yon* would be examined by the *She Yon* officials either by themselves or together with the *wun-dauks* and *sayegyis* of the *Hluttaw*, and their findings would be presented to the *Hluttaw*. The *Yazawut-yon* had to inflict punishments as decided by the *Hluttaw*.⁷ Therefore, concerning major crimes — robbery, armed robbery, murder and rape, the *She-yon* had to inflict the penalties only after referring the cases to the *Hluttaw* and after receiving the orders from the *Hluttaw*.

Like the *She-yon*, the *A-nauk-yon* had jurisdiction over the civil and criminal cases involving palace ladies such as assaults, thefts, kidnappings, disputes over debts etc.⁸ The officials of the *Nauk-yon* were: four *A-nauk-wuns* (The highest officers of the *A-nauk-yon* or western court), four *A-nauk-wun Sayes* (secretaries to the *anaukwun*), four gadaw *sayes* (wives' secretaries) and four *A-nauk-yon sayedaws* (*Nauk-yon* secretaries).⁹ In the reign of King Thibaw, the king abolished the earlier custom and ordered that all the civil cases were to be decided in the *Taya-yons* (courts) under the *Taya Htana* (Department of justice), and that the criminal cases were to be tried by the *She-yon-daw*.¹⁰ It is probable that the king ordered that the criminal cases involving only palace ladies were to be tried at the *She-yon* so that the queen/chief queen would not be able to influence the judges. It can be assumed that that was

¹U Tin, *Myanmar-min Ôke-chôke-pôn Sa-dan Hnint Bodawphaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.iii, Yangon, Central Press, 1970, pp.171-72 (Henceforth: Tin, 1970)

²Ma Kyan, "King Mindon's Councillors", *Journal of the Burma Research Society*, Vol.XLIV, part.i, June 1961, p.43

³William J. Koenig, *The Burmese Polity (1752-1819)*, Center for Southeast Asia Studies, University of Michigan, 1990, p.101

⁴U Tin, *Myan-mar-min Ôke-chôke-pôn Sadan Hnint Bodawpaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.IV, Yangon, Government Printing, 1976, p.30 (Henceforth: Tin, 1976)

⁵"*A-meint-daw Hnint Min Chauk-pa U-pade*" (Royal and Laws of Six Kings), Parabaik MS. 379, Yangon, National Library

⁶Tin, 1976, 28

⁷Tin, 1976, 30-31

⁸Tin, 1976, 44

⁹Tin, 1976, 37

¹⁰Tin, 1976, 44

the reason why the *Nauk-yon* was deprived of its criminal jurisdiction. Indeed, the *Nauk-yon* only had to deal with matters concerning palace ladies.

The *Taya-yon-daw* was a civil court that possessed appellate jurisdiction over *myowun*'s courts. In the cases involving common citizens, both parties would have to be present at the court. The *Taya-yon-daw* especially had jurisdiction over *kyun-hmu* (disputes over the ownership of slaves), verbal abuse, land disputes, loan defaults and assaults, inheritance cases, *ein-hmu* (legal cases involving a family), etc.¹ All the civil cases had to be filed only at the *Taya-yon*, not at the *Hluttaw*. King Badon issued an order in 1786 that only the cases that were not settled by the *Taya-yon* were to be filed to the *Hluttaw*.² The officers of the *Taya-yon* were four *tayathugyis* (judges), four *taya-nagans* (clerks in a court of law acting as an executor of a judge's decree), four *taya-sayes* (clerks of the court), four *ameindawyas* (assessors), and a *kunbodein* (collector of court fees).³

The local courts in which civil and criminal cases that arose outside the city limits of the royal capital were tried, from lowest to the highest were: the *myo-ywa thugyi-yon*, *myowun-yon* and *khayaing-wun-yon*. The cases also were classified as civil and criminal cases. The civil cases had to be first decided by the lowest local courts. The appeals could be taken from these courts through different levels of courts to the king.⁴ In the Konbaung Period, lese majesty, sexual intercourse with a palace lady, theft, robbery, armed robbery, rape and murder were classed as serious crimes, and manslaughter, assault and verbal abuse were classed as minor crimes.⁵ With regard to criminal cases, after charging a person with crime at a village-level court, the accused had to be referred to the king, i.e., taken to the authorities — the governor, *myo-wun* or the *myo-sa* (government of towns (Shan States)) concerned.⁶ The village headmen heard all the legal cases without discriminating between civil and criminal cases.⁷ The *myo-ywa thugyi-yon*, which was the lowest court in the provincial judicial administration, was a court that could try minor civil and criminal cases. In cases between 20 *kyats* and 500 *kyats* in value, appeals against the decisions made by the *myo-ywa thugyi-yons* could be filed either to the *myo-yon* or to an arbitrator acceptable to the opposing parties without incurring any expenses. If a litigant failed to appeal to a higher authority, he would lose his case. If the decision made by the appellate court was the same as that made by the trial court, the decision would become final. If they differed, however, the litigants could take the matter to another arbitrator acceptable to both parties. This is prescribed in the civil jurisdiction law on 6 December 1878.⁸

The *myo-wuns* had to be at the *a-we-myo-wun-yon* daily except on the sabbath days to try the civil and criminal cases. The *a-we-myo-wun-yon* was a court with a jurisdiction over the suits not exceeding 1,000 *kyats* in value.⁹ The officers of the *myo-wun*'s court, after hearing the the civil and criminal cases were not empowered either to imprison or release the defendants.

¹Toe Hla, *Alaungmintayagyi Ei Konbaung Shwe-pyi* (The Golden City of Konbaung of King Alaungmintaya), Yangon, Sarpelawka Publication House, 2002, 2nd printing, p.59

²Tin, 1970, 57

³Tin, 1976, 50

⁴U Tin, *Myan-mar-min Ôke-chôke-pôn Sôdan Hnint Bodawpaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.II, Yangon, Central Press, 1965, p.161 (Henceforth: Tin, 1965)

⁵Khin Maung Hte, "Konbaung-khit Myan-mar Ôke-chôke-ye Tha-maing" (History of Myanmar Administration in the Konbaung Period), M.A Thesis, Mandalay Art and Science University, 1975, p.88

⁶Tin, 1965, 161

⁷Tin, 1965, 163

⁸Taw Sein Ko, *Hluttaw Hmat-tan* (Hluttaw Records), Yangon, The Socialist Republic of the Union of Burma Printing and Publication Enterprise, 1977, 5th Printing, p.29 (Henceforth: Taw Sein Ko, 1977)

⁹Tin, 1976, 263

They had to refer the matter to the *Khayaing-wun*, and could inflict prison sentence on the defendants or release them only if the *Khayaing-wun* ordered to do so.¹

Appeals against the decisions made by the *myo-wun-yon* could be made to the *Khayaing-wun-yon*, from which the appeals lay to the *Hluttaw*. The appellants had to file his/her appeal by presenting the examinations and decision made by the *Khayaing-wun-yon*. The people could not file suits to the *Khayaing-wun-yon* for the legal cases that arose in the towns and villages. They had to take the matters to the *myo-yon* first. For the oppression of the *myo-thu-gyis*, however, the people could bring the matters directly to the *Khayaing-wun-yon*.² The *Khayaing-wun* was empowered to decide the legal cases not exceeding 1000 *kyats* in value.³ Each *Khayaing-wun* had to send bi-monthly, reports on all the cases tried by the *myo-yons* under him to the king stating how the officers of the *myo-yon* examined legal cases, how they made their decision, whether they were competent in trying the cases.⁴ It seen that the *Khayaing-wuns* were given this duty so that they would inspect how the officers were carrying out their duties in administering justice, and so that their decisions would be just.

In Konbaung Period, apart from the courts which were established in the royal capital and that in the provinces, in the reign of King Mindon and King Thibaw the courts such as *Khonyondaws* (courts of law), *twe-bet-yon* (the mixed court), *tayahtanagyoatyon* (chief court) and *asiawewinhmudaw mattawmyayon* (court of the council of ministers) were established. In the reign of King Mindon, however, *Khon-yon-daws* (courts of law) were established on 28 April 1866 so that legal cases (both civil and criminal) would be tried expeditiously and justly.⁵ In the reign of King Mindon, the Myanmar government arranged so that the decisions over the legal cases involving both Myanmar and British citizens would be acceptable to both sides. Formerly, the British were dissatisfied with the Myanmar officials' deciding the disputes between Myanmar and British subjects. Complaining that Myanmar laws were inhumane, they asked the Myanmar government to let them decide such cases according to British laws.⁶ This demand was solved two years after the Anglo-Myanmar Trade Treaty was signed in 1867 during the reign of King Mindon. It was stipulated in article 5 of this treaty that a British Resident or Political Agent was to be posted at the Myanmar capital, and the legal cases arising between British subjects and Myanmar subjects were to be tried by a mixed court formed with the British representative and Myanmar judges. Accordingly, the mixed court (*twe-bet-yon*) formed with Myanmar and foreign judges was established at the capital to try the legal cases involving both Myanmar and foreigners.⁷ The establishment of the *twe-bet-yon* indicates that Myanmar had to grant extra-territorial jurisdiction to the British. It seems that the mutual resentment of the British and Myanmar subjects would have been abated by the establishment of this court. The *twe-bet-yon* which came into being in King Mindon's reign continued to exist in the early days of King Thibaw's reign. However, it ceased to exist after the administrative machinery was reformed with nine departments as against fourteen departments before in August 1880. The *twe-bet-yon* was just a court established in King Mindon's reign under pressure from the British.

Although appeals from the *Taya-yon* formerly lay to the *Hluttaw*, in the reign of King Thibaw, the *taughtanagyoat-yon* was placed above the *Taya-yon*. When the courts were classed in this way in King Thibaw's reign the *tayahtanagyoat-yon* became a court of law at

¹Taw Sein Ko, 1977, 45

²Taw Sein Ko, 1977, 44

³Tin, 1976, 263

⁴Taw Sein Ko, 1977, 45-46

⁵"Sintsoyon Upade Hpayay" (Instructions to be issued), Parabaik MS. 335, Yangon, National Library

⁶Nisbet, *Burma Under the British Rule and Before I*, London, Archibald Constable, 1901, p.32

⁷Myint Myint Than, "Mindon-min Let-htet Oke-choke-ye Hnint Si-bwa-ye A-che-a-ne" (Administration and Economic Conditions in the Reign of King Mindon), *Journal of Literature and Social Science*, Vol.II, part.iii, September 1969, pp.79

the capital. Two *tayahtanagyoats* were appointed at this court, and they were empowered to decide suits without restriction as to money value. In a suit exceeding one thousand *kyats* in value, the litigants could appeal against the decisions made by the *Taya-yon* to the *tayahtanagyoat-yon*. The *tayahtanagyoat-yon* also had to try the cases that arose in the provinces if the value exceeded a thousand *kyats*, as the local courts had no jurisdiction over them. Similarly, armed robbery, lese majesty, or disputes over succession to hereditary offices were not triable by the *myo-yon*. Hence these cases had to be tried by the *tayahtanagyoat-yon*. In case of suits exceeding five thousand *kyats* in value, appeals from the *tayahtanagyoat* lay to the *asiawewinhmudaw mattawmyayon*,¹ the appeals from which lay to the *Hluttaw*. It can be assumed that King Thibaw, following the example of the constitutional monarchs in the west ruling their kingdoms jointly with ministers, established the *asiawewinhmudaw mattawmyayon* were established in King Thibaw's reign so that judicial administration would become more systematic and legal cases would be settled speedily.

Conclusion

Although the Myanmar judiciary did not change much in the early and middle Konbaung Period, new courts were established in the later Konbaung Period. This would have expedited the judicial process. It was probably done to move with the times.

Acknowledgements

I would like to thank to U Ni Tut, Professor and Head of Department of History, Yadanabon University, for his guidance and constant encouragement in preparing this research paper.

References

Primary Sources

- "*A-meint-daw Hnint Min Chauk-pa U-pade*" (Royal and Laws of Six Kings), *Parabaik* MS. 379, Yangon, National Library
 "*Myanmar-min Do Yon A-sint-sint Htabon*" (How Myanmar Kings established Different Levels of Courts), *Parabaik* MS.199, Yangon, National Library
 "*Sintsoyon Upade Hpaya*" (Instructions to be issued), *Parabaik* MS. 335, Yangon, National Library

Secondary Sources

Published Books in Myanmar

- Khin Maung Hte (1975). *Konbaung-khit Myan-mar Ôke-chôke-ye Tha-maing* (History of Myanmar Administration in the Konbaung Period), *MA Thesis*, Mandalay Art and Science University,
 Kyan, Ma (1961). King Mindon's Councillors, *Journal of the Burma Research Society*, XLIV (i) June.
 Maung Maung Bya, U, *Myan-mar-min-mya Let-htet Ôke-chôke-pôn* (Administration under Myanmar Kings), Yangon, National Library, Tms.
 Myint Myint Than (1969). *Mindon-min Let-htet Oke-choke-ye Hnint Si-bwa-ye A-che-a-ne* (Administration and Economic Conditions in the Reign of King Mindon), *Journal of Literature and Social Science*, II (iii) September.
 Ohn Kyi (1972). *Thibaw-min Let-htet Oke-choke-ye-twin Pyu-pyin-yan Kyo-ban-chet-mya* (Attempts for Administrative Reforms in King Thibaw's Reign), *Thetkatho Pyinnya Padetha Sarsaung*, IV (iv) Yangon, Universities Press.

¹Ohn Kyi, "*Thibaw-min Let-htet Oke-choke-ye-twin Pyu-pyin-yan Kyo-ban-chet-mya*" (Attempts for Administrative Reforms in King Thibaw's Reign), *Thetkatho Pyinnya Padetha Sarsaung*, Vol.IV, part.iv, Yangon, Universities Press, 1972, p.83

- Taw Sein Ko (1977). *Hluttaw Hmat-tan* (Hluttaw Records), Yangon, The Socialist Republic of the Union of Burma Printing and Publication Enterprise, 5th Printing.
- Tin, U (1965). *Myan-mar-min Ôke-chôke-pôn Sadan Hnint Bodawpaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.II, Central Press, Yangon.
- (1976). *Myan-mar-min Ôke-chôke-pôn Sadan Hnint Bodawpaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.IV, Government Printing, Yangon.
- (1970). *Myanmar-min Ôke-chôke-pôn Sa-dan Hnint Bodawphaya Ei Ya-za-that Khaw-thaw A-meint-daw-tan-gyi* (Administration under the Myanmar Kings and King Bodawpaya's Royal Order called Yazathat), Part.III, Central Press, Yangon.
- Toe Hla (2002). *Alaungmintayagyi Ei Konbaung Shwe-pyi* (The Golden City of Konbaung of King Alaungmintaya), Sarpelawka Publication House, 2nd printing, Yangon.

Published Books in English

- Nisbet (1901). *Burma under the British rule and before I*, London, Archibald Constable.
- William, J. K. (1990). *The Burmese polity (1752-1819)*, Center for Southeast Asia Studies, University of Michigan.