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Abstract	<p>Judicial system during the reign of Myanmar Kings based on the traditional culture and custom. In those periods, there were Yazathats (Royal Orders) to settle criminal cases, “Lese Majesty”. Civil suits found in Bagan era were suits for land, for slaves, for inheritance and for monetary claims. In a suit occurred in AD1223, four Than Phama (Judges) jointly presided at Kun Thayar (Court House) and heard that cases. There were Dhammathats (Code of Law) with respect to Myanmar administration of justice. As a traditional custom of ancient Myanmar Kings, there were Kaba Leyat Trial Procedures (four types of trial by Ordeal) from Bagan period to Konbaung Period. Kaba Leyat trials procedure was practiced only if there were no witnesses or sound audience. It was known that in Innwa era there had been a distinction between administration of justice in royal capital and administration of justice in far-off regions. During the Nyaung Yan Period, the litigants who were dissatisfied with the decision of the lower courts had the right to appeal to Hluttaw. Moreover, a Royal Order in Nyaung Yan period instructed that any litigation must not be carried out during the raining season (i.e. cultivation season). During the Konbaung Period there were two kinds in administration of justice such as administration of justice in royal capital and in outstation regions. In the jurisdiction of the royal capital, cases were tried at Hluttaw, She-yon, Nauk-yon, and Taya-yon. Judiciary reforms were made during the period of King Thibaw, there were woman judges but it was abolished by Thibaw government. Myanmar Judicial system therefore was based upon nature of the Myanmar social sphere.</p>
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## **Judicial System During the Reign of Myanmar Kings**

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During the period of ancient Myanmar Kings, there were Yazathats (royal orders) to settle criminal cases. Criminal case, in those days, meant “lese majesty” (treason or any act against the Crown).<sup>1</sup> As found in documents, the earliest Yazathat, during the reign of King Kyaswar (Ad 1235-1244), was at stone inscription dated 6 May 1249 as follows:<sup>2</sup>

... If a person was found to be a thief, let the judge refer to Amunon treatise. Amunon treatise says: if a certain person commits a certain offence, he shall be inflicted such penalty. Accordingly the King used to convict a person of theft and inflict penalty on him in accordance with Amunon treatise. Ancient Myanmar Kings successively practiced Amunon doctrine. Amunon treatise might be regarded as criminal procedure for judicial trial ...

It meant that punishments for larceny (theft) must be done in conformity with Amunon procedure. Amunon might be regarded as criminal procedure. There were Dhammathats with respect to Myanmar administration of justice. The word Dhammathat is derived from “DhammaThatta” in Pali. It means a treatise on judicial trial.<sup>3</sup> Kin WunMingyi U Kaung defined Yazathat as “ the law that has to

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<sup>1</sup> Than Tun, *AthitMyinBamaThamaing (New Version of Myanmar History)*, Mandalay, MyakanTharSarpe, 1975, p.486 (Henceforth: Than Tun, 1975)

<sup>2</sup> NyeinMaung, *ShaeHaung Myanmar KyaukSarmyar, (Ancient Myanmar Stone Inscriptions)*, volume II, Publication corporation, Archaeological Department, 1982, pp.121, 138, 141 (Henceforth: NyeinMaung, 1982)

<sup>3</sup> HokeSein, *Pali-Myanmar Abhidan, (Pali-Myanmar Dictionary)*, Rangoon, Government Press, 1954, p.498 (Henceforth: HokeSein, 1954)

be observed in uniformity for settling customary and secular complications.”<sup>4</sup> In a stone inscription dated in 1249 AD, during the reign of King Kyaswar, four kinds of judges were instructed to refer to Dhammathats.<sup>5</sup> It means that there had been a stone inscription with respect to the term “Dhammathat”.

Civil suits found in Bagan era were suits for land, suits for slaves, suits for inheritance, and suits for monetary claims. Parties to the suits were of three kinds, viz. parties between monks and laymen, between king and commoners and between commoners. In a suit occurred in AD 1225, for thanphama (judges) jointly presided at Kunthayar (court house) and heard cases. It was learnt that a case was tried by lay judges even if the litigants of both parties were monks. Suits arising between King and monks were due to seizure of religious lands by the King. In those days religious lands were entitled to exemption of taxation. Accordingly if there increased more religious lands, then the taxes for the crown would decrease in number. In 1235 AD, King Kyaswar seized all the religious lands, both upland and lowland. On objection of the Sangahs, that case was tried by a panel of judges composed of six members. The King lost his brief in the case and he had to give back all the religious land.<sup>6</sup>

During Bagan period, it was found that cases were tried by a panel consisting of more than one judge. There had been various panels of judges, viz.

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<sup>4</sup>Kaung, Khinwun Min gyi, *A Collection of Texts from Thirty-Six Dhammathats*, Vol. I, Rangoon, Government Printing, 1898, p. 1 (Henceforth: U Kaung, 1898)

<sup>5</sup>Than Tun, *KhitHaungMyanamrYazawun* (Ancient Myanmar Chronical), Rangoon, Mahadagon book publication, 1969, pp.153-172 (Henceforth: Than Tun, 1969)

<sup>6</sup>Than Tun, 1969, 164

one composed of two members, three members, four members and six members.<sup>7</sup>

In Bagan era, if a deceased person had no heir to succeed to him and he donated all his property to three holy gems viz. Buddha, Dhamma (teachings of Buddha) and Sangahs. A stone inscription was inscribed as follows:<sup>8</sup>

I had no son left, no person worthy to be adopted and accordingly all my inheritance should be used for serving the Buddha.

As a traditional custom of ancient Myanmar Kings, there were Kabaleyat trial procedures (four types of trial by ordeal) from Bagan period to Konbaung period. Kabaleyat finger into molten laed), Ye-ngoat (submerging in water) In Manu-ChyeDhammathat, with respect to Kabaleyat trial, it was defined as follows:<sup>9</sup>

Your Majesty, in Kabaleyat trial, mipyaing means let the litigants, (i.e both the accuser and the accused person) take one tical of water each in buccal storage and light the candles equal in size and weight; one whose candle dies out first shall lose the case ...

It was learnt that Kabaleyat trial procedure was practiced only if there were no witnesses nor sound evidence. With refrence to a stone inscription found in Nyaung-pintha village, NahtoGyi Township in MyinKhyan District, it was learnt that a case was tried and decided by Ye-ngoat (ordeal by water).<sup>10</sup>

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<sup>7</sup>KhinKhinSein, "BaganKhitThyasyinye", (Adminstration of Justice in Bagan Period), Union of Burma Journal of Literary and Social Science, Volume II, Number 1, 1970, pp.9-38 (Henceforth: KhinKhinSein, 1970)

<sup>8</sup> Than Tun, 1969, 1968

<sup>9</sup>Ma Nu ChyeDhammathat, Volume IX, Yangon, Hanthawady Daily Press, 1903, pp.257-258 (Henceforth: Ma Nu Dhammathat, 1903)

<sup>10</sup>Than Tun, 1969, 159

## Ancient Myanmar Legal System In Innwa And Nyaung Yan Era

According to the Royal Order dated 19 June 1368, it was known that in Innwa era there had been a distinction between administration of justice in royal capital and administration of justice in far-off regions.<sup>11</sup> According to this Royal Order, the administration of justice was exercised by the administrative officials. Such administrative officials were ministers, Wun-dauk, Atwin-wun (minister of the interior), town governor, Sitke in far-off regions. It was instructed that if there came about a criminal or civil case, the judicial officers should not commit four kinds of bribery and corruption,<sup>12</sup> and they had to try the case thoroughly and properly according to law. The town chieftains in far-off regions were instructed that they must submit lese majesty (treason or any act against the crown) to the King. Anauk-wun Saye (secretaries of Anauk-wun) were instructed to try the cases relating to Anauk interior affairs, to collect lenient Kun-bo (court fees) and to mitigate the major cases and dissolve the minor cases for the interest of the poor subjects. Myanmar judicial trial was practiced on the basis of amicable negotiation.

*During the Nyaungyan period (1597-1752), a Royal Order mentioned that the litigants who were dissatisfied with the decision of the lower courts had the right of appeal to Hluttaw.<sup>13</sup>*

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<sup>11</sup> Than Tun, "Royal Order of King Badon", *Some observations on History and culture of early Myanmar*, Yangon, Myanmar Historical Commission, 2004, p.89 (Henceforth: Than Tun, 2004)

<sup>12</sup> Ba Oo, *Myanmar Okchoatye Pyinnaya, (Myanmar Administrative Arts)*, Myanmar, Bahoyi Daily Press, 1942, p.139 (Henceforth: Ba Oo, 1952)

<sup>13</sup> Dr. than Tun, (ed), *The Royal Orders of Burma, A.D. 1598-1885, Part One, A.D 1598-1648*, Kyoto University, 1983, p. 163 (Henceforth: Than Tun, 1983)

During the Nyaung Yang period, there was a Royal Order dated 20 June 1604. It instructed that any litigation must not be carried out during the rainy season (i.e. cultivation season), and filing suits against one another should commence use after the end of the rainy season.<sup>14</sup> The instruction was issued on the ground that Myanmar was an agricultural country and that the majority of farmers should not be delayed or embarrassed by litigation in the cultivation season.

During the Konbaung period similar Royal Order was issued on 6 June 1855.<sup>15</sup> Myanmar judicial system therefore was based upon nature of the Myanmar social sphere.

Emphasis of the material witness might be seen in the Royal Order issued on 2 June 1607<sup>16</sup> and 28 January 1795.<sup>17</sup> In Manu's Dhammathat we can also find punishment for perjury.<sup>18</sup>

In addition, if a witness was found guilty of perjury he might be taken action for perjury and the injured litigant had a right to claim for damages. Moreover the person guilty of perjury might be inflicted Maung-gyaw-dan (proclamation punishment) in conformity with Dhammathat. It might be regarded that the Dhammathat had laid down provisions to take action rigidly against perjury. Therefore the witness played an important role in Myanmar administration of justice. The costume for the lawyer was specified properly. A

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<sup>14</sup> Than Tun, 1983, 178

<sup>15</sup> Dr Than Tun, (ed), *The Royal Orders of Burma, A.D 1598-1885, Part Nine (A.D 1853-1885)*, Kyoto, The centre for southeast Asian studies, Kyoto University, 1989, p. 411  
(Henceforth: Than Tun, 1989)

<sup>16</sup> Than Tun, 1983, 193

<sup>17</sup> Than Tun, 1983, 96

<sup>18</sup> Ma Nu Dhammathat, 1903, 184-185

person wearing a colonial turban, bearing a bag, a cup and a fan might be known as a lawyer. Lawyer fees per hearing were 37 kyats and 5 mus. The lawyers in those days had to dwell outside the town as they were not free from lies. If junior lawyers told lies or impudent words they were liable to undergo a punishment. In the Royal Order issued on 22 November 1637, it was provided as follows:<sup>19</sup>

*The junior lawyers who tells lies or impudent words before Hlut-Yon (Supreme Court) shall be sentenced to whipping punishment for (100) lashes.*

During the Nyaung Yan period, administration of justice was pivoted on the Hultaw. The guiding principle during the time of ancient Myanmar King was amicable negotiation. The essence of Myanmar administration of justice was amicable negotiation and making both parties satisfied.

The distinction between criminal case and civil suit in those days was different from that of present days. During the Nyaung Yan period, theft, rape, assault, breach of trust, divorce and inheritance were prescribed as civil suits. Acts that caused dissatisfaction of the King, disobedience of the royal order, conspiracy of lese majesty (act against the crown), which act against the interest of the state were prescribed as criminal offences.<sup>20</sup> In Myanmar judicial system civil suits and criminal cases were decided usually on the basis of Dhammathat, royal order, ruling and previous judgments. However there was a very remarkable law maxim, “DhammathatKoYazathatchoatThi, YazathatKoGatiwutChoatThi”.<sup>21</sup> (Yazathat or Royal Order supercedes Dhammathat and promise or mutual agreement overrides Yazathat or Royal Order). In a nutshell, the aim and object of ancient Myanmar judicial system was to extenuate or mitigate the major case and dissolve the minor case.

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<sup>19</sup> Than Tun, 1983, 337

<sup>20</sup> Than Tun, 2004, 63, 64, 65

<sup>21</sup> Tin, 1970, 58-59

During the Nyaung Yan period, under the reign of King Thalun some acts or omission of royal servants were prescribed as criminal offences, such as failure of using the full emblems or insignia vested by virtue of office. The punishments inflicted upon the offenders were whipping which might be extended to (1000) one thousand lashes, removal from the office, carrying big and heavy post on the shoulder along the prescribed route, gathering food for elephants, and the most serious punishment was putting the offender to death by impaling. Some offenders' limbs were cut off in the public and the remains were not allowed to be buried, and exposed to vultures, crows and scavengers. Such cruel ways of killing the offenders were known as bad execution. It might be considered that the extent of the punishment was not consistent with the offence.<sup>22</sup>

Severe action taken against the royal servants for bribery and corruption was expressed in Royal Order issued in 1783 as follows:<sup>23</sup>

*After having declared the nature of their offence after beating a gong along the route in and outside the city, get the monetary coins molten and let it pour into the mouths of the offender found guilty of bribery.*

Under the reign of ancient Myanmar Kings, in the administration of justice, it was found two kinds were administration of justice in the royal capital and that one in outstation regions. In the jurisdiction of the royal capital, cases were tried at Hluttaw (Supreme Court), She-yon, Nauk-yon, and Taya-yon. In outstation regions, cases were tried by Khayaing-wun (minister in charge of a division), Myo-wun (an officer in charge of a district or a provincial governor), Myo-thugyi (the headman of a town), village headman, sitke (deputy of a myo-wun responsible for judicial affairs or a deputy commander on a military expedition), sawbwa

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<sup>22</sup> Than Tun, 2004, 65

<sup>23</sup> Dr. Than Tun, (ed), *The Royal Orders of Burma, A.D 1598-1885, part four (A.D 1782-1787)*, Kyoto University, 1986, p.284 (Henceforth: Than Tun, 1986)



(hereditary Shan regional chief), and Myosa (governor of the town). During the Konbaung period, there was distinction between civil suits and criminal cases. Civil suits consisted of adultery, assault, suit for divorce, loans and debts, and suits regarding slaves. Criminal cases were also divided into two kinds, i.e. serious crime and petty crime. High treason, rape, dacoity, robbery and murder were included in serious crimes. Accidental homicide, assault, and hnoat-lun hmu (verbal abuse) were included in petty criminal case. Punishments for serious criminal cases were death sentence, banishment, confiscation of property and Maung Kyaw-dan (proclamation) High treason, fornication with female courtiers, and premeditated murder were offences liable to death sentence. Larceny (theft), robbery, dacoity, rape to non-courtiers, etc were offences liable to banishment, imprisonment and Maung-Kyaw-dan (proclamation).<sup>24</sup>

Civil suits and criminal offences that occurred in the royal capital were heard and tried by Huluttaw (Supreme Court), Taya-yon, she-yon, Nauk-yon, Hmu-ma-ein, Wun-ein, Pyin-ein respectively.<sup>25</sup> If an acceptable decision was not reached, the litigants might put forward the appeals step by step, ultimately to Hluttaw. Hluttaw was the Supreme Court with the highest jurisdiction in those days.<sup>26</sup> Final appeal lay in Hluttaw.

The number of the appointment of the officer and staff was flexible in the discretion of the King. Occasionally, the King himself attended Hluttaw, and heard the trials. In the absence of the King, the Crown Prince or the younger brother of the King or the royal eldest son had to attend the Hluttaw and hear the trials on

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<sup>24</sup> Tin, 1976, 255

<sup>25</sup> Tin, 1976, 254, 255

<sup>26</sup> Ba Thaug, "Judicial Courts and Their Functioning in the Konbaung Period(1752-1885)", *Myanmar Historical Research Paper*, Volume III, June, 2001, pp.45-54 (Henceforth: Ba Thaug, 2001)

behalf of the King.<sup>27</sup> During the judicial trial at Hluttaw, the costume, emblems or insignia of the Royal officers, litigants and the lawyers were specifically prescribed. Such costume and emblems were issued at Hluttaw at a public expense. Lawyer for the prosecution or the plaintiff had to wear green turban and the lawyer for the defense was to wear red turban.<sup>28</sup>

Although the criminal court (She-yon) had to try criminal cases, e.g. theft, dacoity, rape, etc. She-yon could not pass severe sentences. Only the Hluttaw could pass severe sentences, such as death sentence, banishment, long term imprisonment, etc. She-yon (criminal court) could only pass the sentence for whipping, monetary fine, custody, and imprisonment for short days.<sup>29</sup> Hluttaw was the court with the highest jurisdiction and final appellate power.<sup>30</sup>

The Anauk-yon was the court which heard and tried the disputes arising among the female courtesans. The four Anauk-wuns had to settle the disputes of the female courtiers, queens and concubines.<sup>31</sup> At Anauk-yon, Anauk-yon officials had to hear and try the cases, such as assault, depriving one of his or her servants, monetary dispute, accusation and counter accusation. However, under the reign of King Thibaw, all the similar cases were to be tried by the Taya-htana Taya-yon. It

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<sup>27</sup> Tin, 1970, 155

<sup>28</sup> Aung Than Tun, *Myanmar Min Myar Taysiyinye, (Judicial System of Myanmar Kings)*, Rangoon, Kalaungpyan Book House, 1968, p.287 (Henceforth: Aung Than Tun, 1968)

<sup>29</sup> Tin, 1976, 30-31

<sup>30</sup> Ryuji Okudaira, "Judicial Administration under the Reign of King Badon", *Essays in Commemoration of the Golden Jubilee of the Myanmar Historical Committee*, 2005, pp.82-108 (Henceforth: Ryaji Okudaira, 2005)

<sup>31</sup> Myint Myint Than, "Mindon Min Let Htet Oatchoatye hnyint Sipwayeacheane" (Economic and Administrative Conditions during the Reign of King Mindon), *Union of Burma journal of literary and social science*, Volume II, Number 3, 1969, pp.59-100 (Henceforth: Myint Myint Than, 1969)

was prescribed that She-yon, Nauk-yon and Wun-ein, Pyin-ein concerned had not to try any cases.<sup>32</sup> Taya-yondaw (the court) was a place where criminal offences, civilsuits and disputes were settled according to justice and equity. The judges should decide the case in accordance with Dhammathats, rulings, previous judgments fairly and squarely, not inclined to ignorance and four kinds of corruptions.

According to the Yezagyo Khondaw ruling, there were six kinds of judge. They were as follows:<sup>33</sup>

1. The King
2. Arbitrator mutually chosen by the accuser and the accused person
3. Myosa, (One who held a town in fief) Ywaza (one who held a village in fife), Myo-ok (officer in charge of a small town), Myo-wun (the governor of a district), Thugyi (the headman of a village)
4. Khon thammat (judge) appointed by the King
5. Ahnyi-khan-khon (reconciliation judge)
6. Ahmu-saung she-ne (Specific lawyer)

In those days some criminal cases could also be decided by means of taking oath upoh sacred texts if there were no witnesses or documentary evidence. The suit valuation was fixed to a certain extent in such cases. The cases not exceeding (60) Kyats in value would be decided by taking oaths. The methods of taking oath varied in fifteen ways. The methods of taking oath varied according to the value of the suit and the social stature of the litigants. The litigants would be categorized into three kindsof social status, low, middle and high class. The palceswhere the

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<sup>32</sup> Taw Sein Kho, *Hluttaw Hmattan (Records of Hluttaw)*, Rangon, The Union of Socialist Republic of Myanmar press and Publication Corporation), 1977, p.30 (Henceforth: Taw Sein Kho, 1977)

<sup>33</sup> Tin, 1976, 268

litigants took oath varied in five kinds. There were certain social classes who princesses and high-ranked or low-ranked wuns (ministers).<sup>34</sup>

Khondaws (judge or arbitrator) were appointed in 1866. The term khondaw means judge or arbitrator appointed and recognized by the King. It was known that thirty-six khondaws were appointed under the reign of King Mindon. Those Khondaw, khonthamat (judges) had duties not only to hear the judicial trials but also to keep the decided proceedings systematically and submit them half-yearly to the King.<sup>35</sup> Specifications of the types of cases to be tried were specifically prescribed. There were twenty-six kinds of cases to settle for Khondaw.<sup>36</sup> Khondaws (judges) were rigidly prohibited from bribery and corruption. During the reign of King Mindon, the British-Myanmar judicial court was established in the royal capital on 22 August 1869.<sup>37</sup>

The British-Myanmar judicial court was known as Twephet-yon (Mixed Court). The reason why it was called Twebet Yon (Mixed Court) was that the cases arising between the Myanmar people and English men were to be heard and tried jointly by English Resident and Myanmar Hmu-mat (ministers or officials alike). In this way the British secured (Extra Territorial Right) jurisdiction in Upper Myanmar. Under the reign of King Thibaw, provisions regarding criminal cases and civil suits were promulgated.<sup>38</sup> The provisions instructed the judges to make fair and speedy trials. Twebet Yon (Anglo-Myanmar court or Mixed Court) still

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<sup>34</sup> Tin, 1976, 268

<sup>35</sup> Theik Pan Soe Yin, *Myanmar Naing Ngan Oatchoatye Thamaing, (Administrative History of Myanmar)*, Rangoon, Pinya Book House, P.142 (Henceforth: Soeyin, Myanmar Naing Ngan)

<sup>36</sup> Tin, 1976, 255, 256, 257

<sup>37</sup> Myint Myint Than, 1969, 79

<sup>38</sup> Taw Sein Kho, 1997, 28-37

remained during the reign of King Thibaw. However it remained no more when fourteen department administration was turned into none-department administration. Under the reign of King Thibaw a Royal Order regarding Fourteen-Department Administration was issued on 11 November 1878.<sup>39</sup> In later period, the two separate department, Taya Htana and Yazawut Htana, were united into a single department as Taya Yazawut Htana. During the period of King Thibaw, the courts of law were categorized in different levels. The formations of the courts were as follows:<sup>40</sup>

1. The Court of the village headman at town
2. The Court of Away Myowun (outstation minister or provincial governor)
3. The Courts of Khayaing wun (wun or minister in charge of a division)
4. Tayama Yon (Civil Court)
5. Taya Htana Choat Yon (Department Councillors)
6. The Court of Shwe Hluttaw
7. In the presence of the King

During the period of King Thibaw, Khondaws were abolished. Instead of them, She-yon, Nauk-yon, Taya-yon, Htana Choat yon and Asi Awei Wun Hmudaw Mattaw Yon were formed in addition to Hluttaw.

Judiciary reforms were made during the period of King Thibaw. Prior to the reign of King Thibaw, there were woman judges. For instance, queens, princesses, Mingadaw (the spouse of Minister or Lords), Apyodaw (maid of honour) who held town or village in fief were to try the civil suits in their specific jurisdiction. Clerks of queens, and princesses were also to try the case. If the litigants were dissatisfied with the decision, the appeal could be submitted to

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<sup>39</sup> Than Tun, 1989, 242-244

<sup>40</sup> Tin, 1976, 262, 263

queens, princesses, Apyodaw (maid of honour), respectively. If the litigants were dissatisfied with the decision of the queens or princesses, the appeal could be submitted to the King. After King Thibaw had ascended the throne, the magisterial power of the queens, princesses were handed over to the Taya Yon.<sup>41</sup> It was presumed that the Khondaws appointed during the reign of King Mindon were abolished. It was presumed that the laws and royal orders promulgated by King thibaw kept silent about such Khondaws. During the period of Myanmar Kings, it was known that the convicts or the criminals were occasionally given amnesty when queens or princesses did a great meritorious deed.<sup>42</sup>

There was class discrimination in awarding sentences on the basis of the social status. Sometimes, the offence committed by the litigants was of the same kind. However the penalty differed according to the social status of the litigants. Such an instance was apparently found under the reign of King Badon. By promulgating a rule, women were forbidden from cutting hair. Some female courtiers as well as slave women broke the rule simultaneously. Action was taken against both the female courtiers and slave women. Female courtiers were to be prosecuted at the court of law, but slave women were to be drowned with heavy stones tied to their bodies. But fortunately the penalty for slave women was with drawn later and extenuated to alight punishment.<sup>43</sup>

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<sup>41</sup> Ohn Kyi, "Thibaw Min Lethtat Myanmar Naing Ngan Okchoatye (1878-1885)" M.A Thesis, Mandalay Science and Arts University, 1968, 292 (Henceforth: Ohn Kyi, 1968)

<sup>42</sup> Ba Thaug, 1975, 163, 164

<sup>43</sup> Dr Yi Yi, "Myanmar Historical Documents", *Myanmar Research Journal I*, Yangon, Ministry of Culture, 1977, pp.60-102 (Henceforth: Yi Yi, 1977)

## Commentary

In a nutshell, the process of Myanmar judicial system through various periods existed, developed, and varied on the basis of the situation of Myanmar. The guiding principle of Myanmar judicial system through various periods was to extenuate or mitigate major cases and dissolve minor cases. Myanmar judicial system practiced negotiation as means for the purpose of making a speedy disposal of the case as well as making the litigant to spend less in every corner including court fees. Myanmar Kings, occasionally, issued royal orders to meet the aforementioned purposes. Throughout the ages, as the economy of Myanmar was chiefly based on agriculture, unlike in other countries, Myanmar kings prohibited litigation in the rainy season, by issuing royal orders. It could be hereby learnt that Myanmar judicial system was based on Myanmar social life. Many royal orders instructed that judges had to keep away from bribery and that the judges should make judgments or decision on the basis of reliable witnesses and sound proof of documentary evidence, and added that they should not be misled by the flattery or crookedness of the lawyers and they should make fair judgment on the face of the proceeding and in reasonable discretion. The lawyers in those days were regarded as ones involved in the act of telling lies. Accordingly they had no right to dwell in the town but dwell in specific areas outside the town. In some cases, where both the litigants failed to produce witness or sound documentary evidence, one of the Kaba leyat ordeals had to be conducted. Most scholars are of the opinion that it was not a consistent or reasonable trial. It was liable to endanger any litigant, both the accuser and the accused person. The guiding judicial principle practiced during the period of Myanmar Kings was to mitigate major cases and dissolve minor cases. However there was no uniformity regarding that principle in *less majesty*

cases, and it occasionally varied with respect to social status of the litigants, especially between crown servants and commoners.



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