



# Ending Ethnic Armed Conflict in Burma

## A Complicated Peace Process

A Collection of BCES Analysis and Briefing Papers

**Lian H. Sakhong**

and

**Paul Keenan**





# **Ending Ethnic Armed Conflict in Burma**

## **A Complicated Peace Process**

A Collection of BCES Analysis and Briefing Papers

**Lian H. Sakhong**

and

**Paul Keenan**

©2014 by the Burma Centre for Ethnic Studies

Layout & Design:

Sai Mawn

Cover design:

Myo Myint

BCES Press

Burma Centre for Ethnic Studies

Email: [info@burmaethnicstudies.net](mailto:info@burmaethnicstudies.net)

Website: [www.burmaethnicstudies.net](http://www.burmaethnicstudies.net)

Protected by copyright under the terms of  
the International Copyright Union: all rights reserved.  
Except for fair use in book reviews, no part of this publication  
may be reproduced in any form of by any means,  
electronic or mechanical, including photocopying, recording, or  
by any information storage or retrieval system without prior permis-  
sion in writing from the copyright holders.

ISBN: 978-616-361-942-6

Made in Thailand

Printed by Wanida Press, Chiang Mai

First Print 2014

## Contents

Preface	.....	i
PART - ONE: ANALYSIS PAPERS		
1. The Dynamics of Sixty Years of Ethnic Armed Conflicts in Burma	.....	1
2. Burma at a Crossroads	.....	29
3. Ending Ethnic Armed Conflicts in Burma?	.....	51
4. The 2008 Constitution and Ethnic Issues	.....	72
5. Changing the Guard	.....	91
6. Realising Change in Karen Politics	.....	107
7. Tensions and Concerns in Shan State	.....	118
8. The Kachins' Dilemma: Become a Border Guard Force or Return to Warfare	.....	127
9. The Kokang Clashes – What Next?	.....	143
10. The Dilemma of Military Dictatorship and Internal Peace in Burma	.....	153
PART - TWO: BRIEFING PAPERS		
11. Burma's Ethnic Ceasefire Agreements	.....	163
12. An Uneasy Peace	.....	180
13. The Border Guard Force	.....	186
14. People's Militia Forces	.....	192
15. Burma's By-Elections	.....	198
16. The Burmese Regime's Offensive Against the Shan State Progress Party/ Shan State Army	.....	204
17. Re-opening Mongla	.....	214
18. Enduring Peace in Shan State	.....	220
19. The Situation in Mon State	.....	224

20. Awaiting Peace in Mon State	.....	233
21. Karenni (Kayah) State	.....	244
22. Seeking Peace in Arakan State	.....	253
23. The Conflict in Kachin State - Time to Revise the Costs of War?	.....	258
24. Engineering Peace in Kachin State	.....	272
25. Parties to the Conflict KIO Supported Armed Groups in the Kachin Conflict	.....	278
26. The Situation in Karen State After the Burmese Election	.....	284
27. Establishing a Common Framework	.....	299
28. Allied in War, Divided in Peace	.....	309
29. The UNFC and the Peace Process	.....	316
30. Business Opportunities and Armed Ethnic Groups	.....	324
31. Ethnic Political Alliances	.....	329
32. The Laiza Agreement	.....	334
33. The Law Khee Lah Conference	.....	342

## Preface

The Burma Centre for Ethnic Studies (BCES) is an independent think tank and study centre that was founded in 2012 to generate ideas on democracy, human rights and federalism as an effective vehicle for “Peace and Reconciliation” in the Union of Burma.

The root cause of sixty years of ethnic armed conflict in Burma is a constitutional problem that arose due to the failure of implementing the federal system that was envisaged when the Union of Burma was founded at the Panglong Conference in 1947. After the military coup in 1962, the constitutional crisis was further compounded by the lack of democracy and serious violation of human rights in the country.

The BCES, therefore, views the promotion of democracy, human rights and a federal system as essential for ending ethnic armed conflicts and building peace in Burma. With this view, and conviction, the Centre sets up the following objectives for its mission:

- To promote Peace and Reconciliation;
- To promote the ideas and practices of democracy, human rights and federalism;
- To promote constitutional knowledge, the rule of law and good governance;
- To expand and consolidate the network of organizations and leaders to promote autonomy and internal self-determination within a federal arrangement as a means of addressing and ending ethnic armed conflict in the Union of Burma.

Peace and Reconciliation is the first objective of the Centre. To ensure good communication between central Burma and ethnic areas the organisation has established strong networks to allow a better flow of information. This information better enhances the relationship

between all the ethnic nationalities and promotes a better understanding using shared experiences via our publications and analysis papers. These papers provoke further discussion on issues that guide the future of the country and provide policy makers a comprehensive background thus allowing them to understand the issues the country faces.

Within the framework of its over-all objective, which is: to promote the concept of decentralization within the framework of federalism; the development of democratic values and respect for human rights; and the culture of dialogue, negotiations and compromise to resolve political problems in the Union of Burma, the Centre engages research and activities in the following areas:

1. Ethnic Studies: Analysis papers, Policy Briefings, Working Papers and Communication Strategies;
2. Curriculum Development and Training for Democracy, Human Rights and Federalism;
3. Publication of Biographies and organisation histories for preserving, protecting and promoting ethnic culture, history and language as a means to find an alternative to armed resistance movement;
4. Support for Negotiations and Peace Talks (Research, Training, and Workshop).

In order that all concerned parties are aware of the situation in the country, the Centre has produced numerous analysis and briefing papers to provide a more detailed assessment of certain areas of concern. These papers allow individuals to be constantly informed of the many changes that affect the country as it attempts to address the myriad issues in relation to its ethnic populations.

Such constant attention to the affairs of the country is even more important than ever as the new government seeks to reform the country and appeal to the international community. While such briefings remain impartial, they have been able to inform interested parties and the international community of reforms undertaken, the ethnic situation, areas of conflict, and changes to the country. These papers reflect the problems facing the country and provide a better



understanding of appropriate strategies that need to be applied by the Burmese government, ethnic organisations, and the international community.

Utilising close contacts with members of the ethnic community and other interested parties, the Centre's papers provide an accurate and unbiased depiction of the needs of the people of Burma and the organisations that seek to support them. While there are number of international organisations that provide such analysis, the Centre is much closer to those involved in the country's decision making processes and as such are able to provide analysis based on the needs of those individuals with interests in the future development of the country.

This book collects all of the papers prepared so far, and gives an in depth view of the many elements that are involved in bringing peace, stability and equality to all of the people in the country.

### **Acknowledgments**

The authors would like to thank Sai Mawn, Sai Khunsai Jaiyen, Khu Oo Reh, Ta Doh Moo, Khaing Soe Naing Aung, Saw Htoo Htoo Lay, Nai Han Tha, Dr Khin Maung. Khun Okker, Dr Tu Ja, Mai Aik Phone, and the many others who have provided their invaluable assistance in preparing this book.

The authors would also like to thank the Euro-Burma Office for allowing our papers written before 2012 to be included in this book.



**PART - ONE**

**ANALYSIS PAPERS**



# **The Dynamics of Sixty Years of Ethnic Armed Conflicts in Burma**

By  
Lian H. Sakhong

## **Introduction**

The Union of Burma is one of the most ethnically diverse countries in Asia, which continues to suffer one of the longest internal ethnic armed conflicts in modern times. As a post-colonial modern nation-state, the Union of Burma was founded by pre-colonial independent peoples - namely the Chin, Kachin, Shan, and other ethnic groups from what was termed Burma Proper. These peoples in principle had the rights to regain their national independence from Great Britain separately and found their own respective nation-states. Instead, they all opted to form a Union together by signing the Panglong Agreement on 12 February 1947, based on the principles of voluntary association, political equality, and the right of self-government in their respective homelands through the right to internal self-determination, which they hoped to implement through a decentralized federal structure of the Union of Burma. In order to safeguard the above principles, the “right of secession” from the Union after ten years of independence was guaranteed to every State. That is, all ethnic nationalities who formed member states of the Union, as it was enshrined in Chapter X, Articles 201-206 of the 1947 Constitution of the Union of Burma, and adopted as one of the founding principles of the Union.

Burma, however, did not become a federal union as it was envisaged in 1947 at the Panglong Conference. Instead, it became a quasi-federal union with a strong connotation of a unitary state where a single ethnic group called the Burman/Myanmar people controlled all state

powers and governing systems of a multi-ethnic plural society of the Union of Burma. Closely related to this constitutional problem, which created the root cause of ethnic inequality and political grievances, there was another major problem that confronted Burma from the very beginning what social scientists called “state formation conflict” which brought the country into civil war soon after independence. Consequently, “state formation conflict” broke out because the “make-up” of the Union was not inclusive.

Since the Panglong Agreement was signed by peoples from pre-colonial independent nations, that is., the peoples who were conquered independently by the colonial power of Great Britain, not as part of the Burman or Myanmar Kingdom; three major ethnic nationalities from Burma Proper, namely, the Arakan, Karen, and Mon peoples were not invited officially to the Panglong Conference. They were represented by General Aung San as peoples from “Burma Proper”, that is, a pre-colonial Burman or Myanmar Kingdom. The futures of these peoples, especially the Karen who had already demanded a separate state, were not properly discussed at the Panglong Conference, which eventually triggered the first shot of ethnic armed conflicts in the form of a “state formation conflict” in 1949. Unfortunately, ethnic issues in Burma remain unsolved and as a result over sixty years of civil war continue today.

In addition to this state formation conflict, which is a conflict between the government and the identity-based, territorially focused, opposition of ethnic nationalities; another dimension of internal conflict in Burma, that arose out of independence, was the misconception of “nation-building” for “state-building”. This became the confusion between “nation” and “state”, which resulted in the implementation of the “nation-building” process as a process of ethnic “forced-assimilation” by successive governments of the Union of Burma. The “nation-building” process with the notion of “one ethnicity, one language, one religion” reflected the core values of Burman/Myanmar “nationalism”, which originated in the anti-colonialists motto of “*Amyo, Batha, Thatana*”, that is to say, the *Myanmar-lumyo* or Myanmar ethnicity, *Myanmar-batha-ska* or Myanmar language, and *Myanmar-thatana*

of *Buddha-bata* or Buddhism. It became, after independence, the unwritten policies of “Myanmarization” and “Buddhistization”, and a perceived legitimate practice of ethnic and religious “forced-assimilation” into “*Buddha-bata Mynamar-lumyo*” (that is, to say ‘to be a Myanmar is to be a Buddhist’), in a multi-ethnic, multi-religious plural society of the Union of Burma.

In the process of implementing “nation-building” with the notion of “one religion, one language, one ethnicity”, successive governments of the Union of Burma, dominated and controlled by ethnic Myanmar, have been trying to build an ethnically homogenous unitary state of *Myanmar Naing-ngan*. This involves the language of *Myanmar-batha-ska* as the only official language and Buddhism as the state religion; as the saying goes ‘*Buddha-batha Myanmar Lu-myo*’. When the “nation-building”, not “state-building”, process was implemented by using coercive forces for assimilation the Arakan, Chin, Kachin, Karen, Karenni, Mon, Shan, and other ethnic nationalities, whose combined homelands cover sixty per cent of the territory of the Union of Burma and composed more than forty per cent of the country’s population, were left to an either-or choice. This choice was to either accept forced-assimilation or resist by any means, including armed resistance. Fortunately or unfortunately, they all opted for the second option, resulting in over sixty years of civil war.

In this paper, I will analyse the dynamics of internal conflict that caused the conditions for over sixty years of civil war in Burma. In so doing, I will first investigate the root cause of ethnic armed conflict, and argue that the constitutional crisis and the implementation of the “nation-building” process with the notion of “one religion, one language, and one ethnicity” are the root cause of internal conflict and civil war in Burma. The political crisis in Burma, therefore, is not only ideological confrontation between democratic forces and the military regime but a constitutional crisis, compounded by the government’s policy of ethnic “forced-assimilation” through the “nation-building” process, which resulted in militarization of the state, on the one hand, and “insurgency as a ways of life” in ethnic areas, on the other.

## **Nation-Building and the Problem of Ethnic Forced Assimilation**

For newly independent countries like Burma in 1948, independence was not the end of the search for sovereignty but the beginning of a twin process of “nation-building” and “state-building”. In a homogenous “state” or “nation-state” where the boundaries of the state or nation-state coincided with the extension of an ethnic population or a single language group, and where the total population of the nation-state share a single ethnic culture, “nation-building” and “state-building” are blended and even seen as a single same process. In such a situation, modern nation-state assumes the existence of “national identity” with the notion of “one ethnicity, one language, and one religion” (Cf. Sakhong in Williams and Sakhong, 2005: 11-27).

In a modern nation-state, which receives its legitimacy from the people, a state requires some degree of identification from its citizens. Thus, in order to provide the citizens a feeling of community of statehood, especially in a homogenous nation-state, it is essential to build a “national identity”, which is usually created by the state out of the national characteristics, such as history, culture and language. In a multi-ethnic, multi-religious and multi-cultural plural society, a modern nation-state also requires building a “state-identity”, which is usually created out of the founding ideology and uniqueness of a particular “nation-state”. While “nation-building” is a process of building a community of shared values through rites and rituals, culture and language, collective memories and historical experiences; “state-building” on the other is a process of constructing political institutions, establishing common economic and legal systems, promoting economic development, and protecting the security and well-being of its citizens (Cf. Fukuyama, 2006: 3).

Since the emergence of the Westphalia model of “nation-state”, which assumes a nation-state as a homogenous country where the boundaries of the “state” and “nation” coincided, it must be noted that religion played an important role in the “nation-building” process. The ruler, according to the “Westphalia Agreement” of 1648, was



entitled to enforce religious uniformity within his realm, as it was stated: *cuius regio, ejus religio*. In modern Burma, the Westphalia model of the “nation-state” reinforces the old notion of “*Buddha-bata Myanmar-lumyo*” (to be a Myanmar is to be a Buddhist), in which religion and ethnicity are not only blended but the kings were regarded as “the defenders of faith, the promoters of Buddhism, builders of pagodas, and the patrons of the sangha” (J. Schector, 1967: 106).

As the old saying of *Buddha-bata Myanmar-lumyo* so clearly put it, Buddhism, indeed, had been inseparably intertwined with the Myanmar national identity. Historically, Buddhism had played a most important role in binding together diverse ethnic groups such as the Burman, Mon, Shan and Rakhine (Arakanese).<sup>1</sup> Thus, it was quite reasonable for leaders like U Nu, the first Prime Minister of the Union of Burma, to believe that Buddhism could make a significant contribution to some aspects of national assimilation through the “nation-building” process.

However, although Buddhism had been a powerful integrative force in traditional Burman/Myanmar society, a multi-ethnic, multi-religious and multi-cultural modern nation-state of the Union of Burma is a very different country from that of the pre-colonial Myanmar Kingdom. The Chin, Kachin, Shan and other ethnic nationalities in the Union of Burma became member states of the Union in order to speed up their own search for “freedom”, as it was stated in the Preamble of the Panglong Agreement. Thus, for them, the basic concept of independence was “independence without assimilation”, that is, what political scientists used to term “coming together”, or “together in difference”, or “unity in diversity”, which implies that nations come together in order to form a modern nation-state in the form of a Federal Union, or *Pyi-daung Suh* in Burmese.

*Pyi-daung* in Burmese means a “nation” or “country”, and *Suh* means “together” or “combining”. A combination of the two terms: *Pyi-daung Suh* means the nations coming together to build a state or a Union with the purpose of sharing and ruling the Union together; while maintaining the right of internal self-determination and the

autonomous status of their respective nations and homelands with the purpose of self-rule. Thus, *Pyi-daung Suh* is a combination of “shared-rule” and “self-rule”; “shared-rule” for all ethnic nationalities who are the member of the Union, and internal “self-rule” for their respective homelands.

Within this concept of “coming together”, it is important to differentiate between “nation” and “state”; and thereby between “nation-building” and “state-building” to understand what Hannah Arendt refers to as a “secret conflict between state and nation”. According to Arendt,

[The nation] presents the ‘milieu’ into which man is born, a closed society to which one belongs by the right of birth; and a people becomes a nation when it arrives at a historical consciousness of itself; as such it is attached to the soil which is the product of past labour and where history has left its traces. The state on the other hand is an open society, ruling over territory where its power protects and makes law. As a legal institution, the state knows only citizens no matter of what nationality; its legal order is open to all who happen to live on its territory (cited by Beiner in Villa, 2000: 53).

The state, far from being identical with the nation, is “the supreme protector of a law which guarantees man his rights as man, his rights as citizen and his rights as a national” (ibid). By signing the Panglong Agreement, the Chin, Kachin, and Shan co-founded a state or a nation-state or a Union, which is an administrative and legal unit. However, that said, they still wanted to keep their own “nation”, a concept which according to Weber belongs to the sphere of values: culture, language, religion, ethnicity, homeland, shared memories and history, a specific sentiment of solidarity in the face of other groups or people.

A modern “nation-state” of the Union of Burma is a multi-ethnic, multi-religious, and multi-cultural country where many different ethnic groups who practice different cultures, adhere to different religious teaching, and speak different languages are “coming together” to form a new “nation-state” of the Union of Burma. Thus, the boundaries of the “state”, which is the “nation-state” of the Union

of Burma, and the boundaries of the “nations”, which are the “homelands” of ethnic nationalities or “ethnic national states”, do not coincide and the population of the Union of Burma cannot share a single ethnic culture, a single language, or a single religious faith.

In multi-ethnic, multi-religious and multi-cultural countries where the boundaries of “state” and “nation” do not coincide, there is always a source of friction and conflict when the government implements a nation-building process based on the notion of “one religion, one language, and one ethnicity” through using coercive force for assimilation. The nation-building, as mentioned, belongs to “subjective values”: values that cannot be shared objectively but differentiate one group of people from another. Thus, the very notion of nation-building is “hostile to multiculturalism and diversity” (Saunders et al, 2003: 198). Unfortunately, this conflict is exactly what has occurred in Burma during the past sixty years.

Since independence, the successive governments of the Union of Burma implemented “nation-building”, not purely as “state-building”, for the entire Union of Burma. Nation-building, for U Nu, Ne Win, Saw Maung and Than Shwe, was simply based on the notion of “one ethnicity, one language and one religion”—that is to say, the ethnicity of *Myanmar-lumyo*, the language of *Myanmar-batha-ska* and the state religion of Buddhism. Thus, what they wanted to achieve through the “nation-building” process was to create a homogeneous nation of *Myanmar Naing-ngan*, by drawing its political values from the cultural and religious values of *Myanmar-lumyo*, *Myanmar-batha-ska* and *Myanmar-thatana* of Buddhism. While U Nu (1948-1962) opted for cultural and religious assimilation as a means of a nation-building process by promulgating Buddhism as a state religion, General Ne Win (1962-1988) imposed the national language policy of *Myanmar-batha-ska* as a means of creating a homogeneous unitary state. Supplementing U Nu’s policy of state religion and Ne Win’s national language policy, the current military regime is opting for ethnicity as a means of national integration, by imposing ethnic assimilation into *Myanmar-lumyo*. They, thus, changed the country name from Burma to Myanmar in 1989.

Since all these ethnic nationalities in Burma could not find any other means of solving the political crisis, they have resorted to armed-struggle. Growing conflicts and over sixty years of civil war have crystallized a sense of ethnic identity in what was before often only a linguistic or ethno-religious category and still divided by religion and ethnic origin. It is this conflict with the state in which the Arakan, Chin, Kachin, Karen, Karenni, Mon, Shan and other ethnic nationalities are involved that have given the members of each ethnic group a wider self-awareness and a sense of their common history and destiny which strengthens their aspirations for a separate ethno-national identity in Burma.

The very different forms of ethno-national identities, created by the mobilization and transformation of formally passive ethnicity mainly through armed-struggle, have become rooted among ethnic communities in Burma. Through civil war and armed conflict, their ethno-nationalism has become the vehicle for a new national identity that draws many members of the community into new types of politicized vernacular culture and creates a different kind of participant society, or what Martin Smith called, “insurgency as a way of life.” In today’s Burma, while ethnic and political grievances have fuelled conflict in every governmental era, there have been “corollary factors underpinning the twin phenomena of insurgency as a way of life and the militarization of the state in post-colonial Burma” (Smith, 2007: 1). I shall come back to the militarization of the state, but we shall first analyse the constitutional crisis that was the root cause of ethnic inequality and political grievances since independence.

## **U Nu’s Policy of State Religion, Constitutional Crisis, and Ethnic Inequality**

At the Panglong Conference in 1947, the Chin, Kachin, Shan and other non-Burman nationalities were promised, as Silverstein observes, the “right to exercise political authority of administrative, judiciary, and legislative powers in their own autonomous national states and to preserve and protect their language, culture, and religion in exchange

for voluntarily joining the Burman in forming a political union and giving their loyalty to a new state” (Silverstein in Lehman, 1981: 51).

Unfortunately, Aung San, who persuaded the Chin, Kachin, Shan and other non-Burman nationalities to join Independent Burma as equal partners, was assassinated by U Saw on July 19, 1947. He was succeeded by U Nu as leader of the AFPFL. When U Nu became the leader of the AFPFL, Burman politics shifted in a retro-historical direction, backward toward the Old Kingdom of Myanmar or Burma. The new backward-looking policies did nothing to accommodate non-Myanmar/Burman nationalities who had agreed to join Independent Burma only for the sake of “speeding up freedom”.

As a leader of the AFPFL, the first thing U Nu did was to give an order to U Chan Htun to re-draft Aung San’s version of the Union Constitution, which had already been approved by the AFPFL Convention in May 1947. U Chan Htun’s version of the Union Constitution was promulgated by the Constituent Assembly of the interim government of Burma in September 1947. Thus, the fate of the country and the people, especially the fate of the non-Burman/Myanmar nationalities, changed dramatically between July and September 1947. As a consequence, Burma did not become a genuine federal union, as U Chan Htun himself admitted to historian Hugh Tinker. He told Tinker, “Our country, though in theory federal, is in practice unitary” (Tinker, 1957: 13).

On the policy of religion, U Nu also reversed Aung San’s policy after the latter was assassinated. Although Aung San, the hero of independence and the founder of the Union of Burma, had opted for a “secular state” with a strong emphasis on “pluralism” and the “policy of unity in diversity” in which all different religious and ethnic groups in the Union could live together peacefully and harmoniously, U Nu opted for a more confessional and exclusive policy on religion by applying cultural and religious assimilation as the core of the “nation-building” process. The revision of Aung San’s version of the Union Constitution thus proved to be the end of his policy for a secular state and pluralism in Burma, which eventually led to the promulgation of Buddhism as the state religion of the Union of Burma in 1961.

For the Chin and other non-Burman nationalities, the promulgation of Buddhism as the “state religion of the Union of Burma” in 1961 was the greatest violation of the Panglong Agreement in which Aung San and the leaders of the non-Burman nationalities had agreed to form a Union based on the principle of equality. They, therefore, viewed the passage of the state religion bill not only as religious issue, but also as a constitutional problem, in that this had been allowed to happen. In other words, they now viewed the Union Constitution as an instrument for imposing “a tyranny of majority”, not as their protector. Thus, the promulgation of Buddhism as the state religion of Burma became not a pious deed, but a symbol of the tyranny of the majority under the semi-unitary system of the Union Constitution.

There were two different kinds of reaction to the state religion reforms from different non-Burman nationalities. The first reaction came from more radical groups who opted for an armed rebellion against the central government in order to gain their political autonomy and self-determination. The most serious armed rebellion as a direct result of the adoption of Buddhism as the state religion was that of the Kachin Independence Army, which emerged soon after the state religion of Buddhism bill was promulgated in 1961. The “Christian Kachin”, as Gravers observes, “saw the proposal for Buddhism to be the state religion as further evidence of the Burmanization [*Myanmarization*] of the country,” (Graver, 1993: 56), which they had to prevent by any means, including an armed rebellion. The Chin rebellion, led by Hrang Nawl, was also related to the promulgation of Buddhism as the state religion, but the uprising was delayed until 1964 owing to tactical problems. Thus, the Chin rebellion was mostly seen as the result of the 1962 military coup, rather than the result of the promulgation of Buddhism as the state religion in 1961.

The second reaction came from more moderate groups, who opted for constitutional means of solving their problems, rather than an armed rebellion. The most outstanding leader among these moderate groups was Sao Shwe Thaik of Yawnghwe, a prominent Shan *Sawbwa*, who was elected as the first President of the Union of Burma. Although a devout Buddhist, he strongly opposed the state religion

bill because he saw it as a violation of the Panglong Agreement. As a president of the Supreme Council of United Hills People (SCOUHP), formed during the Panglong Conference, he invited leaders of not only the Chin, Kachin and Shan, the original members of the SCOUHP, but also other non-Burman nationalities — the Karen, Kayah, Mon, and Rakhine (Arakan) — to Taunggyi, the capital of Shan State, to discuss constitutional problems. Unfortunately, these problems still remain unsolved. The conference was attended by 226 delegates and came to be known as the 1961 Taunggyi Conference, and the movement itself was known later as the Federal Movement.

At the Taunggyi Conference, all delegates, except three who belonged to U Nu's party,<sup>2</sup> agreed to amend the Union Constitution based on Aung San's draft, which the AFPFL convention had approved in May 1947. At the AFPFL convention, Aung San had asked, "Now when we build our new Burma shall we build it as a Union or as Unitary State? In my opinion, he answered, "it will not be feasible to set up a Unitary State". He strongly argues that "we must set up a Union with properly regulated provisions to safeguard the right of the national minorities" (Aung San in Silverstein, 1993). According to Aung San's version of the constitution, the Union would be composed of ethnic national states, or what he called "Union States" such as the Chin, Kachin, Shan and Burman States and other ethnic national states such as Karen, Karenni (Kayah), Mon and Rakhine (Arakan) States. The "original idea", as Dr. Maung Maung observes, "was that the Union States should have their own separate constitutions, their own organs of state, viz. Parliament, Government and Judiciary" (Maung Maung, 1959: 170).

U Chan Htun had reversed all these principles of a Federal Union after Aung San was assassinated. According to U Chan Htun's version of the Union Constitution, Burma Proper or the ethnic Burman/Myanmar did not form their own separate ethnic national state; instead they combined the power of the Burman/Myanmar ethnic national state with sovereign authority of the entire Union of Burma. Thus, while one ethnic group, the Burman/ Myanmar, controlled the sovereign power of the Union, that is, legislative, judiciary, and

administrative powers of the Union of Burma; the rest of the ethnic nationalities who formed their own respective ethnic national states became almost like “vassal states” of the ethnic Burman or Myanmar. This constitutional arrangement was totally unacceptable to the Chin, Kachin and Shan who had signed the Panglong Agreement on the principle of equality, a view that was shared by the other nationalities.

They therefore demanded at the 1961 Taunggyi Conference the amendment of the Union Constitution and the formation a genuine Federal Union composed of ethnic national states, with the full rights of political autonomy, i.e., legislative, judiciary and administrative powers within their own ethnic national states, and self-determination including the right of secession. They also demanded separation between the political power of the ethnic Burman/Myanmar national state and the sovereign power of the Union, i.e., the creation of a Burman or Myanmar ethnic national state within the Union.<sup>3</sup>

The second point they wanted to amend on the Union Constitution was the structure of the Chamber of Nationalities. The original idea of the creation of the Chamber of Nationalities was that it was not only to safeguard the rights of non-Burman nationalities but also the symbolic and real equality envisaged at the Panglong Conference. Thus, what they wanted was that each ethnic national state should have the right to send equal representatives to the Chamber of Nationalities, no matter how big or small their ethnic national state might be. In other words, they wanted a kind of Upper House similar to the American Senate.

But what had happened, based on U Chan Htun’s Union Constitution, was that while all the non-Burman nationalities had to send their tribal or local chiefs and princes to the Chamber of Nationalities; it allowed Burma Proper to elect representatives to the Chamber of Nationalities based on population. Thus, the Burman or Myanmar from Burma Proper, who composed the majority in terms of population, was given domination of the Union Assembly.

In this way, the Union Assembly, according to U Chan Htun’s version of the Union Constitution, was completely under the control of the Burman or Myanmar ethnic nationality. Not only did the powerful



Chamber of Deputies have the power to thwart aspirations and the interests of non-Burman nationalities, but the Burmans also dominated the Chamber of Nationalities. That was the reason why the total votes of non-Burman nationalities could not block the state religion bill even at the Chamber of Nationalities. Thus, all the non-Burman nationalities now viewed the Union Constitution itself as an instrument for imposing “a tyranny of majority” and not as their protector. They therefore demanded a change from such constitutional injustice at the 1961 Taunggyi Conference.<sup>4</sup> Therefore, the Federal Movement and the Taunggyi Conference can be viewed, as noted by Shan scholar Chao Tzang Yawngwe, as “a collective non-Burman effort to correct serious imbalances inherent in the constitution” of 1947 (Yawngwe in Silverstein, 1989: 81).

In response to the demand of the 1961 Taunggyi Conference, U Nu had no choice but to invite all the political leaders and legal experts from both Burman and non-Burman nationalities to what became known as the “Federal Seminar” at which “the issues of federalism and the problems of minorities would be discussed with a view to finding a peaceful solution” (Silverstein in Lehman, 1981: 53). The meeting opened on 24 February 1962 in Rangoon while parliament was meeting in regular session. But, before the seminar was concluded and just before U Nu was scheduled to speak, the military led by General Ne Win seized state power in the name of the Revolutionary Council. In the early morning of 2 March 1962, he arrested all the non-Burman participants of the Federal Seminar and legally elected cabinet members, including U Nu himself, dissolved parliament, suspended the constitution and thus ended all debate on federal issues.

In this way, U Nu’s great hope of a Buddhist state religion as the unifying identity of the Union of Burma proved to be one of the decisive dividing factors that led to his own defeat and the end of the parliamentary experiment in Burma. Buddhism, which used to be a vital source of political legitimacy for traditional Burmese kingship, could no longer provide the values needed to create a modern Burmese national identity in the multi-ethnic, multi-religious and multi-cultural plural society of the Union of Burma.

## Ne Win's National Language Policy, Scorched Earth Campaign, and Militarization of the State

Since the independence movement, “nationalism” had been an enduring element of the Burmese concept of political legitimacy, the “*sine qua non* of political life”, as Steinberg so aptly puts it. As we have seen, U Nu apparently mixed nationalism with Buddhism in his attempt to legitimize his government. General Ne Win, on the other hand, mixed nationalism with socialism, and he also used military leadership as a means to introduce socialism into the country.

Nationalism, for both U Nu and Ne Win, was simply based on the notion of “one ethnicity, one language, one religion”, that is., the *Myanmar-lumyo* or Myanmar ethnicity, *Myanmar-batha-ska* or Myanmar language, and the *Myanmar-thatana* of Buddhism. Although their approaches to ethnic and religious “forced-assimilation” were different, U Nu and Ne Win both had the same goal of creating a homogeneous people in the country. While U Nu opted for cultural and religious assimilation into Buddhism as a means of “forced-assimilation”, Ne Win removed the rights of the country’s religious and cultural minorities, especially the minority’s language rights, as a means of creating a homogeneous unitary state, under the motto of “one voice, one blood, and one nation”, and adopted the “national language policy” as a means of ethnic “forced assimilation”. U Nu and Ne Win thus complemented each other, although their approaches in depriving cultural and religious minorities of their rights were different in nature.

The elimination process of ethnic rights began with the promulgations of the 1962 Printers and Publishers Registration Law and the 1965 Censor Law. As these two laws made stumbling blocks for the publications of ethnic languages, including the curriculums and teaching materials for both secular schools and Sunday Schools, the Chin and other ethnic nationalities in Burma were unable to promote their language under the military dictatorship. Since the basic rights to promote the non-Burman/Myanmar languages, cultures and belief systems were severely curtailed, the incentive for preserving, protecting

and promoting through teaching, learning, writing, circulating, practicing and propagating of their own languages, cultures and religions has become a life and death matter for the Chin and other ethnic communities in Burma. This is a life and death matter because the survival of ethnic nationalities in Burma as distinctive peoples who practice different cultures, speak different languages, and worship different religions, depends so much on whether they are able to preserve, protect and promote their ways of life as fundamental rights.

Accumulation from the 1962 Printers and Publishers Registration Law, the 1965 Censor Law, and the 1966 Revolutionary Council's decree, which declared the *Myanmar-batha-ska* or *Maynmar-sa* as the medium of instruction at all levels of schools, colleges and universities; General Ne Win's national language policy finally reached its peak when the 1974 Constitution was promulgated, which adopted the *Myanmar-batha-ska* as the official language of the Union of Burma. Although, ethnic languages were allowed for communication purpose between the central government and ethnic states, as stated in Article 198, no mechanisms or institutions were provided to preserve, protect and promote ethnic languages. Since the highest law of the land allowed the existence of the *Myanmar-batha-ska* as the only "official language", the rest of the ethnic languages, including Chin and its various dialects, were legally "unofficial" and therefore could be discriminated against "legitimately" in various means by using all kind of state mechanisms and existing laws.

General Ne Win, in fact, deployed the *Tatmadaw* to implement his "national language policy" as part of the military campaign against ethnic minority groups in the country under the "four-cut" strategy, which was implemented within the framework of "people's war doctrine" with the motto of "one voice, one blood, and one nation". Although he adopted the "national language policy" as a means of ethnic "forced-assimilation", Gen Ne Win thinly disguised this policy under the programme known as the "Burmese Way to Socialism" (BWS) as its "nation-building" process. In order to implement his BWS programme, General Ne Win established the "Burma Socialist Program Party" (BSPP), and used the armed forces, the *Tatmadaw*, as

the nucleus of “nation-building” not only by building the *Tatmadaw* as a national institution and a state mechanism, but also by promoting members of the armed forces as the “the guardian of the people and protectors of the Union” (Selth, 2002: 37). As part of his ambitions to build an army state under the disguise of the need for a strong army that would prevent the Union from its collapsed, General Ne Win adopted the “people’s war doctrine” as the military doctrine of the *Tatmadaw* in 1965, and formed hundreds of militia organizations all over the country, known as *Kar-Kwe-Ye* (KKY) in Burmese, and applied the “four-cut” strategy against ethnic armed groups.

The “four-cut” strategy was first practiced in 1966 but officially adopted as the *Tatmadaw* military’s doctrine in 1968, which aims at “to cut food supply to the insurgents; to cut protection money from villagers to the insurgents; to cut contacts (information and intelligence) between people and the insurgents; and to make the people cut off the insurgent’s head, that means, involving the people in fighting, particularly the encirclement of insurgents” (Maung Aung Myoe, 2009: 26). The third aspect of the “four-cuts strategy” is directly linked with the “national language policy” of campaigning against ethnic nationalities; for this strategy is about to cut off people to people contact, information, and intelligence. I have argued elsewhere about the link between the “national language policy” and “four-cut strategy” as follows:

In order to cut “information” off in ethnic areas, successive military regimes in Burma have prohibited the publication of any information in ethnic languages. So, there is no independent newspaper, no independent radio station and no printing house for any ethnic language. This strategy is implemented hand in hand with the government policy of “national language”: through which ethnic languages are systematically eliminated. While ethnic languages are systematically eliminated and even destroyed, the national language of *Myanmar-batha-ska*, the dominant Myanmar language, is protected and promoted by using state mechanisms. The regime as also forced the non-Myanmar or non-Burman ethnic nationalities to speak the

*Myanmar-batha-ska* at all the government's official functions and forced them to learn the *Myanmar-sa*, which is the only official language in the country (Sakhong, 2010: 193).

The national language policy was thus implemented hand in hand with the military campaign of the “four-cut strategy”, which was also known as a “scorched earth” military campaign, in ethnic areas. While the “scorched earth” campaign was designed as a short-term strategy against ethnic nationalities in the country, the “national language policy” was adopted as a long-term strategy to build a “homogenous” country through a so called “nation-building” process.

In 1974, when the new constitution was promulgated, General Ne Win was able to fulfil his vision of building the army state, and the divisions between the state, the army, and the party (BSPP) ceased to exist. The army and the party were not only the supporting mechanisms and institutions of the state but part and parcel of the state because the state was meant to exist for the army and the party, and vice-versa. In this way, General Ne Win used the army (Tatmadaw) and the party (the BSPP) not only as a mechanism of building the army state with the notion of “one voice, one blood, one nation”, but also as a means of building an ethnically homogenous unitary state with the notion of “one religion, one language, one ethnicity”. In the process of building ethnically homogenous army state, the fundamental rights of all citizens, political equality of ethnic nationalities, and internal self-determination for all member states of the Union are all eliminated. By eliminating cultural, religious and language rights of ethnic nationalities through the laws made by the BSPP in the name of the state, the notion of “unity in diversity” as “political values” ceased to exist in Burma.

## **The Ethnic Nationalities' Response to Constitutional Dictatorship and the 1988 Popular Uprising for Democracy**

By the time the new constitution was promulgated in 1974, and General Ne Win became U Ne Win, the President of the Socialist Republic of the Union of Burma, all the ethnic nationalities in Burma had insurgent groups. Most notable of these were the Karen National Union (KNU), the Kachin Independent Organization (KIO), the Shan State Army (SSA), the New Mon State Party (NMSP), the Karenni National Progressive Party (KNPP), the Arakan Liberation Party (ALP) and the Chin Democracy Party (CDP). The Chin Democracy Party was founded by John Mang Tling, a former parliamentary secretary of the Union of Burma, who went underground and joined U Nu, who also went underground and formed the Parliamentary Democracy Party (PDP), and took up arms to overthrow General Ne Win's military regime in 1969.

The most effective reaction from the various ethnic nationalities to the promulgation of a new constitution in 1974 was undoubtedly the formation of the "Federal National Democratic Front" in 1975, which was eventually transformed into "the National Democratic Front" (NDF) in May 1976. The significance of the NDF was that it was formed exclusively by the non-Burman ethnic nationalities, with the aims and objectives of "the establishment of a genuine federal union, based on the principles of national self-determination, political equality and progress of all nationalities", it declared its intention "to abolish national chauvinism, military bureaucratic dictatorship and the unitary system", and expressly ruled out a "one-party state" (Khaing S. N. Aung, 2000: 78-79).

Despite the success of the "four-cut" campaign against communist insurgency led by the Communist Party of Burma (CPB) in the Delta and Pegu Yomas, the NDF members of ethnic nationalities, most notably, the KNU, KIO, and SSA were capable of controlling a vast areas in the respective regions as "liberated areas". As Martin Smith observes, ". . . they were well armed and trained and capable of out-

fighting the *Tatmadaw* in conventional and guerrilla warfare”, and “each could put several hundred troops into battle, if occasion demanded, before then retreating back into safe mountain strongholds”. He continues:

Buoyed by the booming black market and anti-government disaffection, many ethnic forces grew markedly in strength. Armed opposition controlled virtually the entire eastern borders of Burma, from the Tenasserim division in the south to the Kachin state in the north. The three strongest ethnic forces, the KNU, KIO, and SSA, each maintained over 5,000 troops in the field and, like the CPB’s People’s Army, were capable of fighting the *Tatmadaw* in the fixed positions of conventional war, which was vital for the defence of border strongholds and trading posts (Smith, 2007: 36).

The black market taxation, one of the main financial sources for ethnic armed groups, ironically was sustained and prolonged by Ne Win’s regime. Because of mismanagement, nationalization, centralized socialist economic policy, and isolationism, Burma was economically unable to sustain itself but relied on the black markets for its consumer goods that came from neighbouring countries crossing the borders that were controlled by ethnic armed groups: the Karen, Karenni, Mon, and Shan from the eastern borders of Thailand and China; the Kachin from northern borders of China, and Chin from the north-western borders of India, and Arakan from western borders of Bangladesh. Viewing that ethnic armed groups had controlled all the black markets, which in turn influenced the financial markets, Ne Win’s once again applied the “four-cut” strategy, this time “to cut off the financial resources” to ethnic armed groups. He thus announced the demonetization of the country’s three highest denominations of banknotes: Kyats 25, 50 and 100, on 5 September 1987. The government openly admitted that the demonetization was aimed at “insurgents and black marketers” (Lintner, 1999: 338).

The regime’s four-cut strategy missed its target this time. The ethnic armed groups, who never trusted the regime in Rangoon, were “chiefly based in border areas and kept most of their funds in Thai

or Chinese [or Indian] currency” (ibid). The black marketers might have suffered temporarily but they were able to make up for the loss after a few more trade deals. The ones who suffered the most were the ordinary people, who lost their saving. It was estimated that “sixty to eighty per cent of all the money in circulation in Burma had become worthless, in one sweep” (ibid). The announcement came at a time when the final exams were approaching for the students at Rangoon University and Rangoon Institute of Technology, and “there was a spontaneous outburst of violence minutes after the announcement had been made” (ibid). The student demonstrations spread to several campuses but the government responded swiftly by closing all the universities and colleges in the country.

The schools were reopened a month later but closed again in March 1988, when a brawl in a tea shop, which led to the death of a student at the hands of the Police, resulted in violent campus wide disturbances. The government responded once again by closing all the universities and in an attempt to calm the situation promised an inquiry. Believing the environment to be more stable, universities were reopened in June. However, violence once more broke out at the failure of the government to bring to justice those responsible for the student’s death. Unrest soon spread nationwide and martial law was declared. A general strike on the 8<sup>th</sup> of August 1988 was bloodily suppressed with thousands of demonstrators and students gunned down in the streets. On the 18<sup>th</sup> September student led demonstrations were once again brutally crushed and soon gave way to an army staged coup, but it was only after Ne Win resigned from his combined-post as the head of the state and the Chairman of the Burma Socialist Program Party (BSPP).

In final analysis, Ne Win’s policy of imposing ethnic “forced-assimilation” through the “nation-building” process with the notion of “one religion, one language, and one ethnicity”, especially when his “national language policy” combined with the “scorched earth” campaign against ethnic nationalities, proved to be one of the main factors that brought him down after 27 years in power.



## The New Regime's Policy of Forced-Assimilation, Myanmarization, and Militarization

In 1989, the new military regime, known as the 'State Law and Order Restoration Council' (SLORC), under the leadership of General Saw Maung, announced that the country's name be changed from "Burma" to "Myanmar". The change of the country name from "Burma" to "Myanmar" indeed was the highest level of enforcing ethnic forced-assimilation through the "nation-building" process with the unitary version of "one religion, one language, and one ethnicity".

The term "Myanmar", indeed, refers exclusively to one particular ethnic group in the country, while the term "Burma" refers to a post-colonial multi-ethnic, multi-religious, and multi-culture plural nation-state of the Union of Burma. Ever since the first Myanmar Kingdom of the Pagan dynasty was founded by King *Annawrattha* in 1044, the term "Myanmar" has been used to denote the ethnicity of Myanmar, which is in turn inseparably intertwined with Buddhism, as the saying goes: *Buddabata Myanmar Lu-myo* (broadly, the implication is that to be "Myanmar" is to be Buddhist). The Myanmar Kingdom from the beginning of Pagan Dynasty in 1044 to the end of Kungbaung Dynasty in 1885 was nothing to do with the Chin and other ethnic groups, who joined together in a union, the Union of Burma, in 1947 on the principle of equality. The term Myanmar, therefore, does not include the Chin, Kachin, Shan, and other nationalities who became the members of the Union only after signing the Panglong Agreement.<sup>5</sup>

The regime's political objective is clear: the implementation of ethnic forced assimilation through the "nation-building" process, and the establishment of a homogeneous country of Myanmar *Ngaing-ngan*, with the notion of one ethnicity of *Myanmar-lumyo*, one language of *Myanmar-batha-ska*, and one religion of *Buddha-bata* or a state religion of Buddhism. They argue, however, that the *Tatmadaw* is the only patriotic institution that is capable of implementing the "nation-building" process, or what Sr. General Than Shwe called "national reconsolidation". As stated as one of its main objectives of the national convention, the armed forces will "participate in the national

political leadership role of the state”, meaning: no government in Burma would be formed without the participation of and the leading role taken by the *Tamadaw*.

Soon after its came to power, the SLORC abolished the 1974 Constitution, together with the *Pyithu Hluttaw*, but promised a new election which was eventually held in May 1990. To participate in the election the BSPP changed its name to the “National Unity Party” (NUP) and also began to canvass. However, it soon became evident that the NUP was losing to the “National League for Democracy” (NLD), especially due to the popularity of Daw Aung San Suu Kyi. After slanderous attacks on her in the media had failed, the government had both Aung San Suu Kyi and U Tin Oo arrested on the 19<sup>th</sup> July 1989. Despite the fact that two of its main leaders were under house arrest and disqualified, the National League for Democracy was still able to win 392 (80%) of the 485 seats. The military-backed party, the National Unity Party (NUP), won only 10 seats (2%). The balance of power was held by the ethnic parties, the United Nationalities League for Democracy (UNLD) – 67 seats (16%) and 10 independents (2%).

Despite the party’s clear victory, the SLORC refused to hand over power to the NLD claiming that a constitution needed to be drafted first. The NLD and the newly formed United Nationalities League for Democracy (UNLD), an umbrella group of ethnic party representatives, issued a joint statement calling on the State Law and Order Restoration Council (SLORC) to convene the *Pyithu Hluttaw* in September 1990. Despite such calls the SLORC refused to honour the election result and instead sought to hold on to power claiming that a National Convention would need to be convened to write a new constitution. After two years of political impasse, and with members of the NLD still in jail or under house arrest, the SLORC announced, on the 23<sup>rd</sup> of April 1992, that it would hold a National Convention, which was eventually convened in 1993.

After 14 years of deliberation and several sessions, constant suspensions and reopening, the National Convention was concluded on the 3<sup>rd</sup> of September 2007. On the 9<sup>th</sup> of February 2008, the SPDC

stated that a National Referendum to adopt the constitution would be held in May 2008. In spite of the fact that Cyclone Nargis struck the country on the 2<sup>nd</sup> and 3<sup>rd</sup> of May 2008 causing widespread devastation, the regime insisted on continuing with its plan to hold the referendum, except for a few townships where the destruction occurred most, on the 10<sup>th</sup> of May 2008. The regime announced that the draft Constitution had been overwhelmingly approved by 92.4 percent of the 22 million eligible voters, stating that there had been a turnout of more than 99 percent.

In order to build a homogeneous nation-state of *Myanmar Ngain-ngan*, in which the military will take the leading role in national politics, the 2008 Constitution was designed in such a way that the armed forces would remain above the law and be independent from the government, and, therefore, would dominate and control the three branches of political power. To control the legislative power at both the Union and State and Regional Assemblies, the 2008 Constitution reserves 25 percent of the seats in all legislative chambers for military personnel. In this way, according to the 2008 Constitution, a total of 386 military personnel will be appointed as lawmakers; (110 out of 440 seats for lower house; 56 out of 224 seats for upper house; and 220 out of 883 seats for 7 states, 7 regions and 3 autonomous regions).

The executive power of the state, according to the 2008 Constitution, will be totally under the control of the armed forces. The President and two Vice-presidents, who are the head of the state and represent the country, will be elected not by the public but by the Presidential Electoral College, consisting of three groups of parliamentarians: upper house, lower house and military appointed lawmakers. Each group will nominate one candidate for the presidency. Members of the Electoral College will then vote for one of the three to become president. The candidate with the most votes takes the top job and the unsuccessful candidates will become vice-presidents. All will serve five-year terms. In this way, the military constitution has by-passed the public in the presidential election process, but guaranteed the armed forces, as decision makers, participation in the highest level of national politics. In addition to the 386 military personnel already

appointed as lawmakers, the Commander-in-Chief of the Defense Service will appoint three generals as ministers of defense, the interior and border affairs. The president can also select military officers to head other ministries. Armed forces members serving in government, parliamentary or civil service roles accused of a crime will be tried by a military court martial court rather than a judicial one.

The 2008 Constitution creates a powerful body, the “National Defense and Security Council”, consisting of 11- member committee tasked with making key decisions. While the president will serve as the Chairman, military personnel will occupy five of the 11 places on the National Defense and Security Council. In this way, the armed forces will control the decision making process at a political body which is granted the right to declare “state of emergency”. The “state of emergency” in the 2008 Constitution, unlike a democratic constitution, is a mechanism created for the armed forces to control the state. Through the right to declare “state of emergency”, the highest law of the land granted the chief of the armed forces the right to take over state power, or the constitutional right of a military coup. With presidential approval, the armed forces chief can assume sovereign power and declare a state of emergency, with full legislative, executive and judicial power. In this way, the armed forces will remain above the law and control the state.

After making sure that the domination of the military in the new government was properly designed in the new constitution, which was eventually approved by using all available state mechanisms and military might through the national referendum in 2008, new general elections were held in November 2010, and installed a new military-dominant-civilian-government in March 2011.

## **Concluding Remarks**

As the military regime had accelerated its seven-step road map since 2004, tensions between ethnic armed groups and the Burma Army, *Tatmadaw*, have intensified. As the tension has increased, ethnic armed

groups from both ceasefire and non-ceasefire groups have discussed joint cooperation should the SPDC launch an offensive against them. In May 2010, the first meeting between the two sides of ethnic armed groups, ceasefire and non-ceasefire, was held. At the second meeting in September 2010, they jointly formed a committee, the “Committee for the Emergence of a Federal Union” (CEFU), comprising three ceasefire groups: KIO, NMSP, and SSA-N (Shan State Army-North), and three non-ceasefire groups: KNU, KNPP (Karenni National Progressive Party), and CNF (Chin National Front).

In February 2011, CEFU was transformed into the “United Nationalities’ Federal Council” (UNFC). As the “committee” is transformed to the “council” its members increased, from 6 to 12 armed groups with approximately 20,000 troops; and supported its formation process by the Ethnic Nationalities Council (ENC), which is a political alliance of all ethnic nationalities from seven ethnic states. The ENC and UNFC are committed to collaboration on political and military matters with the final objective of achieving a genuine federal union of Burma. This has been a solid work in progress over the last decade. The UNFC issued a statement soon after it was formed, and urged the international community “to force the Burma Army to negotiate with the ethnic nationalities in order to find a political solution”. They also declared in the statement “we will wage unconventional warfare until the Burma Army negotiates.”

The formation of the UNFC, similar to the formation of the NDF in 1976, indicates that so long as the government practices the policy of ethnic forced-assimilation in the name of a “nation-building” process, there will always be strong reactions from ethnic armed groups, as Nai Han Tha, General Secretary of UNFC, recently said, “we can continue our struggle for another sixty years” (Radio Free Asia, 11 Sept 2011). Sixty years of ethnic armed conflicts and civil war have proved that the policy of ethnic forced-assimilation through the “nation-building” process with the notion of “one religion, one language, and one ethnicity” is unsuitable for multi-ethnic, multi-religious, and multi-cultural countries like the Union of Burma. The Myanmar ethno-nationalism with the motto of “*Amyo, Batha, Thatana*”,

which serves as the foundation for enforcing the policy of ethnic forced-assimilation into *Buddha-bata Myanmar-lumyo*, has always been confronted by strong reactions from the Arakan, Chin, Kachin, Karen, Karenni, Mon, Shan and other ethnic nationalities.

Unfortunately, both the government's policy of ethnic forced-assimilation and the ethnic nationalities reactions of holding arms are not the solution for Burma. Such practices and reactions have resulted only in the militarization of the country, on the one hand, and "insurgency as a ways of life" in ethnic areas, on the other. What the Union of Burma as a multi-cultural plural society needs is not "nation-building" but "state-building", not a centralized unitary state but a decentralized federal union, not an army state but an open society where many different ethnic groups who speak different languages, practice different cultures, and follow different religious teachings can live peacefully together.

Notes:

1. Burmese political history from the Pagan Dynasty (1044–1287) to the British conquest (1824–86) was characterized by endless struggle between the Burman, Mon, Rakhine (Arakan) and Shan. However, by adopting Buddhism from each other during their long struggles for power and domination, these four ethnic groups shared common values with regard to political systems, customary law and culture, stemming from their common religion of Buddhism.
2. Those three delegates who did not agree to the idea of a federal Union were Za Hre Lian (Chin), Aye Soe Myint (Karen), and Sama Duwa Sinwanaung (Kachin).
3. See Documents of Taunggyi Conference, 1961 (Rangoon: Published by the SCoup, 1961) in Burmese.
4. See Documents of Taunggyi Conference, 1961 (in Burmese).
5. It might in parenthesis be noted that there is controversy over the use of the terms Myanmar, Bama, Burman, and Burmese, revolving around the question about whether the terms are inclusive (referring to all citizens of the Union) or exclusive (referring only to the Burmese-speakers).
6. UNFC's Statement, on 17 February 2011.

## References

- Arent, Hannah , “The Nation”, cited by Ronald Beiner, “Arendt and Nationalism”, in Dana Villa (ed.), *The Cambridge Companion to Hannah Arendt* (Cambridge University Press: 2000), pp. 44–56.
- Aung San, *Burma's Challenge* (Rangoon, 1947), reprinted in Josef Silverstein, *The Political Legacy of Aung San*, (New York: Cornell University Press, 1993)
- Fukuyama, Francis (2006), *State-Building* (London: Profile Books)
- Graver, Mikael (1993), *Nationalism as Political Paranoia in Burma* (Copenhagen: NIAS), p. 56
- Khiang Soe Naing Aung (2000), *A Brief History of National Democratic Movement of Ethnic Nationalities* (Place X: National Democratic Front, 2000), pp. 78–79.
- Lintner, Bertil (1999), *Burma in Revolt* (Chiang Mai: Silkworm Books)
- Maung Aung Myoe (2009), *Building the Tatmadaw: Myanmar Armed Forces* (Singapore: Singapore Institute of Asian Studies)
- Maung Maung (1959), *Burma's Constitution* (The Hague), p. 169.
- Sakhong, Lian H. (2005) “Federalism, Constitution Making and State Building in Burma: Finding Equilibrium between Nation-building for Self-rule and State-building for Share-rule in Federalism” in David Williams and Lian H. Sakhong (ed.al), *Designing Federalism in Burma* (Chiang Mai: UNLD Press),p 11-27
- Sakhong, Lian H. (2010), *In Defence of Identity: Ethnic Nationalities' Struggle for Democracy, Human Rights and Federalism in Burma* (Bangkok: Orchid Press).
- Sakhong, Lian H. (2011), “*Burma at the Crossroads*”, paper presented at Forum Asian Studies, Stockholm University.
- Saunders, Cheryl (2003,”Federalism, Decentralization and Conflict Management in Multicultural Societies” in Raoul Blindenbacher and Arnold Koller (ed.al), *Federalism in a Changing World: Learning from Each Other* (Montreal & Kingston. London. Ithaca: McGill-Queen's University Press), pp. 33-39
- Schector, Jerrold (1967), *The New Face of Buddha: The Fusion of Religion and Politics in Contemporary Buddhism* (London: Victor Gollance), p. 106.
- Silverstein, Josef (1981) “Minority Problems in Burma Since 1962”, in Lehman (ed.), *Military Rule in Burma Since 1962* (Singapore, 1981), p. 51.
- Smith, Martin (1999), *Burma: Insurgency and Politics of Ethnic Identity* (London: Zeb Books)
- Smith, Martin (2007), *State of Strife: The Dynamics of Ethnic Conflict in Burma* (Washington: East-West Center).
- Tinker, Hugh (1957), *Union of Burma* (London, Government Printing)

Yawnghwe, Chao Tzang, "The Burman Military", in Josef Silverstein (ed.), *Independent Burma at Forty Years: Six Assessments* (Cornell University, 1989), pp. 81-101.

*Documents of Taunggyi Conference, 1961* (Rangoon: Published by the SCOUP, 1961) in Burmese.



## Burma at a Crossroads

By

Lian H. Sakhong

(A presentation at Forum for Asian Studies, Stockholm University,  
01 March 2011)

### Introduction

For the second time in 20 years, the military regime in Burma conducted general elections on November 7, 2010. The first election was held in May 1990, two years after the nation-wide popular uprising that toppled General Ne Win's one-party dictatorship, but the outcome was the opposite of what the regime expected, and the result was therefore annulled. The second election was held as part of the regime's seven-step roadmap, which aims to perpetuate the continued dominance of the armed forces in the new government. This time the result seems to be what the ruling generals wanted to achieve, and they promptly convened the first parliament on 31 January 2011.

The first sitting of the parliament in 22 years was meant to be a watershed, with the introduction of a new form of civilian government to replace the past two decades of naked military rule. Critics claim, however, that it is nothing more than a thinly disguised military dictatorship.<sup>1</sup> The military, according to a new constitution adopted in 2008, "remains above the law and [is] independent from the new civilian government."<sup>2</sup> The counter argument to such criticism is that although the general election does not resolve sixty years of political crisis, it can produce "... important outcomes and indicators" towards reform. They argue that the "new government will lay out the landscape of a new era of parliamentary system" with some structural changes: a new president, parliament, civilian government and regional assemblies. For the moment, opinions are divided between

those “who believe that the new political system marks a first step from which democratic progress can be made and those who argue that the new government must be opposed.”<sup>3</sup>

Burma is at a crossroads: as a critical moment approaches, uncertainty increases. Will the new government be the SPDC in a new guise, or will it be a platform from which multi-party democracy can truly spread? Can this new civilian government, under the military constitution, bring democracy, peace and justice? What will be the role of Daw Aung San Suu Kyi and her NLD party? How will a new government affect the current ethnic conflicts in the country? What will be the role of the international community?

## **Background: Political Development Since 1988**

In March 1988, a brawl in a tea shop, which led to the death of a student at the hands of the Police, resulted in violent campus wide disturbances. The government responded by closing all the universities and in an attempt to calm the situation promised an inquiry. Believing the environment to be more stable, universities were reopened in June. However, violence once more broke out at the failure of the government to bring to justice those responsible for the student's death. Unrest soon spread nationwide and martial law was declared. A general strike on the 8<sup>th</sup> of August 1988 was bloodily suppressed with thousands of demonstrators and students gunned down in the streets. On the 18<sup>th</sup> September student led demonstrations were once again brutally crushed and soon gave way to an army staged coup.

The army, under the guise of the ‘State Law and Order Restoration Council’ or SLORC, led by General Saw Maung, abolished the *Pyithu Hluttaw* and quickly moved to assure the public of its intentions. On the 21<sup>st</sup> of September the government promulgated the ‘Multi-Party Democracy General Elections Commission Law No. 1/88’ and six days later ‘the Political Parties Registration Law’. On the same day, the National League for Democracy was formed with the aim of ‘establishing a genuine democratic government.’ The NLD was led by Chairman U Aung Gyi; Vice Chairman, U Tin Oo, and General

Secretary Daw Aung San Su Kyi. Altogether 233 parties were registered to contest the 27<sup>th</sup> May 1990 election.

To participate in the election the BSPP changed its name to the National Unity Party and also began to canvass. However, it soon became evident that the NUP was losing to the National League for Democracy, especially due to the popularity of Daw Aung San Su Kyi. After slanderous attacks on her in the media had failed, the government had both Aung San Su Kyi and U Tin Oo arrested on the 19<sup>th</sup> July 1989. Despite the fact that two of its main leaders were under house arrest and disqualified, the National League for Democracy was still able to win 392 (80%) of the 485 seats. The military-backed party, the National Unity Party (NUP), won only 10 seats (2%). The balance of power was held by the ethnic parties, the United Nationalities League for Democracy (UNLD) – 67 seats (16%) and 10 independents (2%).

Despite the party's clear victory, the SLORC refused to hand over power to the NLD claiming that a constitution needed to be drafted first. The NLD and the newly formed United Nationalities League for Democracy (UNLD), an umbrella group of ethnic party representatives, issued a joint statement calling on the State Law and Order Restoration Council (SLORC) to convene the *Pyithu Hluttaw* in September, 1990. Despite such calls the SLORC refused to honour the election result and instead sought to hold on to power claiming that a National Convention would need to be convened to write a new constitution.

After two years of political impasse, and with members of the NLD still in jail or under house arrest, the SLORC announced, on the 23<sup>rd</sup> of April 1992, that it would hold a National Convention - the six main objectives would be:

1. Non-disintegration of the Union;
2. Non-disintegration of national unity;
3. Perpetuation of national sovereignty;
4. Promotion of a genuine multiparty democracy;

5. Promotion of the universal principles of justice, liberty and equality;
6. Participation by the Defense Services in a national political leadership role in the future state.

On the 28<sup>th</sup> May 1992 a National Convention Steering Committee was formed to write the new constitution. The committee included 14 junta officials and 28 people from seven different political parties. The committee named 702 delegates. Of these only 99 were elected Members of Parliament and seventy percent of the delegates were township level officials handpicked by the military.

After constant suspensions and reopening, delegates had agreed 104 principles with ethnic representatives still attempting to secure a federal system. In an attempt to ensure that Aung San Suu Kyi would have no political role in the government of the country the convention law stated, despite opposition from many of the delegates, that the president of Burma must have been a continuous resident for more than 20 years, have political, administrative, military and economic experience and not have a spouse or children who are citizens of another country.

On 29<sup>th</sup> November 1995, in response to criticism from the National League for Democracy, the Military regime expelled all of the NLD delegates from the assembly resulting in the number of MPs elected in 1990 becoming less than three percent of all delegates. The convention was once again suspended and the constitutional process stalled until the appointment of new Prime Minister Khin Nyunt in 2003. The new premier unveiled what he called a seven-step roadmap. The seven steps were:

1. Reconvening of the National Convention that has been adjourned since 1996.
2. After the successful holding of the National Convention, step by step implementation of the process necessary for the emergence of a genuine and disciplined democratic system.
3. Drafting of a new constitution in accordance with basic principles and detailed basic principles lay down by the National Convention.

4. Adoption of the constitution through national referendum.
5. Holding of free and fair elections for Pyithu Hluttaws (Legislative bodies) according to the new constitution.
6. Convening of Hluttaws attended by Hluttaw members in accordance with the new constitution.
7. Building a modern, developed and democratic nation by the state leaders elected by the Hluttaw; and the government and other central organs formed by the Hluttaw.

In the face of open criticism from a number of parties, both within and outside of the country, including Kofi Anan, the U.N. Secretary General, the National Convention reconvened on the 17<sup>th</sup> May 2004 with 1,076 invited delegates including representatives from 25 ethnic ceasefire groups.

The National Convention was concluded, after 14 years of deliberation and several sessions, on the 3<sup>rd</sup> of September 2007. On the 9<sup>th</sup> of February 2008, the SPDC stated that a National Referendum to adopt the constitution would be held in May 2008. In spite of the fact that Cyclone Nargis struck the country on the 2<sup>nd</sup> and 3<sup>rd</sup> of May 2008 causing widespread devastation, the regime insisted on continuing with its plan to hold the referendum, except for a few townships where the destruction occurred most, on the 10<sup>th</sup> of May 2008. The regime announced that the draft Constitution had been overwhelmingly approved by 92.4 percent of the 22 million eligible voters, stating that there had been a turnout of more than 99 percent.

As the fifth step of the seven-step roadmap, the regime conducted general elections on 7 November 2010. The election was particularly flawed. Daw Aung San Suu Kyi was still under house arrest and ineligible to contest due to an election law that excluded electoral participation by any member of a political party who has been convicted in court. In addition, the Union Election Commission (UEC) stated the Kachin State Progressive Party (KSPP) was ineligible to register because of connections with armed ceasefire group, the Kachin Independence Organization (KIO) effectively ensuring that only regime candidates were able to contest the election.

## **The Current Problem: A Twin Process of Militarization and Democratization**

The regime's political objective is clear: the domination of armed forces, *Tatmadaw*, in the new government. As stated in the sixth objective of its national convention, the armed forces will "participate in the national political leadership role of the state". As Sr. Gen Than Shwe frequently said, the goal of the regime's political roadmap is "national reconsolidation", not "national reconciliation", which will be implemented through a twin process of "militarization" and "democratization". This twin process is a combination of two different political systems that mutually oppose each other - a mixture of uncertainty, danger and hope. Although the twin process is a dangerous and unpredictable mix, some activists believe that it can open a window of opportunity, at least for a long-term gradual transition, instead of maintaining the *status quo*.

In a Burmese political context, the concepts of "national reconsolidation" and "national reconciliation" are totally different. National "re-consolidation" or "consolidation" is meant to be the establishment of a homogeneous country of *Myanmar Ngaing-ngan*, with the notion of "one ethnicity of Myanmar, one language of Myanmar-ska, and one religion" or a state religion of Buddhism as the saying goes: "*Buddha-Bata Myanmar-Lumyo*" (To be a Myanmar is to be a Buddhist). National reconciliation, on the other hands, is meant to be the establishment of a genuine federal union where many ethnic nationalities from many different religious, cultural, linguistic and historical backgrounds can live peacefully together.

In order to build a homogeneous nation-state of *Myanmar Ngain-ngan*, the regime designed the military domination of the state in the 2008 Constitution but in the name of "democratization" it chose the "seven-steps roadmap" to democracy. In accordance with the seven-step roadmap, the regime conducted the national convention, adopted a new constitution through a national referendum, held general elections, convened a new parliament, and will install a civilian

government. They argue that implementing the process of the “seven-steps roadmap” is part of the “democratization” process.

Within the same objective of “national reconsolidation”, the regime has designed another process, that of “militarization”, which goes hand in hand with the so-called “democratization”. In order that the military takes the leading role in national politics, the 2008 Constitution was designed in such a way that the armed forces would remain above the law and be independent from the government, and, therefore, would dominate and control the three branches of political power.

To control the legislative power at both the Union and State and Regional Assemblies, the 2008 Constitution reserves 25 percent of the seats in all legislative chambers for the military personnel. In this way, according to the 2008 Constitution, a total of 386 military personnel will be appointed as lawmakers; (110 out of 440 seats for lower house; 56 out of 224 seats for upper house; and 220 out of 883 seats for 7 states, 7 regions and 3 autonomous regions).<sup>4</sup>

In addition to the constitutional arrangement, which is designed for military domination, the regime also formed a proxy party called the “Union Solidarity and Development Party” (USDP). In the 2010 general elections, the USDP won 76 percent of the total vote, 79 percent of lower house seats, 77 percent of senate seats and a 75 percent stake in the seven state and seven regional assemblies. Since the military is controlling the legislature power at all levels, it will be very difficult to make any changes in the 2008 constitution, which requires the backing of more than 75 percent of parliamentary votes for constitutional amendments.

The executive power of the state, according to the 2008 Constitution, will be totally under the control of the armed forces. The President and two Vice-presidents, who are the head of the state and represent the country, will be elected not by the public but by the Presidential Electoral College, consisting of three groups of parliamentarians: upper house, lower house and military appointed lawmakers. Each group will nominate one candidate for the presidency. Members of the Electoral College will then vote for one of the three to become

president. The candidate with the most votes takes the top job and the unsuccessful candidates will become vice-presidents. All will serve five-year terms. In this way, the military constitution has by-passed the public in presidential election process, but guaranteed the armed forces, as decision makers, participation in the highest level of national politics.

In addition to the 386 military personnel already appointed as lawmakers, the Commander-in-Chief of the Defense Service will appoint three generals as ministers of defense, the interior and border affairs. The president can also select military officers to head other ministries. Armed forces' members serving in government, parliamentary or civil service roles accused of a crime will be tried by a military court martial court rather than a judicial one.

The 2008 Constitution creates a powerful body, the "National Defense and Security Council", consisting of 11-member committee tasked with making key decisions. While the president will serve as the Chairman, military personnel will occupy five of the 11 places on the National Defense and Security Council. In this way, the armed forces will control the decision making process at a political body which is granted the right to declare "state of emergency".

The "state of emergency" in the 2008 Constitution, unlike a democratic constitution, is a mechanism created for the armed forces to control the state. Through the right to declare "state of emergency", the highest law of the land granted the chief of armed forces the right to take over the state power, or the constitutional right of a military coup. With presidential approval, the armed forces chief can assume sovereign power and declare a state of emergency, with full legislative, executive and judicial power. In this way, the armed forces will remain above the laws and control the state. This is how the armed forces in Burma, known as *Tatmadaw*, will engage the process of "militarization" in the name of "democratization".



## The New Face of the Military Regime

Before 31<sup>st</sup> March 2011, Burma will see a new face of the military regime but it will be in civilian clothes. When a president takes office, the State Peace and Development Council (SPDC), as the military junta calls itself, will cease to exist.

Ex. Gen. Thein Sein, former Prime Minister of SPDC, will become the new President of the Union of Burma. Thein Sein, who retired from the army in April to lead the junta's proxy party, the Union Solidarity and Development Party, is Than Shwe's longterm friend and close aide. He replaced former spy chief Gen Khin Nyunt as the junta's Secretary-1 in Oct 2004 while Gen Soe Win became Prime Minister. In April 2007, while Soe Win was suffering from leukemia, Thein Sein was appointed acting prime minister. When Soe Win passed away in October 2007, he became the permanent prime minister.

Ex-Gen. Tin Aung Myint Oo, a former Secretary-1 of SPDC, and Sai Mauk Kham, a Shan ethnic, will become the two vice-presidents of the Republic of Union of Burma. Tin Aung Myint Oo, as Secretary-1 of the junta, was the fourth most powerful man in the country and assigned in April last year to run the USDP together with Thein Sein. Sai Mauk Kham is also a member of USDP.

Ex. Gen. Shwe Mann, the junta's third-ranking officials, has been elected as the speaker of the Lower House of Parliament, known as *Pyithu Hludaw*; and Khin Aung Myint, the junta Culture Minister, will become the speaker of the Upper House, known as *Amyotha Hludaw*.

Unlike the president, one vice-president, and two speakers, who are recently retired from the army, three active-military generals have also been appointed to key cabinet positions. Burma's new Defense Minister will be Lt-Gen Ko Ko, a former chief of the Bureau of Special Operations-3. Maj-Gen Hla Min, the current BSO-3 chief, has been appointed Minister of Home Affairs, and Maj-Gen Thein Htay, the chief of military ordnance, is appointed as Minister for Border Affairs. The new Foreign Minister will be Wanna Maung Lwin, a former military officer turned diplomat.

In accordance with the 2008 Constitution, the president, two vice-presidents, two speakers, Commander-in-Chief and Deputy Commander-in-Chief of Defense Services, ministers of Defense, Home Affairs, and Border Affairs will form one of the most powerful bodies of the state, namely, the “National Defense and Security Council” (NDSC).

## **A New Political Landscape**

Whether we recognize it or not, the 2010 election brings a new political landscape in Burma. In addition to the new government, that will be known as the Government of the Republic of the Union of Myanmar, there will be seven ethnic state assemblies and governments plus another seven regional assemblies and governments. This new political scene will create a new political space, either positively or negatively, where many political actors will take part. At the same time, the new reality after election also brought unavoidable change, at least in terms of political structures and functions, within the main opposition groups, especially the NLD and ethnic parties that won the 1990 elections.

Within this newly emerged political scene, the reality of new developments can be recognized, especially within opposition groups and ethnic nationalities, as follows:

### **(i) Opposition Groups**

Since the National League for Democracy (NLD) and United Nationalities League for Democracy (UNLD) members that won the 1990 elections boycotted the 2010 election, the group commonly known as “democratic forces” is unlikely to make any big change within a new political structure created by the 2008 Constitution and the 2010 election in November. The National Democratic Force (NDF), formed by a splinter group of the NLD, won merely 12 seats (2%), and will not be able to make any impact within the parliament. Thus, the opposition groups within the Union parliament will be weak and cannot be expected to be the main players for change.

## **(ii) Ethnic Political Parties**

The 2008 Constitution has created unexpected political structures in ethnic states, namely, the state assemblies and state governments. Although it is far from perfect, these new structures allow the ethnic nationalities for the first time in their history to elect their own representatives for their respective homeland assemblies and state governments. Many are hopeful that these new structures will eventually bring genuine “ethnic representation” for ethnic states in a form of “self-rule” through the federal arrangement of the Union constitution, but how to amend the 2008 Constitution is another blockage to be overcome.

In addition to state assemblies and state governments, the ethnic nationalities in Burma, for the first time in their history, will be able to send equal representatives to the Upper House of the Union Assembly. For this opportunity, they have been fighting so hard for so long; most notably during the “federal movement” in the early 1960s. Although the 2008 Constitution does not grant the “right of self-determination” for ethnic nationalities, this arrangement is far better than the 1947 and 1974 Constitutions.

As unexpected window of opportunity present itself, ethnic political parties are prepared to take advantage. In the 2010 election, 16 out of 22 winning parties are ethnic national parties,<sup>5</sup> which can dominate their respective state assemblies between 29% (Mon State) and 45% (Chin State).<sup>6</sup> If it were not for 25% seats reserve for the army and the advance-votes, through which the USDP claimed most of its winning seats, at least four ethnic states, namely, Arakan, Chin, Karen and Shan States, would have been able to form their respective state governments.

Only in the Kachin and Karenni States, local ethnic parties that genuinely represent their peoples were unable to contest. In the Kachin State, the election commission rejected the registration of the Kachin State Progressive Party (KSPP), which is formed and backed by the Kachin Independence Organization (KIO), a ceasefire group. In the Karenni (Kayah) State, the All National Races Unity

and Development Part (Kayah State) was forced to withdraw its registration due to political pressures.

Although the ethnic national parties do not form a single political platform or a front, similar to the UNLD in 1990, the five parties from Arakan, Chin, Karen, Mon and Shan States recently issued a joint statement in January 2011, calling for “the lifting of sanctions, ethnic representation in the state administrations, and general amnesty” to illustrate that “the military government has ended and democratic transition has begun.”<sup>7</sup>

### **(iii) Ethnic Armed Groups (Ceasefire)**

There were as many as 30 different ceasefire groups but only 17 are recognized as “official” or “major groups”. Most of the major ceasefire groups attended the second round of National Convention in 2004-2007, and the 13 groups collectively submitted their proposal to the NC, in which they proposed federal system as the basis for the future constitution of the Union of Burma. The regime, however, ignored their proposal. In 2007, the Kachin Independence Organization (KIO), one of the largest groups among the ceasefires, submitted their proposal once again, known as the 19-point proposal, based on the federal principles. This time, the regime not only refused the proposal but also threatened to break the ceasefire agreement with the KIO, saying “they can be pushed back to the mountain.”<sup>8</sup>

Since the end of the National Convention, which served as an official platform and the focal point of communications, the relationship between ceasefire groups and the regime began to break down. To make matters worse, the regime issued an ultimatum in April 2009, which demanded that all the ceasefire groups give up their arms and transform themselves into a Border Guard Force (BGF) under government control. The regime also threatened them that any ceasefire group that did not give up their arms by 1 September 2010 would be declared illegal organizations.

Most of the major ceasefire groups wanted to maintain their forces and territories until a political solution is found and the new political

system is properly installed. While most of the major groups, including the United Wa State Army (UWSA), Kachin Independence Organization (KIO), New Mon State Party (NMSP), rejected the regime's BGF proposal;<sup>9</sup> at least 9 ceasefire groups accepted to become a BGF.<sup>10</sup> Another eight smaller ceasefire groups are willing to transform themselves as the militia (Pyithusit) under the command of the regime's armed forces.

Although the deadline has passed, the BGF issue remains a flash point where ceasefire agreements can be broken and thus fighting resume. There are many indicators that suggest that the regime is preparing for a major offensive against those who have rejected the BGF,<sup>11</sup> suggesting that the government will use the same tactics employed against the Myanmar National Democratic Alliance Party, also known as the Kokang Group, in August 2009. During the clash with Kokang, which lasted only a few weeks, at least 37,000 refugees fled to China.<sup>12</sup>

#### **(iv) The New Alliance of Ethnic Armed Groups: United Nationalities Federal Council (UNFC)**

As the military regime has accelerated its seven-step roadmap, tensions between ethnic armed groups and the Burma Army have intensified. The BGF issue is the major concern for both sides. As the tension has increased, ethnic armed groups from both ceasefire and non-ceasefire groups have discussed about cooperation should the SPDC launch an offensive against them.

In May 2010, the first meeting between the two sides of ethnic armed groups, ceasefire and non-ceasefire, was held. At the second meeting in September 2010, they jointly formed a committee, the "Committee for the Emergence of a Federal Union" (CEFU), comprising of three ceasefire groups: KIO, NMSP, and SSA-N (Shan State Army-North), and three non-ceasefire groups: KNU, KNPP (Karenni National Progressive Party), and CNF (Chin National Front).

In February 2011, CEFU was transformed into the "United Nationalities' Federal Council" (UNFC). As the "committee" is

transformed to the “council” its members increased, from 6 to 10 armed groups with approximately 20,000 troops; and supported its formation process by the Ethnic Nationalities Council (ENC), which is a political alliance of all ethnic nationalities from seven ethnic states. The UNFC and its members are committed to collaboration on political and military matters with the final objective of achieving a genuine federal union of Burma. This has been a solid work in progress over the last decade. The UNFC issued a statement soon after it was formed, and urged the international community “to force the Burma Army to negotiate with the ethnic nationalities in order to find a political solution”. They also declared in the statement “we will wage unconventional warfare until the Burma Army negotiates.”<sup>13</sup>

### **What’s Next: Dialogue or Confrontation?**

In this changing political landscape, what roles will the NLD and UNLD/UNA, the parties that won the 1990 general elections and still enjoy the public support as ever, play? What about the National Coalition Government of the Union of Burma (NCGUB), and other democratic forces in exile? What role will the ENC play if there is no more room for a negotiated settlement? All these democratic forces and ethnic nationalities’ organizations have been advocating so long for a peaceful transition to democracy in Burma. Nevertheless, what will be their new roles in a rapidly changing political context in Burma?

An essential question, however, is not what roles they would play but what choice Burma will make: dialogue or confrontation? If the choice is a peaceful transition to democracy through negotiated settlement and dialogue, then they all still have many important roles to play.

#### **(i) The Second Panglong Conference, or Revival of Panglong Spirit**

When the tension between the SPDC’s Army and Ethnic Ceasefire Armies was high, the ethnic issue was cast dramatically in the limelight.

Another aspect of in relation to ethnic issues was made by the UNLD/UNA. It issued a statement in October 2010 calling for a Second Panglong Conference.

Although the call for a Second Panglong Conference was nothing new, the significant this time was the endorsement they received from the NLD leadership, including Daw Aung San Suu Kyi, U Tin Oo, U Win Tin, and others. One of her first major political statements since her release in November 2010, Daw Aung San Suu Kyi strongly endorsed a call for a Second Panglong Conference.

Since the eruption of the 1988 democracy movement, both democratic forces and ethnic nationalities have called several times for a Second Panglong Conference. Most notably, the NLD and UNLD jointly called for the Second Panglong Conference in August 1990 when they issued the “Bo Aung Kyaw Street Declaration”. In 2001, the ENC (as ENSCC) launched a campaign called the “New Panglong Initiative”, in order to rebuild the Union based on the spirit of the 1947 Panglong Agreement. Recently, the KIO also called for the revival of the Panglong Spirit to end six long decades of civil war and political conflict.

The Panglong Agreement, which was signed on 12 February 1947, was an agreement on which the Union of Burma was founded in the first place. For the ethnic nationalities and democratic forces, the revival of the Panglong Agreement means re-building the Union of Burma based on federal principles that will guarantee democratic rights for all citizens, political equality for all ethnic nationalities, and the rights of internal self-determination for all member states of the union. As such, so long as Burma is under a military dictatorship and applies the military constitution of 2008 the need for the revival of the Panglong Spirit will be there. Thus, all democratic forces and ethnic nationalities should be united in calling for the revival of the Panglong Spirit until Burma becomes a genuine federal union. This is where the NLD and other democratic forces, under the leadership of Daw Aung San Suu Kyi, can play a major role.

## **(ii) Tripartite Dialogue in Solving Three Issues**

In 1994, the United Nations General Assembly passed a resolution which has been reaffirmed every year since calling for “Tripartite Dialogue” to resolve Burma’s problems and to build a sustainable democracy. According to the UN GA resolution, “Tripartite Dialogue” is meant to be a dialogue amongst:

- 1 The military led by the SLORC / SPDC
- 2 1990 Election-winning Parties led by the NLD
- 3 The Ethnic Nationalities.

The essence of “Tripartite Dialogue”, however, is not just a “Three-party Talk” but to solve “Three-Issues” that Burma is facing today. These are:

1. De-militarization: How to transform the Armed Forces into a normal civil service? How all ethnic armed groups, who have been fighting sixty years of civil war, will be integrated into a normal civilian lives? This is a huge task Burma will face because the regime is still engaged in “militarization”, opposite to the needs of the country and the people;
2. Democratization: Since 1962, Burma has been under a military dictatorship, and there are no political institutions which can sustain a free and open democratic society. Democratization, including building civil society and political institutions, is a major challenge for the regime and its new government. If the democratization process succeeds then Burma will be become more or less a free country but if it is fails, then the country will be back to square one: military dictatorship.
3. Ethnic Issues: Ethnic Nationalities in Burma have already been engaged in over sixty years of civil war, in order to regain autonomy in their respective homelands there must be a federal arrangement.

Until and unless these three issues are solved, Burma will remain a land of political turmoil, ethnic conflict and civil war.



### **(iii) The Role of the International Community: Multi-Party Talks on Burma**

The international community, including the United Nations, admitted that Burma is facing “many political, economic and social challenges and that some of its problems are quite serious,” and Burma is “a threat to regional stability and international peace.”<sup>14</sup> At the UN Security Council, even the so-called “pro-junta” countries like China acknowledged that Burma, indeed, is “faced with a series of grave challenges relating to refugees, child labor, HIV/AIDS, human rights and drugs,” and suggested that the UN should address those problems through the good offices of the Secretary-General under the mandate of the General Assembly.

The problem, however, is the fact that the international community does not have a common policy towards Burma. While Western countries prioritize restoration of democracy in Burma, our neighboring countries, especially China, India and ASEAN countries, are concerned more about stability in the country and the region. So long as the international community applies different policies, the pressures from outside, including sanctions, will not be effective.

Since 2007, the Ethnic Nationalities Council (ENC) has been calling for “Multi-party Talks on Burma” under the UN mechanism in order that the international community can adopt a common policy towards Burma. Such a process and mechanism are needed because the members of the international community who are dealing with Burma should consult each other, so that they can take concerted action.

Previously, the regime has taken a stance that it will never engage in Burma issues outside of Burma, and the same hard liners are still around. However, the idea should still be pursued further, especially with the new government. Since the regime has conducted general elections and the new government is going to be installed, it seems that this is the right time to convene an international consultation in a form of “Multi-party Talks on Burma”, as the ENC has suggested.

In such a consultation, many issues, including the following, can be discussed: How could western countries such as the USA and international institutions such as the EC, the UN, the WB, IMF and the ADB adapt their policies to the new situation? How far will the west's strategy towards Burma depend on Aung San Suu Kyi's? Shall economic sanctions be lifted? What can be expected from China, ASEAN and other pro-junta players?

### **Conclusion**

Burma is at the crossroads, whether to go the path of “militarization” or to “democratization”. The road to “militarization” will inevitably lead the country to political confrontations and ethnic conflicts, including the return to fighting after so many years of ceasefire agreements with ethnic armed groups. Democratization, on the other hand, can be the path to reconciliation, peace and development. Since the military regime is intending to engage these two opposite paths as a twin process in the name of “national reconsolidation”, the situation has become such that a simple choice cannot be made between either/or yes and no.

The best solution seems to be to engage in “talks” before the current uncertainty reaches a new deadlock. As General Saw Maung and General Khin Nyunt promised when they signed ceasefire agreements with ethnic armed groups: General Khin Nyunt, as head of the government said: “We are not really a government, we have no constitution. After we have a constitution, you can talk to the new government.”<sup>15</sup> The democratic forces, led by Daw Aung San Suu Kyi, and ethnic nationalities should stand firm in unity and demand a dialogue with the new government, as was promised. The regime now has a constitution and a new government. Thus, as promised, this is time to talk.

#### Notes:

1. Larry Jagan, “This Parliament makes a Mockery of Democracy” (Reuter, 31 Jan 2011)
2. Ethnic Nationalities Council (ENC) Policy Statement, September 2009.

3. "Ethnic Politics in Burma: The Time for Solutions" (Amsterdam: Burma Centrum Nederland's Policy Briefing, No. 5, February 2011)
4. In 2010 general elections, voting did not take place in 4 townships in the areas controlled by the United Wa State Army; and also two constituencies for state legislature in Kachin State. Thus, according to the Election Commission announcement on 16 September 2010; the elections taken place as follows:
  - (i) Pyithu Hluttaw (Lower House): 326 constituencies (+ 110 seats for Armed Forces)
  - (ii) Amyotha Hluttaw (Upper House): 168 constituencies (+56 seats for Armed Forces)
  - (iii) 14 States/Region legislatures: 663 constituencies (+220 seats for Armed Forces).
5. See Appendix (1): List of Ethnic Parties that won elections in 2010.
6. See Appendix (2): Election results in ethnic state legislatures
7. The statement is jointly issued by the Rakhine Nationalities Development Party (Arakan State), Chin National Party (Chin State), Phalon-Sawaw Democratic Party (Karen State), All Mon Regions Democracy Party (Mon State), and Shan Nationalities Democratic Party (Shan State), on 15 January 2011.
8. See "The Kachin Dilemma: Contest the Election or Return to Guerrilla Warfare" (Brussels: EBO Analysis Paper, no. 5, 2010)
9. See Appendix (3): List of Ceasefire Groups that rejected BGF status.
10. See Appendix (4): List of Ceasefire Groups that the status of BGF.
11. The Kachin News Agency reported that "At the end of November, senior officers from SPDC met in Myittkyina and discussed preparations for possible war. The situation is volatile and observers felt that China may not be overly concerned with what goes on in Kachin because they are Christians, seen as closer to the United States, and not ethnically Chinese (unlike the Wa and Kokang); KNC, Dec 6, 2010.
12. "The Kokang's Clash: What's Next?(Brussels, EBO Analysis Paper, September 2009).
13. UNFC's Statement, on 17 February 2011.
14. "Threat to the Peace: A Call for the UN Security Council to Act in Burma" (Report Commissioned by The Honorable Vaclav Havel, Former president of Czech Republic, and Bishop Desmond M. Tutu, Archbishop Emeritus of Cape Town) September 20, 2005. See also the UN Security Council's Presidential Statement, October 2008, and the ENC Mission State, July 2007.
15. Tom Kramer, "*Neither War nor Peace: The Future of Ceasefire Agreements in Burma*" (Amsterdam: Transnational Institute, 2009), p. 13

## **Appendix (1): Ethnic Parties that won Elections in 2010.**

1. All Mon Regions Democracy Party
2. Chin National Party
3. Chin Progressive Party
4. Ethnic National Development Party [Chin State]
5. Inn National Development Party [Sha State]
6. Kayan National Party
7. Kayin's People Party
8. Kayin State Democracy and Development Party
9. Lahu National Development Party [Shan State]
10. Pao National Organization [Shan State]
11. Phalon-Sawaw (Pwo-Sgaw) Democratic Party [Keren State]
12. Rakhine Nationalities Development Party [Arakan State]
13. Shan Nationalities Democratic Party
14. Tauang (Palaung) National Party [Shan State]
15. Unity and Development Party of Kachin State
16. Wa Democratic Party [Shan State]

## **Appendix (2): Election results in ethnic state legislatures**

The balance of power (expressed in percentages) in the ethnic state legislatures is as follows:

### **Chin State Legislature**

Military 25%

USDP 29.2%

Other (Chin Parities) 45.8% [CNP 20.8%; CPP 20.8%; ENDP 4.2%]

### **Kachin State Legislature**

Military 25.5%

USDP 39.2%

Other 35.3% [NUP 21.6%; SNDP 7.8%; UDPKS 3.9%; Independent 2%]

### **Kayah State Legislature**

Military 25%

USDP 75%

### **Kayin (Karen) State Legislature**

Military 26.1%

USDP 30.4%

Other 43.5% [PSDP 17.4%; KPP 8.7%; AMRDP 8.7%; KSDDP 4.3%; Independent 4.3%]

### **Mon State Legislature**

Military 25.8%

USDP 45.2%

Other 29% [AMRDP 22.6%; NUP 6.4%]

### **Rakhine State Legislature**

Military 25.5%

USDP 29.8%

Other 44.7% [RNNDP 38.3%; NNDP 4.3%; NUP 2.1%]

### **Shan State Legislature**

Military 25.2%

USDP 37.7%

Other 37.1% [SNDP 21.7%; PNO 4.2%; TNP 2.8%; INDP 2.1%; WDP 2.1%; rest 4.2%]

(Source: “A Changing Ethnic landscape: Analysis of Burma’s 2010 Polls” (Burma Policy Briefing No. 4, December 2010, by Burma Centrum Netherland)

### **Appendix (3): List of Ceasefire Groups that rejected Border Guard Force status:**

- (1) Democratic Karen Buddhist Army (5th Brigade)
- (2) Kachin Independence Organization

- (3) Kayan Newland Party
- (4) KNU/KNLA Peace Council
- (5) New Mon State Party
- (6) Shan State Army- North/Shan State Progressive Party
- (7) United Wa State Army
- (8) National Democratic Alliance Army (Mungla Group)

**Appendix (4): List of Ethnic Ceasefire Groups that accepted BGF status**

- (1) New Democratic Army – Kachin
- (2) Karenni Nationalities People’s Liberation Front
- (3) Myanmar National Democratic Alliance Army – Kokang
- (4) Lahu Militia (Maington), Shan State
- (5) Lahu Militia (Tachilek), Shan State
- (6) Akha Militia (Maingyu) Shan State
- (7) Wa Militia (Markmang) Shan State
- (8) Democratic Karen Buddhist Army
- (9) Karen Peace Force (ex-KNU 16<sup>th</sup> Battalion)

## **Ending Ethnic Armed Conflicts in Burma?**

### **Lessons for Current Peace Process from the Past**

By

Lian H. Sakhong

(May 2013)

#### **Introduction**

For the past 60 years, ethnic nationalities in Burma have all been striving to end armed conflicts in the country through political means. They all argue that the armed resistance moment is not the answer but they hold arms only as a means of self-defense from Burma Army attack. They further argue that the root cause of political crisis, including sixty-years of civil war, is politics for which the solution can only be found at a dialogue table, not on battlefields. Most of them, therefore, signed a ceasefire agreement with the government: hoping that the ceasefire agreement will soon be followed by a genuine political dialogue.

The most pressing issues for ethnic nationalities, since the new government was installed after 2012 election, seem to be how to engage in ceasefire talks and transform ceasefire talks to a genuine political dialogue. However, a cautious remark should be quickly made that ceasefire talks are merely a short-term challenge that ethnic nationalities face after sixty years of struggles. The question is how to reach the ultimate goal of establishing a genuine federal union which will guarantee the right to internal self-determination for ethnic nationalities. If the ceasefire talks are the only game in town, how will it obtain the ultimate goal.

At the ethnic nationalities conference, held in September 2012, ethnic armed groups proposed a “Negotiation Process” in response to President Thein Sein’s offer for ceasefire talks, which read as follow:

1. Ceasefire Talks: Preliminary Talks at State Level (Each armed group can talk separately to their respective state governments);
2. Political Dialogue with the Union Government (For the matter of ceasefire, each state can talk separately with the Union Government, but for political issue, Ethnic Nationalities will talk collectively);
3. Second Panglong Conference in order to sign the “Union Accord”, which will be the basis for future constitutional reform.

It seems that history is repeating itself. When ethnic nationalities in Burma negotiated with both the British colonial power and the Burmese interim government led by General Aung San at the Panglong Conference in 1947, they also opted for a three-step negotiating process toward joining an independent Burma, and thereby becoming member states of newly independent country.

In previous negotiation processes for independence - the historic Panglong Agreement was the first step at which the Chin, Kachin, and Shan agreed to join the Union. It was stated in the Preamble of the Panglong Agreement, “Believing that freedom will be more speedily achieved by the Shans, the Kachins, and the Chins by their immediate co-operation with the interim Burmese government”.

The second phase of a “negotiation process” for independence was the formation of the “Frontier Areas Commission of Enquiry” (FACE), which was tasked to find the “Method of Association”, based on the Panglong Agreement, and in order to implement the first step of the agreement as a final stage, which was the promulgation of the 1947 Constitution. As I shall argue below; the FACE was the most important negotiation process for independence; but, unfortunately, the process was so poorly designed, and as a result, ethnic nationalities that joined the Union of Burma as equal partners at the Panglong Conference were manipulated and their demands marginalized. In order to avoid the past mistakes, lessons should be learnt from history.



For the sake learning history but not for repeating itself, the comparison can be made between the current situation and the negotiation process for independence in 1947.

### **History: Negotiation Process for Independence in 1947**

- First Step: Pang long Conference (Agreed to join the Union)
- Second Step: FACE (Negotiation for how to build a new country called the “Union of Burma” together,)
- Third Step: 1947 Constitution (Implementation of Panglong Agreement & the FACE Report)

### **Current: Negotiation Process for Peace & Ending 60 Years of Civil War**

- First Step: Ceasefire Talks, (Ethnic armed groups talk separately with State governments);
- Second Step: Political Dialogue (Negotiation for political settlement between Ethnic Armed Groups and the Government of the Union Government);
- Third Step: Second Panglong Conference (To Begin a Constitutional Reform?)

### **Lessons from the Frontier Areas Commission of Enquiry (the FACE)**

Under the Aung San–Attlee Agreement, the Frontier Areas Commission of Enquiry (the FACE) was formed to inquire through additional and specific consultation into the wishes of the frontier peoples. The agreement reads:

A Commission of Enquiry shall be set up forthwith as the best method of associating the Frontier peoples with the working out of the new Constitution for Burma. Such Commission will consist of equal numbers of persons from Ministerial Burma, nominated by the Executive Council, and of persons from the Frontier Areas, nominated by the Governor after consultation with the leaders of the areas, with a neutral

Chairman from outside of Burma selected by agreement. Such Commission shall be asked to report to the Government of Burma and His Majesty's Government before the summoning of the Constituent Assembly. <sup>1</sup>

The British government appointed Col. D. R. Rees-William as Chairman of the FACE. Since the committee conducted its enquiry after the signing of the Panglong Agreement, during March and April 1947, the evidence they heard was generally in favour of cooperation with the Burma Proper or Ministerial Burma. The reason for conducting the FACE enquiry, as defined in its objective, was to find out the "best method of association" with the purpose of formulating the basic principles of a new Constitution; but, whether this new Constitution would become a Constitution of Federated Burma or a Unitary Burma depended heavily on the finding of the enquiry. The key to such endeavour, therefore, was to find out the desires of the Frontier Peoples: What kind of a new country they wanted to build together, a Federal Union or a Unitary State. In addition, what kind of political system they wish to establish for themselves. As such, the FACE was assigned not only to find out the desires of the Frontier Peoples but to find the means and ways of the "coming together" of historically, politically, culturally, and ethnically different peoples as members of a new multi-nation-state of federation called the Union of Burma.

Since the FACE enquiry was conducted in order to supplement the Panglong Conference as a transitional process, or what can be called the second phase the "negotiation process", the findings of the enquiry, based on and together with the Panglong Agreement, would become the basis for a new constitution of the Union of Burma. As the committee was assigned such important tasks, the FACE conducted its enquiry in such away that the peoples of the Frontier Areas would be allowed to express their desires not only through oral testimonies but also by submitting written memorandum both collectively and individually. The FACE, thus, conducted a series of interviews not only with the signatories of Panglong Agreement, namely the peoples from the Chin Hills, Kachin Hills, and Federated

Shan States. The FACE also granted a chance to express the desires of the non-Burma ethnic peoples from the so-called Ministerial Burma, or Burma Proper, namely as Arakan, Mon and Karen. Surprisingly, they the FACE also conducted interviews with two groups of the Karenni. The Karenni actually should not be included; because it was recognized as an independent country during the entire colonial period. (In the later years, the Karenni people denounced those who met with the FACE as traitors to their people and their country.) The FACE, since knowing the background history of Karenni, suggested that the question of the future of Karenni, along with the political future of the Chin, should be “a matter for negotiation and discussion in the Constituent Assembly”.

The Chin, Kachin, and Shan, the signatories of the Panglong Agreement, collectively submitted a written memorandum to the FACE in the name of the Supreme Council of United Hills Peoples (SCOUHP), which was formed as the Interim Authority for the Frontier Areas for a transitional period at the Panglong Conference, in parallel with the interim Burmese government headed by Aung San. The SCOUHP memorandum highlighted three main issues, namely,

- (i) Equal rights with the Burman,
- (ii) Full internal autonomy for Hill Areas [that is, ethnic national states of Chin, Kachin and Shan], and
- (iii) The right of secession from Burma at any time. <sup>2</sup>

The SCOUHP memorandum also specified the composition and selection method of the “Constituent Assembly”, which would draft the Constitution of the Union of Burma; the State and Federal relations, especially the division of powers between the two levels of government by emphasizing the subject that should be dealt by the Federal Government; and the form of Federal Government in which they demanded equal rights and equal opportunity for Hill States. The full text reads as follows:

- (1) Representative members to the Constituent Assembly to be nominated by the Provincial Councils proportionately on intellectual

basis, irrespective of race, creed and religion as far as the Hill Areas are concerned.

- (2) To take part in the Burmese Constituent Assembly on population basis, but no decision to be effected in matters regarding a particular area without 2/3<sup>rd</sup> majority of votes of the Representatives of the Areas concerned. (Special consideration for Chins in view of divergence of language, customs and difficult means of communication.)
  - (i) Equal Rights for all.
  - (ii) Full internal autonomy for Hill Areas, and
  - (iii) The right of secession from Burma at any time.
- (3) It is resolved that due provision shall be made in the future Burmese Constitution that no diplomatic engagements shall be undertaken or appointments made without prior reference to the Hill States.
- (4) In matters of common subjects, e.g. Defence, Foreign Relations, etc, no decision shall be made without the proper consent of the majority of representatives of the Hill States irrespective of the Burmese votes.
- (5) The provision shall be made in the Constitution of the Federated Burma that any change, amendment or modification affecting the Hill States, either directly or indirectly, shall not be made without a clear majority of 2/3<sup>rd</sup> votes of the representatives of the Hill States.
- (6) When opinion as to the interpretation of the terms in the Constitution, the matter shall be referred for decision to a bench of the High Court of Judicature at Rangoon comprising the Chief Justice and two other Justices (the Supreme Court, the appointment or selection of which judges should by convention be approved of the Federated Government).
- (7) The total numbers of the Burmese members in the Federal Cabinet shall not exceed the total numbers of the Frontier States in the said Cabinet.

Since the Chin, Kachin and Shan had already signed the Panglong Agreement, in which they had agreed to join the interim Burmese government, the essence of the Memorandum they submitted to the FACE was to establish the conditions for joining the Union and to find the method of association with the interim Burmese government. The Memorandum, therefore, highlighted the fact that the conditions for joining the Union would be a federal basis with a strong emphasis on the federal principles of both “self-rule” and “shared-rule”, and the right to secede from the Federation at any time after the attainment of freedom.

### **Case Study: How the Chin were manipulated and their demands marginalized**

In addition to the SCOUHP Memorandum, the Chin submitted their own Memorandum, in which they strongly emphasized the rights of self-governance within the Chin territory and the maintenance of their traditional political system. They wanted to retain “internal affairs”, that is, an administrative aspect of the federal principle of “self-rule”, and “ancient custom”, which is a judicial aspect of internal self-determination. The Memorandum also emphasized another aspect of federal principles: “shared-rule”, in a form of state-federal relations. They agreed, in principle, that “Foreign Relations and External Affairs, Defence, Posts and Telegraphs, Communications, Health, Education, Customs, Currency and Coinage, Titles and Honours, and holding of Durbars, etc.,” would be regarded as a matter of concern not only for the Chin but also for the entire Union of Burma. (cf. FACE, 1:74)

In addition to the Memorandum that they submitted, Chief Pum Za Mang, a Chin delegate, candidly told the FACE, when he was asked whether the Chin wanted to join Ministerial Burma or Federation Burma, that, “We should like to be in the Federation according to Panglong Agreement” (FACE, 1: 77). However, most of the Chin leaders were unable to express themselves very well when the interview was conducted in Burmese, which was a foreign language to them. The most confusing terms for them seemed the difference between

the contemporary Burmese standard words for “State” (*Pyi* - ပြည်), Division (*Taing* - တိုင်း), and District (*Kha-raing* - ခရိုင်); for all of them in Chin are just one word: *Ram*, which means, “country” or “nation”.

At a theoretical level, it was very difficult for them to differentiate between “the Burma Government and Federal Government” as well as “Union Government and Federal Government”. They also could not differentiate between “to federate with Burma Proper and to amalgamate with ministerial Burma” and the different between “Federal and Burma Proper”. Chief Mang Ling, for instance, admitted during his oral testimony to the Committee that he did not understand the term “federal” properly and could not differentiate the two Burmese words for “state” and “district”, for him both are the same. Chief Thang Tin Lian also admitted, “We were not quite clear regarding these terms ‘Federal’ and ‘Burma Proper’.” (FACE, 1: 75) Thus, although both Chief Mang Ling and Chief Thang Tin Lian wanted, according to the Memorandum that they signed, to join the Federation; they, on the other hand, demanded the very opposite and the two chiefs testified orally to the FACE on 19<sup>th</sup> April, that, “We want to join Burma as a district in Burma” (FACE, 1: 76, cf. 74).

Confusions, in terms of both language and constitutional theory, were enormous. The blame, however, should not be put all together on the Chin traditional leaders alone. The FACE, which was assigned such an important politically sensitive task for the peoples of Frontier Areas, did not organize any briefing sessions, nor provide any advice to the Chin and other leaders from the Frontier Areas. The FACE distributed “the basic set of 18 questions” to the leaders of the Frontier Areas, a mere 24 hours in advance. Moreover, many of these questions seemed unclear to the Chin leaders, or even misleading. What is the difference, for instance, between “Union Government” and “Federal Government”? Theoretically speaking, these two terms are exactly the same but the FACE vaguely differentiated, and it had created great confusion for Chin leaders.

As the FACE enquiry was conducted after the Panglong Agreement, joining the Union was no longer a major problem for the Chin but

the “method of association” was what they wanted to clarify with the enquiry committee. The purpose of the FACE enquiry itself was to define the constitutional means, that is ., “the method of association”, through which the peoples from Frontier Areas would associate themselves with Burma. The main concern for the Chin, therefore, was constitutional questions, like - What kind of constitution should be adopted: a federal system or a unitary system? What kind of a new country they wanted to build together with other ethnic nationalities: a Federal Union or a Unitary State? The Memorandum that they submitted collectively to the FACE was meant to be the answers for such important questions.

However, most of the questions raised by the FACE during oral interviews did not aim directly at making a choice for constitutional systems. The questions mostly were vague, unclear, and confusing. For instance, one of the most important questions read “Do you desire union with ministerial Burma or a federation with Burma?” This question is lacking in clarity because the term “ministerial” is not a theoretical term, at least in terms of constitutional theory. It is a functional or instrumental term that can be applied both in a federal system and a unitary state. Thus, no matter what kind of constitutional system is adopted, Burma can always be called ‘Ministerial Burma’ so long as it has a proper government in place; either a federal or a unitary system, or even without a constitution. The term “ministerial” is merely a functional term for any government. In fact, the term “Ministerial Burma” was first used in 1937 when the 1935 Burma Act was officially promulgated, and the “Burma Proper” had its own government.

Based on oral testimonies, not on the Memorandum, the FACE concluded in its final report that the Chin “expressed their unwillingness to federate with Burma Proper but preferred to amalgamate with ministerial Burma” (FACE, 1:27). This was how the Chin’s testimonies were misinterpreted and their demands were marginalized. It was obvious, even in this misinterpreted version of testimonies that the Chin did not want to join “Burma Proper”, which was a different country with clearly defined territory; or *Miphun dang Ram* in Chin.

Moreover, what the term “ministerial” meant for the Chin was an administrative function, a mechanism through which the country should be administered together by all member states of the Union.

The Chin leaders did not consider such expressions as “to federate”, “union with”, “to amalgamate”, etc., which implied “joining the Union”, as important issues because all have the same meaning in their language: *kawmh*. Their main concern rather was the difference, in term of both terminologies and meanings, between “Burma Proper” and “Burma”, which implied two different kinds of countries or different *Ram*, with clearly defined territories; “Burma Proper” meant a totally different country owned by *Kawl* (Burman/Myanmar) in which they did not like to be in any means, and “Burma” meant a new country that they wanted to build together with other nationalities, including the Burman/Myanmar. Therefore, they wanted to join “Burma” not the “Burma Proper”. The “Burma Proper” simply referred to pre-colonial Myanmar/Burman Kingdom, which was nothing to do with the Chin.

Unfortunately, there were many levels of confusion for the Chin leaders partly caused by their own inadequate knowledge of expressing and understanding foreign languages. Moreover, certain words in the working languages of the enquiry committee, both English and Burmese, could not be translated verse-to-verse or word-to-word into any Chin dialects. As mentioned above, the English words for “union” and “federate”; “amalgamate” and “join” have only one vocabulary in Chin, that is., *kawmh*. Worst of all, the term *kawmh* in Chin was wrongly translated into Burmese as “*pu-pawng*” (ပုးပေါင်း- amalgamate), not as “*pa-win*” (ပေါင်း- federate). It was almost impossible for the Chin leaders to understand the difference between those words in foreign languages. They simply thought that what they said, and wanted, was that they didn’t like to *kawmh*, or combine, their *Ram* with “Burma Proper”, but wanted to administer a new Burma together. In this way, the misinterpretation of a few simple words and phrases, which actually have more or less the same meaning, caused misery for the Chin’s political future.



Because of such confusion and misinterpretations, Chief Thang Tin Lian admitted at one point that they did not understand Burmese, or *Myanmar-ska*, very well. Apart from the poor knowledge of the working language, the Burmese language itself is very confusing. At the time of the FACE enquiry, Burmese language was still lacking the standard definition and usage for such important terms as “*Pyi*” (ပြည်), “*Taing*” (တိုင်း), and “*Kha-raing*” (ခရိုင်). According to the Judson’s Burmese-English Dictionary, first published in 1852 but still in use even today; “*Pyi*” (ပြည်), “*Taing*” (တိုင်း), and “*Kha-raing*” (ခရိုင်) have more or less the same meaning, a country; read as: (ပြည်) - n. a country), (တိုင်း) - n. a country; more extensive than (ပြည်), (ခရိုင် - n. a country or state).

Since all these terms: “*Pyi*” (ပြည်), “*Taing*” (တိုင်း), and “*Kha-raing*” (ခရိုင်) have the same meaning in the Chin language and thought form, the Chin leaders did not make any mistake whatever term they deployed to denote the word *Ram* in Chin. Thus, when Chief Mang Ling and Chief Thang Tin Lian said that they wanted to join Burma as a district (*Kha-raing*), what they meant was a country, in Chin is *Ram*, or at least they meant a “State” with “the single jurisdiction of a government”, as the Judson’s Burmese-English Dictionary defined the term *Dha-ma Kha-raing*. They, therefore, maintained that “*Kan ram cu kanmahte in uk kan duh*”, which means, “we want to rule our country by ourselves according to our political system.”<sup>3</sup> If we translate literally what they said; what the Chin leaders wanted and demanded was even more than a federation; it was rather a kind of commonwealth of independent nation-states with full autonomy, and self-determination.

However, what the Chin leaders had said was misinterpreted and their demands were marginalized. It was only due to the misinterpretation made by the committee members of the FACE that the Chin had ended up without a State in the Union of Burma. As final attempt, they submitted a written explanation of their position to the Committee, which read:

It was never the intention of the Chins to go in as a District [*Kha-raing*] in Burma Proper. The Chin State shall remain in the SCOUHP. The evidence as given to the Frontier Areas

Committee of Enquiry by some certain Chin witnesses on the 19<sup>th</sup> April 1947 should not be taken to imply in the least our intention to drift ourselves away from the SCOUHP. It is the intention of the Chins to stick to the general principles as outlined in the Panglong Agreement executed between the SCOUHP on the one hand and the Burmese government on the other. The statement as made by the witnesses was made without understanding precisely the difference between the terms “Union Government” and “Federal Government”.

It is our intention to associate with Burma on a Federal basis and what we mean by “Central Government” in our Memorandum submitted to the Frontier Areas Committee of Enquiry is the Federal Government. Details and methods of association with the Burman shall be as would be determined by the SCOUHP. (FACE 11: 85).

In addition to the Chin representatives composed of the traditional chiefs, a group of progressive Chin, led by Captain Mang Tung Nung, sent their own delegations to Maymyo and submitted their own different version of a memorandum to the the FACE. This memorandum read:

- (a) Panglong Agreement executed in February 1947 by the representatives of Frontier Areas and those of the Burma Government is confirmed.
- (b) Supported and confirmed the resolutions from the Frontier Areas held in March 1947 at Yawnghwe Hall.
- (c) To participate in the forthcoming Constituent Assembly. To have twelve representatives in the Assembly in view of the fact that there are four tribes among the Chin nationals, difficulties in communication between one village and another, difference in dialects and one place being too far away from another. To elect such representatives by votes under the democratic principles.
- (d) Two conditions under which to unite with Burma:  
First: To join the Federation.  
Second: To secede at any time.

- (e) To include Naga Hill Areas and Arakan Hill District, Paletwa Township in the Chin Hill areas. There are Chin nationals in the said areas, and they are also geographically linked to one another.
- (f) (i) The Government has converted *Bobuabaing* (freehold) lands into *Ayardaw* (leasehold) lands;
- (ii) To restore immediately such freehold lands, bought by our ancestors but converted into *Ayardaw* lands by the Government, to the rightful owners. <sup>5</sup> (The translation is wrong; Bobabaing land is “a land traditionally and hierarchically owned by a family or a clan”. Here they used Burmese words, not Chin, *Bobuabaing* and *Ayardaw*, which created more confusion for the translation.) (FACE 11: 91-92).

The Chin representatives concluded their memorandum by reminding the British Government how the Chin had been faithful to them, which read as follows:

We never consider that the British would forget us, Chin National, who had fought effectively in the First World War from 1914 to 1918 and in the Second World War from 1942 to 1945 with a view to save the British Empire. We, therefore, earnestly urge the Enquiry Committee to carry out successfully the desires and demands for the future welfare of the Chin National, who defended at the sacrifice of their lives for the security of Burma and British Empire. (FACE 11: 90-91).

Despite such an appeal, the FACE did not make any recommendation for the Chin in terms of their status as a member of the Union of Burma. Unlike the Chin, other co-signatories of the Panglong Agreement, namely the Kachin Hills and Federated Shan State, were recommended to be “constituent States of the Union of Burma”. Unfortunately, instead of using its authority to define the form of state in the guiding principles of the future constitution, the FACE referred to the Constituent Assembly to decide whether the Chin should form a constituent State or not. Sadly, the Chin ended up without a State, only with mere “Special Division” status in the new Union of Burma.

The FACE concluded its enquiry on 24<sup>th</sup> April 1947, and submitted its final report to the British Government, which was adopted by the Governor's Executive Council on 3<sup>rd</sup> May and declared as the British Government's policy on 18<sup>th</sup> May 1947. The FACE report was generally divided into two parts: the first part was entitled "Recommendation" and the second part was called "Observation". As the objectives of the enquiry committee clearly stated, the FACE report in its first part recommended the "method of participation of Frontier Areas" and the Karenni State in the Constituent Assembly, including the selection method of representatives and the codes of conduct of the Constituent Assembly. Regarding the composition of the Constituent Assembly, the FACE recommended that at 45 representatives, out of the total number of seats of the Constituent Assembly should be from the Frontier Areas and Karenni State.

The FACE also recommended that the representatives of the Frontier Areas and Karenni State at the Constituent Assembly should have the same rights and status as representatives from the Burma Proper, with regards to full participation in deliberations and to serve on the committees. The FACE further reminded the British Government in its final report that "the participation of the representatives of Frontier Areas should not be taken to mean their commitment to union or federation with the Burma Proper".

The "Observation" of the FACE final report, which was supposed to be the guiding principles of the constitution of the Union of Burma, read as follows:

- (1) The witnesses from the Federated Shan States and from the Kachin Hills were strongly in favour of a federated Burma in which the Federated Shan States would form a state or unit and the Kachin Hills another.
- (2) Witnesses unanimously expressed their desires for the fullest possible autonomy for the states within the Federation and agreed that certain subjects of general scope should be entrusted to the Federation.

- (3) Representatives from the Chin Hills expressed their unwillingness to federate with Burma Proper but preferred to amalgamate with ministerial Burma. They wanted no interference with their tribal customs and traditions, preferring their chieftains to be allowed to administer their tracts as at present.
- (4) The witnesses from the Somra Tracts, Thauhgdut, Singkaling Hkamti, and the Homalin Subdivision wanted their areas to be incorporated in ministerial Burma and to be given the same constituency and other rights as other areas in Burma Proper.
- (5) The representatives from Karenni stated clearly that their wish to participate in the Constituent Assembly but did not definitely commit themselves to any view about the entry of Karenni State a federated Burma.
- (6) The present circumstances would call for an elastic interim constitution establishing perhaps a Federal Council that would be somewhat on the lines of a legislature with such subjects as could be allocated to the federal sphere... The Federal Council when established by the Constituent Assembly could then be elaborated into a Senate or a federal legislature.
- (7) The consensus among witnesses indicated that if there should be a Burma Federation, the federal organ should deal with the following subjects:
  - (i) External Affairs;
  - (ii) Defence;
  - (iii) Post and telegraphs;
  - (iv) Communications;
  - (v) Currency and Coinage;'
  - (vi) Customs;
  - (vi) Titles and Honours. (FACE 11:91)

There was a danger that the anxiety of the constituent states for the fullest possible internal autonomy might lead to the constitution of a weak federal or central government that would be the government of Burma which dealt with the outside world.

**Rights of Secession.** The majority of the witnesses who favoured a Federation of Burma asked for the right of secession by the states any time. Few federal constitutions contained provision for the secession of states... if any such right was to be contained in the federal constitution for Burma; it would have to be carefully limited and regulated.

**Constitutional Safeguard.** The recommendation of the Constituent Assembly relating to Frontier Areas should be incorporated in the Burma Constitution and in the appropriate act of parliament.

**Interim Arrangement.** During the transitional period, the Shan counsellor or the deputy counsellors for the Kachins and Chins should continue in office. The Frontier Areas administration should also continue in this period under the control of the counsellor and his deputies. Where possible, administrative officers should be drawn from indigenous peoples of the Frontier Areas.

As a guiding principle, the FACE recommended that the independent Burma should be a “Federation” with strong emphasis on the internal self-determination of member states of the Union in accordance with the federal principles of “self-rule”; and highlighted the federal legislative lists, which should be handled by the federal organ according to the federal principles of “shared-rule”. All the needed principles for the establishment of a “Federation” were there in the report, but the FACE unfortunately could not provide a clear guideline for the future of Burma. Although the “federal system” was recommended, it was not really a genuine federal system but “asymmetry federal system” with strong inclination towards a unitary system. In this way, without providing clear guidelines, the FACE ended up by suggesting the Constituent Assembly to adopt an interim or a temporary constitution.

The FACE finally concluded in its report to the Government that the majority of witnesses who supported cooperation with Burma demanded the “right of secession by the States at any time”. Although the “right of secession” was enshrined in law in the Union Constitution, as the FACE had recommended, Burma did not become a genuine

federal union. The “right of secession” as safeguards for ethnic nationalities was included but the essence was not there, which eventually lead Burma into constitutional crisis and sixty years of on-going civil war.

While the FACE was the most significant process to find a common ‘Method of Association’ it also provided a vehicle that would eventually be used to manipulate and marginalize the ethnic nationalities. As a result of FACE, the Panglong Agreement was never fully implemented because what had been decided on at Panglong was discarded during the second phase of “negotiation process”, that is., the FACE.

### **The 1947 Constitution without the Right to Internal Self-determination for Ethnic Nationalities**

On the basis of the Panglong Agreement and the Report of the Frontier Areas Commission of Enquiry (the FACE), the Union Constitution was framed. Aung San drafted a new constitution for a new Union of Burma, which was duly approved by the AFPFL convention in May 1947, at the Jubilee Hall in Rangoon. Aung San delivered a long speech at the convention and explained the essence of the Panglong Agreement, which had the aim of establishing a Federal Union. He also argued:

When we build our new Burma, shall we build it as a Union or as a Unitary State? In my opinion it will not be feasible to set up a Unitary State. We must set up a Union with properly regulated provisions to safeguard the rights of the national minorities.<sup>4</sup>

Aung San also insisted on the right of self-determination for ethnic nationalities who signed the Panglong Agreement to found a new Federal Union with so-called Burma Proper. He referred to his co-signatories, the Chin, Kachin and Shan, as nations, or pyidaung in Burmese. He said:

The right of self-determination means that a nation can arrange its life according to its will. It has the right to arrange its life on the basis of autonomy. It has the right to enter into federal relation with other nations. It has the right to complete secession.<sup>5</sup>

Unfortunately, Aung San, who persuaded the Chin, Kachin, Shan and other non-Burman or non-Myanmar nationalities to join an independent Burma, was assassinated six months before Burma gained her independence, on July 19, 1947. He was succeeded by U Nu as leader of the Burmese independence movement under the banner of the Anti-Fascist People's Freedom League (AFPFL). As leader of the AFPFL, the first thing U Nu did was to order U Chan Htun to redraft Aung San's version of the Union Constitution, which had already been approved by the AFPFL Convention in May 1947. U Chan Htun's version of the Constitution was promulgated by the Constituent Assembly of the interim government of Burma in September 1947. Thus, the fate of the country and the people, especially the fate of the non-Burman nationalities, changed dramatically between July and September 1947. As a consequence, Burma did not become a genuine federal union, as it was envisaged at Panglong Conference.

The most serious flaw in the 1947 Constitution was the absence of state constitutions for all the member states of the Union. In contrast to the original agreement, according to which Aung San and Chin, Kachin and Shan leaders intended to establish a separate state constitution for each and every state, U Chan Htun's version of the Union Constitution incorporated clauses covering all the affairs of the states. In this way, state affairs became part and parcel of the Union Constitution, with no separate constitutions for the Chin, Kachin, Shan and other ethnic nationalities. Such a constitutional arrangement indicated that whatever powers the governments of states enjoyed and exercised under the 1947 Constitution were given to them by the central government, characteristic of a unitary state system. In a unitary system, power lies in the hands of the central government, and the powers of local governing or administrative units derive from or are devolved to them by the central government.

What the Chin, Kachin, Shan and other ethnic nationalities envisioned in Panglong was a federal system, in which the member or constituent states were the basic and founding units of the federation, and whatever powers they exercised or possessed were not given to



them by the center. The powers of the constituent states of a federation are, in principle, derived from the peoples of the respective states, as is stated in most state constitutions in countries that are federal in form. U Chan Htun's version of the 1947 Union Constitution of Burma did not allow for the existence of separate constitutions for the founding member states of the Union, namely, the Chin, Kachin, Shan and other nationalities—including the Burman/Myanmar.

Unfortunately, the right of self-determination for ethnic nationalities, which could only be implemented through the state constitutions through federal arrangement, still remained the biggest challenge for today's Burma.

### **Conclusion: Lessons for the Current Situation**

History teaches not to repeat past mistakes. One of the most severe mistakes that Burma has made in its past history occurred during the negotiation process for independence through the misconduct of the FACE. During the enquiry process, the FACE did not ask such important questions as to the choice for a system between “unitary” and “federalism”, and most of the questions for “Method of Association” were unclear and vague. Moreover, these unclear and ambiguous questions without a standard language were given to ethnic leaders only 24 hours in advance with no proper explanation or an advisor. In this way, all that was agreed to at the Panglong Conference was thrown away during the FACE enquiry process. As a result, the 1947 Constitution did not become what had originally been envisioned at the Panglong Conference. Because the second phase of the negotiation process was neglected and manipulated, the third stage of the negotiation process that implemented the first and second stages, as in the adoption of the 1947 Constitution, created the numerous ethnic problems in the country and resulted in sixty years of civil war.

Compared to the negotiation process for independence, the current situation seems more worrisome than the past, despite President Thein Sein's goodwill. Even at the first stage of negotiation there

have already been differences in how such processes are approached. Subsequently, there are two major dynamics in relation to the negotiation process. The Kachin Independence Organisation, based on previous experience seeks to ensure that “political dialogue” is the most important objective to be obtained and only then can they agree to ceasefire. Conversely, the Karen National Union, the Chin National Front, and Restoration Council of Shan State have opted for a different strategy in proffering a ceasefire prior to political dialogue.

For its part, the Government requires a ceasefires and simultaneous development as its main priority with political dialogue coming only after these objectives have been achieved. The combination of ceasefire agreement and development is particularly worrisome for ethnic nationalities that had signed ceasefire agreements with the past government and were allowed to engage in business but not political negotiation. Because of the negative experiences over the past 17 years, the KIO is proposing what they called a “new paradigm of negotiation”, which is political dialogue first, and ceasefire second. It is essential, therefore, that all parties find a common ground first; and then consider the outside factors that need to be taken into account.

Most importantly, the government should not impose the negotiation process discriminatorily, the way they did during the implementation of the so called “seven-step roadmap”. This is a time to come together, the way the founding fathers of the Union met at the Panglong Conference; and design together the negotiation process from the very first step to the final stage in order to find a lasting peace through a win-win solution. There can be no development without peace, however, and peace cannot be achieved until and unless the ethnic issue is addressed through political dialogue first. This, therefore, must be a priority, and until this issue is addressed the current situation is unlikely to change.

Notes:

1. Hugh Tinker, *Burma: Struggle for Independence*, Vol. II (London: 1984), pp. 325–328.
2. See the resolutions of the Chin, Kachin and Shan leaders at the SCOUHP's meeting on March 23, 1947, and the memorandum they presented to the FACE (the FACE report 1947).
3. See my dissertation, *Religion and Politics among the Chin People in Burma, 1896–1949* (Uppsala: 2000), pp. 324–325.
4. Aung San, *Burma's Challenge* (Rangoon, 1947), reprinted in Josef Silverstein, *The Political Legacy of Aung San* (New York: Cornell University Press, 1993), cited in MaungMaung, *Burma's Constitution* (The Hague, 1959), p. 169.
5. *Bogyoke Aung San's Speeches*, pp. 306–307. Also cited in *The 1947 Constitution and the Nationalities*, Volume 11 (Rangoon University: University Historical Research Centre, 1999), p. 60.
6. Hugh Tinker, *Union of Burma* (London, 1957); also quoted in Tun Myint 1957, p. 13. See also my article in *Chin Journal* (March 1997), no. 5, pp. 84–94.

## **The 2008 Constitution and Ethnic Issues: To What Extent did it Satisfy the Aspirations of Various Ethnic Groups?**

by  
**Lian H. Sakhong**  
(October 2012)

### **Abstract**

Since the beginning of the “Federal Movement” in 1961 at the Taunggyi Conference, which would eventually result in a military coup in 1962, the ethnic nationalities in Burma have all been consistently demanding the rebuilding of the Union of Burma based on the spirit of Panglong and the principles of democracy, political equality and internal self-determination. They have further argued that the constitution of the Union should be formed in accordance with the principles of federalism and democratic decentralization, which would guarantee the democratic rights of citizens of Burma including the principles contained in the United Nation’s declaration of universal human rights. On the formation of a genuine Federal Union, ethnic nationalities demand that all member states of the Union have their separate constitutions, their own organs of state, that is, State Legislative Assembly, State Government and State Supreme Court.

In their proposal, the ethnic nationalities demanded that the Union Assembly should be a bicameral legislature consisting of a Chamber of Nationalities (Upper House) and a Chamber of Deputies (Lower House), and each member state of the Union should send an equal number of representatives to the Upper House regardless of its population or size. They also demand that the Union of Burma be composed of National States; and all National States of the Union be constituted in terms of ethnicity or historic ethnic homelands,

rather than geographical areas. Moreover, the residual powers, that is, all powers, except those given by member states to the federal center, or the Union, must be vested in the Legislative Assembly of the National State. In this way, the Union Constitution automatically allocates political authority of legislative, judicial, and administrative powers to the Ethnic National States. Thus, all member states of the Union would be able to exercise the right of self-determination freely through the right of self-government within their respective National States.

When the military regime, which traditionally was the strongest opponent of the ethnic nationalities' demands, adopted a new constitution in 2008 it contained certain elements of federalism. These included a bicameral legislature consisting of an *Amyotha Hludaw* and a *Pyithu Hludaw*, equal representation from each state at a Chamber of Nationalities, and all member states of the Union having their own separate State Assemblies and State governments.

This paper will address to what extent the 2008 Constitution satisfies the aspirations of the various Ethnic Nationalities in Burma. I shall, however, limit myself in this paper within the constitutional framework of the "form of state" - that is, how the Union is structured and how much power and status is given to member states of the Union.

## **Background**

On 12<sup>nd</sup> February 1947, the Union of Burma was founded at the Panglong Conference by four former British colonies; these were primarily the Chin Hills, the Kachin Hills, the Federated Shan States and Burma Proper, all of which already had their own constitutions. The British had occupied these four colonies separately as independent nations in different periods of time and had applied different administrative systems in accordance with the different constitutions that the colonial power had promulgated for them. The British officially promulgated the Chinram Constitution, called the "Chin Hills Regulation," in 1896, the "Kachin Hill Tribes Regulation" in 1895, the "1919 Act of Federated Shan States" in 1920, and the "1935

Burma Act” in 1937. The Chin Hills Regulation of 1896 covered present Chin State in Burma, present Mizoram State, Nagaland State, and part of Manipur and Meghalaya States in India. The 1935 Burma Act was applied to the area of the pre-colonial Myanmar/Burman Kingdom, which included the former Arakan and Mon Kingdoms as well as delta areas of Karen country.

The 1947 Panglong Conference, thus, was organized by the pre-colonial independent peoples and nations, who in principle had had the right to regain their independence separately from Great Britain and to form their own respective nation-states, or to remain as a British Colony, or collective reclaim their independence and found a new nation-state together. As mentioned in the Preamble of Panglong Agreement, they all opted for the third options, which read:

Believing that freedom will be more speedily achieved by the Shans, the Kachins, and the Chins by their immediate co-operation with the interim Burmese government.

The Panglong Agreement therefore represented a joint vision of the future of the pre-colonial independent peoples: namely the Chin, Kachin, Shan and the interim Burmese government led by Chief Minister Aung San, who came into power in August 1946 according to the Burma Act of 1935. The interim Burmese government was a government for the region formerly known as Burma Proper or Ministerial Burma, which included such non-Burman nationalities as the Mon, Rakhine (Arakan), and Karen. The Arakan and Mon were included because they were occupied by the British not as independent peoples but as the subjects of the kingdom of Burman or Myanmar.<sup>1</sup> The Karens were included in the Legislative Council of Ministerial Burma according to the 1935 Burma Act because the majority of the Karens (more than two-thirds of the population) were living in delta areas side by side with the Burmans.<sup>2</sup>

Since these peoples were included in the Legislative Council of Ministerial Burma, Aung San could represent them in Panglong as the head of their government. Thus, the Panglong Agreement should be viewed as an agreement to found a new sovereign, independent

nation-state between peoples from pre-colonial independent nations of what they then called Frontier Areas (Chin Hills and Kachin Hills), Federated Shan State and Burma Proper, who in principle had the right to regain their independence directly from Great Britain, and to form their own respective nation-states. In other words, the Panglong Agreement was an agreement signed between the peoples of a post-colonial nation-state-to-be.<sup>3</sup>

The essence of the “Panglong Agreement”, declared in its preamble was not only to hasten the ethnic peoples own search for freedom but also to establish a new multi-national-state of the Union of Burma for those who struggled together to free themselves from colonial power. Therefore, based on the “Panglong Agreement”, the Constituent Assembly of the Interim Government of the Union of Burma promulgated a new constitution on September 24, 1947, thus paving the way for securing “independence” from Great Britain on January 4, 1948. Ever since, the day the Union of Burma gained independence in 1948, the same date as the Panglong Agreement was signed, has been celebrated as Union Day.

The observance of February 12th as Union Day means the mutual recognition of the Chin, Kachin, Shan and other nationalities, including the Burmans, as “different people historically and traditionally due to their differences in their languages as well as their cultural life.”<sup>4</sup> It is also the recognition of the distinct national identity of the Chin, Kachin, Shan, and other nationalities that had the right to gain their own independence separately and to found their own nation-state separately. In other words, it is the recognition of pre-colonial independent status of the Chin, Kachin, and Shan, and other nationalities as well as their post-colonial status of nation-state-to-be.

However, as it was observed elsewhere (see chapter one and three of this volumn), the 1947 Constitution could not fulfil the intension and spirit of the Panglong Conference. In order to amend the 1947 Consitution based on the spirit of Panglong and the principles of democracy, equality and internal self-determination of ethnic nationalities and member states of the Union, the 1961 Taugyi Conference was convened at the capital of Shan State.

## **The 1961 Taunggyi Conference and Federal Seminars**

On 8-16 June 1961, the Supreme Council of the United Hills Peoples (SCOUHP) organized a conference in Taunggyi to discuss the constitutional crisis that all ethnic nationalities had endured, and to find means and ways to amend the Union Constitution. The conference, financially sponsored jointly by the governments of Shan State and Karenni State, was attended by all the non-Burman ethnic nationalities who demanded statehood in the Union. Namely, the Chin, Mon, and Rakhine; and those who had already formed States, namely, the Kachin, Karen, Karenni and Shan. No Burman or Myanmar ethnic nationality and parties were invited.

After nine days of deliberations and heated debates, the Taunggyi Conference passed five resolutions, which read as follows:

1. To strive in unity for the perpetuation of the Union of Burma, for the developments of the states, and equality of all ethnic nationalities, the conference unanimously passes a resolution for the formation of an All States Unity Organization.
2. As the present Constitution of the Union of Burma does not contain sufficient provisions for the equality of states and ethnic nationalities, and also with the desire for perpetuation, and out of the consideration for the good of the Union of Burma, it is deemed that a revision of the constitution has necessary. Therefore:
  - (a) The conference unanimously agrees to endorse in principle the proposal for revising the Constitution of the Union of Burma,
  - (b) A request will be made to revise the Constitution of the Union of Burma, based on the principles proposed by Shan State.
3. The conference expresses the desire that a National Convention, composed of all nationalities in the whole Union, be immediately called at an appropriate place to ensure that the development and prosperity of the Union of Burma; for the better and closer relationship of the peoples of the states within the Union; for consultation with one another on the question of equality of all citizens of the Union.



4. This conference passes a resolution urging the Union government to immediately create new states within the Union that meet requirement of statehood, to fulfil the strong desire of the Mon, Rakhine and Chin nationalities.
5. The conference passes a resolution denouncing the Kuomintang forces which are committing armed aggression against the Union, and earnestly praises the Armed Forces which are driving out the KMT forces with might and aim (Sai Aung Tun, 2009: 422)

As the resolution stated, the ethnic leaders also decided to reform the Supreme Council of United Hills Peoples (SCOUHP), which was established at the Panglong Conference in 1947, comprise of the Chin, Kachin and Shan. They changed the name, from SCOUHP to the “States Unity Organization”, and the membership was extended, including, the original members of the Chin, Kachin, and Shan, and the new members of the Karen, Karenni, Mon and Rakhine. The States Unity Organization was to be steered by a supervisory committee composed of six representatives from each state. The Taunggyi Conference formed an Interim Executive Committee of the States Unity Organization, and Sao Hkun Hkio, Chief Minister of Shan State Government was elected as the first Chairman of the organization. The States Unity Organization eventually led the constitutional reform, which came to be known as the “Federal Movement”.

At the Taunggyi Conference, all the delegates, apart from three cabinet members of U Nu’s government, agreed to amend the Union Constitution, and adopted the document known as the “Establishment of a Genuine Federal Union”, which served as the guiding principles for the “Proposed Amendment of the Union Constitution”. The proposed document contained the following headings:

1. The Structure
2. Distribution of Rights and Powers
3. Establishment of Parliament
4. Distribution of Union Revenues and Finance
5. Complete Autonomy for the State.

The proposed document was based on what came to be known as the “Shan Principles”, for it was first adopted by the Shan State Council on January 24, 1961. The original version of the “Shan Principle” read as follows:

- That the provisions for equal rights and opportunities between the various states and nationalities are not adequately prescribed in the present Constitution of the Union of Burma.
- To ensure that equal rights and opportunities for all, the constitution should be revised in accordance with the principles of a genuine federal constitution.
- In redrafting the constitution in accordance with genuine federal principles, the following basic requirements for ensuring equality shall be included:
  1. Establishment of a Burman [Myanmar] state;
  2. Assignment of equal powers to both chambers of the Union parliament;
  3. Each state shall be represented by an equal number of representatives in the Chamber of Nationalities;
  4. The following departments shall be vested in the Central Union, and all other powers, rights, and entitlements shall be transferred to the states:
    - (a) Foreign Relations
    - (b) Union Defence
    - (c) Union Finance
    - (d) Coinage and Currency
    - (e) Post and Telecommunications
    - (f) Rail, Air, and Water Transport
    - (g) Union Judiciary
    - (h) Collection of Custom duties and Seaports
  5. Union revenue shall be distributed equally.

In order to establish a “Genuine Federal Union”, it was suggested in the “Proposed Amendment of the Union Constitution” to amend the Union Constitution that the “structure”, or what social scientists

call a “form of state”, should be amended first. A “Genuine Federal Union” was meant to be a Union based on, and formed by, the constituent states, all of which have an equal powers and the right to self-determination. Thus, the formation of the Union of Burma, according to the proposed document, should be based on the constituent states of ethnic nationalities, including the ethnic Burman/ Myanmar; and all member states of the Union must have equal political powers of legislation, administration and jurisdiction; and all of them must equally enjoy the right to internal self-determination, as it was agreed and envisaged at the Panglong Conference.

They therefore demanded that the Union Constitution be amended and a Genuine Federal Union be established, composed of national states, including the Burman or Myanmar national state, all of which would have the full rights of political autonomy by establishing their own separate state legislative assembly, state government, and state supreme court. In order to exercise the legislative, administrative and judicial powers freely, and in accordance with the right to self-determination, all member states of the Union should be granted the right to promulgate their respective “state constitutions” within the legal framework of the Union Constitution. They also demanded the establishment of Chin State, Mon State and Rakhine (Arakan) State with full autonomous status and equal right to self-determination.

Regarding the distribution of power, or what can be termed as the “states and federal relations”, the proposed document pointed out that the “distribution of power under the present Union Constitution was contrary to the wishes of the frontier leaders”. Although “the Burma Proper was not a constituent state, it held all the powers of the Union government, which should not be the case” (Sai Aung Tun, 2009: 398). In contrast to the federal principle, the Union Constitution had given the residuary powers to the Union Assembly while strictly enumerated the state legislative powers. Although the state legislative powers were listed in the constitution, the member states of the Union could not enjoy political powers, especially the legislative power, in practice. Since the states did not have separate state constitutions for their respective states, the legislative

power in a sense of the right to make laws was in the hands of the Union Assembly. The state councils could discuss or debate the bills, but they were not granted the legislative powers of passing the bills into the laws, as Silverstein observes:

All legislation from the state council had to be promulgated by the president. He could suspend promulgation and call upon the Supreme Court for advice on questions of the constitutionality of any piece of legislation, returning it if the court advised him it was faulty. The constitution permitted the states to surrender their rights, territory, and powers to the Union but did not permit the Union to reciprocate. In a proclaimed state of emergency, the Union parliament could legislate for any state on any matter regardless of legislative lists.<sup>7</sup>

Thus, the ethnic nationalities at the Taunggyi Conference, who eventually became members of the States Unity Organization, demanded that in revising the constitution, the principles of genuine federalism must be applied, with the central government being given only those powers concerning subjects common to all, while allowing the states to retain all residual powers.

In order to establish a genuine Federal Union, the third point they wanted to amend in the Union Constitution was the structure and power of the Chamber of Nationalities, under the heading of the “Establishment of Parliament”. The 1947 Union Constitution established the Union parliament with two houses, the Chamber of Nationalities (Upper House) and the Chamber of Deputies (Lower House). However, the Chamber of Nationalities did not enjoy the same power as the Chamber of Deputies. Since the Union government was responsible only to the Chamber of Deputies, Chamber of Nationalities had “little influence and as such could not defend the rights of the states” (ibid). Moreover, as mentioned in chapter one, the states did not have the right to send an equal number of representatives to the Upper House. In revising the constitution, the proposed document suggested that “the Chamber of Nationalities must be given powers equal to those of the Chamber of Deputies and every state should also have the rights to send an equal number

of representatives to the Chamber of Nationalities” (Sai Aung Tun, 2009: 398).

The fourth point they would like to amend in the Union Constitution was concerned with Union revenues and budget allocation, for which the document of the “Proposed Amendment of the Union Constitution”, stated:

On the revenue apportioned to the states under section 96 (1) of the constitution, apart from the revenue on lands and forests, all the rest do not amount to anything. The revenues collected are inadequate even for the current expenditure of the states. The states have to depend on the grant from the Union provided under the exception to section 96. The states have been unhappy with the way the revenues are distributed since independence. No definite financial policy has been laid down up to now. That is why, when the new truly federal constitution is drawn up, the question of distributing revenues must be considered in depth, and enacted explicitly. (Cited by Sai Aung Tun, 2009: 299).

Finally, the Taunggyi Conference adopted three principles for “Complete Autonomy for the States” as part and parcel of “the Establishment of a Genuine Federal Union”. The principles read as follows:

1. The right of every constituent state, including the Burman State which shall be established, to complete autonomy shall be spelled out in the new constitution. The constitution shall require that there be no interference by the central government or by other state in the internal affairs of any state.
2. Since the revised new Constitution of the Union of Burma will be of the genuine federal type, the states shall each have their own constitution, their own State Legislative Assembly, their own separate government, and their own distinct and separate judiciary and courts of law, provided that these state institutions are not inconsistent with the Central Union Constitution.
3. For those peoples who lack the qualifications for forming a state, national areas shall be established, and guarantees for the protection

of their national rights shall be entrenched in the new constitution.

The States Unity Organization submitted its proposal for the “Establishment of a Genuine Federal Union” to the Union parliament in the following months, and organized a series of seminars, meetings, and press conferences that became known as the “federal movement” in an unfulfilled history of Burma’s ethnic nationalities.

In response to the demands of the Taunggyi Conference, U Nu had no choice but to invite all the political leaders and legal experts from both the Burman and the non-Burman nationalities to what came to be known as the Federal Seminar, at which “the issues of federalism and the problems of minorities would be discussed with a view to finding a peaceful solution”.<sup>8</sup> The States Unity Organization launched a series of discussions and debates both inside and outside of the parliament, and conducted a number of press conferences, even before the first round of the “Federal Seminar” was opened.

While the parliament was in session, the first round of the “Federal Seminar” was opened and chaired by Prime Minister U Nu, at 6:00 PM on 24 February 1962. In order to broadcast the discussion live on radio, the seminar was held in the main hall of the Burma Broadcasting Service. After Prime Minister’s opening speech, the “Federal Principles” was presented by Sao Hkun Hkio, Chairman of the States Unity Organization. His presentation was seconded by Duwa Zau Lawn, Kachin State representative, Captain Mang Tung Nung, Chin Special Division representative, U Htun Myint (Taunggyi), Shan State representative, and U Sein, Karenni (Kayah) State representative.

Soa Hkun Hkio, as the Chairman, presented the “Federal Principle” as part of the document of the “Establishment of a Genuine Federal Union” that the States Unity Organization had adopted at the Taunggyi Conference. He highlighted in his concluding remarks, saying that: “I would like to present on behalf of the States Unity Organization the form of union we desire.” This will involve:

- (1) The establishment of Burma Proper as one of the constituent states;

- (2) The granting of equal powers to the two chambers of parliament;
- (3) The sending of an equal number of representatives from each state to the Chamber of Nationalities;
- (4) The voluntary granting of certain restricted powers to the Union government by the states and retention of all reserve powers by the states.

After Kayah U Sein's presentation, the last person to speak on behalf of the States Unity Organization, the first round of the Federal Seminar was concluded. The second round of the seminar was held on 1 March 1962, and third round of seminar was scheduled on 7 March. However, before the third round of the seminar was opened and before U Nu was scheduled to speak, the military, led by General Ne Win, seized state power in the name of the Revolutionary Council. In the early morning of 2 March 1962, he arrested all the non-Burman participants of the Federal Seminar and legally elected cabinet members, including U Nu himself, dissolved parliament, suspended the constitution and thus ended all debate on federal issues.

## **The United Nationalities League for Democracy (UNLD)**

After 27 years in power, General Ne Win was forced to resign during the student-led democracy movement in 1988. The nation-wide popular uprising for democracy also created an opportunity for ethnic nationalities to unite and struggle together for their common goal of rebuilding the Union as it was envisaged in the 1947 Panglong Conference. As a result, the United Nationalities League for Democracy was formed as an umbrella political organization of all the non-Burman ethnic nationalities in 1988.

On the formation of a genuine Federal Union, the UNLD has adopted seven principles of federalism for the future constitution of the Federal Union of Burma, at its conference held in Rangoon, on June 29<sup>th</sup> - July 2<sup>nd</sup>, 1990. These seven principles are:

- (1) The constitution of the Federal Union of Burma shall be formed in accordance with the principles of federalism and democratic decentralization.

- (2) The Union Constitution shall guarantee the democratic rights of citizens of Burma including the principles contain in the United Nation's declaration of universal human rights.
- (3) The Union Constitution shall guarantee political equality among all ethnic national states of the Federal Union of Burma.
- (4) The Federal Union of Burma shall be composed of National States; and all National States of the Union shall be constituted in terms of ethnicity, rather than geographical areas. There must be at least eight National States, namely, Chin State, Kachin State, Karen State, Kaya State, Mon State, Myanmar or Burma State, Rakhine (Arakan State), and Shan State.
- (5) The Union Assembly shall be consisting of two legislative chambers: the Chamber of Nationalities (Upper House) and the Chamber of Deputies (Lower House).
  - (i) The Chamber of Nationalities (Upper House) shall be composed of equal numbers of elected representatives from the respective National States; and
  - (ii) The Chamber of Deputies (Lower House) shall be composed of elected representatives from the respective constituencies of the peoples.

The creation of a Chamber of Nationalities based on equal representation of the member states of the Union is intended to safeguard the rights of National States and minorities in the Union government. It also intended as a symbol and instrument of the principle of equality among all nationalities of the Union. <sup>9</sup>

- (6) In addition to the Union Assembly, all member states of the Union shall form their own separate Legislative Assemblies for their respective National States. In Federalism there must be a clear separation of Union Assembly, or Federal Parliament, from the Legislative Assemblies of the member states of the Union. Moreover, the residual powers, that is, all powers, except those given by member states to the federal center, or the Union, must be vested in the Legislative Assembly of the National State. In



this way, the Union Constitution automatically allocates political authority of legislative, judiciary, and administrative powers to the Legislative Assembly of the National States. Thus, all member states of the Union can freely exercise the right of self-determination through the right of self-government within their respective National States.

- (7) The Sovereignty of the Union shall be vested in the people of the Union of Burma, and shall be exercised by the Union Assembly. Moreover, the central government of the Federal Union shall have authority to decide on action for:
- (i) monetary system,
  - (ii) defense,
  - (iii) foreign relation, and
  - (iv) other authorities which temporarily vested in the central government of Federal Union by member states of the Union.

## **The Basic Principles for Future Federal Union of Burma (2005)**

On the Union Day of 2005, democratic forces and ethnic nationalities in exile adopted “The 8 Basic Principles for Future Federal Union of Burma”. The document was signed by 104 representatives from 42 organizations, which read as follows:

### ***1. Popular Sovereignty***

The people of the Union of Burma, not a particular ethnic group or state, shall be vested with the sovereign power of the Union.

### ***2. Equality***

All citizens of the country shall enjoy equal rights and equal opportunity before the law; all ethnic nationalities shall be granted equal rights to preserve, protect and promote their culture, language, religion and national identity; and all member states of the Union shall be entitled to exercise equal political powers and rights.

### **3. *Self-determination***

All ethnic nationalities and member states of the Union shall enjoy the rights to *internal* self-determination in the areas of politics, economics, religious, culture and other social affairs.

### **4. *Federal Principle***

All member states of the Union shall have their separate constitutions, their own organs of state, that is, State Legislative Assembly, State Government and State Supreme Court. Moreover, the Union Assembly must be a bicameral legislature consisting of a Chamber of Nationalities (Upper House) and a Chamber of Deputies (Lower House), and each member state of the Union shall send an equal number of representatives to the Upper House regardless of its population or size.

### **5. *Minority Rights***

The new Federal Constitution of Burma shall legally protect the minority nationalities in the member states of the Union, they shall be granted not only the rights to preserve and develop their own culture, religion, language and national identity, but also personal autonomy, which will enable them to ensure their rights by acting themselves within the framework of their own institutions.

### **6. *Democracy, Human Rights and Gender Equality***

Gender equality, democratic rights and human rights shall be enshrined in the new Federal Constitution of the Union of Burma; including, freedom of speech and expression, freedom of religion, freedom of association, freedom of movement, freedom of voting and contesting general elections, freedom of holding public office, freedom of pursuing an education and a professional life, and freedom of pursuing happiness in life. This includes gender equality, equal rights and equal opportunity for every citizen regardless of gender, race, ethnicity, language, religion and age.

### **7. *Multi-party Democracy System***

A Multi-party democracy system shall be applied as the country's governing system.

## **8. *Secular State***

The Union Assembly shall make no law that proclaims a state-religion; and the abuse of religion for political purposes shall also be forbidden. Moreover, the Union shall strictly observe neutrality in religious matters.

### **What has been achieved in the 2008 Constitution? And What Challenges still Remain?**

After all these years of struggle what has been achieved? It may be argued that nothing has been achieved because many of the ethnic peoples are still powerless. However, this point must be approached from a different perspective in that how much and how far has the Government adopted our policies and adopted them into their own policies. The best policy is the policy that is adopted even by our adversary and implemented for the people in the country. This is the common ground for the ethnic movement. If both parties have the same policies there will be common ground and the opportunity to move forward and face what challenges still remain

#### **UNLD Policies & 8 Basic Principles**

1. Popular Sovereignty
2. Bi-cameral Legislature at Union Assembly;
3. Equal Representation at Chamber of Nationalities;
4. State Assembly, State Government & State Supreme Court
5. Multi-party Democracy
6. State Constitutions (self-determination & constitutional rights);
7. Democracy, Human Rights & Gender Equality (30% reserved seats for women at all levels of National & State Assemblies)
8. Equality and Self-determination

#### **2008 Constitution**

1. Semi-Popular Sovereignty
2. Bi-cameral Legislature at Union Assembly;
3. Equal Representation at Chamber of Nationalities;
4. State Assembly, State Government & State Supreme Court;

5. Multi-party Democracy
6. No State Constitutions (gradual transition is needed);
7. 25% Military; No quota for women (gradual transition is needed).
8. Equality but Ambiguity & No internal self-determination

This simple comparison reveals the fact that among the five most important demands that ethnic nationalities had made during the past sixty years; three demands are met in the 2008 Constitution. Based on what has already been achieved, there is the potential to establish a genuine democratic Federal Union: which can guarantee democratic rights for all citizens, political equality for all ethnic nationalities, and the internal rights to self-determination for all member states of the Union of Burma.

The most important and long-term challenges that still remain include the internal rights to self-determination for ethnic nationalities who are also member states of the Union. Consequently, the UNLD policy and the “Basic Principles for Future Federal Union” clearly define the rights to self-determination, and have sought to achieve it through the right to adopt their respective state constitutions within the framework of a federal arrangement. They argue that without having state constitutions for their respective states, they cannot claim in this Union that ethnic nationalities have their rights of self-determination. They also argue that having a State Assembly, without a state constitution will be no guarantee of the right of self-determination; without a State Constitution, the State Assembly cannot make a genuine law because it will merely be done through the law promulgated for them by the central government, or outside of their power. Thus, the internal rights of self-determination for ethnic nationalities and member states of the Union by having state constitutions is one of the main challenges for ethnic nationalities in Burma.

### **Concluding Remarks**

In this paper, I addressed to what extent the 2008 Constitution satisfies the aspirations of various Ethnic Nationalities in Burma but limit

myself within the constitutional framework of “form of state”. In so doing, I first explored what ethnic nationalities have demanded in order to rebuild the Union of Burma based on what they call “the Panglong Spirit”, and what kind of political system they have chosen for their future.

The major achievement in the 2008 Constitution, in terms of the form of state, is the certain elements of a federal system that it has adopted, such as a bicameral legislature consisting of *Amyotha Hluttaw* and *Pyithu Hluttaw*, equal representation from each state at the Chamber of Nationalities, and that all member states of the Union now have their own separate State Assemblies and State governments. However, there is no state constitution for member states of the Union. So long as there is no state constitution, ethnic nationalities in Burma have argued since the 1961 Taunggyi Conference that internal self-determination cannot be guaranteed. So long as internal self-determination is absent, there is no guarantee that ethnic nationalities in Burma would be able to protect, promote and preserve their respective languages, cultures, religions, ways of life, homeland and their respective ethnic national identities.

There are many more pitfalls and flaws that can still be identified in the 2008 Constitution, even from the point of view of “form of state” (let alone the “form of government” and the “rule of law” perspectives). For instance, the composition of “states” and “divisions” are very ambiguous, though they are given more or less the same power. For ethnic nationalities, as it was described in the document entitled “Proposed Amendment of the Union Constitution” at the Taunggyi Conference, a “Genuine Federal Union” is meant to be a Union based on, and formed by, the constituent states, all of which have an equal powers and the right to internal self-determination. Thus, the formation of Union of Burma should be based on the constituent states, and all member states of the Union shall enjoy not only equal power and status but bearing the same connotation. As such, if the member states of the Union are called “state” or “*pyi*”, there should be no “division” or “*taing*”. After all, “*pyi*” and “*taing*” have more or less the same meaning as a country, according to the

1852 Judson's Burmese-English Dictionary, which read as: (မြည်) - n. a country), (တိုင်း) - n. a country; more extensive than (မြည်).

Unfortunately, after fifty years of military rule, the 2008 Constitution seems to be unable to usher the establishment of a genuine federal Union as it was envisaged in the 1947 Pang long Conference, and ethnic nationalities are striving for since then, even by holding arms.

Notes:

1. The Mon Kingdom was conquered by the Burman King Alaung-paya in 1757, and the Rakhine (Arakan) Kingdom by King Bodaw-paya in 1784.
2. The Karen National Union (KNU) rejected the terms of the 1935 Burma Act in 1946 because they demanded independence for a separate homeland. They thus boycotted general elections of the 1947 Constituent Assembly, but the Karen Youth Organization (KYO) entered the general elections and took three seats in the Constituent Assembly and even the cabinet post in the Aung San's Interim Government.
3. My concept of "nations-to-be" can be compared with Benedict Anderson's theory of "imagined political community" and Shamsul's "nations-of-intent". See Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso (2nd.ed) 1991 and Shamsul A. B. "Nations-of-Intent in Malaysia" in Stein Tönnesson and Hans Antlöv (ed.), *Asian Forms of the Nation* (Copenhagen: NIAS, 1996), pp. 323-347.
4. Lian Uk, "A Message on the Golden Jubilee of National Chin Day" in *Chin Journal* (February 1998), p. 185
5. Josef Silverstein, "Minority Problems in Burma Since 1962", in Lehman (ed.), *Military Rule in Burma Since 1962* (Singapore, 1981), p. 51.
6. Hugh Tinker, *Union of Burma* (London, 1957); quoted also in Tun Myint 1957, p. 13 ; See also my article in *Chin Journal* (March, 1997) No.5, pp. 84-94.
7. Josef Silverstein, *Burma: Military Rule and the Politics of Stagnation* (1977), p. 58.
8. Josef Silverstein in Lehman (ed.), *Military Rule in Burma Since 1962* (Singapore, 1981), p. 53.
9. As James Madison once explained regarding the role of the Senate in the USA, the role of the Chamber of Nationalities also will be "first to protect the people against their rulers, and secondly to protect against the transient impressions into which they themselves might be led".

## **Changing the Guard**

### **The Karen National Union, The 15<sup>th</sup> Congress, and the Future**

by  
Paul Keenan  
(January 2013)

The Karen National Union held its 15<sup>th</sup> Congress at Lay Wah, 7 Brigade, on 26 November 2012. This congress heralded in a pivotal moment in the resistance group's history as it occurred at a time of political in-fighting in relation to how best to negotiate a ceasefire agreement with the Thein Sein Government. The previous month had seen the incumbent KNU leadership, led by Tamla Baw and a number of hard-line leaders attempt to dismiss its military commander, General Mutu, its Justice Minister, David Taw and the head of the KNU's humanitarian wings Roger Khin. <sup>1</sup> The reason given for the attempted dismissal was the fact that the three had been:

. . . repeatedly violating KNU protocol. <sup>2</sup>

The actions of some of the hard-line members of the Executive committee in attempting to dismiss the head of the army, and what was seen as an attempt by the leadership to remove the more moderate negotiators involved in the peace process, threatened to divide the organisation and derail the peace process. While the group was able to mend some of the divisions, large differences remained between the two factions. The timing of the dismissals occurred just before the KNU 15<sup>th</sup> Congress and the election to either continue the current leadership, or replace it. The results of the congress would decide not only the future of the Karen National Union, but also of the peace process in Karen State.

## Background

The KNU Congress is recognized as the KNU's supreme legislative body and it is here that the Chairman, General Secretary, Joint Secretaries 1 and 2 and the Executive Committee (EC), the Central Standing Committees (CSC) and candidate members are elected. The seven KNU districts are responsible for electing the representatives, usually the District chairman and the Brigade commander, to attend the four yearly KNU congresses and two delegates are chosen to become members of the Central Committee. In addition, Central Committee members would provide the ministers for the Health, Education, Culture, Forestry, Mining and Finance.

The congresses, and those elected during them, have consistently provided a barometer for the political desires of the KNU which had, since 1974 and the leadership of Bo Mya, taken a much more right-wing and pro-capitalist stance.

In September 1974, the 9<sup>th</sup> KNU Congress was held at P'Hoo Lu, on the Moei River, It was here that a more right leaning shift in policy was endorsed. All of the previous congresses which had been heavily left leaning and Kawthoolei Nationalities United Party (KNUP) influenced, were ignored and left out of the official records. It was at this congress that 10 new articles were written and included among them was the following declaration:

‘The KNU is the sole organ for the development of the Karen national cause the elite of the Karen national revolution. The KNU is the highest organ for all Karen people and represents all Karen people.’<sup>3</sup>

The Congress also stated that the KNU's aim was ‘national democratic revolution’ and that ‘Patriotism is our sole ideology. We will never accept dogmatism’ and perhaps more importantly:

In recognition of the difficulties of the past, the need for ‘self-criticism’ was accepted as were warnings against ‘warlordism’ or ‘leftist and rightist divisions or adventurism and opportunism.’<sup>4</sup>

Despite the latter, during the leadership of General Bo Mya, the four yearly congresses were suspended for twelve years. Consequently,



there were no congresses held until 1991 with Bo Mya directly appointing the members himself prior to that date. These were normally a senior KNLA officer and a political governor.<sup>5</sup>

After the fall of the KNU's Headquarters at Manerplaw in 1995, General Bo Mya had continued to hold on to the reins of power. However, there was growing discontent amongst a number of younger leaders, or Young Turks, consisting of Padoh Kwe Htoo Win, Roger Khin, Htoo Htoo Lay, Col. Oliver, Klee Say, Em Marta and David Htaw. These younger leaders were supported by 6 Brigade commander Shwe Hser and although Bo Mya agreed to step down it wasn't until the year 2000 when he would at least nominally hand over power.

The 12<sup>th</sup> Congress, held in 2000, saw General Bo Mya finally defeated by only one vote and the appointment of the more moderate President Ba Thein Sein.<sup>6</sup> It was during the leadership of President Ba Thein Sein that General Bo Mya, who remained as Head of the Defence Department, initiated a number of talks with then Burmese Prime Minister Khin Nyunt. These talks, primarily led by General Bo Mya, would lead to the first substantive peace talks since the mid-nineties and would also see General Bo Mya, in January 2004, visit Rangoon to meet with Khin Nyunt.

A number of KNU members believed that the 12th Congress, which saw a number of moderate leaders take high positions in the organisation and subsequently in the 2004/5 peace talks including, Htoo Htoo Lay, David Taw, Kwe Htoo Win and Roger Khin, as an affront, and as a result a number of individuals in the organisation who saw their roles gradually undermined by the inclusion of such moderates stated that:

After the 12<sup>th</sup> KNU Congress, some "leaders" who got important positions in the central committee [are] getting corrupted. Using their important positions and "Karen national affair" as a tool (or) as stepping-stone, they have been accepting various ways of bribery from different groups and individuals for their sake of own personal interest. Since then their highest aims and objects [sic] [are to] abandon from our Karen national interest and [have] changed as follows.

1. To be able to stick to highest positions in the KNU central committee by all mean.
2. To place the most corrupted individuals (who would be able to bribe them) into the KNU central committee.
3. To eliminate anyone, by all means, who notice (or) realised the way they corrupt and tried to correct it.’<sup>7</sup>

After the 13<sup>rd</sup> Congress, at the end of 2004, which saw the same leadership retained amid the failing health of General Bo Mya, there was growing dissatisfaction with some individuals that threatened to split the organisation. Two of these, Nerdah Mya and Timothy Laklem, a Bo Mya confidante, failed to receive appointments during the 13 Congress, and as a result began to agitate for the 7<sup>th</sup> Brigade’s commander, Htain Maung, to support them and split from the Karen National Union, as a result a joint statement was issued:

...the KNLA Nr.7 Brigade and the GHQ battalions will no longer recognise any of [the] so call “Statement” or “Order”, influenced by those selfinterest[ed] individuals who use the Karen national affair as their tool for personal benefit.<sup>8</sup>

In an interview on the 31<sup>st</sup> of July 2006 with the Mizzima News Agency Padoh Mahn Sha refuted the 7<sup>th</sup> Brigade’s allegations stating that:

We reject all of these. In electing someone to be a leader, we have certain procedures and rules and regulations. In the KNU, no one leader is forever. All leaders are elected and chosen from the army. There are also people who are not chosen by the army. But if someone violates the KNU rule and regulations for example if they surrender to the enemy, and if they violate the rules and regulations, appropriate actions are taken according to the KNU rules and regulations.

And their accusation that the leaders are manipulating the armed wing is also false. There is no leader that is manipulating the armed wing. Among our leaders there are about three people who are over the age of 80. There is also a group who are playing in between to create confusion among the group. But among the leaders there is no one who is deceiving or manipulating the army. And their accusation of the leaders being forming groups among the KNU is also baseless.<sup>9</sup>

The death, from illness, of General Bo Mya, in December 2006 would give those who wanted to split the organisation the opportunity. While Nerdah Mya would eventually disassociate himself from the 7<sup>th</sup> Brigade split, both Timothy Laklem and the Brigade Commander Htain Maung would create a new pro-government faction, the KNU/KNLA Peace Council.

The KNU suffered a further blow with the assassination, on 14 February 2008, of the KNU's General Secretary, Padoh Mahn Sha La Phan. This was followed shortly after by the death of President Ba Thein Sein on 22 May 2008. The group's Joint Secretary-1, Colonel Htoo Htoo Lay, took the temporary position of General Secretary and with the forthcoming 14 KNU congress was tipped as favourite for the new leadership position. It was also hoped that a number of moderates would be elected to higher positions.

However, Colonel Htoo Htoo Lay resigned prior to the congress due to ill health.<sup>10</sup> Consequently, the results of the election surprised many within the KNU and outside observers. The three week long 14<sup>th</sup> congress, held in October 2008, saw the appointment of the 88 years old, force 136 veteran, Tamla Baw as President. His daughter, Naw Zipporah Sein became the first female General Secretary. David Thackerbaw, former Joint-Secretary-2, was elected vice-president, Saw Hla Ngwe (David Thackerbaw's former colleague in the Karen Information Centre), Joint-Secretary 1 and Dot Lay Mu (former head of the Federation of Trade Unions – Kawthoolei) Joint-Secretary 2.

## **The Peace Negotiations**

As a result of the congress, perceived hardliners within the organisation took over control of the leadership and despite clear differences of opinion on the way forward, accepted the new Burmese Government's offer to discuss terms for peace. To negotiate, the Karen National Union, at its first emergency CSC meeting in November 2011, created a Peace Building Committee. The Committee was headed by David Thackerbaw as Chairman, General Mutu Say Po, as vice-Chairman, and David Taw as Secretary. Exploratory negotiations had already begun in October 2011 in Mae Sot, Thailand (for more information

on the Karen Peace Negotiations see Briefing Paper No.1 - Burma's Ethnic Ceasefire Agreements). As negotiations continued a further body, which was more representative of military interests, was formed. This body, the Military Affairs Committee (MAC), was formed in late January 2012 and was led by General Mutu Say Po and Saw Htoo Htoo Lay as Secretary. It was the MAC that would continue further discussions.

According to KNU negotiator David Taw:

The meetings have great potential . . . In comparison with not having meetings, if we negotiate with each other it will reduce suspicions and it will create a friendly atmosphere. We're satisfied. We've become more familiar and frank. <sup>11</sup>

Although David Taw and many of those on the Military Affairs Committee were optimistic about the negotiations, others, primarily led by David Thackerbaw, the KNU Vice-president, were more negative, stating that:

I'm cautious, very cautious, there is no certainty, we're still not sure of the real agenda. We hear the President has good intentions towards moving the country to democracy, but the indicators we have say something different. <sup>12</sup>

As further meetings between the two sides were held, divisions inside the organisation became more evident as a numbers of leaders sought to slow down the speed of the process. The Karen National Union had opened a Liaison office in Kyauk Kyi supported by the Norwegian funded Myanmar Peace Support Initiative (MPSI). A number of high ranking leaders within the KNU, especially David Thackerbaw and Naw Zipporah Sein, were openly hostile to the MPSI believing it to be a vehicle to support business interests despite the fact that the funding went to the Committee for Internally Displaced Karen People (CIDKP) and Karen Office for Relief and Development (KORD) both of which are humanitarian arms of the KNU.

Suspicious about the MPSI were further raised in May, when Saw Htoo Htoo Lay, Secretary of the KNU's Military Affairs Committee was present when the Government issued 30 Karen IDPs with Burmese ID cards. The ceremony, at the KNU Liaison office in Kyaukkyi, was also attended by Minister of Immigration Khin Yi,

and Norway's Deputy Minister of Foreign Affairs Torgeir Larsen. According to one individual, from the Karen Women's Organisation (KWO), who raised the matter at an MPSI meeting that day, Zipporah Sein had been unaware of the ceremony, an assertion denied by Charles Petrie of the MPSI.<sup>13</sup>

With divisions growing inside the KNU the leadership suspended the military affairs committee and consequently removed moderate leaders from the negotiations. The move was an attempt by the hard-line faction to take back control of the process and slow its pace. During its time the Military Affairs Committee had drafted a military code of conduct to be discussed at the next meeting with the Government.

On 3<sup>rd</sup> September 2012, the KNU negotiating team met with the Government at the Zweekabin Hotel in Pa-an. Discussions about the building of military camps, encroaching on restricted territory and ethical standards for military staff were led by the KNU's Colonel S' Sha Tu Gaw, Major Saw Kler Doh and Major Saw Ta M'La Thaw and not, surprisingly, the KNLA GOC, General Mutu. At the end of the meeting both sides signed the Code of Conduct, with Zipporah Sein, signing on behalf of the KNU. The Burmese delegation agreed to give the code of conduct to its commanders for discussion and final approval.

Not long after the meeting, rifts between the KNU leadership and its executive committee led by Zipporah Sein and David Thackerbaw intensified and threatened to divide the organisation. On the 23 September 2012, General Mutu, Saw David Taw, Saw Roger Khin and a number of military leaders, opened a liaison office in Pa-an without the consent of the Executive or Central Committee. As a result, the KNU, using the term Supreme Headquarters, issued the following statement:

Today, September 27<sup>th</sup>, 2012, Lt. Gen. Mutu Say Po, together with a 30-men group consisting of some district and brigade leaders, is intending to go to Pa-an town to meet with the Burmese (Myanmar) government and open a central level liaison office on September 29<sup>th</sup>. As this trip is not arranged by the Karen National Union (KNU) as well as by the Karen National

Liberation Army (KNLA), the KNU Supreme Headquarters does not have any knowledge of agenda of the group.

In the negotiation meetings, every agreement signed by the two sides has been performed as the agreement between the Burmese government and the KNU. It is not a special, separate agreement between the KNLA and the Burmese government.

The KNLA is under the administration of the Defense Department, which is one of the 14 departments of the KNU.

The KNU has firmly resolved to achieve genuine peace by resolving the political problems by political means. In order to achieve that end, the KNU has laid down a program to conduct negotiations progressively and systematically.<sup>14</sup>

Shortly after the event, the EC called its Central Standing Committee (CSC) to make a decision in relation to how best to handle the behaviour of General Mutu and his colleagues. Despite the fact that less than half of the CSC appeared at the meeting, those who did, granted power to the EC to dismiss General Mutu, David Taw, and Roger Khin. However this was a move that was primarily illegal due to the fact that not all CSC members had attended the meeting. In addition to the dismissals, Brigade 5 commander, Baw Kyaw Heh was made acting commander in chief of the armed forces by the EC.

The opening of the Pa-an office, which was established by General Mutu primarily at the request of Brigade and District leaders, threatened to split the KNU along brigade lines, with Brigades 1,3, 4, 6, and 7 supporting General Mutu and 2 and 5 loyal to the EC.

This problem occurred at a time of political stress for the Executive Committee. After four years in power a new congress, the 15<sup>th</sup>, had been scheduled for the end of the October or November. These elections could have seen what was considered to be a hard-line KNU leadership replaced by moderates who had been instrumental in the peace process. As a result, the suspension of the Military Affairs Committee and the discharge of the three leaders, could be seen as the first steps in influencing the forthcoming congress and possibly holding on to the reins of power.

After a number of meetings to try and prevent the split growing, an unprecedented statement was issued by the Central Standing Committee, it noted that:

On October 25<sup>th</sup> and 26<sup>th</sup>, 2012 the Karen National Union (KNU) Central Standing Committee (CSC) held a special emergency meeting at Lay Wah, in Pa-an District, and efficaciously resolved the problems, which had been brewing within the KNU.

The meeting was attended by 40 Central Standing Committee and Central Standing Committee Candidate (CSCC) members.

At the meeting, matters concerning dismissal of the three leaders according to the decision of the KNU Central Executive Committee (CEC) meeting held on 29-9-2012.

The CSC members freely, frankly and thoroughly deliberated upon the problems, which had been brewing within the organization. With a mind to strengthening national unity, and enhancing the unity, interest and advancement of the organization, all the participants decided to wipe out the weaknesses, which had taken place within the organization, start with a clean slate, continue shouldering the original duties entrusted by the KNU 14th Congress and proceed to the 15th Congress.

After resolving the problem of weaknesses that had arisen within the organization, through consultation and under the guidance and the leadership of KNU, all the participants of the meeting agreed to march on, in accordance with the basic principles and policies of the KNU.<sup>15</sup>

Not necessarily addressing the factional issue, the statement instead merely suggested that they would forget what happened to maintain unity, and continue as before. During the dispute, Saw David Taw, then justice minister, passed away due to ill health.

A Further concern then emerged was the location of where to hold the 15<sup>th</sup> Congress. The EC faction wanted to hold it in Papun, where they supposedly had stronger support, while General Mutu

wished to hold it in 7<sup>th</sup> Brigade. Although there was much speculation in the press as to the motivations for the different locations, as a purportedly democratic organisation where district leaders nominate the candidates, such geographical matters should hardly have been a concern. It was eventually agreed, after a vote was held, that Lay Wah, in 7<sup>th</sup> Brigade, would be the venue.

### **The 15<sup>th</sup> Congress**

The 15<sup>th</sup> Congress was held from November 26<sup>th</sup> to December 26<sup>th</sup> and was attended by 171 KNU representatives from all Brigade areas. To control the election process a 7 person election committee was formed and led by the chief election commissioner Pastor Robert Htwe, head of the Karan Relief Centre (KRC). The election committee was responsible for designing and implementing the election process and for counting votes and announcing appointments.

At the beginning of the congress KNU President Tamla Baw resigned stating that:

I advise those who remain working in the KNU, that they have to work in the right way and to develop and bring on the new leaders. When electing new leaders at this Congress, please elect the right people who have the ability and the intelligence to analyse the political situations. Leaders are not those who are followers but can lead the people.

He also noted that:

... the KNU is the Karen national revolutionary organization and is working hand-in-hand with all people for the emergence of peace. In this case we should not blame and oppose our heroes who sacrificed their lives during our struggle.<sup>16</sup>

After deliberation and various discussions on how the movement could best proceed in relation to its policies and future role, the 171 representatives voted to elect members to the Central Committee. After votes were counted the names of those elected were announced and the ballots burnt by the election committee. The voting for the Executive Committee leadership was much closer than expected with neither Zipporah Sein nor General Mutu receiving the necessary 51%.



As a result a new vote was called for. David Thackerbaw asked that the new vote be a secret ballot, a request that was refused. After the second vote, General Mutu won by a clear majority and after the result was announced the ballots were again burnt. Both Major Hla Ngwe Joint Secretary – 1, and David Thackerbaw Vice-president, lost their positions during the election process. David Thackerbaw, dismissive of the results, later that day called for a recount; however, with the ballots burnt after the original results had been announced and with no support for such a move from any other of the attendees the results were upheld.<sup>17</sup>

After the congress, the KNU released the following statement:

1. The 15th Congress of Karen National Union was held in its 7th Brigade area in Pa-an District, Kawthoolei from November 26 to December 26, 2012. The Congress was attended by a total of 245 people consisting (171) representatives and (74) observers.
2. The Congress reviewed and approved the political situation analysis and activity reports of the KNU from its past four-year term. The Congress also reviewed and reaffirmed the constitution, political objectives and basic programs of the KNU.
3. The Congress also adopted future work plans to increase women participation in politics and national affairs, build unity among Karen people and enhance administration and organization. It also decided to formulate economic and development policies and establish a human rights committee for the protection of people from abuses.
4. The Congress elected the new Central Executive Committee of the Karen National Union
  1. General Saw Mutu Sae Poe - Chairman
  2. Padoh Naw Zipporah Sein - Vice- chairman
  3. Padoh Saw Kwe Htoo Win - General Secretary
  4. Padoh Saw Thaw Thi Bwe - Joint Secretary (1)
  5. Padoh Mahn Mahn - Joint Secretary (2)
  6. Padoh Saw Roger Khin - Committee Member
  7. Padoh Mahn Nyein Maung - Committee Member

- 8. Padoh Saw Tha Main Htun - Committee Member
  - 9. Padoh Saw Tar Doh Moo - Committee Member
  - 10. Brigadier General Saw Jonny - Committee Member
  - 11. Brigadier General Saw Baw Kyaw Hei - Committee Member
5. The Congress also appointed Brigadier General Saw Jonny, the Commander of 7<sup>th</sup> Brigade, as new General Operation Commander and Brigadier General Saw Baw Kyaw Hei, the Commander of 5<sup>th</sup> Brigade, as Deputy General Operation Commander of the Karen National Liberation Army.
6. The KNU reviewed the current ceasefire and peace processes of the Burmese government and views that there is a grave and urgent need to work on reaching political dialogue. The KNU believes that there must be a nationwide ceasefire prior to the dialogue.
7. The KNU is very concerned over the Burmese authorities' violent crackdown on people's movement while the Government is engaging in ceasefire negotiations and peace processes with ethnic armed resistance groups. However, the KNU welcomes the Government's initiative of establishing a commission to investigate and seek for truth.
8. The KNU pledges to continue to work in collaboration and cooperation with other ethnic and democratic forces, while keep working on the current peace process, towards establishment of a genuine federal union in order to achieve democracy and equality and self-determination of all ethnic nationalities.<sup>18</sup>

Although not being elected to the EC, David Thackerbaw held on to the Department of Alliance Affairs while Major Hla Ngwe returned to his military position. Other ministry appointments were:

Saw Hke Hser	Head, Finance Department
Saw Lah Say	Head, Education Department
Saw Ah Toe	Head, Interior and Religious Affairs Department
Saw Dot Lay Mu	Chief of Judge and Head of Agricultural Department

Saw Hla Tun	Head, Organizing and Information Department
Saw Eh K'lu Shwe Oo	Head, Health and Welfare Department
Saw Kaw K'sar Nay Soe	Head, Transportation and Communication Department
Saw Aung Win Shwe	Head, Foreign Affair Department
Mahn Ba Tun	Head, Forestry Department
Saw Mya Maung	Head, Fishery, Livestock and Farming Department
Fishery	Department
Saw Eh K'lu Say	Head, Justice Department
Saw David Thackerbaw	Head, Alliance Affairs Department
Saw Ker Ler	Head, Mining Department

### **After the Congress**

With an ostensibly moderate leadership now leading the Karen National Union much negative speculation has appeared in the media suggesting that the leadership was Business orientated and did not have the people's interests as a main priority. Such speculation was further strengthened by the new leadership's decision to accept President Thein Sein's invitation to visit him in Nyapyidaw on 5 January 2012. The delegation led by General Mutu also included KNU General-Secretary Padoh Kwe Htoo Win, Secretary-2 Saw Mahn Mahn, and Central Executive Committee members Saw Roger Khin, Mahn Nyein Maung and Saw Hla Tun. According to Mahn Nyein Maung speaking after the meeting with the President:

We are still suspicious of each other, but this is due to the long years of fighting . . . However, on our part we are trying our best to build up [mutual] trust, as trust is very important in peace talks . . . We will try our best to struggle for peace and will not turn back on the peace process . . . many people have died and many suffered the consequences of civil war... we don't want any more suffering.<sup>19</sup>

In addition to meeting with President Thein Sein, the delegation also met with the Commander-in-Chief of the Defense Services, Vice-Senior General Min Aung Hlaing. According to Mahn Mahn:

We met with the commander-in-chief for the first time and our visit is intended to strengthen ceasefire between the government and KNU. Moreover, we agreed to cooperate closely in the process of ceasefire.<sup>20</sup>

Shortly after the meeting the KNU issued the following statement:

1. In compliance with the invitation of President U Thein Sein of Myanmar government, the entourage of the Karen National Union leadership had met with President U Thein Sein and Vice-President Sai Mauk Kham at Nay Pyi Daw on 5/01/2013.
2. The entourage of KNU Leadership had also met with Chief of staff, Vice-Senior General Min Aung Hlaing at Ba Yint Naung Hall on 6/01/2013.
3. The entourage had also met with Rangoon Karen elders on 6/01/2013.
4. On meeting with both the President and the Chief of Staff, the following emphases had been discussed:
  - (a) The aspect of cease-fire agreement is to be concrete and enabling trust building for both sides;
  - (b) Matters concerning fierce fighting within Kachin State; and ,
  - (c) Dialogue to be further developed to political level and cease-fire agreement to be implemented to give assurance and trust for the people.

In striving for the concrete accomplishment of cease-fire agreement and for the development of further dialogue to a political level, the Karen National Union shall collaborate with the nationalities.<sup>21</sup>

## **The Future**

The new leadership has shown that despite much negative criticism from their detractors, in and outside of the KNU, it is more than prepared to put the wishes of the people above those of the Organisation. The opening of the Liaison office in Pa-an, in defiance of the KNU EC, at the request of local leaders suggests that the new

leadership is more progressive and open to implementing the will of the people.

It is envisioned that a more moderate Karen National Union leadership will be able to secure a lasting peace, a peace that will ensure equality and protection for the people and much needed development for Karen State. Working alongside other Karen actors including Community Based Organisations and Karen political parties, the Karen National Union finally has a chance to give the Karen people the peace they deserve.

While the Karen people have made their choice to support a Leadership that is more able to provide the opportunity for peace, it is essential that the Burmese Government recognise this fact and grasps this chance not only to bring peace to Karen State but also to other ethnic areas. There has never been such an opportunity for an end to the myriad conflicts and both the Burmese Government, and the Burmese Army, must recognise this fact.

#### Notes:

1. The Committee for Internally Displaced Karen People (CIDKP) and the Karen Office for Relief and Development (KORD)
2. 'KNU Appoints New Commander' Saw Yan Naing, *The Irrawaddy*, 4 October 2012
3. 'Burma: Insurgency and the Politics of Ethnicity', Martin Smith, Zed Books, p.295
4. Ibid
5. KNU administrative officials often also had military ranks; a measure introduced by the KNUP in 1963 and they were supposedly senior to military commanders.
6. The leader of the KNU held the title of President until the most recent congress when it the leadership role was renamed Chairman.
7. 'The Stand of the KNLA Nr 7 Brigade and G.H.Q. Battalions', 30th July 2006
8. Ibid.
9. Ibid.
10. Personal conversation with Colonel Htoo Htoo Lay in January 2013.
11. 'KNU satisfied with third ceasefire meeting', Phanida, *Mizzima*, 21 December 2011
12. 'KNU stand by ethnic alliance' Report by KIC, 12 January 2012
13. The Author was present at the meeting in Chiang Mai, Thailand, on the 30 May 2012

14. 'Statement of KNU Supreme Headquarters on Opening of Central Level Liaison Office in Pa-an', 27 September 2012
15. Position Statement of the KNU Central Standing Committee Special Emergency Meeting, 27 October 2012
16. 'KNU President General Tamla Baw resigns and urges Congress to elect 'right leaders'', KIC, 4 December 2012
17. Personal Conversation with KNU EC Member, 6 January 2013. The burning of the votes and other issues relating to the election have caused some controversy see <http://dictatorwatch.org/>
18. Statement of Karen National Union 15th Congress, 27 Dec 2012
19. KNU Rebels 'Will Not Turn Back on Peace Process' Zarni Mann, The Irrawaddy, 7 January, 2013
20. 'KNU secretary believes Commander-in-Chief will lay emphasis on ceasefire for State development', 07 January 2013
21. 'The Communiqué of Karen National Union on meeting with President U Thein Sein', 9 January 2013

## **Realising Change in Karen Politics**

### **The Karen National Union's April Negotiations and the Continuing Peace Process**

By  
Paul Keenan  
(April 2012)

On 11<sup>st</sup> April 2012, the Karen National Union (KNU), after over sixty years of ethnic conflict, opened a liaison office in Kyaukkyi, Toungoo District as part of its peace-making agreement with the Burmese Government. This historic event, the first of its kind for the KNU, was formally opened by the Burmese Government's Minister of Railways, U Aung Min; Pegu region Security and Border Affairs Minister, Colonel Thet Tun, and KNU General Secretary, Naw Zipporah Sein.<sup>1</sup>

The move was a significant improvement in peace building between the two sides following initial peace talks which began in January. Not only is the opening of a liaison office a major step forward, but KNU Peace Representatives were also able to meet with President Thein Sein and NLD leader Daw Aung San Suu Kyi. On the 12<sup>nd</sup> April, the KNU peace negotiating team was also able to open an office in Tavoy (Dawei), the KNU 4<sup>th</sup> Brigade area.<sup>2</sup> In addition, two Grand Tiger vehicles were provided by the Government for the office's use.<sup>3</sup>

Karen Peace talks, especially at the beginning, had been fraught with confusion and divisiveness between certain factions within the KNU. Exploratory meetings that originally began in October and November 2011 were beginning to lay the groundwork for future talks, yet there was still much scepticism from some Karen leaders.

While it looked as if a schism was beginning to appear within the KNU leadership itself over the speed of the talks and the fact that

Burma Army units had not retreated, a number of high-level KNU leadership meetings were convened and it was finally agreed that talks should continue.

The Karen National Union Peace Delegation, led by KNU General Secretary Naw Zipporah Sein, left on 4<sup>th</sup> April 2012 for the Karen State capital Pa-an. Its intended goals were to discuss:

1. Details of the cease fire arrangement between the KNU and the Burmese Government
2. Progressive realization of a nationwide ceasefire
3. Guaranteed safety for civilian populations
4. Trust-building at all levels
5. Protection of Human Rights

The KNU also noted that:

The purpose of these meetings is to engage all levels of society in the process of achieving peace in a nation that has been in armed conflict for several decades. The KNU believes that lasting peace should be achieved through the combined effort of all people who are directly and indirectly affected by the coming political change.<sup>4</sup>

The first meeting held at the Zwegabin Hotel in Pa-an on 4<sup>th</sup> April was led by Naw Zipporah Sein, Saw Htoo Htoo Lay, Secretary of the Military Affairs Committee, and General Mutu Say Poe, General Officer Commanding. The Government representatives were Railways Minister U Aung Min, Immigration and Population Minister U Khin Yi, and General Tin Maung Win of South-eastern Command. The following topics were discussed:

1. Both shall cease fire.
2. Both shall not travel outside of designated areas with arms.
3. Shall station only at agreed upon areas.
4. Liaison offices shall be established at mutually agreed locations. No arms shall be allowed.

After the discussion the following resolutions were agreed upon by both sides:



### **Resolution (1) Code of Conduct for Ceasefire**

- (a) Code of Conduct for ceasefire shall be developed and released at the Union-level meeting.
- (b) Both sides shall propose drafts Code of Conduct in early May to be negotiated at a face-to-face meeting, and draw the final mutually-agreed Code of Conduct. The final version shall be confirmed at the next round of meetings for implementation.

### **Resolution (2) Monitoring**

- (a) The issue of peace monitoring shall be discussed at the Union-level negotiation.

### **Resolution (3) Liaison Office**

- (a) More liaison officers at new locations proposed by the KNU shall be submitted to the President, and further implementation shall be carried out.

### **Resolution (4) Designating Areas for Restricted Travel and for Station**

- (a) Designated areas for restricted travel and station shall be discussed in details at regional levels of respective parties to be reported to the union level for confirmation.<sup>5</sup>

After the meeting in Pa-an, the KNU delegation traveled to Rangoon for further discussions with the Union level peace negotiation team. The meeting was attended by 7 ministers led by U Aung Min on the side of the Government and a 14-member delegation led by General Secretary Naw Zipporah Sein representing the KNU. Six main points were discussed:

1. Realization of a nation-wide ceasefire, particularly in ethnic areas with ongoing fighting.
2. Guarantee of civilian livelihood free from intimidation.
3. Creation of conditions to attain trust among people.
4. Cessation of forced labor and forced collection of money or donations from the people in any form.

5. Release of prisoners, restoration of normalcy of civilian livelihood, and resolution of problems related to land rights of the people.
6. Establishment of mechanism to monitor peace process.

After the talks, the following resolutions were agreed on and signed into the record:

1. Both sides agreed to adopt the principle of progressive realization of nation-wide ceasefire. On-going armed conflicts in ethnic areas must stop immediately.
2. Both sides agreed to implement a mutually-binding ceasefire Code of Conduct in order to guarantee livelihood and security of the people.
3. Both sides agreed to implement resettlement programs to restore normal livelihoods for Internally Displaced People (IDPs), which must include pressing needs such as life security, food security, and livelihood security. It is agreed that such IDP resettlement programs must be implemented in an inclusive, transparent and accountable fashion.
4. Both sides agreed to work on long-term needs for the civilian population, such as demining and systematic relocation, repatriation, and resettlement of refugees. This includes rule of law and sustainable economic development.
5. The Government and the KNU must collaborate and coordinate as much as possible for peace building and restoration of trust among civilians. District- and township-level peace building teams must be established to help foster the peace process. In particular, women must be included in the peace process.
6. The Government will protect labor rights in accordance with labor laws that are currently in place. The Government will revise laws to conform with ILO recommendations. Both sides agreed to cooperate in enforcing these laws.
7. Both sides agreed to allow active participation of NGOs, particularly community-based NGOs.
8. The KNU agreed to collect names of prisoners who have been arbitrarily arrested and imprisoned for suspicion of subversion

- and communicating with unlawful organizations and to send that list of names to U Aung Min.
9. The KNU agreed to report problems related to land issues to the State Prime Minister before appropriate laws related to land rights are made.
  10. Both sides agreed to acknowledge land ownership agreements existing within the KNU and other ethnic organizations and to find solutions in consultation for customary land ownership and other land rights issues for IDPs.
  11. Both sides agreed to find the best and most fair solution for the land ownership of the people.
  12. Both sides agreed to begin identification of mutually-acceptable peace monitors to support a durable peace process in Burma. Peace monitoring will be developed in three levels: (1) Local Monitoring, for initial stages of the peace process, (2) International Monitoring, to be developed once there is significant improvement in the on-ground situation, and (3) Open Monitoring, to be developed when ethnic areas attain stability in the on-ground situation.
  13. Both sides agreed to propose names of suitable people to serve in a local-monitoring capacity by end of May 2012 and to confirm the list during the next round of negotiations.<sup>6</sup>

After the Rangoon meeting the KNU delegation flew to Naypyitaw for a 7am meeting with Burmese President Thein Sein. During the meeting Thein Sein reportedly explained the Government's efforts in relation to the peace process, development, and democratization. The Karen National Union, for their part, said that they were committed to a nation-wide ceasefire and for progressive realization of peace and reform. In addition, President Thein Sein also told the KNU delegation that the Government was making its best efforts to remove the KNU from its list of outlawed organizations.<sup>7</sup>

After the Thein Sein meeting the KNU delegation travelled to Pegu (Bago) and another meeting with the Government delegation was held on 10 April 2012. Here four main areas of discussion were

continued, echoing the four main points initially debated in Pa-an, chiefly:

1. To establish mutual ceasefire on both sides.
2. No armed personnel to be allowed except in specified zones.
3. Troops to station at specified zone that have been agreed upon by both sides.
4. Liaison Offices (no armed personnel) to be opened at appropriate and mutually agreed places.

After the talks, the KNU and Government sides signed the following resolutions into the record:

**(1) Regarding ceasefire:**

- (i) The Union Government is to set up district-level and township-level peace process implementation committee and the committee will work with its corresponding level of KNU.
- (ii) To create trust building among soldiers from both sides, it is agreed to establish tripartite relationship among public and soldiers from both sides through broad public awareness.
- (iii) Each level of local commanders will have meeting in the third week of May for further discussion.
- (iv) The two sides ensured to implement ceasefire-monitoring process with great transparency.

**(2) Regarding troops stationing at specified zones:**

- (i) Regarding this matter, detail discussion is to be made within corresponding local organizations and the details to be reported for approval.

**(3) Regarding setting up liaison office in the mutually agreed places:**

- (i) For state/region-level communication, Colonel Thet Tun from Bago Region of Union Government and Colonel Roger Khin from KNU were assigned.
- (ii) For union-level communication, KNU's Foreign Affair Secretary Saw Aung Shwe from Karen National Union and one deputy

director from the Office of Ministry U Khin Yi from Union Government were assigned.<sup>8</sup>

Shortly after the meeting in Pegu on the 11<sup>th</sup> April, Peace Negotiator and 4<sup>th</sup> Brigade District Chairman Padoh Kwe Htoo Win opened the KNU's liaison office in Tavoy. Although two offices have been declared open, there still remain some operating details to be worked out before each is fully functioning.

While the primary role of the offices is to monitor military movements, it is hoped that they will function on a much wider scale. At the moment there are staffing issues that still need to be addressed and discussions within the KNU continue on how best to implement humanitarian assistance via the liaison offices. Though it had initially been envisaged that the main KNU office would be based at Myawaddy, this idea has been dropped in favour of opening the main office in Rangoon. There may be some contention in relation to the opening of a KNU office at Three Pagoda's Pass as the area is contested not only by a number of Karen groups but also by the Mon.

Despite the positive changes in relation to the opening of KNU offices and the possibility that the KNU will become a legal organisation, there still remains a great deal of scepticism from urban Karen communities, especially in Rangoon and the Delta.<sup>9</sup> While most Karen communities in those areas that have seen conflict over the past fifty years are more welcoming of the peace process, those outside conflict areas maintain little faith in the new Government and are consequently much more cautious. This view is also common among exiled Karen who continue to express their views via international campaign groups despite having very little contact with the communities who are most likely to be affected by the process.

A further concern for the Karen National Union peace process is the continued existence of the Karen Peace Council (KPC) and the Klo Htoo Baw Battalion. While the Peace Council has largely been marginalized, at least one leading member, Lt. Col. Timothy Laklem, continues to secure a role for himself in Karen Politics. Timothy, along with then 7th Brigade Commander Htain Maung,

split from the KNU in 2007 and there remains some bitterness in the mother organisation. While it is likely that Htain Maung may be looked upon more favourably by the KNU, such a courtesy is unlikely to be extended to Timothy.

Similarly, the Klo Htoo Baw Battalion, formerly the DKBA's 5th Brigade, may also be an obstacle to peace in Karen State. The DKBA recently formed a political wing under the auspices of Mahn Robert Ba Zan, the son of former KNU president Mahn Ba Zan. Mahn Robert Ba Zan, a devout Christian who resettled in Minnesota where he became a Karen community leader, has joined the DKBA and is attempting to recreate the group as a Karen political force known as the Klo Htoo Baw Karen Organisation (KKO). According to its founding statement:

1. The KKO recognizes the KNU as the mother organization, and will support the KNU.
2. The KKO promises to gain Karen independence and to follow Saw Ba U Gyi's four principles.
3. To protect Karen dignity, values and identity
4. To implement equality and self-determination, national unity and development, to build a federal union and a long lasting peace process.
5. The KKO does not allow trafficking (selling and transportation) of drug and narcotics. And will cooperate with other agencies to prevent drugs.<sup>10</sup>

The organisation is ostensibly led by the DKBA's founder, U Thuzana and the No Poh Sayadaw (aka U Wizzana, Sayadaw Bone Bone or Rambo Monk). Surprisingly,] prior to the formation of the DKBA in 1994, both had taken opposing positions in relation to the DKBA's emergence.<sup>11</sup> While there are at least 12 patrons -- mostly Buddhist monks and two Christian pastors<sup>12</sup> - the organisation's affairs are primarily administered by a 19 person Executive Committee, the Chairman of which is Mahn Robert Ba Zan.

While the formation of the KKO at the beginning of April 2012 may have been a legitimising move on behalf of the Klo Htoo Baw

Battalion to secure its place in the Karen political arena, the group suffered a major setback in late April. Thailand's Office of the Narcotics Control Board (ONCB) included the Klo Htoo Baw battalion's leader Nakamwe (Saw Lah Pwe) on a list of wanted drug traffickers.<sup>13</sup> The ONCB issued a 1,000,000 Baht (US\$ 32,000) reward for Lah Pwe, although he denies his involvement in the drugs trade and told the Irrawaddy:

I never do [drug trafficking]. I have no desire to be rich in that way. They [Thai authorities] hurt not only my image, but also the image of my people and my state. They look down on us . . . They can come here. I will not attack or harm them. I will be responsible for everything. If I am guilty, I will face legal action. I will even go to the International Criminal Court if necessary,<sup>14</sup>

While a number of allegations have been made in the past in relation to DKBA 5<sup>th</sup> Brigade's drug trafficking activities, these have mainly involved low-level commanders.<sup>15</sup> This is the first time that Lah Pwe has been directly implicated in the trade and will seriously affect the activities of the armed group and the KKO. In addition, it is unlikely that any other Karen organisation, especially the KNU, will want to associate with a group implicated in the drugs trade.

It is doubtful, now that it has been associated with drug trafficking, that the group can continue as it is. Although Robert Ba Zan and the KKO may attempt to improve the group's image, it is questionable whether they will be able to significantly change people's perception of it as a drug trafficking or criminal enterprise. Although it originally received a great deal of praise for its stance in refusing to become part of the Border Guard Force, these allegations are unlikely to simply disappear.

The fact that the KPC and the Klo Htoo Baw Battalion continue to be active in Karen State, assuming the role of local militias, rather than representing the local population in a political context, needs to be further examined. Their existence, which appears primarily motivated by commercial concerns, could destabilise peace in Karen State, and

both groups need to re-think their role in any future Karen State if the people are to benefit.

There is now a requirement for all interested parties to rethink their position in relation to the current political environment. One Karen peace negotiator, who was present at both the 2004/5 and the 2012 negotiations, noted that there was a significant change in the Government's attitude. He noted that its mind-set was completely different and that the Government was now placing emphasis on equality, in contrast to the situation in 2004/5 when the Military merely dictated what they needed for stability. The fact that key issues were not only agreed to but not arisen and signed by both parties was in itself a major breakthrough.<sup>16</sup>

The Karen National Union negotiators recognise the fact that they still have some way to go before achieving all of their requirements. The April meetings only addressed six out of the thirteen points put forward and it is hoped that further meetings in May will cover those issues remaining. Both sides are currently preparing codes of conduct and monitoring systems to be discussed at the next meeting, aimed at preventing any future misunderstanding in relation to military affairs. That said, however, no one is expecting immediate change and patience is needed on all sides.

Notes:

1. 'Kayin National Union-KNU opens Liaison Office in Kyaukkyi of Toungoo District', *The New Light of Myanmar*, 11 April 2012
2. 'Kayin National Union (KNU) opens Liaison Office for Myeik/Dawei District, Brigade-4', *The New Light of Myanmar*, 12 April 2012
3. 'Perpetuation of peace discussed with KNU' *The New Light of Myanmar*, 13 April 2012
4. 'KNU Leaves to Continue Talks on Ceasefires with the Burmese Government', Karen National Union Statement, 4 April 2012
5. 'Second Round State/Region-Level Peace Negotiation between KNU and the Government of Myanmar Meeting Minutes April 4, 2012 Pa-an', unofficial translation
6. 'Meeting Notes of the first Union-Level Peace Talks between the KNU and the Government of Myanmar Yangon April 6, 2012', unofficial translation



7. 'Karen National Union (KNU) and Myanmar President U Thein Sein Meeting' Karen National Union Statement, 7 April 2012
8. State/Region-Level Peace Negotiation between KNU and the Government of Myanmar Meeting Minutes April 10, 2012 Bago', unofficial translation
9. Personal conversation with KNU Peace Negotiator and Central Committee member, Mae Sot, 20 April 2012
10. 'The Statement of the first Klo Htoo Baw Karen Organization's Conference', 01/2012, 2 April 2012, unofficial translation.
11. The Noh Poh Sayadaw became head of the Bo Mya appointed Buddhist council to oppose the influence of U Thuzana and provide a veneer of Buddhist equality.
12. Including KNLA 101 Battalion Commander Col. Paw Doh, who has been largely responsible for DKBA/KNU communication
13. See for example 'Thai Police seize 90 thousand amphetamine pills from DKBA', Loa Htaw, IMNA, 7 May 2010
14. 'DKBA Leader on Thailand's Most-Wanted List', Saw Yan Naing, The Irrawaddy, 25 April 2012
15. See for example 'Thai Police seize 90 thousand amphetamine pills from DKBA', Loa Htaw, IMNA, 7 May 2010
16. Personal conversation with KNU Peace Negotiator and Central Committee member, Mae Sot, 20 April 2012

## **Tensions and Concerns in Shan State**

By  
Paul Keenan  
(May 2013)

### **Introduction**

As the Thein Sein Government's peace process with its armed ethnic minorities continues, concerns remain in relation to Burma Army activities in Shan State and claims that the UWSA has increased its arsenal and is seeking an autonomous Wa State. Although armed ethnic groups, like the RCSS-SSA, have continually attempted to minimize the impact of various clashes with the Burma Army, the continuing offensive in Northern Shan State, the on-going conflict in Kachin State, and reports of a possible offensive against the Wa further threatens peace in the area and could result in both the RCSS/SSA and the UWSA being drawn into a much wider conflict.

### **The SSPP and the Conflict in Northern Shan State**

Despite signing a ceasefire in February 2012, the Wanhai based SSPP-SSA has seen a resurgence of fighting in its areas of control. Burma Army activities have recently increased resulting in over a thousand people fleeing their homes. Most recently, in April 2013, Burma Army troops indiscriminately shelled two villages in the area injuring two people, including a baby, and destroying two houses. In total the group estimates there have been one hundred clashes with Government forces since the signing of the ceasefire agreement.

According to one senior SSPP official the reason for the recent heightening of tensions is that the Burma Army wants the SSPP to relinquish all of its bases west of the Salween.<sup>1</sup> The SSPP has four bases just west of the Salween: Loizay, Loi Khawk, Loilan and Loikhio.<sup>2</sup>

In addition to its bases the SSPP continues to maintain liaison offices at Taunggyi, Lashio, Kholam, Muse and Namkham. The organisation also owns three import/export companies: Loi Pang, Loi Lang and Loi Kher.

Media speculation suggests that the Burma Army is either attempting to severely curtail the SSPP's ability to connect with the UWSA or that the Burma Army is preparing for an assault on the UWSA. However, there is little evidence to support either of these theories. It is unlikely that the Burma Army would launch an attack on the UWSA, but it is highly likely that the Burma Army has embarked on an attempt to increase its control of ethnic areas ahead of any kind of nationwide ceasefire and thus weaken armed ethnic groups bargaining power.

The fall of Loizay would be particularly worrisome for the UWSA in any future agreement as one source quoted in SHAN notes:

From Loi Zay, you can see [the UWSA capital] Panghsang clearly. Loi Zay is just like a key to enter Panghsang. This is why the UWSA has a good reason to worry . . . they don't want Loi Zay to fall, . . .the Burma Army would gain an upper hand strategically.<sup>3</sup>

A number of Shan armed ethnic group sources believe that the military is pursuing its own agenda in Shan State regardless of Government dictates. Despite this, in an attempt to ease tensions in the area, the Union Peacemaking Work Committee (UPWC) met with representatives of the SSPP in Tangyan early in May. Both sides released a joint statement confirming:

- To faithfully observe the agreements reached earlier both at the state and union level
- To peacefully resolve problems arising from deployment and movement of troops by the two sides
- To avoid imposing burden on the populace by unlawful actions
- To immediately meet and resolve in a transparent manner for every problems that give rise to mutual suspicions

But, as noted earlier, there is little evidence to support the ideas that clashes will cease. While there has been a decrease in the number of clashes reported in most ethnic areas, fighting continues to be reported - most recently in Northern Shan State. (see RCSS)

Politically, the SSPP/SSA has no particular objective and instead seeks guidance in such matters from the Shan Nationalities League for Democracy (SNLD). Consequently, it is unclear about the SSPP's future should there be an all-inclusive political dialogue. It is unlikely to give up its weapons and may, should a final agreement be realised, be incorporated into a single federal union army, or become one of the many militias that operate in Shan State.

## **The RCSS and the Peace Process**

The Restoration Council of Shan State (RCSS) has in total signed three agreements with the UWPC. The RCSS signed its first agreement with the Thein Sein government on 2 December 2011. Two further agreements were also signed on the 16 January and 19 May 2012. According to Shan sources there have been at least 80 clashes since the signing of the first agreement and this is primarily due to the fact that the Burma Army has failed to notify the RCSS of its troop movements in RCSS territory.<sup>4</sup>

Despite the signing of an agreement there appears to have been very little done in relation to addressing territorial boundary issues or the creation, by the RCSS, of a military code of conduct.<sup>5</sup> The current agreement states that the Burma Army is allowed to operate in urban areas and roads while the RCSS is allowed to operate in villages and the countryside. Consequently, exact boundaries have not been delineated and remain unclear causing confusion to such a degree that RCSS Chairman Yawd Serk sent a letter, in March 2013, to U Aung Min of the UWPC addressing the issue. Sai Hseng Mong, RCSS spokesperson also noted that:

We must be clear about as to what and how the Burma army want to do exactly. According to the agreement signed, the government has given us some military zone and construction of our headquarters; but we are unable to make it yet. The

terms of agreement clearly mentions that the RCSS/SSA is to be active in the villages and forests, while the Burma army is confined to the towns and cities. A sudden fighting broke out when Burma army, without [us being] informed, [and they] intrude into our active areas such as forests and remote areas.<sup>6</sup>

Despite the letter and the continuation of clashes, there appears to have been little done to address the issue. One RCSS official noted that the military was out of government control<sup>7</sup> a point acknowledged by U Aung Min:

. . . we have some difficulties between government and the army. Fortunately, now many of them have been solved. Sooner or later, we will be able to carry out the tasks

However, the optimism felt by U Aung Min in relation to controlling the army may remain misplaced - as Yawd Serk noted:

Initially I thought it was locally based Burma army officers and commanders were not fully aware of the ceasefire agreement with the RCSS/SSA. But our close monitoring and observation show that lower ranking officers and soldiers were not even interested or willing to fight. But they were forced to do so by higher ranking commanders. I think it is intolerable,<sup>8</sup>

Most recently the RCSS has found itself mired in conflict in Northern Shan State, although the reason for this may be due to local enterprise rather than ethnic struggle. On 9 May 2013, units of the Burma Army attacked the base of the RCSS/SSA Task Force 701 in Namkham Township on the Chinese Border. Local Burmese media stated that the reason for the attack

. . . was due to the SSA's territorial expansion, forcible recruitment and collection of illegal tax<sup>9</sup>

The area is notorious for its lucrative logging and narcotics trade and it is likely this was the main reason for Burma Army intervention in an area in which the SSPP, the RCSS, the Ta-ang National Liberation Army (TNLA), the Namkham Myoma militia and the Panhsay militia all operate. The latter, the Panhsay militia, led by Kyaw Myint, an MP in the Shan State Assembly, is believed to be a notorious drug trafficker. According to Maj Lao Hseng an RCSS spokesperson there were three possible reasons for the attack:

- (1) The SSA Task Force base was on the Sino-Burma border,
- (2) The SSA was implementing a drug free zone and
- (3) The SSA base was also located close to the route of Shwe gas pipelines.

But, it is more likely to be the second. In April the Panhsay militia were attacked by a group comprised of troops from the RCSS, the SSPP, the TNLA and also possibly troops from the KIA. Three bases were destroyed and 55,171 methamphetamine tablets, 6 ½ viss (10.4 kg) of opium and one penicillin bottle of heroin were eventually burnt at the Task Force 701 H.Q. Considering the loss to the Panhsay militia and the influential position of its leader, it is more than credible that the presence of Task Force 701 is a hindrance to local business activities.

### **The SNLD and other Political Parties**

The Shan Nationalities League for Democracy (SNLD) is the most popular Shan political party in the country. Closely connected to the SSPP, the party, after the release of its Chairman Khun Htun Oo from prison,<sup>10</sup> is believed to be the strongest political force in the country. Its main rival is the Shan Nationalities Democratic Party (SNDP), or White Tiger Party, which was formed to contest the 2010 election. The main difference between the two parties is the fact that the SNDP supports a fourteen state solution (turning all divisions into states) and is more business orientated. Whereas the SNLD wants to reform the constitution and achieve self-determination within the union.<sup>11</sup> In relation to the future, the SNLD has concerns in regards to the number of armed groups currently in Shan State, and believes the militias should be disbanded. In addition, the party believes that they need a common political consensus to amend the constitution, that a ceasefire needs to be put in place, and that the Burma Army should reduce numbers and recognize military boundaries.<sup>12</sup>

The political situation in Shan State remains somewhat convoluted. In addition to the main Shan parties the ruling Union Solidarity and Development Party, the National League for Democracy, and the

National Unity Party are all vying for votes in Shan State for the 2015 election. Despite this however, the popularity of Khun Htun Oo among the local population is likely to see the SNLD takes most of the votes.

## **The Wa's Special Region 2 and Shan State**

Recent concerns have also emerged in Shan State in relation to the UWSA. A number of rumours have emerged not only in relation to the UWSA's request for a Wa State, but also in relation to the purchase of new military hardware including the purported purchase of helicopters.

According to Shan Herald Agency for News (SHAN), Xiao Samkun, UWSA deputy chief of External Affairs, while attending the Shan–Karenni Trust-building for Peace conference in March 2013, broached the subject of an autonomous Wa State. According to the report:

'Xiao Samkun proposed [to] set up a Wa autonomous State. This sentiment has been aired to everyone who entered Wa region during the past few years. It is said that they have requested it since 1993. It seems that the Wa are determined to struggle for until it is materialized.'<sup>13</sup>

A further report by SHAN suggested that the matter was also mentioned by Xiao Samkun to the Government's chief negotiator, U Aung Min, on the side-lines of the conference:

... [Aung Min] was reported to have informed him that whether or not the Wa should have its own state must be decided by the Union Assembly

A further report from AFP reiterates the call for a Wa State according to one 28 May 2013 article:

'The Wa self-administered region consists of six townships in the rugged borderlands of Shan state, but UWSA spokesman Tone Sann told AFP that the current arrangement was "not enough".

... We want them to be acknowledged as a state,' he said on the side-lines of a religious ceremony in northern Shan State.'<sup>14</sup>

Thus far such calls appear to have been made on the side-lines of various events and it is unclear how the Wa leadership envisions its future, either as a state or in the continuation of a special region.

In addition, a further issue occurs in relation to the Wa's 171<sup>st</sup> Military Region which actually lies on the Thai-Burma Border. The region was set up by forcibly relocating more than 125,000 people from the northern Wa State to Mongton and Monghsat townships, opposite Thailand's Chiangmai and Chiangrai provinces. Since its creation the 171<sup>st</sup> has consistently resisted orders by the Burmese Army to relocate back to the north.

Should calls for a Wa State be taken seriously then it is likely that the existence of the 171<sup>st</sup> Military Region will have to be sacrificed to gain a Wa State. A concession that is unlikely to be given at any time in the near future.

Perhaps, one of the biggest issues to have recently surfaced in relation to the UWSA in the rearming of the organisation by China. While such reports are extremely hard to verify they have caused some concern in relation to the UWSA's future. The main basis for the reports is Jane's Intelligence Review which has a Bangkok based correspondent. In December 2012, the publication reported that China had supplied the UWSA with PTL02 Wheeled Tank Destroyers an allegation that the Chinese Embassy described as 'ill-founded' and 'misguided' <sup>15</sup> noting that:

The Chinese government holds a clear and consistent policy of respecting the sovereignty and territorial integrity of Myanmar<sup>16</sup>

In April Jane's also reported that the UWSA had purchased:

... several Mil Mi-17 'Hip' medium-transport helicopters armed with TY-90 air-to-air missiles to the Wa in late February and early March, according to both Myanmar ethnic minority and Myanmar government sources.

And that:

The Mi-17s reached the Wa-administered area by flying across the Mekong River from Lao rather than direct from China, according to one ethnic minority military source, who added



that five helicopters had been delivered. A Myanmar government source confirmed that helicopters had reached the UWSA but said only two aircraft had been delivered.<sup>17</sup>

It remains unclear as to why the helicopters would have taken the circuitous route of travelling via Laos or whether permission for military helicopters to enter Lao air space had been given. According to one source, San Khun, from the foreign affairs department of the United Wa State Party, quoted in Burma's Eleven Media:

. . . the news was not true and the Wa did not receive any assistance from China. . . I don't want to say any more as the news was not true.<sup>18</sup>

The Chinese Embassy in Rangoon was also quick to deny the allegations in a 7 May statement:

The Embassy would like to express deep dissatisfaction over the repeated publication of unfounded information by the parties concerned as it will not only mislead the readers from Myanmar and abroad, but also discredit the strong efforts by the Chinese side to contribute to the peace process in Myanmar, As a close and good neighbour of Myanmar, China has always played a constructive role for promoting the peace process in Myanmar by repeatedly calling and facilitating the realization of a long-term and complete cease-fire by a peaceful resolution of disputes and differences through political dialogue<sup>19</sup>

Thailand, which should be extremely concerned about the UWSA possessing helicopters especially in the 171<sup>st</sup> Military Region, was equally dismissive of the claims. One border security official stated that:

You cannot just ask China to send you gunships because the Burma Army has used gunships against the Kachins and the next target will probably be you and China says, 'Okay, here goes some gunships for you to defend yourself. It is not that simple.' . . . You need to send your officers to China first to familiarize themselves in handling the aircraft. That takes time, at least a year, unless China is ready to give you both the helicopters and their pilots.<sup>20</sup>

Allies of the UWSA spoken to for this paper also stated they believe the allegations to be false. While there is little doubt that the PRC

has provided weapons and training to the UWSA in the past, and continue to do so, there is little reason to believe the Chinese would risk sending military helicopters. Rather, it would appear that intensive media coverage not only of the helicopter sales, but also of the UWSA's request to have a separate Wa State could further heighten tensions in Shan State, and in a worst case scenario be designed to bring the Wa into conflict with the Government.

Notes:

1. Personal conversation with senior SSPP official, 10 May 2013
2. 'No ceasefire for Shan army', SHAN, 19 April 2013
3. 'UWSA worries as tension between Shan rebels, Burma army grows' SHAN, 2 May 2013
4. 'Peace process: So many promises, few implementations', SHAN, 8 May 2013
5. Personal conversation with RCSS spokesperson 15 May 2013
6. 'We need a resolution for military dealings: Gen Yawd Serk's letter to U Aung Min', SHAN, 29 March 2013
7. Personal conversation with RCSS spokesperson 15 May 2013
8. We need a resolution for military dealings: Gen Yawd Serk's letter to U Aung Min', SHAN, 29 March 2013
9. Shan quoting the Myawady newspaper on Sunday, 12 May 2013 see also 'Liaison offices set up to prevent clashes: Shan leader to the military', 16 May 2013
10. Khun Htun Oo was jailed in 2005 purportedly for 'high treason' and 'inciting disaffection towards the Government'.
11. Email correspondence with senior SNLD party leader, 23 May 2013
12. Ibid.
13. 'Related to Wa representative's demand for autonomous state' SHAN, 22 March 2013
14. 'UWSA call for recognition of a Wa State', Mizzima, 28 May 2013
15. 'China denies selling weapons to ethnic army in Shan State', Eleven News, 29 January 2013
16. Ibid.
17. 'China 'sends armed helicopters to Myanmar separatists' Jane's Defence Weekly, 26 April 2013
18. <http://elevenmyanmar.com/politics/3302-uwsa-denies-it-acquired-armed-helicopters-from-chin> accessed on 31 May 2013
19. 'After Chinese Arms Allegations, UWSA Shows Off 'Thai' Military Hardware', The Irrawaddy, 14 May 2013
20. 'Thai security: Wa denial of gunships deserves benefit of the doubt' SHAN, 15 May 2013

## **The Kachins' Dilemma: Become a Border Guard Force or Return to Warfare**

By

Lian H. Sakhong

(July 2010)

The Kachin Independence Organization (KIO) celebrated the 16<sup>th</sup> Anniversary of its ceasefire agreement with the Burmese military on 24 February 2010 at its Kasung Pa military base. The ceremony was a mixture of politics and culture - long speeches followed by the famous Kachin traditional Manaw dance. As the festivities started, the chief guest, Brigadier-General San Htun – Deputy Commander of the Northern Regional Command, was invited to the dance floor. However, prior to that, both the chief guest and the host, the Vice-Chairman of the KIO, General Gauri Zau Seng, had delivered their speeches, and, despite the festivities, neither could avoid the delicate issue that exists between them: the KIO's transformation into a Border Guard Force (BGF).

During the past 16 years, the KIO has been through a rather turbulent period in terms of their relations with the junta, which is now known as the State Peace and Development Council (SPDC), and with the Kachin populace. The regime's intransigence has been the problem from the very beginning. Although rumours have it that the KIO was forced to sign the ceasefire agreement due to pressure from China, the KIO has always insisted that it did so in order to seek a political solution. But there is little doubt that, after the ceasefire agreement was finally negotiated, the KIO's hands were tied and they had failed to get what they wanted. The KIO had sought after a political solution but the junta focused only on military issues. The regime stated that since the SLORC (the previous name of the SPDC)

was merely a temporary government, any political issues should be left for the new government that would emerge together with a new constitution. Thus, the KIO was invited to attend the National Convention.

The KIO duly attended the National Convention as both sides agreed that the emergence of a new constitution could be a means to find a political settlement. The KIO submitted a 19-point proposal to the National Convention. It outlined how the Union of Burma could be rebuilt based on the principles of the 1947 Panglong Agreement – the agreement on which the Union was founded in the first place. For the KIO, it meant democratic rights for all citizens, political equality for all ethnic nationalities, and the rights of internal self-determination for all member states of the Union (Appendix I).

The SPDC not only refused to discuss the KIO's 19-point proposal at the National Convention but also threatened to break the ceasefire agreement. Major-General Ohn Myint, Commander of the Northern Regional Command, reportedly stated that, '... [the] KIO can be driven back to the mountains' (Kachin News Group, 20 August 2007). The same lines were repeated recently by Lieutenant-General Ye Myint, Chief of the junta's Military Affairs Security (MAS), '...if the KIO does not abide by the latest instructions, then relations will revert to the period before the 1994 ceasefire agreement' (Mizzima News, 22 April 2010).

In addition to threatening to break the ceasefire agreement, the SPDC also instigated local people in three townships in Kachin State, namely Bhamo, Moguang and Mohnyin, to seek separation from Kachin State since the majority of the population in these townships is not Kachin. Consequently, local leaders from these townships submitted their proposal to secede from Kachin State to the National Convention in 2007.

The regime did not officially respond to the proposal to separate from Kachin State, nor take any action with regards to the new constitution adopted in 2008. Nevertheless, the issue returned together with the Border Guard Force problem. Major-General Lun Maung,

Auditor General of the SPDC, said recently that ethnic Kachins represent only 20 percent of the population in these townships, and that the rest are Shan and Burman/Myanmar. He also threatened the KIO, stating, ‘We will try to convince the KIO to accept the Border Guard Force through words. If they do not listen... we have to kick them and eliminate them’ (Kachin News Group, 24 April 2010).

Since the KIO submitted its 19-point proposal, all the courtesies that existed between the SPDC and KIO seem to have disappeared. It is obvious that the two sides have different aspirations and the SPDC is not open to discussing the issue. But by the time the SPDC made its position clear by rejecting the 19-point proposal, it was too late for the KIO to return to its pre-ceasefire condition without a very heavy cost.

The Burma Army and its battalions are now in every corner of Kachin State, even in those areas previously controlled by the KIO. Together with the regime, companies from lowland Burma and abroad (especially from China) are penetrating deeper into every part of Kachin State. As a result, the forests that the Kachins had preserved for centuries are now depleted. Jade, ruby, gold and other precious stones from an area once known as the “Land of Jade” are now gone. Deforestation and the devastation of other natural resources have led to flooding and other natural disasters.

The Kachin people look to the KIO to act. In their eyes, the KIO was founded to defend the Kachins’ heritage, their culture, religion, language and every other aspect of life. Since they started their armed-struggle in 1961, the KIO had been able to protect and promote a Kachin way of life. And the Kachin people, through armed-struggle, were able to prevent the degradation of their culture, religion and language from successive governments of the Union of Burma. It must be noted that the very reason that the KIO was founded was related to the Kachin people’s resistance to the promulgation of Buddhism as a “state religion” in 1961 by Prime Minister U Nu.

Given the KIO’s seeming impotence, there is frustration within the rank and file of the Kachin Independence Army (KIA), the

armed-wing of KIO. Some leaders wanted to go back to the pre-1994 status before it was too late. Unable to resolve the disputes within the decision-making body of the top leadership, the organization faced three coups in the ten year period between 1994 and 2004. But the splits did not improve the KIO's situation nor turn the clock back to 1994. They merely weakened the KIO's position and further boosted the SPDC's hand in dealing with the group.

In order to deal with the changing situation, the KIO convened a Kachin Consultative Assembly in 2002, through which they later created the Kachin Consultative Council (KCC) in 2005. The reason for this was simple. All the important decisions for the future of the Kachin people should now be made not by the KIO alone but with the people through the KCC. However, it appears that the KCC did not become as strong and as viable a decision-making body as was originally envisaged.

In addition to the formation of the KCC, the KIO also adopted a "two-pronged strategy" within the framework of the current ceasefire agreement. This "two-pronged strategy" involved preserving the current KIO's status as an armed organization, while at the same time permitting it to engage in political change within any given situation – such as the 2010 elections. This strategy can best be described as maintaining the status quo, while seeking better alternate political options. To date, it seems to be serving the KIO well.

However, the SPDC views this strategy as a threat to its long-term policy. This may be why the SPDC is holding up the approval process for the formation of the Kachin State Progressive Party (KSPP) which intends to contest the elections in 2010. The reason the SPDC views the two-pronged strategy as a threat is that for the SPDC, the ceasefire agreements implemented starting in 1989 were not to achieve "peace" through political solutions. The ceasefires were merely tools to prevent the ethnic groups that had mutinied against the Communist Party of Burma, from joining up with the mainstream democracy movement. The strategy was to entice the leadership of the ethnic groups with business opportunities and local development projects, and gradually eliminate all the ethnic armed-groups in the country

as they lost the will to engage in warfare and through attrition. If and when the situation presents itself, the SPDC will not hesitate to reverse course and eliminate the ceasefire groups by force, even if this means violating agreements that have been signed and promises that have been made.

After strengthening its position by buying modern weapons from China and other sources, completing the National Convention and holding a national referendum that adopted the new constitution, the SPDC instructed the KIO and all other ceasefire groups to transform themselves into Border Guard Forces (BGFs) or militias under the control of the Burma Army. On 28 April 2009, Lieut-Gen Ye Myint, who is assigned to conduct negotiations with the ethnic armed forces on the Border Guard Force issue, officially informed the KIO leadership about the SPDC's Border Guard Force proposal.

Lieut-Gen Ye Myint told the KIO to transform into seven battalions of the BGF, under the command of the Tatmadaw, the Burma Army. Each battalion would be composed of 18 officers and 326 soldiers: the highest rank in the BGF would be a mere major and each battalion would have 3 majors, 5 captains and 10 lieutenants. The age limit for the BGF is between 18 and 50, which means that all the officers whose ranks are higher than major and senior officers older than 50 years of age will be forced to resign from the KIO. Moreover, each battalion would include at least 3% of officers from the Tatmadaw. These Burma Army officers would then control key positions of the BGF, including logistics.

It is curious that while the SPDC gave detailed instructions on how the BGF battalions were to be formed, the SPDC Regional Commander could not explain to the KIO how the BGF would fit into the command structure of the Burma defence forces. The KIO had wanted to know if the BGF would be a separate command like the US Coast Guard, or part of the Army or police. Neither could he respond when the KIO asked about the duties of the BGF. He had to ask Nay-pyi-daw and it took the SPDC a month to come back to the KIO with the answer.

In July 2009, the KIO officially responded to the offer by submitting a counter proposal. The KIO proposed that, ‘it would like to transform its armed-wing, the Kachin Independent Army (KIA) into the Kachin Regional Guard Force (KRGF) without changing its military status and without being controlled by the Burma Army’. This proposal was naturally rejected by the junta.

Again, in October 2009, the KIO submitted another proposal in which it proposed that the KIO was willing to transform itself into a ‘Kachin Army \*Battalion+ of the Union Defense Force’. Together with this new proposal, the KIO also produced a policy paper entitled: *The Promises of Panglong*.

In its proposal, which was circulated widely inside and outside Burma, the KIO recalled the reason for signing the Panglong Agreement, and what the Chin, Kachin and Shan (the three ethnic groups that signed the Panglong Agreement with General Aung San) and other ethnic groups in Burma had expected when they joined the Union of Burma as equal partners. The paper highlighted how the promises of Panglong were neglected by the successive governments of the Union of Burma, and yet how the Kachin and other ethnic groups still would like to rebuild the Union of Burma based on the Panglong Spirit, if not the actual agreement.

The KIO also proposed that the Union Defence Force should be re-structured based on the promises of Panglong. When Burma gained independence in 1948, the Union Defence Force was composed of a number of ethnic battalions – Chin, Kachin, Karen and Shan Rifles, which were created by the British during the colonial period, and units of the Burma Independent Army (BIA), created by General Aung San during the independence movement. According to the ‘Let Ya - Freeman Agreement’ (also known as the ‘Kandy Agreement’) in 1945, the Burma Defence Force was to be created from the various ethnic nationalities who became members of the Union of Burma. Although the original names of ethnic battalions were retained in the Union Defence Force, the composition of the ethnic battalions was changed by General Ne Win after he became the Army Chief, in



1954. The KIO is now proposing that the Union Defence Force revert to its original form. In this way, the KIO produced a counter proposal which went beyond the Border Guard Force issue.

The KIO and SPDC conducted a series of meetings to discuss the issue but were unable to find a solution when the first deadline passed in February 2010. The SPDC then extended the deadline until 28<sup>th</sup> April 2010 and demanded that the KIO give its answer before 22 April. Throughout the negotiation process, the KIO submitted a number of letters to Senior-General Than Shwe, the head of SPDC, to find a political solution. One such letter stated that the KIO was willing to disband its military wing if a political solution could be found through dialogue.

The KIO's General Secretary, Dr. La Ja, said that they have conducted at least 15 meetings since the SPDC revealed its BGF proposal in April 2009. While the KIO was conducting a series of meetings to negotiate with the SPDC and submitting letters, they also mobilized their people and brought them up to date on the situation. On the 20<sup>th</sup> April, just two days before the deadline, the KIO General Secretary Dr. La Ja and KIA Vice-Chief of Staff Brigadier-General S. Gun Maw invited a 24,000 member audience from Kachin and Shan States to Laiza, the KIO headquarters, to brief them on the latest stand-off with the SPDC on the Border Guard Force issue. Similar briefing sessions were also held in Myitkyina and other towns.

Meanwhile, a former Vice-Chairman of the KIO, Dr. Manam Tu Ja, and other leaders are seeking to form a new Kachin political party to be called the Kachin State Progressive Party (KSPP), or Jinghpaw Mungdaw Rawtjat Pati, to contest the upcoming election in 2010. The formation of the KSPP can be seen not only as part of the "two- pronged strategy" but also, perhaps, as an olive branch to the SPDC in order to find a peaceful solution.

While the KIO and the newly conceived KSPP are proffering an olive branch to the SPDC, the KIA is preparing for a worst-case scenario in the event of that the ceasefire agreement is broken by the Burma Army. The KIA may be able to muster a 20,000 strong force

and maintains a regular army of 4,000 to 5,000 troops. As tensions mount, they are providing short-term emergency military training to some local residents and former servicemen.

The junta, on the other hand, is repeating its demand that the KIO and all other ethnic ceasefire groups be transformed into a Border Guard Force. Lieut-Gen Ye Myint, the chief of Military Affairs Security, formerly known as the Military Intelligence Service, has said that ethnic armed groups would face legal actions if they fail to join the Border Guard plan by 22 April. He said they all would be declared unlawful organizations. If that is the case, the ceasefire agreement will be broken, and the fighting will resume after 16 years of peace. To date, this has not yet happened and the BGF issue seems to be in limbo.

The KIO is hopeful that peace will prevail and that negotiations on the BGF and other issues such as the integration of the KIO's civil administrative structures into the infrastructure of Kachin State will continue after the elections. The SPDC seems to be considering forming a tripartite committee – SPDC, KIO, and the local Kachin community – to discuss these matters.

## **What's Next?**

Commenting on the prospect of the ceasefire's collapse, the KIO's Joint General Secretary, Colonel Seng Wah, is reported as saying that, "it will not be good for us, for them, and for the people".

If fighting resumes in Kachin State, the consequences will be huge. There will be many casualties, including innocent women and children. Using similar tactics to those already in use in Karen State, there will be widespread destruction of resources, forced displacement, human rights abuses, indiscriminate attacks on civilians in villages and towns, hills and valleys. In addition, there will be a massive influx of refugees across the Sino-Burma border, adding to regional instability.

As one top KIO leader, who wanted to remain anonymous, told the EBO Research Team, the KIO can continue guerrilla warfare for

another fifty years, “...but it is not what we want. We want to solve our country’s problems through peaceful means. That’s why we signed the ceasefire agreement despite of all the criticism that we endured for all these years”. The KIO, in fact, has been criticised for its ceasefire agreement with the regime by both ethnic groups and democracy forces. First, the KIO was expelled from the National Democratic Front (NDF), the largest alliance of ethnic armed groups in Burma, and then from the Democratic Alliance of Burma (DAB), jointly formed by ethnic groups and pro-democracy forces. Most of the exile-Burmese media have also mocked them.

The international community did not extend any assistance to the KIO. They were provided with neither financial assistance nor technical expertise, even when they engaged in talks with the regime. In order to rebuild a normal life after fifty years of war, the KIO needed financial and technical assistance when they signed the ceasefire agreement in 1994. However, no such assistance came from the international community, neither from the UN, the US, the EU nor regime friendly China or Japan. Currently, as it is facing a stand-off with the SPDC, the KIO needs at least diplomatic intervention from the international community, especially from neighbouring countries.

China, India and the ASEAN countries have always said that their main concern is stability in the region. Now, as the SPDC is threatening to break the ceasefire agreement, the stability that they are so much concerned about is on the brink of collapse. In such a situation, they should do something, at least by sending a diplomatic mission to Nay-pyi-daw to tell Senior-General Than Shwe that he is pursuing the wrong policy. And the United Nations should also do the same.

The KIO is trying its best to halt the stand-off. As mentioned above, the former KIO Vice-Chairman and his team have registered a new political party to contest the coming elections. This is a peaceful overture, but the SPDC seems to not be listening.

Recent events in the country, especially a number of bomb blasts in Kachin State and Rangoon, suggest that all is not stable as the country moves toward the general elections. Many see the bombings

(engineered by the regime) as a pretext to postponing the elections and launching an offensive against those ethnic forces that are not prepared to relinquish their rights to some form of self-determination and cultural heritage.

If the regime is serious about the elections it should refrain from further pressuring the KIO to transform. Failure to act accordingly can only result in sending the Kachins and the other ethnic forces back to the jungle to fight for another fifty years.

But the future does not bode well. The recent SPDC purchase of more aircraft and artillery seem to suggest that it is still intent on a military solution to the ethnic 'problem' along the lines of the Sri Lankan model. If this is the case, there will definitely be fighting after the elections, even if nothing happens before then.

The fighting will also spread across the country, not just on the China border. This is because the KIO has taken out an insurance policy by entering into an agreement with other ethnic forces with ceasefires as well as those without ceasefires, to seek a political solution. But the underlying understanding is that if the SPDC refuses to negotiate and undertakes a military solution, the ethnic forces will assist each other in 'every way'.

The UN, China, India, ASEAN, Japan, EU and others should be concerned. The KIO has shown that political negotiations are possible and that it is willing to work with the SPDC to rebuild the Union of Burma. The other ethnic forces have also agreed that they should seek a political solution before and after the elections. But if the SPDC persists on a military solution, instability will spread across the region. Hundreds of thousands of refugees will flee across the borders and Bangladesh, India, China, Laos and Thailand, will be affected.

Appendix (I)

**The KIO's 19 Points Proposal  
to the National Convention in July 2006**

1. Regarding the Form of State of the Union and its related Provisions;
  - (i) The Provisions says that the form of state shall be a Union System. While implementing this Provision, it shall be necessary that the system of the Union is clear and that it is a genuine Union System. Although the constitution of 1947 named the country as the Union of Burma and claimed to be a Union System, it is a Unitary System in practice. Therefore, it is of prime importance that the constitution currently being drafted does not have the same mistake that had been made in the past.
  - (ii) The country is composed of 7 States and 7 Divisions. The Provision says that the 7 National States and 7 Divisions are of equal status. We would like to request that this article be reconsidered because of the fact that the States represent the Ethnic Nationalities and that the Ethnic National States shall therefore must have their own rights of self-determination. We further request that the fundamental rights of all ethnic nationalities in the Union should be included in the Provision.
2. Regarding separation of the Sovereign Power and its related Provisions, the power of the Legislative, the Executive and the Judicial have been divided and distributed among the Union, the States, the Divisions, and the Autonomous Regions. If this constitution is to be adopted, we propose that the three main pillars of sovereign power should be distributed to the Ethnic National States and Divisions in order that the division of power between the Union and Member States of the Union are fully implemented. Regarding the Legislative power, we further propose that the power be distributed more to the States and Divisions. Especially, the rights of the Legislative Power of the States shall be vested into the State Legislative Assembly.

Example:

- (i) Preserving and promoting the literature of the ethnic nationalities, the rights to teach their own literature by the ethnic nationalities, and using the literature of the State as the second official language within each Ethnic National State;
  - (ii) Preserving and promoting the cultures and traditions of the Ethnic National States;
  - (iii) Regulating the use of the traditional Customary Law of the Ethnic National States;
  - (iv) Regulating the rights of the ethnic nationalities to be preserved and protected.
3. Regarding the Administration and its related Provisions;
- (i) We observe that the State could become a Unitary System if there are many restrictions imposed upon the States regarding the power of the President.
  - (ii) The Chief Minister of the State should be a representative of ethnic nationalities of the respective State.

We acknowledged for the fact that the AFPFL (Anti Factious People's Freedom League) government appointed representative of the respective State, who was a Member of the Parliament to be the Chairperson of the State Council or State Chief Minister. As well as in BSPP (Burmese Socialist Program Party) government, a representative of ethnic nationalities of the respective State was appointed as Chairperson of the State Council. Fundamental rights of the ethnic nationalities were protected by the constitution which was historically appropriate for a Union System. Therefore, we want similar approach for constituting the rights of the ethnic nationalities.

- (iii) Regarding the Form of Government for member States of the Union:
  - (a) The Chief Minister of the State shall be elected by and with the consent and approval of a majority of the legislative members using secret ballot. Then the President of the

- Union shall appoint the elected candidate as the Chief Minister of the State.
- (b) The Chief Minister of the State, by consultation with the National State Legislature, shall determine the number of Ministries, Ministers, and the function of election of the Ministers, which shall be then submitted to the President of the Union and the President shall appoint and confirm the proposal.
  - (c) The Chief Minister of the State, by and with the consent and approval of the Legislative members, shall appoint the Chief Justice and the Auditor General of the State.
  - (d) The Chief Minister of the State shall appoint the Chairperson and officials of the Autonomous Region within the State.
  - (e) If any of the Ministers of the State shall have to resign, the resignation letter shall be submitted to the Chief Minister of the State. The Chief Minister shall accept the resignation and act accordingly by and with the consent and approval of the Legislative members. If a Chief Minister of the State shall have to resign, the resignation letter shall be submitted directly to the President of the Union.
  - (f) The Chief Minister of the State, in consultation with the Legislative members, shall submit to the President of the Union in the case of the state of Emergency within the State. The President of the Union shall declare the state of Emergency for the State only after having consultation with the Chief Minister of the State.
  - (g) The State shall have formed a Committee to appoint officials or staffs for the State Government. In doing so, special consideration shall be given to the local people.
  - (h) The State shall form the Police Armed Forces of the State, and the Chief Minister of the State shall have the power to command directly.

- (i) When the constitution of the Union shall be confirmed by the citizens, the ceasefire groups of the State shall become the Armed Forces of the State under the Armed Forces of the Union, which shall be directly commanded by the Chief Minister of the State.
4. The boundary of the Union, the boundary of the State or the needs to change the name of any of the State shall not be performed without the consent of the majority of the people living within the State.
5. In religion and its related Articles, equal and fair regulation shall be enacted and there shall be freedom of religion.
6. As the Chamber of Nationalities shall handle the issues of the States, there shall be regulation enacted that the Representatives of the Chamber of Nationalities shall only be elected from the people representing the States.
7. There shall not be a separate Ministry for the Border Area in the Union Government. The security issues of the border area shall be consulted and performed by both the Defense Ministry of the Union and the government of the States. Problems shall arise by forming a separate Ministry of the Border Area since this will imply centralization of Unitary System and restriction of State Authority from the Union.
8. The States that are at the international boundary shall have the right to enact laws regarding temporary cross- bordering and border trading. It shall be fair and more correct if the officials practically abide by the laws.
9. In businesses, the Legislative Assembly of the States shall have the right to enact laws regarding equal profit sharing of natural resources between the governments of State and the Union. For example, it shall be more complete if the Legislative Assembly of the State shall have the right of exploring, mining and selling of precious stones instead of just giving the State the right of cutting and polishing of the precious stones. In addition, the



- Legislative Assembly of the State shall have the right to enact laws regarding businesses in hotel, travel, and border trade.
10. Regarding the Agriculture and Horticulture, the management of land, the exploration of vacant and wild land, property record, industrialization and farming, agricultural research, management of water sources, fertilization and production of pest control, determination of pastures, etc. shall be added into the exclusive legislative power of the State.
  11. Regarding Taxation, the Provision of “The Governments of the State shall be able to tax all wood except teak and some hard woods,” shall be replaced as “The Governments of the State shall be able to tax all wood except teak.”
  12. Regarding communication, development of water sources and rivers, post office, telegram, telephone, fax, email, internet, intranet, and similar communication activities, television, wireless and cable, and in broadcasting and recording, shall be added into the exclusive legislative power of the State.
  13. Regarding social issues, private schools and trainings, charitable hospitals and clinics, public hospitals and clinics, children, youth, women, disabilities, elderly, helpless people, rescue and rehabilitation, and forming fire department, etc. shall be added into the exclusive legislative power of the State.
  14. Regarding management, the General Administration, the management of land of villages and towns, renting property and land, associations, development of border areas and issues of census, shall be added into the exclusive legislative power of the State.
  15. The boundary of the Kachin State shall remain as it was when the Kachin State was established.
  16. The Provision of “As the constitution shall be approved with the majority vote in the referendum, it is the duties of every citizen to defense and protect the constitution,” is the more correct way to regulate.

17. The States shall regulate Provision regarding its citizenship as does the Union. Without this Provision, there shall be elections and referendum according to the democratic rules, and crisis and problems could arise as a result.
18. The States shall have the right to write their own constitution, which shall not against the constitution of the Union. The situation of one State could be different from another, and if all States have their own constitution, the Union shall be stronger and more developed.
19. It shall be more correct and suitable that the Union Armed Force, which is responsible to defend the Union, be called the only Armed Force of the Union, which shall include all the ethnic nationalities.

## **The Kokang Clashes – What Next?**

By  
Paul Keenan  
(September 2009)

### **Introduction**

Recent clashes in Shan State between the Burma Army and the ceasefire Myanmar National Democracy Alliance Army (MNDAA or Kokang) have further highlighted divisions between the Burmese regime and the country's ceasefire groups as the 2010 election approaches. Attempts by the Burmese regime to persuade ethnic ceasefire groups to transform into a Border Guard Force have failed. Consequently, the Burmese government has been forced to reappraise its strategy in working with those groups prior to the 2010 election. In the regime's new constitution, chapter VII Clause 338, "Defense Services," states that "...all armed forces in the union shall be under the command of the defense services, known in Burmese as the "Tatmadaw,"<sup>1</sup>

Faced with a forthcoming constitutional dilemma the regime has had little option but to seek an alternative in dealing with the ceasefire groups. Mindful of China's influence and support for such groups, and also its responsibility to legitimize its actions, the SPDC has sought to manufacture a number of pretexts for its actions. There is little doubt, as a dictatorship, and Human Right's abuser, that the regime could have simply turned on those groups that would not join it. Instead, the regime has used fissures in the ceasefire group's leadership, to create division and to justify its actions.

Past history has shown, especially in the case of the DKBA/KNU split, that the Burmese military is more that capable of using such internal division to further its own interests. While the SPDC may

have, to some degree, sought to initiate splits within the various ethnic groups, anti-regime and ceasefire, such successes can only be achieved where these weaknesses already exist. It is these groups, and those individual leaders who have enriched themselves, that are the weakest link in Burma's ethnic struggle and as such would identify those groups most likely to be targeted next.

This paper examines the causes of the Kokang clashes, the Burmese regime's strategy in handling the ceasefire groups in Shan State, and the future of ethnic armed-resistance.

## **Background**

The MNDAA, (or Kokang) was created when the CPB's Northern Bureau led by Pheung Kya-shin mutinied in 1989. Pheung Kya-shin, an ethnic Chinese, and his brother, Pheung Kya-fu, had gained military positions in the army of the traditional ruler of the Kokang area, the Yangs, in the 1960's. In the mid-sixties, when the Burma army launched offensives in the area, Pheung Kya-shin and his brother fled to China. There, in 1967, they contacted the Communist Party of Burma (CPB) and were offered arms and ammunition to fight against the Burmese government. On the 5<sup>th</sup> of January 1968, Pheung Kya-shin, as commander of the Kokang People's Liberation Army, entered Burma and, in August the same year, joined with the CPB.

The Pheung brothers led both the military and civilian administration in the Kokang region and also, in the mid-seventies, were the first to establish a heroin refinery there. The CPB disapproved of such action and apparently paid Pheung Kya-shin 400,000 kyat to close down the refinery and transferred him to the Party's headquarters at Phanghsang.<sup>2</sup> Ignoring the party, he set up another refinery and, in 1989, initiated the first mutiny against the CPB. The Burmese government, in an attempt to prevent them from joining with the National Democratic Front, and newly formed Democratic Alliance of Burma, quickly sought an accommodation with the rebels and a ceasefire agreement, allowing them to keep their weapons and administer the area was signed.

In addition to the Pheung brothers, the Yangs, Yang Mo Liang and Yang Mo An, were also instrumental in setting up the MNDAA. The Yangs, through Edward Yang, the Kokang Saopha, had traditionally held hereditary power over the region. Between November and December 1992, a war, over the opium trade, involving the Pheungs and the Yangs occurred. The opposing sides were joined by the Wa in support of the Yangs and Khun Sa's Mong Tai Army (MTA) reinforcing the Pheungs. The war came to an end, with the Pheung's defeat, when the MTA forces, escorted by Burmese military intelligence, were ambushed by Wa Troops leaving the Yangs in complete control of the region's refineries.

The third individual instrumental in the MNDAA was the former Northern CPB treasurer Liu Guo Shi. He, like the Yangs and the Pheungs, operated heroin refineries in the Kokang area and was responsible for selling most of his heroin to 'big buyers in Mandalay'.

Despite Pheung Kya-shin's defeat in 1992, by 1994 he had one more regained power and taken over the leadership of the organisation, which now also included his brother Pheung Kya-fu, and Li Guo Shi. The MNDAA announced in 2002 that it had banned opium throughout its territories and had embarked on an opium eradication program. Members of the group became involved in a number of business interests. Yang Mo Liang, controls Peace Myanmar Group (PMG). PMG holds the franchise for Mitsubishi Electric in Burma and operates a paint factory and liquor distillery producing well-known local brands such as Myanmar Rum and Myanmar Dry Gin. The MNDAA's treasurer Li Guo Shi opened a large consumer electronics showroom on Merchant Street in central Rangoon in a joint venture with the Ministry of Commerce while Peung Kya-shin owns a saw-mill and a sugar factory at Nawngchio, south of Hsipaw.

### **Recent Internal Strife**

As noted earlier, the most recent clashes occurred after the SPDC declared that all ceasefire groups had to either transform into a Border Guard Force or surrender their arms and contest the forthcoming elections as a political party. At a meeting on the 4<sup>th</sup> June, Pheung

Kya-shin met with Lt. General Ye Myint of Military Affairs Security (MAS) and told him that the Kokang had no desire to change their current status and no decision would be made until after the 2010 elections and the appointment of a new government. One month after, in July, Peung Kya-shin expelled 6 Kokang executive committee members including his deputy Bai Sou Qian (Bai Souqian), Chief Administrative Officer, Mi Xiaoting, Liu Guo Shi, Li Erh, and Wei Xiaoyang. Sources suggest that they had clashed over Peung Kya-shin's unfair distribution of power, most important positions in the organization were held by his sons, and were also in favour of transforming the Kokang's troops into a Border Guard Force.<sup>3</sup> It is interesting to note that Liu Guo Shi was reportedly close to Burma's Deputy Police Chief, Col. Zaw Win.

On the 6<sup>th</sup> August, the police issued a warrant to search what was initially believed to be a drug manufacturing plant. Police arrived to search the facility which was reported as being an arms repair factory however were prevented from doing so. Two days later, on the 8<sup>th</sup> August (also known as the Kokang Incident), the Police and 70 Burmese troops<sup>4</sup> arrived to search Pheung Kya-shin's home but were blocked by over 300 Kokang troops. A 5 hour stand-off ensued with the impasse between the two sides finally ending after Chinese intervention. The police were allowed to search the property but found nothing.<sup>5</sup> On the 10<sup>th</sup> August, five of Peung Kya-shin's close aides were invited to meet with Maj-Gen Aung Than Tut, Commander of the Northeastern Region Command at its headquarters in Lashio. Three were detained and two were ordered to return to Lao Gai in an attempt to get Peung Kya-shin to accompany them back to Lashio. He refused to do so. Further escalation of hostilities was avoided with the return, the next day, of the three detained officials.<sup>6</sup>

Although the situation had returned to relative normality in Lao Gai, it was reported that Burma army troops were moving closer to Kokang positions. The Burma army's advance was forcing Kokang troops into higher territory and was seen by a number of observers as an attempt by the junta to force the Kokang to militarily respond. Any offensive action on behalf of the ceasefire groups would be

contrary to the Myanmar Peace and Democracy Front's (MPDF) main principles of not shooting first.<sup>7</sup>

In response to the Burma Army's activities in Kokang the Myanmar Peace and Democracy Front (MPDF) issued a statement, on the 21<sup>st</sup> August 2009, supporting the Kokang stance in refusing to allow the Burma Army access. It noted that:

- MPDF supports the action and position taken by the MNDAA, who run the Special Region No 1, Shan State (North), about the (8.8) incident.
- MPDF supports the campaign to eradicate illicit drugs and related actions. However, we oppose any violent act and pressure against ethnic minorities and ceasefire groups, in the name of the anti-narcotic campaign.
- It is a legitimate and lawful action that ethnic ceasefire groups, who all are officially recognized by the government, have built and maintained a factory to repair our old weapons.

The day after the statement, the 22<sup>nd</sup> of August, the local police served a summons ordering Peung Kya-shin, his two sons, Daxun (Tar Shwin) and Dali (Tar Li), and his brother Peung Kya-fu to appear in court. They failed to attend and two days later, on the 24<sup>th</sup> August, an arrest warrant was issued. On the 25<sup>th</sup> of August a silent coup occurred in the Kokang capital, Lao Gai, led by Bai Sou Qian, Mi Xiaoting, Liu Guo Shi and Li Erh. The coup was later supported by other Kokang militias loyal to the Burma Army from Kunlong and Hopang. These were also joined by troops commanded by Yang Mo Liang.

Fighting intensified over the next four days and over 37,000 civilians were eventually forced to flee across the Chinese border. Most of the clashes took place around Lao Gai and Qingsuihe (Ching Shwe Haw) the latter being on the Kokang-Wa border and connected by a bridge, across the Namting River, to the UWSA's 318<sup>th</sup> Division, commanded by Bao Ai Roong. Qingsuih was finally taken on the 29<sup>th</sup> August after UWSA forces who had joined the conflict withdrew. Large scale fighting eventually subsided after a reported 700 Kokang

troops fled across the Chinese border on the same day and were disarmed by the PLA.

On the 31<sup>st</sup> of August the Government run new light of Myanmar issued a statement saying that the region was now stable. It further added that the Kokang group led by Peung Kya-shin had been involved in illegal activities. Interestingly it notes that the information for the Police action against the Kokang was provided by 'a third country' which it later identified as China, which, according to Burma's Deputy Home Affairs Minister Brig. Phone Swe, had informed them about it during a ministerial meeting with China on combating transnational crime. <sup>8</sup>

### **The Myanmar Peace and Democracy Front**

The MPDF, formed in March 2009, came under a lot of criticism for its failure to act in support of Kokang troops. The four-group military alliance which comprises the United Wa State Army (UWSA), the MNDAA, National Democratic Alliance Army (NDAA, or Mongla) and the Kachin Independence Army (KIA) was seen as largely impotent during the Kokang attack. Even though Peung Kya-shin had called for support from other groups none was immediately forthcoming. It wasn't until the Burma advanced towards Qingsuihe (Ching Shwe Haw) that 400-500 UWSA troops reacted and purportedly fought alongside Kokang troops. It must be noted that the reason for this may have been to secure its own headquarters at Namteuk which lies across the river. By the 29<sup>th</sup> of August the UWSA's troops had withdrawn across the river to protect their own border and the base fell. With the exception of a few minor skirmishes Wa troops provided little to no support in defence of their Kokang allies.

There is some speculation as to whether the UWSA failed to act due to Chinese pressure or possible ties with pro-SPDC Kokang leaders. The relative inaction of the largest, and strongest, member of the alliance, in face of Burmese attacks, leaves little hope for other members. It is highly likely, given recent circumstances that smaller, less well-armed groups, like Mongla or the Kachin, would not rely on the alliance for protection.



## China's Reaction

It is more than likely that China was fully aware of the possibility of armed conflict resuming on its borders. Sources suggest that high ranking officials had already stated in a June visit with General Maung Aye that any conflict along its border was unacceptable.<sup>9</sup> That said, however, it would also have been aware of the ceasefire-groups plans to reject any SPDC offer. Although they may not have expected the conflict to erupt at the time it did, they would be aware of the fact that the Burmese government would not allow the ceasefire groups to dictate their own terms of compliance.

According to the SPDC, it was China that first informed it of an illegal arms manufacturing plant in Lao Gai.<sup>10</sup> Subsequently, when the first refugees fled to the Chinese border on the 8th August, the Chinese moved quickly to negotiate a settlement and the stand-off ended. While the early confrontation may have been avoided, the Burmese government's reliance on invoking legal means, the search and arrest warrants, would have prevented any substantial Chinese intervention. The Chinese government's stance on the Aung San Suu Kyi-Yettaw case, in which China had stated that 'International society should fully respect Myanmar's judicial sovereignty,'<sup>11</sup> ensured that the Chinese government could not denounce what the regime considered a lawful action.

The defection to the government side of Bao Sou Qian and Liu Guo Shi also played into the regimes hands. The fact that there were already Kokang leaders to replace Peung Kya-shin and thus at least nominally bring some form of stability back to the region would also have deflected any real criticism. For China, stability in the region is the most important factor. The Chinese government issued what was considered unexpected criticism in the form of a Chinese Foreign Ministry statement requesting Burma to "properly deal with its domestic issue to safeguard the regional stability in the China-Myanmar border area." However, the significance of the statement may have been exaggerated.

All parties to the conflict are faced with a dilemma. If the Burma army launches an all out offensive against ceasefire groups in Shan State it will not end the conflict. Ethnic forces will not be completely wiped out and will once more return to guerrilla warfare. This would be disastrous both for the Burmese regime and China. China relies on the area for trade and also as a future major conduit for oil and other energy projects. The Burmese regime, as well as being militarily involved in the region, will lose substantial income from Chinese projects.

### **SPDC Strategy**

The SPDC has sought to veil its actions under a semblance of legality. In both the cases of Aung San Suu Kyi and the recent fighting in Kokang, it has relied on the law to disable the opposition. How successfully and transparently remains a matter of conjecture. While the SPDC does not appear to be prepared to launch an initial attack on ceasefire forces it does seek to create a division in which it can be seen to support a rebelling side.

In light of this, the Kachin Independence Organisation purportedly removed six officials it considered to be too close to the regime including the Vice-president Dr. Manam Tu Ja, and Deputy General Secretary N'Ja Naw Rip.<sup>12</sup> As far as the UWSA is concerned a number of observers believe a split could occur between the UWSA 171<sup>st</sup> Brigade bordering Thailand and the organisation's headquarters at Panghsang. At least one source reports that Wei Xuegang, the leader of the 171<sup>st</sup>, is believed to be close to Burmese Prime Minister Thein Sein.<sup>13</sup> Although recent reports state that the 171<sup>st</sup> has begun work on fortifying its areas.<sup>14</sup>

It is highly unlikely that the SPDC would launch an offensive against ceasefire groups without having a legal reason, in its eyes, to do so. However, it will seek to identify weakness for further exploitation.

## **The Future of Ethnic Armed-Resistance**

The conflict in the Kokang area should be seen as a reminder of the long standing ethnic conflicts, including over 60 years of ongoing civil war, that have plagued Burma. Until there is a political solution to the ethnic issue such clashes will continue and further jeopardize regional stability, internal peace, and the hope for a democratic transition in Burma.

Regional instability will affect the national interests of both Burma and its neighboring countries, especially China. However, China will not change her policy towards Burma because of the recent Kokang clashes. Such groups, the Wa included, are nothing more than pawns that can easily be sacrificed for China's long term and geo-strategic interests, including a US\$ 2.5 billion oil-and-natural-gas pipeline project that will run from the Indian Ocean to Yunnan's capital, Kuming. To a certain degree, the recent Kokang incident, like the CPB, is yet another example of Burma's ethnic groups being used for China's strategic ends.

The SPDC was fully aware from the very beginning that China would not interfere, risking its long term national interests, on behalf of the Kokang or other ceasefire groups. In an attempt to provide the government's actions with a modicum of legitimacy, the regime skillfully used a number of Kokang rebels and the rule of law to quash the Kokang's perceived intransigence.

For ethnic nationality forces, both Ceasefire and non-Ceasefire, the creation of a Border Guard Force should be seen as the final consequence of the 'cease-fire strategy' formulated by General Khin Nyunt in the 1990s. From a strategic point of view, the transformation of ceasefire groups into a Border Guard Force, after reaching the point where they can be easily eliminated, is the SPDC's "coup de grace" for ethnic armed-resistance. As such, ethnic nationalities should respond to the actions of the SPDC by employing sound strategic thinking.

For most of the past sixty years, armed-resistance was perhaps the only means that ethnic nationalities could effectively rely upon

to defend their peoples and their political and cultural aspirations. However, because of changing geo-politics and circumstances, the ethnic nationalities in Burma need to examine other alternative avenues to achieve their political goals. There is little doubt that armed-resistance has played a significant role in protecting the ethnic rights movement, yet such a strategy should only be employed to support an overall and inclusive political blueprint that will bring a satisfactory conclusion to the ethnic problems of the country.

As such, the role of the ENC, which seeks a negotiated-settlement through political means, will become an important mechanism for the long term political survival of ethnic nationalities in Burma. Until such a mechanism is created then the risk of further clashes will remain.

Notes:

1. 'Kokang Conflict Highlights Constitutional Flaw', *Yeni, Irrawaddy*, 31 August 2009
2. 'Burma in Revolt', Bertil Lintner, 1994, pg 293
3. 'PLA Moves to the Kokang Border, SHAN, 25 August 2009
4. Some report state 60, other 3 Battalions. It remains unclear why the Burmese Army was involved and not the Police.
5. 'China tough with junta on Kokang', SHAN, 13 August 2009
6. Ibid
7. 'Junta's ploy push Kokang to shootfirst', SHAN, 14 August 2009
8. 'Myanmar says Chinese tip-off led to border clash', AP, 9th September 2009
9. 'Junta and Kokang almost come to blows', SHAN, 10 August 2009
10. 'Myanmar says Chinese tip-off led to border clash', AP, 9th September 2009
11. 'China calls on West to respect Aung San Suu Kyi's Detention.', *The Times*
12. 'KIO dismisses 6 high-ranking officers', KNG, 5 September 2007. It was also reported that some of those including Manam Tu Ja would have resigned anyway.
13. 'The fall of Kokang raises questions', SHAN, 31 August 2009
14. 'Wa Units in Southern Shan State Build Defenses', *Saw Yan Naing, Irrawaddy*, 9th September 2009

## **The Dilemma of Military Dictatorship and Internal Peace in Burma**

By

Lian H. Sakhong

(February 2012)

After assuming power, President Thein Sein's government promptly introduced progressive political changes in Burma. In his inaugural presidential speech, President Thein Sein stated and acknowledged that the necessity for political changes in Burma are evident, and internal peace, stability, and development would be the government's three basic principles and that all political changes would be carried out through them.

Apparently, out of President Thein Sein's three basic principles guiding changes to the political system in Burma, the first two are directly associated with the political consequences of engaging in sixty years of civil war with ethnic armed groups. In fact, unless the ethnic nationalities' political problems are solved and their political demands for which they are fighting for are fulfilled, Burma will not obtain internal peace and stability. In other words, if civil war is still on-going in ethnic states as before, Burma will not find itself in a position in which it could build and obtain internal peace and stability.

Similarly, unless ethnic political problems are first solved and enduring peace with ethnic arms groups becomes a reality, Burma would not be able to build regional peace and stability with its bordering countries. Under such circumstances in which there is no internal peace and regional stability within its borders, Burma would not be able to engage in any real developmental work and related projects.

For example, in 1994, after signing a ceasefire agreement with the then State Law and Order Restoration Council (SLORC), and in

collaboration with SLORC, the Kachin Independence Organization (KIO) undertook numerous developmental projects in Kachin State. However, when the ceasefire agreement between the KIO and the Burmese military regime collapsed, within a few days twenty-five bridges in Kachin State were dynamited and destroyed. Likewise, the numbers of war refugees and internally displaced people reached more than fifty thousand and is likely to increase.

In addition, because of the ongoing fighting between the Kachin Independence Army (KIA), the armed wing of the KIO, and Burmese government troops, more than fifty schools have been closed which has severely affected the education of 7872 students who were forced to flee their homes. The Burmese army has so far deployed more than one hundred and thirty battalions in Kachin State and it's been reported that there were seven hundred and three skirmishes between government troops and the KIA. Obviously, under these kinds of circumstances, no development work can be undertaken and Kachin State's domestic trade, including cross-border trade with China, has been severely hindered.

Therefore, as long as there is no genuine and enduring internal peace, there can be no regional peace and stability. Consequently, relations with neighboring countries will also be affected. Under these circumstances, Burma will not be able to obtain and build enduring regional stability. Thus, this short paper will discuss the reasons for the fact that Burma cannot significantly engage in pursuing and implementing developmental work unless genuine internal peace and regional stability become reality.

### **The situation of the transition period from military dictatorship to civilian government**

On August 18, 2011, President Thein Sein, upholding his three basic principles guiding changes to the political system in Burma and under the slogan of 'permanent peace', released an invitation letter offering peace talks and ceasefire agreements to ethnic arms groups. Since then, his government has held ceasefire talks with thirteen

ethnic nationalities' armed groups, and signed ceasefire agreements with eight.

However, while holding peace talks with some ethnic resistance groups, the nominal civilian Burmese government is fighting a war against the Kachin Independence Organization. What happened? Is the nominal civilian Burmese government holding an olive branch in one hand and a sword in the other? Under these conditions the strategies and tactics carried out by the government, might lead one to ponder how much honesty and truth can be found in President Thein Sein's political stance and whether he really wants to solve the ethnic nationalities' problems in Burma. Understandably, some ethnic leaders have stated that "... they did not believe in the current peace talks held between the government and ethnic nationalities' arms groups".

To understand the current government's methodology one needs look into the circumstances in which the State and Peace Development Council (SPDC) drafted the 2008 constitution to enable it to transfer power to the current administration. Essentially, to understand the current administration one must be aware of some of the aspects of Senior General Than Shwe's political strategy and tactics. It is worth noting that the manner in which Senior General Than Shwe transferred power to the current administration and that it is quite different from that of General Ne Win.

In placing the Tatmadaw as the sole power holder of the entire nation, General Ne Win transferred power in the hands of a small group of Burmese military elites. As a result, within a few years, the political power of that group became so enormously powerful that it had a counterproductive effect on General Ne Win. Consequently, the men he trusted in put him under house arrest and he had to spend the last years of his life as a prisoner.

Unlike General Ne Win, Senior General Than Shwe cautiously prepared his future retirement plan by cleverly drafting the 2008 constitution, in which power is not entirely vested in one place, but rather divided and distributed among four branches of the state

apparatus: namely Executive, Legislative, Tatmadaw (Armed Forces) and the Union Solidarity and Development Party. Senior General Than Shwe seemed to assure himself in this political calculation, by placing power into four branches and by balancing them against each other and by appointing his closest disciples, that he would be safe when he retired from politics.

Although Senior General Than Shwe divided and distributed power into four places, however, it is not comparable to the checks-and-balances system of a democracy. In other words, Burma's division of power is just an artificial façade. Senior General Than Shwe only wanted to protect himself from his successors by placing power in the hands of four different political groups in a way that no group can become too powerful over the others.

In this way, based on the 2008 constitution, Senior General Than Shwe transferred the state power to four different places: President, Parliament, Military and Party. He also made sure that those four factions are in the hands of near equally powerful disciples. For example, according to the 2008 constitution, although the President is the head of the state, he is not commander-in-chief of the army. According to the constitution, a civilian President cannot directly hold the post of chief of staff of the army, the President accordingly cannot directly manage or administer the affairs of the military, nor has he the power to give commands to the army.

The 2008 constitution not only gives the commander-in-chief of the army, as a non-civilian officeholder, the right and power to manage and administer the entire affairs of the military, but the constitution also gives the commander-in-chief the power to stage a coup d'état when need arises. Therefore, this raises the question that, according to the 2008 constitution, who is the more powerful man, the President or Commander-in-Chief of the army.

Despite the fact that the President holds Chairmanship of the most powerful organ of the state, the so-called "National Defense and Security Council", the President does not have the power to command the military, as can be seen in Kachin State, he cannot even



directly stop the conflict between government troops and the Kachin Independence Army (KIA). The rumors claim that Thein Sein had wanted to stop the ongoing war in Kachin State, but unfortunately and sadly, he can do almost nothing in this military affair.

Yet, although there are no clear signs that firmly confirm a power struggle and direct confrontation among the four government political apparatuses, it seems obvious that the four branches of the nominal civilian Burmese's government are watching each other's movements and are competing for political influence. Thus, the question is who will make the first move?

### **Who will make a move first?**

In this political chessboard, President Thein Sein was the one who made the first move. Why? The obvious reason seems to be the fact that as the President he is aware of the political, economic and social problems the country is facing, and he decided to make the first move to deal with Burma's problems and initiate political change in the country. For the state to function properly, the four administrative apparatuses and the people who control them need to work together.

More importantly, general problems of State need to be solved quickly. Equally important, is the fact that the country's politics, economy, and social conditions are deteriorating and must not be ignored. In fact, the reason the country is facing social and economic problems are due to political instability and these issues need to be addressed. In addition to this, economic sanctions, trade with neighboring countries and the cost of living need to be addressed immediately. It should be pointed out that all of these problems are connected and, one can see that the root causes of the problem is the civil war in Burma, and the failure to address the political problems of the country's ethnic nationalities.

The second reason seems to be the fact that President Thein Sein is merely a pawn in Senior General Than Shwe's carefully planned political game. As such, under the conditions of the 2008 constitution,

President Thein Sein is faced with the political apparatuses of the Military, the Parliament and the USDP. Moreover, in order to exert his influence over them, the President made the first political move to initiate political change.

In politics, as in war, there is a saying: “. . . there is no eternal enemy or friend”. Accordingly, as soon as the President made the first political move to exert political influence and uphold his power, his former power base, the Burmese army, and generals from the military have become his political rivals. In this sense, within a short period, his former enemies such as pro-democratic forces and ethnic armed groups have become a necessary component for the President to uphold his power. Thus, this could be the reason that President Thein Sein is using pro-democratic and ethnic armed forces as his political alliances.

In his first political move, President Thein Sein prioritized negotiation with democratic forces. He made changes to election laws, which were in fact drafted to ban pro-democracy leaders such as Daw Aung San Suu Kyi. As soon as Daw Aung San Suu Kyi and her party contest the upcoming election and become a part of the legislative body, the Parliament, Chairman of People’s Parliament, Lower House, Thura Shew Mann and Chairman of Nationalities’ Parliament, Upper House, Khin Aung Myint’s power will be balanced and held in check by the mere presence of Aung San Suu Kyi. Even though both Thura Shwe Mann and Khin Aung Myint yield enormous power in the Parliament, they could not contend with the influence and popularity of Daw Aung San Suu Kyi. This could be the reason President Thein Sein so dearly wanted Aung San Suu Kyi to be in the parliament.

President Thein Sein’s second political move was the proposal of peace talks and ceasefire agreements with ethnic arms groups. It seems that this move is in fact the first step to destroying the correlation principle between military dictatorship and civil war as put forward by General Ne Win. General Ne Win was the person who intentionally cultivated and watered the seed of civil war in Burma in order to

build a strong military dictatorship. Thus, instead of solving ethnic political problems and internal peace through political means and dialogue, General Ne Win deliberately opted for using military might in Burmese political game against ethnic nationalities.

However, General Ne Win and the Burmese army have never attempted to completely destroy the insurgencies and ethnic armed groups. By using cunning strategies and tactics, they have only fostered and prolonged the ethnic armed groups. The reason is that only if there is a civil war, can the military become powerful. More importantly in this way, the military would find an excuse to keep and hold on to the state's administrative power. Therefore, by using civil war as an excuse and scapegoat, the military has kept state power and built a military dictatorship.

### **From Internal Peace to the End of Military Dictatorship**

If President Thein Sein call for peace with ethnic armed groups is successful, and if political arrangements with ethnic armed groups ends sixty years of civil war, the tactics of constructing a military dictatorship through civil war could be broken into pieces. In fact, the military dictatorship can only survive by prolonging civil war in Burma. If there is no civil war in Burma, the military dictatorship in Burma could be diminished. Therefore, it is worth noting that stopping civil war, or achieving genuine internal peace is the key to dissolving the military dictatorship in Burma.

One might be cautiously optimistic here that that is what President Thein Sein has in mind for the country's long-term political benefit. In addition to this, if calls for and proposals for peace and ceasefire agreements with ethnic arms groups bear fruit, President Thein Sein would have an immediate political advantage from it, and thus can hold and control the balance of power by putting his political rival, the Military, in a situation where it would be held in check by peace agreements with the ethnic arms groups.

However, if current peace talks and ceasefire agreements with ethnic arms groups are not transformed into a meaningful political

dialogue, it could have a counterproductive action and a quite dangerous political outcome for President Thein Sein. It would also have a negative impact on the nation. More importantly, the danger is that the President's political rivals, especially the generals who obstinately and strongly oppose current political changes and ceasefire talks with ethnic armed groups, could use the failure of peace talks with ethnic groups as an excuse to stage a military coup as provided for in the 2008 constitution.

A historic lesson should be learned from the 1988 nation-wide uprising, in which the uprising that overthrew the one-party rule of Ne Win's Burma Socialist Programmed Party resulted in a much worse military dictatorship. Therefore, to be successful in his political initiatives, the main key to success for President Thein Sein's is ending the civil war and achieving internal peace in Burma. If President Thein Sein really wants to achieve internal peace in Burma, the ongoing peace and ceasefire talks with the ethnic armed groups must be promptly transformed into a meaningful and promising political dialogue.

*(Original version in Burmese was published as "BCES: Current Political Analysis in Burma: N0. 2, in February 2012)*

**PART - TWO**

**BRIEFING PAPERS**



## **Burma's Ethnic Ceasefire Agreements**

(January 2012)

Since implementing recent political reforms, the Thein Sein government has attempted to make a number of state level ceasefire agreements with both previous ceasefire groups and other anti-government forces.<sup>1</sup> On 13 January 2012, the Burmese government signed an initial peace agreement with the Karen National Union. The agreement, the third such agreement with ethnic opposition forces within two months, signals a radical change with how previous Burmese governments have dealt with ethnic grievances.

Up until the recent negotiations and the outbreak of hostilities in Kachin State there had been three main ethnic groups with armies fighting against the government. These armies are the Karen National Liberation Army, which has between six and seven thousand troops, the Shan State Army – South, which has between six and seven thousand troops, and the Karenni Army, fielding between eight hundred to fifteen hundred troops. In addition to the three main groups there are also the Chin National Front with approximately two to three hundred troops and the Arakan Liberation Army (ALA) with roughly one hundred troops.<sup>2</sup>

Under previous military regimes, the ethnic question had been dealt with as a military matter and not as a political or constitutional issue. Consequently, the failure of the Burmese government to recognize the true nature of the ethnic struggle resulted in constant civil war. As a result, over a hundred and fifty thousand refugees have been forced to shelter in neighbouring countries due to a conflict that has been characterized by its myriad human rights abuses.

## Previous Agreements

The Thein Sein government has dropped a number of requirements that previous regimes had made in relation to setting conditions for talks. One of the most important was the fact that a ceasefire must be agreed to prior to discussions taking place. Recent talks have taken place without this condition and unlike previous attempts at peace the Burmese authorities have not demanded weapons to be surrendered first.

Another previous condition was the insistence that all talks must take place inside Burma. This was also recently negated with exploratory talks taking place in Thailand with the Restoration Council of Shan State/Shan State Army – South (RCSS/SSA), The Chin National Front (CNF) and the Karen National Union (KNU) and in China with the Kachin Independence Organisation (KIO).

According to media reports<sup>3</sup> the Burmese government has set the following conditions in relation to conducting agreements with the ethnic groups:

1. Not to secede from the Union
2. Agree to non-disintegration of the Union, non-disintegration of national unity and perpetuation of national sovereignty
3. Agree to cooperate in joint economic programs
4. Agree to cooperate in anti-narcotics programs
5. Formation of political party or to contest elections
6. Accept 2008 constitution and legally amend it as necessary
7. One national armed forces

Nonetheless, despite such conditions, agreements written thus far with non-ceasefire groups have not included any of these points and may be discussed at the future Union level meetings.

### **Restoration Council of Shan State/Shan State Army – South (RCSS/SSA)**

The Shan State Army – South (Formerly Shan United Revolutionary Army) was formed from remnants of the Mong Tai Army after Khun



Sa signed a ceasefire with the State Law and Order Restoration Council in January 1996. The Shan State Army – South, under the command of Lt. General Yawd Serk, is believed to be one of the strongest of the ethnic resistance groups with more than seven thousand troops.<sup>4</sup>

In total it has 5 fixed bases, the Loi Taileng H.Q. (opposite Pang Mapha District, Mae Hong Son), Loi Moong Merng (opposite Muang District, Mae Hong Son), Loi Lam (Wiang Haeng District, Chiang Mai), Loi Hsarm Hsip (opposite Fang district, Chiang Mai) and Loi Gawwan (opposite Mae Fa Luang District, Chiang Rai).<sup>5</sup> The SSA-S was the first group to formally agree to a ceasefire with the government on 3 December 2011.

The SSA-S is not a member of the United National Federal Council but was a member of the six-state military alliance which included the KNU, CNF, ALP, KNPP and the KNO.<sup>6</sup> On 21 May 2011 the Restoration Council of Shan State (RCSS), announced that it was combining with the Shan State Progress Party/Shan State Army (SSPP/SSA), formerly the Shan State Army – North. The SSPP/SSA had faced a government offensive that had begun in March 2011 and the SSA-S had fought alongside its troops. Fighting in the area around the SSPP/SSA Headquarters stopped in December and BA forces have been withdrawn; the Burmese government does not seem to be planning any further offensives against the group. The RCSS/SSA agreement with the Burmese government does not extend to the SSPP/SSA.<sup>7</sup>

The RCSS/SSA held its first meeting with the Burmese government on the 19 November 2011. At this meeting the SSA-S tabled the following four points for future negotiations:

1. Cessation of hostilities
2. Political negotiations
3. Setting up of a Special Development Zone
4. Cooperation in the drug eradication

According to one media report, Yawd Serk had apparently told one of the government's chief negotiators Aung Min that:

Our people have been living in the dark for more than 50 years. . . It is good that the sun has come up. However, if we are unable to prevent continued inequality and discrimination, another eclipse is bound to come.<sup>8</sup>

A further meeting and signing ceremony with the State Level Peace Group was held on the 2 December 2011. The signed agreement consisted of the following:

1. Cessation of hostilities between the two sides. The two will also exchange ceasefire directives to their respective forces.
2. The RCSS/SSA's 4 point proposal on 19 November is agreed in principle.
3. The two sides will remain at positions agreed upon by both sides.
4. The two sides will coordinate with each other in advance before moving with arms out of designated positions. Designation of areas will be discussed further at the Union level talks.
5. Liaison offices will be established at Taunggyi, Kengtung, Kholam, Tachilek and Mongton with personnel and arms agreed upon by both sides. The Union level talks will discuss designation of new liaison offices.
6. The two sides agree to cooperate in preventing the dangers of narcotics.
7. The RCSS/SSA will form an official delegation in order to hold talks with the Union negotiation team formed by the Union Government and to set a date, time and venue for it.
8. The two sides agree to continue to hold talks on remaining subjects.<sup>9</sup>

Despite the signing of the agreement there was initial confusion in relation to territory and areas of operation. It had apparently been agreed at the meeting that the SSA-S would be responsible for security in the countryside while the Burma Army would be responsible for major towns and motorways. But, apparently the Burma Army continued to operate as before resulting in an exchange of gunfire on the 20 December 2011 which left three Burmese soldiers wounded. The clash immediately led to some questioning the sincerity of the government.

Regardless, the RCSS/SSA-S held two preliminary meetings with the government's State Level Peace Team. At the first, on 17 December 2011, prior to the clash, the RCSS/SSA-S negotiators stated that the inclusion of the non-secession clause was an impediment to further negotiations. The clause, which the UWSA, the NDAA/ESS (Mongla), and the Klo Htoo Baw Battalion (DKBA Lah Pwe Group) have already agreed to, would render concessions granted at the Panglong agreement and in articles 201 and 202 of the 1947 constitution no longer valid. This is a major concern for a number of ethnic groups who maintain that the Panglong agreement and the 1947 constitution legitimizes their cause and the right to self-determination. Despite reservations over the issues it was finally decided that their concerns would be discussed at the forthcoming Union level meeting. At the second meeting, on 31 December 2011, the issue of delineating a Special Economic Zone was also raised, but, as noted in the agreement, this would also be discussed at the Union level.

The last meeting held on 16 January 2011 increased the number of proposals and clarified further details in relation to the opening of liaison offices. The new agreement stated that:

1. SSA will set up its main offices in Ho Mong, southern Shan State, and Monghta, eastern Shan State.
2. SSA and the Burmese government's negotiating team will continue to discuss on the resettlement and accommodation arrangement of SSA members and families.
3. SSA will be responsible for the administration of its forces. Burma government and SSA will work together in the administration at the township level.
4. Burma army will cooperate with SSA for the security of the two towns where SSA main offices will be established.
5. SSA and Burma army will work together for the security of border checkpoints.
6. There will be advance notification of troops carrying arms on entering another side's controlled areas.
7. Liaison offices will be opened as soon as possible at Taunggyi, the capital city of Shan State; Kholam, where the Central Eastern Command is based; Kengtung, Tachilek and Monghsat,

eastern Shan State; and trading offices in Muse and Namkham, northern Shan State.

8. Shan State local governments will be responsible for the support of education and to set up legal trade firms for economic development.
9. SSA and Burma government will continue to discuss for the regional economic development.
10. SSA and Burma government will work together on the elimination of drugs.
11. Burma government agrees in principle SSA proposals at the meeting on 16<sup>th</sup> January and further topics will be discussed during the upcoming meetings.

Although the new agreement has been signed by both sides, a number of technical issues, primarily the position of Burma Army and SSA troops, still need to be addressed.

## **Chin National Front**

The Chin National Front (CNF) and its armed wing, the Chin National Army (CNA), were founded in the late 1980s to fight for the political rights of the Chin ethnic group. It is active along the Indian-Burma border and regularly crosses this frontier. The CNF/CNA's declared aim is 'securing the self-determination of the Chin people and to establish [a] federal Union of Burma based on democracy and freedom.'

The Chin National Front became a member of the National Democratic Front (NDF) in February 1989, the Democratic Alliance of Burma in July 1992, the six-state military alliance in June 1999, and the UNFC in February 2011.

In January 1997, top leaders from the Peace and Tranquillity Committee, a group comprised of Chin Christian pastors and leaders, proposed to the CNF/CNA to agree on a cease-fire. The Pastors sent by the military regime met with the CNF on four occasions: September 25<sup>th</sup>, 1994, January 25 – 26, 1997, April 20 – 21, 1997, and July 9<sup>th</sup>, 1997. During the negotiation process the Burmese regime had insisted on the following points:

1. We will not have talk on political issues;
2. We will talk only rural development issues;
3. The CNF should surrender their arms and live peacefully;
4. The CNF should not be representatives of the Democratic Alliance of Burma or National Democratic Front; and
5. The CNF should not have relationship with other opposition groups once the ceasefire agreement is signed with the military regime.<sup>10</sup>

The CNF refused the peace offer primarily due to the fact that the regime, as had often occurred with peace talks with other armed ethnic opposition groups, refused to engage them politically. And, like other groups, the CNF insisted that for further discussions to take place tripartite dialogue, between the Burmese Military, The NLD, and all ethnic groups, was the only viable option. The last talks, held in 2007, failed for the same reason. Primarily the military regime had insisted that for further negotiations to take place then the CNF must give their arms.<sup>11</sup>

In a recent interview Dr Suikhar, chief negotiator for the CNF, explained the reasons for now accepting the Burmese governments offer:

There has been communication between the CNF and the then State Law and Order Restoration Council/State Peace and Development Council for a ceasefire since 1994. We held one round of talks with them in 2007. We couldn't sign a ceasefire agreement then because the policy then was to "Exchange arms for peace." We accepted the ceasefire agreement this time around because it's not a ceasefire for the sake of a ceasefire, but it includes the agreement to hold a political dialogue. The government side also agreed to our proposal for a framework for political dialogue.

That said, however, he also cautioned that:

. . . we should understand that a ceasefire is not surrender. Neither is it entering into the 'legal fold.' It is something that opens up the door for a political dialogue. Even people who are legally wedded in the presence of the public and God sometimes get divorced. We should be mindful that this agreement can always be broken.<sup>12</sup>

The full nine point agreement accepted by the State Level Peace Delegation and to be further discussed at the Union level states:

1. The Chin State Government level peace delegation and the Chin National Front have agreed to end mutual hostilities, including armed hostilities, effective from the time of the signing of this agreement.
2. The Chin State Government level peace delegation and the Chin National Front have agreed to open up a Liaison Office in Thantlang so that the points in this agreement may be vigorously implemented. Matters regarding the possibility of opening up Liaison Offices in Tedim and Matupi will be submitted to the relevant bodies, the result of which will be made known at a later date. The parties have agreed that the Chin National Front/Army can temporarily be based out of the areas around three Village Tracts in Thantlang Township: Tlangpi Village Tract, Dawn Village Tract and Zang Tlang Village Tract. Moreover, matters regarding the possibility of having bases in Tedim Township's Zampi and Bukphir Village Tracts, and Paletwa Township's Kung Pin, Para and Pathiantlang Village Tracts, will be submitted to the relevant bodies and the result made known at a later date.
3. The Chin State Government level peace delegation and the Chin National Front have agreed that any unarmed members of the Chin National Front and Chin National Army can freely travel to any place within the Union.
4. The Chin State Government level peace delegation and the Chin National Front have agreed to meet again as soon as possible, so that the parties can arrange a time and date for the Chin National Front and the Union government to hold a discussion. In holding Union level talks, the parties agreed in principle to uphold as basic principles the flourishing of ethnic issues and democracy, in addition to the three national causes.
5. The Chin State Government level peace delegation and the Chin National Front have agreed to allow the Chin National Front and the Chin National Army to freely hold public

consultations, so that the desire of the Chin people can be brought forward as the basis of their discussion at the Union-level talks.

6. The Chin State Government level peace delegation and the Chin National Front have agreed to allow international Non-Governmental Organizations to operate freely in Chin State and elsewhere in the Union of Myanmar so that they can tackle the issues facing the Chin people, including the food crisis, lack of medicines, lack of access to clean water etc., in accordance with the existing laws.
7. The Chin State Government level peace delegation and the Chin National Front have agreed that, with financial support from the Union government, the Chin National Front will take a leading role in development work in relation to the Special Economic Zone (hereinafter SEZ) in accordance with laws governing the SEZ, so that the poorest state in the Union of Myanmar can be turned into a modern and developed State.
8. The Chin State Government level peace delegation and the Chin National Front have agreed that the Chin National Front and the Chin State Government work together as necessary, on development projects in Chin State by reciprocating advice and consulting with one another.
9. The Chin State Government level peace delegation and the Chin National Front have agreed to closely cooperate in eradicating illegal poppy cultivation, drug business and drug smuggling in northern Chin State.<sup>13</sup>

## **Karen National Union**

The KNU rebellion is the longest running in the world today and throughout its 63-year history has presented one of the most serious challenges to the central government. Since the beginning of hostilities, officially declared on 31 January 1949, the Karen National Union has held a number of discussions with successive governments of Burma. While initial discussions centred on the recognition of a free Karen state of 'Kawthoolei' and the need to retain arms, later talks, primarily those that began in 2004, sought merely to protect the Karen populace

from further abuses at the hands of the Burmese army and preserve some form of role for the organisation.

One of the main reasons for the lack of progress in earlier talks was the legal status of the Burmese government. For example, the 1995/96 talks with what was then SLORC were hindered by the government's claim that it could not enter into an official agreement due to the fact that it was a military government and could not act on political matters until after the National Convention.

In addition, the KNU's strategy in attempting to formulate an agreement with the regime has often been shaped by KNU founder Saw Ba U Gyi's four principles which state

1. For us surrender is out of the question
2. The recognition of Karen State must be complete
3. We shall retain our arms
4. We Shall decide our own political destiny

While a reluctance to compromise the above principals shaped early negotiations, the later talks in March 2005, allowed the KNU to retain its arms and provide some limited authority over Karen controlled areas. In addition the offer also included resettling internally displaced Karen to areas under the KNU's control and thus providing a more secure environment for vulnerable Karen populations.

This final offer in 2005, prior to the breakdown of the talks, consisted of the KNU being given a trial period of two years and an offer of renegotiation afterwards. This was seriously considered by the KNU leadership. However, the leadership found itself deeply divided between those who were more acceptable to the Junta's overtures and a number of hardliners whose trust in the regime had been eroded by previous failed peace attempts.<sup>14</sup>

The KNU had its first initial meeting with Burmese Peace representatives in Mae Sot on 8<sup>th</sup> October 2010 in Mae Sot, Thailand, a further meeting then took place in Mai Sai on 19<sup>th</sup> November 2011. Shortly afterwards they also had consultative meetings with the Pa-an based Karen Peace Committee and the Karen Baptist Convention to gauge their reaction to any future peace talks.<sup>15</sup> Further meetings were



held on 29<sup>th</sup> November 2011 and on the 21<sup>st</sup> December 2011. According to KNU negotiator David Taw:

The meetings have great potential . . . In comparison with not having meetings, if we negotiate with each other it will reduce suspicions and it will create a friendly atmosphere. We're satisfied. We've become more familiar and frank.<sup>16</sup>

Consequently the KNU issued a position statement which noted that:

- On 12<sup>nd</sup> January 2012, a 19-member delegation, led by General Mutu Say Poe and Padoh David Taw under the supervision of the KNU Committee for Emergence of Peace, will begin talks in Pa-an with representatives of the Burmese government.
- These talks are being initiated as preliminary discussions towards a ceasefire agreement, which would be a first step towards solving the longstanding political conflict between the ethnic nationalities and the Burmese government.
- The KNU believes that in order to achieve genuine peace and an end to the civil war in Burma, the underlying political conflict must be solved by political means, beginning with earnest dialogue.
- The KNU is committed to this process for the wellbeing of the Karen people and the people of all of Burma.<sup>17</sup>

Saw David Taw also noted that:

We don't want to give priority to development work. We want to give priority to rehabilitation. Our people have suffered a lot and their lives have been extremely miserable for more than 62 years, so their lives cannot be directly related with development works. First we want to start work that improves their lives, and then we can do development work that they [the Karen people] can accept.

The main meeting, which was attended by representatives of all KNU brigade areas except Brigades 1 and 5, on 12<sup>nd</sup> January 2012 resulted in the KNU's 11-point proposal being put forward for consideration at the union level and the signing of a ceasefire.<sup>18</sup> The 11 points of KNU proposal calls for the government to:

1. Establish a nationwide ceasefire and immediately cease military operations in ethnic areas.
2. Guarantee the human rights and safety of all civilians.
3. Build trust among the people.
4. Support the basic needs of the people and ensure that development projects have the full participation and support of local villagers.
5. Allow national media outlets to participate in the peace processes, in order to provide accurate information about developments.
6. Immediately stop forced labor, arbitrary taxation and extortion of villagers.
7. Release all political prisoners and provide solutions to settle land rights issue.
8. Set out principles for all parties to ensure a genuine peace process.
9. Ensure the legitimacy of representatives involved in negotiations, provide adequate time for their consultation with respective constituencies and establish a clear role for third parties.
10. Initiate a plan for monitoring and ensuring the transparency of the peace process.
11. Establish a flexible process that guarantees progress towards sustainable peace, and in which all parties speak straightforwardly and avoid using words that may be misinterpreted.<sup>19</sup>

While many welcomed the signing of the agreement a number of KNU members have sent mixed signals. David Thackerbaw, KNU Vice-president, showed some concern in regards to the early announcement, stating that:

It is disingenuous of the Railway Minister, Aung Ming, to say so. He does not have the mandate to sign anything. He is overstepping his authority and at this stage is talking too much, only Burma's President Thein Sein can ratify a ceasefire agreement and for the KNU it is our Central Committee. . . It's easy to promise everything, I question why he is in such a hurry to get a ceasefire with the Karen. We are now entering the dry season and with a ceasefire in place, I imagine the Burma Army will be in hurry to resupply their 200 army camps in Karen State.<sup>20</sup>

He also stressed that:

I'm cautious, very cautious, there is no certainty, we're still not sure of the real agenda. We hear the President has good intentions towards moving the country to democracy, but the indicators we have say something different, especially the military offensive against Kachin civilians . . . The changes so far have been only cosmetic; they failed to deliver on their promise to release all political prisoners. By keeping political prisoners locked up, they are removing key political opponents who have for years struggled for democracy. There is no rule of law.<sup>21</sup>

The KNU Vice-President's announcement came a day before 651 prisoners were released. These included a number of high-profile political detainees and further strengthened the belief of many observers that the government was eager to implement reforms.

Scepticism regarding the Government's offer was also voiced by a number of exiled Karen with close ties to campaign groups. Nant Bwa Bwa Phan of the Burma Campaign UK, the European Karen Network and who also holds the position of KNU European Representative aired similar doubts noting that:

After more than 60 years of conflict, you would expect the hundreds of thousands of Karen people worldwide who were forced to flee their homeland to be very hopeful and excited about the talks, and perhaps even discussing returning. But that isn't the impression I get from the Karen people around the world I have spoken to. Instead, many people are very sceptical.

There are many reasons for this. First, we know from experience in the past 60 years that governments often talk peace while waging war. There have been five previous occasions when official ceasefire talks took place, and every time the government effectively just demanded surrender.

There have also been many occasions when the government have made unofficial approaches, although often these are more about trying to divide and rule, and split the KNU and the Karen people. So we know from experience we cannot trust them.<sup>22</sup>

Apparently the view of those inside Thailand's refugee camps is somewhat different to those Karen in exile.<sup>23</sup> According to a report in *Karen News* out of the nine people spoken to representing youth leaders, elders, and CBO worker, eight believed the government's moves were positive.<sup>24</sup>

In contrast to views expressed by Saw David Thackerbaw and members of the Karen Diaspora, Brig. Gen. Johnny, head of the KNU Brigade 7 and a negotiator with the Burmese government, also reacted positively stating that:

This time they didn't ask us to give up our arms, and they just want to work for equal rights for ethnic groups. This time we trust them.<sup>25</sup>

While many in the Karen National Union see the new peace initiatives as positive there is still some way to go in actually framing a substantial peace agreement and defining a political process that will address ethnic issues. As Saw Thamein Tun, a KNU Central Committee member clarifies:

... it's not exactly a formal ceasefire agreement yet but only an tentative one based on principles. We still have to discuss the division of territories and so on. . . The [Burmese army] has to work out whether to keep their troops in Pa-an or Kawkareik and they must tell us where their units are positioned . . . They must draw out regulations to prevent conflict in the future and direct their soldiers to follow these regulations. Also, we have to work out whom to appoint to sit in the liaison offices and when we are satisfied with the every condition, we will sign the formal agreement.<sup>26</sup>

While many have noted that previous agreements have failed, often portraying the reasons has the Burmese Military's machinations, there is also some way to go in building up trust within the Karen National Union itself. A number of Karen leaders have maintained a strong distrust of the Burmese and this has also caused problems in the past. As David Taw alludes to in his analysis of the 2005 negotiations:

Individual leaders' changing analyses of the situation play a decisive role: it should be noted that the viewpoints and membership of pro- or anti-ceasefire factions are not static . . . Perceptions of the trustworthiness of counterparts and

intermediaries and the credibility of past engagements were other important factors. . . Membership of broader opposition groupings and alliances has played a role in the KNU's decision-making, reinforcing certain factions' power (especially because of overlapping leadership arrangements), and usually inveigling against engagement with the ruling regime. <sup>27</sup>

## **The Future**

The signing of preliminary agreements with three ethnic resistance movements offers unprecedented opportunities for exploring peace and strengthening ethnic inclusion in the political process. While a number of groups have still not made initial agreements with the Government it is likely that both the Karenni National Progress Party and the New Mon State Party will sign in the near future.

There is no doubt that obstacles to peace still remain - the continuing conflict in Kachin State and the Kachin Independence Organisation's insistence on achieving an autonomous Kachin homeland will see Burma Army offensives, and the inherent human rights abuses, continue. That said however, the prevailing climate of peace that is currently sweeping over a number of ethnic states is likely to see the Kachin isolated, and, should the other groups also make agreements, appear to be a belligerent.

While it is easy to err on the side of caution and refer to past mistakes and government behaviour in defining previous talks and their failures, such an attitude is highly unlikely to see any change in the future. It is necessary that the process be viewed cautiously, but at the same time such fears should not be allowed to prevent any future progress. The Burmese Government, has, thus far, made a concerted effort in reforming its attitude to the ethnic groups and while there is still far to go, achievements cannot be attained without taking those first initial steps.

## **Addendum**

- The Shan State Progress Party signed two peace agreements on 28 January according to media sources.

- The New Mon State Party made an initial peace agreement with the Government on 1 February 2012.

Notes:

1. This paper focuses on those groups who have not previously signed ceasefire agreements with the government. The UWSA, the NDAA/ESS (Mongla), and the Klo Htoo Baw Battalion (DKBA Lah Pwe Group) have also signed agreements with the Thein Sein government.
2. Email correspondence with Arakan political leader, 11 December 2009
3. 'SSA Reps return from second pre-meeting', SHAN, 4 January 2012
4. Email correspondence with SHAN, 9 December 2009
5. 'Shan Army set to cast a wider net', SHAN, 8 June 2009
6. The alliance was originally formed in 13 March 1999 and consisted of five original members. Although the Kachin National Organisation (KNO) joined later it does not have any armed units, it is also an associate member of the UNFC
7. 'SSA South we still support the UNFC', 21 December 2011
8. 'SSA South reaches ceasefire agreement with Naypyitaw', SHAN, 21 November 2011
9. 'Initial Agreement Towards Peace', Unofficial Translation, SHAN, 7 December 2011
10. 'Chin National Front's Statement on Ceasefire', CNF, 23 July 1998
11. 'Ceasefire is not Surrender', Chinland Guardian, 14 January 2012
12. Ibid.
13. 'Text of the Unofficial Translation of the CNF Ceasefire Agreement', Chinland Guardian, 14 January 2012
14. For a full analysis of the KNU's ceasefire agreements see 'A Gentleman's Agreement – The KNU's ceasefires 1949-2006', Paul L Keenan, Burma Centre for Peace and Reconciliation, 2012
15. 'KNU Groups discuss peace process', Saw Khar Su Nyar, KIC, 13 December 2011
16. 'KNU satisfied with third ceasefire meeting', Phanida, Mizzima, 21 December 2011
17. 'Position Statement on Peace Talks Between the KNU and the Burmese Government', KNU, 11 January 2012
18. The delegation was led by the following, many of whom are also central committee

members: General Saw Mutu Saypo Commander-in-Chief Central, Padoh Saw David Taw, chief of judicial department, Brigadier General Johnny, Brigade No 7 Commander, Saw Thamein Tun, Central Committee member, Saw El Wa, Brigade No. 2, (Taungoo District Chairman), Saw Lay Law Taw, Brigade No. 3 (Nyaunglaybin District Chairman), Saw Kwe Htoo Win, Central Brigade No. 4, (Myeik-Dawei District Chairman), Saw Shwe Maung, Brigade No. 6 (Dooplaya District Chairman), Saw Aung Maw Aye, Brigade No. 7, (Pa-an District Chairman) Saw Roger Khin Chief of health department, Pado Saw Ah Toe Central committee member, Chief of forestry department.

19. 'KNU Wants a Transparent Peace Process', KIC, 14 January 2012
20. 'KNU leader denies ceasefire agreement is signed', Report by KIC, 12 January 2012
21. 'KNU stand by ethnic alliance' Report by KIC, 12 January 2012
22. 'For Real Peace in Karen State There Must Be a Political Solution', Nant Bwa Bwa Phan, 12 January 2012
23. A number of grievances were aired even prior to full details of talks being released see also 'Karen exiled community calls for "political talks"', Mizzima, 12 January 2012. Other calls, for instance international observers at the talks, suggest many in the community do not fully understand the complexity of the situation and the need not to delay the process any further, see 'Karen groups want independent third party observers at peace talks' KIC, 11 January 2012
24. 'Karen People Say – Give Peace a Chance' Saw Blackstone, Karen News, 17 January 2012
25. 'KNU-Gov't sign cease-fire agreement', Mizzima, 12 January 2012
26. 'Carve up of Karen territory looms', Naw Noreen, DVB, 17 January 2012
27. 'Choosing to engage: strategic considerations for the Karen National Union', David Taw, 2005

## **An Uneasy Peace**

### **The Problems of Conflict During the Peace Process in Burma**

(February 2012)

Although a number of initial peace agreements involving ethnic armed groups have been signed (see Analysis Paper No. 1), sporadic fire fights and human rights violations continue to be reported in those ethnic areas covered. While there has been a tendency towards suggesting that such reports are indicative of the UOB Government's deceitfulness, there is a failure by many observers to fully understand the enormity of the problem the country faces in relation to dealing with the military apparatus.

Since 1962, and the seizing of power by General Ne Win, the Burma Army has made a concerted effort to fully militarise ethnic areas in order to completely control their populations. After implementing a scorched earth policy known as the four cuts campaign in the seventies, the Burmese military further increased its presence in ethnic areas and fully mobilised its troops through a number of operations against ethnic armed forces during the eighties and nineties. To ensure the complicity of ethnic populations in pacified areas, the Burma Army (BA) created a vast network of military outposts close to ethnic villages both in designated black areas, or free-fire zones, and brown areas, or contested territory where both ethnic opposition and government forces operate. As a consequence the military, both BA and resistance forces, has solely dominated and exploited the lives of those civilians in areas where they operate. It is hoped that this domination will be eroded by the new government's peace initiatives; however, this can only be accomplished by encouraging reforms on both sides.

Many seemed to believe that the signing of initial peace agreements would see immediate results and a decline in reports of Human Rights



abuses and clashes. Not surprisingly, this has failed to occur. Burma Army convoys are still resupplying and rotating troops in ethnic areas and clashes, based on years of mutual mistrust, continue to ensue. One of the main reasons for this is the fact that it is impossible to immediately dismantle a system that has been in place since the 1990s and that there still remains to be acceptable trust between all parties. The failure to adequately address the conflict in Kachin State further weakens the Burmese government's position, and conversely a number of ethnic leaders continue to air their lack of faith in the new Government.

Many have seen the continuing re-supply of Burma Army positions as evidence of the Burmese Government's deceit in relation to dealing with ethnic groups and further evidence of a hidden agenda. However, the Burma Army has consistently re-supplied its units once a year usually between January and March. Failure to resupply them, therefore, would result in Burmese units having no food or supplies; in addition, this topic had been discussed during the initial negotiation meetings and arrangements made for its continuation.<sup>1</sup>

Most recently however, the greater concern is the incident in Shan State in early February in which Burma Army troops attacked a base of the Shan State Army – South. The reason for the attack remains unclear but it may have been a pre-meditated manoeuvre to derail the peace process and discredit the government. Burmese Army commanders resolved the situation quickly the next day and, as per the January agreement, Burmese Troops were only deployed around major population centres and not in the countryside. <sup>2</sup> It has been suggested that the Burma Army, working alongside People's Militia Forces (PMF) are deliberately attempting to obstruct the peace process to further maintain their own positions of power.<sup>3</sup>

Further issues occurred in Shan State in relation to the territorial scope of the agreement. Fighting broke out late February between SSA-South forces and Burma Army units in Monghai, north-west of Tachilek. The SSA-South agreement states that its troops can operate freely away from major roads and population centres. The Burma Army insists that the agreement only covers Homong-Mongta, an area that Government peace negotiator Aung Min acknowledged was

not large enough to accommodate the SSA-South's needs. In total there have been at least eleven clashes between the SSA-South and the BA since the signing of the initial agreement on 2 December 2011.<sup>4</sup>

A further incident happened in Karen State when Karen Border Guard Force (BGF) battalions 1011 and 1019, under the command of Pah Nwee, the former DKBA 999 Battalion commander, seized weapons from the Klo Htoo Baw Battalion's Klo Htoo Hla headquarters. The Klo Htoo Baw battalion, which refused to join the BGF program, signed a ceasefire agreement with the government on 3 November 2011.<sup>5</sup> According to media sources President Thein Sein reacted quickly and ordered the BGF to return the weapons.<sup>6</sup>

There are further concerns in Karen State; exiled media have also reported an increase in troops and the purported construction of 200 new outposts. However it is likely that such a claim may have been misinterpreted. DVB quotes KNU Vice-president David Thackerbaw as saying that:

After the initial ceasefire agreement, we allowed them to deliver supplies [to Burmese Army units in KNU territory]. And now they've set up around 200 outposts in the area and restricted locals from going within a 2,000 yard radius of an outpost or 500 yards from a road. This is making the locals uncomfortable – making it look like we have surrendered.<sup>7</sup>

While such restrictions may have been implemented it is unlikely that the Burma Army has constructed 200 new outposts since signing the agreement, although it is probable that there has been increased activity around those 200 outposts that already exist in Karen and Mon areas where the KNLA operate. Shortly after the article was published another, on 23 February 2012, in Mizzima, reported that the KNU had demanded that all Burma Army units withdraw from Karen territory due to the fact that:

Eye-ball-to-eye-ball confrontations with them are likely. Even if there are no confrontations, if these government gun-wielding soldiers loiter in our area, it will not be good for us.<sup>8</sup>

The article also states that Saw Hla Ngwe, joint-secretary No.1 had said that there could be armed conflicts with their [BA] troops if the government sent rations and supplies to their frontlines. Why this would happen, considering the fact that Vice-president David Thackerbaw has already stated that it had been agreed that the Burma Army could re-supply is unclear, but does further suggest that the KNU remains uncertain on its position. It must be noted that conflicting positions within the KNU are being reported frequently and to such a degree that KNU General Secretary, Thramu Zipporah Sein had to clarify that there had been “no split” although there were “different ideas and strategies.”<sup>9</sup>

It is becoming increasingly clear that neither side in the conflict were prepared for the speed of the peace process and therefore have no contingencies in ensuring its success. The Burma Army itself appears to be uncertain how to deal with ethnic groups that have signed peace agreements while it is also employed in Kachin State fighting the Kachin Independence Army. How the Burma army has been instructed in its dealings with ethnic groups during a time of peace is unclear. But an army that has seen ethnic populations and the groups that represent them as enemies over the last five decades would require a great amount of re-education. A story, reported by the Free Burma Rangers, of a KNLA unit passing a Burma army patrol and shaking hands provides evidence of what can happen,<sup>10</sup> yet it still remains an isolated incident in relation to reported events throughout the country. Unfortunately it is not only the Burma army that needs to reassess its position at a time when peace can be achieved. Ethnic armed forces present similar attitudes in relation to the Burma army and more needs to be done by ethnic leaders and army commanders to prepare their troops for peace. As the KNLA officer's quote testifies, with the presence of Burma and KNLA Army units in close proximity then conflict is likely, primarily because attitudes to years of mistrust and abuse have not been addressed.

A number of problems remain that cannot be immediately addressed and both sides must be prepared to acknowledge this. The tensions between the Thein Sein government and high ranking military officers who still see ethnic groups as separatists will require time and much

effort before they are eased. The continuing conflict in Kachin State will test the Burma Army not because it is unable to change, but because during war, it cannot.

Equally, ethnic leaders must also realise their own inadequacies which through a time of conflict may have strengthened their resolve but in a time of peace create an obstacle to the improvement of their people and their lands. While history and the crimes that have been perpetrated against them must not be forgotten, at the same time the past should not be used as a device to prevent any future progress or to maintain the status quo.

Many observers fixate on the fact that the current leadership consists of the same army officers that were responsible for the numerous abuses that occurred over the last sixty years of conflict. And it is unfortunate that in a country that has been so dominated by the military since its independence that the political elite of the country, including many ethnic groups, primarily consists of individuals borne out of the military. This is regrettable, but at the same time has to be accepted.

Similarly, the 2008 constitution, which ingrains the power of the military, will always remain a contentious issue, and as long as it exists in its current form can give rise to further problems. There is little doubt that the constitution needs to be amended, and it should be done as part of a future legitimate political process; the issue should not be used to prevent further peace negotiations.

Conflict in Shan and Karen states have erupted recently not over the lack of desire on all sides to establish peace, but rather a lack of clarity on the way forward. For the last sixty years all parties have been so heavily involved in waging war that they have little understanding of what is required to maintain peace. As long as a number of vested interests continue to play a leading role in the governance of the country, putting their own interests above those of the people, then peace will remain elusive.

Notes:

1. Author's personal phone conversation with KNU Central Committee Member, 22 February 2012
2. 'Naypyidaw agrees not to attack Shan Rebels Again', *The Irrawaddy*, 13 February 2012
3. Personal correspondence with Shan observer, 23 February 2012
4. SHAN, 22 February 2012
5. The agreement was finally ratified at a state level on the 12 December 2011
6. A KNU insider informed the author that the situation had been discussed in parliament and the BA commander in charge of the BGF had been ordered to return the weapons
7. 'Burmese army sending more troops to Karen state' *Nay Thwin*, DVB, 20 February 2012
8. The quote is attributed to a KIO officer, but this is most likely due to a misprint and should be a KNLA officer. See 'Withdraw all government troops: KNU', *Myo Thant*, 23 February 2012
9. 'KNU lays out ceasefire plan, denies split' *Frances Wade*, DVB, 23 February 2012
10. 'Ceasefire, Continued attacks and a friendly encounter between enemies', *FBR*, 3 February 2012

## **The Border Guard Force**

### **The Need to Reassess the Policy**

(July 2013)

#### **Overview**

The implementation of the Border Guard Force (BGF) program in 2009 was an attempt to neutralise armed ethnic ceasefire groups and consolidate the Burma Army's control over all military units in the country. The programme was instituted after the 2008 constitution which stated that 'All the armed forces in the Union shall be under the command of the Defence Services'. As a result the government decided to transform all ethnic ceasefire groups into what became known as Border Guard Forces (BGF). Consequently, this was used to pressure armed ethnic groups that had reached a ceasefire with the government to either allow direct Burma Army control of their military or face an offensive.

The BGF and, where there was no border, the Home Guard Force (HGF), had been seen as an easy alternative to fighting armed ceasefire groups. While a number of ceasefire groups including the United Wa State Army (UWSA), Kachin Independence Organisation (KIO) and the New Mon State Party (NMSP) refused to take part in the program, other groups accepted the offer including the Democratic Karen Buddhist Army (DKBA), National Democratic Army – Kachin (NDA-K), Kachin Defence Army (KDA), Palaung State Liberation Front (PSLF), Myanmar National Democratic Alliance Army (MNDAA), Karenni National People's Liberation Front (KNPLF) and the Lahu Democratic Front (LDF).

Many of these BGF units, especially in Karen State, have carved out small fiefdoms for themselves and along with a variety of local militias continue to place a great burden on the local population. There are consistent reports of human rights abuses by BGF units

and a number have been involved in the narcotics trade. While the BGF battalion program had originally been designed to solve the ceasefire group issue its failure, and subsequent attempts by the Government to negotiate peace with non-ceasefire groups, suggests that the role of the BGF units and their continued existence, like that of the NaSaKa,<sup>1</sup> needs to be rethought.

### **The Border Guard Force Program**

The Border Guard Force program entailed transforming the ceasefire group's armed wing into battalions comprised of 326 soldiers. It was envisioned that there would be 18 officers and three commanders with the rank of major. Among the three commanders, two would be from the ethnic armed groups and one from the Burma Army who would be responsible for the day-to-day administration.

Other key positions such as general staff officer and quartermaster officer would also be from the Burma Army. In addition, there would be twenty-seven other ranking non-commissioned officers from the Burma Army.<sup>2</sup>

The BGF units that were created from smaller groups in Shan, Kachin and Karenni States are:

Date	Group	BGF Unit No.
08/11/2009	NDA-K	1001
	NDA-K	1002
	NDA-K	1003
	KNPLF	1004
	KNPLF	1005
04/12/2009	MNDA	1006
30/01/2010	LDF	1007
	PSLF	1008
	KDA	1009
	KDA	1010

Groups in Karen State that were formed from members of the DKBA and KPF were:

Date	Number	Location
18/08/2010	1011	Hlaingbwe
	1012	Hlaingbwe
	1013	Kamamaung (Papun)
	1014	Kamamaung (Papun)
20/08/2010	1015	Paing Kyone (Hlaingbwe)
	1016	Hlaingbwe
Date	Number	Location
	1017	Myawaddy
	1018	Myawaddy
	1019	Myawaddy
	1020	Myawaddy
21/08/2010	1021	Kawkareik
	1022	Myawaddy
22/08/2010	1023	Kya-in-seik-gyi

Soldiers in the Border Guard Force battalions were offered salaries of between 25,000 to 35,000 Kyat for a new recruit and up to 180,000 Kyat for a major, rations and uniforms would be provided, they and their family members would also be given free accommodation, access to health care, education public transportation and each soldier would receive a pension.

Despite such assurances, a number of problems soon emerged. In 2010, over a hundred border guard force (BGF) recruits attending military training in Shan State East’s Kengtung, where BGF No. 1007, 1008, 1009 were trained, fled after such promises of support failed to materialise.

According to one of the deserters:

We were informed by our family that they needed money to survive because they did not get anything from the junta authorities. Likewise we also did not get full salary as promised. This is why we decided to leave because there is no benefit in being there if our families are struggling to survive.<sup>3</sup>



Further problems occurred when many of the Border Guard Force units were unable to find the number of recruits necessary to fulfil the required quota. In addition, a number of recruits fled to join either armed resistance groups or across the border into Thailand.

According to Karen sources many of the Karen BGF units refused to cooperate with their Burma Army commanders. This resulted in former 999 Special Battalion Commander Maung Chit Htoo being recalled from his advisory position and asked to personally intervene in the Karen BGF units affairs.<sup>4</sup> Despite this, however, general discontent within the units remained high.

By June 2011 divisions in Karen State within the BGF units came to the forefront. On 24 May 2011, Lt-Col Po Bi from Karen BGF Battalion 1012, based in Myaing Gyi Ngu, told his Government advisors to leave and his troops to replace their BGF patches with their old DKBA insignia.<sup>5</sup> He was later joined by another two BGF battalions 1013 and 1014 and fighting between the remaining BGF units ensued.<sup>6</sup> Eventually the three BGF units would join the Klo Htoo Baw Battalion (formerly DKBA 5 Brigade which had refused to take part in the BGF program).

Since their creation the remaining BGF units have continued to profit from and abuse the local villagers. BGF 1014, under the command of Maung Chit Htoo, and based along the border with Papun and Thaton, has confiscated land and forced villagers to clear plantation for them so that to local companies could use the land for teak and rubber plantations. As a result villagers did not have sufficient land to graze their livestock and thus faced food shortages. BGF 1014 has also forcibly recruited villagers into local militia units known as 'Thaung Kyan Thu Sant Kyin Yay A Hpwe'. However, villagers could avoid having to do the military service if they paid the BGF 50,000 Kyat.<sup>7</sup>

In addition to Human Rights abuses the BGF units have also been heavily implicated in the drugs trade. In July 2012, undercover Thai police officers and anti-narcotic officials in Mae Sot recovered 8 million baht worth, or 19,850 Yaba pills, from Shwe Kokko village during a sting operation apparently on the Burmese side of the border.

One of those arrested, Naing Win, admitted to being a member of the Kokko based BGF battalion. Shwe Kokko is under the control of Maung Chit Htoo and was formerly the 999 Special Battalion Headquarters.<sup>8</sup>

In addition to BGF 1014, other units have been implicated in the yaba trade. According to the Karen Human Rights Group (KHRG) BGF unit 1016 openly produces and sell the drug to local teenagers and students. BGF 1016, under Commander Mya Khaing, packages the product like candy and as a result addiction rates, and debt, have risen dramatically in the areas where the BGF 1016 units operate.<sup>9</sup>

Similar reports appear in other areas of the country where BGF units operate. According to SHAN opium cultivation continues to thrive in areas under BGF control (see chart below)

State	Township	BGF #
Kachin	Gangwin - Chihpwe	1001
	Lupi - Chihpwe - Pangwa	1002
	Sinkyaing - Kambaiti	1003
Kayah	Loikaw	1005
	Dimawso	1005
Shan	Khunggyan	1006
	Mongton	1007
	Markmang (Metman)	1010

According to Kachin media sources local BGF units have asked the Burma Army to send more troops into its areas of operation to protect its opium crops. Reports also suggest that the BGF units have major concerns in relation to the Kachin Independence Organisation's Drug Eradication Program and as a result, in the absence of support from the Burma Army, feel their livelihoods threatened.<sup>10</sup>

It is quite clear that despite the original reasons for their creation that the BGF units are now a major problem, not only for the local population but also for the Government's peace process. The numerous reports of abuse, land confiscation, forced labour, drug trafficking, and extortion are common from all BGF units. As a result it is a

necessity that the Burma Army reign in or, like the NaSaKa, demobilise the BGF units as a priority. Their continued existence, alongside that of local militias, is a further threat to peace and stability in the country.

Notes:

1. The Border Area Immigration Control was responsible for security in Arakan State and the Bangladesh border. According to the ICG it was ‘. . . the most corrupt and abusive government agency in the area’ it was abolished by Presidential order No.59/2013 on 12 July 2013.
2. ‘Border Guard Force Plan Leads to End of Ceasefire’, Wai Moe, *The Irrawaddy*, 31 August 2009
3. ‘BGF men fleeing due to junta’s broken promise’, Hseng Khio Fah, *SHAN*, 11 August 2010
4. Personal Conversation with KNU Central Committee Member
5. ‘Karen BGF Troops Begin Returning to the DKBA’, Saw Yan Naing, *The Irrawaddy*, 3 June 2011
6. ‘BGF Commander Killed in All-Karen Clash’, *The Irrawaddy*, 1 July 2011
7. ‘BGF Battalion #1014 forced labour and forced recruitment, April to May 2012’, *KHRG News Bulletin* May 31, 2013 / *KHRG #2013-B29*
8. ‘Border Guard Force member arrested in drug bust’, Ko Thet, *DVB*, 18 July 2012
9. Hpa-an Photo Set: BGF production and sale of yaba in T’Nay Hsah and Ta Kreh townships, 4 July 2013
10. ‘BGF calls for more Burmese troops to protect opium fields’, *Kachin News*, 25 February 2011

## **People's Militia Forces**

### **Time to Re-Assess the Strategy?**

(March 2012)

Since the 1950s, various Burmese Governments have officially created and sanctioned the operations of militia forces in the country's ethnic states. These groups have been used primarily as a military force to fight against ceasefire and non-ceasefire ethnic groups, to control the lives of ethnic populations, and to further secure the country's border areas.

These militias have become notorious for taxing the local population, drug trafficking, illegal gambling, and a wide variety of human rights abuses. They have been allowed to do this with the express permission of local military commanders who have themselves earned money from the variety of illegal activities that the groups operate. In fact, article 340 of the 2008 constitution states that:

With the approval of the National Defence and Security Council the Defence Services has the authority to administer the participation of the entire people in the Security and Defence of the Union. The strategy of the people's militia shall be carried out under the leadership of the Defence Services.<sup>1</sup>

As the country seeks to move forward its democratic reforms, further emphasis needs to be placed on regulating these militias whose control over local populations can only destabilise any future peace agreements with ethnic resistance movements. While some of these groups had previous ceasefire agreements with the Burmese Government, a number of them were created to further expand control over the area and act as a counter to ethnic forces.

Known as People's Militia Forces (PMFs) or Border Guard Forces (BGFs)<sup>2</sup> they continue to exploit the local population and their

existence is detrimental to any future progress being made in ethnic areas. In addition, it is possible that these forces, with the collusion of local army commanders, may seek to derail the current peace process to further maintain their control over the population and the lucrative drugs trade. The U.S. Army and Marine Corps Counterinsurgency Field Manual notes that ‘...If militias are outside the host nation government’s control, they can often be obstacles to ending an insurgency.’ and that, ‘...Militias may become more powerful than the host nation government, particularly at the local level.’<sup>3</sup> While such forces may have been considered a necessary force in the eighties and nineties (see figure 1) when armed resistance was at its peak, the reliance on state militias now needs to be reconsidered.

The first notable militia in Burma was the *Sitvundan* created in 1948 to counter the influence of communist and ethnic forces, especially the Karen.<sup>4</sup> This was followed in 1955 by the *Pyu Saw Hti* which was based on Israel’s settlement defence system.<sup>5</sup> However, it was the formation of the *Ka Kwe Ye* (KKY) units after Ne Win rose to power, that militia units were able to exert their influence over Shan State. A number of drug dealers including Khun Sa and Lo Hsing Han were allowed to exercise control over their territories in return for not supporting Shan separatists. However, due to their widespread involvement in the drug trade, the KKY units were ordered to disband in 1973. Regardless, many of the unit’s commanders turned to insurgency and continued to deal in drugs.

The drug trade continues to flourish and while the UWSA is still considered to be a major trafficker, local militias now play a significant role with the permission of local Burma Army commanders. In its recent report on the drug trade in Shan State, Shan Herald Agency for News noted that:

Burmese military commanders [are] giving the green light to People’s Militia Forces (PMFs)- the paramilitary forces built up among the local populace by the Army - to establish their own drug production plants and trafficking networks and thereby wrest the market away from the ceasefire groups.

And that there has been:

A massive increase in poppy cultivation, and heroin and amphetamine production in the Burma Army-People's Militia controlled areas, far more than in areas under rebel-ceasefire control.<sup>6</sup>

In other areas, where drugs are not so widely available, local militia commanders and Burma Army units exploit the local population through taxation, bribery, forced labour and military duty. Almost all villages in ethnic states have been forced to recruit local militia units in their respective areas. Senior General Than Shwe instructed local military authorities to form 1 militia battalion in each quarter of a town and each village tract. Burma has 13,725 quarters/village tracts. Although the Burma Army has not been able to reach this goal yet, the short-term aim appears to be having a militia battalion per township.<sup>7</sup>

For example, one Karen source noted that infantry Battalion 124 and 603, which are under the command of the southern military command, ordered the training of 50 villagers from five wards in Than Taung Gyi town, Taungoo district:

Recruitments are made for people's militia every year. Each person has to serve as a militia for at least one year in rotation. If three people serve this year, the other three have to serve next year. The recruitment depends on the size of the village. If a person doesn't want to attend the militia training, he has to hire another trainee. Some villages which have enough money hire trainees for Kyat two lakhs. If a village has to send five trainees, it spends Kyat 10 lakhs . . . After the militia training, the trainees have to follow the army's patrol columns. In a platoon, there are 5 to 6 soldiers and 5 to 6 people's militia men. In Htan Ta Pin town, people had to serve as militia for 10 years but villagers in Than Taung Gyi Township have had to serve as people's militia since 1997.<sup>8</sup>

The situation is similar in Mon State with one Mon Human Rights group noting that there was an increase in the recruitment of local militia units prior to the 2010 election:

. . . there were just 10 militia, 5 security troops, and 3 to 4 police previously based in his village. Now local SPDC authorities

are now trying to involve villagers in the recruitment of security and militia troops. . . . they have requested at least 50 extra members in the different groups . . . the militia members in Kyaikmayaw Township have salaries, earning 60,000 to 100,000 kyat a month through various taxes and extortions levied on their fellow villagers. In addition each militia member's uniform costs 20,000 kyat which villagers are forced to pay for. According to Kyaikmayaw residents, the SPDC gives the militias in the township broad license to extort money.<sup>9</sup>

A situation that was echoed in 2009 in Arakan (Rakhine) State which according to sources had, in 2009, about 6,900 members in militias, but authorities had plans to increase that number to 11,000 prior to the election.<sup>10</sup>

The reason for the training of militia forces, at least according to one trainee in the program, was recounted by the Militia's trainer from IB No. 62 as:

. . . if there is a demonstration in the future, we, trainees have to confront the demonstrators and if necessary, they need to shoot the demonstrators with guns equipped by the army.<sup>11</sup>

The Burmese government's control over ethnic population through the use of militias is further supported by the lack of opportunities for local residents. As noted earlier, militia members can be paid as much as 100,000 kyat consequently, as one villager noted:

I think most of the villagers are not interested in joining the militia training. But they [the military] can persuade the residents who are jobless by giving them some opportunity to get some business using their power in the area. It's probable that they will collect at least 20 people, and maybe more people, to serve in the militia in our village.<sup>12</sup>

However the costs to local villages are a huge burden:

*Yapu* villagers were ordered to pay 600,000 *Kyat* for their village's Peoples' Militia Force [approximately 65 soldiers] to buy uniforms, hats, badges and to provide a stipend for the militia privates' families. This order was given by LIB No. 410, a battalion that was installed for security along the *Kanbauk to Myaing Kalay* gas pipeline.<sup>13</sup>

In addition to these costs, each family has to pay 2,500 to 3,500 *kyat* a month. Failure to pay could result in arrest. In addition, the recruitment of local militias has had a major impact in often poverty ridden villages and towns as noted by one local government official:

The civil militia training has been on since 2004, every year supervised by the Matupi township Tactical (2) LIB 140 camp. This has forced the youths to flee to neighbouring countries to evade training.<sup>14</sup>

There had been a major increase in the training of local militia forces prior to the election. However such forces continue to be a major burden to local communities. The use of militia forces, and their upkeep, increases poverty in already poor areas and further adds to suspicions of the Burma Army and the government.

Now that the government has embarked on a number of peace initiatives it is essential that the role of militias in the lives of local ethnic populations be reduced. While it may be argued that the situation is not sufficiently peaceful enough to begin disbanding local militias, their continued existence, the cost to the community, and the human rights abuses they perpetrate need to be sufficiently addressed. As Seth G. Jones notes in the *Strategic Logic of Militias*:

...to be effective over the long run, governments need to establish tight control mechanisms that prevent militia from challenging the state and committing human rights abuses that can undermine local support...Consequently, the emphasis of policymakers should be on the quality of regulation, not on whether a militia is inherently desirable or undesirable.<sup>15</sup>

The continued militarisation of the country and the army's role in society has not declined through the inauguration of a nominal civilian government. The People's Military Service draft law issued on December 17, 2010, which states that men between the ages of 18 and 45 and women between the ages of 18 and 35 have to serve in the military for two years, further exacerbates an already unendurable situation and continues to lead to people fleeing to neighbouring countries.

For the living standards of local people to be improved, the anxiety felt by local communities in relation to the militarization of their lives



needs to be removed. If the government wants to see enduring and lasting peace then the use of militias, and the Military Service draft law, which further entrenches fear of the military, needs to be reassessed and a new strategy formulated.

Notes:

1. Article 340 of the Constitution of the Republic of the Union of Myanmar, Ministry of Information, September 2008
2. People's Militia Forces are forces that have often been recruited by the Burma Army for anti-insurgency campaigns and village security. Border Guard and Home Guard Forces are groups that had previously signed peace agreements with the Government and then became part of the Border Guard Force program.
3. 'The U.S. Army and Marine Corps Counterinsurgency Field Manual', David Petraeus, Marine Corps Warfighting Publication No. 3-33.5, p87
4. The Sitwundan were used to police Karen areas and were responsible for a number of massacres of the local population. Their action would finally lead to the Karen rebellion.
5. 'Burma Insurgency and the Politics of Ethnicity', Martin Smith, Zed Books, 1999 p.95
6. Shan Drug Watch, Oct 2011, Issue 4
7. NDD commentary # 301, 15 July 2007
8. 'Villagers forced to take militia training, Saw Khar Sunyar, KIC, 23 October 2010
9. Mon Forum, Issue No 11/November 2009
10. 'Locals ordered to serve in militias' BNI, 2 September 2009
11. Mon Forum, Issue No 11/November 2009
12. Ibid.
13. Ibid.
14. 'Junta conducts civil militia training' BNI, 3 February 2010
15. 'The Strategic Logic Of Militias', Seth Jones, Rand National Defence Research Institute, 2012

## **Burma's By-Elections**

### **A Chance for Future Reconciliation?**

(April 2012)

On 1<sup>st</sup> April 2012, the Thein Sein Government held its first by-election. The elections were for forty-five legislative seats that had been vacated by the ruling USDP party primarily due to elected representatives being appointed to the cabinet and therefore constitutionally required to resign their seat.<sup>1</sup> In addition, a further three seats were also available in Kachin State at Phakant, Moe Kaung and Ba Maw.<sup>2</sup> However, the Election Commission, on the 23 March 2012, decided to postpone voting in all three constituencies stating that security concerns prevented free and fair elections being held there.<sup>3</sup> The National League for Democracy (NLD), which had sought to enter candidates for the three areas, petitioned the Election Commission to allow it to meet with the Kachin Independence Organisation stating that:

We want to negotiate with the KIO and would like the government or the EC to help with this. . . We believe that it is possible to run elections in the three constituencies.<sup>4</sup>

KIO Spokesman La Nan, in response to the request was reported in 'The Irrawaddy' as saying that:

We will open our door to meet any group for talks about the rights of people and the political situation in Burma. We condemn what the government said, and deny that the election must be postponed because of the KIO. . . During the 2010 and 1990 elections, the KIO did not interrupt the process. . . There is no fighting in the constituencies in question. . . Only in rural areas.

Regardless of such overtures, when elections were finally held no voting took place in Kachin State, however, the NLD was able to claim 43 of its 44 contested seats despite the fact that a number of

restrictions and irregularities were reported. While most seats were in predominantly mixed areas, the NLD was also able to take seats in a number of ethnic states.

The National League for Democracy candidate, Daw Khin Htay Kywe, who is ethnically Mon, was able to win votes in Moulmein in Mon State where the popular All Mon Regional Development Party (AMRDP) won a major victory in the 2010 election. The fact that the AMRDP, comprised of members from the Mon National Democratic Front (MNDF) and retired New Mon State Party members, was unable to secure a victory in the Mon State capital suggests that ethnic parties are still not able to generate enough support to defeat the popularity of Aung San Suu Kyi and the NLD in their own constituencies.

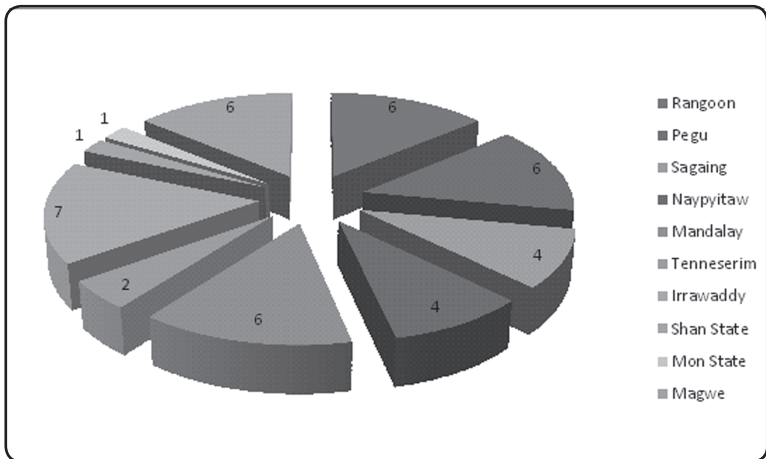


FIGURE 1 - NUMBER OF SEATS WON BY THE NLD IN THE 1 APRIL 2012 BY-ELECTION

As one resident speaking to the Independent Mon News Agency notes:

I already knew the Mon party (AMRDP) would be defeated, but I voted for them anyway. I don't care about the defeat. It couldn't be helped, since many other Mon nationals had more interest in the fighting peacock (the NLD).<sup>5</sup>

What role the NLD will be able to play in parliament is unclear, however many see the NLD's success in the by-elections as one of the first steps towards a genuine democratic process and proof that the Government is prepared to hold a nominally fair election. While there were reported irregularities, including the use of waxed ballots, the elections were, if put into a regional context, reasonably fair. Nevertheless, it must be stressed that the by-election and the number of seats the NLD now holds in relation to the military's grip on parliament should not be seen by the international community as a clear indicator of a major democratic shift.

A number of countries, including the United States, promptly moved to ease a number of sanctions in the wake of the NLD's landslide victory. However, the international community should be more cautious in easing sanctions as long as ethnic conflict still continues in Kachin State. And while a number of peace talks, including those with the Karen National Union and the Arakan Liberation Party, continue to be positive, those sanctions that are likely to prevent further abuses by the military should be maintained.

It is believed that the success of the NLD in the by-elections is a strong indicator that the NLD will be able to challenge the ruling USDP in the 2015 elections. This will then give both the NLD and ethnic parties a chance to contest and eventually amend the 2008 constitution and a least to some degree ease the military's control over the political processes of the country.

There is also some hope that the NLD, and its new role in parliament, will be able to increase support for ethnic right in the country. The NLD has vowed to support the ethnic peoples who voted for it with Ko Kyi Zaw Lwin of the NLD stressed after the victory in Moulmein:

Our party's victory is thanks to the massive support from Mon nationals, and it represents the voice of the public. All our party members are extremely pleased. . . Once we are in the Hluttaw (Parliament), we will address the needs of the Mon region. There are 41 villages in this region, and we have a systematic plan to assess and meet all civilian needs.

Other ethnic parties, which lost seats to the NLD in the by-election, have also come out in support of the NLD's victory. The chairman of the Rakhine Nationalities Development Party (RNDDP), which won 35 parliamentary seats in Arakan State in the 2010 elections, Dr. Aye Maung, stated that:

I believed the NLD would win in the election because the NLD is still popular among the people with the hope of Burmese people. Now the NLD won a landmark victory in the election in accordance with my thinking. It is a great chance for all of us to change Burma to a democratic country. Daw Aung San Suu Kyi and some NLD representatives will come to parliament in the future and it is also a good opportunity for democratic forces in parliament to carry out more effectively what we need to change for democracy in Burma through parliament.<sup>6</sup>

Another Arakanese party, the Arakan League for Democracy, which won 11 seats in the 1990 election and is currently unregistered, praised the success of Aung San Suu Kyi and the NLD, one of its senior politicians, U Aye Tha Aung commented:

The ALD has been an alliance party of the NLD for two decades. We are working together for democracy in Burma even though we are facing many challenges against us. We hope Daw Aung San Suu Kyi will amend the constitution with the support of some parliament legislators, including the army, throughout the parliament in the near future. Daw Suu has the ability to bring the country to a democratically developing and united country in the near future.

While a number of ethnic parties have won seats in parliament, the success of the National League for Democracy and the failure of the ruling Union Solidarity and Development Party (USDP), which only gained one seat in Sagaing Division, suggest that the key for ethnic equality may rest in the NLD. The only ethnic party that was able to triumph in the election was the Shan Nationalities Democratic Party (SNDP) which won one of the two seats in Shan State, although this was in the Upper House.

The re-emergence of the National League for Democracy into Burma's political arena can drastically change the situation for ethnic groups. The NLD's policies, and its past alliance with ethnic political actors, shows that it is more than willing to engage the countries' minorities on an equal footing. This could open the way for tripartite dialogue and a genuine reconciliation process between the Government, the NLD, and ethnic parties that may finally lead to a lasting sustainable peace and an end to human rights violations.

It would, therefore, be in all ethnic political parties' interests to work closely with the NLD and ensure that their own agendas are supported by the NLD in parliament. This view is further recognised by the United Nationalities Federal Council (UNFC), an alliance of ethnic armed groups led by the Kachin Independence Organisation. In a statement released on the 3 April 2012, the UNFC noted in relation to the NLD's three main objectives of ensuring 'peace, rule of law and amendment of the 2008 Constitution' that:

We, the UNFC, absolutely believe that Daw Aung San Suu Kyi, jointly with [the] current president, U Thein Sein, will be able to endeavour for realization of the stage of political dialogue with the armed ethnic nationally [sic] organizations for the realization of a genuine (federal) union, or realization of the genuine federal principle, from this first step of democratic primary victory to the second steps comprising of nationwide ceasefire and then the realization of peace within the country. Ethnic aspirations, and ensuring equality for all people in Burma, are now tied to the success of the NLD and support given to it by ethnic political parties. While there is still far to go in terms of ensuring equality, the NLD's victory over the USDP is a positive sign that could lead to a mutually inclusive and peaceful Union.

And that:

We, the UNFC, would like to make known our position that we will cooperate, participate and act to the best of our ability for achievement of the said three political objectives.<sup>7</sup>

The NLD's success in the by-election, while not providing it with the ability to dramatically influence the parliamentary process at the

moment, suggests that the country may be on course towards genuine democratic transition and reconciliation. However, it is imperative that President Thein Sein, Daw Aung San Suu Kyi, and all ethnic actors work together to maintain this momentum and ensure that the county continues to move forward towards genuine change, an end to ethnic conflict, and equality for all peoples of the country.

Notes:

1. One seat also became available due to the death of one legislator.
2. Political Monitor No.8, Euro-Burma Office, 17-23 March 2012
3. Ibid.
4. 'NLD Seeks Election Talks with KIO', Lawi Weng, *The Irrawaddy*, 26 March 2012
5. 'NLD bests AMDP in Mon State' *IMNA*, 4 April 2012
6. 'Two Arakanese Parties Welcome Landmark Victory for NLD in By-Election', Maung Rammar, *Narinjara*, 4 April 2012
7. 'United Nationalities Federal Council (UNFC) Statement Congratulating Daw Aung San Suu Kyi and NLD for Victory in By-Election Held on April, 2012', UNFC, 3 April 2012

## **The Burmese Regime's Offensive Against the Shan State Progress Party/ Shan State Army**

(July 2012)

In an attempt to consolidate its grip on the country's ethnic borderlands, the Burmese regime has launched operations against what was the first brigade of the Shan State Army – North now renamed the Shan State Progress Party/Shan State Army (SSPP/SSA) and designated by the Burmese regime as the SSA (Wamhing). The first brigade of the previously ceasefire Shan State Army – North had refused to transform itself into a Home Guard Force as instructed by the regime prior to the election.<sup>1</sup> Despite the fact that the two other SSA-N Brigades, the third and the seventh, already capitulated, the first, under the command of Major-General Phang Fa, remains resolute and is under attack by the Burma Army.

This attack against the SSPP/SSA was the first in what will mostly likely be a series of offensives designed to fracture and ultimately destroy all armed ethnic opposition in Shan and Kachin States.<sup>2</sup> While such an objective is not surprising and has been anticipated for some time, what remains to be seen however, is how those remaining armed groups, specifically those in Shan and Kachin States, are able to repel the Burmese Military and consolidate, if possible, a unified front.

### **Armed Groups in Kachin and Shan States**

At the moment there are four major armed groups operating in the Shan and Kachin States that have refused to transform into a Border Guard Force. As far as these groups are concerned, the UWSA is the most formidable force and it is estimated to be able to field over 25,000 troops. The UWSA is divided into eight brigades, split between



northern and southern regions, with the Burma Army controlling territory between the two. There are three brigades (each approximately 1,500 strong), an artillery regiment and a Panghsang headquarters force in the northern Wa Hills close to the Chinese border. There are an additional five brigades stationed in the southern 171 Military Region neighbouring Thailand. In addition to numbers, the UWSA also has a vast array of weaponry including 12.7 mm and 14.5 mm heavy machine guns, 120 mm mortars, anti-aircraft canons and surface to air missiles (Soviet SAM-7s and Chinese built HN-5Ns).<sup>3</sup>

The NDAA-ESS, based at Mongla, has a force of approximately 5,000 mainly Shan and Akha hill-tribe troops, the NDAA-ESS is divided into three battalions, the 369 Brigade based at Hsaleu bordering Wa territory in the east; a headquarters brigade near Mongla and the 911 Brigade close to the Mekong River in the east. North of Shan State is the Kachin Independence Organisation. With a fighting force estimated between 4,000 and 5,000 the KIA is divided into the northern 1st Brigade based in the 'Triangle' between the Mali Hka and N'mai Hka rivers northeast of Myitkyina, the 2nd Brigade in the Hukawng Valley to the west; and the 3rd Brigade is based in Laiza in the zone southeast of Myitkyina (for information about the Burma Army attacks against the Kachin see the EBO's Kachin Update).

### **The Attacks Against the Shan State Army - North**

The third group in Shan State after the UWSA and Mongla, was the SSA-N which was originally composed of 3 brigades (1, 3, 7), one border force and a HQ Security Force led by Maj-Gen Loimao. The 1st Brigade was based in Wanhai, Kehsi township, southern Shan State, under the command of Maj-Gen Parngfa; Brigade No.3 was in Mongkhurh, Mongyai township, northern Shan State, also under the command of Maj-Gen Loimao and Brigade No.7 was based in Kali, Hsipaw township, also in the north of Shan State, led by Maj-Gen Gaifa. The First Brigade was the strongest and at its height was reported to have approximately 2,500 fully armed men.<sup>4</sup>

The group's top leader Maj-Gen Loimao with 12 other top members accepted the proposal to transform to a Home Guard Force at a meeting, on 22<sup>nd</sup> April 2010, with Maj-Gen Aung Than Tut, Commander of the Burma Army's North-eastern Region Command at its Lashio headquarters. Consequently, the Shan State Army - North's Hsengekeow headquarters force in Hsipaw township, was officially named as the Hsengekeow Home Guard Force (HGF) on Sunday 25<sup>th</sup> April 2010. It was reported that the HGF was comprised of approximately 700 troops (300 from Brigade No.3 and the Hsengekeow HQ, and 400 from Brigade No.7).<sup>5</sup>

### **The Post-Election Offensive**

Tensions between the Burma Army and the SSA-N First Brigade rose steadily throughout the latter part of 2010 and especially after the election. The first major incident occurred on the 11<sup>st</sup> November 2010 when a fire fight erupted between troops of Light Infantry Division (LID) 33 and Battalion 24 of the Shan State Army-North at Kunkieng-Wanlwe, three miles west of Wanhsaw, a village near the SSA-N's main base. Burmese troop movements had gradually increased throughout the latter part of the year and it was widely believed that the Burma Army was making preparations to confront ceasefire armies in Shan State.

In response to the attack, the Shan State Army North's (SSA-N) headquarters instructed its units stationed at Wan Et, Mong Nang sub-township, in Wan Kang Township, and Wan Tu Ya in Mong Nawng to abandon their positions. The move was believed to be a strategic manoeuvre to prevent further attacks against its ill-prepared forces in retaliation for the LID 33 attack.

In preparation for further attacks and to plan its next move the SSA-leadership convened a month long meeting at the end of December. After the meeting it was announced, in January 2011, that the SSA-N had decided to resurrect itself as the Shan State Progress Party (SSPP), originally founded by the former Shan State Army (SSA) leaders in 1971. In addition it also re-formed the Shan State

Army into 5 new brigades: 1<sup>st</sup>, 27<sup>th</sup>, 36<sup>th</sup>, 72<sup>nd</sup> and 74<sup>th</sup> with 3 battalions each. <sup>6</sup>

Heavily outnumbered, the SSPP/SSA sought support from its nearest allies, the UWSA and the NDAA-ESS. In addition, it also opened a liaison office in Mongla to better coordinate resistance to the regime should there be any attacks from the Burma Army. According to a trader in Mongla, many families of the SSPP/SSA also moved into Nam Luap, Hselur and Mong Yang townships where 2,000 homes had been built for the new arrivals. <sup>7</sup>

In what may have been an attempt to test the resolve of any alliance agreements and push forward its goal of removing armed groups from Shan State, the regime soon increased its troop numbers opposite SSPP/SSA positions. Consequently, further clashes erupted in early March 2011 when an estimated 100 soldiers from LIB 12 in Ho Nam in Kehsi Township clashed with a number of SSPP/SSA troops, this was followed by another skirmish involving a 100 strong force from Light Infantry Battalion (LIB) 513 based in Panglong not long after. After the clashes the Burmese junta sent reinforcements from LIBs 516, 248 and 64 based in Mong Kung, Laika and Mong Nawng townships. LIBs 191 and 290, based near Lashio, were also sent into the area after fighting broke out.

After two days of fighting and a massive bombardment, Burmese troops were able to seize the Nam Lao base of the Shan State Army – North on the 16 March 2011. The Nam Lao base in Mong Hsu Township was the second largest base of the SSPP/SSA and was a strategic military gateway to three crossings on the Salween River (Tapiang Phi, Tawoon Keng and Tawoon Nawng) these connected it with territory controlled by the United Wa State Army. The fighting was reported to have caused at least 600 villagers to flee with the possibility that a number may have been killed or injured. At least one report states that four novice monks were killed when a shell hit a Nam Lao temple. <sup>8</sup>

According to one source by March, more than nine Burmese battalions had been deployed in the area of Wanhai, the location of

the SSPP/SSA headquarters. The battalions and their locations were reported to be Battalion 517, Mong Pone; Battalion 247, Nam Sang; Battalion 513, Panglong; Battalion 515, Battalion 516 and Battalion 64 at Laika; Battalion 12, Loi Lem; Battalion 191, Nam Pong; and Battalion 290 at Lashio.<sup>9</sup> The strength of the Burma Army troops around Wanhai was estimated to be approximately 2,000 supported by 16 armoured personnel carriers.<sup>10</sup>

In an attempt to further validate its offensive against the SSPP/SSA the New Light of Myanmar, on the 21 March 2011, reported that the SSA (Wahming) were insurgents who were ‘. . . constantly carrying out terrorist acts and destructions.’ In addition, it also printed the accusation that the group had:

‘. . . planted mines and broke a bridge on Mongshu-Mongnawng Road in Mongshu Township yesterday morning . . . Likewise, SSA (Wahming) group destroyed a bridge on Mongyai-Seinkyawt-Hsaungkye Road in Hsipaw Township in mine blast yesterday morning.’<sup>11</sup>

In a strategy to present the group as unstable, the same issue also reported:

‘A 13-member group led by Sai Mon of SSA (Wahming) armed group exchanged arms for peace in the region of North-East Command with 11 units of small arms, one sub-machine gun, one BA(93), 291 assorted rounds of ammunition, 16 BA(93) grenades and its nine bullets, 15 assorted magazines, one bandolier, and three landmines yesterday.’<sup>12</sup>

With no support coming from its allies, the Shan State Army - North fighters were forced to retreat from Wanhsaw, Monghsu township, on the 6<sup>th</sup> April 2011. Consequently, more than 300 villagers fled to Monghsu, where sources report seeing a signboard on which was written “Operation Zwe Man Hein” at the entrance to the command post of a brand new unit, Infantry Battalion 149.<sup>13</sup>

The Burma Army’s operations in the area have once again resulted in a number of abuses against local citizens. The Shan Human Rights Foundation (SHRF) has detailed a number of these abuses including the torture and killing of civilians on suspicion of supporting the

Shan resistance, the gang rapes of three women, and the forced relocation of over 100 villagers.<sup>14</sup>

There is little doubt that the Regime is insistent on destroying the SSPP/SSA and any other ethnic forces that refuse to capitulate to their demands. Not surprisingly, a proposal by ethnic parties submitted to the parliament to find a peaceful resolution with the ethnic armed groups on 25 March was defeated by 520 votes against 106 votes.<sup>15</sup>

### **Reactions from the UWSA, NNDA-ESS and the KIA**

In a statement issued on the 19 March 2011, the UWSA had made its position clear in relation to the attacks on its ally noting that:

‘Existing differences and contradictions should be managed by Political Dialogue, Discussion on Equal Footing and Peaceful Resolution. We will oppose any settlements through intimidation and military means.’

In addition, both the UWSA and the NNDA-ESS (Mongla) were able to broach the subject of the reasons for the attacks with a Burma Army delegation which had just concluded a quarterly border committee meeting with their Chinese counterparts in Kengtung. According to one source:

‘The Burmese delegation led by Tun Tun Nyi had replied they had ordered the SSA to move all their units to their main base Wanhai, but the SSA had not complied, which had led to clashes between the two.’<sup>16</sup>

Despite such reasoning, the new constitution makes it clear that all armed groups have to surrender control of their forces to the Burma Army. Even if the SSPP/SSA had resituated all its troops to its main headquarters it would still have been in contravention of the constitution. If anything, such a move would only have made it easier for the Burma Army to contain SSPP/SSA troops and force their disarmament.

For its part, the NNDA-ESS recently complied with a Burma Army request to move out of its furthest southern base at Hsop

Yawng on the Yawng River. In addition, they have also been asked to vacate their base at Hsop Lwe north of Mong Yawng. Concerns from the UWSA of the NNDA-ESS losing this territory has resulted in the UWSA 468<sup>th</sup> Brigade deploying between 1,200-1,500 troops to reinforce Mongla's positions. The Burma Army ostensibly claimed that its moves were necessary to ensure security in an area that has been plagued by bandits. That said however, such a move could further constrict both groups easy access to each other and also between the SSA-S, which operates south of Mong Yawng.

While the SSPP/SSA has refused to yield to Burma Army demands, the NNDA-ESS is apparently prepared, at least to a degree, to find some compromise. But if they accept the second demand, to vacate their base at Hsop Lwe, then they will find themselves pushed further north and subsequently find their area of control substantially reduced. While the NNDA-ESS leadership may be willing to acquiesce to Burma Army demands, such an agreement would not find favour with the UWSA as they see their southern neighbour pushed further towards their borders.

For its part, at the beginning of the attacks on the SSPP/SSA, the KIA's Brigade 4 had been ordered to repel any Burma Army incursions into its territory after it was reported that Burma Army troops had approached Kachin territory searching for fleeing SSPP/SSA soldiers.<sup>17</sup> Since May however, conflict has also erupted in Kachin State. Burmese troop movements in areas around KIA territory led to the KIO issuing a demand that Burmese troops pull back from KIO areas by the 25<sup>th</sup> May 2011. After the Burma Army's failure to withdraw open warfare between the two sides erupted and is likely to continue for some time.

## **Ethnic Alliances**

At the beginning of November 2010, Six armed ethnic groups, the KIO, the New Mon State Party (NMSP) and the SSPP/SSA ; and non-ceasefire groups, the Karen National Union (KNU), Karenni National Progressive Party (KNPP) and Chin National Front (CNF), announced an alliance. It also set the formation of a "federal army"

as its main priority. The primary goal was set after a series of meetings at which the groups also decided to create a working committee, the Committee for the Emergence of a Federal Union (CEFU), to carry out political and military strategies as a joint force.

At a conference held from the 12-16 February 2011, CEFU declared its dissolution and formed the United Nationalities Federal Council (UNFC). The UNFC, which is comprised of 11 ethnic organisations, stated that it intended to create a Union Army however as yet this has not materialized. Although the SSPP/SSA was one of the original members, it later distanced itself from the group saying that it could only be a member on a state basis although at present it remains a member. Another problem facing the UNFC is its failure to include the Shan State Army – South (SSA-S) which would be an essential member in linking the alliance to groups operating in Shan State.

Despite the declarations of such alliances, there appears to be little to suggest there will be any effective combined front in the future. As attacks on the Kokang and the SSPP/SSA demonstrate, no member of an alliance is prepared to risk its own bargaining status with the regime to support other members. Consequently, the Burma Army will be able to gradually erode individual ethnic forces until they can either be defeated or pose no major threat.

### **RCSS/SSA-S and the SSPP/SSA**

On 21 May 2011, Shan State People's Resistance Day, Lt. General Yawd Serk, leaders of the Restoration Council of Shan State (RCSS), announced that 'There is only one Shan State Army now. SSA 'South' and SSA 'North' [does not] exist any longer.'<sup>18</sup> He then continued, '... It is clear that we have the same enemy and fighting for the same ideal. We just need to work out the details,' Despite such a statement the details that remain to be worked out may be problematic. Both sides have two constitutions which will need to be re-written and the SSPP consists of a 21 member committee who will need to be accommodated in a future Shan State council. While such problems

are not insurmountable it is unlikely that any changes will occur prior to the end of the year.<sup>19</sup>

There is little doubt that the SSA-S has been providing some military support to the SSPP/SSA in operations against the Burma Army since conflict began on the 13<sup>rd</sup> March 2011. As Yawd Serk notes “We have been helping and supporting the SSPP since it was attacked, though we operate separately,”<sup>20</sup> Despite this the SSPP continues to face increasing defeat. On the 13 June 2011 the SSPP/SSA were forced to retreat from its Kawng Sao Merng base, located one mile east of its former HQ Hsengkaew, Hsipaw township, after an intense shelling campaign and an attack involving three Battalions of BA troops.

According to Shan sources the conflict resulted in the loss of four of the SSPP’s bases thus far. Over 5 Battalions were reported to be currently heading towards the SSPP’s former headquarters at Hsengkaew bringing the total number of troops deployed against the SSPP to 25 battalions.

Notes:

1. Due to the fact that the SSA-N territory does not border additional countries, ceasefire groups are transformed into Home Guard Forces rather than Border Guard Forces.
2. The ongoing offensive in Karen State has intensified since November 2010 after DKBA forces seized Myawaddy. See ‘EBO Analysis Paper No. 1/2011 – The Situation in Karen State after the Elections.’ Euro-Burma Office, April 2011
3. [http://adm.ebro.liucentre.ubc.ca/documents/DND\\_Wa\\_State\\_Army.pdf](http://adm.ebro.liucentre.ubc.ca/documents/DND_Wa_State_Army.pdf) accessed on 16/5/07 and ‘On Myanmar-China border, tensions escalate between SPDC, Narco militias’, Michael Black, World Politics watch, 13 December 2006
4. [http://shanland.org/index.php?option=com\\_content&view=article&id=3012:ceasefire-shan-army-to-split-into-two-factions&catid=85:politics&Itemid=266](http://shanland.org/index.php?option=com_content&view=article&id=3012:ceasefire-shan-army-to-split-into-two-factions&catid=85:politics&Itemid=266) accessed 25 March 2011
5. [http://shanland.org/index.php?option=com\\_content&view=article&id=3015:ceasefire-shan-army-denies-group-breakup-&catid=85:politics&Itemid=266](http://shanland.org/index.php?option=com_content&view=article&id=3015:ceasefire-shan-army-denies-group-breakup-&catid=85:politics&Itemid=266) accessed 25 March 2011
6. [http://shanland.org/index.php?option=com\\_content&view=article&id=3422](http://shanland.org/index.php?option=com_content&view=article&id=3422)



- :dormant-shan-party-reactivated&catid=85:politics&Itemid=266 accessed 28 March 2010
7. 'Regime troops reinforced in northern Shan State', Jai Wan Mai, Mizzima, 10 March 2011
  8. 'Burmese troops overrun SSA-N base in Nam Lao', Jai Wan Mai, Mizzima, 17 March 2011
  9. 'Burmese Junta and SSA-N fighting continues' Jai Wan Mai, Mizzima, 15 March 2011
  10. 'Burma Army occupies SSA core base', Hseng Khio Fah, SHAN, 16 March 2011
  11. 'SSA (Wamhing) group destroys bridges in Mongshu, Hsipaw townships', NLM, 21 March, 2011
  12. 'Armed groups return to legal fold understanding genuine goodwill of Government', NLM, 21 March, 2011
  13. SHAN, 6 April 2011
  14. 'Human Rights abuses reported in Shan State clashes', Sai Zom Hseng, Irrawaddy, 12 April 2011
  15. See 'Parliament snubs ethnic harmony bill', DVB, 28 March 2011
  16. 'Wa, Mongla grill junta on Shan offensive.', SHAN, 23 March 2011
  17. 'Tension rising between Burmese Army and KIA over Shan troops', KING, 26 April 2011
  18. 'SSA 'South', SSA 'North' declare 'We are one'', SHAN, 23 May 2011
  19. Personal conversation with Shan analyst, 6 June 2011
  20. 'SSA 'South', SSA 'North' declare 'We are one'', SHAN, 23 May 2011

## **Re-Opening Mongla**

### **The National Democratic Alliance Army – Eastern Shan State (NDAA - ESS)**

(July 2012)

As the peace process continues, a number of groups that had previously signed ceasefire agreements with the Government, primarily the UWSA and the NDAA-ESS, have begun to see some changes in the Government's interaction with them. One of these, the NDAA-ESS which operates a number of lucrative gambling operations has seen its territory reopened to both tourism and those wishing to frequent its casinos.

The NDAA- ESS, based at Mongla, opposite China's Daluo, was formerly the Communist Party of Burma's 815 War Zone. It has 3 brigades and 15 battalions with 300 men each. The 369 Brigade is based at Hsaleu bordering Wa territory in the east; there is a headquarters brigade, the 896, near Mong La; and the 911 Brigade is close to the Mekong River in the east.<sup>1</sup>

It had originally been under a great amount of pressure to surrender with calls, in March 2007, for the group to accept a Burma Army presence in areas under their control.<sup>2</sup> Although the Burma Army continued to build up troops close to NDAA territory, no significant fighting was reported. In 2009, the NDAA was, like other ceasefire groups, ordered to transform itself into a Government controlled Border Guard Force. An order it, and its allies the Kokang and the UWSA, refused to accept. The NDAA had initially agreed to the BGF programme if the following could be granted:

1. To become a militia force, where there will be no junta officers to run the show

2. To conduct military trainings in Mongla territory
3. To include Hsaleu (which, according to Naypyidaw, is in Mongyan township) and Nampan (which, according to Naypyidaw, is included in Mongyang) Mongla township

The regime refused the request, and the NDAA remained defiant as further calls and deadlines for the group to agree passed.

The NDAA leadership suffered a serious blow in January 2010 with the assassination of its General Secretary Min Ein aka Lin Hongshen. There was speculation that Min Ein had been a soft-liner in relation to the SPDC calls for the group to join the Border Guard Force. The National Democratic Front, of which the NDAA is not a member, suggested that intelligence Chief Ye Myint of the Military Affairs Security (MAS) was responsible:

At the 4-monthly meeting of the SPDC leaders, the inability to transform the ethnic armed forces to BGF was discussed. After the meeting, head of the SPDC Military Affairs Security (MAS), Lt. Gen. Ye Myint, issued secret orders to all the Division and State commanders to deal amicably with the ethnic cease-fire organizations and, at the same time, to covertly assassinate their leaders.

And that:

For that reason, the assassination of General Secretary of Mongla Force, U Min Ain, is the lowdown work of the SPDC military leaders. Similarly, the SPDC military leaders are responsible for recent assassination of Gen. Sai Nounk, adviser to the Shan State Army-North. We have no doubt that head of MAS, Lt. Gen. Ye Myint is directly or indirectly involved in the assassination.<sup>3</sup>

Despite the accusations, the reason for his death and who the perpetrators were, remain unknown.

Regardless, the Government continued to call for ceasefire groups to revert to BGF units. The NDAA, on 20 August 2010, met with SPDC negotiators led by Maj-Gen Kyaw Phyo, Commander of the Golden Triangle Region Command. It was told that if they failed to

convert themselves into a BGF by September 2010, it would automatically be designated as “an unlawful association or illegal organizations.” Nonetheless, both the NDAA and the UWSA had apparently agreed on a four-point strategy that they would pursue:

1. We will not surrender,
2. We will not transform into a BGF unless autonomy demands are met
3. We will not shoot first, but are ready to protect ourselves
4. We will not secede from Union

In the same month, in August 2010, in what was most likely a move to manoeuvre the ceasefire group into re-assessing their options, the Burma Army attacked the NDAA’s ally the MNDAA (Kokang). Despite the MNDAA defeat, and the replacement of its leadership, the NDAA remained defiant. The September 2010 deadline passed and although the Burma Army had shown its military power against the MNDAA, it cautiously avoided attacking the NDAA and its UWSA ally. However, in a move to further pressure the group, the government closed the road allowing access to Mongla from Kengtung on the 23 November 2010.<sup>4</sup>

In April 2011, the NDAA finally complied with a Burma Army request for it to move out of its furthest southern base at Hsop Yawng on the Yawng River. In addition, they were also asked to vacate their base at Hsop Lwe north of Mong Yawng. Such a move was of some concern as it would constrict both the NDAA and the UWSA’s easy access to each other and also between the SSA-South, which operates south of Mong Yawng. Concerned that the NDAA-ESS was going to lose this strategically important territory resulted in the UWSA’s 418th Brigade, commanded by Li Ai-su, deploying between 1,200-1,500 troops to reinforce Mongla’s positions.<sup>5</sup>

In September 2011, both the NDAA and the UWSA met with Government negotiators and signed a new agreement. According to an NDAA source:

The proposal looks fine, so we have signed it. Essentially, it is like the agreement we concluded in 1989, <sup>6</sup>

The agreement contained four points:

1. No hostilities between the two sides,
2. To reopen liaison offices on both sides,
3. To inform each other in advance if one side is entering the other side's territory carrying arms,
4. To form a joint coordination committee for regional development as soon as possible.

A second, more comprehensive, meeting took place between the NDAA and the Government negotiating team on 9<sup>th</sup> October 2011 in Kengtung. At this meeting the NDAA put forward the following 14-point proposal:

1. To allow the NDAA to open liaison offices in Rangoon, Taunggyi, Tachilek, and Mandalay.
2. To issue national identification cards for people in the NDAA controlled area of Eastern Shan State.
3. To issue vehicle licenses for people in NDAA areas.
4. To open tourism areas for Thai and Chinese tourists.
5. To allow the NDAA access to mining, coal and gold exploration and production.
6. To allow outside business groups to invest in the NDAA areas.
7. To send researchers to the area to assess natural resources.
8. To allow access to teak wood trading for 10,000 tons, as well as 10,000 tons of other hardwoods.
9. To allow NDAA control of border checkpoints and to receive border checkpoint tax fees.
10. To allow NGOS and the U.N. to help improve the area.
11. NDAA is pleased to take part in government's 15 year (1999-2014) drug elimination plan.
12. To supply NDAA areas with rice, fuel oil and money.
13. The group is pleased to welcome government personnel to resume work in government offices, after a joint assessment of the area.

14. The NDAA would like government officials to come and meet regularly in order to ensure their current ceasefire continues.

Of the 14 points, Government negotiators agreed to the following seven:

1. The two groups ratify the first meeting agreement.
2. NDAA will not secede from the Republic of the Union of Myanmar.
3. Government officials will be sent to run government offices in NDAA areas and NDAA people will be sent to work in NDAA liaison offices in government controlled areas.
4. The two sides will cooperate to improve education, health and transportation in NDAA controlled areas.
5. Both will cooperate to improve tourism, mining, and electricity in NDAA controlled areas.
6. Both will cooperate to work towards eliminating drugs in the NDAA controlled areas.
7. The two sides will meet regularly in order to maintain peace.<sup>7</sup>

The situation in the area has largely remained calm and no actual conflict has been reported. Consequently, the crossing points into Mongla from Mae Sai, Thailand and Daluo, China have been re-opened and the town is expected to benefit from increased tourism, trade and gambling. In an attempt to prepare its leaders for a political role in the country 102 of its leading members have been attending refresher course on politics and leadership skills.

On 20 May 2012, Yawd Serk, leader of the RCSS/SSA, visited Mongla and met with Sai Leun who had apparently told him that:

... the world is changing and the country is changing ... And that we need to be in tune with the change so we will not be left behind.

To further improve its image the group announced a crackdown on narcotics in areas under its control in July 2012. Mongla was declared opium free by the group in 1997 and Sai Leun had his name removed from a US blacklist in 2000. Despite this, there remain

concerns in relation to its connections with the UWSA, some members of which remain involved in the drugs trade. In addition, it has been suggested that the 20 casinos in Mongla territory are used to launder money for those involved in the trade.<sup>9</sup>

Notes:

1. 'Fighting talk - Myanmar threatens dry season offensive' Jane's Intelligence Review, 12 November 2009
2. <http://www.shanland.org/politics/2007/junta-demands-military-presence-in-mongla> accessed on 19/5/07
3. 'NDF Statement on Assassination of Mongla Leader', NDF, 28 January 2010
4. 'Mongla, closed to tourists since 23 November' S.H.A.N., 5 June 2012
5. 'Junta army follows Aesopean camel's footsteps', S.H.A.N., 21 April 2011
6. 'Wa, Mongla sign new ceasefire agreement', Hseng Khio Fah, S.H.A.N., 9 September 2011
7. 'ndaa-and-govt-negot-terms', S.H.A.N
8. 'Mongla prepares leaders for transition', S.H.A.N., 23 May 2012
9. 'Mongla launches crackdown on drugs', S.H.A.N., 16 July 2012

## **Enduring Peace in Shan State**

### **The Restoration Council of Shan State /Shan State Army and the Continuing Peace Process<sup>1</sup>**

(July 2012)

On the 19<sup>th</sup> May 2012, the Restoration Council of Shan State/Shan State Army (RCSS/SSA) met in Kengtung to further consolidate the current peace process. The meeting was held to build on other meetings that have taken place since the 19<sup>th</sup> November 2011 (for further information see BCES BP No.1). Despite 17 clashes occurring throughout this initial period,<sup>2</sup> the RCSS/SSA has remained committed to securing peace in the country and thus signed a new 12-point agreement with the Government's Union Peace Working Committee (UPWC). The points agreed to were:

1. The RCSS/SSA plan to cooperate in the eradication of illicit drugs is heartily received by the UPWC to be forwarded to the President for consideration
2. The two sides will conduct a joint field survey for the resettlement of displaced people
3. The government will assist families of the RCSS/SSA members to earn adequate means of livelihood
4. The government will assist the RCSS/SSA in the preservation and promotion of Shan literature and culture
5. The RCSS/SSA is permitted to request assistance from and coordinate with NGOs and INGOs
6. The RCSS/SSA will be allowed to register its Tai Freedom news agency after the new media law comes into effect
7. Members and supporters of RCSS/SSA who are in prison will be released except for those who have been imprisoned on criminal charges



8. A peace monitoring group will be formed before the end of July 2012 after nomination by the two sides of suitable persons
9. The two sides will continue to build up mutual trust to enable the RCSS/SSA to be totally withdrawn from the list of unlawful associations
10. A special industrial zone will be set up in the area controlled by the RCSS/SSA
11. The RCSS/SSA is free to hold political consultations with individuals, groups and communities throughout the country
12. National ID cards will be issued to members, family members and people residing with the RCSS/SSA<sup>3</sup>

This was the first meeting for the reorganised UWPC led by Minister of Railways, Aung Min, to also include high-level military officials including Gen. Soe Win, Deputy Commander-in-Chief and commanders from the Triangle, Central and Eastern commands. The inclusion of the Army commanders allowed the two sides to directly address the confusion over military issues.

Despite the agreement there still remain a number of concerns. The Burmese Army is insistent that the Shan State Army – South move all of its units north of the Salween and in Eastern Shan State down to the Thai border. The RCSS has made it clear that it is not prepared to relocate its troops until a substantive political settlement has been reached.

The taxation of villagers is also a worry that needs to be addressed. The RCSS has agreed that it would gradually reduce and finally cut village taxation when an alternative can be found. U Aung Min has offered to assist the RCSS in this endeavour by providing money and rice not only to SSA-South troops but also to IDPs that fall under RCSS jurisdiction. At present there are an estimated 8,000 IDPs (primarily Lahu, Akha and Pa-O) in the Mongta area.

To further support itself in the future the RCSS set up a company ‘Shan Taungdan Cherry’ in April 2012 and a business liaison office was set up in Muse. In addition the RCSS has set up liaison offices in Kangtung, Tachilek, Mongsat, Khotaung and Taungyi. It is not yet

clear whether the Norwegian Peace Initiative, which supports KNU liaison offices in Karen State, will also provide funding for those in Shan State.

A more recent issue that has caused some concern is conflict with the UWSA. The UWSA are under the misapprehension that the Government has allowed SSA-South troops to set up bases near its own troop positions. The RCSS, anticipating such concerns in relation to its ceasefire, had already sent a letter, dated 17 February 2012, to UWSA Chairman Bao Youxiang stating that:

The government led by UThein Sein have included an agreement on Monghta and Homong sub-townships where your forces have also maintained a presence, and we would like to discuss with you on how we can continue to live and let live together.

The Burmese military has explained to us that the reason it is not withdrawing from the area is because it is worried we might take to fighting against each other if it is not there. As for us, we think it will be better for both of us if the Burmese military withdraws. We therefore would like to consult with you how you would propose to do in the event that you were asked to withdraw (from the Homong-Monghta area) by the Burmese military.<sup>4</sup>

The UWSA did not respond to the request and as the peace process continued a number of Shan IDPs began farming rice and maize in areas close to UWSA positions. As a result, believing that the RCSS had violated their territorial integrity, UWSA brigades 772 and 778, based at these locations respectively, laid siege to the SSA's Loi Gawaan base, opposite Chiang Rai's Mae Fa Luang district, on the 16 June 2012. The siege lasted until the 19 June 2012 when a 4-point agreement was made between the two sides. The agreement noted that:

- The SSA agrees not to establish new bases closer to those of the UWSA
- Non-encroachment on each other's territory
- Notification of one's movements to the other in common territory
- Agreement for Shan IDPs to resume their farming projects<sup>5</sup>

Although an agreement has been made, the siege does raise serious concerns in relation to how the Burmese Government is responding to, or are aware of, the needs of other ethnic groups living in overlapping areas. As noted in other briefing papers the possibility of conflict between different ethnic groups can occur in Chin State due to the granting of an office to the Arakan Liberation Party and also in Karen State between the Karen National Union and New Mon State Party. This issue along with the failure of the Burmese Government to rein in its armed forces continues to be a major obstacle in the trust building process.

Since the 19 May 2012 meeting, there have been seven clashes (bringing the total since starting the process to 24) between the Burma Army and the Shan State Army – South. These clashes, which are usually described as ‘area clearing operations’ by the Burma Army which also claims that the SSA-South forces ‘were in the way’, are hardly likely to build trust in the continuing process and further calls in to question the ability of the UPWC, even with military inclusion, to fully implement the peace process. Despite such problems, however, optimism still remains high.

Notes:

1. The author would like to thank Sai Kheunsai Jaiyen, interviewed on 7 and 19 June 2012, for his help in preparing this briefing.
2. ‘RCSS/SSA and Naypyitaw have agreed on 11 points on peace talks’ SHAN, 20 May 2012
3. Unofficial translation, ‘The 12 point agreement’, SHAN, 23 May 2012
4. ‘Shan, Wa reach agreement’, SHAN, 19 June 2012
5. Ibid.

## **The Situation in Mon State**

(June 2012)

As pressure mounts on the ceasefire groups to transform into Border Guard Forces, media attention has focused on those groups, especially the Wa, in Shan State and the possibility of impending conflict. While there is no doubt that the situation there is precarious, with the oncoming rainy season, it is unlikely that there will be any military action until at least November 2010. Instead, the Burma Army has increased its pressure on the New Mon State Party (NMSP), a smaller and easier target, bordering Karen State and Thailand in the South of the country. While no official statements have been made, recent reports suggest that the NMSP is already considered illegal. At a 7<sup>th</sup> May meeting with the USDA, Major General Thet Naing Win of the South-east Command reportedly told the audience that the NMSP should be considered an illegal armed group. A source within the NMSP confirmed the group's new status.<sup>1</sup> With the NMSP's uncertain future, a new political party, the All Mon Region Democracy Party (AMRDP), has registered its intention to contest the election. Although, at the time of writing, the new party remains to be officially approved by the election commission, it remains the only glimmer of hope of Mon representation in the near future.

### **Background**

Founded by Nai Shwe Kyin on 20<sup>th</sup> July 1958 after the Mon People's Front, its predecessor, surrendered to the then U Nu government, the NMSP originally claimed five districts namely Pegu, Thaton, Moulmein, Tavoy and Mergui to be incorporated into an independent Mon State. The NMSP fought alongside the KNU and was an active

member of a number of ethnic alliance fronts including the National Democratic Front (NDF), the Democratic Alliance of Burma (DAB) and the National Council Union of Burma (NCUB), with the latter two including Burman pro- democracy groups.

Throughout the nineties, Mon State saw an increase in Burma Army activities and the inherent human rights abuses. First, due to the 160 km Ye-Tavoy railway link, and then due to the construction of the Yadana and Yetagun Gas pipelines. Both pipelines would cut through Mon State, Karen State, and then into Thailand's Kanchanaburi district. In an attempt to clear the pipeline area, the Burma Army began, in 1991, the construction of three new permanent bases and started counter-insurgency activities against both the NMSP and the KNU.

Thousands of civilians were forced to work for the Burma Army in the construction and maintenance of the bases, while others were forced to flee to refugee camps on the Thai border.

Faced with the further forced repatriation of Mon refugees from Thailand, and large scale human rights abuses due to the Ye-Tavoy railway link and pipeline projects, five representatives of the NMSP, responding to pressure from the National Security Council of Thailand, met with representatives of the Burmese regime at Moulmein, capital of Mon State, from 29<sup>th</sup> December 1993 to 3<sup>rd</sup> January 1994, but without a satisfactory conclusion. Talks resumed again on 25<sup>th</sup> March 1994, but also ended in a deadlock. After two days of recess, the meeting again resumed on 28<sup>th</sup> March 1994, however, a ceasefire was not finally agreed to until June 1995.

According to NMSP chairman Nai Shwe Kyin in an interview with the Democratic Voice of Burma, the reasons for the NMSP engaging with the regime were many:

‘...because we need internal peace. The other reasons included the urging of the Thai National Security Council, and officers of the No. 9 Thai local Regional Command; and the recent incident at the Halockkhani Mon refugee camp [where Mon refugees were forcibly repatriated to Burma by Thai officials]. We went because there was an opportunity to hold a meeting

with the SLORC based on a real need for internal peace. The other reason we had was that we do not want the people to see us as a weapons-wielding bloodthirsty group, which engages itself in illegal activities and does not want internal peace. We are always willing to hold talks if there is an opportunity for internal peace.<sup>2</sup>

After agreeing to the ceasefire, Burma's ruling junta originally granted the group nominal control of an area of Mon state spread out over 12 cantonments, largely along the Ye River and two areas to the north in Thaton and Moulmein Districts.<sup>3</sup> In addition, they were also given 17 industrial concessions in such areas as logging, fishing, inland transportation and gold mining, and were also allowed to make trade agreements with companies in Malaysia and Singapore.<sup>4</sup> The SPDC also recognized the creation of three refugee camps along the Thai-Burma border. These camps, based at Halochanee, Bee Ree, and Tavoy in Mon State, were supported by the Mon Relief and Development Committee (MRDC) with cross-border assistance from the Thai-Burma Border Consortium (TBBC).

The SPDC had originally agreed to supply the NMSP with four million kyat (nearly US \$3,500) in economic aid each month for the political body to function, however, this ended in 2005 after they boycotted the National Convention. A number of other concessions were also later withdrawn, most notably lucrative logging rights that were revoked in 1997, purportedly over the group's signing of the Mae Tha Raw Hta agreement which had a provision supporting the NLD.<sup>5</sup>

Seen as one of the more politically adept and democratic of all the ceasefire organisations, the NMSP's unwavering political stance immediately caused an increase in tensions between the group and the military regime. Although the NMSP had attended resumed sessions of the National Convention in 2004, it only sent observers after December 2005 due to the SPDC's refusal to address ethnic issues put forward in a joint proposal with 12 other ceasefire groups.

The federal proposal, which was presented at the National Convention session held between the 17<sup>th</sup> May and 9<sup>th</sup> July 2004, contained a number of requests including:

1. Concurrent legislative powers for the states
2. Residuary powers to the states
3. The states to draft their own constitutions
4. Separate school curricula for states
5. Separate defence force for states
6. The states to conduct their own foreign affairs on specific issues
7. Independent finance and taxation.<sup>6</sup>

Due to the NMSP stance, the SPDC cancelled its aid agreement with the group.<sup>7</sup> Also, in 2005, it was reported that the SPDC's military Intelligence apparatus began scrutinizing the group's activities in and around Moulmein where the organization is based. In addition to closely monitoring the NMSP itself, Mon NGOs and women's organization also found their activities curtailed.<sup>8</sup>

Causing further problems for the group was the fact that, despite the ceasefire, there were still displaced people in the NMSP's area, many of whom were unable to receive assistance due to the SPDC's restrictions. The TBBC's 2005 programme report notes the existence of 48,700 internally displaced people in 2004, an increase from the reported 31,100 the year earlier. The report also noted that:

“The Mon ceasefire agreement became more tenuous due to the New Mon State Party deciding to only send observers to the National Convention. Village leaders were ordered to increase surveillance of NMSP members' activities and the Burmese Army deployed 5 more battalions into NMSP areas during 2005. In ceasefire areas, the tension has primarily manifested itself through restrictions on travel to markets and fields.”<sup>9</sup>

The group was also placed under intense pressure to surrender its weapons and, in refusing to do so, found its freedom of movement and authority further reduced. Its refusal to openly condemn the move to bring the SPDC before the United Nation's Security Council

in 2006, its support for the Havel/Tutu report, and its close ties to anti-Rangoon opposition movements in Thailand also placed the organisation under acute scrutiny.<sup>10</sup> The group issued a number of statements in opposition to regime policy and ignored demands from the SPDC to condemn Aung San Suu Kyi's call for tripartite dialogue. In stressing its position on the latter, the group's statement noted:

'We believe that Burma's political problems can only be solved through political dialogue. Therefore, we established a ceasefire-agreement with the Burmese military government.

We have submitted our proposals on ethnic nationalities' rights in past sessions of National Convention, but our proposals have been rejected and ignored by the Convention. Thus, we reduced our participating in the National Convention from sending full representatives to observers.

We support Daw Aung San Suu Kyi's statement called for political dialogue in Burma. We will closely observe what would happen in reality. We strongly also believed that political dialogue could only be meaningful if all ethnic nationalities are included. [sic]<sup>11</sup>

The NMSP also issued two statements denouncing the regime's 2008 referendum and calling on voters to say 'No'. Despite its obvious relationship problems with regime, the NMSP was told that it, like all other ceasefire groups, would need to transform its military wing into a Border Guard Force.

On 5<sup>th</sup> August 2009, Mon National Day, the NMSP announced that it would not transform its armed wing, the Mon National Liberation Army, into a Burma Army-controlled Border Guard Force (BGF). With war looming, Naing Hong Sar, the General Secretary of the NMSP, stated in a May 2010 interview:

'We will not be able to keep doing political work and representing the party if we accept the SPDC's offer [to transform into BGF]. They [SPDC] will provoke us, the cease-fire will end, and peace will end in Mon State. This will happen not only with the Mon but other ethnic groups as well. This is a big change and there will be massive conflict if the SPDC keeps



doing what they want and the ethnic political parties are unable to accept their offer. To be clear, civil war will restart again. This change is important.<sup>12</sup>

When asked by the interviewer if this meant that the NMSP would need to prepare for a return to war, Naing Hong Sar replied that it did and preparation had already begun.

Regardless, a number of meetings have taken place between the NMSP and Lt. Gen. Ye Myint of the Southeast Command. The most recent was on the 7<sup>th</sup> April 2010, during which the NMSP were given a deadline of 28<sup>th</sup> April 2010 to acknowledge their transformation into a BGF or People's Militia. According to Mon sources, Lt. Gen. Ye Myint informed the NMSP representatives that failure to accept the SPDC's people's militia offer could result in a return to the 'pre-ceasefire relationship' between the two parties.<sup>13</sup>

In response, on 23<sup>rd</sup> April 2010, the NMSP reiterated their official decision stating that they could not become a local militia. According to a NMSP spokesperson, Nai Chay Mon, a special meeting had been held and twenty-seven Executive Committee (EC) members, including nine Central Executive Committee (CEC) members and five associated EC members, had decided not to accept the transformation of the MNLA into either a Burmese government-run militia, or a Border-Guard Force (BGF). Nai Chay Mon was also reported as saying that, 'We will try our best to maintain the ceasefire, but if the government forces us to accept their demands, or if the government attacks, we will have to defend ourselves.' Shortly after the meeting, a number of leaders were reported to have moved to safer locations in the event of a Burma army attack.<sup>14</sup>

The Burmese government's response has been surprisingly muted. Two Light Infantry battalions had been moved closer to the NMSP's northern border in Tavoy district prior to the NMSP's decision being announced. While no military action has been reported, the news immediately prompted local residents to flee to safer areas and there has been an increase in the population of the IDP camps near the Thai border. However, with the onset of the rainy season, it is unlikely

an attack will take place before November 2010. It has also been reported that local Town Peace and Development Council (TPDC) authorities and police units throughout Mon villages have also begun taking a census to establish the number of current NMSP members. It must be noted, however, that such actions have become regular occurrences, especially when the relationship between the NMSP and SPDC has become tenuous.

## **The Future**

The NMSP, gradually weakened by the regime since its refusal to fully attend the National Convention, is now in a particularly precarious position - militarily, geographically and economically. The Mon National Liberation Army (MNLA), which is estimated to have 500-700 fully armed troops, may be small but could easily join with the KNLA in mounting operations against the junta's forces.<sup>15</sup> In addition, the NMSP claims to have a further 2,000 members and should they become trained and armed, could prove to be a formidable force. Although it must be noted that securing weapons may be a problem. They may be able to acquire some from the KNLA, but the Karen themselves also face procurement problems.

There is little to suggest that the SPDC will seek a political accommodation with the NMSP and it has already begun training local NMSP splinter groups including the Mon People's Defence Force (MPDF). The MPDF is a minor group led by former MNLA Maj. Gen. Naing Aung Naing and it hopes to increase its numbers and qualify as a Border Guard Force.<sup>16</sup> The MPDF's compliance would once again give credibility to the regime as it could claim to have ethnic participation in its armed forces, although this group, like the others, would eventually be neutralized. But it is unlikely to have any impact or win much support from the local population.

With the likelihood of a return to guerrilla warfare by the NMSP, Mon participation in the political future of the country will have to rely on the All Mon Region Democracy Party (AMRDP). The party, led by Nai Ngwe Thein, appears to have strong support from the

Mon community. The leadership is comprised of a number of well respected former government civil servants and monks, and it is likely, in the event of a free and fair election, the AMRDP would win a number of seats.<sup>17</sup> Faced with criticism for joining the process, Nai Ngwe Thein has been quoted as saying,

‘Participating in the elections does not mean that we are going to be the government’s slaves and do whatever the government wants. We are going to raise our voice for our people in the parliament.’<sup>18</sup>

The future of Mon participation in their state’s development will be dependent on two distinct elements. First, a return to guerrilla warfare and the NMSP rejoining the National Democratic Front; working with the KNLA, the MNLA will continue to engage and harass regime forces in defence of the people. Second, a political solution exists in which the AMRDP, with support from the local population, contests the election in the hope the regime holds free and fair elections.

While the AMRDP may be allowed take on the mantle of Mon nationalism to a limited degree, its existence is unlikely to see a shift of support from the NMSP. For its part, the NMSP will return to open conflict with the regime until the Government provides a solution in which there is credible ethnic representation in government and suitable amendments to the constitution are made.

#### Notes:

1. ‘Southeast Command condemns NMSPas “illegal”at USDA conference’,IMNA,17 May 2010
2. ‘Mon leader views failure of cease -fire talks with junta’,DVB, 8 January 1994, theBurmaNetNews: Monday, January 23, 1995 Issue # 99
3. ‘Ethnic Politics in Burma’,Ashley South, Routledge, 2008, p160
4. ‘Waiting Game’,Louis Reh, Irrawaddy, Vol. 13, No.11, November 2005
5. ‘Ethnic Minority Politics, ICG Asia Report No 52, May 2003
6. See ‘Trading Legitimacy’, ENC Working Paper No 1, Appendix 2, 2008
7. ‘Ceasefire group says it can’t trust National Convention’-Shah Paung, Irrawaddy, 7 December 2006 and ‘Burmese junta cuts support for NMSP’ ,Louis Reh, Irrawaddy, 9 September 2005

8. 'Mon NGO's put under close watch', *Kaowao*, 15 October 2005
9. 'Programme Report- July to December 2005', *TBBC*, 2006
10. 'Investigation of New Mon State Party could threaten ceasefire', *Louis Reh, Irrawaddy*, 4 October 2005
11. 'Statement on Burmese military government asking ceasefire groups and political organizations to against political dialogue called by Daw Aung San Suu Kyi and to support the regime's National Convention.' *NMSP*, 16 November 2007 <http://www.nmsp.info/press.php> accessed on 11 May 2010
12. 'The relation between NMSP and SPDC on the 51st anniversary of the party foundation; Interview with secretary of NwMon State Party, *Nai Hong Sar*', *IMNA*, 12 March 2010
13. 'Unofficial NMSP member censuses gathered across Mon State', *IMNA*, 27 April 2010
14. 'New Mon State Party announces final "government militia" decision', *IMNA*, 24 April 2010
15. The Independent Mon News Agency, quoting the NMSP website, reported on 10 September 2009 that the MNLA had 350 members down from 7,860 at the time of signing the ceasefire. See 'MNLA gears up for conflict', *IMNA*, 29 April 2010
16. 'Nai Aung Naing's MPDF group gives military training in southern Mon state', *IMNA*, 19 May 2010
17. Email correspondence with Mon activist 19 May 2010
18. 'All Mon Region Democracy Party submits party flag and symbol for Commission approval', *IMNA*, 17 May 2010

## **Awaiting Peace in Mon State**

(August 2012)

The New Mon State Party (NMSP) has represented Mon national interests since its founding in 1958, however, the organisation found itself manoeuvred into a ceasefire agreement in 1995 with the SPDC (see background). As with other ceasefire groups, it refused to join the SPDC's BGF program and consequently faced a renewal of war. Nonetheless, with the emergence of the Thein Sein government's peace process, the NMSP, like other groups decided to conclude an initial peace agreement.

The NMSP has been a strong proponent of the United Nationalities Federal Council (UNFC) and has called for the alliance to be included in any negotiation process. Therefore, prior to a meeting on 22<sup>nd</sup> December 2011 <sup>1</sup> with U Aung Min in Sangkhalaburi, Thailand, NMSP President Nai Htaw Mon stated:

NMSP must make its stance according to the policies of the UNFC. These policies are that the State Government will make a preliminary dialogue with UNFC, and then declare a nationwide ceasefire. After that, a political dialogue will be discussed. <sup>2</sup>

The conflict in Kachin State and a number of clashes in Shan State have driven UNFC policy in relation to its member organisations dealings with the Government. Addressing the issue, Nai Htaw Mon continued:

It is not appropriate to battle in one territory after having a ceasefire in another territory. Therefore, as members of UNFC, each single member will not make any agreement with the government. However, there is a policy that each member can separately meet with the government's representatives. It is already known that the discussion will also be according to UNFC policies when the KNU meets with the government.

The NMSP's General Secretary Nai Hong Sar reiterated that:

We have no plans to meet Aung Min because they [the Burmese government] have ignored our demand to stop fighting in Kachin State . . . Our policy is based on the decision of the UNFC. We will not enter into a ceasefire alone. Instead of having an advantage, we are worried that we will have a disadvantage if we take the ceasefire individually.<sup>3</sup>

As with the Kachin Independence Army, the NMSP has had direct knowledge of working with the government and has been the most sceptical about peace overtures. Nai Htaw Mon, speaking at the Sixth Mon National Conference held at the Thai-Burmese border from 18-20 January 2012, reportedly told participants that:

We maintained a ceasefire for 15 years, but there was never any political dialogue. . . The only thing the ceasefire did was convince many members to leave our party. . . Many of our soldiers quit. They blamed us for cooperating with the Burmese military.<sup>4</sup>

In addition, the NMSP had openly opposed the 2008 constitution, and as with the UNFC and KIO, sees its un-amended existence as a major obstacle to any peace process being signed.

We believe that confrontation with government forces is inevitable unless the 2008 Constitution is revised . . . We consider the main issue to be the need for a review of the 2008 constitution, because it allowed the military to take all the main positions within the government. . . The Burmese government presented their political road map—but they will only let us walk this road if we sign a ceasefire. . . However, we said we would only walk this road if they changed the Constitution.<sup>5</sup>

With some reservations, the NMSP signed a preliminary agreement with the Government on 1<sup>st</sup> February 2012. The four point agreement, similar to other initial agreements, included the following:

1. To re-open a liaison office.
2. To get agreement in advance if weapons were to be carried outside limited areas.
3. To continue a negotiation with the central government for local development.

4. to hold political dialogue with state level negotiators.

After the agreement the NMSP opened eight liaison offices: Moulmein, Mudon, Thanbyuzayat, Ye, Phaya Thongsu, Yebyu, Kyaikmaraw, and Zingyaik.

Although the agreement has been signed, the NMSP remains wary especially in relation to the amendment of the constitution. As noted earlier the NMSP supports the UNFC in its calls for the Constitution to be amended outside of Parliament. The reason for this, according to NMSP General Secretary, Nai Hong Sar, is that necessary amendments would not be passed in parliament due to the military's overwhelming control of the system.<sup>6</sup> Therefore amendments should be made at a joint ethnic conference outside of parliament similar to that held at Panglong.

The issue regarding the constitution echoes calls of the UNFC. The alliances' most recent statement sets out a numbers of demands for a future peace process:

1. To hold the negotiation in a venue where either side cannot impose its influence;
2. To have an impartial international body to observe the proceedings during the entire period of negotiation;
3. In negotiation, representatives of the Union Government are to meet with representatives from all the armed organizations, including those from the UNFC;
4. A convention participated by representatives from all the armed ethnic organizations, the ethnic political parties, ethnic social organizations and the ethnic intelligentsia is to be held; (If other groups of forces want to hold such a convention, they must have the permission to do so within their own groups)
5. A broad-based national convention with a structure acceptable to all the forces (stake holders) and participated by equal number of delegates from the ethnic forces, democratic forces and the government is to be held.
6. The decisions made by the convention are to be recognized as the agreements of the entire Nation, and the organizations concerned are to accept them for the implementation;

7. These processes are to be finished, before the general elections in 2015.<sup>7</sup>

While the agreement continues to be upheld there remain major concerns that if there is no end to conflict in Kachin State then a number of those already made with other groups will collapse. The New Mon State Party (NMSP) along with the Karen National Union (KNU) and the Karenni National Progressive Party (KNPP),<sup>8</sup> all UNFC members, threatened in a UNFC statement:

... if the Bamah Tatmadaw does not stop its transgression and military offensives in Kachin State by June 10, 2012. Also, our UNFC members, who have agreed ceasefire with U Thein Sein government, have decided to review the peace process and future programs, including the preliminary ceasefire agreements reached.<sup>9</sup>

While such incendiary language in relation to the Burma Army was unlikely to win the UNFC support, its failure to affect the agreements after the deadline passed further identified weaknesses in its policies. Both the NMSP and the KIO largely dictate UNFC policy and it is interesting to note that both had had prior agreements with the military leadership and saw the regime gradually renege on them.

One of the biggest problems throughout the ceasefire period for both groups was the lack of political space given to them. This is largely the reason why both the NMSP and KIO want to see a substantive political solution before committing any further to the peace process. While the KIO insists it will not have a ceasefire until conditions for dialogue are met first, the NMSP has agreed to ceasefire but wants to see political dialogue soon. Failure to accommodate this may result in the collapse of agreements already made, as Nai Hong Sar, NMSP General Secretary, notes:

We requested in December that the government hold political talks with each and every ethnic armed group ... but we don't see any signs that they will do it. If they do not hold negotiations, we will renounce the ceasefire.<sup>10</sup>

Although most major armed ethnic groups have made agreements with the Government there still remains the need for an all-inclusive



ethnic consultation. Until this request is met then all ethnic ceasefire agreements will be tenuous.

## **Background**

Founded by Nai Shwe Kyin on 20<sup>th</sup> July 1958 after the Mon People's Front, its predecessor, surrendered to the then U Nu government. The NMSP originally claimed five districts namely, Pegu, Thaton, Moulmein, Tavoy and Mergui to be incorporated into an independent Mon State. The NMSP fought alongside the KNU and was an active member of a number of ethnic alliance fronts including the National Democratic Front (NDF), the Democratic Alliance of Burma (DAB) and the National Council Union of Burma (NCUB) with the latter two including Burman pro-democracy groups.

Throughout the nineties Mon State saw an increase in Burma Army activities and the inherent human right abuses. First, due to the 160 km Ye-Tavoy railway link and then to the construction of the Yadana and Yetagun Gas pipelines. Both pipelines would cut through Mon State, Karen State, and then into Thailand's Kanchanaburi district. In an attempt to clear the pipeline area the Burma Army began, in 1991, the construction of three new permanent bases and started counter-insurgency activities against both the NMSP and the KNU. Thousands of civilians were forced to work for the Burma Army in the bases construction and maintenance, while others were forced to flee to refugee camps on the Thai border.

Faced with the forced repatriation of Mon refugees from Thailand and large scale human rights abuses due to the Ye-Tavoy railway link and pipeline projects, five representatives of the NMSP, responding to pressure from the National Security Council of Thailand, met with representatives of the regime at Moulmein, capital of Mon State, Burma, for the first time from 29<sup>th</sup> December 1993 to 3<sup>rd</sup> January 1994 but without a satisfactory conclusion. Talks started again on the 25<sup>th</sup> March 1994. This meeting also ended in a deadlock. After two days of recess the meeting resumed again on the 28<sup>th</sup> March 1994 however a ceasefire was not finally agreed to until June 1995.

According to NMSP chairman Nai Shwe Kyin, in an interview with the Democratic Voice of Burma, the reasons for the NMSP engaging with the regime were many:

... because we need internal peace. The other reasons included the urging of the Thai National Security Council, and officers of the No. 9 Thai Local Regional Command; and the recent incident at the Halockkhani Mon refugee camp [where Mon refugees were forcibly repatriated to Burma by Thai officials]. We went because there was an opportunity to hold a meeting with the SLORC based on a real need for internal peace. The other reason we had was that we do not want the people to see us as a weapons-wielding bloodthirsty group, which engages itself in illegal activities and does not want internal peace. We are always willing to hold talks if there is an opportunity for internal peace.<sup>11</sup>

After agreeing to the ceasefire, Burma's ruling junta originally granted the group nominal control of an area of Mon state spread out over 12 cantonments largely along the Ye River and two areas to the north in Thaton and Moulmein Districts.<sup>12</sup> In addition they were also given 17 industrial concessions in areas such as logging, fishing, inland transportation and gold mining and were also allowed to make trade agreements with companies in Malaysia and Singapore.<sup>13</sup> The SPDC also recognized the creation of three refugee camps along the Thai-Burma border. These camps, based at Halochanee, Bee Ree, and Tavoy in Mon State, were supported by the Mon Relief and Development Committee (MRDC) with cross-border assistance from the Thai-Burma Border Consortium (TBBC).

The SPDC originally agreed to supply the NMSP with four million kyat (nearly US \$3,500) in economic aid each month for the political body to function, however, this ended in 2005 after the NMSP boycotted the National Convention. A number of other concessions were also later withdrawn, most notably lucrative logging rights that were revoked in 1997 purportedly over the group's signing of the Mae Tha Raw Hta agreement which had a provision supporting the NLD.<sup>14</sup>

Seen as one of the more politically adept and democratic of all ceasefire organisations, the NMSP's unwavering political stance

immediately caused an increase in tensions between the group and the military regime. Although the NMSP attended resumed sessions of the National Convention in 2004, it only sent observers after December 2005 due to the SPDC's refusal to address ethnic issues put forward in a joint proposal with 12 other ceasefire groups.

The federal proposal, which was presented at the National Convention session held between the 17<sup>th</sup> May and 9<sup>th</sup> July 2004, contained a number of requests including:

1. Concurrent legislative powers for the states
2. Residuary powers to the states
3. The states to draft their own constitutions
4. Separate school curricula for states
5. Separate defense force for states
6. The states to conduct own foreign affairs in specific subjects
7. Independent finance and taxation.<sup>15</sup>

Due to the NMSP stance, the SPDC cancelled its aid agreement with the group.<sup>16</sup> Also in 2005, it was reported that the SPDC's military Intelligence apparatus began scrutinizing the group's activities in and around Moulmein where the organization was based. In addition to closely monitoring the NMSP itself, Mon NGOs and women's organization also found their activities curtailed.<sup>17</sup>

Causing further problems for the group was the fact that, despite the ceasefire, there were still displaced people in the NMSP's area many of whom were unable to receive assistance due to the SPDC's restrictions. The TBBC's 2005 programme report notes the existence of 48,700 internally displaced people in 2004, an increase from the reported 31,100 the year earlier. The report also noted that:

The Mon ceasefire agreement became more tenuous due to the New Mon State Party deciding to only send observers to the National Convention. Village leaders were ordered to increase surveillance of NMSP members' activities and the Burmese Army deployed 5 more battalions into NMSP areas during 2005. In ceasefire areas, the tension has primarily manifested itself through restrictions on travel to markets and fields.<sup>18</sup>

The group was also placed under intense pressure to surrender its weapons and, in refusing to do so, found its movement and authority further reduced. Its refusal to openly condemn the Burmese government being brought in front of the United Nation's Security Council in 2006, its support for the Havel/Tutu report, and its close ties to anti-Rangoon opposition movements in Thailand also placed the organisation under acute scrutiny.<sup>19</sup> The group also issued a number of statements in opposition to regime policy and ignored demands from the SPDC to condemn Aung San Suu Kyi's call for tripartite dialogue. In stressing its position on the latter, the group's statement noted:

We believe that Burma's political problems can only be solved through political dialogue. Therefore, we established a ceasefire-agreement with the Burmese military government.

We have submitted our proposals on ethnic nationalities' rights in past sessions of National Convention, but our proposals have been rejected and ignored by the Convention. Thus, we reduced our participating in the National Convention from sending full representatives to observers.

We support Daw Aung San Suu Kyi's statement called for political dialogue in Burma. We will closely observe what would happen in reality. We strongly also believed that political dialogue could only be meaningful if all ethnic nationalities are included.<sup>20</sup>

The NMSP also issued two statements denouncing the regime's 2008 referendum and calling on voters to say 'No'. Despite its obvious relationship problems with regime it was told that it, like all other ceasefire groups, would need to transform its military wing into a Border Guard Force.

On 5th of August 2009, Mon Revolution Day, it was announced that it would not transform its armed wing, the Mon National Liberation Army, into a Burma Army controlled Border Guard Force (BGF). With war looming in Nai Hong Sar, the General Secretary of the NMSP, stated in a May 2010 interview.

We will not be able to keep doing political work and representing the party if we deny their offer. They [SPDC] will provoke us,

the cease-fire will end, and peace will end in Mon State. This will happen not only with the Mon but other ethnic groups as well. This is a big change and there will be massive conflict if the SPDC keeps doing what they want and the ethnic political parties are unable to accept their desires. To be clear, civil war will restart again. This change is important.<sup>21</sup>

When asked by the interviewer if this meant that the NMSP would need to prepare for a return to war, Nai Hong Sar replied that it did and preparation had already begun.

Regardless, a number of meetings took place between the NMSP and Lt. Gen. Ye Myint, of the Southeast Command. A meeting held on 7<sup>th</sup> April 2010 resulted in the NMSP being given a deadline of 28<sup>th</sup> April 2010 to acknowledge their transformation to a BGF or People's Militia. According to Mon sources, Lt. Gen. Ye Myint informed the NMSP representatives that failure to accept the SPDC's people's militia offer could result in a return to the 'pre-ceasefire relationship' between the two parties.<sup>22</sup>

In response, on 23<sup>rd</sup> April 2010, the NMSP reiterated their official decision stating that they could not become a local militia. According to an NMSP spokesperson, Nai Chay Mon, a special meeting had been held and twenty-seven CC members, including nine Central Executive Committee (CEC) members and five associated CC members, had decided not to accept the transformation of the MNLA into either a Burmese government-run militia, or a Border-Guard Force (BGF). Nai Chay Mon was also reported as saying that,

We will try our best to maintain the ceasefire, but if the government forces us to accept their demands, or if the government attacks, we will have to defend ourselves.<sup>23</sup>

Shortly after the meeting a number of leaders were reported to have moved to safer locations in the event of a Burma army attack.<sup>24</sup>

The Burmese government response was surprisingly muted. Two Light Infantry battalions had been moved closer to the NMSP's northern border in Tavoy district prior to the NMSP's decision being announced. While no military action was reported, the news immediately prompted local residents to flee to safer areas and there was an increase

in the population of IDP camps near the Thai border. But, with the onset of the rainy season, it was unlikely an attack would take place before November 2010. It was been reported that local Town Peace and Development Council (TPDC) authorities and Police units throughout Mon villages had begun taking a census to establish the number of current NMSP members. It must be noted, however, that such actions were regular occurrences, especially when the relationship between the NMSP and SPDC became precarious.

Notes:

1. The NMSP first met with Government negotiators in Ye on 6 October 2011
2. 'New Mon State Party will enter peace dialogue only according to UNFC policies', Min Thu-Ta, IMNA, 1 December 2011
3. <http://www.warsintheworld.com/index.php/2012/01/15/burma-myanmar-new-mon-state-party-nmsp-will-not-discuss-ceasefire-until-fighting-ends-in-kachin-state/> accessed 3 August 2012
4. 'Mon Chairman Says 'No' to Ceasefire', Lawi Weng, The Irrawaddy, 23 January 2012
5. Ibid.
6. Personal Conversation with Nai Hong Sar, General Secretary, NMSP, 3 August 2012
7. 'Statement of the United Nationalities Federal Council (UNFC) Regular Meeting', UNFC, 22 July 2012
8. 'UNFC gives deadline to halt military offensives', Phanida, Mizzima, 14 May 2012
9. 'Statement of Extraordinary Meeting of the UNFC', UNFC, 10 May 2012
10. 'Ceasefire is Breakable: NMSP', Lawi Weng, The Irrawaddy, 19 June 2012
11. 'Mon leader views failure of cease-fire talks with junta', DVB, 8 January 1994, the BurmaNet News: Monday, January 23, 1995 Issue #99
12. 'Ethnic Politics in Burma', Ashley South, Routledge, 2008, p160
13. 'Waiting Game', Louis Reh, The Irrawaddy, Vol. 13, No.11, November 2005
14. Ethnic Minority Politics, ICG Asia Report No 52, May 2003
15. See 'Trading Legitimacy', ENC Working Paper No 1, Appendix 2, 2008
16. 'Ceasefire group says it can't trust National Convention' - Shah Paung, Irrawaddy, 7 December 2006 and 'Burmese junta cuts support for NMSP', Louis Reh, Irrawaddy, 9 September 2005

17. 'Mon NGO's put under close watch', Kaowao, 15 October 2002
18. 'Programme Report - July to December 2005', TBBC, 2006
19. 'Investigation of New Mon State Party could threaten ceasefire', Louis Reh, The Irrawaddy, 4 October 2005
20. 'Statement on Burmese military government asking ceasefire groups and political organizations to against political dialogue called by Daw Aung San Suu Kyi and to support the regime's National Convention.' NMSP, 16 November 2007 <http://www.nmsp.info/press.php> accessed on 11 May 2010
21. 'The relation between NMSP and SPDC on the 51st anniversary of the party foundation; Interview with secretary of New Mon State Party, Nai Hong Sar', IMNA, 12 March 2010
22. 'Unofficial NMSP member censuses gathered across Mon State', IMNA, 27 April 2010
23. 'New Mon State Party announces final "government militia" decision', IMNA, 24 April 2010
24. Ibid.

## **Karenni (Kayah) State**

### **The Situation Regarding the Peace Process in Karenni (Kayah) State**

(August 2012)

In February 2012, the Burmese Government's main peace negotiator, U Aung Min, met with representatives of the Karenni National Progressive Party (KNPP) in Chiang Mai, Thailand. The move was another step towards securing peace throughout the country with armed ethnic groups. The focus of the talks, the second after an initial meeting in November, centred on the Government's practice of confiscating farmland from local villagers and the suspension of dam projects to allow local consultation with affected parties.

Similar to information released after initial meetings between the Government and the Karen National Union, media reports offered conflicting information. Reuters reported on 16<sup>th</sup> February 2012 that U Aung Min had apparently announced that the KNPP was set to ink the deal on 1<sup>st</sup> March 2012, a statement denied by KNPP Secretary - 1 Khu Oo Reh who responded that:

Aung Min said that, but we think that he trumped it up because the [Burmese] government wants international countries and organizations to think their efforts are fruitful. He's just trying to get credit. In our first meeting with them, they did not fix a date. He told them that without informing us.<sup>1</sup>

Regardless of such misperceptions, the KNPP met again with the Government in Loikaw on 7<sup>th</sup> March 2012. The Burmese Government was represented by Karenni State Chief Minister Khin Maung Oo, Minister U Aung Min, Minister Soe Thein, Minister Nyan Tun Aung, Minister Than Htay, Minister Khin Yi and Minister Khin Maung Soe.



The KNPP delegation included Khu Oo Reh; Karenni Army Commander-in-Chief Bee Htoo; Karenni Army Colonel Phone Naing. The meeting was observed by U.S. attaché Andrew Webster; second secretary of the British Embassy Joe Fisher; and United Nations High Commissioner for Refugees representative Hans ten Feld. <sup>2</sup> During the meeting, the KNPP agreed to a cease-fire, to open liaison offices in suitable locations and to hold union-level peace talks at a later date.

On 9<sup>th</sup> June 2012, the KNPP once more met with the Peace negotiating team to discuss an agreement that would build upon discussions that took place in March. The signed agreement contained the following points:

**Agreement (1)**

Both parties recognize that there has been no more fighting in Kayah State since an initial cease-fire agreement was signed at the State-level talk on 7<sup>th</sup> March 2012. Both parties agree to not attack or conduct offensive military actions except in self-defense. Both parties agree to have further discussions about control of military forces under each command and discussions regarding the battalions under control of division headquarters at the next Union-level talks.

**Agreement (2)**

2-1: Both parties agreed to discuss and resolve the designation of troop encampments and areas of troop movement at the next Union-level talk.

2-2: Both parties agreed to set up the main liaison office in Loikaw and two branch offices in Shadaw and Phasaung, then more branch offices will open in other townships if agreed to by both parties. The Union government will help provide facilities for better communications at the liaison offices.

2-3: Both parties shall agree on the appointment of liaison officers.

**Agreement (3)**

Both parties agree to form a local monitoring body to improve the peace building process and to verify terms of the cease-fire agreement

between the Government and KNPP. Both parties also agreed to submit member lists for agreement and then assignment to the monitoring body.

**Agreement (4)**

Both parties agreed to form a state-level survey committee to assess the real will of local people regarding construction of military training facilities. The committee will submit a fact finding report to the President on July 10<sup>th</sup>, 2012 at the latest.

**Agreement (5)**

Both parties agreed to consultation on establishment of rehabilitation program for the IDPs.

**Agreement (6)**

To ensure transparency on the planned mega-projects (including the Ywathit Hydropower Project), both parties agreed to provide information to the public and to allow the local people and community-based organizations to seek information.

**Agreement (7)**

Both parties agreed to work hand-in-hand with the national human rights commission to stop human rights violation in Kayah State. Additionally, both parties agreed to form a local monitoring group for action related to human rights violations.

**Agreement (8)**

Both parties agreed to continue to allow the existing INGOs and NGOs working on education, health, development and social works in Kayah State. Both will report to State and Union governments during the transition period.

**Agreement (9)**

The government agreed to provide assistance or to allow international organizations to provide assistance to the members and families of the KNPP. The government will assist in getting permission from relevant departments or organizations if the KNPP wants to run a legal business or enterprise.

### **Agreement (10)**

The Government agreed to gain release of detained political prisoners associated with the KNPP. This does not include prisoners incarcerated for crimes.

### **Agreement (11)**

Both parties agreed to form an observer group with mutually acceptable members to improve the effectiveness of the political negotiations process between the two parties.

### **Agreement (12)**

The KNPP agreed to cooperate with both Union and State governments for eradication of illegal drugs and rehabilitation of drug addicts.

### **Agreement (13)**

Both parties agreed to hold nation-wide political dialogue as soon as possible with political parties, ethnic organizations and ethnic armed groups that have already signed cease-fire agreements with Government.

### **Agreement (14)**

Both parties agreed to remain bound by agreements signed on March 7<sup>th</sup>, 2012 at the State level and on June 9<sup>th</sup>, 2012 at the Union level.<sup>3</sup>

On July 25, the KNPP was able to open its first liaison office in the Karenni State capital of Loikaw with the two others to be opened later. While initial signs have been good there remain a number of obstacles to be addressed. TBBC estimated in June 2012 that they were feeding approximately 17,000 refugees in the two Karenni refugee camps in Thailand's Mae Hong Son Province.<sup>4</sup> In addition to those refugees seeking shelter in Thailand, there are also an estimated 35,000 people displaced in Karenni State itself. A large number of those displaced had their land confiscated by the Burma Army as part of its self-reliance programme and also due to the building of a new training camp in Hpruso Township.

Most recently, on 28<sup>th</sup> June 2012, a minor clash occurred between the Karenni Army and Burma Army Light Infantry Battalion No. 530 resulting in five Burma Army soldiers wounded.<sup>5</sup> While this was an isolated incident, it does suggest that such problems may continue in the future. At the moment, there are 15 Burma Army Battalions stationed in Karenni State, ten are based out of Loikaw and the other five out of Pekhon.

In addition to the refugee/IDP issues and militarisation, there are also major concerns regarding the construction of three hydro-electric dams. The Datang Corporation of China has signed a memorandum of understanding with the Burmese government to build the dams, the largest of which is at Ywa Htit on the Salween River and there will also be two supplementary dams constructed on the Pawn and Thabet tributaries.

## **Background**

Under colonial administration Burma was divided into two very distinct entities: Burma proper or ministerial Burma, consisting only of what are now the majority divisions of the country, and the excluded areas which were comprised of what is now Karen State (then known as the Karen Salween Hill tracts), Chin State (Chin Hills), Arakan State (Naga Hills) and Shan and Kachin States (Federated Shan States). During the 18<sup>th</sup> and 19<sup>th</sup> centuries Karenni State was split into five sub states, each ruled by a King called a Saophya and therefore did not come under the direct rule of either the Burman Kingdom or Britain.

In 1875 the Burmese monarch and the British government, made an agreement that formally recognised the independence of the four western Karenni sub states (the fifth Karenni sub State was included in the Union of Burma in 1888 following fighting between the British and the local Saophya). The four Karenni Saophyas were left to continue ruling their sub states. The Karenni, like many of the other ethnic groups, allied themselves to the British during the Second World War and, like the other groups, believed that the British would allow them to continue with their independence after the Japanese defeat.

In February 1946, Shan Sawbwas invited the Karenni Saophyas to attend an ethnic conference to be held at Panglong. The Karenni Saophyas refused to attend the meeting stating that as a separate independent state outside British-Burma there was no reason for their attendance. That year, on the 11<sup>th</sup> of September 1946, the Karenni leader, U Bee Tu Ree, the Myosa of northern Bawlake, announced the formation of a United Karenni State Independent Council (UKSIC) comprising all four Karenni states. Less than a year later, in November 1947, Saw Maw Reh and members of the UKSIC formed the Karenni National Organisation (KNO) and it was these organisations that would seek to represent Karenni interests.<sup>6</sup>

As far as it was concerned, the British government had already made allowances for the former frontier areas to be given special dispensation for self rule in any future independent Burma. Aung San and a number of AFPFL representatives, minus any ethnic members, were invited to London for discussions with then Prime Minister Clement Attlee. Despite the fact that Attlee had received a cable from the Shan Sawbas stating that '*Aung San and his delegation did not represent the Shan and the frontier areas*' talks continued.<sup>7</sup> The result was that the Aung San – Attlee agreement, originally designed to give the country full self-government within the commonwealth, stated that ethnic states, including Karenni, could decide for themselves if they wished to join with the Union of Burma. It also stated that a conference to discuss ethnic representation must be arranged by the AFPFL.<sup>8</sup>

The subsequent conference, held at Panglong in Shan State on the 12th of February 1947, resulted in the signing of what became known as the Panglong agreement.<sup>9</sup> This agreement provided for autonomy for both the Shan and Chin states and the future demarcation for a Kachin state.<sup>10</sup> The ethnic issue was also later addressed in the 1947 constitution which included a provision that ethnic states could secede from the Union but not within 10 years of the constitution coming into law.<sup>11</sup>

The situation for the Karenni however was more complex. After the Panglong agreement the British Government ordered the Frontier Areas Commission of Enquiry (FACE) to gauge reaction to the

Panglong agreement. While the FACE report recognized the independence of Karenni it also believed that a future Karen state could be designated to include both. It was noted that:

Whether the Karenni State should merge with the Karen State or not is a matter left entirely to the people residing within Karenni State to decide. If the Karenni State is willing to merge with the Karen State, the matter can be regulated under section 180 of the Constitution.<sup>12</sup>

After a number of consultations with the people, Karenni representatives made it clear that it sought an independent Karenni state outside of the Union of Burma. Regardless, Karenni state was included as a special area of Karen State under section (180) of the 1947 constitution.<sup>13</sup> In an attempt to change the constitution a four man Karenni delegation, led by Saw Wunna, was sent to Rangoon on the 14<sup>th</sup> September 1947 to meet with the AFPFL. After apparently accepting bribes, Saw Wunna and another member of the delegation, U Sein, joined the AFPFL as Karenni State representatives and attended the constituent assembly on the 19<sup>th</sup> September 1947.<sup>14</sup>

On 9<sup>th</sup> August 1948 at 04:00 am, AFPFL military police attacked the headquarters of the Karenni National Organization in Mya leh Daw. Karenni villagers took up arms and numerous attacks were made against the central government to protect Karenni interests. In response, the United Karenni States Independence Army was formed, on 17<sup>th</sup> August 1948, to fight against the Burmese government. U Bee Tu Ree, Chairman of the KNO, was later captured and purportedly placed in a sack, dragged behind a car, and then thrown into the Belachaung River on the 8<sup>th</sup> September 1948.<sup>15</sup>

## **Splits within the KNPP**

The anti-regime KNPP saw a number of factions split from the group since its creation. The first, the Karenni National People's Liberation Front (KNPLF), originally split due to ideological differences in 1978 but did not come to an arrangement with the Burmese Government until 1994. While the KNPLF proved to be the strongest pro-regime Karenni party it was actually the second to sign a ceasefire. The first,

the Kayan National Guard (KNG), joined the junta in 1992 but saw its role in the Karenni nationalist movement side-lined due to its reliance on the narcotics trade.

Another ex-KNPP group, the Karenni National Defence Army (KNDA), also operated in the area although its presence and low strength saw its status mainly relegated to that of a militia. The KNDA, as with the much larger DKBA in Karen state, was used by the SPDC in attacks on refugee camps in an attempt to portray the conflict in the area as Karenni in-fighting thus masking the regimes role in the attacks.

Two further groups also were involved in Karenni State. The Karenni National Solidarity Organization (Ka-Ma-Sa-Nya), led by Ka Ree Htoo (aka Richard), broke away from the Karenni Army's HQ in November 1999 and signed a ceasefire agreement with the junta in 2003. It maintained a headquarters in Kemapew (near Pasaung) on the Salween River. The KNSO also built a camp at Ka Ser Pia Tin near Lo Ka Lo and maintained a small force of 20 soldiers in Mawchi that worked under the authority of the Burma Army.

Another breakaway faction was the KNPP (Hoya) formed by a former township chairman Koe Ree and secretary Saw Bae Bey of the No 4 Township of Gekaw Region. The two leaders and 14 other individuals officially surrendered on the 22<sup>nd</sup> November 1999 together with 10 assorted guns, 10 magazines and 115 rounds of ammunition.

#### Endnotes:

1. 'First priority cease-fire, then dialogue: KNPP', Kyaw Kha, Mizzima, 22 February 2012
2. 'U.S., British diplomats observe Karenni, gov't peace talks', Myo Thant, Mizzima, 8 March 2012
3. Email correspondence between BCES and Khu Oo Reh, KNPP Secretary-1
4. Burmese Border Displaced Persons: June 2012, TBBC
5. Personal correspondence with Khu Oo Reh, 25 July 2012
6. 'The 50th Anniversary of the Karenni National Resistance Day', KNPP Information Committee, 1998, p14 and Ppersonal correspondence with Khu Oo Reh, 25 July 2012

7. 'The Shan of Burma', C.T. Yawnghwe, ISEAS, 1987 p. 99
8. See the Aung San-Attlee agreement clause 8 reproduced in *Rhododendron*, Vol. 4 No 1, 2003, CHRO, p. 8
9. A The first Panglong Conference occurred in March 1946
10. It must be noted that the 1947 constitution did not allow the Kachins to secede. See Union of Burma, Constitution, 1947, Chapter IX, 178
11. Union of Burma, Constitution, 1947, Chapter X, 202
12. Regional Autonomy Enquiry Commission, GUB, 19 February 1949
13. 'The 50th Anniversary of the Karenni National Resistance Day', KNPP Information Committee, 1998, p19
14. Ibid. p20
15. Ibid. p23



## **Seeking Peace in Arakan State**

### **The Arakan Liberation Party and the Negotiation Process**

(August 2012)

On 5<sup>th</sup> April 2012, representatives of the Arakan Liberation Party (ALP), led by its Vice President Khaing Soe Naing Aung, inked a preliminary peace agreement with the Burmese regime. The move was yet another substantive effort by the country's ethnic armed groups to find an accommodation with the Thein Sein Government. The move comes despite pressure from hardliners within the various ethnic armed groups and an on-going conflict in Kachin State.

The Arakan Liberation Party, supported by the Karen National Union, was originally formed in 1968 by Khaing Pray Thein. However the Burmese regime moved quickly to quash the movement and arrested many of its leaders jailing them for two to three years. After being granted an amnesty in the early 1970s, ALP President Khaing Moe Linn and Vice Chairman Khaing Ba Kyaw, re-formed the ALP with support from the Karen National Union (KNU). The KNLA trained and armed as many as 300 ALA soldiers and it soon became a leading member of the National Democratic Front (NDF) after it was created in 1976. The ALP/ALA was reorganised in 1981 under the leadership of Khai Ray Khai, with the goal of establishing a sovereign state in Rakhine State.

The armed wing of the ALP, the Arakan Liberation Army (ALA) operates as a mobile force in the southern Chin Hills or northern Arakan Hills and has been known to be active in the interior of Arakan State including Kyauktaw and Mrauk-U townships.<sup>1</sup> In addition, the ALP still has cadres along the Thai-Burma border and was most recently reported to have been involved in a joint ambush with Klo Htoo Baw Battalion and All Burma Student Democratic Front troops

in Karen State on 15<sup>th</sup> October 2011.<sup>2</sup> Currently, the Arakan Liberation Army has between 60-100 troops and is equipped with light weapons.<sup>3</sup>

Bangladeshi authorities recognized the ALP as a terrorist group after the kidnapping of a Danida Director in 2008 and the killing of a local Thansi headman in 2009. In addition, there have also been allegations of growing opium and smuggling it within Bangladeshi territory with the BIPSS Security and Peace Review noting that:

The ALP some-times coerces Bangladeshi tribesmen into growing poppy in the interior of Chittagong Hill Tracts. <sup>4</sup>

That said, however, there have been no recent reports of such activities and these were most likely local unit actions rather than a policy of the ALP leadership. The US Embassy in Rangoon noted, in a September 2006 cable, that it:

... has no information that the Arakan Liberation Party (ALP) has engaged in any activities that are considered acts of terrorism ... [and that there is] no information that the ALP, or its armed wing the Arakan Liberation Army (ALA), has engaged in hijacking or sabotage of civilian conveyances.<sup>5</sup>

In 2004, the Arakan Liberation Party was a founding member of the Arakan National Council (ANC) an Arakan alliance composed of the Arakan League for Democracy, the Democratic Party of Arakan, the National United Party of Arakan (NUPA), the All Arakan Students Youth Congress, the Arakan Women Welfare Association, and the Rakhaine Women Union (RWU). The stated aims of the ANC are:

1. Solidarity of the entire people of Arakan
2. Elimination of military dictatorship
3. Establishment of political equality and self-determination on true federal principles among the different states
4. Peaceful co-existence
5. Establishment of a strong and indivisible Arakan

The Arakan Liberation Party also continues to play a leading role in the National Democratic Front (NDF) with its Vice President Khaing Soe Naing Aung also acting as the NDF's Vice Chairman.

Although the ALP is not a member of the United Nationalities Federal Council (UNFC), the Arakan National Council is, although it is unclear whether the ALP peace process would be affected by any future UNFC decisions.

The April peace talks were the first negotiations that the organisation has had with the Government since its formation. The ALP talks, along with agreements made with the National Socialist Council of Nagaland (NSCN-K), are a further sign that the Government is serious about inviting all armed opposition to the negotiating table. The signed agreement, similar to those with groups at the first stages of negotiation, focused on five main points:

- (a) Any offensive military operations between Burma's Tatmadaw and the Arakan Liberation Party will cease beginning April 6th 2012.
- (b) To facilitate further bilateral talks, consultations, and discussions, the Arakan Liberation Party will set up its consulates as per agreement in the following locations:
  - (i) Paletwa
  - (ii) Kyauktaw
- (c) During the cease-fire period, any armed-personnel manoeuvres beyond the territories which are bilaterally approved for such exercise will be undertaken only after bilateral negotiations.
- (d) During the cease-fire period, the Government of Myanmar will facilitate movement in its territory to unarmed personnel of the ALP for travel purposes across the border
- (e) The peace-building teams designated respectively by the government of Rakhine State and the Arakan Liberation Party will further negotiate on issues regarding peace and development in Rakhine State at an approved location and time.<sup>6</sup>

A major issue that may cause some concern is the opening of the ALP office in Paletwa in Chin State. While the ALP General Secretary Khaing Soe Naing Aung has stated that he believes as long as there is mutual respect between the Chin National Front (CNF) and the ALP there should be no problems,<sup>7</sup> there have been some concerns

from the Chin community with a least one government employee in Paletwa quoted in media as saying:

We could accept it if they were a Chin political party. It is not acceptable for us to allow them to set up their office in Paletwa. It is not their territory. The authorities should have consulted the Chin State government before making a decision on this issue.<sup>8</sup>

A village elder from the Khumi ethnicity is quoted in the same article also noting that:

The central authorities ought to have consulted local people about this issue. We are not Arakanese. We cannot accept any other national armed group in our area. The Burmese government should have consulted local Khumi people before signing an agreement.

While such concerns seem to be somewhat premature there does appear to be a strong movement within the exiled Chin community and a number of local politicians to block the move. Salai Ceu Bik Thawng, General Secretary of the Chin National Party (CNP), which won 9 seats in the 2010 election, as stated that

I am worried that there will be clashes between Chin and Rakhine people over this issue because it is very sensitive. This problem will not be solved by democratic means and a federal system but will lead to racial problems.<sup>9</sup>

Such a view is also shared by Dr. No Than Kap, Chairman of the Chin Progressive Party (CPP) and Chin Affairs Minister of Sagaing Division, who noted that if the ALP office is opened in Paletwa then Chin people would not accept it.<sup>10</sup>

While the ALP has agreed to further talks they still have some concerns regarding the sincerity of the Government especially in relation to the 2008 constitution which continues to ensure military dominance of Parliament. Another issue they would also like to see addressed is the Shwe Gas Project off the Arakan coast. The 'Shwe' offshore fields will be connected by a 2,800 kilometre pipeline that will pump 12 billion cubic meters of natural gas annually to China. The project is likely to severely damage the Arakan fishing industry,

cause environmental damage and will also result in land confiscation. Despite these however, the ALP still remains optimistic that future talks will provide further opportunities for peace.

Notes:

1. Personal correspondence with Arakan leader, 11 December 2009
2. Arakanese join Karen rebel ambush', Naw Noreen, DVB, 17 October 2011
3. Personal correspondence with Arakan leader, 11 December 2009
4. Bangladesh Institute of Peace and Security Studies (BIPSS), Peace and Security Review, Vol.4, No.8, Second Quarter, 2011 p20
5. <http://wikileaks.org/cable/2006/09/06RANGOON1288.html>
6. Personal correspondence with ALP vice-president Khaing Soe Naing Aung received 16 May 2012
7. Ibid.
8. 'Chin leaders oppose ALP's liaison office in Paletwa' Khonumthung, 12 April 2012
9. Ibid.
10. Ibid.

## **The Conflict in Kachin State: Time to Revise the Costs of War?**

(February 2013)

(For earlier background on the Kachin conflict see ‘The Kachin’s Dilemma – Contest the election or return to guerrilla warfare’ EBO Analysis Paper No.2/2010, May 2010.)

Since 9<sup>th</sup> June 2011, Kachin State has seen open warfare between the Kachin Independence Army and the Tatmadaw (Burma Army). The Kachin Independence Organisation signed a ceasefire agreement with the regime in 1994 and since then had lived in relative peace up until 2008 and the creation of a new constitution. This constitution enshrines the power of the military and demands that all armed forces, including those under ceasefire agreements, relinquish control to the head of the Burma Army.

This, combined with economic exploitation by China in Kachin territory, especially the construction of the Myitsone Hydropower Dam, left the Kachin Independence Organisation with very little alternative but to return to armed resistance to prevent further abuses of its people and their territory’s natural resources. Despite this however, the political situation since the beginning of hostilities has changed significantly.

There is little doubt that one of the main reasons for the continuing offensive was the Burmese Government’s attempts to control all ethnic armed forces through its head of defence services. That said, however, the principle reason for both the KIO’s reaction to increased Burma Army deployment, the breakdown of the ceasefire, and the resumption of open warfare in Kachin areas, was also the previous Regime’s attempts to secure China’s lucrative investment projects at

the expense of ethnic rights and land. While the Myitsone Dam, and the Burma Army's security of it, appeared to be one of the main factors used by the KIO to resume hostilities, President Thein Sein announced the suspension of the project on 30<sup>th</sup> September 2011 for the length of the government's term. While a number of critics have pointed out that the suspension does not mean an end to the project, it removed, at least in the short term, one of the main reasons for continued fighting.

In addition, the regime has dropped all calls for ethnic armed groups to become part of its Border Guard Force program. Instead it has embarked on a number of peace talks and ceasefire agreements with both previously ceasefire and non-ceasefire groups. The Klo Htoo Baw Battalion (formerly DKBA Brigade 5) signed a ceasefire with the government on 3<sup>rd</sup> November 2011, the Restoration Council Shan State/Shan State Army – South signed an initial ceasefire agreement with a union level peace group on the 3<sup>rd</sup> December 2011 this was followed by the Chin National Front (CNF) on 6<sup>th</sup> January 2012, the Shan State Progress Party signed two peace agreements on 28<sup>th</sup> January 2012, the Karen National Union on 12<sup>nd</sup> January 2012 and the New Mon State Party on 1<sup>st</sup> February 2012 (see Burma Centre Analysis Paper No1, January 2012).

These agreements provide a rare written understanding between the government and the ethnic groups. Previous regimes have for example refused to hold meeting in neighbouring countries, and yet most of the preliminary meeting with ethnic groups have taken place in Thailand. In addition, written agreements, with the exception of the Kachin ceasefire agreement in 1994, have never been agreed to.

While the KIO have had meetings with the Kachin State Peace Negotiating Committee, again outside of the country, this time in Ruili (Shweli) in China, there remains a great deal of apprehension on behalf of the KIO leadership despite the fact that its allies are continuing to acquiesce to government peace initiatives. President Thein Sein has identified three simultaneous principles necessary to achieve peace in the country:

1. Peace
2. Stability
3. Development

Although a number of groups have already agreed to ceasefire agreements, the continuing conflict in Kachin State, and the KIO's insistence on political dialogue prior to a ceasefire, threatens to derail any future hopes for peace throughout the country.

## **The Role of the United Nationalities Federal Council (UNFC)**

Despite such overtures on behalf of the government, a number of obstacles remain to be dealt with. One of the main issues is that created by the formation of the UNFC in February 2011. At the beginning of November 2010 shortly after the election, three ceasefire groups, the KIO, the New Mon State Party (NMSP) and the SSPP/SSA and three non-ceasefire groups, the Karen National Union (KNU), the Karenni National Progressive Party (KNPP) and the Chin National Front (CNF), announced the creation of an organising committee, the Committee for the Emergence of a Federal Union (CEFU), to consolidate a united front at a time when the ceasefire groups faced perceived imminent attacks by the Burma Army. At a conference held from the 12-16 February 2011, CEFU declared its dissolution and the formation of the United Nationalities Federal Council (UNFC). The UNFC, which was comprised of 12 ethnic organisations<sup>1</sup>, stated that:

The goal of the UNFC is to establish the future Federal Union (of Burma) and the Federal Union Army is formed for giving protection to the people of the country.<sup>2</sup>

Shortly after, wide-scale conflict occurred throughout areas controlled by the SSPP/SSA and a number of their bases were lost to the Burma Army. Then in June the KIO ceasefire broke down and the conflict continues to this day. The formation of the UNFC had occurred at a time of increasing uncertainty in relation to how the new Burmese Government would settle the ceasefire group issue. Consequently, the creation of a broad-based alliance enveloping both ceasefire and non-ceasefire groups were reasonable move.



The political leadership of the alliance originally fell on the KNU with KNLA Commander-in-Chief General Mutu announced as Chairman and KIA commander Lt. Gen. Gauri Zau Seng as Vice Chairman No.1, KNPP's Khun Abel Tweed as Vice Chairman No.2 and the NMSP's Nai Han Tha as General Secretary. The creation of the UNFC occurred while a number of other ethnic alliances still remained. The National Democratic Front, formed in 1976, still contained members of armed ethnic groups, the NCUB was still active, and the five-party military alliance was still active, the latter was the reason given by the SSA-S for not joining the UNFC.

Despite the fact that Gen. Mutu was ostensibly chairman, the UNFC's policies have been mainly driven by the KIO and the NMSP. The Central Executive Committee was reformed in May and it was announced Lt. Gen. N'ban La Awng of the KIA would take over as Chairman and Gen. Mutu would be commander of the Federal Union Army (FUA). Leadership changes were made once more at a meeting in November 2011, Gen. Mutu was replaced by Maj. Gen. Bee Htoo of the KNPP as C-in-C and Brig Gen Gun Maw of the KIO was appointed as Deputy#1. It was announced that the Federal Union Army had been formed at a meeting held on the 16-17 December 2011. According to its Circular #1 / 2011, the Federal Union Army's aims and objectives are:

- To defend the Union,
- To achieve peace,
- To restore democratic rights and fundamental rights of the people,
- To struggle for Equality and Right of self Determination,
- To oppose human rights violations and war crimes committed by some elements of the Burma Army,
- To serve as a rally point for Burma Army members who wish to stand by the people,
- To become a part of the armed forces of the future federal union.<sup>3</sup>

The circular also designates the following as allies: Arakan Liberation Army (ALA), All Burma Student Democratic Front (ABSDF), United

Wa State Army (UWSA), National Democratic Alliance Army (NDAA) and the Shan State Army (SSA) 'South'. The latter three have already made peace agreements with the Burmese government and the future role of the ABSDF, in light of Aung San Suu Kyi's release and the re-registration on the NLD, remains somewhat vague. This would leave the Arakan Liberation Party which is largely responsible for the continuation of the NDF.

While the Burmese government has resisted UNFC calls for dialogue with it, recent comments made by Khun Okker of the Pa-O National Liberation Organisation suggest that this may change in the future.<sup>4</sup> However these comments, made late December 2011, occurred prior to the CNF's agreement in January and those of the KNU and NMSF, and consequently may make such talks unnecessary.

### **The KIO and the New Paradigm**

The Kachin Independence Organisation continues to remain steadfast in its call for a political dialogue prior to ceasefire despite most of its closest allies signing agreements with the Government on what they consider to be reasonable terms. In its 19<sup>th</sup> January 2012 three-stage proposal <sup>5</sup> the KIO outlined the following before it would agree to any ceasefire:

1. a) Both sides must agree to discuss further talks  
b) Both sides should be willing to engage in a political dialogue  
c) Both sides should release information about the talks to the people  
d) Both sides should avoid criticism and untruthful accusations  
e) Both sides should agree military positions to avoid further conflict  
f) Both sides should release prisoners captured in the conflict  
g) Liaison offices should be set up  
h) The public should be informed
2. a) A Second Panglong Conference must be held  
b) An agreement should be made at the conference to adopt the basic principles for the country  
c) Destroyed Villages must be rebuilt and compensated

- d) Further talks should be held
3. All agreed principles should be recorded and implemented by the Government, intellectuals, and appointed individuals.<sup>6</sup>

However no response has been received, and talks continue. In an attempt to prevent the continuing conflict, President Thein Sein issued an order in December that Burmese army units cease all offensives in Kachin State except for defensive purposes. Additionally the government also allowed the UNHCR, UNICEF, and UNOCHA, access to refugees in areas under the KIO's control.

Despite such moves, however, the conflict continues. The refugees continue to face hardship and the Burma Army continues to move troops into areas around KIO territory and human rights abuses continue unabated. Fighting continues frequently and a number of KIO bases have been lost. A number of analysts have suggested that this may show a rift between the Thein Sein government and the army controlled by Min Aung Hlaing. However, as yet, there is little evidence to support this, and such outbreaks of fighting would not be uncommon in a conflict zone where only one side has been told to cease fire.

What remains unclear now however, is the difference between what groups like the SSA-S, UWSA, NDAA KNU, NMSP and CNF have agreed to, and what now the KIO continues to fight for. The Myitsone dam project has been suspended and the Border Guard Force program is no longer an issue. An agreement now would return them to a similar situation prior to the outbreak of hostilities, and while this may not have been mutually beneficial, new concessions made by the government do suggest at least some understanding of what is necessary to achieve peace.

The situation for ethnic resistance has changed markedly over the last year, and while there is still some way to go in building up a high enough level of trust between the government and the ethnic groups, the continuation of war is hardly likely to support such an endeavour. The KIO and the NMSP have had previous experience of dealing with a Burmese regime before, and there is little doubt that they were treated more than unfairly, what remains true now though, is the fact

that the Thein Sein government has embarked on a number of previously unheard of concessions in relation to its dealings with the ethnic groups. Consequently, this has led to a number of previously wary groups, including the NMSP, accepting the government's initiatives.

It is likely that remaining groups will accept the government's offers, therefore leaving the KIO without allies and seeming intransigent in the face of a government that many are placing a lot of faith in. In such a situation, it is the KIO, despite the conflict and the accompanying abuses that will be placed in a weaker position.

## **Main Causes of the Breakdown of the Ceasefire Agreement**

The KIO has consistently rejected the regime's attempts to transform its armed wing into a Border Guard Force which would place its forces under the direct control of a Burma Army commander. Other Kachin ceasefire groups have agreed to the request: the National Democratic Army – Kachin (NDA-K) and Lasang Awng Wa, were formed into Home Guard Force Battalions 1001, 1002, and 1003, and the Kachin Defence Army (KDA) became HGF Battalions 1009 and 1010 also known as the Khawngkha militia. However, the KIO proposed transforming its armed forces into a Kachin Regional Guard Force still under its own control. The proposal was rejected by the regime and it soon became clear that despite further negotiations, the Burmese government was not prepared to compromise. Consequently, the regime declared on 1<sup>st</sup> September 2010 that:

. . . [it] would deal with KIO as it did before [the] cease-fire agreement in 1994, the communication and cooperation between the KIO and [the] Myanmar government have halted.<sup>7</sup>

Tensions between the Kachin and the Burma army rose throughout the beginning of 2011, especially in relation to the number of Burma army units that were being situated around Kachin territory. This, combined with a Burma Army offensive against the former Shan State Army – North, exacerbated an already tenuous relationship between the two sides. It was quite apparent that the newly elected

Burmese government, and especially the Burma Army, would have to neutralise the Kachin resistance movement for it to claim legitimacy and secure lucrative investment projects. The only question that remained would be when.

In May 2007, Burma's government signed an agreement with China Power Investment Corporation for the implementation of seven large dams along the Irrawaddy, Mali, and N'Mai Rivers in Kachin State. The largest is the Myitsone, located at the confluence of the Mali and N'Mai Rivers at the source of the Irrawaddy. It is estimated that the dam will impact millions of people downstream who depend on the Irrawaddy for agriculture, fishing, and transportation, and will also destroy the confluence - a location believed sacred to many Kachin.

According to the environmental group Burma Rivers Network:

Over 60 villages, approximately 15,000 people, will be forcibly relocated without informed consent for the Myitsone Dam alone. Families from six villages have already been forced to move and are currently suffering in a relocation camp.<sup>8</sup>

Local opposition to the construction of the dam has been fierce and in April 2010 a series of bombs exploded at the construction site Killing four Chinese workers, injuring 12 others, and destroying several temporary buildings and vehicles.

On the 16<sup>th</sup> March 2011, the Kachin Independence Organisation sent a letter addressed to the Chinese Premier, Hu Jintao, stating that it had:

... informed the military government that KIO would not be responsible for the civil war if the war broke out because of this hydropower plant project and the dam construction.<sup>9</sup>

Despite such entreaties, work continued and the Burma Army continued to strengthen its forces in areas around Kachin territory.

## The Beginning of Hostilities

The first provocation by Burmese forces occurred on the early morning of 17<sup>th</sup> May 2011. The Burma Army's Light Infantry Battalion (LIB) 320 fired three 75 mm mortar rounds close to the KIA's Battalion 25 HQ, KIA Brigade 5 at Dum Bung Krung, west of the Taping River which is home to a number of hydropower projects, in Manmaw (Bhamo) District. Shortly after, it was reported that Burma Army troops had been deployed around KIA Battalion 1 and Brigade 3 in Mansi.<sup>10</sup>

On 18<sup>th</sup> May 2011, in reaction to the attack and further Burma Army troop deployments adjacent to KIA bases, the KIO issued a directive to the Burma Army to withdraw from around its base areas by 25<sup>th</sup> May 2011. With no immediate withdrawal noted, on the 27<sup>th</sup> May 2011 a small skirmish took place between KIA Battalion 27 and government forces near Mansi Town, although no casualties were reported.

With the deadline ignored and what appeared to be no compromise in sight, forces from both sides were prepared for the worse but were able to maintain an uneasy peace until fighting broke out on 9<sup>th</sup> June 2011. The day before, 8<sup>th</sup> June, a Sergeant from Light Infantry Battalion 437 and a police private were found inside KIA territory. Although the Sergeant was able to flee, the police officer was detained by KIA Battalion 15 troops. Shortly after, on the same day, a Captain and a Lieutenant were also found and held.<sup>11</sup> The commander of the Burma Army's Northern Military Command contacted the KIA demanding the release of those being held and ordered more troops to be deployed in KIA areas.

On 9<sup>th</sup> June 2011, Burmese troops of Battalions 437 and 348 started firing on the KIA outpost in Sang Gang village and arrested a KIA Liaison officer Lance Corporal Chyang Ying. The KIA ordered its Battalion 15 troops not to return fire and to withdraw from the area and go back to their Busan HQ<sup>12</sup>, however this was then attacked by Burmese troops forcing the KIA to engage the attackers. A

temporary ceasefire was finally negotiated the same day after the Burma Army's Northern Military Commander contacted the KIA and told them that if the Burmese detainees were freed he would release all KIA held personnel. Although no KIA soldiers were released, the Burmese army did admit that Chyang Ying:

... was dead from excessive bleeding due to the wound sustained in the battle field.

But, as the Kachin Independence Army noted in its 20<sup>th</sup> June 2011 statement, such an occurrence was unlikely as:

Actually, he was arrested at Sang Gang Liaison Office and not at the battle field. It is obvious that the Burma army troops reported to their superior with false information.

Despite the resumption of hostilities, the Commander of the Burma army's Moemaik Tactical Command, Colonel Aung Toe, requested that he, and his unit, be allowed to enter KIA territory on his way to Tapaing Hydropower Project for his regular inspection, a request that was granted by the KIO Headquarters. Although the Burma Army had failed to release any KIA detainees, they did finally release the body of Lance Corporal Chyang Ying, but, according to the KIA, it soon became evident that:

### **The Cost of Conflict**

55,000	The Number of IDPs and Refugees
83	The Number of IDP Sites and Refugee Camps
51	The Number of Schools Closed
7,872	Number of Students Affected by School Closures
3,153	The Number of IDP/Refugee Children Receiving Education
130	The Number of Burma Army Battalions Deployed
703	The Number of Clashes

Source: UN - OCHA Monthly Humanitarian Update (December 2011/ January 2012), 'A New Paradigm of Ethnic Armed Conflict in the Kachin Region', Ja Nan Lahtaw

As we inspected the body, we found that he was killed by torture inflicted upon his body by the Burma army.<sup>13</sup>

The Northern Military Commander then informed the KIO HQ that Colonel Aung Toe and his troops would now be stationed at the Tapaing Hydropower Project and that all KIA troops had to withdraw from the area including the Busan Post by noon, 11<sup>st</sup> June 2011. In addition, the Burma army reinforced its troops in the area with more soldiers from Light Infantry Battalions Nos. 320, 348, 387, 321, Infantry Battalions Nos. 237, 236, 74, 21, 105, 141, and 37. As the KIA was not prepared to withdraw from Busan, the Burma Army launched a concerted attack against the Busan outpost before finally occupying it on 12<sup>th</sup> June 2011.

The 12<sup>th</sup> of June also saw the closure of the last KIO liaison office in Myitkina and the evacuation of the offices of the KIO's Buga company which had supplied essential electricity from its Mali Hka River hydropower plant to the towns of Myitkyina and Waingmaw since late 2006.

The KIA seemed initially to try and avoid heightened conflict with the Burma Army and refrained from sending further reinforcements to support KIA battalion 15. As La Nang, a KIO Central Committee member noted:

We've ordered our battalions to resist the government attacks. Their offensives are beyond the limit of our patience. During the past two days, we did not send reinforcement to Battalion 15 because we don't want the fighting to spread. We remained patient...We tried to halt the fighting as much as we could, but they have launched a major offensive. We don't want war. We have to defend ourselves, but we don't like fighting.<sup>14</sup>

Despite such attempts however, fighting continued to rage throughout the dam areas resulting in the evacuation, by the KIA, of over 200 Chinese workers from the dam site. By the 14<sup>th</sup> June, the project had ceased to function causing '...a great loss to the State and the people.'<sup>15</sup> According to the Regime, which had been increasing its troop deployments in Kachin areas throughout the latter part of 2010, the reason for the renewal of hostilities was:



Tatmadaw counter attacks on KIA just to protect its members, nation's important hydropower project without even a single intention of aggression or oppression.

The conflict soon spread to other Kachin areas including the No1 Dam in Shweli in Northern Shan State and at Sinbo. In total it was estimated that by the 18<sup>th</sup> June 2011 over 9000 people had been forced to flee their homes and many were being sheltered by the KIO at their KIO headquarters in Laiza. With the offensive intensifying, a number of human rights abuses by the Burma Army soon emerged including the rapes of 18 women and girls, forced portering and execution.<sup>16</sup>

In an attempt to further prevent Burma Army attacks the KIA began to target infrastructure projects and it was estimated, by the Burmese regime that:

In response to the attack of the Tatmadaw, KIA blew up nine Bailey bridges, 10 RC type bridges, four concrete bridges, two wooden bridges, altogether 25 bridges, which are of importance in transportation of Kachin State, from 14 to 16 June. Such destructive acts of KIA severely harm interests of the region and the nation, destabilizing tranquility of local people and seriously damaging transport facilities.<sup>17</sup>

By the end of January 2012, it was reported that over 55,000 people had been displaced and were staying in a number of refugee camps along the Chinese border (see map). While the number of incidents of conflict has been reduced, there are still sporadic clashes being reported daily.

## **Conclusion**

The previous agreement with the Kachin Independence Organisation occurred only after a ceasefire was first put in to place and it was hoped that they could put forward a political solution via the National Convention. This, however, did not occur and any attempt by ethnic groups to put forward their proposals was rejected. Consequently the KIO, after 17 years of negotiated peace, found its influence

gradually eroded and its areas of control exploited by the then Burmese regime. It is not unexpected, therefore, that at the current time it remains cautious in its negotiations with the current government and insists on a political solution prior to it ending hostilities.

Therefore, the KIO is faced with a great dilemma. It can either continue its political stance based on its previous experiences of dealing with former governments or, like the other groups, trust in the fact that the new government is genuinely interested in addressing the ethnic issue and bringing peace and stability to the country. While the former choice may be preferable, failure to choose the latter may eventually see the KIO isolated not only from those groups that have now made agreements, but also from an international community that is eager to see political reforms and democracy brought to the country.

Notes:

1. Chin National Front, Kachin Independence Army, Kachin National Organisation, Karen National Union, Karenni National Progressive Party, Lahu Democratic Union, National Unity Party of Arakan, New Mon State Party, Palaung State Liberation Front, Pa-O National Liberation Organisation, Shan State Progress Party/Shan State Army, Wa National Organisation
2. 'Statement of Expanded Meeting of the Political Leading Board and Central Executive Committee of UNFC', 14 May 2011
3. 'UNFC: Federal Army formed, better late than never', SHAN, 23 December 2011
4. 'Regime ready to meet UNFC now' SHAN, 26 December 2011
5. The proposal was in response to a letter received by the KIO from the President's Office on 12 December 2011
6. Unofficial translation
7. 'KIO warns China: Myitsone Dam could spark 'civil war'', Thomas Maung Shwe, Mizzima, 20 May 2011
8. <http://www.burmariversnetwork.org/dam-projects/irrawaddynmimali.html#5> accessed 28 June 2011
9. 'KIO warns China: Myitsone Dam could spark 'civil war'', Thomas Maung Shwe, Mizzima, 20 May 2011
10. 'Civil war close between the KIA and Burmese Army', KNG, 18 May 2011

11. 'Tatmadaw columns inevitably counter attack KIA troops for their threats and armed attacks', *New Light of Myanmar*, 18 June 2011
12. Also spelt as Bum Sen
13. 'Unofficial translation of the KIA press release', <http://pfb-japan.org/wp-content/uploads/2011/07/Unofficial-Translation-of-KIA-Press-Release-June-20-2011.pdf>. Accessed 7 June 2011
14. 'Kachin armed group gives ultimatum to government to stop offensives', *Phanida, Mizzima*, 14 June 2011
15. 'Tatmadaw columns inevitably counter attack KIA troops for their threats and armed attacks', *New Light of Myanmar*, 18 June 2011
16. 'Reported rape incidents by Burma Army during offensive in Kachin area', *Kachin Women's Association Thailand*
17. 'Tatmadaw columns inevitably counter attack KIA troops for their threats and armed attacks', *New Light of Myanmar*, 18 June 2011

## **Engineering Peace in Kachin State**

(March 2013)

On 4<sup>th</sup> February 2013, representatives from the Kachin Independence Organisation (KIO) and the Burmese Government's Union Peace-making Working Committee (UPWC) met in the Chinese Town of Ruili (Shweli). It was the first time the two sides had met since the escalation of the conflict in December 2012.

A later meeting, held on 11<sup>st</sup> March, further solidified the two side's attempts to find a compromise and end the conflict. It was also the first time that the United Nationalities Federal Council was officially engaged in the peace process on behalf of one of its members. Initial indications suggest that both sides are hopeful that a compromise can be met and an end to the conflict may soon ensue.

The 4<sup>th</sup> February meeting was extremely important in defusing the tensions between the KIO and the Burmese Government. In December 2013, the fighting between the two sides had intensified and on 14<sup>th</sup> December 2012 a concerted effort was made by the Tatmadaw to fully control the Lajayang area only 18 km away from the Laiza Headquarters of the KIO. The escalation saw not only ground troops and artillery involved but also, for the first time, the use of air power.

On 18<sup>th</sup> January 2013, the Government was able to gain control over the Lajayang area forcing KIA forces to retreat to the Lawa Yang front line only 8 km from Laiza.<sup>1</sup> State television then officially announced that there would be a ceasefire in the in the area commencing at 06.00 am on 19<sup>th</sup> January 2012.<sup>2</sup> Despite the announcement, the fighting continued and the Tatmadaw finally took the last strategic high ground of Hka Ya Bum on January 26<sup>th</sup> at an estimated cost of over 120 Tatmadaw dead and nearly 400 wounded.<sup>3</sup> This was a serious blow to the Kachin resistance movement and it was expected that a

further Tatmadaw offensive would see the fall of its Laiza headquarters. Despite having a strategic advantage, no such offensive occurred.

## **The February Meeting**

By the beginning of February 2013 the number of clashes had decreased markedly. As a result, further talks were then planned to find a political solution to end the conflict. The KIO delegation was led by General Gun Maw, KIA vice chief of staff, while the government side was led by President Thein Sein's chief Negotiator Aung Min and Livestock Minister Ohn Myint. It was decided that the talks would take place in Ruili, China and that members from the KNU, the RCSS, and the Euro-Burma office would also attend. In addition, the Chinese Government, who had been pressuring the KIO to find a solution to the conflict, offered to mediate the meeting, however, the request was declined and the Chinese sent representatives to observe.

According to the Euro-Burma office, China had objected to its presence claiming it was an international organization, a claim that was rejected by both the Kachin Independence Organisation and the Burmese Government. China had also objected to the KIO and the Government agreeing to the need for ceasefire monitors and the need to provide humanitarian assistance to internally displaced populations. Consequently, these issues were then dropped from the official record of the meeting.<sup>4</sup>

Another problem at the meeting was the fact that no military representation was included in the Government's peace delegation. It was believed, at least by one analyst, that the reason for the lack of military representation was the fact that:

At peace talks on 30 October, the Myanmar military sent senior commanders to participate, but the Kachin sent only lower-level representatives, meaning that military discussions on separation of forces could not be held. It was interpreted as a snub by the military and left government negotiator U Aung Min undermined as he had worked hard to convince the army to send a very senior army commander to attend the talks in China only for him to be stood up.<sup>5</sup>

Despite this, both sides issued a five-point joint statement at the end of the February talks:

1. Talks between a delegation led by Vice-Chairman of Union Level Peace-Making Committee Union Minister U Aung Min and KIO negotiation team, was held in Shweli of Yunnan Province of the People's Republic of China from 9 am to 16:15 pm today.
2. Ambassador Mr Luo Zhaohui of Foreign Affairs Ministry of the PRC, KNU Chairman General Saw Mutu Sae Poe, General Secretary Pado Saw Kwe Htoo Win and one member, Brig-Gen Sai Lu of RCSS/SSA and two members, Han Nyaung Wai and Victor Biak Lian, have attended the talks as witnesses.
3. Talks focused on establishing communication channels, reducing military tension, preparing for next talks and the invitation of observers and organizations as witnesses in the next meeting.
4. KIO has agreed to hold the next talks before the end of February after making coordination with UNFC and to continue holding the political talks between the government and KIO.
5. Both sides have agreed to continue to hold talks for emergence of a surveillance system in the conflict-affected areas for achieving ceasefire swiftly between the government and KIO.<sup>6</sup>

While the joint-statement was an encouraging sign it was the March meeting that was attended by the military that would be the most optimistic.

### **The March Meeting**

The March meeting took place, again in Ruili, from the 11-12 March. It was attended by the Union Peace-Making Committee led by Vice-Chairman of the Committee Minister U Aung Min and Lt-Gen Myint Soe. The KIO delegation led by KIO Standing Central Committee member U Swan Lut Gam, four representatives from the United Nationalities Federal Council (UNFC), two from the SSPP, two from the RCSS, two from the NDAA-ESS, four from the Myanmar Peace Centre and Minister-Counsellor Mr Wang Zongying of the Ministry of Foreign Affairs of the PRC and two from the PRC as observers.

## **Joint Statement**

1. Talks between the Union Peace-Making Committee led by Vice-Chairman of the Committee Union Minister U Aung Min and Lt-Gen Myint Soe and members and KIO delegation led by KIO Standing Central Committee member U Swan Lut Gam were held at Shweli of the People's Republic of China on 11-12 March.
2. It was attended by four from United Nationalities Federal Council (UNFC), two from SSPP, two from RCSS, two from NDAA, four from PCG and Minister-Counselor Mr Wang Zongying from the Ministry of Foreign Affairs of the PRC and two from the PRC as observers.
3. Both sides held a cordial discussion and have reached the following agreements.
  - a) To work till both sides reach the ceasefire based on mutual understanding, respect and trust for starting genuine political talks.
  - b) To continue making coordination for both troops in the conflict areas as the battles could be reduced as a result of the 4-Feb talks and to issue necessary directives and orders to be applied to basic level troops and respective troops of both sides.
  - c) To open Coordination and Monitoring Offices if necessary so as to make field trips and monitor the front lines and to make close coordination.
  - d) To continue to implement the agreements that reached on 4<sup>th</sup> February 2013 and 11-12 March 2013.
  - e) To hold the next talks by 10<sup>th</sup> April, 2013.
  - f) To continue making step-by-step coordination for holding country-wide genuine political talks.<sup>7</sup>

According to Dr La Ja, General Secretary of the Kachin Independence Organisation, the talks were much more positive.<sup>8</sup> Nonetheless, clashes continued to be reported, especially in the KIA 4 Brigade area, and large scale Tatmadaw movements continued in the Lajayang area. Both the KIO and the Government agreed to

reopen the Myitkyina-Putao highway primarily to alleviate food shortages that had caused severe suffering for the local population.

While the meeting had been largely encouraging, it still failed to address the main concern of the KIO in relation to political dialogue, and the KIO saw the meeting as another opportunity to build up trust. Although China continues to exert pressure on the KIO to sign an agreement with the Government, the KIO is insistent that a ceasefire agreement can only be based on a concrete political settlement. Further complications include the fact that the Kachin Independence Organisation has yet to create a military code of conduct which would be instrumental in recognizing rules of engagement between the two armed forces.

While the military situation may be easier to solve once a code of conduct and political dialogue is agreed, the fact that over 200 villages have been destroyed <sup>9</sup> and approximately 100,000 people made homeless needs to be addressed. Reconstruction and rehabilitation work needs to begin as soon as possible in areas where security can be guaranteed. Many of the internally displaced people remain cautious in regards to the peace process and the conflict has even further diminished their trust in the current Government.

The Myanmar National Human Rights Commission (MNHRC) has previously recommended immediate de-mining; no forced recruitment of soldiers; and easy access for humanitarian aid to the conflict-stricken region. In its statement No (2/2013), dated 28<sup>th</sup> March 2013, the MNHRC reiterated its calls for:

- Armed groups, relevant domestic and foreign organizations should cooperate when demining is undertaken:
- Villagers should be educated on landmines:
- Armed groups should not under any circumstances commit human rights violations on the local populace:
- There should be no forced recruitment of new soldiers: and
- The Issue of humanitarian access and safe passage for humanitarian supplies should be addressed.



The statement concludes with:

In order to alleviate the sufferings of the displaced persons and also to contribute more to the peace talks, it is argued again that while the peace talks are being held with the objective of ultimately achieving peace in the Kachin State, the above mentioned recommendations of the Myanmar National Human Rights Commission should be implemented as a priority.

April peace talks which were originally scheduled at the beginning of the month have been moved towards the end of April due to the inability of some observers to attend. The talks, which are due to be held in Myitkyina, a location previously refused by the KIO, offer another opportunity to build up trust between the two sides and hopefully see a final cessation of hostilities. In the meantime, serious consideration needs to be given to the recommendations of the MNHRC by the Burmese Government, the KIO, and the international community.

Notes:

1. 'Kachin army digs in for final assault', Mon Mon Myat, Bangkok Post, 27 January 2013
2. <http://english.cntv.cn/20130119/100574.shtml>
3. 'Pyrrhic victory in Myanmar', Anthony Davis, Asia Times Online, 31 Jan 2013
4. 'Ethnic Coordination & Unity', EBO Briefing Paper No.2, February 2013
5. A serious threat to peace in Myanmar, by Jim Della-Giacoma, 10 January 2013
6. 'Union Level Peace Making Committee holds peace talks with KIO', New Light of Myanmar: Tue 5 Feb 2013
7. 'Peace talks between the Union Peace-Making Committee and KIO held', New Light of Myanmar, 13 March 2012
8. Personal Conversation with Dr La Ja, 21 March 2013
9. Kachin Baptist Convention says 66 churches and over 200 member villages destroyed

## **Parties to the Conflict:**

### **KIO Supported Armed Groups in the Kachin Conflict**

(June 2013)

#### **Overview**

As the number of clashes between the KIO/KIA and the Burma Army continues to decrease and political dialogue continues. The issue of the KIO's smaller allies, specifically the Ta-ang National Liberation Army, the Arakan Army and the All Burma Students Democratic Front (ABSDF)-North, needs to be further addressed. These three groups have helped support the Kachin Independence Army (KIA) in fighting, yet should a ceasefire be reached, their future remains uncertain.

#### **The Ta-Ang National Liberation Army (TNLA)**

The Ta-ang National Liberation Army, which is a member of the UNFC, was originally created by remnants of the Palaung State Liberation Front (PSLF) after its ceasefire agreement with the Government in 1991. Originally known as the Palaung National Force it was formed on 12<sup>nd</sup> of January 1963. By 1976, the PNF was reformed as the Palaung State Liberation Army (PSLA) under the leadership of Chairperson Tar Khon Taung. The PSLA finally signed a ceasefire on the 21<sup>st</sup> April 1991 and was disarmed on 29<sup>th</sup> April 2005.

After the cease-fire agreement was signed between the PSLA and SPDC, remnants of the PSLA remained at Manerplaw the Karen National Unions's Headquarters. These units continued to fight with the Karen and other ethnic forces. The National Democratic Front supported the PSLA's remaining units to form the PSLF on 12<sup>nd</sup> January 1992 and they continued to mount joint operations against

Government forces with the Wa National Organisation (WNO) on the Thai-Burma border.

In October 2009, the PSLF held its 3rd congress and formed the Ta'ang National Liberation Army (TNLA). The TNLA was formed under the political wing of the PSLF. It started military activity in the Palaung area in 2011 with the training and support of the Kachin Independence Army. The PSLF Chairman is Tar Aik Phone and the TNLA's Commander-in-Chief is Tar Hul Plang.

According to the PSLF its aims and Objectives are:

1. To obtain freedom for all Ta'ang Nationals from oppression.
2. To form Ta'ang full autonomy that has a guarantee for Democracy and human rights.
3. To oppose and fight against dictatorship and any form of racial discrimination.
4. To attain national equality and self-determination.
5. To establish a genuine federal union that guarantees autonomy.

It is currently active in northern Shan State and claims that it is able to field 1,400 troops. There were originally five battalions but this was expanded to seven:

- B. 112 - KutKhai Township
- B. 256 - Namsan Township
- B. 478 - Nam Kham Township
- B. 367 - Man Tong Township
- B. 717 - Moe Mit in of Kyak Mae.
- B. 101 and B. 527 are special battalions<sup>1</sup>

According to its founder and Chairman, Tar Aik Phone, the group wants a nationwide ceasefire, political dialogue, and self-rule of Ta-ang areas as part of a greater Shan State.<sup>2</sup> Although the TNLA has had an unofficial meeting with U Aung Min, on 9<sup>th</sup> November 2012, on the side-lines of a UNFC meeting, the Government has not made any further attempt to bring the group to the negotiating table primarily due to its strength. As a result the TNLA is currently rethinking its position in relation to the Kachin conflict and the future of the organisation.

## The Arakan Army (AA)

The Arakan Army in Kachin State was created by a number of Arakanese who left Arakan State to be trained by the Kachin Independence Army in 2008. Led by its Commander-in-Chief Tun Mra Naing and his deputy Dr. Nyo Twan Aung the group has about four hundred to five hundred troops.<sup>5</sup> Its main aims are:

1. Self-determination for the multi-ethnic Arakanese population.
2. Safeguard national identity and cultural heritage.
3. Promote national dignity and Arakanese interests.<sup>4</sup>

The group, after training, had originally planned to return to Arakan State and fight for self-determination, however, with the outbreak of fighting in Kachin State in June 2011, they were unable to return. As a result they took up arms against the Burma Army in support of the KIA.

The Arakan Army in Kachin State is not affiliated with the Arakan Liberation Party/Arakan Army actually in Arakan State and along the Thai Burma Border. It is much stronger and more battle conditioned. Consequently, the Arakan Liberation Party, in what appears to be an attempt to have the Arakan Army join it and thus strengthen its bargaining position with the Government has, in a 4<sup>th</sup> June statement, said:

... the Arakanese people today need a strong modern Army to protect the indigenous people, the land and our natural resources. Without a stronger force we cannot achieve our goal.<sup>5</sup>

Such a force is needed due to the fact that:

The land of Arakan is today witnessing the conflict of interest under the deadlock of Burmanization and Islamization which has finally threatened the existence of the Arakanese people.<sup>6</sup>

The Statement was made despite the fact that the ALP signed a State-level agreement with the Government in April 2012, which also includes a non-cessation clause. It remains unclear as to whether the Arakan Army wants to, or can, join together with the Arakan Liberation Party. The Arakan Liberation Party itself appears to still be pursuing

the goal of self-determination, and as a result may compromise its own peace process.

Should there be a Kachin ceasefire the role of the Arakan Army, which lacks political objectives and appears to be grounded in overt nationalism and the desire for self-determination, will be questionable. As Dr. Nyo Twan Aung notes:

Arakan Army is only an armed group, not a political party, fighting against the government for freedom of Arakanese people.<sup>7</sup>

The group's future remains unclear. It is unlikely that the Burma Army would allow five hundred armed Arakanese troops to make the journey from Kachin State to Arakan State. In addition, current religious and communal tension in Arakan are unlikely to be helped by such a move.

The Arakan Army has been able to swell its ranks with labourers from the Jade mines in Phakant and, as a result, will continue to grow as long as the Kachin Independence Army continues to train them. According to Dr. Nyo Twan Aung there have been eleven batches of Arakan trainees since 2008. The last, held in April 2013, consisted of 82 Arakanese soldiers including three females.

With little hope of being able to return to Arakan State and considering their service given to the Kachin conflict, the KIO needs to find a viable solution to the Arakan Army issue.

### **The All Burma Students Democratic Front – Northern Brigade**

The All Burma Student Democratic Front (ABSDF) was formed after the mass uprising in 1988. While many of the Students fled to the Thai-Burma border, a number also went east to Kachin territory. Its main aims are:

1. Release all political prisoners
2. Stop offensives in Kachin state and start political dialogue
3. Nationwide Ceasefire

4. Build mutual trust and respect
5. All inclusive dialogue

In 1994, the KIO signed a cease-fire agreement with the military Government and the ABSDF left the area in 1995. However, after the beginning of renewed conflict in Kachin State, the group reformed with members who had remained living on the Chinese-Burma Border. They opened a new headquarters at Lahkum Hill in Shait Yang, near the KIO's headquarters at Laiza on November 1<sup>st</sup>, 2011 and allied itself with the KIO.<sup>8</sup> It is estimated that the ABSDF North, which is led by La Seng,<sup>9</sup> has about 200 troops and has been heavily supported with weapons and supplies by the KIO.

The ABSDF - North is nominally under the control of ABSDF Chairman Than Khe and the ABSDF central have held four rounds of peace talks with the Government. Despite these meetings, the northern brigade has continued to fight the Burma Army in support of its Kachin allies. This has raised questions as to if the ABSDF central has full control over the northern brigade, an allegation the central denies noting that:

The units of ABSDF are of the same group. . . <sup>10</sup>

Nonetheless, there appears to be a number of anomalies in the actions of the two groups and it highly unlikely that even if the ABSDF central found an accommodation with the Government the northern group would stop fighting should the Kachin conflict continue. What is more important, however, is the role the ABSDF would play should there be a Kachin ceasefire.

## **Conclusion**

The ethnic situation in the country in relation to the peace process has improved, yet major obstacles still remain. Many armed ethnic actors have called for a 'Panglong style dialogue' which the Government has suggested will happen shortly. This all-inclusive dialogue offers armed groups a number of opportunities to finally realise their aspirations. Nevertheless, a number of other armed ethnic actors will need to rethink their positions. This political dialogue will exclude

some actors, either because they have no political aims or are much smaller and considered inconsequential. While the Ta-ang have made clear their aims, the future of the Arakan Army and the ABSDF-North remains firmly in the hands of the Kachin.

Notes:

1. Email correspondence with Tar Aik Phone 28 June 2013
2. Personal Conversation with Tar Aik Phone 24 June 2013
3. 'Far From Home', Simon Roughneen, *The Irrawaddy*, December 28, 2012
4. 'Deciphering Myanmar's Peace Process', BNI, January 2013
5. 'ALP urges for a stronger National Army for Arakanese', *Narinjara*, 7 June, 2013
6. *Ibid*
7. 'Arakan Army Basic Military Training Concludes in KIO Controlled Area', *Narinjara*, 8 April, 2013
8. 'ABSDF commemorates 23rd anniversary and opens northern command headquarter', *Kachinland News* <http://kachinlandnews.com/?p=20799> accessed 27 June 2013
9. <http://kachinlandnews.com/?p=22141> accessed 27 June 2013
10. 'Student army leader denies split in group', *Eleven*, 21 December 2012

## **The Situation in Karen State After the Burmese Election**

(April 2011)

For over sixty years the Karen National Union has been fighting the longest civil war in recent history. The struggle, which has seen demands for an autonomous state changed to equal recognition within a federal union, has been bloody and characterized by a number of splits within the movement.

While all splinter groups ostensibly split to further ethnic Karen aspirations; recent decisions by some to join the Burmese government's Border Guard Force is seen as an end to such aspirations. Although a number of Karen political parties were formed to contest the November elections, the likelihood of such parties seriously securing appropriate ethnic representation without regime capitulation is doubtful.

While some have argued, perhaps correctly, that the only legitimate option was to contest the elections, the closeness of some Karen representatives to the current regime can only prolong the status quo that existed immediately after the post-independence period. This papers examines the problems currently affecting Karen State after the 7<sup>th</sup> November elections.

### **The Border Guard Force**

Despite original promises of being allowed to recruit a total of 9,000 troops, the actual number of the DKBA, or Karen Border Guard Force, has been reduced considerably. In fact a number of the original offers made to the DKBA have been revoked. At a 7<sup>th</sup> May Meeting held at Myaing Gyi Ngu, U Tha Htoo Kyaw, DKBA Chairman, stated



that 'According to the SE Commander the BGF will retain the DKBA badge.' In fact the DKBA were given uniforms with SPDC military patches and all Karen flags in DKBA areas were removed and replaced by the national flag.

In regards to numbers, Bo Kyaw Htun Hlaing, Deputy DKBA commander stated that 'We are an army so we have to act like an army, all our soldiers will be given a salary [and] we estimate that our six thousand troops will continue but we need to add 3000 more.' In fact the DKBA was separated into 10 Battalions, each consisting of 400 men (not including Burmese Officers), the total number finally allowed was 4,200 with 2,360 weapons available in total. <sup>1</sup>

The DKBA was also affected by SPDC pruning in relation to age, criminal record and physical fitness. This affected them to such a degree that at least two thousand troops were forced to leave the army. While there are no figures available, it is likely that most of these former troops returned home to their farms with at least some being given pensions, but for what duration is unclear.

The inauguration of the first BGF Battalions began on the 21<sup>st</sup> August 2010 with the formation of the South-East Command BGF at Paingkyon, Hlaingbwe and attended by former DKBA commander Kyaw Than. This was followed by the formation of Border Guard Forces at Mepale, Myawaddy, Atwin Kwin Kalay, Myawaddy and Hti Hu Than in Kawkaeik.

After acceptance into the BGF, DKBA troops were ordered to return their arms and were given new Burma Army weapons. These weapons are strictly controlled and issued on a needs basis by Burma Army Commanders. BGF troops are not allowed to carry weapons without SPDC authority and are provided with only a small amount of ammunition which must be strictly accounted for. In addition to new weapons and uniforms, each battalion has been promised six vehicles - 1 for the BGF commander, 1 for the 2<sup>nd</sup> battalion Commander, 1 for general HQ use, and also three large trucks for general use.

A seven man advisory committee was also formed consisting of U Tha Htoo Kyaw, Kyaw Than, Maung Kyi, Pyia Pyia, Pah Nwee,

Maung Chit Thu (taking responsibility for business activities) and Tun Hlaing. Each advisor has been promised 400,000 kyat per month. If an advisor wants to retire they will be given 200,000 kyat as a one off payment and will not receive a pension.<sup>2</sup> At the BGF transformation meeting held in Pa-an on the 6 October 2010 it was stated that the DKBA would be restructured along the following lines: Eastern Salween, two battalions, western Salween, two battalions, two HQ battalions, Maung Chit Thu would have six battalions while both Moe Tho and Saw Blu would have one battalion each, in total there would be 14 battalions,<sup>3</sup> two of which would be held in reserve.<sup>4</sup>

DKBA forces were then split into the following BGF battalions:<sup>5</sup>

BGF#	Battalion Commander	Village	Township
1011	Maj. Soe Naing	Ta Gkawn Bo (Pandawmi)	Hlaingbwe
1012	Maj. Than Shwe	Kloo Taw (Kyone Taw)	Hlaingbwe
1013	Maj. Saw Hla Kyaing	Kadaing Di (Taungthusu)	Kamamaung (Papun)
1014	Maj. Saw Maung Chit	Tada Oo	Kamamaung (Papun)
1015	Maj. Saw Win Hlaing	Paing Kyone - Tantabin	Paing Kyone (Hlaingbwe)
1016	Maj. Myat Khine	Dawlan-Kalagone	Hlaingbwe
1017	Maj. Kaw Nay Wa	Maepke	Myawaddy
1018	Maj. Saw Maung Win	Kyawko	Myawaddy
1019	Maj. Saw Hlaing Thein	Taw Oak	Myawaddy
1020	Maj. Saw San Linn	Tee Wah Klay	Myawaddy
1021	Maj. Saw Blue	Tee Hu (Po) Than	Kawkareik
1022	Maj. Moe Tho	Atwin Gwin Galay	Myawaddy
1023	Maj. Saw Eh Htoo	Kyaikdone	Kya-in-seik-gyi

While the majority of the DKBA were prepared to accept the BGF proposal, the SPDC's plans for fully incorporating the DKBA into the Border Guard Force program were destroyed by the failure of the DKBA's 5<sup>th</sup> Brigade Commander Colonel Lah Pwe (aka Nakhamwe) to agree.<sup>6</sup>

## The Klo Htoo Baw Battalion and the Attack on Myawaddy

Concerns over Colonel Lah Pwe's intentions had already been aired by Kyaw Than during the transformation meeting with an SPDC delegation on the 8<sup>th</sup> October 2010. Kyaw Than had asked Gen. Maung Maung Ohn what he should do about Nakhawme, the General replied that:

'It depends on his will; we have given him one month. We will fight if he does not come back. That's all. There are no insurgencies allowed on the border after the election. All DKBA must become a Border Guard Force. At the end of 2010 everyone must be a Border Guard Force or we will seize all people with weapons . . . , we are not allowed to leave the KNU on the border we will clean everything, we have a lot of troops we don't need to worry.'

Despite such threats, Colonel Lah Pwe, commanding a force of approximately four hundred men, has remained steadfast that he would not surrender, stating in one interview that:

'I am a DKBA soldier and will fight for my people...Even if they tell me to give them my weapons and badge, I will never hand them over. That would be like taking our bones and just leaving flesh.'<sup>7</sup>

In addition, Colonel Lah Pwe had signalled strongly that he had no intention of re-joining the KNLA noting that '*...he will continue to fight as a DKBA soldier.*'<sup>8</sup> Instead, he has adopted the name Klo Htoo Baw (Yellow Gold Drum) battalion and currently controls 902, 901, 905, 907, 903, and the newly formed 909 battalion, the latter is under his direct control and consists of at least 200 armed troops.

While there was little doubt that Colonel Lah Pwe would not surrender, the seizure of Myawaddy town on the Thai-Burma Border by troops loyal to him came as a surprise to many. As the election was underway on the 7<sup>th</sup> November 2010, at least 80 troops from 902 Battalion, under the command of Major Kyaw Thet, began seizing various buildings in the town.

Original reports of the town's seizure were met with some incredulity with media outlet Mizzima contacting a number of officials both within the KNU and people in the town.<sup>9</sup> KNU vice-chairman David Thakabaw was quoted as saying that:

'We heard this news too. It's impossible because there are a lot of junta troops stationed in Myawaddy. If this news is true, we will see a lot of fighting with these troops.'

While Border Guard Force (BGF) Battalion 1019 Commander Lieutenant Colonel Saw Hlaing Thein stressed:

'How can Myawaddy be seized without firing a single shot? Did he seize the town in person? Which place did he seize – a bush? This news is nonsense. When we were in the KNU we had to fight hard to enter Myawaddy. I doubt if he could enter Myawaddy without firing a single shot. Myawaddy is currently calm and quiet. Military Operation Command 19 has more than 4,000 personnel and the BGF has more than 4,000 troops deployed in Myawaddy. It's not true.'

A Burmese Immigration officer also commented:

'No, this is not true. It would be clear if it was true. One would hear gunfire in the town notice that something in the town is different. It must be a trick. If it were true, you would find DKBA soldiers in uniform roaming in the town. They're not allowed even wearing their uniforms here, let alone bearing arms.'

The fact that the move came as some surprise to the KNU was further supported by its secretary 1, Major Saw Hla Ngwe:

'When I contacted my men in Myawaddy, they replied to me that enemy outposts had been overrun. We can't confirm this news. We haven't seen anything overrun, seizures or positioning of DKBA troops, based on our understanding of military training and tactics. There are no signs of occupation of the town. There are no facts to support or confirm these reports.'

The actions of the DKBA seem to have taken at least the higher members of the Karen Nation Union by surprise. With the Border

Guard Force issue looming, the KNU had appointed a special representative, Padoh Mahn Nyein Maung, to handle DKBA affairs, however, it would appear that this had produced little in the two side's abilities to work with each other. Instead Lah Pwe had been in direct contact with the KNLA via its 101 Battalion commander.

From the outset it looked as if the Myawaddy attack, which began at 8.40 in the morning, may have been the rogue action of the 902 commander Major Kyaw Htet. Earlier, on the 20<sup>th</sup> September 2010, Kyaw Thet and approximately 20 of his soldiers had surrounded a Police station in ward four of Myawaddy. The troops were apparently seeking to force police into returning unlicensed cars that had earlier been seized. A tense standoff continued until the arrival of BA troops who in turn besieged the DKBA until Kyaw Thet finally withdrew.<sup>10</sup> Despite this, and knowing that Kyaw Thet was allied with Lah Pwe, the Burmese authorities had made no move to restrict the group's movements or disarm them. Instead, they were allowed to continue their duties of manning trading gates along the Moei River. This meant that 902 troops were already in the town and it thus expedited their ability to quickly seize a number of important government building and secure the Thai-Burma friendship bridge.

After the outbreak of hostilities Colonel Lah Pwe was soon quoted explaining the reasons for the attack as:

'They [Burmese army] announced that they will shoot people who don't vote [in today's elections]. So people called on us to seize the town . . . In order to win votes in the elections, [the junta] is bullying and forcing people to vote. But the people want to boycott [the vote], so the soldiers are holding them at gunpoint and our troops had to intervene and take sides with the people.'<sup>11</sup>

Who actually called on Lah Pwe to seize the town is unclear, although it has been reported that Kyaw Thet had already stated that it was his intention to seize the town at least the day before.<sup>12</sup> It was also reported that a number of threats by the Township Election Committee had been made consistently every day since the 3<sup>rd</sup> of November 2010. Colonel Lah Pwe maintains that these threats ordered

all people to vote for the USDP and those who didn't would be shot.<sup>13</sup> One of the DKBA's Tactical Operations Commanders in the town, prior to the 7<sup>th</sup> November, confirms that the Election Committee had ordered all villagers to vote and while he does not remember a specific threat to shoot people being made, there had been an increase in Burma Army patrols in the town in what he believes was an attempt to intimidate the local population.<sup>14</sup>

Regardless of the reason, the subsequent fighting, which lasted most of the morning of Monday the 8<sup>th</sup> November 2010, killed three and injured twenty.<sup>15</sup> In addition, an 81mm artillery shell and three shells from an M79 launcher landed in Thailand injuring 19 people and killing one. By Monday night, over 12,000 people had sought sanctuary in Thailand and this would increase to over 20,000 by the next day.

The Burma Army had originally fled from its positions when DKBA troops began operations against them and it appears they were ill-equipped to deal with the attacks until reinforcements arrived. Further fighting soon erupted along the Thai-Burma border including at Colonel Lah Pwe's main headquarters at Waley, and also at Phaya Thonsu (Three Pagoda's Pass) the latter resulting in over 4,000 people fleeing across the border. It appears that the DKBA action at Phaya Thonsu was supported by KNLA troops from 16 Battalion, 6<sup>th</sup> Brigade suggesting that although the KNU leadership had not been informed of the DKBA's actions, at least local KNLA commanders were aware and prepared. According to media reports, the combined DKBA/KNLA force burnt down various military and government offices including those of the Special Bureau (SB), Agriculture, Forestry, and Post and Telegraph Departments on Monday, November 8<sup>th</sup>. By Tuesday the 9<sup>th</sup> November, Karen troops had retreated.

Completely ignoring the fact that the attacks had been conducted by Colonel Lah Pwe's troops, the New Light of Myanmar was quick to blame the violence on the Karen National Union:

'A group of KNU terrorists from south of Myawady opened fire with heavy weapons at five different places in Myawady at about 8.45 am yesterday. A total of three innocent were killed

and 20 injured in the incident. The injured were rushed to Myawaddy hospital and provided with necessary treatment by officials concerned. Due to shootings of KNU terrorists, shells of heavy weapons also exploded near Thai-Myanmar Friendship Bridge and Chinese temple in Maesot in Thailand, leaving some innocent people injured. In similar incident at noon yesterday, a group of KNU terrorists opened fire of small and heavy weapons from north of Phaya Thonsu in Kayin State, causing one member of Myanmar Police Force dead and four Tatmadaw members and one service personnel of the Township Forest Department injured.<sup>16</sup>

The Karen National Union's response stated that:

‘We, the Karen National Union (KNU), strongly condemn recent attacks by Burma's military regime, the State Peace and Development Council (SPDC), on Myawaddy Town and several other locations in Burma's border areas, where at least 3 civilians were killed, and more injured. These latest attacks are part of the SPDC's systematic violence against Burma's ethnic peoples.

The conflict in Myawaddy began on 7<sup>th</sup> November, the day of Burma's first elections in 20 years, when civilians complained of being threatened and intimidated to vote for the junta-backed Union Solidarity and Development Party (USDP), rather than the local Karen party which was their preference. Brigade-5 of the Democratic Karen Buddhist Army (DKBA) led by Colonel Saw Lah Bwe – who refused to transform to the Border Guard Force under the control of SPDC Army – took control of Myawaddy to protect these people, without using weapons. Col Saw Lah Bwe had said that he expected the SPDC Army to enter into negotiation to resolve the situation.

However, on Monday, the 8<sup>th</sup> of November 2010, at 9 a.m., the SPDC Army responded with machine guns and rocket propelled grenades, despite the presence of many civilians in the town. . . These attacks are all part of the SPDC's policy of eliminating ethnic opposition, including ceasefire groups that have refused to be under its direct control as a Border Guard Force, as required by their 2008 Constitution.

The SPDC has accused the KNU of carrying out these attacks. However, the KNU and DKBA Brigade-5<sup>th</sup> share the same policy not to hurt civilians but to protect them. The KNU supports the DKBA's actions as they were taken in resistance to the SPDC's elections that do not represent any progress towards creating a democratic federal union in which the ethnic people's fundamental human rights would be protected.<sup>7</sup>

One KNU official has noted that it is common for most Burmese authorities to threaten civilians when they want something. It is unlikely therefore that such a threat, in context, would be the sole reason for the DKBA to seize the town, especially if Kyaw Thet had already announced his intention prior to the 7<sup>th</sup> of November.

In response to the Myawaddy attack, the Burma Army, initially caught off guard, retaliated by launching a number of operations around Phaya Thonsu, Kya-in-Seikkyi, Kanelay, Phalu, and Waley. In one instance, on the evening of the 10<sup>th</sup> of November, till early morning the following day, the Burma Army indiscriminately fired 139 artillery shells into Kya-in-Seikkyi killing a 17 year-old girl and wounding her brother.<sup>17</sup> There were also reports of a least one village headman being beaten to death and that villagers had also been forced to porter for Burmese troops.

By the 11<sup>th</sup> of November, the Burma Army had entered Waley town after a sustained shelling campaign and razed a number of buildings including the house of Lah Pwe. In a somewhat belated attempt to curtail the activities of any DKBA forces left in the area, Police and Burma Army troops also began searching, on the 15<sup>th</sup> October, the houses of DKBA members in Myawaddy and apparently confiscated all military equipment and uniforms.<sup>18</sup>

Clashes between the Burma army, the DKBA, and the KNLA have continued as Burma Army reinforcements have been dispatched to areas where Karen resistance forces operate. Civilians have frequently been forced to flee across the Thai-Burma border. However Thai authorities are reluctant to house any more refugees and civilians are frequently ordered back, or are forced to hide along the border. On



the 28<sup>th</sup> November 2010, the village of Phalu came under attack forcing an estimated thousand villagers to flee across the border. Phalu, between Myawaddy and Waley, came under attack as 2<sup>nd</sup> Battalion DKBA forces in the area tried to defend their outpost and prevent a supply and escape corridor being opened up to Waley. Fighting has continued constantly since November resulting in yet more villagers fleeing across the Thai border.

In its 15<sup>th</sup> February 2011 Analysis report, the Back Pack Health Workers Team (BPHWT) estimated that by the 12<sup>nd</sup> February 2011, it, and local CBOs, was caring for over 10,000 civilians, living in unrecognized hiding sites, along the Thai-Burma Border.<sup>19</sup> Despite the fact that fighting continues, Thai authorities have continued to send villagers fleeing fighting back across the border. In one incident, on the 13<sup>rd</sup> January 2011, soldiers from the Royal Thai Army burnt down shelters at a temporary hiding site in Phop Phra district in an effort to force the 436 villagers seeking refuge there to return to Burma.<sup>20</sup> In addition to those people seeking shelter in Thailand, it is estimated there may be up to 10,000 displaced people hiding in Burma.<sup>21</sup>

It would appear that the timing of the DKBA attack, and perhaps lack of coordination with the KNU and the KNLA as a whole, rather than just 6<sup>th</sup> Brigade units, may have been a tactical and political error. While there was little doubt that there would be an escalation in conflict, not only on the Thai border but also on China's as well, such an action was not envisioned so soon. An attack on a major trading town could only provide the Burmese regime with yet more support for what could now be legitimately categorized as anti-terrorist operations.

While it may be argued that the DKBA's actions were conducted to present legitimate grievances, to draw attention to the Burmese people's plight, and to show the illegality of the elections; the timing and the methodology employed were perhaps somewhat flawed. Consequently, the eastern border from Myawaddy town down to Three Pagoda's Pass has once more become a free-fire zone on a scale unseen prior to 1998. The number of refugees fleeing to Thailand

is the worst since the 1997 offensive and villagers continue to flee or hide in small groups in Thailand.

Despite the fact that Lah Pwe continues to maintain that the Klo Htoo Baw Battalion is separate from the Karen National Union, the State Peace and Development Council, perhaps to distance the group from the then pro-regime DKBA, as designated them KNU (Saw La Pwe [sic]). According to an article published in the *New Light of Myanmar* on the 15<sup>th</sup> March 2011, fifty-one members of Saw La Pwe's group had 'exchanged arms for peace' since December 2010.<sup>22</sup>

## **The Election and the Winning Political Parties**

Despite the Klo Htoo Baw's actions on the 7<sup>th</sup> November 2010, a number of Karen representatives were voted into various legislative bodies. Originally four Karen parties had been formed to contest the election: the Phalon-Sawaw Democratic Party (PSDP), The Kayin People's Party (KPP), the Kayin State Democracy and Development Party (KSDDP), and the Union Kayin League (UKL). The latter party was eventually dissolved leaving three remaining Karen parties, the All Mon Regional Development Party (AMRDP) and the regime's Union Solidarity and Democracy Party (USDPP) to contest the elections in Karen State.

Of the three Karen parties the PSDP were considered to be the most independent. The KSDDP, believed to be created by SPDC Information Minister Kyaw San and funded by the regime, was made of ex-members of the DKBA and KPF. While the KPP, one of whose members was Dr Simon Tha of the Karen Peace Council, were also considered close to the junta.

Election results confirmed the PSDP as the strongest winner with nine members elected while the KPP had four and the KSDDP received two. The AMRDP got three with a further seat going to an independent, the regime's own party, the USDPP received 13 seats.

The Phalon-Sawaw Party, along with the Shan National Democratic Party (SNDP), the All Mon Region Democracy Party (AMRDP), the

Rakhine Nationalities Development Party (RNDP) and the Chin National Party (CNP), has called for a lifting of sanctions in a joint statement made on the 15<sup>th</sup> January 2011. This in itself echoes a similar call for a sanctions review based on conservation, social affairs and human rights factors made by the NLD on January 4<sup>th</sup>. In addition, the five parties also called on the current and incoming governments to reserve one vice-presidency in the Nationalities' Parliament for an ethnic representative, as well as one speaker or deputy-speaker in either the People's Parliament (Pyithu Hluttaw) or Lower House (Amyotha Hluttaw).

In March the Karen State Hluttaw legislative committee was formed. The committee consists of seven members including three State Hluttaw representatives and what was defined as four suitable citizens. Those nominated were U Saw Aung Pwint as Chairman, U Aung Kyaw Lin (Kayin State Law Office) as Secretary and U Min Aung Lin of Hlaingbwe Township No.1 Constituency. The four suitable citizens were Advocate U Maung Pu (a) U Kyaw Win, Advocate U Khin Si and Major Tun Tun Oo and Captain Zaw Min Tun as Defence Services Personnel representatives.<sup>23</sup>

The State Hluttaw National Races Affairs Committee was also formed consisting of three State Hluttaw representatives and four suitable citizens. Phado Aung San, Papun Township No.2 Constituency, was nominated as Chairman, U Saw Shar Tunt Phaung, Hlaingbwe Township No.2 Constituency, as Secretary and USaw J A Win Myint of Thandaunggyi Township No.2. The four citizens are Daw Nan Than Than Lwin, U Khun Min Aung, U Mya Soe, and U Min Aung Win.<sup>24</sup>

## **Conclusion**

The situation in Karen State, after the election, has, due to the seizing of Myawaddy on 7<sup>th</sup> November 2010, deteriorated, especially in areas which, prior to the arrival of the BGF issue, had been relatively peaceful. While there is little doubt that conflict would have affected these areas eventually, the timing of the attack, and the lack of

coordination with other armed groups has resulted in an increase in armed conflict and has impacted on the lives of over 20,000 civilians many of whom remain displaced and vulnerable.

While the new constitution clearly states that there can be only one armed force in the country and, therefore, suggests heightened conflict in Karen State was inevitable; the timing of the attack has negated any other possible avenues of negotiation therefore resulting in increased conflict as remaining the main option available.

There have been many attempts to denigrate the elections, yet the fact remains that a number of ethnic representatives have now been elected. While it is too early to say whether these parties will be able to contribute meaningfully to addressing the ethnic issue it must be recognized that an opportunity not earlier available has been created and should therefore be supported as an alternative to conflict.

In relation to the Border Guard Force it would appear that little has changed in its operations towards the local villagers. While it is still too early to fully analyse the activities of BGF units, reports have already emerged of abuses by at least one BGF unit in Karen areas. As KHRG notes:

‘On November 29<sup>th</sup> 2010 Saw T---, a 27-year-old man from Lu Pleh Township, Pa’an District was arrested, tortured and executed by soldiers from Tatmadaw Border Guard Force Battalion #1015, following accusations that he had made contact with and provided information to the KNU. In a separate incident that occurred on November 19<sup>th</sup> 2010 Saw M---, a 75-year-old man, was executed at point blank range by soldiers from a different unit of the same Border Guard Force Battalion #1015, after being asked to step outside his house in Dta Greh Township, Pa’an District. . .’<sup>25</sup>

Most recently, it appears that both Kyaw Than and Maung Chit Thoo, who had been made advisors, have now been asked to take command of BGF operations against the KNLA and Klo Htoo Baw Battalion. This is primarily due to a lack of trust between Burma Army commanders and the Karen troops in the BGF units. In addition,

recent reports have also suggested that the initial number of troops assigned to attend combat operations have now been reduced from 400 to 160.

There seems to be little to suggest that, after the election, the situation in Karen State will improve. The creation of the Border Guard Force and the failure of the SPDC to incorporate the DKBA's 5<sup>th</sup> Brigade, has resulted in an increase in conflict. While some limited political space has been created there is little to suggest it will have an immediate impact, however, if supported, overtime this could result in limited improvement at least in areas not directly affected by conflict.

In the short-term, as conflict between the Burma Army and KNU/Klo Htoo Baw Battalion intensifies, Thailand, and the international community, must prepare for an escalation of abuses against the Karen population and consequently an increase in the number of refugees and internally displaced people needing assistance. There is little doubt that until the military regime recognises the fact that continued conflict cannot solve the ethnic issues plaguing the country the situation in Karen State will continue to deteriorate regardless of the changing political landscape.

#### Notes:

1. Notes from minutes taken at the 2nd BGF meeting held at LID22 H.Q. Pa-an, 8 October 2010
2. Ibid.
3. Notes from minutes taken at the 1st BGF meeting held at LID22 H.Q. Pa-an, 6 October 2010
4. Ibid.
5. Karen Strategic Studies Group
6. There has been some confusion in regards to the naming of some DKBA Battalions. Lah Pwe had formerly commanded 907 and 906 Battalions and the DKBA had been designated under the brigade structure of 555, 333 and 999. Although the date is unclear, these brigade areas were designated as numbers 1 to 5. Telephone conversation via translator with Colonel Lah Pwe, 9 January 2011

7. 'Karen Armies Unite to Face Threat of War', Alex Ellgee, *The Irrawaddy*, 7 August 2010
8. Ibid.
9. 'Myawaddy 'not overrun by breakaway DKBA group'', *Mizzima*, 7 November 2010
10. 'Myawaddy police besieged by DKBA troops', *Mizzima*, 21 September 2010
11. 'DKBA renegades seize border town', *Naw Noreen, DVB*, 7 November 2010
12. Personal conversation with KNU official, 19 November 2010
13. Telephone conversation, via translator, with Colonel Lah Pwe, 9 January 2011. One KNU official has noted that it is common for most Burmese authorities to threaten civilians when they want something. It is unlikely therefore that such a threat, in context, would be the sole reason for the DKBA to seize the town, especially if Kyaw Thet had already announced his intention prior to the 7th of November.
14. Telephone conversation via translator with DKBA Tactical Operations Commander, 9 January 2011
15. 'KNU terrorists shell Myawady, Phaya Thonsu, leaving some innocent people dead, injured', *NLM*, 10 November 2010
16. Ibid
17. 'FBR Report: School girl killed, villagers wounded and hundreds displaced as the Burma Army continues attacks in Central Karen State.', *Free Burma Rangers*, 20 November 2010
18. 'DKBA Property searched, confiscated.', *Naw Noreen, DVB*, 15 October
19. 'Update on the Conflict and Displacement of Civilians along the Thai-Burma Border', *Back Pack Health Worker Team (BPHWT)*, 15 February 2011
20. [http://www.khrg.org/khrg2011/khrg11f1\\_update.html#48](http://www.khrg.org/khrg2011/khrg11f1_update.html#48) accessed 19 January 2011
21. 'Situation Report: Promoting the Protection of Newly Displaced Civilians Affected by Conflict and Increased Insecurities on the Thai-Burma Border Mid-December 2010 to 11th January 2011', *Back Pack Health Worker Team (BPHWT)*, 12 January 2010
22. 'Eight Armed Group Members Exchange Arms for Peace', *New Light of Myanmar*, 15 March 2010
23. 'Regular Sessions of the First Region and State Hluttaw held Members of the Legislative Committee and National Races Committee nominated.' *New Light of Myanmar*, 2 March 2010
24. Ibid
25. 'Extrajudicial execution of two civilians in Pa'an District', *KHRG*, 15 February 2011

## **Establishing A Common Framework**

### **The Role of the United Nationalities Federal Council in the Peace Process and the Need for an All-Inclusive Ethnic Consultation**

(May 2012)

While the Burmese Government continues to seek peace with the various ethnic resistance movements individually at the local levels, the United Nationalities Federal Council – Union of Burma (UNFC) is working in the political process to ensure that any state-level talks are held through a common framework. However, there remain a number of concerns to be addressed by member organisations in recognizing a common policy that will benefit all relevant ethnic actors.

[The strategy we adopt] may be right or wrong. What is important is that we are just one voice. If the strategy is wrong we can adjust it later.

*Col. Hkun Okker, UNFC Joint General Secretary 2, March 2012*

The origins of the UNFC began in November 2010 shortly after the election. Three ceasefire groups, the Kachin Independence Organisation (KIO), the New Mon State Party (NMSP), the Shan State Progress Party (SSPP) together with three non-ceasefire groups, the Karen National Union (KNU), the Karenni National Progressive Party (KNPP) and the Chin National Front (CNF), formally announced the creation of an organising committee, the Committee for the Emergence of a Federal Union (CEFU). The Committee's purpose was to consolidate a united front at a time when the ceasefire groups faced perceived imminent attacks by the Burma Army. At a conference

held from the 12-16 February 2011, CEFU declared its dissolution and the formation of the United Nationalities Federal Council (UNFC). The UNFC, which was at that time comprised of 12 ethnic organisations<sup>1</sup>, stated that:

The goal of the UNFC is to establish the future Federal Union (of Burma) and the Federal Union Army is formed for giving protection to the people of the country.<sup>2</sup>

Shortly after, wide-scale conflict occurred throughout areas controlled by the SSPP and a number of their bases were lost to the Burma Army. Then, in June, the KIO ceasefire broke down, resulting in the current conflict in Kachin State. The formation of the UNFC had occurred at a time of increasing uncertainty in relation to how the new Burmese Government would settle the ceasefire group issue. Consequently, the creation of a broad-based alliance consisting of both ceasefire and non-ceasefire groups was a reasonable move.

The political leadership of the alliance originally fell on the KNU with KNLA Commander-in-Chief General Mutu announced as Chairman and KIA commander, Lt. Gen. Gauri Zau Seng as Vice Chairman No.1. The KNPP's Khun Abel Tweed took the position of Vice Chairman No.2 and the NMSP's Nai Hongsa, General Secretary. The creation of the UNFC occurred while a number of other ethnic alliances still remained. The National Democratic Front, formed in 1976, still contained members of armed ethnic groups, the NCUB was still active, as was a five-party military alliance, the existence of the latter was the reason given by the SSA-South for not joining the UNFC.

Despite the fact that Gen. Mutu was ostensibly Chairman, the UNFC's policies were mainly driven by the KIO and the NMSP. The Central Executive Committee was reformed in May and it was announced that Lt. Gen. N'Ban La of the KIA would take over as Chairman and Gen. Mutu would be Commander of the Federal Union Army (FUA). Leadership changes were made once more at a meeting in November 2011, Gen. Mutu was replaced by Maj. Gen. Bee Htoo of the KNPP as Commander-in-Chief and Brig Gen Gun Maw of the KIO was appointed as Deputy#1. It was announced that



the Federal Union Army had been formed at a meeting held on the 16-17 December 2011. According to its Circular #1 / 2011, the Federal Union Army's aims and objectives are:

- To defend the Union
- To achieve peace
- To restore democratic rights and fundamental rights of the people
- To struggle for Equality and Right of self Determination
- To oppose human rights violations and war crimes committed by some elements of the Burma Army
- To serve as a rally point for Burma Army members who wish to stand by the people
- To become a part of the armed forces of the future federal union<sup>3</sup>

The circular also designates the following as allies: the Arakan Liberation Army (ALA), the All Burma Students' Democratic Front (ABSDF), the United Wa State Army (UWSA), the National Democratic Alliance Army (NDAA) and the Shan State Army (SSA) 'South'. All the ethnic groups mentioned have already made peace agreements with the Burmese Government and the future role of the ABSDF, in light of Aung San Suu Kyi's release and the re-registration of the NLD, remains somewhat vague.

## **The UNFC's Role in 2012**

The last meeting of the UNFC was held in March 2012 after several of its members had already made initial peace agreements with the Government. In an attempt to consolidate a unified ethnic stance, the meeting was able to identify a number of key issues to be presented at the next round of peace talks at the Union level. While the UNFC agreed that members were allowed to hold separate discussions at the state level it was important that all members prepare a single united stance for any future dialogue in anticipation of a new Panglong-style initiative. In its manifesto the UNFC sets forwards two main points that need to be considered prior to Union level talks:

- (a) The Union government is to carry out the cessation of military offensives by its troops in areas of the UNFC member organizations immediately, to announce officially such cessation of the offensives and, at the same time, announce officially a ceasefire covering all the areas where armed conflict is happening. At the same time, the UNFC is to issue such an announcement;
- (b) After the Union government has announced a ceasefire officially, the two sides are to consult and speedily undertake for resolving the political problems peacefully through political dialogue. If political dialogue cannot be held or [there is a] failure to hold political dialogue [it] shall be taken as abrogation of the ceasefire;<sup>4</sup>

For the UNFC, there is a clear distinction between the priorities put forward by the Government through the 2008 Constitution and what UNFC members envisioned as representing the Panglong spirit. The Constitution makes clear its priority of development over the political rights of ethnic states. This, in itself, negates what ethnic organisations see as their own priorities and this is the reason that the KIO is not prepared to stop fighting until this issue is addressed. The KIO, which has had a ceasefire agreement with the Government since 1994, claims that political dialogue must be held first, prior to the cessation of hostilities.

In addition, one of the main demands that the KIO is making is that such a negotiation take place outside of a parliamentary framework. The KIO position is that a new ethnic conference or dialogue should be convened along Panglong lines<sup>5</sup>. President Thein Sein in a speech before Parliament has already stated that:

We have no trick on the path in the direction of peace . . . we conduct peace talks on spirit of the Panglong agreement.<sup>6</sup>

However, it is unlikely that such an agreement can be created outside the parliamentary process; consequently, one of the main demands of the KIO may already be unachievable. It must be noted that the KIO, and its leadership of the UNFC, is extremely important in deciding UNFC policy and it has been suggested that without the KIO's involvement, the UNFC, and ethnic unity as a whole, may collapse.<sup>7</sup>

There still remain a number of differences within the UNFC's member organisations in regard to an integrated strategy. At least one group is not prepared to accept a non-secession agreement with the Government while another is seeking its own independent arrangements. As one leading UNFC leader noted, however, there is a need within the UNFC membership to recognise the differences in what would be the core member group, and that of smaller groups with less political leverage. That said, however, UNFC leaders are optimistic about being able to persuade other groups to adopt the same strategy but admit it will not be easy. As Col. Hkun Okker, UNFC Joint General Secretary 2 notes:

[The strategy we adopt] may be right or wrong. What is important is that we are just one voice. If the strategy is wrong we can adjust it later.<sup>8</sup>

Although a number of differing views still remain, the UNFC is confident that it will be able to play an important role at the Union level. A number of contacts have already been made between the UNFC as an umbrella organisation and Government peace negotiator Aung Min. However, for the Government to fully recognise the UNFC as wholly representing the aspirations of all the ethnic organisations, all members must adopt a single strategy, even if it means a loss of their own independent goals.

A number of ethnic alliances have come and gone primarily due to the lack of consensus between member organisations. The National Democratic Front, while still active, has become insignificant over the years primarily due to internal differences and the creation of other alliances, not due to a concerted effort by the Burmese Government to divide it. Organisational differences must be addressed before the UNFC will be seen by the Government as fully representing ethnic peoples. Therefore, the failure of UNFC member organisations to compromise could see the UNFC's role diminished and perhaps, more importantly, the future of ethnic solidarity and equality damaged.

## **The Need for an All-Inclusive Ethnic Consultation**

As noted earlier, the UNFC has an important role to play in formulating strategy at the State level with ethnic armed groups. Nonetheless, a much more broad-ranging strategy needs to evolve for any future Panglong- style conference to be successful, and this needs to take into account a wide ranging number of ethnic actors already in Burmese politics.

Since the 1990 elections, a number of ethnic parties have appeared on the Burmese political stage and have continued to play an important role. These Groups, the United Nationalities League for Democracy (UNLD), the United Nationalities Alliance (UNA), and, most recently, the Nationalities Brotherhood Forum needs to be included in any future ethnic conference. These groups have had much more experience working within a Burmese political framework and can contribute a great deal to any future ethnic agreement.

The UNLD is perhaps one of the most important ethnic political alliances formed. Created in 1988 to contest the 1990 elections the UNLD's stated aim was to:

. . . adopt a policy aimed at the establishment of a genuine federal union based on democratic rights for all citizens, political equality for all nationalities and the rights of self-determination for all member states of the Union.

The UNLD contested the 1990 general election under the slogan of “democracy and equality” and won 35% of the popular vote and 16% of parliamentary seats (67 seats) in the national parliament of the Union of Burma. The election results established the UNLD as the second largest political party in Burma. After the election, the UNLD adopted some policies to be applied during the transition of power from an authoritarian military junta to what it believed would be a democratically elected government. Among these were tripartite dialogue, national reconciliation, and a national convention.<sup>10</sup>

Similarly the United Nationalities Alliance (UNA), also formed after the 1990 election, sought to establish itself as a major representative of ethnic aspirations. Formed by eight ethnic political parties the

UNA consisted of Arakan League for Democracy (ALD); Chin National League for Democracy (CNLD); Kachin State National Congress for Democracy (KNCD); Karen National Congress for Democracy (KNC); Kayah State all Nationalities League for Democracy (KNLD); Mon National Democratic Front (MNDF), the Zomi National Congress (ZNC) and, perhaps more importantly, the Shan Nationalities League for Democracy (SNLD) which primarily steered the group. The UNA had taken a negative stance in relation to the Burmese Government's National Convention stating that:

...we, the United Nationalities Alliance-UNA, regard those attempts of resuming the adjourned National Convention, which was composed with government's hand-picks neglecting democratic principles and United Nations's General Assembly resolution, as an insulting act of the will of Myanmar people and civilized international community.

While both the UNLD and the UNA have gradually seen their significance wane, they still continue to have a part to play in ethnic politics. Years of experience working within the Burmese political system should not be casually dismissed by more recent political actors and for any substantive ethnic dialogue to take place their views must also be included.

While the UNLD and the UNA may be able to add experience to any future ethnic consultation perhaps the most essential role is that of the Nationalities Brotherhood Forum. The Brotherhood was formed after the 2010 election by five of the winning parties: the Phalon-Sawaw, the Chin National Party (CNP), the All Mon Region Democracy Party (AMDP), the Rakhine Nationalities Development Party, and the Shan Nationalities Democratic Party (SNDP). In total, the five members of the group were able to secure 127 seats over all three levels of parliament. In contrast to those ethnic groups who have functioned outside of Burma's political system, the Brotherhood is prepared to try and change the system from within, even though it acknowledges that, 'The November 7, 2010 elections were neither free nor fair.' That said, however the Brotherhood also notes:

But we saw that the recent by-elections on 1st April 2012 were relatively much freer and fairer. We now hope that the next elections in 2015 will be fully free and fair.<sup>11</sup>

It is important to note the tone that the Brotherhood uses. Considering its members' current positions in Parliament, its last statement, which praises the success of the NLD in the recent by-election, quite strongly states that:

We consider any system of government that dismisses the rights of minorities to be a bully and a system that lacks basic democratic norms. Members of the Nationalities Brotherhood Forum will steadfastly and collectively oppose such a system. . . Loyalty to, and love for one's own ethnic identity, homeland, language, literature and culture are innate qualities inherent in all ethnic nationalities. We therefore oppose any attempts to subjugate the ethnic nationalities by trying to dismantle and undermine their spirit and unity.<sup>12</sup>

The main difference between the Brotherhood and the UNFC is its working experience. The UNFC is primarily composed of parties who have relied on military defiance to achieve their goals. And, in an approach that is not that dissimilar from the Burmese Government, ethnic armies have taken a major role in formulating political doctrine even if they have not controlled it absolutely. The Brotherhood, while recognising the fact that the situation is far from perfect, understands that for changes to be made, they must be done so from within the political system – an idea that is further supported by the NLD.

The UNFC, primarily due to the Kachin Independence Organisation's control of it and also the inclusion of a number of hardliners from other ethnic groups, is opposed to working within the current political system. The UNFC requires that the constitution be amended and a Panglong-style conference be convened outside of the current political framework. This in itself puts the UNFC in opposition to ethnic political parties working inside the country and also to Aung San Suu Kyi's NLD, a point that the UNFC is fully aware of noting that, ' . . . We may be taking a parallel position to that of 'The Lady.'<sup>13</sup> The fact that the NLD's support may even be greater than that of local ethnic parties should cause the UNFC to perhaps rethink its position. There

is little to suggest that in the next election ethnic political parties, especially any supported by the UNFC, would be able to gain more support than the NLD. Consequently, for the UNFC to be able to secure a role for itself in the future of the country, and best represent ethnic aspirations, it needs to be able to work with those parties who already have a strong political position within the country.

The recent announcement by the Burmese Government that its peace negotiating teams will be combined into one and led by U Aung Min is a positive sign in relation to solving the Kachin conflict. While the Kachin requests are still opposite to what other ethnic groups have already agreed to, the fact that U Aung Min will now be responsible for negotiations with the KIO could see a possible resolution to the war at least. Should this happen the UNFC will see its position further weakened.

The UNFC, if it wishes to remain relevant, needs to openly embrace other ethnic political actors in a reformed strategy and incorporate their ideas. While previous ethnic alliances, especially those created by armed ethnic groups outside of the country, have distanced themselves from above ground ethnic actors, the current environment should be taken into account. The current government's strategy so far has been to engage armed groups primarily on the basis of solving armed conflict, rather than finding a political solution to the ethnic issue. While this has largely been effective at the State level, for Union level negotiations to be successful all parties must recognise that only an all-inclusive political dialogue can solve what is essentially a political problem.

All parties must be involved in such a dialogue including the NDF and the Ethnic Nationalities Council. The latter, especially, has been involved in formulating political strategy and stressing the need for political dialogue and a negotiated settlement. The UNFC, like all ethnic political groups, needs to constantly adapt to this frequently changing political landscape, failure to do so may result in its own obsolescence.

Notes:

1. Chin National Front, Kachin Independence Organisation, Kachin National Organisation, Karen National Union, Karenni National Progressive Party, Lahu Democratic Union, National Unity Party of Arakan, New Mon State Party, Palaung State Liberation Front, Pa-O National Liberation Organisation, Shan State Progress Party/Shan State Army, Wa National Organisation. There are currently 11 members due to the fact that the KNO was absorbed into the KIO.
2. 'Statement of Expanded Meeting of the Political Leading Board and Central Executive Committee of UNFC', 14 May 2011
3. 'UNFC: Federal Army formed, better late than never', SHAN, 23 December 2011
4. The Draft Manifesto of the United Nationalities Federal Council (UNFC)
5. Personal Interview with Dr La Ja, , 22 March 2012
6. 'Ethnic Peace is my priority', Saw Yan Naing, The Irrawaddy, 1 March 2012
7. Personal Interview Dr Khin Maung, 21 March 2012
8. Personal Interview with Col. Hkun Okker, UNFC Joint-General Secretary 2, 22 March 2012
9. There were 21 ethnic parties included in the UNLD: Arakan League for Democracy(ALD), Mon National Democratic Front (MNDF), Ta-ang (Palaung) National League for Democracy, Karen State National Organization, Chin National League for Democracy(CNLD), Kayah State All Nationalities League for Democracy, Democratic League for National Races of Shan State, Zomi National Congress, Farmer,Gadu ,Ganan and Shan National Unity Democratic Headquarters, Kachin National Congress(KNC), Mro or Khami national solidarity Organization, Democratic Organization for Kayan National Unity(DOKNU), Kachin State National Democratic Party, Inn-Tha National Organization, Rakhine National Humanitarian Development Organization (Marama Gyi), Union Pa-Oh National Organization, Karen National Congress for Democracy, Mara people's party, Lisu National Solidarity, Wa National Development Party, Lahu National Development Party(LNDP)
10. See 'The Role of UNLD in the Struggle for Democracy and Federalism in Burma' in the 'The New Panglong Initiative: Rebuilding the Union of Burma' edited by Chao Tzang Yawngnhe and Lian H. Sakhong, UNLD Press, 2004
11. 'The 9th Position Statement of Nationalities Brotherhood Forum', NBF, Yangon, 7 April 2012
12. Ibid.
13. 'Ethnic Alliance ready to meet Government Negotiator', SHAN, 20 April 2012



## **Allied in War, Divided in Peace**

### **The Future of Ethnic Unity in Burma**

(February 2013)

On 20<sup>th</sup> February 2013, the United Nationalities Federal Council (UNFC) an 11 member ethnic alliance<sup>1</sup> met with the Burmese Government's Union Peace Working Committee (UPWC) at the Holiday Inn, Chiang Mai, Thailand. The meeting, supported by the Nippon Foundation, was an attempt by Government negotiators to include all relevant actors in the peace process. The UNFC is seen as one of the last remaining actors to represent the various armed ethnic groups in the country (for more information see BP No.6 Establishing a Common Framework) and has frequently sought to negotiate terms as an inclusive ethnic alliance.

The alliance was formed at a time of serious concern amongst ethnic ceasefire groups in relation to the Border Guard Force issue which many believed threatened their existence. Consequently, two former ceasefire groups the KIO and the NMSP allied with non-ceasefire groups like the Karen National Union to form an all-inclusive bulwark against the Government which was to include the formation of a single federal army.

After the Restoration Council of Shan State/Shan State Army –South (RCSS/SSA) held its first meeting with the Burmese government on the 19 November 2011 and agreed to a nominal ceasefire, a number of other armed ethnic groups followed suit. While the RCSS/SSA had not been a member of the UNFC other groups that had been founding members, including the Karen National Union (KNU), Chin National Front (CNF), Karenni National Progressive Party (KNPP) and the New Mon State Party (NMSP), soon made individual agreements with the Government.

While the UNFC had agreed, albeit begrudgingly, individual members could negotiate as single entities, the various peace processes began to fracture the unity of the organisation as individual members have been unable to find a truly common consensus in relation to negotiations with the Government. While the UNFC could have assumed the mantle of consolidation and promoting ethnic unity, it has primarily relied on issuing statements supportive of ethnic unity but has failed to act to cement it.

Perhaps one of its most important actions, in relation to unity, was its participation at a conference of armed ethnic movements held from the 26-28 February 2012. The conference, attended by members of the KNU, KIO, KNPP, CNF, RCSS, NMSP, and PNLO, agreed to a common framework to guide members in the negotiation process.<sup>2</sup> The participants agreed a three stage peace plan:

1. Ceasefire,
2. Implementation of agreements
3. Political Dialogue

It was also agreed that a working group would be formed to further develop a common set of principles and plans for the peace process. As a result, the Working Group on Ethnic Coordination (WGEC) was formed in June 2012. The WGEC consists of representatives from the 7 states plus advisers and, following an Ethnic Nationalities Conference in September 2012, representatives from Civil Society Organizations (2 each from youth, women and issue-based CBOs).<sup>3</sup> The group, which is supported financially by the Euro-Burma Office, meets monthly to update members and discuss the peace process.<sup>4</sup>

As a result of the various WGEC meetings, UNFC members ostensibly agreed, at a September 2012 ethnic conference, that the following six points would need to be addressed for the peace process to move forward:

1. Meeting of armed and civil society organizations to lay down points to be included in the Framework for Political Dialogue.
2. Meeting between the Union government and the armed movements' representatives to establish the Framework for Political Dialogue.

3. Conferences of the ethnic people in state and regions.
4. A national conference of the ethnic nationalities.
5. A Union conference held in the Panglong Spirit and participated by equal number of representatives from the ethnic forces, democratic forces and the government, to agree and sign the Union Accord.
6. A Precise timeframe for the peace process.

The UNFC finally met with Government negotiator U Aung Min on 9<sup>th</sup> November 2012 in Chiang Mai, Thailand. At this meeting an informal agreement was reached that stated:

1. Resolve political issues by political means.
2. Government should hold political dialogue with armed groups collectively and not separately.
3. Discuss the following topics during the upcoming formal meeting in the Myanmar Peace Center (MPC) in Yangon: framework for political dialogue, “talking points” or agenda, timeline, technical assistance and logistics.

According to peace negotiator Nyo Ohn Myint , discussing the most recent meeting, in February 2013:

Primarily they will discuss framework for starting the peace process, beginning with: addressing ways to advance political dialogue; the division of revenue and resources between the central government and the ethnic states; and how to maintain communication channels for further talks.<sup>5</sup>

Khun Okker, who attended the meeting, suggested that the February meeting was primarily a trust building exercise for the UNFC and the Government. While individual armed groups had spoken to U Aung Min throughout their negotiation processes and some had already built up trust with the negotiation team. He believed that the UNFC would be more cautious in its approach in relation to the peace process, especially considering the continuing clashes with UNFC members including the KIO and SSPP/SSA.

## Divisions within the Armed Ethnic Resistance Movement

While all armed ethnic groups have participated in the WGEC meetings and generally agree with UNFC policy, many are unwilling to risk their own separate peace agreements in the name of ethnic unity. Since its signing of agreements with the government, the Chin National Front has gradually moved away from the UNFC. According to UNFC Joint General Secretary 2, Khun Okker, the CNF agreement was designed to be a model for all ethnic groups, and, had the agreement failed, the CNF's strength politically and militarily would not have been a serious issue for the Government. However, he notes, that realistically the model is not suitable for much larger groups.<sup>6</sup> Regardless, the CNF have seen their agreement with the Government as relatively successful, and, unlike other groups, the emphasis for the CNF is primarily the need for development as the state has seen only limited armed engagement with the Burma Army over the past decade.<sup>7</sup> In fact, no representatives of the Chin National Front were present at the February meeting due to the celebration, for the first time, of Chin National Day.

The UNFC, and perceived ethnic unity as a whole, was also dealt a major blow at the end of December 2012 at the KNU's 15th Congress. Hard-line leaders who had been supportive of UNFC policies were replaced by more moderate leaders who would shift their position away from the alliance. The UNFC's Vice Chairman 2, David Thackerbaw, who had previously been Vice President of the Karen National Union, lost his position in the congress, and, while still holding the portfolio of alliance affairs, has no real political mandate within the KNU. General Mutu Say Po, the newly elected KNU Chairman, is seen by some as being too close to the Government, and, it has been suggested, that the Government might try and use him to sway other ethnic leaders and therefore further decrease the influence of the UNFC.<sup>8</sup> According to a Government statement, General Mutu had after meeting with the Government in January 2013:

... expressed KNU's strong desire to build peace on ceasefire and negotiation, guaranteeing that KNU has no plan to reverse.<sup>9</sup>

In addition, the new Karen leadership have acted as mediators between the Government and the KIO. On 4 February 2013, a meeting was held in Ruili, China, attended by both KNU Chairman Mutu and General Secretary Kwe Htoo Win. In addition, the meeting was also attended by Brig. Sai Lu of the Restoration Council of Shan State and Harn Yawngthwe and Victor Biak Lian of the Euro Burma Office. While no solution has been found to the on-going conflict, there is strong evidence that armed ethnic groups already within the peace process will act outside of the UNFC to persuade the KIO and SSPP to find an accommodation with the government.

Perhaps one of the biggest threats to unity however, is the inability and inexperience of UNFC leaders to be able to adapt to negotiations. After decades of conflict and military rule in the country, leaders have failed to recalibrate to the current situation, and consequently have failed to implement new strategies in relation to working with the Government. While the UNFC has consistently been able to put forward a veneer of unity, individual members are now beginning to distance themselves. For the UNFC to remain relevant and to ensure that ethnic unity is maintained, the UNFC leadership has to reassess its position. As UNFC Joint Secretary 2, Khun Okker, explains,

It's always the same, whenever the Government talks peace; we [ethnic groups] begin to separate.<sup>10</sup>

## **Background to Armed Ethnic Alliances in Burma**

In November 1952 the Zin-Zan Agreement for a ceasefire was reached between the CPB and the KNU and the first substantive alliance formed by the armed ethnic groups was the National Democratic United Front (NDUF) which was created on 16<sup>th</sup> May 1959. The NDUF united the Kawthoolei Nationalities United Party, the New Mon State Party (NMSP) and, much to a number of right-leaning KNU leaders' consternation, who refused to have any part in the alliance, the Communist Party of Burma (CPB).

In May 1970, the National United Liberation Front (NULF) was formed comprising U Nu's People's Democracy Party (PDP and its armed wing, the People's Liberation Army), the KNU, and the New

Mon State Party. Thailand allowed the NULF to set up covert bases on its side of the border at Mae Hong Son, Mae Sariang and Mae Sot. However, one major stumbling block was the fact that the NULF was demanding a 'Federal Union Republic.' Many ethnic leaders saw this as counter to what they were, at that time, demanding which were their own autonomous states. In 1972, after Karen and Mon requests to have the right of secession were finally agreed to by U Nu, he resigned and went into retirement, leaving the PLA to fend for itself.

In May 1973, realising that there was still a need for a committed ethnic nationalities resistance the Revolutionary National Alliance (RNA) was formed by the KNU, Shan State Progress Party, Kayan New Land Party and the Karenni National Progressive Party at Kawmoora, Karen State, Its aim was *'to establish a genuine federal union of independent national states based on the principles of equality and national self-determination.'* By the end of 1973, it also included the Arakanese resistance movement, the Arakan Liberation Party (ALP) which based representatives in Karen areas. The KNU began training the new forces at Kawmoora where they would join another joint nationalities organisation, the Federal Nationalities Democratic Front (FNDF). This superseded the RNA in 1975 and was an organisation which specifically promoted separate nationality states and refused any *'Burman membership.'*

10<sup>th</sup> May 1976, saw the formation of the longest surviving combined ethnic force – the National Democratic Front (NDF), formed at Manerplaw, the KNU's new headquarters on the Moei River. The front initially consisted of the KNU, the NMSP, the KNPP, the ALP, the KIO, the Shan United Revolutionary Army (SURA) and a number of other smaller organizations. Mahn Ba Zan was elected president while other KNU members of the NDF's EC included Padoh Baw Yu Paw, Secretary, Lt. Gen. Tamla Baw and Bo San Line. The main objective of the NDF was *'to establish a Federal Union based on the right of determination for all nationalities.'*<sup>11</sup> November 1988, saw the formation of the Democratic Alliance of Burma comprising the National Democratic Front (NDF), and several pro-democracy groups that supported the armed struggle or had taken up arms (chiefly the All Burma Student Democratic Front).

Notes:

1. The UNFC consists of 11 armed groups: Chin National Front (CNF), Karenni National Progressive Party (KNPP), Karen National Union (KNU), New Mon State Party (NMSP), Shan State Progress Party (SSPP) PaO National Liberation Organization (PNLO) Kachin Independence Organization (KIO), Arakan National Council (ANC), Palaung State Liberation Front (PSLF), Lahu Democratic Front (LDU) and Wa National Organization (WNO)
2. Present were Gen Mutu Say Poe, KNU, Zipporal Sein, KNU, Nerdah Mya, KNU, Kwe Htoo Win, KNU, Khu Oo Reh, KNPP, Gen N. Banla, KIO, Dr Laja, KIO, Zin Cung, CNF, Dr Sui Kha, CNF, Hkun Okker, PNLO, Nai Han Tha , NMSP, and Gen Yawd Serk, RCSS/SSA, see 'Answering questions on WGEC', SHAN, 9 January 2013. In addition, also present as observers were representatives from the Klo Htoo Baw Battalion, the KNU/KNLAPC, the non-BGF faction of the MNDAA (Peng Daxun, son of ousted leader Peng Jiasheng), the KNLP and the KNPLF (BGF) see 'Deciphering Myanmar's Peace Process', BNI, January 2013
3. Resource Persons are Khuensai Jaiyen (SHAN), Daw Shirley Seng (KWAT), Saw Htoo Htoo Lay (Karen), Salai Lian H. Sakhong (ENC), Col. Khun Okker (PNLO), CBO representatives, Women: Daw Moon Nay Li (KWAT and WLB), Saw San Nyein Thu (Rakhine Women Union and WLB); Youth: Naw Seng (SYCB – Student and Youth Congress of Burma), Kya Yi Shay (Nationalities Youth Forum); Environment: Ko Shwe (KESAN - Karen Environmental and Social Action Network), Ko Sai Sai (Burma River Network). State Representatives: Saw Mya Raza Lin (Rakhine), Sin Wah (Kachin), Naw Zipporah Sein (Karen), Nai Han Tha (Mon), Khu Oo Reh (Kayah), Dr. Sui Kha (Chin), Solomon (Shan), Col. Peng Fa (Shan North)
4. Answering questions on WGEC', SHAN, 9 January 2013
5. 'Myanmar govt wants ethnics to agree three-step plan', Phanida, Mizzima, 19 February 2013
6. Personal conversation with Khun Okker, 27 February, 2013
7. Personal Conversation with Lian Sakhong, CNF Supreme Council Member, 12 February 2013
8. Personal conversation with Khun Okker, 27 February, 2013
9. 'Thein Sein meets new KNU leadership', Mizzima, 7 January 2013
10. Personal conversation with Khun Okker, 27 February, 2013
11. Khaing Soe Naing Aung, 'National Democratic Movement of Ethnic Nationalities.'

## The UNFC and the Peace Process

(August 2013)

### Overview

At the beginning of June 2013 the United Nationalities Federal Council (UNFC), an alliance representing 11 armed ethnic groups, took the unanticipated decision of withdrawing from the Working Group for Ethnic Coordination (WGEC). The WGEC had been formulating a framework that would focus on upcoming political dialogue including the agenda, the composition, the mandate, the structure, any transitional arrangements, and also its core principles.<sup>1</sup>

After the WGEC had created the framework that would be used in the peace process the UNFC declared that the WGEC was no longer relevant. And, as such, should be disbanded thus allowing the UNFC, using the framework, to be the sole negotiator with the Government. According to UNFC General Secretary Nai Han Tha:

The main object for setting up the WGEC was to design a draft framework for political dialogue with the government . . . Now that the work is completed, we have to focus on the negotiations with the government instead.

Khun Okker, the UNFC joint Secretary – 2 stated that one of the main reasons for the UNFC's withdrawal from the WGEC was that:

We came to a hitch concerning the formation of the negotiation team . . . The WGEC wanted an overhaul (to make way for non-UNFC movements) while we could allow only a UNFC plus arrangement.

According to the Euro-Burma office which supports the activities of the WGEC, the WGEC itself had proposed that a negotiating



team be formed, in March 2013, for all armed ethnic groups.<sup>2</sup> It was this proposition, that would have been all-inclusive involving both UNFC and non-UNFC members, that led to the UNFC withdrawal and its call for the WGEC to be disbanded.

In an attempt to consolidate its negotiating position and secure further support for such a mandate, the UNFC organised a multi-ethnic conference from July 29<sup>th</sup> to July 31<sup>st</sup> in Chiang Mai, Thailand. In total 122 delegates attended including 18 armed ethnic groups and the United Nationalities Alliance (UNA) which is comprised of ethnic political parties that had contested the 1990 election. In addition, representatives from the United Wa State Army (UWSA), the National Democratic Alliance Army (NDAA) and exiled representatives of the Myanmar National Democratic Alliance Army (MNDAA)<sup>3</sup> also attended. Neither the Restoration Council of Shan State (RCSS) nor the Karen National Union attended the conference.<sup>4</sup>

### **The Ethnic Nationalities Conference**

The conference resulted in six major points being made:

- (a) To form the present Union of Burma/Myanmar into a Federal Union of national states and nationalities states, having national equality and self-determination;
- (b) To practice federal democracy in this Federal Union;
- (c) To form Federal Union Defence Forces that will defend the Federal Union from external dangers;
- (d) The current 2008 Constitution practiced by U Thein Sein government is not accepted, as it is devoid of democratic essence and not in accordance with the principles of federalism. A new Constitution based on genuine federal principles will be drafted and promoted for practice;
- (e) The UNFC and UNA will lead in drafting the new Constitution, and a drafting committee consisting of representatives from the democratic forces, women organizations, youth organizations, CBOs and other organizations will be formed, as part of the realization of the aim.

- (f) In political dialogue and negotiation, the 6-point political program, laid down by the Ethnic Nationality Conference held in September 2012, will be followed. In political dialogue and negotiation, all the resistance organizations are to be represented as a bloc, and not individually.<sup>5</sup>

In addition, the UNFC's 2<sup>nd</sup> August statement noted that:

In meeting with the democratic forces, agreement was reached for the formation of a Bama/Myanmar state, with a view to expressing the equality of all the national groups in the country.

To what degree such aspirations can be achieved by the UNFC remains a matter of conjecture. The fact that the Karen National Union and the Restoration Council of Shan State, two of the largest and most influential armed groups, were not party to the conference remains a major hurdle. Both groups have suggested that they sought to represent themselves individually in the negotiation process with the Government. In a joint statement issued after the UNFC walkout from the WGEC they noted that:

Over the past year, the 18 ethnic armed groups have worked together to develop a framework for political dialogue with the Government. Armed groups have committed to this framework in order to ensure that the peace process does not stop with individual ceasefires. Groups continue to work together to ensure that the peace process moves forward. In the spirit of the words of the late Karen leader, Saw Ba U Gyi, "The destiny of Karen people will be decided by the Karen People," each armed group retains the legal authority and mandate to negotiate with the government on behalf of their people.<sup>6</sup>

Consequently, both the KNU and RCSS see the attempt by the UNFC to control the negotiations as detrimental to the gains they have so far achieved. While there is yet to be substantial peace on the ground and minor skirmishes continue to occur in Karen and Shan States, the leadership of both groups believe in the current process and that it should continue to move forward supported by the WGEC. They see the UNFC role, acting as a sole negotiator, as counter to

their attempts to achieve peace believing that it could either delay or force individual groups to adopt policies that do not best serve their individual peoples' interests.

The WGEC maintains that it was more than willing to have a joint-negotiating team, considering that WGEC members, including those in the UNFC, had collaboratively created the framework. However, the UNFC had refused the offer due to the fact that the UNFC had already created a negotiating team, although it did state that members who wanted to join the UNFC could be given a place on such a team.<sup>7</sup> Additionally, further problems were highlighted in relation to the UNFC when the KNU stated that David Thackerbaw, formerly vice-president of the KNU and UNFC vice-chairman 2, had no mandate to negotiate on behalf of the KNU.<sup>8</sup>

Further concerns were raised when it was stated that the UNFC had proposed that Daw Aung San Suu Kyi be involved in the process. According to Padoh Mahn Mahn, Joint-Secretary 2 of the KNU and head of the UNFC technical team, it was his belief that:

It is necessary to have her at our talks at least as an observer if not a mediator. If we hold talks without mediators, we will face some problems when discussing sensitive issues such as military matters. And it is not good to have tension between us. So, we asked for mediators to avoid such tensions,<sup>9</sup>

Both the KNU and the RCSS repudiated the idea that help was needed in the process noting in their joint-statement that:

Numerous sources have referred to the use of mediators or facilitators. The dialogue process in Burma is very complicated, with multiple stakeholders simultaneously involved.

This is not conducive to use of a single mediator. To overcome this situation, the National Dialogue process designed by ethnic armed groups enables all stakeholders to address their concerns without the use of mediators. As the process matures, stakeholders can request to utilize mediators or facilitators for specific discussions. Normally, stakeholders do not act as mediators or facilitators.<sup>10</sup>

Another issue raised by Padoh Mahn Mahn was that:

If a political agreement comes after a nationwide ceasefire agreement, the peace process will even go backward, like previous experiences that some ethnic armed groups have faced . . . To ensure that the peace process won't go backwards, we proposed that a concrete and specific agreement on a political framework must come at the same time as a nationwide ceasefire agreement,<sup>11</sup>

One of the major results of the conference was outlined in article (e) 'The UNFC and UNA will lead in drafting the new Constitution, and a drafting committee consisting of representatives from the democratic forces, women organizations, youth organizations, CBOs and other organizations will be formed, as part of the realization of the aim.'

According to UNFC leaders they have created a three tier system to work on the writing of the new Federal Constitution:

1. Supervising and Guiding Group
2. Legal Consultants (Foreign and Local)
3. Community organisers (including representatives of the UNFC and UNA)

In addition, there will also be a small information collection group. It is anticipated that the Constitution will be completed by 31 November 2013 and that there will be a three month consultation process.<sup>12</sup>

According to Khun Okker, the UNFC joint-secretary 2:

We will give priority to the people's desire. Only when the draft is acceptable to the majority of the people, can it be written by legal experts and members of parliament and finishing touches we will put . . . The draft committee of the federal constitution will be formed by women organisations, youth organisations, community-based organisations and other democratic organisations. Drafting the constitution and coordinating the formation of a national union army will run parallel.<sup>13</sup>

For many observers the re-writing, and not amending, of the constitution seems a questionable task and is unlikely to gain support from many of the stake holders. While Yawd Serk, leader of the RCSS stated that he agreed in principle with the resolution passed and that the UNFC ‘. . . stand for what the people really desire’ he also noted that:

Nobody except for a few likes the 2008 constitution . . . But for the sake of peace and reconciliation, what we can do now is its amendment. Not all of it can be amended at present either. So we need to consider what should be amended first.<sup>14</sup>

Aung San Suu Kyi has also previously stated that she is willing to work within a Government framework in relation to the constitution and that:

If they really want to change the constitution, there’s no reason not to fully co-operate with them . . . All together we can co-operate. The USDP made a proposal to organize the committee to amend the constitution. We did support that proposal.<sup>15</sup>

Union Assembly Speaker Thura Shwe Mann has stated that a commission had already been formed by the Parliament to look into amending the constitution and will start its work soon.

The extent of how much will be done depends on their efforts and the involvement of MPs . . . The involvement of the executive body is very important when drafting laws,

As a result, it is unlikely that a purely ethnic framed constitution which, according to the UNFC leaders, will be based on a number of previous state constitutions, the Manerplaw agreement, and the Mae Tha Raw Tha agreement,<sup>16</sup> will be acceptable to the Government. Consequently, the UNFC’s insistence that the acceptance of such a constitution should provide the basis for dialogue and a nationwide ceasefire is likely to prove a hindrance to ensuring an early peace in the country.

## The 2015 Election

The UNFC position, including the writing of the Constitution and the consultation period of three months after, suggests that a tangible nationwide ceasefire cannot be achieved until February 2014 at the earliest. As noted in earlier briefing papers,<sup>17</sup> constant divisions within the ethnic armed movement further weakens their bargaining power and allows the Burma Army to consolidate control over territory prior to the signing of a nationwide ceasefire. The UNFC has, therefore, provided a greater opportunity for the Burma Army to further their objectives.

In addition, it is likely that after the 2015 election both Thura Shwe Mann (USDP) and Aung San Suu Kyi will form a coalition government.<sup>18</sup> Thura Shwe Mann has alluded to such a possibility, if it's in the national interest, when he visited Washington in June 2013, noting that:

I believe time will decide on this matter. But the important thing here is to have confidence between Aung San Suu Kyi and us.<sup>19</sup>

There has, thus far, been little to suggest that either individual will be more open to supporting ethnic aspirations than the Thein Sein Government. Therefore, should the UNFC continue to delay the process and not work within it, it is likely that the UNFC will weaken the ethnic nationalities current bargaining power. Even if, and it is unlikely, that the UNFC constitution is accepted by the Thein Sein Government, there is nothing to stop a future Government from suspending it and then implementing its own.

### Notes:

1. Deciphering Myanmar's Peace Process, BNI, January 2013
2. 'Analysis of the UNFC Position', EBO Briefing Paper, August 2013
3. The MNDAA were forced to retreat to China after a Burma army offensive in 2009 replaced its leadership and it became part of the Border Guard Force.

4. Although members of the KNU were present at the conference they were not officially representing the organisation.
5. 'Statement of the Ethnic Nationalities Conference', UNFC, 2 August 2013
6. 'Joint Statement - Karen National Union & Restoration Council of the Shan State', 17 July, 2013
7. 'Analysis of the UNFC Position', EBO Briefing Paper, August 2013
8. David Thackerbaw was not elected at the last KNU congress but was appointed as being in –charge of Alliance Affairs
9. 'Ethnic Rebels Want Suu Kyi at Next Peace Talks with Govt', Saw Yan Naing, The Irrawaddy, 15 July 2013
10. 'Joint Statement - Karen National Union & Restoration Council of the Shan State', 17 July, 2013
11. Ibid.
12. Personal Conversation with Khun Okker, Nai Han Tha, and Dr. Khin Maung, 14 July 2013
13. 'Ethnic coalitions to write federal-based constitution', Eleven Media, 22 August 2013
14. 'Shan leader supports UNFC resolution, but..', SHAN, 21 August 2013
15. 'Aung San Suu Kyi Says Burma to Amend 'World's Most Difficult' Constitution', Daniel Pye & Tha Lun Zaung Htet, The Irrawaddy, 10 May, 2013
16. Personal Conversation with Khun Okker, Nai Han Tha, and Dr. Khin Maung, 14 July 2013. The Manerplaw Agreement to Establish a Federal Union of Burma was written and signed ethnic opposition groups on 31 July 1992. The Mae Tha Raw Hta agreement which further consolidated ethnic aspiration emerged out of a seminar held in January 1997.
17. See 'Allied in War, Divided in Peace' BCES Briefing Paper 12, February 2013
18. Currently the constitution has a clause blocking anyone whose spouse or children are foreign citizens from becoming president, but it is likely this will be amended prior to the 2015 election.
19. <http://bigstory.ap.org/article/myanmar-ruling-party-suu-kyi-coalition-possible>

## **Business Opportunities and Armed Ethnic Groups**

(September 2013)

Since signing ceasefire and peace agreements with successive Burmese Governments, armed ethnic groups have been able to create a number of business opportunities in the country. As part of the first ceasefire processes that began in the late eighties/early nineties, armed ethnic groups were able to become legally involved in logging, mining, import and export, transportation, and a number of other businesses.<sup>1</sup>

Recent ceasefire agreements have also resulted in similar incentives being made and a number of armed ethnic groups have taken the opportunity to create their own companies.<sup>2</sup> Groups hope that if they become self-sufficient it will remove the burden on the over taxed local population. That said, however, a number of obstacles remain and further support needs to be given in relation to allowing groups the ability to move forward in terms of creating local business opportunities to support their troops and their families.

The Chin National Front (CNF), primarily because it had seen little in relation to armed conflict over recent years, has prioritised development when dealing with the Burmese Government. A member of the Supreme Council of the Chin National Front noted that:

Business involvement is more important in Chin State because there has only been low intensity conflict. As a result, most people have not been directly affected by war. Chin State is the poorest state in the country, so when the Chin National Front negotiates with the government, the people want them to bring development, so business people are needed for this.<sup>3</sup>

The CNF is the largest group that is currently categorised as being at the Union level stage of peace negotiations. To provide financial support to the CNF, members of the organisation have formed the Khonumthung Company which is primarily associated with logging.



Similarly, the Karenni National Progressive Party (KNPP) has also been granted licenses to open two companies. The KNPP has created the Kayah Htarnay (Kayah Land) company, which is involved in lead exploration, and the Tamaw Htar company which focusses on the import and export of teak.

It remains too early to know how successful these companies have been in relation to supporting members of armed ethnic groups. According to the Restoration Council of Shan State (RCSS) leader, Yawd Serk, their company, Taungdan Cherry, which was created in April 2012 along with a business liaison office in Muse has consistently found that they are unable to operate. Shan Taungdan Cherry, has apparently applied for concessions on several projects including agriculture, mining, tourism, road construction and power distribution. According to Yawd Serk:

Despite permits issued by the government, we have been facing official red tape in the regional level.<sup>4</sup>

Sources quoted by SHAN suggest that the main reason for problems related to Taungdan Cherry is its areas of operation which continue to see skirmishes with Government troops. Additionally, such areas are also located in the notorious Golden Triangle where local militias continue to be involved in the drug trade. Therefore, not until a more stable peace is achieved and further efforts to wipe out drug trafficking in Shan areas are successful, can the company become more effective.

Most recently, the Karen National Union has also embarked on creating a local business - The Moe Ko San Travel and Tour Company Limited and Trading Company Limited. Managing Director Saw Moses administers the company, located at Thirimingalar Street in Myawaddy opposite Thailand's Mae Sot district. The company was registered in Naypyidaw on the 4 May 2013 and was set to begin tour services in June 2013.<sup>5</sup>

It is anticipated that the tour company would start working in collaboration with travel and tours companies from Thailand, Japan and in the United States. Recently, the Burmese Government opened a number of land crossings that will allow tourists to travel overland to non-restricted areas in the country. These include the Thai-Burma

Friendship bridge which connects Myawaddy to Mae Sot in Thailand. Such an opening could, therefore, prove fairly lucrative for the Karen National Union's business enterprise.

According to Karen Media sources, the company's main aim is that:

We are looking to compete in the international business market in the future and see that it would be impossible to do that individually.

In addition, Saw Moses noted:

This office can be regarded as the KNU 7th Brigade economic office. The office would work in accordance with economic policy and regulations laid down by the KNU.<sup>6</sup>

It is unclear whether funds raised by the Karen National Union's economic office would benefit only those from the KNU's 7th Brigade and not those from other brigade areas. Previously the funds from other brigade areas, after individual Brigade operating costs were removed, were purportedly sent to the Central Headquarters, thus providing funds for less financially viable brigades.<sup>7</sup>

Additionally, the Karen National Union has offered, in the 4th Brigade area, to provide assistance to individuals wanting to start their own businesses and has actively encouraged them to do so. According to one Karen official, Saw Beeler:

The KNU is ready to support any Karen company that wants to start a business. The KNU wants to see Karen people become more prosperous. . . The KNU is ready to help, facilitate and give advice on financial resources and what are the opportunities available to start a small business, this it is not a big problem. But most importantly the real need is for relevant expertise to run a company effectively.<sup>8</sup>

While the 7<sup>th</sup> and 4<sup>th</sup> Brigades have openly welcomed the opportunity to create a friendlier business environment, General Baw Kyaw Heh, the former 5th Brigade commander who is now deputy Chief of Staff, is sceptical about the peace process and its relationship to business interests.

While discussing outside business interests he has stated that:

Businesses want to come to our areas, but we ask them not to as this is not the time, it is still too early. First we need to create a sustainable situation. Because of this issue some people claim I am a hardliner and not cooperative. I am concerned about these issues, because if we don't have rights that are guaranteed and if we let any business or any developer in, we will not be able to control them. If we cannot manage these issues systematically it will create problems for us in the future.

Whether he believes the same for KNU operated enterprises remains unclear. The opening of the Moe Ko San Company isn't the first time that members of the Karen National Union and the Karen National Liberation Army have sought to become self-sufficient and provide for their troops and family members.

Col. Nerdah Mya of the Karen National Union has been involved, together with American Kurt Hanson, in forming an organisation known as Karen Enterprises. The group established a rubber and coffee plantation, with the support of local villagers, as one of its first commercial ventures in the 6th Brigade area of Karen State, and it is hoped that this will provide employment and industry for the local Karen population.

It is extremely important that Armed Ethnic Groups consider different ways in supporting themselves during the transition to peace. One of the greatest challenges they face is to reduce their reliance on taxation of the local population. Armed ethnic groups involvement in creating local business opportunities can help ease the burden on local communities, however, the Government and the international donor community still needs to provide support to groups in an attempt to help troops and families through the transition period. It is likely that such companies will not be sufficiently profitable for sometime yet and, as Yawd Serk noted earlier, it is essential that the Government act swiftly to support the armed groups local enterprises.

More importantly, the armed groups themselves have to ensure that their business dealings are done in a sufficiently transparent way. Proper bookkeeping records should be made available to ensure that such companies are seen to benefit their communities and are not

used for the personal enrichment of specific individuals. One of the greatest criticism of business, both external and within the armed groups themselves, is the belief that individual leaders are signing peace agreements with the government for personal gain. While there is no evidence to support this, a number of ethnic leaders in the eighties and nineties were able to amass small fortunes through lucrative, and often illegal, trade deals. A situation which should not be repeated.

Notes:

1. In addition, a number of other groups, especially those based in Shan State, were tacitly allowed to become involved in the narcotics trade. This paper examines those groups that have signed agreements with the Government since 2011.
2. This paper looks at those groups that were previously non-ceasefire and have since started peace negotiations with the Government.
3. Personal conversation with Chin leader, 12 February 2013
4. 'Shan leader: Business a name without the game', SHAN, 11 September 2013
5. At the time of writing, the license had yet to be fully approved. Personal conversation with KNU Central Committee member, 26 September 2013
6. 'KNU 7th Brigade – open for business', S' Phan Shaung, Karen Information Centre/Karen News, 9 July 2013
7. Personal conversation with KNU Central Committee member, 26 September 2013
8. 'KNU supports Karen businesses', Saw Eh Na, Karen News, 12 September 2013

## **Ethnic Political Alliances**

(October 2013)

Since the 1990s, a number of political alliances have been formed to challenge Burmese Government authority over their ethnic constituencies. After the failure of the military regime to recognise the results of the 1990 general election, a number of ethnic political parties have tried to work within the Government's political system often at great cost to themselves. In some instances, this has led to parties being deregistered, ethnic political leaders being imprisoned, and other party members restricted from carrying out activities. At this moment in time, there are three main ethnic political alliances operating in the country, and each seeks a role in forming a future federal union. After the 2010 election, ethnic politics could be defined as consisting of four main actors: the armed ethnic groups, the previous ceasefire groups,<sup>1</sup> the Nationalities Brotherhood Forum (NBF), and the United Nationalities Alliance (UNA).

The United Nationalities Alliance was formed after the 1990 election and is considered one of the most influential and experienced political alliances operating in the country. The UNA encompasses a varied spectrum of ethnic political parties, dominated by the Shan Nationalities League for Democracy (SNLD), which had contested and won seats in the 1990 general election. Originally, there were 12 different political parties:

- (1) Shan Nationalities League for Democracy (SNLD),
- (2) Mon National Democratic Front (MNDF)
- (3) Zomi National Congress (ZNC)
- (4) Arakan League for Democracy (ALD)
- (5) Chin National League for Democracy (CNLD)

- (6) Kayin National Congress for Democracy (KNCD)
- (7) Kachin State National Congress for Democracy (KNCD)
- (8) Kayah State All Nationalities League for Democracy (KSANLD)
- (9) Kayan National Unity and Democratic Organization (DOKNU)
- (10) Mra People's Party (MPP)
- (11) Shan State Kokang Democratic Party (SSKDP)
- (12) Arakan People's Democratic Front (APDF)

The United Nationalities Alliance, which currently has seven parties, had remained somewhat dormant in relation to activities inside the country. It was not until recently, with the decision to work with the UNFC in re-writing the constitution, while at the same time amending the same document with the NLD, that they have once more reasserted their position in ethnic politics.

In relation to its policies, The UNA noted in a letter and statement to U.S. President, Barak Obama, in November 2012 that:

- We believe that only getting ceasefire agreements with armed groups does not guarantee lasting peace until and unless political problems are solved with political means throughout political dialogue and negotiation.
- What the government doing for democratization of Burma is just the beginning. All the people of Burma could not enjoy democratic rights yet. There needs to be more accountability and transparency than the present situation.
- We always want and have been fighting for genuine federal union in which rule of law, equality, self-determination and human rights are restored and prevailed for all ethnic nationalities of Burma.<sup>2</sup>

One of the most prominent and influential leaders of the UNA is Khun Htun Oo of the Shan Nationalities League for Democracy (SNLD). Khun Htun Oo, who was imprisoned by the Burmese military Government from 2005 to 2011, has emerged to be one of the most charismatic and respected ethnic leaders throughout the country.

Therefore, the decision by the United Nationalities Federal Council (UNFC) to collaborate with the UNA was an extremely expedient one as the UNFC faced growing division within its ranks. Both the Karen National Union and the Restoration Council of Shan State had openly aired concerns about the UNFC's position. Consequently, the UNFC was able to strengthen its presence by collaborating with the UNA.

That said however, it remains unclear as to whether Khun Htun Oo, or the SNLD, are prepared to follow the UNFC's timetable or policies in the re-writing of the constitution. Most recently, Sai Nyunt Lwin, General Secretary of the SNLD, stated that:

This is not the time to argue whether or not a new constitution must be written.<sup>3</sup>

According to Shan media, he has also stated that any rewrite of the constitution would depend on the outcome of the nationwide political dialogue due to be held next year.<sup>4</sup>

Also contesting for political space in the country is the Nationalities Brotherhood Federation (NBF),<sup>5</sup> which was formed as an alliance between political parties that had successfully contested the 2010 election. In total, NBF parties were able to secure 127 seats across the three tiers of parliament. There are five parties in the NBF:

- (1) All Mon Region Democratic Party (AMDRP)
- (2) Palon Sawor Democratic Party (PSDP)
- (3) Shan Nationalities Democratic Party (SNDP)
- (4) Rakhine Nationalities Development Party (RNDP)
- (5) Chin National Party (CNP)

The NBF, like the UNA, have major misgivings over the constitution and the 2010 election. According to the Brotherhood in its 9th Position statement:

We, members of the Nationalities Brotherhood Forum, had participated in the 2010 elections in the interest of democratic development, and not because we had believed that the 2008 constitution was a sound charter. . . The November 7, 2010 elections were neither free nor fair.

Regardless, individual parties involved in the NBF have been able to gain local support and see themselves as being a major political force in the 2015 election and a viable alternative to the NLD and USDP. In an attempt to expand ethnic representation in predominantly Burman areas, the NBF allowed individual representatives from some of its member parties to form a new alliance - the Federal Union Party (FUP). Burma's election laws stipulate that parties are not allowed to merge and individuals cannot be members of more than one political party, consequently the NBF allowed its members to leave the alliance to form the FUP. The Decision to form the FUP was taken in June 2013 because:

In Rangoon and Pegu divisions, there are Mon, Rakhine, Karen and Shan ethnic groups living there. But we, as an individual ethnic political party, are not able to win the election in those divisions. Yet, if we form FUP we will be able to win the elections in the divisions too.<sup>6</sup>

Such a sentiment was confirmed by U Saw Than Myint, former member of SNLD and one of the 16 founders of the alliance after its registration with the Union Election Commission:

We don't like the fact that [Burmese] political parties contest in our ethnic minority areas but we can't deter them under democracy. So we have formed this new ethnic party to contest in the seven [Burmese] regions.<sup>7</sup>

The chances that the FUP will be successful in contesting the election in these areas against the NLD are somewhat slim. The NLD remains popular with voters in ethnic areas and there is little to suggest that the FUP will be able to present a viable alternative.

It is also unclear as to what role armed ethnic organisations will play in relation to the political situation in the country. Recent meetings with the Government strongly suggest that a nationwide ceasefire agreement will be signed and that a political dialogue will take place prior to the 2015 election. Despite this, there is no real indication as to what armed ethnic organisations will do after such a dialogue. Most armed ethnic groups are unlikely to register as political parties with the Union Election Commission and although some organisations



have shown a willingness to join with ethnic political parties in their states, the armed groups' political roles in the Union remain uncertain.

It is imperative, therefore, that armed ethnic groups and political alliances reassess their positions in relation to how they will interact with each other after the political dialogue stage of the peace process. Failure to work closely with each other and represent a united front for their individual ethnic groups could further strengthen the National League for Democracy or the Union State and Development Party in ethnic areas and therefore weaken their own positions. For ethnic aspirations to be best served, all ethnic actors must be prepared to work together and find a common middle ground prior to the 2015 election.

Notes:

1. For example the UWSA and the NDAA-ESS
2. Submission revelation opinion of United Nationalities Alliance upon democratization of Burma, 19 November 2012
3. 'Opposition scholar: Charter review movement "could be" a red herring', SHAN, 16 October 2013
4. Ibid.
5. Formerly the Nationalities Brotherhood Forum
6. 'Ethnic nationalities establish Federal Union Party', IMNA, 14 June, 2013
7. 'UEC allows Federal Union Party alliance', Win Ko Ko Latt, Myanmar Times, 31 October 2013

## **The Laiza Agreement**

### **Stating the Terms for Nationwide Ceasefire and Strengthening Ethnic Unity**

(November 2013)

From 30<sup>th</sup> October to 2<sup>nd</sup> November 2013, an unprecedented meeting took place at the Kachin Independence Organisation headquarters in Laiza. For the first time, representatives of 17 armed ethnic opposition groups were able to meet in Burma with the consent of the Government.<sup>1</sup> The meeting came at a time when ethnic unity was questionable and the Government's armed forces continued to fight with armed ethnic groups in Kachin and Shan States.

The Laiza meeting came at a time when factionalism and rivalries within the armed ethnic movement were at their strongest. The United Nationalities Federal Council (UNFC) and the Working Group for Ethnic Coordination (WGEC) had jointly created a Framework agreement for peace that would outline the composition, the mandate, the structure, transitional arrangements, and core principles.<sup>2</sup> However, concerns in relation to who would take control of the overall process soon emerged and the UNFC decided to pursue its own agenda (see Briefing Paper 16 - The UNFC and the Peace Process).

For its part, the WGEC, through the RCSS and KNU, presented its framework to the Government on 31<sup>st</sup> August 2013 and prepared, in opposition to the UNFC at that time, to sign a nationwide ceasefire agreement. With concerns mounting over disagreements within the armed ethnic opposition, the KIO arranged for a conference that would bring all sides together. The main aim of the conference was to discuss the way forward in relation to not only a nationwide ceasefire but also to the Government's assurance of political dialogue in the future.

The KNU and RCSS had already outlined what they wished to see prior to the conference in an 8-point statement:

1. In order to begin a political dialogue, the Government of Myanmar has invited ethnic armed groups to sign a nation-wide ceasefire.
2. To prepare for the political dialogue, the KIO has invited ethnic armed group leaders to an Ethnic Armed Group Conference.
3. On 31<sup>st</sup> August 2013, the KNU and the RCSS proposed a Framework for a Political Dialogue, developed jointly by the armed groups, to the Union Peacemaking Work Committee.
4. KNU and RCSS leaders will participate in this Conference to brief KIO and other ethnic leaders about the Framework, to build understanding and consolidate ethnic unity.
5. The Framework for a Political Dialogue calls for :
  - All stakeholders including all armed groups, political parties, civil society, Parliament, the Burma Army, the government, etc. to participate in the political dialogue,
  - Joint management by all stakeholders of the political process,
  - A legal mechanism to ensure that the political dialogue process will continue after the 2015 elections,
  - The Political Dialogue will deal with constitutional and other important issues such as power-sharing, security sector reform, land reform, revenue sharing, judicial reform, etc.
6. The nation-wide ceasefire Agreement includes:
  - Ratification of previously signed ceasefires at the State and Union-level,
  - A joint military Code of Conduct with regard to the nation-wide ceasefire,
  - A joint mechanism to monitor the nation-wide ceasefire,
  - A joint mechanism to manage problems that arise from implementing the ceasefire.

7. The nation-wide ceasefire agreement calls for discussions on the Framework for a Political Dialogue within 2 months of the signing. It also calls for the political dialogue to begin within 4 months of the signing.
8. The nation-wide ceasefire agreement will have a provision for those groups that are not yet ready, to sign later.<sup>3</sup>

The statement ended:

We are optimistic that the Conference [will] lead to a political dialogue.

While there was still major trust building to be done involving all parties, the conference would give armed ethnic groups the opportunity to strengthen their collective negotiating power. Although a number of parties had sought to control the peace process, and thus weakened it considerably, the Laiza meeting could provide the opportunity for all ethnic groups to find a common ground.

The UNFC's secretary 2, Khun Okker, when asked whether there was likely to be confrontation at the meeting stated that:

I don't think there's any confrontation emerging. The RCSS or KNU, or whatever the group is, we are all ethnic groups. We have been working together for a long time . . . If everybody else agrees, they will also agree . . . Especially the KNU, who is the leading member of the UNFC. The KNU has continuously led the coalition forces and they are also leading at the moment. Therefore, the KNU's desires seriously reflect our coalition forces . . . The RCSS is not a member of the coalition forces. But we have to value their desires. Therefore, I think we have no big differences. We can settle if there are any.<sup>4</sup>

Although there had been numerous concerns prior to the conference, it appeared that such worries could be addressed. General Mutu Say Poe, Chairman of the KNU, noted during the conference that:

Different things may come out of this conference. Unity is of great importance, to meet the wishes and aspirations of all of our ethnic organisations . . . Understanding is also a key factor. We must build unity only through rich diversity of opinion. We KNU believe this.<sup>5</sup>

This Laiza conference finally resulted in the creation of a 13 member Nationwide Ceasefire Coordinating Team (NCCT) and the signing of an **‘11-Point Common Position of Ethnic Resistance Organisations on Nationwide Ceasefire’** or Laiza agreement. The agreement was made to discuss the following points with the Union Peacemaking Work Committee (UPWC) at the next meeting in Myitkyina:

1. Basic Principles
  - 1.1 Commitment to Peace;
  - 1.2 Recognition of Panglong Agreement;
  - 1.3 Genuine Federal Union System;
  - 1.4 Formation of Federal Union Armed Forces;
  - 1.5 Protection of the basic rights of the ethnic nationalities;
  - 1.6 Equality;
  - 1.7 Inclusivity;
  - 1.8 Achieving agreement by consensus;
  - 1.9 Cooperation and Coordination;
  - 1.10 Transparency and Accountability;
2. Aims & Objectives
  - 2.1 Building mutual trust;
  - 2.2 Cessation of confrontation and hostilities;
  - 2.3 Respect for and implementation of ceasefire rules agreed to by all;
  - 2.4 Reaffirming and sustaining the agreements and promises between the Government and the ethnic armed organizations, and starting political dialogues leading to durable and just peace;
  - 2.5 Meaningful political dialogues leading to establishment of the Federal Union;
3. Laying Down a Political Road Map Acceptable to Both Sides
  - 3.1 Achieving agreement on all-inclusive “Framework for National Political Dialogue”;

- 3.2 Signing nationwide ceasefire accord;
- 3.3 Holding national level political dialogues;
- 3.4 Holding the union level conference, based on Panglong spirit and principles and signing Pyidaungsu Accord (Union Accord), relating to the ethnic nationalities;
- 3.5 Ratification of the Pyidaungsu Accord, relating to the ethnic Nationalities;
- 3.6 Implementing the terms of the Pyidaungsu Accord, relating to the ethnic nationalities;
4. Main Terms that shall be Included in the Nationwide Ceasefire Accord
  - 4.1 Issues relating to armed forces;
  - 4.2 Issues relating to liaison offices;
  - 4.3 Promising to hold political dialogues;
  - 4.4 Drafting and adopting of framework for political dialogue;
  - 4.5 Protection of civilians;
  - 4.6 Agreeing to military code of conduct;
5. Implementation
  - 5.1 Implementing, in practice, the joint monitoring system;
  - 5.2 Forming a joint committee, which will continue to implement the convening of political dialogues;
  - 5.3 Forming independent human rights watch committee;
  - 5.4 Defining a time line and implementing in accordance with it;
6. Principles for trust building activities
  - 6.1 Good faith;
  - 6.2 Freedom of movement;
7. Removal of organizations from Illegal Associations Acts, and related issues
8. Transitional Programs for the Period between the Negotiations and the Political Dialogues

- 8.1 Sharing of administrative powers and exercising those powers;
  - 8.2 Division/Sharing of economic powers and implementation
  - 8.3 Issues relating to law reform;
  - 8.4 Issues relating to culture and environment;
  - 8.5 Issues relating to land reform;
  - 8.6 Issues relating to management of natural resources;
  - 8.7 Issues relating to border, territory, immigration and trade;
  - 8.8 Issues relating to mega-economic projects;
  - 8.9 Issues relating to narcotic drugs eradication;
9. Signing
  10. Ratification
  11. Miscellaneous

Although news reports suggested there were still disagreements over the priorities in relation to which was the more important the nationwide ceasefire or political dialogue, the outcome of the meeting was considered extremely positive.

According to Khun Okker, there were a number of successful outcomes at the meeting. He cited one case relating to the relationship between the Karen Peace Council, the K'lo Htoo Baw Battalion and the Karen National Union. Previously the two former groups had not held the same position in relation to the KNU's perceived conciliatory stance towards the Government. However, at the Laiza meeting, the two had been able to reconcile any differences they previously had.<sup>6</sup>

Despite the success of the meeting and the creation of the NCCT, the RCSS did not sign the Laiza agreement, stressing that although they were “completely in agreement in principle”:

. . . Concerning the signing of the [ceasefire] agreement, however, the RCSS will make a decision after approval by the Committee for Shan State Unity (CSSU) and the upcoming meeting between the Nationwide Ceasefire Coordination Team (NCCT) and the Union Peacemaking Work Committee (UPWC),

over the 14-point Nationwide Ceasefire Agreement proposed by the Myanmar government, to be held at Hpa-an in Karen State in December 2013,

The Laiza agreement was presented to the Union Peacemaking Work Committee (UPWC) in Myitkyina, the Kachin State Capital, on 4 November 2013. It was here that major concerns were raised in relation to the role of the Burma Army in the talks. Lt-Gen Myint Soe, commander of the government's bureau of special operations for Kachin State and Lt-Gen Thet Naing Win, Burma's minister of border affairs were present at the meeting and presented their own 15 Chapter agreement. The main issue of contention between the two sides was in relation to the creation of a Federal Union Army. Consequently, the nationwide ceasefire, which had originally been scheduled to be signed in November was postponed until after a further meeting to be held in Pa-an, Karen State, in December 2013.

To prepare for the Pa-an meeting, the NCCT met to discuss the army's proposal from 26-28 November in Chiang Mai. The NCCT led by Kwe Htoo Win (KNU), Nai Han Tha (NMSP/UNFC) and General Gun Maw (KIO) concluded that many of the military provisions included in the proposal were unacceptable. According to Nai Han Tha:

The ceasefire draft called for us to surrender our arms and stay within the 'existing law,' which are terms that we cannot accept . . . We thusly voided the facts that prohibit us from recruiting, extending new camps, gathering arms, and collecting taxes from our people.<sup>7</sup>

General Gun Maw concurred noting that:

The government has shown [in this draft] what they want, but they will not get all of it . . . We have to continue negotiating several items, beginning with the point that the KIO and the rest of the armed organizations cannot consent to [the government's] disarmament terms. We need to stand up for our rights.

While the Burma Army's agreement did not specifically state that armed groups had to surrender their weapons, ethnic leaders believed



that the terminology used implied such an outcome was unavoidable in the future.<sup>8</sup>

In addition to such concerns, participants at the Myitkyina meeting have suggested that terms included in the proposal presented by the Burma Army were unexpected and caught U Aung Min, the Government's negotiator, by surprise. As a result of the Burma Army's proposal, the process has been delayed while armed ethnic groups reassess their position. Although the follow-up meeting in Pa-an was originally planned for the middle of December it has since been cancelled and further meetings are not expected to take place until January 2014.

While the Laiza meeting was extremely successful in reinforcing ethnic unity, the Burma Army's involvement in the process has raised numerous questions in relation to any forthcoming political dialogue. Although the Thein Sein government remains ostensibly in charge of the peace process, and the military's participation in designing a nationwide ceasefire is essential, any direct army involvement in political dialogue should be a major concern for all the actors involved.

#### Notes:

1. Neither the UWSA nor the NDAA-ESS attended
2. Deciphering Myanmar's Peace Process, BNI, January 2013
3. 'Joint Statement KNU and RCSS', 26 October 2013
4. 'Major disagreements unlikely at Laiza peace talks, says UNFC', Eleven Media Group, 31 October 2013
5. 'Ethnic armed groups conference makes progress in Laiza', Eleven Media Group, 31 October 2013
6. Personal conversation with Khun Okker, 21 November 2013
7. 'NCCT Rescinds elements of Ceasefire Agreement', Phanida, Mizzima, 28 November 2013
8. Personal conversations with ethnic leaders who had attended the Myitkyina meetings.

## **The Law Khee Lah Conference**

(February 2014)

From 20<sup>th</sup> to 25<sup>th</sup> January 2014, Armed Ethnic Groups met to consolidate their position in relation to a nationwide ceasefire. The meeting, held in Law Khee Lah, Karen State, was to further cement ethnic unity and produce a substantive set of requirements to ensure peace in the country.

The meeting was a result of the Laiza meeting that had been held in October 2013. Participants had agreed that a further conference would be necessary and would originally be held in Karen State in December 2013. However, due to a number of concerns raised after a meeting in Myitkyina, on 4 and 5 November 2013, members of the armed ethnic groups decided that the next meeting should be held in early January instead so that all groups could review their position in relation to the Nationwide Ceasefire Agreement (NCA). The principle responsibility for creating the NCA agreement rested on members of the Nationwide Ceasefire Coordination Team (NCCT) that was created at the Laiza meeting. Members currently appointed to the team are:

1. Team Leader Nai Han Tha, General-Secretary, New Mon State Party
2. Deputy Leader 1 – Padoh Kwe Htoo Win, Gen-Secretary, Karen National Union
3. Deputy Leader 2 – Major-General Gun Maw, Deputy Commander-in-Chief, KIO
4. Member – Dr Lian H. Sakhong, Member of the Supreme Council, Chin National Front
5. Member – Colonel Hkun Okker, Patron, Pa-O National Liberation Organization

6. Member – Lieutenant-Colonel Kyaw Han, Arakan Army (Kachin State)
7. Member – Ms Mra Raza Lin, Central Committee, Arakan Liberation Party
8. Member – Twan Zaw, General-Secretary, Arakan National Council
9. Member – Colonel Saw Lone Long, Klo Htoo Baw Battalion
10. Member – Shwe Myo Thant, Joint Secretary, Karenni National Progress Party
11. Member – Timothy Laklem, Foreign Affairs, KNU/KNLA Peace Council
12. Member – Sai Ba Tun, Central Committee, Shan State Progress Party
13. Member – Ta Ai Nyunt, Secretary-General, Wa National Organisation
14. Member – Tar Aik Phone, Chairman, Palaung State Liberation Front
15. Member – Kya Ye Se, Lahu Democratic Union
16. Tun Lwin, Secretary-1, Myanmar National Democratic Alliance Army

Numerous meetings had already taken place within the NCCT in relation to formulating a new strategy after the ethnic groups were presented with a Burma Army drafted agreement in Myitkyina. The draft, which contained a number of contentious issues, including the failure to address the matter of a Union Army, forced ethnic leaders to reconsider their options. Consequently, the January conference, which was attended by over 150 participants, sought to clarify and update previous ethnic agreements that had been presented to the government. The first NCA agreement was written in November 2013 and was then updated in December and given to the Union Peacemaking Working Committee (UPWC). However, the Law Khee Lah Conference resulted in a number of changes made to the original draft and it was decided that this version would be presented to the Government in February 2014. While the conference had been intended to last two days, it was subsequently extended to four to allow further issues to be discussed. These included joint monitoring, political dialogue, and a military code of conduct.

One of the main issues included in the new agreement was that of the ethnic group's interim authority between the signing of the agreement and a future political dialogue with the government. It was felt by conference participants that the KIO's 1994 agreement had left the KIO in a weakened position in relation to control over their political future and the ethnic populations in Kachin State. As a result, NCCT members sought assurances from the Government that any ceasefire agreement would allow them to exert authority in relation to the running of their individual states during the ceasefire period and prior to political dialogue.<sup>1</sup>

The meeting also reaffirmed the six main points necessary for ethnic groups to move towards peace in the country. These include:

1. A Nationwide Ceasefire Agreement
2. A Framework for Political Dialogue
3. A National Dialogue
4. Union Conference and Signing of Accord
5. Adoption of Accord by Parliament
6. Implementation of Accord

In addition to the six points, a number of other issues were raised including the formation of a Federal Army, the new creation of ethnic based states, and the use of terminology in the NCA when referring to the armed ethnic groups themselves. While the conference was able to accept the fact that the federal army issue and the creation of new states could be solved later, a number of groups maintained that they needed to keep the Burmese term “တော်လှန်ရေး” for revolutionary armed ethnic groups. This term, which can also mean reform, was originally dismissed by the NCCT for inclusion in earlier drafts, however, the conference participants insisted on reinstating it to the new draft.

In total the main structure of the Law Khee Lah agreement is:

- Basic Principles
- Aims and Objectives
- Political roadmap

- Military matters
- Code of Conduct
- Nationwide Ceasefire Joint Monitoring
- Trust-building and Waiver of Law on Unlawful Associations
- Political dialogue
- Transitional arrangements
- General
- Signing of the agreement <sup>2</sup>

The UNFC issued a statement confirming their support for the outcome of the conference noting that:

1. Conference of the ethnic armed resistance organizations (or Law Khee Lar Conference) was successfully held from January 20 to 25, for six days, at Law Khee Lar Camp, (AKA) Lay Wah, which is in the area under the control of Karen National Union(KNU).
2. The Law Khee Lar Conference was attended by a total of 160 attendees, who were representatives from 17 ethnic armed resistance organizations, especially invited representatives and observers, including those from the ABSDF.
3. At the Law Khee Lar Conference, representative leaders from the ethnic armed resistance organizations freely and frankly held discussions, on the basis of Panglong spirit and Laiza spirit. The Conference was able to materialize, in terms of principle as well as procedure, the unity gained from the Laiza Conference.
4. The outstanding achievement of Law Khee Lar Conference is the competency to adopt a Nationwide Ceasefire Agreement, unanimously. This Agreement, confirmed by Law Khee Lar Conference, is the result of amendment and additions, together with suggestions, made to the draft prepared, on the basis of Laiza Agreement, by the Nationwide Ceasefire Coordinating Team (NCCT), which was formed by Laiza Conference, and this Conference further gave mandate to the NCCT to undertake further coordination in respect of the Agreement.

5. This Law Khee Lar Conference, held under the aegis of KNU as the host, in addition to consolidating unity of all the ethnic nationalities, serves as an arena for preparing them, for different stages of political dialogues and negotiations that will come after achievement of nationwide ceasefire. The ethnic armed resistance organizations are to participate in the political dialogues and negotiations, with unity and coordination, and they will have to struggle on until their political goal of establishment of a “Genuine Federal Union” is achieved.
6. The ethnic armed resistance organizations are building firm unity like this, in order to be able to cooperate and participate, with correct intention, in the processes of cessation of the civil war, building internal peace and rehabilitation of the country. As Laiza Conference as well as Law Khee Lar Conference have been held with the aim of building ethnic unity, we issue this statement by urging to build collectively, ethnic unity of the entire people consisting of all the nationalities, including organizations of the ruling government, from the ethnic unity that has been successfully achieved.<sup>3</sup>

After the meeting, a number of NCCT members met with the Government’s chief negotiator U Aung Min on 29 January 2014 in Chiang Mai, Thailand. U Aung Min accepted the agreement and confirmed it would be forwarded to the National Defense and Security Council (NDSC) for further discussions. A future meeting date, to be held in March, was also confirmed.

While initial signs have been positive in relation to the agreement which is the most substantive formulated by armed ethnic groups thus far,<sup>4</sup> a number of problems have recently been encountered. The timetable for further negotiations is consistently changing, there is factionalism within certain ethnic groups, and there have been recent attacks by the Burma Army against the KIO which threaten to derail the process. While the NCCT is still prepared to negotiate, one of its deputy leaders, Gun Maw of the KIO has noted that:

The NCCT will have to continue its meetings with the government. But, as for the KIO, it now needs to reconsider

how much it will be involved in the peace process. I can say that this attack by the government troops is insincere because, no matter what reason they use, to purposely attack the KIA camps, while peace negotiation is underway, does not look good.<sup>5</sup>

Continued concerns of what control the Government has over its troops remain a major issue. Attacks on KIO bases, which are characterized by the Government as illegal logging actions, jeopardize the peace process, and unless the Government is prepared to rein in its armed forces, the possibility of a permanent peace remains elusive. The Law Khee Lah agreement has shown that armed ethnic groups are prepared to compromise in the interests of all the people of the country, the Government, and the Burma army specifically, needs to show it is prepared to make the same commitment.

Notes:

1. Personal conversation with NCCT member, 30 January 2014
2. 'To Hopeland and Back VII: From battlefield to the negotiating table, SHAN, 27 January 2014
3. Statement, Conference of Armed Ethnic Resistance Organisations, 25 January 2014
4. Personal conversation with NCCT member, 20 February 2014
5. 'After Attacks, Kachin Rebels Must Rethink Peace Process: Gun Maw', 'The Irrawaddy, 17 February 2014

Since the election in 2010, The Government of Burma has engaging political transition under three pillars: development, stability and internal peace.

Under its pillar of “Internal Peace” the Thein Sein government has sought to end the conflicts with its many armed ethnic groups. This book, which gathers together papers that chart the myriad complexities of the peace process, seeks to clarify the often-confusing issues that all parties have had to address throughout the peace process.

Based on the work of the Burma Centre for Ethnic Studies, this book clearly defines the many actors and issues that have characterised the process. It sheds light on the diverse nature of the peace process and the many problems the country faces in resolving its deeply rooted ethnic conflicts.



**Lian H. Sakhong**

Dr. Lian H. Sakhong, the Director of the Burma Centre for Ethnic Studies, has been the Chairman of the Chin National Council (CNC) and the Ethnic Nationalities Council (ENC), and a member of the Supreme Council of Chin National Front (CNF) and the Nationwide Ceasefire Coordination Team (NCCT). He is the author of several books in English, Burmese and Chin, including: *In Search of Chin Identity: A Study in Religion, Politics and Ethnic Identity in Burma* (Nordic Institute of Asian Studies, 2003), *Federalism and Ethnic Issues in Burma: Selected Political Writings in Burmese* (Wanida Press, 2008), and *In Defence of Identity: Ethnic Nationalities' Struggle for Democracy, Human Rights and Federalism in Burma* (Orchid Press, 2010).



**Paul Keenan**

Paul Keenan is a Thailand based researcher and analyst specialising in strategic studies and policy research in relation to Burma's ethnic groups. He has worked for the Ethnic Nationalities Council and the Euro-Burma Office and written numerous papers on ethnic groups in Burma. He is author of *By Force of Arms: Armed Ethnic Groups in Burma* (Vij Books, 2013) and is currently Senior Researcher at the Burma Centre for Ethnic Studies.

