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Myanmar's Long Road to Federalism: The Case of Shan State

*By Amporn Jirattikorn**

EXECUTIVE SUMMARY

- Entering into the third year of peace negotiations between the Myanmar government and the ethnic armed forces, the Myanmar peace process has experienced conflict alongside some progress.
- Conflicts between the Myanmar military and Shan armed groups are deeply rooted in history. The 1947 Constitution which granted the right to secession to the Shan and the resultant grievances of inequality in the sharing of resources and power were the main reasons for half a century of civil war in Shan State.
- The peace negotiations have been centred on the notion of “federalism” as the ethnic armed groups demand a new Federal Constitution that guarantees real power for state-level government. But for the government, the idea of federalism creates the fear that ethnic states will want to separate from the union.
- The ethnic armed forces demand the creation of a “federal army” that is not tantamount to their absorption into the Myanmar army but that is built on an independent, affirmative

action quota system. The government rejects this idea, arguing that ethnic nationality soldiers are already serving in the army.

- The Shan position in this peace process is diverse as different armed groups are taking different stands in the ceasefire process and in the future of their armed organization. The two major Shan political parties are also unable to reach an agreement in their positions towards the upcoming 2015 election.
- The peace process has faced many obstacles including trust deficiency, confusion over procedures, continued fighting in Shan State, and ethnic disunity. But the significant achievement of three years of peace talks is the recognition by the government that the future of Myanmar is tied to a federal union.

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ROOT CAUSES OF CONFLICTS

After more than sixty years of civil war, the new civilian government of Myanmar has since 2011 been making serious efforts to achieve a lasting peace. While solving ethnic conflicts has become the most important issue for the government, the scope of the peace process is immense as it involves a large number of stakeholders. This article will therefore not attempt to discuss all the complexities. Instead, it will concentrate on the case of Shan armed resistance to examine Shan ethnonationalism and its aspirations. It will also discuss key obstacles on the Shan side and explore whether there is a Shan model of “federalism”. In so doing, it hopes to shed light on ethnic politics in Myanmar in general, and in the northeastern corner of Myanmar in particular.

Before embarking on a discussion of the present peace process, a short historical account is required so that the country’s ethnic grievances may be understood. The Shan are the largest of the seven main ethnic minority groups in Myanmar. Their struggle for independence is one of the most longstanding ethnonationalist movements in the country. In 1958, the first Shan underground resistance group, *Num Suk Han* (Young Brave Warriors) led by Sao Noi, appeared. Later decades saw various armed groups emerging and claiming that they represent Shan nationalism. In the 1970s, there were more than forty different armed forces estimated to be operating in Shan State. This dazzling array of militias suggests complex causes of conflicts.

The first and foremost cause of Shan armed struggle came out of the Panglong Agreement signed between the Burmese leader General Aung San and other ethnic leaders in 1947 during the struggle for independence. The Agreement in theory grants the right of secession to Shan State 10 years after joining the Union of Burma. The 1947 Constitution also states the right of secession after 10 years to the Shan and Kayah States.¹ While in principle a genuine right, in practice, it is hardly exercisable due to the demand for an extraordinary majority requirement of two thirds in the State Council.² However, as long as it remains a potential right, the Shan people consider that this right that has never been recognized by any of the successive military governments.

¹ It should be noted that the secessionist right in the 1947 Constitution is given to the States, not the ethnic groups. The country’s later two Constitutions contained no such right.

² The 1947 Constitution also requires the President to order a direct vote with the entire electorate before the secession can take place. Such questions as who shall vote in such a plebiscite and what majority is necessary to express the people’s will are left to be legislated by the Union Parliament. This indicates that the right of secession is hardly exercisable as long as it is left to the legislature to interpret the meaning. See Silverstein, Josef. “Politics in the Shan State: The Question of Secession from the Union of Burma”. *The Journal of Asian Studies* 18, no. 1 (1958): 43-57.

Second, like any other insurgency in the world, the origin of the conflicts can be linked to discrimination, and sense of unfair treatment in the distribution of resources and power. The war between the Burmese government and the ethnic nationalities left many ethnic areas in a dire situation. While Shan State may be rich in natural resources, unfair distribution by the military government of the profits generated from natural resource extraction has been a major cause of grievances.³

The third reason comes arguably from the political economy of war. With the involvement of the American CIA, the Communist Party of Burma, the Communist Party of China, the Kuomintang, and the Thai government, the ethnic wars in 1960s-1980s were largely part of the Cold War. Besides, Shan State had emerged as a major opium-growing area and the narcotics trade soon became a vital source of revenue for all insurgencies, and sustained the armed resistance in that state for more than half a century.

PROSPECT FOR PEACE AFTER THE 2010 ELECTION

The peace process is now in its third year, and although some progress has been made, the talks appear to be a never-ending drama. Despite several ceasefires signed in 2012 between the civilian government and the two Shan armed groups, clashes occurred continuously. Alongside the fighting, human rights violations such as land confiscation and forced labour persisted. In order to obtain a clear understanding of what both sides demand, some issues relating to who, what and how are highlighted below.

The Players

The government's prevailing scheme involves a three-phase peace plan – State level (ceasefire agreement), Union level (political dialogue) and Nationwide Assembly. The latest Union-level peace team is made up of a central committee for making policies and a working committee for implementing policies associated with ceasefire negotiations. The central committee (UPCC) is chaired by President Thein Sein while the working committee (UPWC - Union-level Peacemaking Work Committee) is chaired by Vice President Sai Mauk Kham. The main actor however is U Aung Min who leads the UPWC team.⁴

³ Burma News International. *Deciphering Myanmar's Peace Process: A Reference Guide 2013*. Chiang Mai: Burma News International, 2013, pp. 20-21.

⁴ *Ibid.* p. 38.

The Shan have two armed groups: the SSPP/SSA, and the RCSS/SSA. The first was originally the Shan State Army (SSA) which changed its name to the Shan State Progress Party/Shan State Army (SSPP/SSA) in 1996. It is known today as the SSA-North. The Restoration Council of Shan State/Shan State Army (RCSS/SSA), known as the SSA-South, is a 1996 construction of splinter groups from Khun Sa's Mong Tai Army (MTA) which immediately declared their intention to continue fighting the central government after the MTA surrendered. The SSPP signed a ceasefire agreement with the government in January 2012, while the RCSS had signed the first ceasefire in 2011, and a second one in 2012. These two groups should not be seen in isolation from the United Nationalities Federal Council (UNFC), a highly active alliance of 12 ethnic armed forces.⁵ The UNFC advocates talks with the government as a united front. Their demands in negotiations with the government concern federalism and are based on the second draft of the 2008 Federal Constitution.⁶

Besides these two forces, there are two political parties representing the Shan. The Shan Nationalities League for Democracy Party (SNLD), better known as the "Tiger Head" party, has long been considered by many to be the true nationalist party of Shan State. In 2005, Khun Htun Oo, its leader, along with other SNLD leaders, was arrested and sentenced to a ridiculously long sentence of 93 years of imprisonment by the former military junta. The SNLD did not compete in the 2010 election and hence does not have a seat in parliament. The Shan Nationalities Democratic Party (SNDP), better known as the "White Tiger" party, was formally registered in April 2010 and after the election, became the biggest party in Shan State. It won 51 seats in the Parliament in the 2010 elections. These two parties are not involved in the ceasefire negotiations and their role is to come later during the Political Dialogue phase. The Political Dialogue will see a diversification of stakeholders to include political parties, and civil society and women's groups.

Federalism and Federal Army

Below is the summary of the demands made by the government and by the ethnic armed groups. Since the UNFC is created to negotiate with the government as a single organization, their demands are highlighted as a collective one below.

⁵ The UNFC secured US\$3 million in emergency aid from the Nippon Foundation in October 2012, but a request for Japan to mediate in negotiations with the government however has not received a response.

⁶ It should be noted that the demand made by the UNFC which is based on the second draft of the 2008 Constitution is different from the official and current Constitution, see *Deciphering Myanmar's Peace Process: A Reference Guide 2013*, p. 56.

The Government peace plan consists of three major points: 1) give up arms/transform into BGF (Border Guard Force); 2) set up a political party; and 3) contest in elections. In order to reach peace agreements with the ethnic armed groups, the Union-level Peacemaking Work Committee lists their points as follows:

Union Level Peace Negotiation – 8 points

1. Forever remain in the Union
2. Accept the Three National Causes: non-disintegration of the Union, non-disintegration of national sovereignty and perpetuation of national sovereignty
3. Cooperate in economic and development tasks
4. Cooperate in the elimination of narcotic drugs
5. Set up political parties and enter elections
6. Accept the 2008 Constitution and make necessary amendments via Parliament by majority consent
7. Fully enter the legal fold for permanent peace and live, move and work in accord with the Constitution
8. Coordinate the existence of only a single armed force in accord with the Constitution.⁷

We can see from the above that each side has different demands. The number one issue is that the government wants to turn the ethnic armed groups into a Border Guard Force (BGF). The Border Guard Force scheme was introduced in 2009 by the previous military regime and was seen as an attempt to absorb ethnic militia groups into the national army, entailing subordinating their troops to Myanmar military commanders. The BGF scheme proved a failure and led to bouts of fighting in many areas in 2009-2010. Currently the government talks about allowing ethnic armed groups to keep their arms and integrating into the government army. Nevertheless, the BGF scheme remains an apparent part of the government's peace plan and is listed as the final point in the Union-level peace negotiations' eight-point plan: "To coordinate the existence of only a single armed forces in accord with the Constitution".

The UNFC objected to the government peace plan, saying that points 5 to 8 are measures to control ethnic armed resistance organizations. However, the UNFC's six-point plan listed below provides no clear detail of what the ethnic groups want with regard to their armed forces:

⁷ *Deciphering Myanmar's Peace Process: A Reference Guide 2013*, p. 39.

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 movement's 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 in by equal number of representatives from the ethnic forces, democratic forces and the government, to discuss and sign the Union Accord;
6. A precise timeframe for the peace process.⁸

There seems to be a deadlock now between different concepts of the armed force, and in fact, of “federalism”. The UNFC formed the Federal Union Army (FUA) in 2011 and defined “Federal Army” loosely as an affirmative action quota system, i.e. involving quota for ethnic nationality cadets and promotion.⁹ The UPWC, the government peace team, insists that the present Myanmar Army, being made up of multi-ethnic nationalities, is already a Union Armed Force. Hence, there is no need to establish another “Federal Army”.

Most disagreements between the government and the ethnic groups revolve around different interpretations of the term “federalism”. The ethnic groups demand either amendments of the 2008 constitution or the drafting of a new Federal Constitution that guarantees real power for state-level government, no military seat, and state-level ownership of resources and revenues. For the ethnic armed groups, federalism lies in the concept of “self-determination” which politically means having the power to make decisions without consulting others, and economically, to have state-level ownership of resources and revenue. The government, however, fears that the terms “federal” and “self-determination” will lead to a breakaway of ethnic areas from the union, and argues instead that the creation of state- and union-level government in its current form already makes Myanmar a federal system. It also rejects the usage of “fully self-determining states” for the simple reason that

⁸ Ibid., p. 57.

⁹ Burma News International. *Deciphering Myanmar's Peace Process: A Reference Guide 2014*. Chiang Mai: Burma News International, 2014, p. 41.

since Myanmar currently consists of regions and states, the amendments must be based on that present system.¹⁰

Despite being against the word “federalism”, the military has, on a positive note, agreed to place the issue on the agenda during the Framework and Political Dialogue Negotiations. At this moment, the government is not taking a definite stand on the issue of federalism. Whether they accept or reject it will only be known when the political dialogue takes place.

Shan Ethnic Stand

Having laid out the demands from both sides, we can now explore what the Shan ethnic groups stance is in this peace process. Currently, the government no longer aims to sign any more agreements with individual groups. It aims for a unified ceasefire. Most players on the ethnic side also seem to believe that a single Nationwide Ceasefire will be more advantageous than individual ceasefire agreements. The problem for the ethnic groups now is whether they should sign a ceasefire first or push for political dialogue first. The last meeting between the ethnic team, the NCCT (Nationwide Ceasefire Coordination Team) and the government’s UPWC reached a deadlock over the condition of DDR (Disarmament, Demobilization and Reintegration) when the government decided to place it ahead of a political settlement despite an earlier agreement to deal with it after a political settlement.¹¹ The ethnic armed groups understand this condition as capitulation on their part, while the government sees it is reintegration.

With the general election scheduled for 2015, the government had wanted all major armed groups to sign a Nationwide Ceasefire Agreement this year and complete the peace process. Among the two Shan armed groups, there are differences in interpretation of the term “nationwide ceasefire” though. The RCSS sees it as a commitment to peace and accepts the fact that the ceasefire will take time to perfect. They agree that political talks will take too long and stopping the conflict should be given priority.¹² In contrast, the SSPP is cautious about signing anything before political talks address the issue of ethnic self-determination. This split between the two Shan armed groups has the latter accusing the former of rushing to sign a ceasefire without ensuring measures for peace and

¹⁰ Ibid.

¹¹ Harder to win than war - Day 2. Shan Herald Agency for News, 7 October 2014. http://english.panglong.org/index.php?option=com_content&view=article&id=5936:harder-to-win-than-war-day-2&catid=115:opinions&Itemid=308 (accessed on 3 November 2014)

¹² *Deciphering Myanmar’s Peace Process: A Reference Guide 2014*, p. 34.

political talks are in place to complete their struggle for a genuine federal union.¹³ This split can also be seen in their differing positions vis-à-vis the coalition of ethnic armed groups. The SSPP is a member of the UNFC while the RCSS has refrained from joining.

With regard to points 2 and 3 in the government peace plan which envision that after the ceasefire has been signed, the ethnic armed groups may set up a political party and contest in elections, there has so far been no clear statement on whether these two armed forces will become a political party. Most of the ethnic armed groups have stated that they do not have plans to set up political parties to contest in elections until after signing the Nationwide Ceasefire Agreement and settling political problems of self-determination. In looking at the prospect of Shan armed groups turning into a political party, I would like to quote a Shan woman activist who said that: “The soldiers cannot lead the country. We have no hope in Yawd Serk (the leader of Shan State Army-South) or any armed group leading our Shan State. They have proved that what they could do for the past several decades was holding guns”. In the minds of ordinary Shan people, the militias have not proven themselves capable of governing and wielding political power.

But if they do not have plans to set up political parties to contest in the election, then there is confusion about what role ethnic armed organizations will play in the country. Currently, granting business concessions to NSAGs (Non-State Armed Organizations) is understood as allowing them to financially sustain their organizations legally and contribute to the economic growth of their respective areas. While the issue has been criticized – previously the policy often led to the corruption of NSAG leaders – it has never been made clear in the recent peace talks whose command they are to be put under, and to which organization they are to report their revenue.

Bertil Lintner, among others, has proposed an Indian model of federalism where the army is absorbed into the State Armed Police Force.¹⁴ If that system is adopted, the Shan State Army could be turned into a Shan State Armed Police Force, in which case they should no longer be given special concessions. But in the mind of the armed groups, a federal army should first be set up with the quota system, and second, be responsible for border security. The loose concept of “federal army” has been criticized for not being realistic—in most other countries, border security is

¹³ Ibid.

¹⁴ Lintner, Bertil. “Finding a Federal Model that Fits” Irrawaddy, 8 March 2014. <http://www.irrawaddy.org/magazine-viewpoint-opinion/finding-federal-model-fits.html> (accessed on 4 November 2014).

necessarily centrally controlled. Creating local command border guard forces would eventually lead to bands of border bandits and smugglers.

When discussing Shan aspirations, we also need to take into account two other important issues; factionalism among Shan armed and non-armed groups, and the reality of being a multi-ethnic nationalities State. Now, although the State gets its name from the Shan majority in the area, like other states in Myanmar, it is not a state with only Shan people. Its many ethnic nationalities include the Pa-o, Intha, Danu, Lahu, Lisu and Ta'ang, to name a few. Currently, there have also been armed conflicts between the Shan and the Ta'ang and the Pa-o armed groups. The question remains: can Shan political parties and armed groups represent all these ethnic nationalities in Shan State?

Lastly, what are the positions of the two Shan political parties in the peace negotiations? The SNLD, headed by Khun Htun Oo, has reportedly grown to become Shan State's most popular party, with more members than the SNDP.¹⁵ The SNLD, strongly linked to Aung San Suu Kyi's National League for Democracy (NLD), maintains their position to fight for genuine federal union. It also wants political dialogue to take place prior to the National Ceasefire agreement. The SNDP which won 51 seats in the 2010 election and had two representatives becoming Ministers of the Shan State Government holds a slightly different view. Although it is happy to join in the Political Dialogue and is in support of a federal union, they urge the two Shan armed groups to sign the National Ceasefire Agreement as soon as possible.¹⁶

In the peace process itself, we can see the split in both the armed organizations and the ethnic political parties. The question then is: can the Shan be united? In October 2013, the four major Shan movements jointly set up the Committee for Shan State Unity (CSSU) with the aim to speak in a common voice in order to achieve self-determination. It is interesting to note that the formation of CSSU came from the call by the people of Shan State for their representatives to speak with one voice. Early this year, thousands of Shan monks together with people from 52 townships in Shan State sent an appeal to the two political parties and the two armed groups urging them to merge into

¹⁵ Kyaw Hsu Mon. "Biggest Shan Political Parties to Consider Merger" Irrawaddy, 1 April 2014. <http://www.irrawaddy.org/burma/biggest-shan-political-parties-consider-merger.html> (accessed on 4 November 2014)

¹⁶ Harder to win than war -Day 2. Shan Herald Agency for News, 9 October 2014. http://english.panglong.org/index.php?option=com_content&view=article&id=5938:harder-to-win-than-war-day-2-continued-from-7-october-2014&catid=115:opinions&Itemid=308 (accessed on 3 November 2014).

one single party and one single army. While in principle, the four organizations said they would comply with the call, in practice that is unlikely to happen any time soon. The two Shan armed groups refuse to merge. The two major Shan parties, SNLD and SNDP are also unable to reach an agreement to consolidate, as both claim that with only one year left before the election, there is precious little time to sort out all the differences. The two parties are also not able to reach agreement on contesting the 2015 elections. The SNLD has yet to decide if it will enter at all.¹⁷ On a positive note, unlike in the past decades when Shan armed groups repeatedly turned to fight against each other, they are now at least talking to each other, and respecting the wishes of the Shan people who are demanding peace.

Although there is still a long way to go, the prospects appear hopeful. In my interview with SSA-South's advisor, it appears that the Shan are willing to cooperate if the Myanmar government is sincere in handling the problems. The advisor states that the Shan armed groups understood that the revolution that began some 50 years ago was not the same revolution today. Although the Shan armed groups have desired full-autonomy – something that they have been fighting for years – they now have to re-evaluate their position. Realizing that the international community will no longer support armed conflicts, the groups recognize that entering into the peace process is their only chance to remain in the political arena.

“We have been fighting for more than 50 years. That was the only thing we did and was capable of doing. We’ve never been trained to talk but we now need to talk. We need to learn all the new vocabulary and new concepts. On the table, it is all about discussion on terminology. For example, we want the word “federal” but the government insists on “union”. These are the things militias never have to do. But now we are learning. We both are learning.”¹⁸

CONCLUSION

In reviewing the ongoing peace negotiation and the positions different Shan organizations have taken, we come to see that Myanmar's peace process has a long way to go. Its major obstacles include concerns over trust, confusion over the process, continued fighting in Shan State, and the lack of unity on the ethnic side. But the three years of peace talks have yielded success in that the

¹⁷ Shan meeting to ‘comply with’ people’s call for unity. Shan Herald Agency for News, 5 May 2014. http://english.panglong.org/index.php?option=com_content&view=article&id=5809%3Ashan-meeting-to-comply-with-peoples-call-for-unity&catid=85%3Apolitics&Itemid=266 (accessed on 7 November 2014).

¹⁸ Interview with SSA-South's advisor, Chiang Mai, 31 October 2014.

negotiation strategy of both sides has become more sophisticated. We also see a willingness to compromise, as seen in how the government comes to recognize that the future of Myanmar is tied to a federal union.

As for the Shan, two questions remain. Can the Shan unite in order to achieve the self-determination they have been fighting for over half a century? And how will the voices and interests of other ethnic groups living in Shan State be represented in this ethnically-defined state?

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