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CAN MYANMAR'S NLD GOVERNMENT  
UNDO THE GORDIAN KNOT OF  
FEDERALISM AND ETHNICITY?

ROBERT H. TAYLOR

**ISEAS** YUSOF ISHAK  
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# Trends in Southeast Asia

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## FOREWORD

The economic, political, strategic and cultural dynamism in Southeast Asia has gained added relevance in recent years with the spectacular rise of giant economies in East and South Asia. This has drawn greater attention to the region and to the enhanced role it now plays in international relations and global economics.

The sustained effort made by Southeast Asian nations since 1967 towards a peaceful and gradual integration of their economies has had indubitable success, and perhaps as a consequence of this, most of these countries are undergoing deep political and social changes domestically and are constructing innovative solutions to meet new international challenges. Big Power tensions continue to be played out in the neighbourhood despite the tradition of neutrality exercised by the Association of Southeast Asian Nations (ASEAN).

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# Can Myanmar's NLD Government Undo the Gordian Knot of Federalism and Ethnicity?

By Robert H. Taylor

## EXECUTIVE SUMMARY

- Daw Aung San Suu Kyi has said that peace is the first priority of the National League for Democracy (NLD) when it comes to power in April 2016. Both her remarks at the Union Peace Conference in January and the NLD election manifesto point to ethnicity and federalism being linked.
- This is a position similar to that taken by the outgoing Thein Sein government and the army. Now that the word “federalism” is accepted as useful in the debate over how to establish an end to Myanmar’s persistent civil wars with ethnically designated armed groups, it was hoped that some meeting of minds might take place.
- But as revealed at the Union Peace Conference, that is yet to have happened. Rather, spokespersons for the ethnic armed groups continue to speak the language of ethnic rights and a federal army, while the government talks about reaching material and administrative agreements and the army insists that there can only be one army. These debates echo the past, going back to the formation of Myanmar in the late 1940s.
- In order to break the apparently endless debate about federalism, ethnicity, states and divisions in the Union of Myanmar, perhaps a new approach might be considered — taking federalism a step further to the seventy-four district levels of administration. As the ethnically designated armed groups operate in relatively small and localized areas, a solution that squares the circle between ethnicity and territory might have appeal.



# Can Myanmar's NLD Government Undo the Gordian Knot of Federalism and Ethnicity?

By Robert H. Taylor<sup>1</sup>

## INTRODUCTION

Daw Aung San Suu Kyi, the leader of the victorious National League for Democracy (NLD) in the November 2015 general elections in Myanmar, announced in her Independence Day address, her first major post-election speech, that “the peace process is the first thing the new government will work on” when it takes office on 1 April 2016. She added, “We can do nothing without peace in our country.”<sup>2</sup>

The NLD leader, having not attended the ceremonial signing of a “Nationwide Ceasefire Agreement” between the government of President Thein Sein, the Myanmar army, and eight ethnically designated armed insurgent groups in October, rather disparaged the Union Peace Conference convened on 12 January, saying in an interview two days into the conference that it was merely a meeting acknowledging the ceasefire agreement, and that the real peace conference would be convened by the next government.<sup>3</sup> However, having initially said she would not attend the Peace Conference, she did, showing up and becoming one of the opening ceremony speakers, which prompted President Thein Sein to depart after

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<sup>1</sup> Robert H. Taylor is Visiting Senior Fellow at ISEAS–Yusof Ishak Institute, Singapore. He was formerly Professor of Politics and Pro-Director of the School of Oriental and African Studies (London) and subsequently Vice-Chancellor, University of Buckingham.

<sup>2</sup> “Peace will be new govt’s first priority: NLD leader”, *Frontier Myanmar*, No. 28, 7 January 2016, p. 11.

<sup>3</sup> “Interview: Five Days Too Short to Complete a Peace Conference”, Radio Free Asia, 14 January 2016.

making his initial remarks.<sup>4</sup> The five-day conference was agreed upon at the signing of the ceasefire agreement as the first step in a long political dialogue to resolve the country's persistent civil war. The fact that only a minority of Myanmar's myriad ethnically designated armed groups signed the ceasefire agreement and attended the Union Peace Conference underscored the huge challenge the new government faces in trying to achieve an enduring cessation of armed conflict in Myanmar.

In her remarks at the Peace Conference, Daw Aung San Suu Kyi is reported to have said the following:

Now is the time we are poised to make an effort to bring about eternal peace based on the authority granted by the citizens, including ethnic minorities, to the NLD.

Negotiations will bring about fruitful results, and the peace dream the ethnic minority groups long for will come true. Our country gained the independence through the united efforts of all ethnic groups. We reached the destination we longed for. The participation of all ethnic communities proved an effective symbol. Inclusiveness of ethnicities is of great importance in reaching our destination. The unity of all ethnic groups residing in all parts of the country existed in the 20th century, and it is the same as the "Panglong spirit", also known as the "Union spirit".

We stick to policies on respecting equal rights and national consolidation among Myanmar's ethnic groups.

Mutual respect and trust are the original policies of our federation. We hope for political dialogues based on the "Panglong spirit". The NCA is the first step to peace. We will have to join hands with all ethnic armed groups to enable them to sign the NCA. Unity between the signatories and non-signatories to the NCA is a major requirement.

The government removed some ethnic armed groups from its unofficial association list. But some still remain listed as

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<sup>4</sup> "Burma Army Pledges to Cooperate with Suu Kyi for Peace", *Democratic Voice of Burma*, 15 January 2016.

unofficial associations. We want all ethnic armed groups to have better mutual understanding.

Our country is in need of national reconciliation. We must not turn a blind eye to the national reconciliation as a part of the peace process. Without national reconciliation among ethnic groups, we cannot achieve an enduring peace.

It is required to amend political dialogues as necessary. We need to consider future work procedures before laying them down. We believe the Union Peace Conference can make effective decisions.

Communication technology is improving quickly. Technologies should be applied in order to keep abreast of other countries. We can do it now. The 21st-century conference can be held. Only with mutual understanding and respect can the democratic federal Union be established.<sup>5</sup>

Her remarks are noteworthy not merely because she is the leader of the political party which will form the next government of Myanmar, but because of what she did not say as well as what she did. After a rather to be expected triumphalist note, given the support the NLD received not only from ethnic Bamar but also from a surprisingly large proportion of so-called “ethnic voters”, she referred to the Panglong Agreement which her father negotiated with ethnic minority leaders in February 1947, as required by the British in order to grant independence to a unified Myanmar.<sup>6</sup> In the final paragraph quoted above, she seemed to call for a second conference in order to regenerate the Panglong or Union Spirit, ambivalent as that legacy is.

Using both the vocabulary of the previous army and army-led governments, she said an NLD government would maintain both a pledge for equal rights and national consolidation, as well as, in her own

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<sup>5</sup> “Ethnic minorities’ dream of peace will be reached through negotiations: Suu Kyi”, *Eleven*, 13 January 2016.

<sup>6</sup> See Robert H. Taylor, “Ethnicity, Federalism, Citizenship and Politics in Myanmar”, *ISEAS Perspective*, no. 31, 2015 (26 June 2015), pp. 3–9.

language, meet the need for national reconciliation. The entirety of her remarks was framed in the language of ethnicity, emphasizing that it is demands for ethnic rights which are at the root of Myanmar's civil war. Daw Aung San Suu Kyi's comments did not impress all in her audience. Said the former leader of the Shan State Army-South (SSA-S), Yawd Serk, "We haven't seen yet how she will apply a policy, so it is difficult to predict how she will run the peace process."<sup>7</sup> The SSA-S was, until 2014, deeply involved in opium smuggling between Myanmar and Thailand, demonstrating that it is more than ethnicity which has kept Myanmar's civil strife alive for seven decades.<sup>8</sup>

Moreover, her position rather jarred with the agenda of the Union Peace Conference. The five topics for discussion during the three substantive days of the conference only indirectly addressed ethnicity, if at all. They were:

1. Politics: Basic Principles for a Federal Democracy
2. Social Resettlement and Reconstruction for Internally Displaced People
3. Economy: Tax and Revenue Sharing
4. Security: Basic Principles for Union Security and Defence
5. Land and Natural Resources: Management and Distribution<sup>9</sup>

Unsurprisingly, the Union Peace Conference came to no conclusions to reform the political system or bring peace to the country. It merely resolved that it should reconvene "as soon as possible," that the political dialogue process would take at least three to five years, that somehow 30

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<sup>7</sup> Timothy McLaughlin, "Suu Kyi Must Be Clear on Peace Policy: Rebel Leader", Reuters, 15 January 2016.

<sup>8</sup> Don Pathan, "Shan State Army Kicks the Habit but Gets Little Respect", *The Nation* (Bangkok), 2 January 2014.

<sup>9</sup> "Next on the Agenda: Union Peace Conference to Cover Five Topics", *Global New Light of Myanmar*, 7 January 2016. Sai Khuensai, "NCA Non-Signatory Groups Can Address Peace Conference", Shan Herald Agency for News, 14 January 2016.

per cent of the attendees at the next conference should be of the female persuasion,<sup>10</sup> and that those who attended the conference and the earlier ceasefire ceremony be duly recorded and honoured. As Vice-President Sai Mauk Kham said in his concluding remarks, “We won’t make any decisions based on what we’ve discussed here, we will take [these discussions] from representatives of different groups and refer them to the next conference.”<sup>11</sup> In other words, the conference concluded to draw up guidelines, rough outlines, and points for further discussion.

The Union Peace Conference took place against continued fighting in both the Shan and Kachin States. For example, fighting took place between troops from the Ta-ang (Palaung) Nationalities Liberation Army (TNLA) and the Shan State Army-South (SSA-S) with the latter allegedly supported by government troops. While the TNLA has not reached a ceasefire agreement, the SSA-S was, as noted above, one of the eight participating armed groups at the Union Peace Conference.<sup>12</sup> Similarly, the Kachin Independence Army (KIA) was accused of dragooning Palaung youths into military service on their behalf,<sup>13</sup> while the KIA and the Shan State Army-North (SSA-N) had been in conflict with the army the previous month.<sup>14</sup> Even amongst armed groups nominally allied with the government, such as the Democratic Karen Benevolent Army (DKBA), factions broke away and generated new conflicts.<sup>15</sup> Moreover,

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<sup>10</sup> For the background to this resolution, see Yen Snaig, “Women’s Alliance Breaks Down Gender Disparity in Peace Process”, *Irrawaddy*, 22 January 2016.

<sup>11</sup> “Peace Conference Closes with Promise of Prompt Restart”, *The Irrawaddy*, 18 January 2016.

<sup>12</sup> “Casualties as Rebel Armies Clash in Shan State”, Democratic Voice of Burma, 19 January 2016. Khin Oo Tha, “Deadly Clashes Reported Between Ta-ang and SSA-S Forces”, *Irrawaddy*, 20 January 2016.

<sup>13</sup> Thu Thu Aung, “Six Missing Youths Said to Have Escaped from KIA”, 19 January 2016.

<sup>14</sup> John Quinley III, “The Price of Conflict in Northern Myanmar”, *The Diplomat*, 8 December 2016.

<sup>15</sup> Lawi Weng, “DKBA Splinter Group, Government Army and Allied BGF Clash in Karen State”, *Irrawaddy*, 26 January 2016.

new insurgent forces were being born. The Shan-ni Nationalities Army (SNA) was created in southern Kachin State, demanding control of that area and parts of neighbouring Sagaing Region.<sup>16</sup> At approximately the same time, the army was vowing to eliminate the Arakan Army, an insurgent group spawned in 2009, following clashes in Rakhine State.<sup>17</sup>

## **WHY DID THE PEACE CONFERENCE PRODUCE SUCH MEAGRE RESULTS?**

The short answer to this question is because the participants, and those armed groups with which the army remains in conflict, were largely talking at cross purposes. They have staked positions in advance and no amount of talk alone is likely to change their entrenched positions. The achievement of the ceasefire agreement which led to the Union Peace Conference was not the result of the disputants coming to agreement on anything other than that there was nothing to be gained by further fighting and perhaps more to be gained by abandoning warfare. There was no harmony of views, however. A brief examination of the positions of the participants will make this clear.

The Commander-in-Chief of the Myanmar Armed Forces, Senior General Min Aung Hlaing, laid forth the army's position in the following words:

Union affairs must be based on democracy and federal principles. We will have to practice disarmament, demobilization and reintegration (DDR) and security sector reform (SSR) in line with

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<sup>16</sup> "Red Shan Form Armed Group", Shan Herald Agency for News, 25 January 2016. As the Kachin Independence Organization (KIO), the parent body of the Kachin National Liberation Army (KNLA), no longer advocates an independent Kachin state, but merely greater internal autonomy under a Kachin-led government, the Kachin Republic Party was being formed in order to seek independence. Phanida, "Kachin Republic Party To Be Formed to Seek an Independent Kachinland", *Mizzima*, 15 January 2016.

<sup>17</sup> "Myanmar Army Vows to Eliminate Ethnic Rebels in Rakhine State", Radio Free Asia, 8 January 2016.

the expectations of the international community. Our country must stick to this policy. Timelines should be set. A country should have a single army to defend it. We are trying to be a standard army.

Myanmar is a country comprising states and regions. The government and ethnic armed groups will have to continue discussing how to delegate power and distribute revenue and natural resources. Matters relating to autonomy [for ethnic minority groups must] be negotiated. Negotiations must be supported.<sup>18</sup>

These were, in many ways, accommodating words. Others reported that the Senior General invited armed ethnic groups to join the army in the defence of the country, though he did not specify if that was to be in their individual capacity or as units such as Border Guard Forces which a number of armed ethnically designated groups refused to do in recent years, though some small groups have done so.<sup>19</sup> His words underscored perhaps for the Senior General's international audience the fact that he had learned from them how to talk the talk of the international peace and capacity building fraternity.<sup>20</sup> Of course, Min Aung Hlaing's comments were in the context of the army's defence of the 2008 constitution.

In contrast, according to the veteran leader of the Shan Nationalities League for Democracy (SNLD), his organization advanced the view at the Union Peace Conference that Myanmar should have a federal system with only eight states, rather than the existing fourteen states and divisions. The existing seven regions should be combined into one "Bamar" state in the name of equality, i. e., "equal states" of very different mixed ethnicities, resources, and capacities. Reverting to something like

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<sup>18</sup> "Tatmadaw Seeks Democracy Designed for Myanmar", *Eleven*, 13 January 2016.

<sup>19</sup> "Armed Ethnic Groups 'Welcome' to Join Military, Says Min Aung Hlaing", *Frontier Myanmar*, 12 January 2015.

<sup>20</sup> For an illuminating analysis of these remarks, see Stegan Bachtold, "The Rise of Anti-Politics Machinery: Peace, Civil Society and the Focus on Results in Myanmar", *Third World Quarterly* 36, no. 10 (2015): 1968–83.

the 1947 constitution of Burma is desirable, according to Khun Htun Oo. He, of course, ignores the fact that the federal systems of the United States and Germany, both of which he praises, have nothing to do with ethnicity but grew out of the histories of those countries which were very different from independent Myanmar's particular genesis.<sup>21</sup> He also ignores the fact that the population of the seven regions, plus Naypyitaw, which he would label as Bamar, has a total population, according to the 2014 census, of over 36.25 million persons, whereas the seven ethnically designated states combined total just under 14 million. The gap is enormous. Moreover, the seven ethnically designated states range in size from just under 300,000 to nearly 6 million persons.

No matter what kind of federal system eventually emerges in Myanmar, representatives of ethnic armed groups present at the Union Peace Conference find the army's view of the peace process to be unacceptable. As Nai Tala Nyi, from the New Mon State Party said outside the conference, "They [the Burma Army] have not explicitly said that all ethnic groups have to disarm, but they keep saying that the discussion will be based on the 2008 Constitution."<sup>22</sup> Here he was doubtless referring to Clause 20 and Clause 338 of the Constitution which state unequivocally that there can be only one army in the Union, as well as the Commander-in-Chief's remarks at the conference, including his reference to DDR, the first "D" standing for disarmament. This has been and will continue to be a minimal position for the armed forces. There can only be one army for one country. As Nai Tala Nyi said, "We are talking about equal rights, but they are talking about centralized power. We have very different points of view."<sup>23</sup> However, they do not have different points of view as much as they are discussing different things, one the politics of ethnicity, the other the territory of the country and its security.

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<sup>21</sup> Htet Naing Zaw, "Khun Htun Oo: 'Without a Guarantee of Equality, How Can We Work Together?'" , *Irrawaddy*, 28 January 2016.

<sup>22</sup> Lawi Weng, "Constitution Drives Wedge into Peace Dialogue", *Irrawaddy*, 15 January 2016.

<sup>23</sup> Ibid. See also Moe Myint, "Talk of Disarmament Will Not Bring Peace, Ethnic Leaders Say", *Irrawaddy*, 14 January 2016.

**Table 1: States/Region with Population and Percent Urban**

<b>State/Region</b>	<b>Population</b>	<b>Percent Urban</b>
Kachin	1,643,841	36.1
Kayah	286,627	25.3
Kayin	1,504,326	21.9
Chin	478,801	20.8
Sagaing	5,325,347	17.1
Tanintharyi	1,408,401	24.0
Bago	4,867,373	22.0
Magway	3,917,055	16.0
Mandalay	6,165,723	34.8
Mon	2,054,393	27.9
Rakhine	2,098,807	16.9
Yangon	7,360,703	70.1
Shan	5,824,432	24.0
Ayeyawady	6,184,829	14.1
Naypyitaw	1,160,242	32.3
Total	50,279,900	29.6

*Source: The 2014 Population and Housing Census, The Union Report, vol. 2, Table A-3: Population by Urban/Rural and Sex: Sex Ratio and Percent of Population Urban (Naypyitaw: Department of Population, Ministry of Immigration and Population, May 2015), pp. 49–68.*

## **AN OLD STORY**

It is not surprising that there is a misfit between the language of ethnicity and the practicality of finding a solution to Myanmar’s political problems, particularly the ending of a civil war that has been fought in the name of ethnicity. From the beginning of the discussions on the cusp of independence as to what kind of country Myanmar was to be, the issue of ethnicity and government structures were posed in apparently irreconcilable terms. For example, when the members of the Frontier

Areas Committee of Enquiry (FACE), a body required by the British to gauge the opinion of leaders of the ethnic-minority dominated northern reaches of Myanmar in 1947, the following exchange took place with representatives from the Shan State Peoples' Freedom Congress and Hsipaw State:

91. *U Khin Maung Gale*: Which of the nationalities [i. e., ethnic groups] do you think should be represented in the Senate?

*Ko Tun Myint*: For example, only those people who number over 50,000 — will have representatives in the Senate, and not those who do not come up to that number.

92. *Chairman*: If the Council of the Shan States is going to select representatives, that would seem to be on a territorial basis and not on a nationality basis?

*Ko Tun Myint*: It depends on the will and pleasure of the Shan Council.

93. *Chairman*: Whether it should be nationality or territorial?

*Ko Tun Myint*: Yes, Sir.

94. *U Khin Maung Gale*: Just now you talked about a Shan State, a Kachin State and a Chin State, yet in composition of the Senate, you want representation by nationality. How can you reconcile these two opposite views of representation by territory and representation by nationality?

*Ko Tun Myint*: The best thing would be representation by nationality, but if that is not possible we shall have to choose the alternative of territory.

95. *Chairman*: You have suggested nationality but in fact so far as you have gone you have worked on a territorial basis and not on a nationality basis.

*Ko Tun Myint*: We will try to work it out and if that is not possible we shall have to revert to the other.

96. *Thakin Nu*: Because some other nationalities do not come up to the required number, you will have to work on a territorial basis?

*Ko Tun Myint*: Some of the nationalities do not come up to the required number.

97. *Chairman*: By internal autonomy, which you mentioned earlier you meant autonomy on a territorial basis?

*Ko Tun Myint*: Yes, Sir.

98. *Chairman*: A territorial basis for internal autonomy and a nationality basis for the Federal Senate will be very difficult to work out?

*Ko Tun Myint*: Perhaps so.

99. *U Khin Maung Gale*: When you ask for internal autonomy you ask on a territorial basis, but when you ask for the representation in the Senate you ask on a nationality basis?

*Ko Tun Myint*: Yes, Sir.

100. *Chairman*: Hkun Saw, do you want to say anything in addition?

*Hkun Saw*: In the Frontier Areas there are Shans, Kachins, and Chins. Supposing Shans are represented in the Federal Senate by two persons, Kachins and Chins would likewise be represented by two — each race [i. e. ethnicity] represented by two. There are many tribes in the Shan Race but those who are in the Shan States we would consider as Shans in spite of their tribes. The population of Chins, Kachins and Shans is about equal.

101. *U Vum Ko Hau*: How many principal tribes are there in the Shan States?

*Hkun Saw*: There are nearly 30 tribes among the Shans, but of them, 7 are best known to the people.

102. *U Vum Ko Hau*: Are the dialects the same?

*Hkun Saw*: Some of them are different.

103. *U Vum Ko Hau*: How many dialects are there?

*Hkun Saw*: I cannot say exactly, but the 30 tribes have some three dialects which are similar.

104. *U Vum Ko Hau*: Can they all understand the Shan language?

*Hkun Saw*: No, some of them do not understand it.<sup>24</sup>

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<sup>24</sup> Frontier Areas Committee of Enquiry Report Presented to His Majesty's Government in the United Kingdom and the Government of Burma (Maymo, 24 April 1947), Part II: Appendices (Rangoon: Supt., Govt. Printing and Stationery, Burma, 1947), pp. 17–18.

We should not assume that the illusion of federalism based on ethnic representation has faded. It arose again in 1988 and has been heard repeatedly since.<sup>25</sup>

The confusion created by notions of ethnic representation on a population basis and representation ignoring ethnicity but recognising territory as the unit of representation was compounded in those days by notions of race divorced from culture and environment, hence the wonderfully racist notion built into British era documents about “backward races”. At the same hearing as reported above, the following exchange took place between members of the FACE and a leader from North Hsenwi in the Shan States:

232. *Chairman:* What you mean is that if the Kachins in the North Hsenwi State are prepared to remain with the Shans, the non-Kachins in Bhamo and Myitkyina areas should be prepared to live with the Kachins?

*Howa Duwa Hkun Hpung:* Yes, exactly. The Kachins are backward and like the younger brother to the Burmans and Shans, and if the Burmans and the Shans help the Kachins in every way, the prosperity of Burma will then be assured.<sup>26</sup> I am a representative of both Shans and Kachins of North Hsenwi State. What my colleagues have stated is incomplete. I want to explain about the separate areas in Tawngpeng, North Hsenwi, and Mongmit; we want to have a distinct Kachin State there and have our own local autonomy. But the budget, etc., should be handled by the respective Shan Chiefs. That means some will go to North Hsenwi, some to Tawngpeng and some to Mongmit.

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<sup>25</sup> Kim Jolliffe, *Ethnic Armed Conflict and Territorial Administration in Myanmar* (Yangon: The Asia Foundation, June 2015), p. 20.

<sup>26</sup> This point is reiterated in Annex I, Memorandum expressing the wishes of the Kachin People, submitted to the Enquiry Committee by the Group of Kachin Representatives sent from Kachin Hill Areas, signed by fifty persons, *ibid.*, pp. 51–54.

233. *The Hon'ble U Tin Tut*: Do you want a combination of the three Kachin sub-states? For what purpose?

*Howa Duwa Hkun Hpung*: Yes, to preserve the Kachin race. The Kachins of Mongmit and Tawnpeng are very backward. They have never seen their Sawbwas. They have just been under the Assistant Residents all the time and they know nothing. By having a combination of three groups, they can help one another. We have no intention of rising up against the Shan States or anybody.

234. *Chairman*: From an administrative point of view, they are within three distinct Shan States, are they not?

*Howa Duwa Hkun Hpung*: Does that mean that we cannot form a Kachin State composed of the areas of the three Kachin sub-states?

*Chairman*: I am asking whether [the] difficulty is that the Kachin areas lie in three different Shan States, no two of which [adjoin] one another?

*Howa Duwa Hkun Hpung*: We shall have to settle that in the S. C. O. U. H. P. [the Supreme Council of the United Hill People].<sup>27</sup>

## A PRIMER FOR ETHNICITY

The blatant racist expressions heard in the 1947 FACE sessions doubtless rarely disturbed anyone when they were first uttered, but few would find such language acceptable today. Even Saw San Po Thin's call for an exclusively Karen administration of the Salween tract because the people "do not want Burmans nor English, especially these half-castes" passed without comment.<sup>28</sup> However, one does still hear similar views expressed in private conversations and the demands for ethnic armies to defend ethnic races are still being reiterated.<sup>29</sup> Though expressions of

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<sup>27</sup> Ibid., p. 30.

<sup>28</sup> Ibid., p. 140.

<sup>29</sup> Lawi Weng, "NCCT Leader: Federalism Proposals Should Include Ethnic Army Guarantees", *Irrawaddy*, 11 May 2015.

ethnicity in Myanmar as elsewhere are more than inauthentic legacies of colonialism, representing a near universal human need for a sense of identity, it is important to recognize the origins of the concept in order to keep it in political perspective. As George Lamming expressed it,

The concepts of race, nation and ethnicity constitute a family of constructs of largely European origins, which served to influence the attitudes we should adopt to any encounter with difference. European racism was a form of ethnic nationalism that invested the color line with a power of definition that neither Asian [nor] African could escape.

Difference in religion and difference in modes of cultural affirmation now require a new agenda of perspectives, a wholly new way of looking at the concept of nation, of finding a way to immunize sense and sensibility against the virus of ethnic nationalism (for the culture of an ethnic group is no more than the set of rules into which parents belonging to that ethnic group are pressured to socialize their children) and to educate feelings to respect the autonomy of [the] Other's difference, to negotiate cultural spaces that are the legitimate claim of the Other, and to work toward an environment which could manage stability as a state of creative conflict.<sup>30</sup>

A primer on ethnicity may seem unnecessary to most readers of this publication, but in Myanmar there are still many who believe that ethnicity is somehow rooted in biology and that the concept of race actually is related to particular cultural manifestations. Echoing, perhaps unthinkingly Saw San Po Thin's slur on so-called "half castes", the Myanmar Peace Centre in a recent publication referred to persons claiming mixed ethnic origins as being of "mixed blood".<sup>31</sup> The notion

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<sup>30</sup> George Lamming, *Sovereignty of the Imagination* (St. Martin: House of Nehesi Publications, 2009), pp. 46–47.

<sup>31</sup> Myanmar Peace Centre, *Citizen Voices in Myanmar's Transition: Northern Shan State* (Yangon: March 2015), pp. 7–9 and passim.

of the horror of so-called mixed marriages and their offspring arose in Myanmar thought in the early 1930s<sup>32</sup> and has spread from the idea of Burmese women marrying British, Indian or Chinese men to persons of various ascribed ethnicities within Myanmar marrying persons of a different ascribed ethnicity.

Racially driven understandings of culture are one of the strong emotional factors placing limits on reason in the pursuit of peace in Myanmar. The notion of a common humanity, with various notions of cultural and linguistic expression in the diversity of dress and manners, choice of music and of gods to worship, and therefore human artefacts is lost on many in Myanmar. Lessons about the need to know how to negotiate cultural differences not as threats to personhood and identity but rather as politically significant acts must be built into the peace process somehow. It is, however, a pious hope that these attitudes will change any faster than racist notions have been eliminated from other societies the world over.

The absurdity of Myanmar's fixation on ethnicity and politics was underscored following the 2015 elections when winning candidates were challenged for not being of the ethnicity they claimed to be for so-called ethnic affairs positions. One complainant, from a rival political party, complained to the election commission that he had never seen the winner "at ethnic Shan ceremonies, and [he] didn't believe he had the right either to stand in a Shan constituency or vote as a Shan." He claimed that the election of his opponent "represents a loss for the Shan people."<sup>33</sup>

This absurdity echoes similar conundrums posed at the cusp of independence. When asked whether the Sawbwa of Manglun State, then one of the Southern Wa States, was a Wa, his Chief Minister replied, "He is actually a Wa, but by inter-marriages and so on, he had become almost a Shan."<sup>34</sup> Others who spoke to the Frontier Areas Committee of Enquiry

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<sup>32</sup> See Chie Ikeya, *Refiguring Women, Colonialism and Modernity in Burma* (Honolulu: University of Hawai'i Press, 2011), pp. 121–22.

<sup>33</sup> Maung Zaw, "Winning Candidates Ethnicity Questioned", *Myanmar Times*, 13 January 2016.

<sup>34</sup> Frontier Areas Committee of Enquiry Report, 1947, p. 35.

explained that though they were all Shans, they were “Burmanized”.<sup>35</sup> Such expressions led to much puzzling, viz.,

*U Vum Ko Hau:* Are you Shan or Shan-Burman?

*Chairman:* They said they were Burmanized-Shans.

*U Vum Ko Hau:* Is that not the same as Shan-Burmans?

*The Hon’ble U Tin Tut:* Literally, they said they were originally Shans, but had become Burmans.<sup>36</sup>

Another spokesperson, from Homalin, said he and his community were originally Shan, but had migrated in fear of the Kachins and were therefore Burmans.<sup>37</sup> The growing literature, too often ignored by advocates for an ethnically driven politics in Myanmar, on how people actually live their ethnicity, demonstrates the many nuances in the concept in their daily existences. This is very different from what is heard at meetings like the Union Peace Conference.<sup>38</sup>

Myanmar’s ethnically, as opposed to ideologically, driven civil war grew out of the racist absurdities of the 1930s and 1940s and the notions of the past. For those who still doubt the plasticity of ethnicity and how ethnic cultures have changed over the past century and more need merely contrast the views of earlier British writers on the subject such as George Scott<sup>39</sup> and the tee-shirt, baseball cap, track suit wearing, church-going, instant-noodle-eating denizens of northern Myanmar today. However, to paraphrase Karl Marx, “The traditions of all generations of the past weighs down like Khakabo Razi upon the brain of the living.”

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<sup>35</sup> Ibid., p. 102.

<sup>36</sup> Ibid., p. 103.

<sup>37</sup> Ibid., p. 104.

<sup>38</sup> See, for example, the essays in Wen-Chin Chang and Eric Tagliacozzo, eds., *Burmese Lives: Ordinary Life under the Burmese Regime* (New York: Oxford University Press, 2014), especially those by Ma Thida and Ardeht Maung Thawngmung.

<sup>39</sup> See, for example, J. George Scott, *Burma and Beyond* (London: Grayson and Grayson, 1932) or the same author’s “Among the Hill Tribes of Burma: An Ethnological Thicket”, *National Geographic Magazine* XLI, no. 3 (March 1922): 293–321.

However, wars are fought and persist not just in the name of ethnic exclusionary dreams but with guns and bullets, soldiers and armies. All of that requires money and now the possibility of some kind of federalism, leading to a distribution of resources from the centre to the peripheries comes into view. However, federalism refers to territorial administrations, not ethnicity as such. In a country where the diversity and intensity of ethnic fears are as strong as in Myanmar, finding some means to blend ethnicity and administration, while not conceding the absurdity of the effort, might provide a way forward. Clearly, the notion of seven ethnically designated states has up until now proven to be insufficient for ending civil strife and violent contestation in the name of ethnicity.<sup>40</sup>

Because the Myanmar army and government, including now the NLD, are talking at cross purposes with the leaders of the armed ethnically designated groups, it is inevitable that the next session of the Union Peace Conference will end in failure as few will admit that the first one did. As a recent study of state and regional government in Myanmar concluded:

The government peace roadmap involves armed groups joining the political process as parties under the constitution, while opposition proposals envision a fundamental renegotiation of the relationship between groups. Decentralization to states and regions within current constitutional constraints cannot provide the degree of political autonomy, security, or share of national wealth that the non-state armed groups in conflict or cease-fire with the government desire in order to agree [to] sustainable peace agreements.<sup>41</sup>

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<sup>40</sup> See David Brenner, “Ashes of Co-optation: From Armed Group Fragmentation to Rebuilding Popular Insurgency in Myanmar”, *Conflict, Security and Development* 15, no. 4 (2015): 337–58, for an account of the failure of a resource driven effort to end insurgency in northern Myanmar.

<sup>41</sup> Hamish Nixon, Cindy Joelene, Kyi Pyaw Char, Thet Aung Lynn and Matthew Arnold, *State and Regional Governments in Myanmar* (Yangon: MDRI and the Asia Foundation, September 2013), p. xiii.

## TAKING THE FEAR OUT OF FEDERALISM

The current peace process in Myanmar has moved on significantly since it was relaunched by President Thein Sein in 2013. Prior to then, the utterance of the word federalism was strongly resisted by government and army spokespersons. Now it is widely used by all sides in Myanmar's ongoing civil conflict. The argument is not whether federalism is possible, but what kind of federalism Myanmar requires to establish peace at its borders.

The 2008 constitution, growing out of the army's appreciation of Myanmar's past, imposed new confusions on the debate about federalism and ethnicity by establishing not only "ethnic affairs ministers" in state and regional governments, Myanmar's first layer of decentralisation, but also, modelling the idea of Chinese practices, six autonomous or self-governing divisions of zones, five of which are in the Shan State and one in Sagaing Region. Such concessions, made essentially to placate powerful ethnically designated armies which reached ceasefire agreements in the late 1980s and early 1990s, have merely led to demands for more of the same. At the Union Peace Conference, a spokesperson for the Wa demanded a Wa self-administered state wherever Wa lived, in addition to the existing Wa Self-Administered District. Similarly, a Ta'ang (or Palaung spokesperson) demanded a second Palaung Self-Administered Zone. Similarly, calls were heard from the Pa-O in Shan State and the Shan-ni or Red Shan who demanded parts of Kachin State and Sagaing Region.<sup>42</sup>

The new NLD government has inherited a massive problem of how to square the circle, as it were, of ethnic demands and territorial administration. Clearly, the attempts to resolve the issue in the 1947, 1974 and 2008 constitutions have not done that. The NLD Manifesto for the 2015 elections discussing ethnicity and federalism does so very much in the language of the past. After referring to the spirit of Panglong, it calls for striving "for the establishment of a genuine federal democratic union

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<sup>42</sup> Sai Aw, "Ethnic Groups Demand Self-Administered States", Shan Herald Agency for News, 18 January 2016.

based on the principles of freedom, equal rights and self-determination.”<sup>43</sup> To that end, it calls for amendment of the constitution.<sup>44</sup> Federalism is also mentioned once more when there is a pledge that primary school children should be taught by teachers who speak their “mother tongue” and the government should ensure such a pledge is funded.<sup>45</sup>

Perhaps something more radical might be attempted in order to change the language and take the fear out of federalism while giving local communities, regardless of their ethnicities, greater control over local resources. An NLD economic strategy document prepared in 2015 points in that direction. It states, among other things:

The mechanism for fiscal federalism will be developed. Fiscal rights and responsibilities, among different levels of governments regarding budget preparation, budget execution, and revenue generation, will be established. Equitable distribution of natural resource revenues will be practiced, with such distributions based on consensus. There is no doubt that decentralization will bring some benefits; allowing decision to be made at local levels will bring in the benefits of responsiveness to local needs, and the ability to correct mistakes at their source.<sup>46</sup>

Discussions of federalism in Myanmar, and the structure of the 2008 constitution, up to now have focussed on distributing powers and responsibilities to the fourteen states and divisions, particularly Schedules Two and Five which list the responsibilities of the states and divisions and their taxing powers. Parallel to but largely ignoring the debates

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<sup>43</sup> “National League for Democracy 2015 Election Manifesto (Authorised Translation)”, 1.3, p. 5.

<sup>44</sup> *Ibid.*, 2, p. 6.

<sup>45</sup> *Ibid.*, 4, v, 3. a and b, p. 15.

<sup>46</sup> “NLD Economic Strategy and Priorities: Stabilisation, Liberalisation, Institutionalisation”, (2015), quoted in Kim Ninh and Matthew Arnold, “Decentralisation in Myanmar: A Nascent and Evolving Process”, *Journal of Southeast Asian Economics* (forthcoming).

about ethnicity and federalism, there have been a number of separate studies of the General Administration Department, the major institutional mechanism to manage the state/regional, district, township and town and village tract levels, that being the hierarchy of administration in Myanmar. The grip of the General Administration Department, a product of reforms in the administration of the country initiated by the previous Burma Socialist Programme Party (BSPP) government in the 1970s and subsequently put in the hands of the Home Minister, who must be a serving army officer under the terms of the 2008 constitution, has been criticized as a limitation on the ability of the new government to introduce significant reforms.<sup>47</sup>

These challenges can be turned into opportunities, as the cliché goes. Up to now, the consideration of federalism and decentralization has always been within the confines of the bitter debates about federalism and ethnicity. Those problems could be addressed at the same time as dismantling the General Administration Department's grip from the centre on local government by decentralizing not to the states and regions, but to the country's seventy-four districts. An alternative would be to go one layer down the administrative hierarchy and decentralize to the 412 townships and sub-townships, but that would be an administrative nightmare. Decentralizing to seventy-four districts would be a challenge but not impossible. Moreover, done at the same time as introducing elected district councils that would be responsible for establishing policies and administering districts would provide an opportunity to transfer personnel from the General Administration Department and other now Union level ministries to the district councils.<sup>48</sup>

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<sup>47</sup> Phyo Thiha Cho, "Myanmar's All Powerful 'GAD' a Challenge to New Government", *Frontier Myanmar*, 1 February 2016.

<sup>48</sup> At the end of 2013, when the then ruling Union Solidarity and Development Party was led by retired General Shwe Mann, now a key advisor to Aung San Suu Kyi (see Antoni Slodkowski and Aung Hla Tun, "Myanmar's Suu Kyi Names Former General to Head Key Advisory Panel", Reuters, 5 February 2016), the Party mooted a constitutional amendment to elect district and township administrators. Htet Naing Zaw, "USDP Announces Surprise Constitutional Amendment", *Irrawaddy*, 31 December 2013.

**Table 2: List of Districts by Population, Number of Townships and Percent Urban**

State/Region	District	Population	Number of Townships	Number of Sub-Townships	Percent Urban
Kachin	Myitkyina	531,456	6	5	59.1
	Mohnyin	673,608	3	2	21.9
	Bhamo	346,520	4	3	31.3
	Putao	91,257	5	1	24.2
Kayah	Loikaw	243,718	4	0	25.8
	Bawlakhe	42,909	3	1	22.5
Kayin	Hpa-an	783,510	3	4	14.3
	Pharpon	35,085	2	0	49.4
	Myawady	210,540	1	2	55.4
	Kawkareik	475,191	2	2	17.4
Chin	Haka	98,726	2	0	32.9
	Falam	167,578	3	4	18.7
	Mindat	212,497	4	2	16.9
Sagaing	Sagaing	520,591	3	0	20.3
	Shwebo	1,433,343	8	1	12.4

*continued on next page*

**Table 2 — cont'd**

<b>State/Region</b>	<b>District</b>	<b>Population</b>	<b>Number of Townships</b>	<b>Number of Sub-Townships</b>	<b>Percent Urban</b>
	Monywa	757,358	4	0	32.2
	Katha	861,283	7	0	11.1
	Kalay	509,368	3	0	28.0
	Tamu	114,869	1	2	52.2
	Mawlaik	164,008	2	0	11.3
	Hkamti	422,692	5	5	11.2
	Yinmarpin	541,835	4	0	3.6
Tanintharyi	Dawei	1,408,401	4	2	24.0
	Myeik	693,087	4	1	21.8
	Kawthoung	221,738	3	2	35.7
Bago	Bago	1,770,785	8	0	26.2
	Toungoo	1,123,355	6	0	20.6
	Pyay	910,902	6	0	24.8
	Tharawady	1,082,331	8	0	14.2
Magway	Magway	1,235,030	6	0	15.0
	Minbu	687,575	6	0	10.0

	Thayet	738,047	6	0	13.6
	Pakokku	1,005,545	5	0	13.7
	Gangaw	250,858	3	1	11.1
Mandalay	Mandalay	1,726,889	7	0	76.4
	Pyin Oo Lwin	1,001,845	5	1	28.1
	Kyaukse	741,071	4	0	11.0
	Myingyan	1,055,957	5	0	15.9
	Nyaung U	239,947	1	1	22.6
	Yame'thin	518,384	2	0	11.6
	Meiktila	881,530	4	0	20.2
Mon	Mawlamyaing	1,232,221	6	2	36.2
	Thaton	822,172	4	0	16.8
Rakhine	Sittway	535,583	4	0	25.0
	Myauk U	669,131	4	0	13.5
	Maungtaw	96,330	2	1	23.0
	Kyaukpyu	439,923	4	0	10.1
	Thandwe	357,840	3	2	17.8
Yangon	Yangon North	2,606,670	8	0	54.8

*continued on next page*

**Table 2 — cont'd**

<b>State/Region</b>	<b>District</b>	<b>Population</b>	<b>Number of Townships</b>	<b>Number of Sub-Townships</b>	<b>Percent Urban</b>
	East Yangon	2,366,659	14	0	98.9
	South Yangon	1,417,724	10	1	29.8
	West Yangon	969,650	13	0	100.0
Shan	Taunggyi	1,701,338	10	3	27.3
	Loilin	565,162	7	6	22.7
	Linkhe	139,483	4	2	31.5
	Lashio	612,248	4	0	36.6
	Muse	453,495	3	4	36.2
	Kyaukme	770,065	8	2	15.5
	Kunlon	58,774	1	0	9.4
	Laukine	154,912	2	2	18.2
	Hopan	228,880	3	1	12.9
	Makman	241,884	3	1	7.3
	Kengtung	366,861	4	1	19.8
	Minesat	243,571	3	4	11.4
	Tachileik	177,313	1	2	33.1

	Minephyat	110,446	2	1	10.8
Ayewady	Patheingyi	1,630,716	7	5	18.6
	Phyayun	1,033,053	4	1	13.1
	Maubin	973,948	4	0	11.2
	Myaungmya	781,844	4	0	12.1
	Labutta	626,558	3	0	10.6
	Hinthada	1,138,710	6	0	14.3
Naypyitaw	Ottara (North)	526,497	4	0	27.6
	Dekkhina (South)	633,745	4	0	36.3

Source: *The 2014 Population and Housing Census, The Union Report*, vol. 2, Table A-3: Population by Urban/Rural and Sex: Sex Ratios and Percent of Population Urban (Naypyitaw: Department of Population, Ministry of Immigration and Population, May 2015), pp. 49–68.

This would have two consequences for the debate about ethnicity and federalism. One, while it would recognize that no level of administration can be for the exclusive benefit of one ethnicity, it would make government sufficiently local so that particular ethnic issues could be dealt with by persons who understand them. Matters such as what should be the ethnic minority language taught in the schools would thus become a local issue rather than one dividing larger communities, like the Kachin and the Shanni at the state level. Second, none of the seventy-four districts would be large enough or sufficiently well endowed to envisage launching a separatist movement with any degree of success. Thus the fear that federalism would lead to the Balkanization of Myanmar would be undermined by the larger scope of decentralization, creating smaller units of government without the capacity to stand alone.

At the same time as the districts become responsible for laying down relevant policies for their territories, they would supervise the work of the township administrations below them, serving an essential coordinating role.<sup>49</sup> When Indonesia decentralized its administration from a unitary system between 1999 and 2002, there was a great transference of personnel from the centre to the provinces and local governments. In 1998, 88 per cent of civil servants were responsible to the central state but by 2002, only 24 per cent were. Moreover, the provinces, the rough equivalent to the districts in Myanmar, had 16 per cent of all civil service staff, and 84 per cent were at the equivalent to township level.<sup>50</sup> While Indonesia's decentralization was controversial, given the country's

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<sup>49</sup> Kyi Pyar Chit Saw and Matthew Arnold, *Administering the State in Myanmar: An Overview of the General Administration Department*, Discussion Paper No. 6 (Yangon: MDRI and the Asia Foundation, October 2014), p. 30.

<sup>50</sup> Rainer Rohdewohld, "Decentralisation and the Indonesian Bureaucracy: Major Changes, Minor Impact", in *Lower Power and Politics in Indonesia: Decentralisation and Democratization*, edited by Edward Aspinall and Greg Fealy (Singapore: Institute of Southeast Asian Studies, 2003), pp. 260–61, cited in Francis E. Hutchinson, "(De)centralization and the Missing Middle in Indonesia and Malaysia", *ISEAS Economics Working Paper No. 2-2015* (Singapore: ISEAS–Yusof Ishak Institute, September 2015), p. 9.

history,<sup>51</sup> assessments of its success are mixed. From a political point of view, including developing democratic local government, strengthening the party system, and allaying fears of separatism, decentralization seems to have been a success despite problems such as corruption.<sup>52</sup> From the perspective of the delivery of public goods such as infrastructure and efficient government, the results have been less positive.<sup>53</sup> However, that might be a cost worth bearing for the sake of peace if peace is the most important challenge facing Myanmar.

Why would introducing elected district governments undermine the strength and appeal of insurgent groups? There are several reasons. First, with several notable exceptions, most of the insurgent groups are quite friable, and prone to factionalism and opportunism amongst the leadership. When given alternative means to seek power and influence, through the ballot box, a much safer way, many would be tempted to lay down their arms. Secondly, most insurgent groups operate in only one or two townships, or at most a handful. Hence, their concerns are local, not state or nationwide, despite their rhetoric to the contrary. Thirdly, for the great majority of the population who are the victims of the insurgency in their areas, having a local elected government they can turn to for support rather than the unpalatable options of the army or the ethnically designated armed groups would encourage support for the new councils. Also, by making district government electable, political parties will be incentivized to organize on a permanent basis at the grassroots, thus providing another alternative support network to the insurgents.

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<sup>51</sup> See Harold Crouch, *Political Reform in Indonesia after Soeharto* (Singapore: Institute of Southeast Asian Studies, 2010), especially Chapter 4, “Struggles Over Regional Government”, pp. 87–126.

<sup>52</sup> See Marcus Mietzner, “Indonesia’s Decentralisation: The rise of local identities and the survival of the nation-state”, in *Regional Dynamics in a Decentralised Indonesia*, edited by Hal Hill (Singapore: Institute of Southeast Asian Studies, 2014), pp. 45–67.

<sup>53</sup> See especially the first three chapters in Part 2, Decentralisation and Governance, in *ibid.*, pp. 135–207, especially Gunther G. Schulze and Bambang Suharnoko Sjahrir, “Decentralisation, Governance, and Public Service Delivery”, in *ibid.*, pp. 186–208.

It would appear that much of this decentralization can be done relatively easily, perhaps requiring only an amendment of Schedule 1 of the Constitution.<sup>54</sup> Amending this does not require a national referendum, as do more fundamental, security-based, amendments. Adjustments in the functioning of the General Administration Department would logically follow from the creation of elected district councils to advise and guide them in their work. However, if responsibility for health, education, local infrastructure and markets, agriculture and forestry and the like under Union law were assigned to the district councils, there would be little destabilizing administratively as the fundamental security interests of the Home Ministry, working through the General Administration Department, would not be affected.

There would be a number of options for the size and structure of elected district councils. It might be necessary to ensure that every township within the districts' jurisdiction be represented, but other than that, representation should be on a population basis. A body of ten to say thirty members, elected by local constituencies, say groupings of village tracts or town wards, might be feasible. Given responsibility for spending both funds generated by local taxation and Union and state/regional grants, responsible local self-government could provide a mechanism for managing the kinds of conflict that exist in all communities, making that conflict creative, not combative. It works elsewhere.

Decentralized administration to the seventy-four townships would be a radical but potentially popular move. There would remain anomalies, but there would be anomalies in any administrative reforms in a country as complex as Myanmar. However, local voices, including local ethnic minority voices would be heard, via elections, in the district councils, thus addressing the issue of ethnic rights in a democratic framework, undermining the ideological appeal of the armed ethnic groups. Peace may be possible but repeating the arguments of the past is not the answer.

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<sup>54</sup> There would be doubtless other issues beyond the scope of this paper about which the lawyers could argue. At the District and Township levels, the President made a number of changes apparently by executive order. Jolliffe, *Ethnic Armed Conflict and Territorial Administration in Myanmar*, p. 31.

The question needs to be reframed, not between fourteen states and regions each with its own ethnic mix, or any other hackneyed formula, but on a new basis.

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