HUMAN RIGHTS SITUATION IN SHAN STATE OF (THE UNION OF) BURMA (FROM 1947 TO THE PRESENT)

Seng Wan

Department of Foreign Affairs, Restoration Council of Shan State

Introduction

The Shan State is country, 62,500 square miles, situated on the plateau, in the N.Eastern part of Burma. It is bordered by China in the north-east, Laos in the east and Thailand in the south.

The Tai/Shan live in the area that is today's Shan State or Mong Tai of Burma for over a thousand years. Shan State comprises about a quarter of the land mass of Burma. In the early part of their migration the Tai ruled over Tai states" that are in today's China, Laos and Thailand as well as other parts of Burma Proper. While the geographic spread of these states includes many ethnic groups the majority of both the population and the rulers, called Sao Hpa was Shan. In Shan State this tradition continued until 1962.

In 1886, the Shan State came under the British rule but retained its autonomous status and was allowed to rule by its own Shan rulers.

In 1947, the Shan, Kachin and Chin Leaders signed an agreement; "the Panglong Agreement" with the Burmans represented by Bogyoke Aungsan, the father of Daw Aung San Suu Kyi.

The Panglong Agreement stated that the ethnic groups' relation with Burma shall be on a Federal basis with: equal rights and status; full autonomy for the Shan and other ethnic states and the right to secede from the Federation at any time after the attainment of Independence, later a period of 10 years was agreed.

1958 was the year for the Shan State to make a decision whether to secede or stay in the Union. The Burmese military opposed the Panglong principles and its motive was to prevent the Shan State from leaving the Union. It began by exerting more power in several areas and getting a greater foothold in the Shan State. In 1962, when parliament, under U Nu was in session the Burmese Military staged a coup, and put all the parliamentarians including the Shan leaders in prison.

In Shan State, the Shan youths took to the jungle to show their disapproval and to escape from the bullying and oppressive acts of the Burmese soldiers. Some joined the resistance

army to fight for the freedom of their country and people; a section of that resistant army still exists today and has gradually grown in size and strength.

The Burmese military regime was quick to spread its propaganda that all other ethnic armies were "terrorists or insurgents". The difference between the Burmese Army and the ethnic resistant army is that the ethnic armies are fighting for freedom and for the love of their homeland and people; the Burmese military army is fighting to have full control over other ethnic groups, their homelands and natural resources.

After forcibly occupying the Shan State the Military Regime's first policy was to change Burma into a unitary nation, of one Burman race, one culture, one language and one religion. To achieve this, the regime would not hesitate to commit any form of human rights violations against the population, such as forced assimilation, extrajudicial killing, mass murder, gang raping of females, confiscation of farmlands and homes, ethnocide and genocide, besides many lesser ones like robbing people of their food and other goods.

The human rights violations committed by the successive regimes against the Shan people from the time of independence until 2011are so numerous that it would be impossible for me to list them all. In this paper I have attempted to name a few types of human rights violations from among the many, human rights issue through politics, the causes that make it difficult to find the political solution and the right way to political solution to stop human rights violations after which I concluded with my final analysis.

Human rights violations in Shan State

The plight of human rights in Shan State, after joint independence from the British and the founding of the Federal Union with Burma, has been attached to the Panglong Agreement. Thus, human rights in Shan State and the Panglong Agreement are inseparable. As the latter has always been put into the corner, the former has also been at the corner with it up to the present.

Human rights violations during the 10 years of Panglong Agreement and before the coup d'état

During the 10 years of building the Federal Union with the Burmese, only the time had passed by. The Shan State people not only did not enjoy freedom and peace but also had been affected by politics and economic much worse than during the time of the British colony. The central government adopted the divide-and-rule policy over the Shan State ethnics. Organizations got dissolved. The people got caught and beaten with just the suspicion of connection with the insurgents. The people got killed. There were forced relocations of villages. Villages, if not relocate, were threatened to get burnt down. Forced porters were used for the front line. Vehicles were used without paying and by force. The people were oppressed. Even a Buddhist nun had been raped to death. Shan girls were taken and sold in town by Burmese soldiers. They also got paid by getting married to Shan girls, which

intentionally violates national dignity. These human rights violations happened even before the founding of the Federal Union with the Burmese reached 10 years, ii and military coup d'état in 1962.

Military Regime's policy of Ethnic Cleansing and Forces Assimilation

To the military junta, anything that does not fit into the Burman ethnic culture has no place and cannot exist in Burma. People with religious beliefs other than that of Buddhism, along with their places of worship have to be rid of. The majority of Shans are mostly Buddhists but the architectural designs of Shan Pagodas and monasteries are different from those of the Burman's, so they have to be to destroyed and replaced with those of Burman architectural designs. The Kengtung Palace was destroyed in 1991. Nobody is allowed to speak and study any language other than Burmese. Shan monks are forbidden to teach the Shan language to their pupils. Road as well as house signs have been changed from Shan script to that of Burman's. The regimes also adopted a reward system to assimilate the Shans within the Burmese Nationals. V

Forced Relocation

From 1996 the Shan farmers met with the most devastation of their lives when the Burmese Army began a massive relocation program in an effort to break up any links between civilians and members of the Shan State Army - South (SSA).

Since March 1996, the Burmese military regime has relocated over 1,400 villages of 7,000 square miles in Central Shan State. In 1997, SSA reported that 10,873 houses were relocated in its controlled areas. Vover 300,000 people have been ordered to move at gun point into strategic relocation sites without providing any assistance. The relocation program was intensified in 1997 and 1998, when new areas of 11 townships had been turned into depopulated free-firing zone.

After villagers were relocated, they were forbidden from returning to their homes and farms to work in their fields and collect their belongings - those who disobeyed were frequently shot on sight by Burmese troops. In addition relocated Shan civilians were used as a pool of labourers to work without pay.

The 27 July – 1 August, 2009 campaign, known as Four-Cuts (cutting food, funds, intelligence and recruits to the armed resistance by local populace), had cost the villagers in 3 townships – Mongkeung, Laikha and Kehsi, more than 500 houses and 200 granaries being razed to the ground and 10,000 people homeless, a total loss of Kyat 936 million. vi

Forced Labour

On 13 June 2001, after an armed clash between SPDC troops and Shan resistance soldiers in Murng-Kerng township, a patrol of SPDC troops from LIB514 led by Capt. Thein Maung, under the orders of the battalion commander, Lt. Col. Hla Myint, conscripted 250

civilian porters including 108 women and children, some as young as eight, from the relocation site on the outskirts of Murng-Kerng town to carry ammunition, rice and other food stuff and military things. These villagers were forced to serve the military without pay for 16 days, during which all the women porters above 15 years of age were said to have been raped by the SPDC soldiers, and were released on 28 June 2001. About 5-6 days later, the same SPDC troops ordered the village headmen in the area to provide 10-15 civilians.

On July 2001, seven villagers who had lodged a complaint with SPDC military authorities about increasing use of forced labour by SPDC troops were killed by SPDC troops from Kun-Hing based LIB246 and their bodies dumped into Nam Taeng.

Extrajudicial Killings

16 June 1997, two groups of villagers who relocated to the town of Kun Hing were given permission to return to their villages to collect rice. They left in two convoys of bullock carts. Both groups were stopped on the way by SLORC troops; one near Sai Khaos, one near Tard PA HO Waterfall. In one group, of 29 villagers, and in the other 27 of the same were massacred.

On July 11, 1997, SLORC troops laid out the beheaded bodies of 26 villagers beside the main Keng Lom Kun Hing road to warn villagers not to stray from the relocation sites. On July 12, another 12 headless corpses were laid on the same road.

On February 12, 2000, 20 Shan villagers were conducting religious rite at an alter at Loi Maak hin tang, were massacred by a column of Burmese troops from infantry 246, in Kun Hing, and 5 others on the same day, by the same troop.

On May 23, 2000, Burmese troops from infantry Battalion 246 led by Captain Htun Aung, siezed and shot dead 64 internally displaced Shan people, including children 7 and 4 years of age. This massacred occurred in Sai Mong village, Kun Hing.

On May 4, 2001, 5 internally displaced Shan farmers were building a dam on the Nam Kham stream, when Burmese troop from Infantry Battalion 246 in Kali village forced them to stand in a row and then shot them.

On November 21, 2010, at 22:00 hr. while going for the protection of their 15 years old daughter, Nang Lao Sai from being raped, a couple, Long Vijaya, age 54, and Pa kham, age 40, of Huay Sim village, Nong Long track, Langkhur township, were shot dead and thrown from second floor to the ground by the Burmese troops from LIB 578 led by Maj. Aye Aung in Larng Khur. vii

Restoration Council of the Shan State (RCSS) reported there were 1103 villagers shot dead by the Burmese troops between 1996 and 1998 which includes mass killings above. viii

On July 19, 2011, Maj Gen Aung Than Tut, Director of Bureau of Special Operations #2 which oversees all Burma Army units in Shan State and Karenni State summoned all his commanders in a meeting in Murng Nawng, Shan State giving inhumane instruction to his troops to kill all males, rape all females and burn down every village during their operation against the Shan State Army. ix

The Burmese Military use rape as a weapon of War

In June 2002, Shan Human Rights Foundation (SHRF) and Shan Women's Action Network (SWAN) released a joint report "License to Rape" in which it is stated that mostly between 1996 and 2001, there were 173 incidents of rape and other forms of sexual violence, involving 625 girls and women, committed by Burmese army troops in Shan State. "Licence to Rape", accuses Burmese troops of using sexual violence as a weapon of war to discourage support for rebel groups. The SHRF is still reporting cases of rape in the Shan State up to the present.

On November 21, 2010, at 22:00 hr. 15 years old Nang Lao Sai of Huay Sim village, Nong Long track, Langkhur township was raped by the Burmese troops form LIB 578 led by Maj. Aye Aung from Larngkhur. While her parents went for her protection, both Loong Vijaya, age 54, and Pa Kham, age 40, were shot dead and thrown from second floor to the ground. Thereafter, Nang Lao Sai was taken to the Burmese military camp and was gang-raped by the Burmese troops there. She was sent back home the next morning on November 22, 2010. The villagers took her to hospital for treatment. Not even fully recovered, she was again taken to the Burmese military camp by being accused of being Shan insurgent to be investigated. Then she got raped for 20 days until December 10, 2010 before she was released. xi

On July 5, 2011, a Burma Army patrol from LIB 513 entered the village of "Wan Loi" and within hours had looted property throughout the village and raped four women and girls in separate incidents, including 12-year-old schoolgirl Nang Mon, who was raped in her home in front of her mother, who was struck when she tried to protect her daughter.

Nang Lord, who was 9 months pregnant, was pulled roughly to the ground and raped. Another woman, Nang Poeng, was caught outside the village, beaten, stripped naked and raped in a farm hut.^{xii}

On July 11, 2011, 14 years old Shan girl was raped and her nipples were cut by the Burmese troops before being sent to the clinic in Nam Song Kay village.

Exodus of Refugees Fleeing to Thailand

The Burmese junta troops in Shan State continue to commit crimes against the people of the Shan State unabated and impose restrictions of movement on the displaced people in central and eastern Shan State, effectively cutting them off from their means of livelihood, many people have fled to different places including Thailand. Over 1,600 refugees from Shan State have crossed the border into Thailand during April 2004 alone.

Although not quite as many as those in 2004, Shan refugees are still fleeing to Thailand. In recent years some refugees have escaped to Loi Taileng, where they get protection from the SSA, and also where the children can go to schools.

Many who do not reach Thailand or Loi Taileng flee into the jungle as internally displaced people. They forage for food in the jungle and in order to survive have to eat whatever they could find. The IDP also have to hide from the Burmese soldiers as meeting them would be a disaster, as they would probably be shot at or tortured. xiii

These human rights violations in different forms occurred in Shan State. People are helpless and cannot report the cases to any place in the country. Unless the rights of self-determination for the Shan State people are assured, the possibility of human rights violations by the Burmese army in Shan State is high.

Human rights issues through politics

The lost political rights and human rights in Shan State have been well aware by the Shan State leaders. They made their effort to deal with the issue through politics but it can clearly be seen that instead of giving their cooperation, the Burmese army is always looking for ways to violate the Panglong spirit.

- a) From 8 July 1961 to 16 June 1961, the ethnic nationalities from all the states held the All States Conference^{xiv} in Taunggyi to make the amendments to the union constitution that lacks equal rights for the ethnic states and find the solution to problem of the Federal Union arising at that time. After this conference, they arrived in Rangoon and held several meetings with the Burmese leaders for the union constitution amendments and revival of the Federal Union. Finally, All Nationals Conference on the Federal Proposal was held and the Burmese army took coup d'état on 2 March 1962 due to the fear that they might lose the rights of establishing a centralized government if the positive effect of the Federal Proposal came into being. The ethnic leaders participating in the conference got arrested. The whereabouts of some leaders and how they got killed were not known up to the present. Even Sao Kya Seng, *saopha* of Hsi Paw, was never seen again after the coup.^{xv}
- b) In the 1990 general elections, the Burmese military regime not only ignored the election results, but they staged another coup. The Shan Nationalities League for Democracy (SNLD) led by Khun Tun Oo that won the elections in Shan State stayed on the political platform to solve the political issue but there was nothing much it could do. In February 2005, Khun Tun Oo and those who participated in the meeting in Taunggyi to discuss about the future plans of the Burmese military regime were accused of committing high treason and got arrested. Khun Tun Oo is now serving 93 years of imprisonment in Burma.

To find the right political solution in the light of Panglong Agreement, which builds the foundation of human rights for the Federal Union, is what is desired by all the ethnic nationalities of every state. The state of the Burmese military regimes and Burmese politicians, who hold Burmese chauvinism to always lord over the ethnic nationalities of the other states. The states of the other states of the other states.

The causes that make it difficult to find the political solution

The political solution failed in Burma because the foundation in building the Federal Union itself has been the cause to have built the incomplete Federal Union. This gives birth to the causes for an unending political crisis that becomes difficult to get solved.

- a) When building the Federal Union with Burmese, there were only other ethnic states in existence as Shan, Kachin, Karen, Kayin, Chin, Arakan and Mon, and not that of the ethnic Burmese. Thus, according to the true Federal Principle, it is difficult for those ethnic states to send equal representatives to the Chamber of Nationalities in the parliament and not to have Burmese lording it over the other states. This has been the reason why the central government had not only taken control of the central powers of the union, but it had also meddled with the internal administration and the budgets of the states. xix
- b) Solving the problem of the union without the Panglong Agreement and the Panglong spirit is useless. But those talking about the Panglong Agreement are accused of committing high treason because the Burmese military regime and Burmese politicians fear that they lose grip of their power over the ethnic states. Not daring to recall the Panglong Agreement in solving the problem of the union is similar to walking with a cloth fastened over the eyes.
- c) There were several incidents to blindly solve problems and such still continue. The Burmese regime held the National Convention starting from 1993 up to 2007 which lasted for 14 years to write the state constitution. The Proposals made by the ethnic groups for the new constitution were rejected. In 2008, the Burmese regime forced people to vote in favor of their own written constitution. Based on the invalid 2008 constitution, the election laws announced by the Burmese military regime for the 2010 election were also not fair. In 2010, the Burmese regime held a sham election and the USDP^{xxi}; the military backed party won and got elected to the government. Although this shows the characteristic of being democratic, it has been observed that the Burmese regime is still behind the curtain.

It is still difficult to solve the problem even through democratic means. When they say they are negotiating with the ceasefire groups for political solution, on the one hand, they, with every possible means, are fighting to forcibly eliminate the ceasefire groups that have the aim to find the political solution through political means.

The right way to political solution to stop human rights violations

The political solution has been sought after by the Shan State leaders and people and the Burmese military regime without success. This being said, in order for the people from the Shan State and the other ethnic states, and the Burmese military regime together with Burmese politicians to find the right way to political solution from now, the following factors should deeply be considered.

- a) Total withdrawal of the Burmese army troops from Shan State and the other ethnic states. In 1952, the central government, Burmese regime, taking the KMT (Kuomintang) as a pretext, not only reinforced more Burmese army troops into the area but also sent them to the areas such as Nyawnghwe, Kalaw, Taunggyi, Mongpawn, Loi Lem, Laikha and Mong Kueng where there were even no signs of KMT. And it used the power of the army to oppress, torture and commit human rights violations in different ways in Shan State. Therefore, the Burmese army stationing in Shan State at the present is not the union army but the Burmese army that has invaded Shan State. In order to sincerely find the political solution together, Burmese army must make nation-wide ceasefire agreement and withdraw all its troops from Shan State and all the other states.
- b) To be able to build the true Federal Union based on the spirit of Panglong Agreement, the ethnic Burmese must establish a Burmese ethnic state as the other existing ethnic states. The central government should include equal number of representatives from the 8 states, including Burmese ethnic state, and it should not be the Burmese government which controls all the central powers of the union as seen in the past. This is the desire not only from the ethnic nationalities during the time of making the effort to rebuild the true Federal Union in 1962^{xxiii} but also from the present day ethnic nationalities. Thus, if the ethnic Burmese truly wants the country to really have peace, it must establish a Burmese ethnic state and cooperate with the other ethnics to find the right political solution.
- c) Forming a central government in which equal number of representatives from every state participates. The central government after the independence from the British was not the one including equal representatives from every state. Instead, it has been the Burmese government which controls all the central powers of the central government. Thus, to find the right solution, there must be the right central government with equal representatives from all the states.
- d) Panglong Agreement as the central issue on the political platform for the political solution. The fact that the union was destroyed and the Shan State people and the other ethnics have faced human rights violations was because the Burmese military regime and Burmese politicians do not take heed to the Panglong Agreement. If Burmese military regime and Burmese politicians really need peace with the other ethnics, the Panglong Agreement should be discussed on the

political platform and followed according to the agreement.

- e) A new and reliable union constitution should be written by the representatives of every state including Burmese state to ensure that every state shares equal rights. The constitution written in 1947 and became operative in 1948 and another one written thereafter did not guarantee equal rights for every state. To acquire true peace, every state must have equal rights in the union constitution.
- f) Every state participates in setting up the union armed forces, which is a characteristic of union, in which representatives from every state plan and manage equally. The past so-called union army was only the Burmese army which takes the pretext of being the union army to invade the ethnic states and commit gross human rights violations in different periods. Not to let this continue, there must be the real union army.

What have been stated above are the ways to find the right political solution and put an end to human rights violations in the light of Panglong Agreement. To be able to put an end to the political crisis, the key leaders in Burma politics and all the state leaders should cooperate with one another with regard to the above factors to find lasting political solution and peace.

Conclusion

In conclusion, the ethnic nationalities in Shan State and the other states have established their own armies not because they are happy being soldiers and really want to fight the Burmese army. As the right political solution cannot be found on the political platform as the above mentioned, the ethnic armies in every state have come into existence to fight for the basis of human rights promised by the Panglong Agreement for the true Federal Union and which have covertly been looted by the Burmese leaders, legislators and politicians from the time of gaining independence from the British up to the present.

Unable to bear the unfavorable consequences of such existing human rights violations, the Shans set up an army of its own. It has been named as the Shan State Army standing firm in fighting with the Burmese army which invaded Shan State, oppresses and tortures the Shan State people. The war goes on and now fighting takes place almost every day at every corner of the Shan State. To lead the military affairs of the Shan State Army through politics until the highest political aim has been achieved, it is the responsibility shouldered by the Restoration Council of the Shan State (RCSS), its political wing.

The RCSS has a clear political policy to achieve the highest aim of the Shan State people, the rights of self-determination which has been intended for Shan State by the Panglong Agreement. The policy of RCSS has the following six objectives.

1. To build national unity among the ethnics of Shan State

- 2. To gain independence which is the right of self-determination for the Shan State people
- 3. To promote democracy in the free Shan State
- 4. To uplift the living standard of the Shan State people
- 5. To eradicate narcotic-drugs from the free Shan State
- 6. To promote peace in the free Shan State

With these six objectives, the RCSS administers its political affairs and leads the military affairs of the Shan State Army towards achieving Shan State independence. It has been stated most often in the media that the Shan State Army is fighting for autonomy - this is absolutely not correct.

With regards to Shan State secession and independence, it has been haunting like a ghost for the Burmese military regime, the Burmese leaders in different periods and the Burmese politicians. Because of the fear of this, the Burmese leaders and the Burmese politicians let the Burmese army stage a coup d'état when the ethnics from every state met for the amendments of the constitution of the Federal Union in 1962. From that time onwards, the Burmese military regime and its followers have been playing a cheating game with the ethnics of every state in both political and military affairs till the present day. If they really want to find the right political solution and true peace, they do not need to fear of the one to be solved through the Panglong Agreement by the ethnics and it has been their rights to do so. According to the 1947 union constitution, the Shan State could secede from the union when it reached the trial period of 10 years.

When it reached 10 years, the Shan State did not secede, but while it was still trying to rebuild the Federal Union for equal rights and stability, as the Burmese army took a military coup, the Panglong Agreement has been torn apart and the Federal Union destroyed. Shan State and Burma are now legally free from the bonds that attached them together and now Shan State is a separate country as it used to be before the Panglong Agreement to form a union with Burma. The present Burmese military regime in Shan State is the group that has invaded Shan State with its troops and makes the Shan State its colony in this modern world. This is why the Burmese military regime itself and its followers do not need to fear much about the Shan State calling for independence. The groups that are fighting for democracy also do not need to worry of the fact that the Shan State independence is contradictory to Democracy.

The path of Shan State independence (for an independent democratic country) and the path the democratic groups walk through are far from being contradictory. When thoroughly taken into consideration, they are interdependent and supportive of one another to quickly reach their respective goals because the enemy that the two will need to fight and achieve their respective goals is one and the same – that is the Burmese military regime and its followers. Therefore, what is most important is for the two to first achieve their respective goals. Thereafter, the two can form a new union like the "European Union" by countries, if there arises the need to do so.

Thus being said, it is also clear that the RCSS is always ready to find the political solution and put an end to the human rights violations through the Panglong Agreement and the Panglong spirit. Until the right political solution has been reached through the Panglong Agreement, which is the foundation of human rights in (the Union of) Burma, and while the Burmese army remains the invader in Shan State, more human rights violations will continue to be witnessed by the world.

The human rights violations in Shan State and the whole of Burma have been deeply rooted for over 60 years. These issues including narcotic problems have even spread to neighboring countries like Thailand, Malaysia, Laos and China, and they have been a threat to the regional security and that of the world community. More refugees increase and more human rights violations have been committed by the Burmese army in recent fighting in Shan State, Kachin State and the other areas. These are not internal affairs anymore. It is not just an issue of democracy. It is an issue of ethnic nationalities, human rights and colonization, the invasion of the other countries. The issues are of Crime against humanity.

i http://en.wikipedia.org/wiki/Panglong_Agreement

ii Tun Myint, U (Taunggyi), Whither the Shan State (in Burmese), pp. 107-133

iii A member of Burma Relief team interviewing a Shan Monk in 1999.

iv Document translated from Burmese by Amnesty International.

^v 10th anniversary of no surrendering, Shan State Army, p. 60.

vi http://www.shanland.org/index.php?option=com_content&view=article&id=2780%3Aamount-lost-in-juntas-four-cuts-campaign-recounted-&Itemid=301

vii http://www.taifreedom.com/index.php?option=com_content&view=article&id=251:2011-04-13-06-06-08&catid=42:humanrights&Itemid=105

viii 10th anniversary of no surrendering, Shan State Army, p. 59.

ix http://www.shanland.org/index.php?option=com_content&view=article&id=3870:burma-armys-war-against-shan-licence-to-rape-plus-licence-to-commit-genocide&catid=115:opinions&Itemid=308

x http://www.shanwomen.org/pdf/Licence%20to%20Rape%20B.pdf

xi http://www.taifreedom.com/index.php?option=com_content&view=article&id=251:2011-04-13-06-06-08&catid=42:humanrights&Itemid=105

xii Last Month in Burma, Burma Campaign UK, July 2011.

xiii Amnesty International, UK.

xiv Record of the All States Conference at Taunggyi.

xv Tun, S.A., *History of the Shan State – from its origins to 1962*, Silkworm Books, Thailand 2009, pp. 483-488 xvi http://en.wikipedia.org/wiki/Khun_Htun_Oo

xvii http://www.mizzima.com/edop/interview/5701-both-government-and-military-must-agree-on-ethnic-issues.html

xviii Tun Myint, U (Taunggyi), Whither Shan State (in Burmese), p. 82

xix Tun Myint, U (Taunggyi), Whither Shan State (in Burmese), pp. 176-185

xx http://www.asianews.it/news-en/National-convention-ends-after-14-years-10215.html

xxi The Union Solidarity and Development Party

xxii Tun Myint, U (Taunggyi), whither Shan State (in Burmese), pp. 116-117

xxiii Tun, S.A., *History of the Shan State – from its origins to 1962*, Silkworm Books, Thailand 2009, pp. 441-443