



1 October 2012

“We Have Seen This Before”: Burma’s Fragile Peace Process

Since the coup d’état led by General Ne Win in 1962, Burma’s successive military regimes have subjected the outlying ethnic regions to decades of suffering. Many groups in these ethnic regions took up arms decades ago to fight for equality, self-determination and their fundamental rights. Ethnic people have acutely felt these decades of conflict yet now there seems to be a window of opportunity. The pseudo-democratic government of Thein Sein has initiated peace talks with all major ethnic non-state armed groups (NSAGs) of Burma within the past year. This, however, is not the first time that peace has been actively sought.

The former Chief of Military Intelligence, General Khin Nyunt, under the State Peace and Development Council, initiated a round of ceasefire negotiations in the 1990’s. Tentative ceasefire agreements were reached with many NSAGs (although not including the Karenni National Progressive Party (KNPP), the Karen National Union (KNU), the Shan State Army – South (SSA-S) or the Chin National Front (CNF)). Throughout the late 1990’s and early 2000’s, business concessions were granted to ethnic leaders and large-scale development projects proliferated in ceasefire areas.¹ Many of these ethnic regions hold an abundance of valuable natural resources, and exploitation of these led to many negative social, economic and environmental impacts. It also resulted in increased militarization around projects such as the Shwe Gas pipeline,² leading to further tensions. Many of these tentative ceasefires, however, collapsed when the regime attempted to bring the ethnic armies under the Burma Army as Border Guard Forces prior to the November 2010 elections. All ceasefires were declared null and void in November 2010.

Since March 2011 when President Thein Sein came to power, Burma has been undergoing some limited, yet reversible, democratic reforms. In tandem with these reforms are peace negotiation attempts that started in late 2011 resulting in preliminary ceasefires being signed with most major ethnic NSAGs apart from the Kachin Independence Organization (KIO). Clashes with the Kachin Independence Army (KIA) erupted in June 2011 when the Burma Army violated the 1994 ceasefire agreement by entering KIA territory and then launching an attack on a KIA outpost.³ Intense fighting continues to date and has been both brutal and sustained. There have also been armed battles between the Burma Army and the Shan State Army – North (SSA-N), Shan State Army – South (SSA-S), the Karen National Liberation Army (KNLA) and the Ta’ang National Liberation Army (TNLA).⁴ The KIA alone is believed have had more than 1,000 clashes with the

¹ “Neither War nor Peace”, Transnational Institute, 2009. <http://bit.ly/VGiBhw>

² Dual pipelines that will transport gas and oil from Arakan State across Burma to China’s Yunnan Province.

³ “Kachin Conflict Worsens, Civilians Trapped,” DVB, 12 October 2011. <http://bit.ly/pN6XbA>

⁴ “Fighting continues between TNLA and Burmese military troops,” Ta’ang Student and Youth Organization, 12 July 2012. <http://bit.ly/QyooF3>

Burma Army since the conflict began in June.⁵

This paper seeks to outline and analyze the current peace processes in both ceasefire and non-ceasefire areas.

Fragile Ceasefires and Peace Positions

Government Position

The government's Peace Negotiation Team led by Minister U Aung Min has a three step peace plan, outlined by President Thein Sein in his State of the Union address on 1 March 2012:⁶

- **Step One:** State-level dialogue. A ceasefire agreement is signed, and liaison offices opened.
- **Step Two:** Union-level dialogue. Economic cooperation, narcotics eradication programs, establishment of political parties under the parliamentary system followed by a discussion in the parliament regarding the constitution, and the unification of the armed forces. The ethnic NSAGs must also pledge to abide by the three national causes which are: (i) non-disintegration of the Union, (ii) non-disintegration of national solidarity and (iii) perpetuation of sovereignty.
- **Step Three:** Formal signing of a peace agreement in the Parliament.

This process, however, is entirely one-sided; it has been imposed on the ethnic NSAGs, rather than developed with them through negotiations. The government expects ethnic NSAGs to give up arms, set up political parties to compete for a place in Parliament and only once they reach Parliament, discuss political settlement. This does not address the root causes of the conflict: self-determination, the lack of ethnic rights and inequality. Not only this, but it involves ethnic NSAGs accepting the 2008 Constitution, a deeply flawed document that holds no popular legitimacy and reserves ultimate power to the Burma Army. In order to change the 2008 Constitution, ethnic armed groups need to participate in the parliamentary process yet to make amendments a 75% vote is needed. Seeing as 25% of the parliamentary seats are reserved for the Burma Army, if ethnic NSAGs were to follow this scenario they would be dependent on the same Army they have been in conflict for years to grant them their rights and autonomy.

The Need for Political Dialogue

For the people of Kachin State, who experienced 17 years of a fragile ceasefire that other ethnic groups are experiencing now, the lack of political dialogue is the main obstacle to a cessation in clashes. During the previous ceasefire period, Kachin State faced the kind of development projects being discussed for current ceasefire areas such as logging, mining and large dams. The consequences were huge: environmental damage, economic exploitation and the advent and exacerbation of social problems. Some Kachin leaders were co-opted by the regime, lured by the promise of economic riches. As the government continues to wage war against the KIA, it is no surprise that the Kachin are holding out for political talks. They have experienced the kind of ceasefires that are being agreed to in other ethnic areas and they know that most likely these will not bring peace. They will only bring further human rights atrocities, economic exploitation and inequality.

⁵ "Time for Thein Sein to come clean about Burmese losses in Kachin state," Kachin News Group, 22 September 2012. <http://bit.ly/Phakgj>

⁶ "All must try to see national race youths who brandished guns using laptops; Government not divided into hard-liners and soft-liners," New Light of Myanmar, 2 March 2011. <http://bit.ly/SozPQh>

Both the armed groups and civil society from these ethnic communities have been consistent in their calls for political dialogue. Over 130 representatives from ethnic political parties, armed groups, civil society and the umbrella groups of ethnic NSAGs, the United Nationalities Federal Council (UNFC) and the Ethnic Nationalities Council (ENC), held a three-day conference in Chiang Mai from 14 to 16 September. The conference concluded with the issuance of their joint 6-point peace plan.⁷ This is a plan, driven by the people who represent the communities affected by the conflict, and as such renders no suspicion of any other motive other than sustainable peace:

- **Step One:** Host a meeting with civil society groups and all armed ethnic groups.
- **Step Two:** Have a meeting with government representatives and all armed ethnic groups monitored by the international community.
- **Step Three:** Hold a referendum in each ethnic state to ratify each agreement.
- **Step Four:** Have a meeting with all ethnic people to talk about peace.
- **Step Five:** Have tripartite dialogue between the government, democracy activists, and ethnic people.
- **Step Six:** Implement a program based on the agreements stemming from that dialogue.

We are yet to see the government's reaction to this joint ethnic nationalities' peace plan, which is clearly different to the government's policy in that a political agreement is the main focus. It is encouraging that their plan stipulates civil society participation as essential to the peace talks.

Weak Ceasefire Agreements

Stemming from these very different positions on the peace process itself, initial ceasefire negotiations have been difficult and confusing to many observers. One of the biggest confusions has been regarding the nature of the agreements that have been signed. Media coverage of the first of the agreements at the end of 2011 and early 2012 reported that ethnic NSAGs were signing "ceasefire agreements." However, it became increasingly clear that these agreements were preliminary ceasefire agreements at best. For many ethnic NSAGs, these were agreements to continue talking. The government's chief negotiator, U Aung Min, was able to convince groups to sign a document at the end of each round of talks, which contributed to the notion that full ceasefire agreements were being reached.

Many describe the agreements as little more than "gentlemen's agreements." In fact, armed clashes have continued in Shan and Karen States despite these preliminary ceasefire agreements being reached. The government's Peace Negotiation Team has signed three separate agreements with the Restoration Council of Shan State and one with the Shan State Progressive Party, and yet there has been as many as 60 clashes between the Burma Army and the respective armies of the Shan State Army – South and the Shan State Army – North.⁸ In August, the government's Border Guard Forces clashed with the KNU while it was engaged in talks with U Aung Min.⁹ There hasn't been any reported clashes in Karen State since, but Burma Army troops remain on the frontlines. In Karenni State, the Burma Army has continued to increase the number of troops despite the ceasefire with

⁷ "Ethnic Groups Agree Six-Point Peace Plan," The Irrawaddy, 17 September 2012. <http://bit.ly/RXmsl3>

⁸ "Residents flee as fighting intensifies in northern Shan state," DVB, 4 September 2012. <http://bit.ly/ORk6Ks>
"Ceasefire only 'with government, not with army'," Shan Herald Agency for News, 11 September 2012. <http://bit.ly/ORigsZ>

⁹ "Fighting claims four dead during Karen peace talks," Mizzima, 8 August 2012. <http://bit.ly/ORkUPf>

the Karenni National Progressive Party (KNPP).¹⁰

These on-going attacks and military presence call into question U Aung Min's authority to negotiate ceasefires on behalf of the Burma Army, as well as the government's control of the Army. U Aung Min recently said, "I cannot personally make the government troops withdraw. I can only assume responsibility for political and economic issues. The withdrawal is something that the commanders of from both armies must agree upon."¹¹ Even President Thein Sein's calls for the Burma Army to cease offensive attacks in Kachin State in December 2011 and January 2012 have not been heeded. It is clear, based on this evidence, that the military is not under his control, yet President Thein Sein's negotiation team still promotes the military's structural and institutional interests in its dealings with the opposition and ethnic NSAGs.

Content of Agreements¹²

After vaguely outlining details of the ceasefire, most agreements go on to state that liaison offices will be opened. The government has envisioned these offices to facilitate communication with the ethnic NSAGs and serve as meeting locations for further negotiations. But ethnic NSAGs see other purposes for these offices that are more important to their communities, including a place where civilians can file reports of human rights abuses and military from both sides can report incidents and conflicts. They also see the liaison offices as locations for meetings with the local community, ethnic leaders and civil society, or as community training space. In Tavoy, businessmen are using the liaison offices as locations to hold business meetings and ink new deals in the area.

Negotiation Participants

Despite the very early stages of the ceasefire talks, the government, individuals, groups and companies aligned with the government have fast tracked economic development in ethnic regions. The participants in the peace talks reflect this, raising concerns about the roles of certain actors from the government side and their possible ulterior motives.

In the KNU's second round of talks in Rangoon in April, in addition to the main negotiating team led by U Aung Min, the Ministers of Energy, Electricity and Industry were also present, as were members of Egress, an NGO made up of businessmen and academics with close connections to the military elites. The role of Egress is controversial in that it is certainly not an independent actor, while the existence of businessmen as its members renders their presence a definite conflict of interest. The following month, the KNU publicly questioned the presence of the Dawei Princess Company, which has a concession to log in KNU-controlled territory.¹³

In the New Mon State Party's (NMSP) February 2012 negotiations, the Ministers of Industry, Electricity, Forestry and Border Affairs were also present. Shortly after the ceasefire was brokered, the Minister for Mon State met with the Tala Mon Company to discuss a US\$1 billion seaport at Kalegauk Island.¹⁴

The government has taken Karenni National Progressive Party (KNPP) members to study trade and economic dynamics in thriving border towns such as Myawaddy on the Thai border and Lashio on the Chinese border. KNPP members are being pressured to set up businesses and companies rather than talk about politics. This has led to fears that it is natural resources and economic

¹⁰ "Armed Karenni group ready to hold more talks with gov't," DVB, 17 August 2012. <http://bit.ly/ORjBzV>

¹¹ "A Minister without Borders," The Irrawaddy, 19 September 2012. <http://bit.ly/RSR6Ti>

¹² The full text of many of the agreements is available at <http://bit.ly/OnUsx1>.

¹³ "KNU questions role of Govt's business linked 'peace talk' advisors," Karen News, 10 May, 2012.

<http://bit.ly/K3PuR2>

¹⁴ "Sea Port Plans Unveiled in Mon State," The Irrawaddy, 15 March 2012. <http://bit.ly/TzjOtK>

development that the government is targeting, not a comprehensive peace agreement. This is hardly a surprise given the development projects initiated during the last ceasefire period.

Community and Civil Society Involvement

So far, very few NSAGs have consulted widely with civil society in their region and as such ethnic people have little access to information about the ceasefire agreements or the political objectives of the NSAGs. Only the KNU, KNPP and Pa-O National Liberation Organization (PNLO) have held consultations with local communities and civil society to share developments and gather their inputs. The KNU and KNPP have distributed the text of their agreements to local people.

Most civil society groups say that there is no or very little opportunity for them to participate in the peace processes. The CNF granted the Chin Human Rights Organization access to their May negotiations. The KNU has also brought local community representatives to their peace talks, including professors, religious leaders, civil society leaders and relevant experts.

While these are welcome efforts by some ethnic NSAGs, both the government and ethnic NSAGs need to be more transparent in their negotiations and the ramifications these will have for local communities. Additionally, civil society can and should play a larger role in the peace process, especially in terms of monitoring armies' compliance with ceasefires and observing future negotiations.

Women's Participation

Another group that has been largely marginalized in the peace process thus far has been women. UN Security Council Resolution 1325 outlines the importance and necessity of women's participation and perspective in all aspects of conflict prevention, management and resolution, including organizing for peace, rehabilitation, reintegration and reconstruction.

Rather than recognizing the crucial role women must play in the peace process, U Aung Min usually offers for women members of negotiation delegations to meet with his wife, sidelining and belittling women's concerns.

The KNU negotiation team, however, is led by a woman and has actively been promoting women's participation in the peace processes by including women in their delegation, supporting the team as observers and documenters, and participating in seminars and workshops. The KNU and General Secretary Naw Zipporah Sein have set a precedent that the government and other ethnic armed groups must follow.

Independent Actors

In the ceasefire negotiations thus far, there has been no involvement of independent mediators. In most cases of successful ceasefire negotiations from the Asia-Pacific region, independent mediators such as civil society, international governments or peace institutes, have helped facilitate the process. Especially in those cases where agreements have not been reached, such as with the KIO, a mediator could help ease the process and help achieve outcomes that benefit both sides.

Ceasefire agreements have also failed to include adequate details about monitoring of these ceasefires. Civil society can play an important role of monitoring each side's compliance with the ceasefire.

Continuation of Human Rights Violations

There have been some incremental changes in most ethnic areas where ceasefire negotiations are underway, including less fighting and people expressing that they feel they have much more freedom of movement. As such, farmers can travel to other places to sell their goods and people can go to other villages. However, fear remains, as distrust of armed actors has been present in these communities for decades.

While incidents of armed clashes have reduced in most areas, human rights violations continue to occur throughout all areas. The vast majority of these have occurred in the conflict areas of Kachin State and northern Shan State where fighting between ethnic armed groups and the Burma Army continues despite ceasefire agreements.

There have been reports of the Burma Army deliberately attacking villages, killing civilians, forcing men, women and children to serve as porters, committing rape and other sexual assaults, recruiting child soldiers, burning villages and destroying property, and torturing both soldiers and civilians.

Child Labor

The recruitment of child soldiers has occurred on both sides of the conflict. In 2011, the International Labour Organization received 236 complaints of underage forced recruitment.¹⁵ It should be stated that recruitment is in many cases a misnomer; many child soldiers are forced into the army or given a choice of joining the army or receiving a prison sentence. There have, however, been some improvements in 2012. In September the government released¹⁶ 42 underage soldiers from their ranks and handed them back to their parents while in August the KNPP and the NMSP publicly declared their commitment to ending recruitment or use of child soldiers.¹⁷

Civilians Targeted

In an interview with Human Rights Watch, a Kachin civilian stated that the Burma Army treats all Kachin as KIA, therefore civilians and villages with no army present are treated as valid military targets. The mortaring of villages is common and the firing on men, women and children who are fleeing villages happens regularly.¹⁸ Civilian porters are used as human shields, spreading them throughout battalions in order to deter attacks or placing them at the head of military columns in order to trigger landmines.¹⁹ Porters are frequently not given any or enough food and are regularly bound to trees at night to prevent escape.²⁰ Additionally the Burma Army's policy of "self reliance" has resulted in land confiscation, theft of property and forced labor.

Rape and Sexual Assault

Rape and sexual assault occur in areas of ongoing fighting, as well as areas in which there have been preliminary ceasefire agreements. The Kachin Women's Association Thailand has documented 43 cases of rape by members of the Burma Army against Kachin women in the 12 months following the breakdown of the ceasefire in June 2011, 21 of whom were also killed.²¹ Rape and sexual assault often happen in conjunction with forced labor, where the men are forced to carry

¹⁵ "Untold Miseries," Human Rights Watch, 15 March 2012, p. 57. <http://bit.ly/GzVLjG>

¹⁶ "Burma releases 42 child soldiers, vows to end practice," VOA, 5 September 2012. <http://bit.ly/OmE770>

¹⁷ "Firm steps needed to protect children from military recruitment," DVB, 31 August 2012. <http://bit.ly/Rtc2dr>

¹⁸ "Untold Miseries," Human Rights Watch, 15 March 2012, p. 37. <http://bit.ly/GzVLjG>

¹⁹ "Myanmar: A New Peace Initiative," Crisis Group Asia, 30 November 2011, p. 13. <http://bit.ly/sX21M6>

²⁰ "Ongoing Impunity: Continued Burma Army Atrocities Against the Kachin People," Kachin Women's Association Thailand, June 2012, p. 7. <http://bit.ly/QTT8hC>

²¹ "Ongoing Impunity: Continued Burma Army Atrocities Against the Kachin People," Kachin Women's Association Thailand, June 2012, p. 6. <http://bit.ly/QTT8hC>

munitions and the women are taken as “sex slaves” and forced to travel with the army battalions.²²

Torture

Torture of civilians is also commonplace. In order to elicit information regarding the KIA, the Burma Army has used techniques such as waterboarding, beating people with rifles, kicking while the detainee is handcuffed and hanging people from the ceiling while being interrogated.²³

It is also important to note that human rights violations continue in ceasefire areas. Interviews with members of civil society as well as reports from groups working in Karen and Karenni States reveal that forced labor²⁴ and land confiscation by the Burma Army are still a regular occurrence.

Despite the limited positive steps the Burma government has taken and the credit it has gained in the international media, human rights violations have increased, particularly in northern Burma where conflict has intensified. Violations occurring today are just as cruel and brutal as they were during the last two decades when Burma was under economic sanctions and seen as an international pariah.

Peace Funds

An extra dynamic to current efforts at peace building is peace fund initiatives. Official aid agencies of Norway, the European Union, United Kingdom, Australia and the United Nations, as well as the World Bank, have recently formed the Peace Donor Support Group (PDSG) to support the current peace process. Norway leads the Myanmar Peace Support Initiative (MPSI) while the World Bank has formally announced a Community Driven Development (CDD) Program using its State and Peace-Building Fund (SPF).

By providing “peace dividends” and “tangible benefits” through community support projects in conflict-affected areas, Norway’s MPSI hopes to “build momentum for peace.” It aims to work with NSAGs, the government, civil society and the communities themselves. Similarly, the World Bank stated its intentions in its draft Interim Strategy Note under Pillar Two, “Building Confidence”: promoting the “recovery of conflict-affected communities” through its CDD program will provide support for the peace process.

The MPSI has already started a pilot project in Kyaukgyi, Karen State, providing humanitarian assistance such as food and essential housing supplies to Internally Displaced People while discussions are underway regarding similar projects in Mon, Chin and Shan States and a second pilot in Karen State. The World Bank Group and other donors are yet to provide any funding.

Poor Governance

The MPSI and other peace fund initiatives have generally been regarded as well intentioned, yet they have not been without criticisms or even controversy.²⁵ While their stated intention is to work with stakeholders and communities, many groups feel that their process has in fact lacked transparency. A complete concept note, in relevant languages, has not yet been disclosed while many stakeholders are left guessing what the specific activities of the MPSI will consist of. An early concept note was written, yet this was not publicly released and was only obtained as it was

²² “The Burma Army Must Immediately Release Four Women Held as Sex Slaves Near Kachin-China Border,” Kachin Women’s Association Thailand, 4 November 2011. <http://bit.ly/tRDcyU>

²³ “Untold Miseries,” Human Rights Watch, 15 March 2012, p. 41. <http://bit.ly/GzVLjG>

²⁴ “Karen Recruited for Forced Labor,” Radio Free Asia, 7 September 2012. <http://bit.ly/P2cC1S>

²⁵ “Can Norway Forge Peace in Burma?,” DVB, 19 July 2012. <http://bit.ly/NEJl7J>

unofficially leaked. Despite claims of wide consultation in which support was garnered, in reality the consultations have been more akin to presentations, in which genuine, participatory discussions were kept to a minimum amount of time and questions left unanswered.

For the World Bank, although they have stated their intention of implementing similar initiatives through their CDD program, no details or policy document has been released yet.

Donor Pressure on NSAGs

While these concerns regarding the governance of peace funds are present, perhaps more significantly, there are worries that peace fund initiatives have the potential to coerce ethnic communities into accepting the 2008 Constitution. The main coordinating organ of peace funds is the government established Myanmar Peace Center, with which donors and INGOs will work. The Center reports directly to President Thein Sein. This gives the government, and as such the 2008 Constitution, more legitimacy, thus pushing the NSAGs towards acceptance of this. There is a fear that these government-led, donor-supported projects will be used as a bargaining tool by the government, and therefore weaken ethnic groups' leverage in their political negotiations, including their call for changing the constitution. Although the MPSI states that it will only implement projects with the full consent of ethnic NSAGs, poor governance again has undermined this claim. Initial consultations with the KNU, for example, were criticized as secretive and divisive in that members were approached individually rather than collectively. This left the leadership with an incomplete picture of MPSI's goals and certain KNU leaders in full support while others were left in the dark.

Furthermore, there is also concern that despite proclamations by the MPSI that this is not a replacement for political dialogue, these projects are perpetuating the government's prioritization of economic development over political settlement. This reinforces the idea that these initiatives are one-sided, and support the government. As some ethnic leaders pointed out that while international donors want to support the peace process through community support projects, these are formulated at the donor and government level. Although the pilot project in Kyaukgyi is implemented through the Committee of Internally Displaced Karen People (CIDPK), the KNU's involvement is at a much lower level than the government's involvement.

Peace fund initiatives are still at an early stage yet they have already raised anxiety and controversy, and many concerns from civil society remain to be addressed.

Conclusion

Since the beginning of peace talks, many preliminary ceasefires have been signed but due to the lack of political dialogue, little progress has been made. The process has been one-sided, divisive and has failed to lay solid foundations for sustainable peace. From both civil society and ethnic NSAGs, however, the message has been clear: a development agenda cannot be a substitute for a political settlement.

Recommendations

To the Government:

- Immediately halt all offensives in Kachin State and northern Shan State
- Withdraw troops from frontlines in all ethnic areas
- Cease human rights abuses and end impunity for perpetrators

- Compromise with ethnic NSAGs on the steps of the peace process
- Acknowledge the limitations of the 2008 Constitution as a basis for nationwide peace
- Prioritize political dialogue over economic development
- Engage in political dialogue with the United Nationalities Federal Council
- Clarify the role of each participant in ceasefire negotiations
- Invite independent international observers, as well as civil society, to peace negotiations
- Cooperate with ethnic NSAGs and civil society to develop a ceasefire monitoring mechanism
- Ensure women's participation in all negotiations and peace-building activities

To Ethnic Non-State Armed Groups:

- Cease human rights abuses and end impunity for perpetrators
- Engage in consultations with local communities and civil society representatives at each step of the negotiations
- Recognize the role of civil society in the peace process, including observing and mediating negotiations and monitoring ceasefires
- Ensure women's participation in all negotiations and peace-building activities

To the International Community:

- Call on the government to halt armed conflict in Kachin State and northern Shan State
- Call on the government to take responsibility for the actions of the Burma Army
- Call on all parties to cease human rights abuses
- Highlight and condemn shortcomings in the peace process
- Support genuine national reconciliation process in all peace fund initiatives
- Conduct inclusive, meaningful and secure consultations with all relevant actors including civil society and engage in transparent governance of peace funds
- Consult with all relevant actors and disclose publicly any strategy before engagement in the peace process