

# The Nationwide Ceasefire Agreement in Myanmar

Promoting Ethnic Peace or Strengthening State Control?





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KNU troops on patrol, northern Dawna Range (TNI)

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# Myanmar Map



## Abbreviations and Acronyms

<b>AA</b>	Arakan Army
<b>ABSDF</b>	All Burma Students Democratic Front
<b>ALP</b>	Arakan Liberation Party
<b>ANC</b>	Arakan National Council
<b>ANP</b>	Arakan National Party
<b>ARSA</b>	Arakan Rohingya Salvation Army
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BGF</b>	Border Guard Force
<b>BRI</b>	Belt and Road Initiative
<b>CNF</b>	Chin National Front
<b>CPB</b>	Communist Party of Burma
<b>CRPH</b>	Committee Representing Pyidaungsu Hluttaw
<b>CSO</b>	civil society organisation
<b>DDR</b>	Disarmament, Demobilization and Reintegration
<b>DKBA<sup>1</sup></b>	Democratic Karen Buddhist Army
<b>DKBA<sup>2</sup></b>	Democratic Karen Benevolent Army (Kloh Htoo Baw)
<b>EAO</b>	ethnic armed organisation
<b>ERO</b>	ethnic resistance organisation
<b>FPNCC</b>	Federal Political Negotiation and Consultative Committee
<b>ICC</b>	International Criminal Court
<b>ICJ</b>	International Court of Justice
<b>IDP</b>	internally displaced person
<b>IIMM</b>	Independent Investigative Mechanism for Myanmar
<b>JICM</b>	Joint Implementation Coordination Meeting
<b>JMC</b>	Joint Ceasefire Monitoring Committee
<b>JPF</b>	Joint Peace Fund
<b>KDA</b>	Kachin Defence Army
<b>KIO</b>	Kachin Independence Organisation
<b>KNLA</b>	Karen National Liberation Army
<b>KNLP</b>	Kayan New Land Party
<b>KNPLF</b>	Karenni Nationalities People's Liberation Front
<b>KNPP</b>	Karenni National Progressive Party
<b>KNU</b>	Karen National Union
<b>KPC</b>	KNU/KNLA Peace Council
<b>KySDP</b>	Kayah State Democratic Party
<b>LDU</b>	Lahu Democratic Union
<b>MIS</b>	Military Intelligence Service
<b>MNDAA</b>	Myanmar National Democratic Alliance Army
<b>MNTJP</b>	Myanmar National Truth and Justice Party
<b>MPC</b>	Myanmar Peace Center

<b>MTA</b>	Mong Tai Army
<b>NCA</b>	Nationwide Ceasefire Agreement
<b>NCCT</b>	Nationwide Ceasefire Coordination Team
<b>NCGUB</b>	National Coalition Government Union of Burma
<b>NCUB</b>	National Council Union of Burma
<b>NDA-K</b>	New Democratic Army-Kachin
<b>NDAA</b>	National Democratic Alliance Army
<b>NDF</b>	National Democratic Front
<b>NLD</b>	National League for Democracy
<b>NMSP</b>	New Mon State Party
<b>NRPC</b>	National Reconciliation and Peace Centre
<b>NSCN-K</b>	National Socialist Council of Nagaland-Khaplang
<b>NUCC</b>	National Unity Consultative Council
<b>NUG</b>	National Unity Government
<b>PDF</b>	People's Defence Force
<b>PNLO</b>	Pa-O National Liberation Organisation
<b>PNO</b>	Pa-O National Organisation
<b>PPST</b>	Peace Process Steering Team
<b>PSLF</b>	Palaung State Liberation Front
<b>PSLP</b>	Palaung State Liberation Party
<b>RCSS</b>	Restoration Council of Shan State (Shan State Army-South)
<b>SAC</b>	State Administration Council
<b>SLORC</b>	State Law and Order Restoration Council
<b>SNLD</b>	Shan Nationalities League for Democracy
<b>SPDC</b>	State Peace and Development Council
<b>SSNPLO</b>	Shan State Nationalities People's Liberation Organisation
<b>SSPP</b>	Shan State Progress Party (Shan State Army-North)
<b>SSR</b>	Security Sector Reform
<b>TNLA</b>	Ta'ang National Liberation Army
<b>ULA/AA</b>	United League of Arakan/Arakan Army
<b>UN</b>	United Nations
<b>UNFC</b>	United Nationalities Federal Council
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNOCHA</b>	UN Office for the Coordination of Humanitarian Affairs
<b>UPC</b>	Union Peace Conference
<b>UPC-21CP</b>	Union Peace Conference-21st Century Panglong Conference
<b>UPDJC</b>	Union Peace Dialogue Joint Committee
<b>USDP</b>	Union Solidarity and Development Party
<b>UWSA/P</b>	United Wa State Army/Party
<b>VFV Law</b>	Vacant, Fallow and Virgin Land Management Law
<b>WNO</b>	Wa National Organisation
<b>ZRA</b>	Zomi Revolutionary Army

## Timeline: Key Dates in Contemporary Peace Processes

<b>1949</b>	Peace talks with KNU during the Insein siege
<b>1958</b>	U Nu's 'Arms for Democracy' initiative
<b>1958-60</b>	Military Caretaker government
<b>1962</b>	Gen. Ne Win's military coup
<b>1963-64</b>	Nationwide 'Peace Parley'
<b>1976</b>	Formation of NDF by federal union-seeking EAOs
<b>1980-81</b>	Peace talks with CPB and, separately, KIO
<b>1988</b>	Democracy protests bring down 'Burmese Way to Socialism' Military government of the SLORC assumes power
<b>1989</b>	First round of bilateral ethnic ceasefires after CPB collapse
<b>1990</b>	NLD wins first general election in three decades NCGUB established of MPs-elect
<b>1992</b>	Than Shwe replaces Saw Maung as SLORC leader NCUB formed of ethnic NDF & pro-democracy movements
<b>1993</b>	Start of National Convention to draw up new constitution
<b>1994</b>	Acceleration of ceasefires including several NDF members
<b>2005</b>	Arrest of ceasefire architect Gen. Khin Nyunt & dismantling of MIS Imprisonment of Hso Ten, Hkun Tun Oo & other Shan leaders Disbandment of ceasefire PSLP
<b>2008</b>	Referendum to endorse new constitution
<b>2009</b>	Ceasefire groups ordered to transform into BGFs Kokang conflict resumes & tensions grow with ceasefire EAOs
<b>2010</b>	Tatmadaw-backed USDP wins general election
<b>2011</b>	Formation of UNFC by ceasefire & non-ceasefire EAOs President Thein Sein takes office in USDP-Tatmadaw government Conflict resumes in Kachin & northern Shan States New ethnic ceasefire policy initiated
<b>2012</b>	Spread of new generation of state-level & union-level ceasefires NLD enters parliament in by-elections
<b>2013</b>	KIO 'reduction of hostilities' agreement Formation of NCCT to negotiate NCA with government
<b>2015</b>	Deed of Commitment for Peace & National Reconciliation Signing of Nationwide Ceasefire Agreement by eight EAOs NLD wins November general election



<b>2016</b>	<p>First Union Peace Conference</p> <p>NLD administration takes government office</p> <p>First 21st Century Panglong Conference (2nd UPC)</p> <p>Conflict spreads in Kachin and northern Shan States</p> <p>Establishment of Northern Alliance</p> <p>First ARSA attacks in northern Rakhine State</p>
<b>2017</b>	<p>Formation of FPNCC by northern EAOs</p> <p>Second 21st Century Panglong Conference (3rd UPC)</p> <p>Rohingya exodus during Tatmadaw 'regional clearance' operations</p>
<b>2018</b>	<p>LDU and NMSP sign NCA</p> <p>Third 21st Century Panglong Conference (4th UPC)</p> <p>NCA '10-plus-10 meeting'</p> <p>Three Northern Alliance members announce unilateral ceasefire</p> <p>First unilateral ceasefire by Tatmadaw: excludes Western Command</p>
<b>2019</b>	<p>Conflict deepens with ULA/AA in Rakhine State</p> <p>Brotherhood Alliance formed: clashes continue in Kachin &amp; Shan States</p> <p>ICC and ICJ begin inquiries into crimes against humanity &amp; genocide</p>
<b>2020</b>	<p>Covid-19 epidemic breaks out</p> <p>Protests over military violations of NCA in Karen &amp; Shan States</p> <p>Fourth 21st Century Panglong Conference (5th UPC)</p> <p>NLD wins November general election</p> <p>Tatmadaw forms new 'Peace Talks Committee'</p> <p>Informal ceasefire with the ULA/AA</p> <p>Tatmadaw and USDP contest fairness of election polls</p>
<b>2021</b>	<p>NLD announces 'New Peace Architecture'</p> <p>Government approaches Northern Alliance members for peace talks</p> <p>SAC coup, arrest of NLD leaders, repression of democracy protests</p> <p>CRPH, NUG, PDFs formed &amp; realignment in opposition politics</p> <p>Breakdown of CNF, KNPP, KNU &amp; ABSDF ceasefires</p> <p>Fighting escalates in Chin, Kachin, Karen, Kayah &amp; Shan States</p> <p>Conflict spreads in towns, Magway, Sagaing &amp; other regions</p> <p>UN General Assembly keeps recognition of NLD-chosen ambassador</p>
<b>2022</b>	<p>Unilateral ceasefire announcements continue but SAC rules out NUG</p> <p>Tatmadaw accelerates deployment of Pyu Saw Hti &amp; militia forces</p> <p>Min Aung Hlaing holds two rounds of talks with selected EAOs</p> <p>Aung San Suu Kyi among democracy actors sentenced to long jail terms</p> <p>ULA/AA ceasefire breaks down but later resumes in Rakhine State</p>
<b>2023</b>	<p>SAC officials promote holding of new general election</p> <p>Tatmadaw extends unilateral ceasefire but steps up military attacks</p> <p>Conflict, repression &amp; political divisions continue through country</p>



## 1. Challenges in Implementation and Negotiation

### Overview: Conflict in a decade of transition

Peace talks have been a frequent, although inconsistent, feature of the conflict landscape in Burma/Myanmar since independence in 1948.<sup>1</sup> The most-publicised peace negotiations have been: the Karen National Union (KNU) in 1949; U Nu's 'Arms for Democracy' movement in 1958; the 1963–64 'Peace Parley' under Gen. Ne Win's 'Burmese Way to Socialism'; the Communist Party of Burma (CPB) and (separately) Kachin Independence Organisation (KIO) in 1980–81; and an 'ethnic ceasefire' process initiated in 1989 by the military State Law and Order Restoration Council (SLORC) following the CPB's collapse.<sup>2</sup> In the meantime, Myanmar has continued to suffer some of the longest-running armed conflicts in the world.

A new peace process was introduced by the quasi-civilian government of President Thein Sein in 2011 when the SLORC's successor, the State Peace and Development Council (SPDC), stood down. In many respects, the new initiative was a continuation of the ceasefire policies of the SLORC-SPDC which had sought to entrench the leading role of the Defence Services (Tatmadaw or Sit-Tat) in national political life.<sup>3</sup> During the next two years, the Thein Sein government signed or renewed bilateral ceasefires with 14 ethnic armed organisations (EAOs),<sup>4</sup> most of which signed two forms of ceasefire: state-level and union-level.<sup>5</sup> There was, however, no immediate end to conflict. During Thein Sein's time in president office, the KIO's 1994 ceasefire broke down, tensions continued and fighting resumed in Kachin and northern Shan States.

After half a century under military rule, it was a time of great insecurity and uncertainty in national transition. Parallel to the peace process, the opposition National League for Democracy (NLD) entered into parliament in 2012 by-elections, raising hopes of a new era of social and economic reform through the ballot-box. Peace progress, however, proved difficult. The instability of the situation was

highlighted in October 2015 when only eight of the 21 armed organisations taking part in the peace process signed a Nationwide Ceasefire Agreement (NCA) with the government shortly before a new general election. Most EAOs, including powerful organisations in the northeast of the country, did not sign. It was an early warning of the difficulties that were soon to arise (see chart: ‘Ethnic Armed Organisations, February 2021’).<sup>6</sup>

These worries were largely forgotten during the euphoria that followed the NLD’s election victory. The NLD prioritized the issue of ethnic peace in its ‘time for change’ manifesto. Momentum towards this goal appeared to be maintained when the State Counsellor Daw Aung San Suu Kyi launched a new ‘21<sup>st</sup> Century Panglong Conference’ upon taking office. It was at the 1947 meeting in Panglong that Aung San Suu Kyi’s late father had agreed with Chin, Kachin and Shan leaders the principles of equality, unity and autonomy in the new Union. There is no more symbolic name than ‘Panglong’ in national politics.

Optimism then reached a new peak in August 2016 when the first ‘Panglong-21’ meeting began in Nay Pyi Taw, the national capital, in the largest and most inclusive assembly to discuss peace and reform since the country’s independence in 1948. In an opening address, UN Secretary-General Ban Ki-Moon offered words of encouragement: ‘There is a long road ahead, but the path is very promising.’<sup>7</sup> In a rare moment of unanimity, speakers on all sides supported the common goal of ‘federalism’. After decades of conflict and reform impasse, Myanmar appeared on the brink of historic change.

From this apex, conflict regression once again began. During the following months, a new series of crises emerged, with fighting flaring up in the northeast and west of the country. The escalation in conflict first began when the Tatmadaw stepped up military operations against the KIO in Kachin and northern Shan States after the Panglong-21 meeting, with armed struggle also spreading in Kokang, Shan and Ta’ang communities. NCA non-signatory EAOs, however, were excluded by the Tatmadaw from full participation

in the peace process following the accord signing (see ‘Conflict consequences of EAO exclusion’).

During the same period, conflict and displacement grew on an even larger scale in Rakhine State (Arakan). The descent into violence began in late 2016 when, following attacks by a previously unknown Arakan Rohingya Salvation Army (ARSA), the Tatmadaw launched security sweeps targeting the Rohingya civilian population. One year later, these were elevated to ‘regional clearance’ operations following another series of ARSA attacks. Amidst widespread reports of killings and other grave human rights violations against civilians, over 725,000 refugees fled across the Bangladesh border (see box: ‘Conflict Regression in Rakhine State’).

These operations by no means marked the end of violence. As international condemnation intensified, Rakhine State was on the brink of a conflict implosion, this time spreading



Burnt out village, Hpapun District, Karen State (TNI)

into areas inhabited by the Rakhine-majority population. In December 2018, the Tatmadaw excluded the territory from government 'unilateral' ceasefire announcements, heralding a major upsurge in fighting with the United League of Arakan/Arakan Army (ULA/AA). For the next two years, Rakhine State became one of the most acute conflict zones in Asia, with ever growing numbers of casualties and civilians fleeing from their homes.<sup>8</sup>

Against this backdrop, the peace process faltered badly. Two more EAOs – the Lahu Democratic Union (LDU) and New Mon State Party (NMSP) – signed the NCA in February 2018, and there were three more Panglong-21 meetings: in May 2017, July 2018 and August 2020. Ceasefires generally endured in other parts of the country, especially by NCA signatories on the Thailand borders. Parties to the accord still hoped that the NCA would come to form the basis for nationwide peace. At the same time, intermittent talks continued with a new EAO alliance, the Federal Political Negotiation and Consultative Committee (FPNCC), set up by NCA non-signatories in

the north of the country to take their political demands forward (see 'Northern EAO ceasefire negotiations').

Belatedly, this failure began to lead to some soul-searching among parties to the negotiations – though notably not all – to try and understand how a peace process, upon which such high hopes were invested, had failed to deliver on its promises of conflict resolution for the whole country. Multiple answers were given. But, in general, four overarching problems were identified as hindering reform progress, and the consequences – in both structural and implementation terms – became interconnected in the field. Until these are addressed there can be no meaningful peace and reform that reaches all peoples.

First, a lack of clarity and inclusion continued in peace initiatives led by the government. Neither leaders of the NLD nor Tatmadaw-formed Union Solidarity and Development Party (USDP) addressed these failings from the past. The term 'peace process' was widely

NCA Signing Ceremony on 15 October 2015, Nay Pyi Taw (AFP)



used under both administrations. But, to different actors, the term could have very different meanings. At the 2015 signing of the NCA by eight EAOs, its supporters advocated that other EAOs could – and would – quickly follow suit. The subsequent 21<sup>st</sup> Century Panglong Conference appeared to offer a further opportunity to bring the different conflict parties together. But, from this high-point in optimism, the divisions in the conflict field were never bridged.

In essence, only EAOs that had signed the NCA were granted full participation in peace negotiations. The rest – including some of the largest and best-organised EAOs in the country – were effectively left outside. Not only did the Tatmadaw refuse to include a number of important EAOs in the NCA but cooperation and unity between EAOs was undermined. In the following years, NCA and non-NCA groups grew apart. Meanwhile political reform discussions remained divided on different ‘ceasefire’ and ‘parliamentary’ paths, with no suggestion or timetable as to how the different processes could be brought together on the same track. All of these divisions hampered any meaningful attempts to resolve underlying political issues (see ‘Peace failures and inconsistencies in process’).

The consequences were stark. As the NCA passed its fifth anniversary in October 2020, the peace process structures in Myanmar were among the most complicated in the modern world. On the eve of the 2021 coup d’état, there were both NCA signatories and NCA non-signatories among ceasefire groups; ‘included’ and ‘excluded’ groups among non-ceasefire EAOs; ethnic militia groups (pyithusit) and Border Guard Forces (BGFs) that are under Tatmadaw authority; and a tangled web of unilateral, bilateral and NCA ceasefire agreements or declarations (including by both EAOs and the Tatmadaw) at union and state levels. There was, however, only one organisation – the Tatmadaw – that remained a common player in interactions among all stakeholder groups (see chart: ‘Ethnic Armed Organisations, February 2021’).

This lack of cohesion and inclusion is integral to the second major weakness in the peace

process: the failure to end conflict. Despite its name, the NCA was never nationwide; it did not stop fighting; and it was not an inclusive agreement. At different times in the years following its signing, parts of Chin, Kachin, Rakhine and Shan States witnessed some of their highest levels of conflict, internal displacement and loss of life in several decades.

Resentment in many nationality communities was growing, but concerns were never addressed. All the conflict zones were non-Bamar territories of high natural resource and geopolitical importance, which the preceding SLORC-SPDC government had prioritised as ‘model’ ceasefire areas.<sup>9</sup> This change and differentiation in government stratagems greatly undermined trust in the peace process which the NCA did little to dispel. Whereas peace was being offered in the rest of the country, there was little perception of a significant change in government policies in what Tatmadaw commanders still treated as war zones – only an intensification in military deployments and tactics. For the Defence Services, military solutions to political problems were never off the table (see ‘Trust-building and trust-breaking: the politics of exclusion’).

The result was a conflict paradox. During a time of supposed peace-building, conflict and humanitarian emergencies worsened in several parts of the country. By the end of 2020, there were an estimated 110,000 internally-displaced persons (IDPs) in Kachin and northern Shan States, over 320,000 IDPs in Rakhine and Chin States, and up to one million Rohingya refugees in Bangladesh.<sup>10</sup> In the meantime, there had been no real progress in the resettlement of Karen, Karenni, Mon and Shan IDPs and refugees in ceasefire territories (both NCA signatories and non-signatories) on the Thailand borders. Here, with military stand-offs still occurring, many families continued to live in conditions of ‘neither war nor peace’ after eight years of ceasefires (see ‘Harm to civilians’).<sup>11</sup>

The same paradox was being played out on the international stage. Under the USDP and NLD administrations, an international peace

complex developed in Myanmar that, in many respects, mirrored the conflict landscape on the ground. Western governments generally supported the NCA as well as aid programmes and human rights efforts to bring the case of Myanmar before the International Court of Justice (ICJ) for alleged violations of the Genocide Convention. In contrast, Asian neighbours promoted economic engagement as the most immediate way to achieve nationwide peace. China, especially, was the most involved international actor in observing negotiations and helping arrange meetings between parties to the conflicts. Despite ever-growing investment and expenditure, however, none of the international initiatives succeeded in bringing the conflict actors on to the same page (see box: 'International Actors in the Peace Process').

This leads to the third key deficiency in the peace process: the failure of the NCA to deliver meaningful reform. As with the ceasefires of the SLORC-SPDC era, conflicts were at best 'frozen', but they did not lead to political change.<sup>12</sup> With such a diversity of actors, frameworks and agreements, it was little wonder that many communities felt confused as to the political direction of the NCA. As the months turned into years, the inadequacies in the implementation of ceasefire accords became one of the most criticised aspects of the peace process. In the eyes of marginalised peoples, there was a complete lack of national leadership and political will to institute reforms. This, in turn, had highly negative implications for trust-building between the government and conflict-affected communities.

Finally, the fourth and omnipresent obstacle in the peace process has always been the Tatmadaw. On the surface, a narrative of democratic – albeit slow – progressive change was promoted in international circles during the peace process and parliamentary elections during the 2010–20 era. But, on the ground, substantive evidence of political breakthroughs was far from secure. This became ever more evident during 2020 when the Covid-19 pandemic came to disrupt many aspects of social and economic life.

All these issues were matters of rising concern as the NLD prepared to begin another term in office following a second general election victory in November 2020. Once again the military-backed USDP was convincingly defeated. But whether through the ballot-box or the peace process, ethnic parties were questioning how they could achieve a just and equitable representation in national politics. A decade after political transition had begun, militarisation was still increasing rather than decreasing in several of the conflict front-lines; an inclusive political dialogue was yet to begin; and many nationality leaders believed that the government and Tatmadaw were using the interregnum of ceasefires to make defining political and economic decisions before the agreement and implementation of meaningful reforms.

Under-estimated at first, a dangerous moment in Myanmar politics was approaching. With the February 2021 coup, both the parliamentary and NCA processes for political reform were effectively brought to a halt, once again precipitating the whole country into the devastating conditions of military repression and civil war. Since this time, Tatmadaw domination of government has returned from the shadows into plain sight, and the historic paradigms of conflict and state failure have swiftly returned.

In many respects, this landscape creates the temptation to backdate perceptions, depicting the coup as a *fait accompli* or outcome that was always looming in sight. But this would be to simplify history. While the coup undoubtedly disrupted the peace process, it is important not to forget that, long before such breakdown, calls had been increasing for a change in the political direction and roadmap in the country. As the election results confirmed, there was no doubting the NLD's general popularity. But criticisms were deepening in many communities. The NCA had not ushered in an era of peace and democracy to take the country away from military rule. Rather, it appeared to be part of a Tatmadaw stratagem to strengthen centralised state control at the expense of ethnic and other political demands and interests.



Kachin, Mon and Tatmadaw leaders at opening of KIO office, Myitkyina, in SLORC-SPDC era (TNI)

This policy analysis seeks to analyse the peace process during a critical period in conflict history. Reference will be made to earlier agreements and understandings, but it will especially concentrate on events and negotiations from 2015 through to the 2021 seizure of power under the State Administration Council (SAC). Since the coup, it is important to acknowledge that the NCA and its different arrangements have, to most intents and purposes, been defunct while a new conflict landscape has unfolded across the country. But this does not make the experiences of the preceding decade less valid. If lessons are to be learned from the failures of the past, a reevaluation of the peace process has long been overdue.

To support this objective, the analysis will be detailed, although it cannot be exhaustive. Much of the research was conducted during peace negotiations in the 2011-20 period, with a special focus on the NCA as a central

instrument of discussion. It is vital to publish and preserve these endeavours for future generations. One day, it is hoped that understanding of these experiences can help lay the foundations for meaningful political reform and a lasting peace. The decade of the 2010s brought together diverse stakeholders and conflict actors in the most significant peace process since independence in 1948.

Part One will examine the key difficulties and challenges in the negotiation and implementation of ceasefires. Part Two assesses the failure to implement the NCA, including violations and lack in political progress. Part Three analyses the efforts by different parties to the negotiations to overcome the peace agreement difficulties while the NLD was in office. And Part Four seeks to illustrate how the conflict alignments and parameters have changed since the 2021 coup. The report then ends with a summary of key points and conclusions.

To cover this broad landscape, the briefing looks across all negotiations taking place during this period because these discussions were highly interdependent and mutually influential, although they fragmented over time.<sup>13</sup> It is therefore difficult to construct a single narrative that provides full context to so many challenges and perspectives. Many of the details of the meetings and deliberations during the peace process were not widely known. Understanding, though, of the nature of different obstacles is vital if the cycles of conflict are to be brought to an end.

This, in turn, will mean examination of events occurring outside the NCA framework. The NCA cannot be examined in political isolation. In particular, while a trend of failure developed in relations between the Tatmadaw, NLD and EAOs that were NCA signatories, attention must also be paid to conflict actors that were not party to the accord. Their exclusion or non-participation are integral to understanding peace needs and conflict dynamics.

Equally important, there are a host of tangential factors in Myanmar's internal wars that, over time, have also had critical impact on the NCA and broader peace process. To highlight these dynamics, the report is augmented with text boxes to look deeper into such issues as people's militia and Border Guard Forces, economic pressures during a time of peace negotiation, international responses and actors, and conflict regression in Rakhine State. All such crises and challenges came to influence, and often overshadow, NCA implementation and focus.

Finally, while learning from the past, it is also vital to take a forward-looking view. The bitter experiences of peace failure in Myanmar provide many examples where fundamental improvements can, and must, be made. If conflict and state failure are ever to be ended at the negotiating table, the country's leaders must seriously engage with the underlying problems that are blocking reform. In the process, they need to demonstrate the political intention and capacity to deliver change that is beneficial for all peoples. More 'ceasefire declarations' and 'talking shop' meetings

under complex procedural arrangements have no purpose if there is no peace and reform conclusion in sight. Greater creativity and flexibility have long been needed.

Tragically, the contemporary return to military rule threatens to put a new generation of obstacles in the way of building peace. More than ever, peoples in communities across the country do not feel adequately represented or consulted. Covid-19, the 2020 general election, the 2021 coup and proliferation of new conflicts – each has furthered both the reality and sense of political marginalisation, ethnic discrimination and humanitarian suffering which the NCA failed to stem. The processes for national reconciliation and reform are for Myanmar's peoples to decide. But to achieve this, the legacies of peace failure warn that two needs are paramount: a genuine, nationwide cessation of violence against all the peoples of Myanmar; and an inclusive framework for dialogue that justly addresses political aspirations and ethnic grievances.

On Independence Day, 4 January 2016, Aung San Suu Kyi made a bold pledge in advance of her party, the NLD, taking office for the first time: 'The peace process is the first thing the new government will work on. We will try for the all inclusive ceasefire agreement.'<sup>14</sup> Six years later, the SAC leader Snr-Gen. Min Aung Hlaing made a similar pledge: '2022 is set as the year of peace, and we will strive to end the armed conflicts across the nation.'<sup>15</sup> Given, however, that the Tatmadaw has consistently violated the military-drafted constitution and multiple ceasefires under his leadership, this prospect currently appears remote. Not only have new human rights atrocities been committed in different parts of the country but Tatmadaw leaders refuse to even speak to key political and military opponents.

It is vital that this should not be a moment for despair. The need for peace and reform has never been more crucial. Myanmar is presently one of the most war-torn lands in the world. It is long since time that the rights to peace and justice for all the country's peoples are truly fulfilled.



## The 2015 Nationwide Ceasefire Agreement

The Nationwide Ceasefire Agreement, officially the 'Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations', was signed in Nay Pyi Taw on 15 October 2015 by President Thein Sein, Commander-in-Chief Snr-Gen. Min Aung Hlaing; seven other representatives of the executive branch, Pyidaungsu Hluttaw (Union Parliament) and military; representatives of eight EAOs; and six international witnesses: the United Nations, European Union, China, India, Japan and Thailand. The document was additionally signed by over 60 domestic and international witnesses, marking that the NCA had been signed by the participating parties in their presence.<sup>16</sup> On 13 February 2018, two further EAOs – the New Mon State Party and Lahu Democratic Union – joined in a ceremony where the six international witnesses again signed.

In substance, the NCA was designed as a framework agreement since all of the original signatories already had bilateral ceasefires in place before signing, and the agreement thus provided structural outlines for both ceasefire management and the political dialogue process. The NCA consists of 7 chapters and 33 paragraphs: (1) basic principles, (2) aims and objectives, (3) ceasefire related matters, (4) maintaining and strengthening ceasefire, (5) guarantees for political dialogue, (6) future tasks and, (7) miscellaneous.

Under these headings, a detailed list of tasks is set out to support trust-building and implementation of the accord based upon the principle of establishing a federal union 'in the spirit of Panglong'. Key areas include military codes of conduct, protection of civilians, provision of humanitarian assistance, a political roadmap, interim arrangements, the establishment of a Joint Ceasefire Monitoring Committee, and the adoption of a Framework for Political Dialogue. The NCA also includes a series of meeting decisions for use in interpretation and implementation, incorporated into the agreement through Article 30.<sup>17</sup>

The structure and order of activity in seeing the accord through to completion is defined in Article 20 which sets out a 'Seven-Step Political Roadmap':

'The Republic of the Union of Myanmar Government and the Ethnic Armed Organizations shall abide by the following political roadmap:

- a. Signing of the Nationwide Ceasefire Agreement.
- b. Drafting and adopting the "Framework for Political Dialogue" by representatives of the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations.
- c. Holding national political dialogue based on the adopted Framework for Political Dialogue, and negotiating security reintegration matters and undertaking other necessary tasks that both parties agree can be carried out in advance.
- d. Holding the Union Peace Conference.
- e. Signing the Pyidaungsu Accord.
- f. Submitting the Pyidaungsu Accord to the Pyidaungsu Hluttaw for ratification.
- g. Implementing all provisions contained in the Pyidaungsu Accord, and carrying out security reintegration matters.'

In other key commitments, international assistance is agreed to, including technical assistance to the JCM (Article 12). Cooperation and coordination are pledged between government and EAO-administered areas in health, education, socio-economic development and other project fields (Article 25). And both the aims and objectives of the accord are 'inclusive' and 'nationwide' (Article 2).

At the signing ceremony, there were two keynote speeches. According to President Thein Sein:

'From this day on, we share the responsibility of defining our future. We will together write history and share the historical burden of victory and defeat. The NCA we sign today represents the mutual trust between us, and a legacy for future generations.'<sup>18</sup>

KNU Chairman Saw Mutu Say Poe replied:

'More than just a ceasefire agreement, the NCA is the first step on the important road towards the establishment of a federal and democratic Union... We must act in the spirit of mutual respect and national reconciliation to achieve positive outcomes for the peace process through an inclusive political dialogue.'<sup>19</sup>

## Peace failures and inconsistencies in process

At its 2015 inception, the Nationwide Ceasefire Agreement was intended to chart a new route to peace-building in Myanmar. In designing the accord, it was acknowledged that a number of interlinked problems have historically lain at the heart of the impasse in peace talks in the country. All too often negotiations focus on repairing technical problems in the way talks are carried out and agreements sought on procedure. While there are numerous technical challenges that may contribute to the lack of progress, perfecting all the technical issues would be meaningless if underlying political challenges remain unaddressed. For breakthroughs to be achieved, it is essential that such technical-political logjams are recognised, any peace process is appropriately reformed, and focus is concentrated on political accomplishment.

With these considerations in mind, it was trusted that a moment of opportunity had arrived with the 2015 NCA signing. Any honeymoon period, however, proved notably short. From 2016 onwards, unaddressed failures once again resurfaced, leading to increasing conflict and a roadblock to meaningful progress. Outstanding issues

included a lack of trust between parties; the exclusion of key stakeholders; a lack of political progress; and an underlying difference of views about the outcomes that the peace process was intended to achieve. In response, stakeholders and observers identified technical failures in the various processes for change as well as in negotiation and implementation institutions (e.g., 'political dialogue' and the Joint Ceasefire Monitoring Committee [JMC]). In essence, it was hoped that fine-tuning the accord might make the peace process work.

These acknowledgments were a needed step. Technical reforms that take the political challenges into account might help address the underlying problems with trust and exclusion. Unless, however, there is the political will to initiate broader change, as well as the leadership to follow through, then technical fixes will instead only contribute to additional 'peace process fatigue' among the public while ceasefire meetings and statements continue without effective results.

The peace talk structures also inhibited essential reforms. The formal peace process in Myanmar built upon the foundations of the NCA, which was originally signed on 15 October 2015 under the Thein Sein

administration.<sup>20</sup> Recognising failures in the past, the new document served as a framework agreement for the parties to implement a military ceasefire and to continue political negotiations that lead to constitutional change. Critical topics were laid out to guide its completion. These included a political roadmap, the formation of the JMC, adoption of a ‘framework for political dialogue’, military codes of conduct, ‘interim arrangements’ and provision of humanitarian assistance (see box: ‘The 2015 Nationwide Ceasefire Agreement’).

The NCA, however, also had many weaknesses. Key failures included a lack of definitions for critical terms such as ‘ceasefire areas’, and limited information about how to set up and implement appropriate institutions and processes, such as the JMC and national-level dialogue meetings. As the academic and peace advisor Thant Myint-U warned: ‘What was supposed to be a catalyst for further quick advances became a drag.’<sup>21</sup>

Equally remiss, as a platform for developing nationwide peace, the NCA was by no means inclusive. For reasons never justified, the Tatmadaw and Thein Sein administration prohibited six EAOs that had participated in the NCA negotiations from signing the agreement at its 2015 inception. Three were largely legacy movements: the Arakan National Council (ANC), Lahu Democratic Union (LDU) and Wa National Organisation (WNO). But the other three remained in active – and escalating – conflict with the government following the NCA signing: the (Kokang) Myanmar National Democratic Alliance Army (MNDA), Ta’ang National Liberation Army (TNLA) and United League of Arakan/Arakan Army.<sup>22</sup>

The omission of such EAOs stood out. Only two of the eight initial NCA signatories were considered of relative operational importance in military and political terms at that time: the Karen National Union and Restoration Council of Shan State (RCSS).<sup>23</sup> Others, notably the Chin National Front (CNF), could claim broader influence than their organisation suggested. But the line-up of the EAO signatories still looked partial and unbalanced

in ethnic politics and affairs. In contrast, the majority of stronger EAOs did not sign, including the ceasefire United Wa State Army/Party (UWSA/P), National Democratic Alliance Army (NDAA),<sup>24</sup> and non-ceasefire Kachin Independence Organisation. An unhelpful divide in the conflict landscape was beginning to develop (see chart: ‘Ethnic Armed Organisations, February 2021’).

The ways in which these divisions came about were never fully analysed or addressed. Many misunderstandings still exist. Before the NLD took office, the Thein Sein government held a Union Peace Conference (UPC) in January 2016 as the first step in the NCA process, a meeting that Aung San Suu Kyi described as ‘just a token’.<sup>25</sup> Only the eight EAO signatories to the NCA were effectively involved in the first UPC meeting. Her words thus raised expectations of a change in the peace process.

Subsequently, the UPC appeared further marginalized when, after taking office, the NLD promoted the 21<sup>st</sup> Century Panglong Conference as the party’s roadmap to national reconciliation and reform. Although its parameters were never defined, NLD officials widely conveyed the view that the Panglong-21 conference would provide the platform for a new – and more inclusive – start for peace-building and negotiation under a pro-democracy government (see ‘The 21<sup>st</sup> Century Panglong Conference’).

Such a change in the peace process never took place. Different opinions still continue over the events that followed. Some of those on the inside of the NCA discussions argued that it was perfectly feasible, as was attempted at the first Panglong-21 meeting, to have broader inclusion and use the meeting as a building-block in NCA progress. The NCA called for ‘inclusive political dialogue’ and participation ‘based on an all inclusive principle’. In essence, the UPC and Panglong-21 could be inclusive within the NCA process if all parties agreed to make them so.

Manifestly, this did not happen. EAOs that either believed they were being excluded or had not signed the NCA were deeply

disappointed by what they saw as the failure of the Panglong-21 invocation – a prize asset in political union – to reform the peace process and deliver real change. The meeting marked a pinnacle in inclusion which, it was hoped, would be built upon. But, from the viewpoint of critics, the NLD's Panglong-21 was unhelpfully combined in nomenclature and process with the NCA's UPC, confusing hopes of radical change and widening divisions in the conflict landscape at a time when relations between the government and NCA non-signatories had been improving.

Emblematic of the government's decision, the two processes were rebranded as the 'UPC-21CP' which bore the imprint of both the Thein Sein and Aung San Suu Kyi administrations. In essence, the 'first' UPC-21CP was considered the 'second' UPC since the first UPC had been held the previous January. But, whether strategically or not, the consequences of the failure of Panglong-21 to provide a new dynamic to the peace process were never thought through. Subsequent events began to overlap, and it is difficult to steer a clear narrative to the satisfaction of all groups and parties.<sup>26</sup> Divisions were deepening, with resonance that continued throughout the NLD's time in office.

Of immediate impact, these schisms were symbolised by the exclusion of three non-ceasefire EAOs – the MNDA, TNLA and ULA/AA – from the first Panglong-21 conference. This arbitrary action happened when they refused to issue a statement according to the wording of the Tatmadaw Commander-in-Chief, Snr-Gen. Min Aung Hlaing prior to the meeting. In essence, they believed that they were being required to renounce armed struggle before any negotiations began. Subsequently, only two more EAOs, the NMSP and LDU, joined the accord during the NLD's term in government. In the meantime, the rest of the NCA non-signatories were also effectively excluded from formal discussions, resulting in a fragmentary array of inter-party relationships that complicated rather than addressed the challenges of bringing the different conflict actors together (see box: 'The Changing Definitions for Ceasefires and Peace Talk Inclusion').

On a more positive note, signatories to the NCA hoped that, by committing to the new accord, there would finally be an agreement in place between the government and EAOs that, they trusted, would lead to meaningful progress. Notably, the KNU had been under arms against the government since 1949 without any protracted ceasefire.

Thus, to lay the foundations for peace, key commitments in the NCA included a chapter on civilian protections, the promise of constitutional change, protection from arrest under the Unlawful Associations Act (1908) for NCA signatories, security from legal repercussions for actors involved in the peace process, and a section on 'interim arrangements' that recognise the local governance of EAOs.<sup>27</sup> Encouraged by these promises, the NCA parties began drafting a Framework for Political Dialogue, which for EAOs was the key purpose of the agreement, and Terms of Reference for institutions such as the JMC which was established to stabilise the ceasefire nationwide, a key pledge.

Less noticed, however, influential actors in the conflict front-lines were quick to express criticisms about the complicated nature of the structures and processes that the NCA now set in motion. Many EAO leaders regarded the rushing through of the accord as a tactical move by President Thein Sein before the 2015 general election.<sup>28</sup> Also unhelpful, smaller EAOs – with limited resources – regarded the complexity of the procedures as an obstacle to meaningful participation. Their difficulties in preparation for meetings contrasted with Tatmadaw officers who always turned out well briefed and prepared. Ominously, none of the ceasefire groups from the SLORC-SPDC era agreed to the new NCA. These were not naïve or inexperienced organisations.

During that earlier period of ceasefires (1989-2011), the military government had set up a National Convention in 1993 that continued meetings until 2008 to draw up a new constitution. Ceasefire groups were invited to take part and provide input, and a majority of them did so. But most of their demands were ignored, and the outcome was a quasi-civilian system of government that

they mostly rejected.<sup>29</sup> Equally critical, leaders of such EAOs as the Shan State Progress Party (SSPP), NMSP, NDAA and UWSP were also unconvinced as to the advantages of the NCA over their existing ceasefires, some of which date back to 1989.<sup>30</sup> In the post-2011 era, ethnic nationality leaders made it clear that they wanted a ceasefire process that prioritises political dialogue, meaningful peace and reform today and not at an uncertain moment in the future.

Such views were generally overlooked following the NCA inception. Back in 2015, the NCA was in many ways overshadowed by the NLD's general election victory. Great hopes rested on Aung San Suu Kyi's promises to introduce a new era of peace and reform. But less remarked was the managerial and cultural shift in the government's handling of the peace process after the NLD assumed office.

Under the Thein Sein presidency, the government had been an integrated administration between the Tatmadaw and pro-military Union Solidarity and Development Party which, with the NLD and pro-democracy parties boycotting, had dominated the 2010 general election amidst widespread voting fraud. In this environment, the government's lead negotiator ex-Gen. Aung Min was given authority to seek creative solutions and to work with all the parties. He even pushed this authority, convincing his superiors of what was necessary to achieve agreements.<sup>31</sup>

This flexibility in arrangements came to an end with the NLD's arrival in government. The post-2016 administration was always an uneasy marriage between the NLD and Tatmadaw which, under the terms of the 2008 constitution, is reserved a leading role



Ethnic Kayah villagers in Shadaw township, Kayah (Karenni) State (TNI)



in national politics. This includes control of three ministries (Home, Defence and Border Affairs) and the reservation of seats for defence services personnel in the three levels of legislatures (lower and upper houses of parliament, and state/region assemblies).<sup>32</sup> In this relationship, the NLD always struggled to promote its political vision and identity in an administration where a number of former military officers and civil servants were appointed to leading posts. During the NLD's five years in office, less than a third of the cabinet came from party representatives.<sup>33</sup>

Many problems – both technical and political – emerged from this unusual partnership. It was always questionable whether this attempt at compromise led to a government that could work effectively, whether in decision-making or policy implementation. During the Thein Sein administration, the senior peace body was the 'Union Peacemaking Central Committee' under which the 'Union Peacemaking Work Committee' conducted formal negotiations. Both of these committees contained representatives from the executive,

parliament and Tatmadaw. In tandem with this system, the Myanmar Peace Center (MPC), set up with over US\$ 100 million in international donor funds, operated as the government's negotiation secretariat. Together with Aung Min, who was also a cabinet minister, MPC officials liaised between the EAOs, peace committees and different branches of government and the Tatmadaw. An MPC high-point came in November 2012 when the European Commission President José Manuel Barroso attended the opening of the MPC's Yangon office.

This personalized system of relationships came to an end when the NLD entered government. After many years of political marginalisation and repression, party officials wanted to put their own stamp on the peace process. In a change of strategy, the new administration prioritised unity between the civilian and military sectors of government and did not want a visibly 'three-part' negotiating team. They also disbanded the MPC, which was perceived to be corrupt and included staff that the NLD and ethnic

parties did not trust.<sup>34</sup> In its place, the NLD established its own National Reconciliation and Peace Centre (NRPC), chaired by Aung San Suu Kyi, and established sub-committees to begin talks with the EAOs.<sup>35</sup> A Peace Commission was also formed with the goal of facilitating meetings, and a leading role was assigned to Aung San Suu Kyi's personal physician, Dr Tin Myo Win, who became the NRPC's second Vice-Chair.

Opinion, however, quickly developed that the NLD's peace architecture was unfit for purpose. Four major difficulties stood out.

- Despite Aung San Suu Kyi's promises of the 21<sup>st</sup> Century Panglong, the NLD appeared unwilling or unable to establish an inclusive roadmap for peace.
- The top-down leadership structure of the government and lack of delegation of peace talk authority often prevented meaningful negotiations from taking place. It also inhibited informal pre-discussions to prepare for formal meetings going ahead, which was in contrast to experiences under the Thein Sein government.
- Personnel choices were questioned, with a lack of clarity about the roles of different representatives in the government's team and a heavy reliance on members from the former administration.
- There remained the unaddressed issue of the division of authority between the NLD and Tatmadaw in government. Throughout the life of the NLD-led administration, military representatives continued to bring their own agendas to peace negotiation meetings.

For their part, NLD leaders sought to work with the Tatmadaw and publicly show unity. In contrast, Snr-Gen. Min Aung Hlaing and the military leadership did not appear to see the government's successes as their own. Rivalries were frequently expressed. This included Tatmadaw blockages on constitutional reform and amendments that would allow Aung San Suu Kyi to become State

President. President Thein Sein also faced challenges over policy alignments with the Tatmadaw. But he and his ministers benefited from important institutional bonds and overlapping interests that brought the civilian and military branches of government together. A former general, Thein Sein was last prime minister of the outgoing State Peace and Development Council in March 2011.

Against this backdrop, a sense of co-ownership and public partnership in the peace process began to ebb away. The ongoing fighting in several borderlands<sup>36</sup> only increased disillusion. With the Tatmadaw pursuing its own policies, the belief continued to grow that there were two negotiating parties on the government side: the NLD and Tatmadaw. Indeed the perception was widespread that the key national reconciliation struggle during the 2011-21 era was not between the government and nationality peoples – rather, it was between the two major bodies among the ethnic Bamar majority: the NLD and Tatmadaw. In this equation, the importance of 'minority'<sup>37</sup> or ethnic nationality interests was effectively sidelined.

To try and address this roadblock, ethnic representatives frequently expressed their concerns, criticizing the NRPC and Peace Commission for lacking any negotiating authority. In reply, NRPC representatives told their negotiating partners that they could only bring messages back to 'higher authorities'. But this was never accepted as a satisfactory answer. Compounding the difficulties, there was less access to the government leadership under the NLD administration than there had been under President Thein Sein when ethnic representatives had direct links to the MPC, leading officials such as Aung Min and Soe Thane, and the state and regional levels in local affairs.

The result was an unexpected paradox. Under an NLD-led administration, the first democratically-elected government in the three decades, the change in peace dynamics was significant – and not necessarily for the better. In contrast to the Thein Sein administration, EAOs had little trust that

## Ethnic Armed Organisations, February 2021<sup>38</sup>

**Arakan Army/United League of Arakan** <sup>1 2 3 4</sup>

**Arakan Liberation Party** <sup>1 5 6</sup>

**Arakan National Council** <sup>1 7</sup>

**Chin National Front** <sup>1 5 6 8</sup>

**Democratic Karen Benevolent Army** <sup>1 5 # 6</sup>

**Kachin Independence Organisation** <sup>1 2 3 8 9</sup>

**Karen National Union** <sup>1 5 6 8</sup>

**Karenni National Progressive Party** <sup>1 5 7</sup>

**KNU/KNLA Peace Council** <sup>1 5 # 6</sup>

**Lahu Democratic Union** <sup>1 6 + 7</sup>

**Myanmar National Democratic Alliance Army** <sup>1 2 3 8</sup>

**National Democratic Alliance Army** <sup>3 5 #</sup>

**National Socialist Council of Nagaland-Khaplang** <sup>5 \*</sup>

**New Mon State Party** <sup>1 5 # 6 7</sup>

**Pa-O National Liberation Organisation** <sup>1 5 6 8</sup>

**Restoration Council of Shan State** <sup>5 6</sup>

**Shan State Progress Party** <sup>1 3 5 # 8</sup>

**Ta-ang National Liberation Army** <sup>1 2 3 8</sup>

**United Wa State Army/Party** <sup>3 5 #</sup>

**Wa National Organisation** <sup>1 8 \*\*</sup>

**All Burma Students Democratic Front** <sup>5 6 \*\*\*</sup>

<sup>1</sup> Nationwide Ceasefire Coordinating Team

<sup>2</sup> Northern Alliance (also Brotherhood Alliance except for KIO)

<sup>3</sup> Federal Political Negotiation and Consultative Committee

<sup>4</sup> Informal ceasefire, November 2020

<sup>5</sup> Bilateral ceasefire agreed (or resumed) with government in 2011-12

<sup>5#</sup> Existing ceasefire at time of 2011-12 bilateral signing

<sup>6</sup> Nationwide Ceasefire Agreement signatory

<sup>6+</sup> Signed NCA in 2018 without prior bilateral ceasefire

<sup>7</sup> United Nationalities Federal Council

<sup>8</sup> Ex-UNFC member

<sup>9</sup> 2013 Reduction of Hostilities Agreement

\* Also operational in India

\*\* Current status uncertain after potential amalgamation with UWSP

\*\*\* Non-nationality force based in ethnic territories



government intermediaries would try and convince decision-makers in the corridors of power to understand the ethnic point of view and seek agreement.

International initiatives also failed to address the many inconsistencies that followed the NCA signing. Various approaches can be highlighted.

- China, especially, stepped up its behind-the-scene roles, promoting President Xi Jinping's Belt and Road Initiative (BRI) as a peace dividend for the country.
- Western donors to the Joint Peace Fund (JPF) established an increasingly visible presence in the country with a particular focus on the NCA and its signatories.
- The Kofi Annan 'Advisory Commission on Rakhine State' conducted consultative research on Arakan.<sup>39</sup>
- UN human rights investigators shone a spotlight on the continuing conditions of conflict.<sup>40</sup>
- And government officials, Tatmadaw representatives and NCA signatories were supported on 'peace study' trips to such destinations as Colombia, South Africa, Nepal, Switzerland and Northern Ireland.<sup>41</sup>

But while international actors became heavily invested in different policies and programmes, substantive progress was never made on an inclusive process towards nationwide peace and democracy (see box: 'International Actors in the Peace Process').

Equally critical, many ethnic nationality leaders believed that this build-up of international activities became a distraction, creating obstacles rather than developing processes to heal national divisions. Although outside interest was welcomed, a number of complaints were persistently made. First, the perception was widespread that international actors supported the NCA in taking stakeholders in the country further away from settling the urgent political questions

at hand. Second, by positioning themselves close to the government, international actors reinforced the unequal status quo. Third, through their focus on the NCA, they proved incapable of addressing the most serious challenges in the conflict field. And fourth, they undermined local organisations and initiatives.

These criticisms were never addressed. During the SLORC-SPDC era, community figures such as the Rev. Saboi Jum (Kachin), Prof. Tun Aung Chain (Karen) and Bishop Sotero (Kayah) were leading actors in the peace process – a role that was accepted on both the government and EAO sides. But the ability of local intermediaries to address peace failings was much diminished following the NCA signing with the country divided between signatories and non-signatories. Neither the NLD nor Tatmadaw appeared to want local intermediaries, while international donors mainly funded international organisations. As a result, the peace architecture came to be reflected by a complex bureaucracy of thematic areas and committees from which local organisations and communities felt excluded (see box: 'NCA Implementation Architecture').

Since the 2021 coup, many doubts have been reaffirmed again about the willingness of the Tatmadaw leadership to accept an inclusive peace process. Establishing a viable peace process to end over six decades of civil war was never going to be easy. Nevertheless there was always belief among the conflict actors that, with the political will, a nationwide ceasefire could have been achieved. In private, all sides to the negotiations acknowledged this during the NLD's time in office.

Myanmar, however, was never a land at peace following the NCA signing, and several parts of the country witnessed serious, and sometimes devastating, upsurges in conflict and displacement. A litany of regressive activities and trends quickly built up. Amongst these, inconsistencies in process lay at the heart of many of the failures to formulate and implement an inclusive roadmap to peace. Despite its bold aspirations, the NCA did not mark a nationwide breakthrough.

## Trust-building and trust-breaking: the politics of exclusion

Decades of fighting and failed ceasefires have created deep suspicion between the government and ethnic opposition parties as well as among nationality groups themselves. Long before the 2021 coup, the government had become synonymous with the Tatmadaw in many communities, while ethnic politics were similarly militarised. Between 1962 and 2011, military rule had, in effect, continued unbroken: first through the ‘Burmese Way to Socialism’ under Gen. Ne Win, and second through the SLORC–SPDC under Snr-Gen. Than Shwe.

Despite this legacy, the peace talks between the conflict parties under the quasi-civilian governments of the USDP and NLD brought some initial understandings between the different sides. Of critical importance, President Thein Sein’s pledged commitment to ‘federalism’ and an end to civil war were regarded as ground-breaking.<sup>42</sup> Confidence, though, was soon eroded.

A decade later, an underlying lack of trust can be seen as a visible challenge throughout the conduct of peace negotiations even before Snr-Gen. Min Aung Hlaing’s 2021 seizure of power. The process of negotiating bilateral ceasefires – and then the NCA – under the Thein Sein presidency involved many individuals and organisations building trust and taking risks together. This was a new experience for all the conflict actors. Developing trust required building relationships, repeated meetings and informal interactions, reciprocation and follow-through on commitments made during talks, and a willingness to continue working to overcome setbacks. Ultimately, such face-to-face engagements did not prove enough.

In particular, in the aftermath of the NCA signing, a new cycle of distrust began to develop. From the outset, one issue lay at its core: a lack of inclusion. The ‘politics of exclusion’ have long been practised by successive military governments in Myanmar. There has been little consultation with

ethnic nationality parties and little or no power-sharing. This has been part of a long-standing strategy of what can be described as ‘managing’ rather than ‘resolving’ conflict.<sup>43</sup> Since the country’s independence in 1948, the conflict field for governmental power, both local and national, has remained one of the most contested in the world. Yet, paradoxically, there have been few changes in the government or national system of politics to deal with such demands and challenges.

Dating back to the parliamentary era of the 1950s, the Tatmadaw has remained the dominant institution and nationalist force in the country. Different eras of government have been governed by three constitutions: in 1947, 1974 and 2008. During this time, critics of the Tatmadaw believe that leading commanders have used such tactics as peace talks, the declaration of ceasefires and promotion of militia as temporary measures to allow the advancement of government authority into the conflict zones by other means.<sup>44</sup> In essence, the Tatmadaw has continued to function as a ‘state within a state’, claiming ‘prerogative’ powers that allow it exclusive rights in all aspects of politics and society.<sup>45</sup> Until the present day, there has been no ‘theory of change’ or conflict resolution endgame in view.

It was during the preceding SLORC–SPDC era that Tatmadaw ceasefire strategies first reached a new plateau. In the post-1988 period, there were two main elements to this policy: making ceasefires with powerful Kachin, Kokang, Wa and other EAOs along the China border; and, at the same time, launching offensives and seeking to simultaneously initiate defections and agreements with breakaway factions from Karen, Karenni, Mon and other non-ceasefire forces in the Thailand borders. It was the beginning of a major escalation in the Tatmadaw’s pyithusit or ‘people’s militia’ programme to try and undermine armed opposition movements in conflict-affected areas of the country (see box: ‘People’s Militia and Border Guard Forces’).

In making these decisions, Tatmadaw leaders recognised that the SLORC government was



Peace negotiation teams, headed by KIO Vice-Chair Sumlut Gun Maw and Union Minister ex-Gen. Aung Min, in Myitkyina, October 2013 (KIO Delegation Records)

highly vulnerable in the aftermath of the 1988 democracy protests that had brought down Gen. Ne Win's one-party rule. A quarter century of hermetic isolationism under the 'Burmese Way to Socialism' was at an end. For its survival, the new regime's intention was to subvert the unity of the ethnic National Democratic Front (NDF: established 1976), National Coalition Government Union of Burma (NCGUB: 1990) and National Council Union of Burma (NCUB: 1992) and other anti-government alliances that supported the pro-democracy cause.<sup>46</sup> In a three-cornered struggle between the Tatmadaw, NLD and ethnic nationality forces, it was never certain who might ultimately win.

Understanding of these events is vital in order to comprehend why distrust of peace negotiations and ceasefires remains so profound today. Over time, the Tatmadaw's use of selective tactics became more pronounced. In line with this conflict management strategy, the SLORC-SPDC did not allow ceasefire talks with 'united front' organisations or Bamar-majority groups. Similarly, military operations were intensified against the Karen National Union, Karenni National Progressive Party (KNPP) and other

NCUB members or allies in NDF strongholds where many democracy activists had sought sanctuary in the wake of the 1988 repression. During the next decade, over 150,000 Karen, Karenni and Mon civilians fled across the border into refugee camps in Thailand (and also many Chins into India), while many more remained internally displaced inside the country.

In contrast, the Tatmadaw used a very different set of tactics in the northeast of the country where a series of ethnic minorities during 1989 saw the collapse of the Communist Party of Burma and emergence of a new generation of EAOs. Here, following a series of 1989-95 ceasefire agreements, EAOs who accepted military truces were treated as 'dialogue partners' of the military government and invited to join the National Convention to help draw up a new constitution.<sup>47</sup> Prominent ceasefire groups included the Kachin Independence Organisation, Palaung State Liberation Party (PSLP), Pa-O National Organisation (PNO) and Shan State Progress Party (all ex-NDF), and the (Kokang) Myanmar National Democratic Alliance Army and United Wa State Army (the latter both ex-CPB).<sup>48</sup>

Parallel to these management strategies, the Tatmadaw accelerated a policy of creating ‘people’s militia’ (pyithusit) among communities in the conflict zones. Initially these efforts were focused in the northeast of the country. But, during the following years, the formation of such paramilitary units became an increasingly common tactic in all the country’s borderlands. Many of the militias were led by EAO defectors who gained important positions in local politics and society. The result was a conflict landscape that, by the turn of the 21<sup>st</sup> century, rivalled the complexity of today.<sup>49</sup>

The question, then, was how the new government of President Thein Sein would handle the challenges of conflict transformation when the SPDC stepped down. Led by ex-military officers, the USDP did not appear to signal real change. Nevertheless, when the new administration made its first policy moves, the answers took many critics by surprise. By promising inclusion and a readiness to change, Thein Sein was able to encourage hopes that meaningful reforms would be possible. In a long-divided country, promises of peace were words that all Myanmar’s peoples wanted to hear.<sup>50</sup>

Events now began to move rapidly. Optimism was predicated on the belief that the reform process would become inclusive in the

normalisation of government, ending decades of conflict and national division. In support of these hopes, Thein Sein’s 2011 announcement of a new ceasefire policy and the NLD’s advent into parliament following 2012 by-elections were heralded as key elements in kick-starting a new era of progressive reform. A liberalising change in the political and economic atmosphere was quickly apparent in Yangon, Mandalay and other main cities, and these trends generally continued until the 2021 coup.

There were, however, warning signs of future troubles. ‘Security’ is as integral to Myanmar’s military leaders as ‘political’ transition which, under the 2008 constitution, guarantees the Tatmadaw a continued ‘leading role’ in national politics. Thus, rather than turning a new page in history, there was – less noticed – a continuity in many of the underlying trends in security and governance after the 2008 constitution was promulgated. These dynamics most directly impacted on ethnic minority lands, especially those where conflicts continued to be based. In 2023, all these events have military and political resonance.

Most importantly, three of the key ceasefires of the SLORC-SPDC era broke down during the transition to the new system of quasi-civilian democracy. Little noted at the time,

Raising the flag at Mon National School in NMSP-administered area, Ye township (TNI)



this all happened following the 2005 arrest of Gen. Khin Nyunt, the Tatmadaw's ceasefire architect, and the dismantling of the Military Intelligence Service (MIS) which, until then, had conducted much of the EAO negotiation and liaison. A shift in handling ethnic politics and ceasefire relationships was underway.

First, in 2005 the Ta'ang PSLP was disarmed as the Tatmadaw stepped up efforts to try and force ceasefire EAOs to come under central authority. Second, in 2009 the SPDC ordered ceasefire EAOs to transform into Border Guard Forces under Tatmadaw control. When, however, the majority refused, a military offensive – led by the present-day SAC leader Snr-Gen. Min Aung Hlaing – was launched against the Kokang MNDA. And third, in June 2011 the 17-year ceasefire with the KIO broke down three months after President Thein Sein took office when the Tatmadaw restarted military operations in the Kachin borderlands with China (see box: 'The Changing Definitions for Ceasefires and Peace Talk Inclusion').<sup>51</sup>

Critically, none of these issues was addressed during the early days of international optimism over Thein Sein's peace proposal. Only officials in China appeared to react to the worsening crisis.<sup>52</sup> As fighting spread across the northeast of the country, many EAOs regarded the resumption of military-first tactics in the Kachin and northern Shan States as a 'divide-and-rule' strategy to try and gain Tatmadaw control after their refusal to become BGFs. Support for armed struggle – and distrust for ceasefires – now revived under the KIO, MNDA, UWSP and a reconstituted Palaung movement, known as the Ta'ang National Liberation Army (see 'Conflict consequences of EAO exclusion').<sup>53</sup>

The negative fallout did not end there. Also joining the fighting was the newly-formed United League of Arakan/Arakan Army, which was emerging as the leading Rakhine EAO in the country.<sup>54</sup> Meanwhile, anti-Muslim violence broke out during 2012 across Rakhine State in which up to 200 people (mostly Rohingya) died. But, as in northeast of the country, insufficient attention was paid to the causes of distrust, conflict renewal and

breakdown in inter-community relations.<sup>55</sup> Rakhine State was now set on a path of downward spiral in political, ethnic and religious violence that came to overshadow much of the peace process (see box: 'Conflict Regression in Rakhine State').

In contrast, a very different picture emerged under the Thein Sein administration in southeast Myanmar. It was here that the Tatmadaw's ceasefire pendulum – and the focus of Western governments and donors – now swung. During 2011–12, such armed groups as the KNU, KNPP and Restoration Council of Shan State agreed state-level and union-level ceasefires with the government, marking the first meaningful cessation in hostilities in the Thai borderlands since independence. Unlike, however, the KIO, MNDA and ceasefire groups during the final years of the SLORC–SPDC era, there was no government requirement for them to become BGFs. The promotion of BGFs was apparently being dropped.<sup>56</sup>

From this point, the conflict divisions deepened further. During the early stages of the Thein Sein peace talks, EAOs were generally represented in two main groups. The first were former CPB-allied forces in the China borderlands, headed by the UWSP and NDAA, which had existing ceasefires with the government.<sup>57</sup> The second was the United Nationalities Federal Council (UNFC), an alliance of up to 12 EAOs, which was set up in February 2011 by a combination of both ceasefire and non-ce ceasefire movements in anticipation of the change to a new system of government.<sup>58</sup> As they recognised, it was essential for solidarity and trust-building that the different EAOs – whether in ceasefires with the government or not – should work together (see 'The UNFC's "eight-point" proposal').

To try and bridge these differences, a major gathering of EAO representatives took place in November 2013 at the KIO headquarters in Laiza where they announced the formation of a Nationwide Ceasefire Coordination Team (NCCT). Sixteen of the 21 EAOs considered to be part of the peace process formally joined the NCCT to collectively negotiate

with the government's Union Peacemaking Work Committee on the drawing up of a draft 'nationwide ceasefire accord'.<sup>59</sup> In a historic sign of international recognition, the UN Secretary-General's Special Advisor on Myanmar Vijay Nambiar and the Asian Special Representative of China Wang Ying Fan observed a number of subsequent meetings between the government and EAO representatives. The important principle of collective negotiation appeared to have been established (see chart: 'Ethnic Armed Organisations, February 2021').

Subsequently, however, Tatmadaw leaders returned to their rejection of discussions with united fronts and, on this occasion, with non-ceasefire EAOs in the northeast of the country. This was in keeping with the Tatmadaw's long-standing stratagem for bilateral rather than collective or multilateral talks with opposition parties. Within months of the NCCT's formation, government officials let it be known that the MNDAA, TNLA, ULA/AA and three smaller NCCT members would not be allowed to sign the NCA despite being part of the negotiation process: the ANC, LDU and WNO.

Little reported at the time, such actions and manipulations were to have long-term ramifications. Ultimately, a number of UNFC members said that it was the government's rejection of these six groups which was a key part of their reluctance to trust or sign the NCA at its 2015 inception.<sup>60</sup> Fuelling distrust, the Tatmadaw continued to launch military operations while peace talks were continuing, including against the KIO, a key UNFC-NCCT ally (see 'Peace failures and inconsistencies in process').<sup>61</sup>

Such exclusion marked a severe setback in confidence in the peace process, a division in the ethno-political landscape from which the NCA did not recover. Trust between EAOs and the government eroded rapidly following the NCA's inception in October 2015. With just eight EAOs signing, a further division appeared in the conflict landscape: this time between NCA signatory and non-signatory groups. Multiple levels of peace talk negotiations would now be required to deal

with ceasefire issues in the field and bring all conflict parties on to the same page.

Among the non-signatories there were three main groupings: those who had not been permitted to sign; those who had chosen not to sign at that time in solidarity with their allies; and those who did not want to sign at all. This last group included the UWSP and NDAA, which did not perceive the NCA to be any improvement on their existing bilateral agreements with the government.<sup>62</sup> In the following years, however, there was no change in the government's unwillingness to change the NCA. As Nai Hongsar, the NCCT Chairman, warned: 'An unattended fire will burn a house and continue to burn the whole village. Therefore, only if all the armed groups nationwide can sign the ceasefire will lasting peace be established.'<sup>63</sup>

A differentiated landscape in both perceptions and organisation could also be seen among the NCA signatory groups following their inclusion. Some saw their names on the NCA as providing them with greater legitimacy and a platform to carry out meetings with the government and the public. Others hoped for this, although they later realised that they did not achieve such a real benefit. Some also gained security for the small areas of territory they controlled or were within territory held by other NCA signatories. Certainly, other than the promise of a political roadmap, there were no specific reform commitments in the NCA. For example, there was no suggestion of a Wa State equal in rights to other states that would encourage the country's strongest EAO in military terms, the UWSP, to sign the accord. Such a territory is a key UWSP demand.

Instead, a different rule of thumb emerged during the NCA's first years: the more fragmentary a group is, the more advantageous it appeared to sign the NCA. In a time of uncertain transition, being an NCA signatory provided an incentive to join a process for political reform and an opportunity to build a public image in government-controlled areas. Similarly, such veteran organisations as the KNU and the NMSP had suffered splits and defections during the previous two decades under

SLORC-SPDC government. Leaders thus hoped that the NCA provided new forms of political rights that they had long been denied. Ceasefire ‘credentials’, however, were not the objectives for which the NCA was intended. Seventeen ethnic armed movements, in fact, took part in the military and political negotiations that led up to its conception.

The NCA never truly recovered from this ‘start-up’ failure to include all EAOs. Conflict and humanitarian suffering subsequently occurred in several parts of the country. In defence of their decision, a number of NCA signatories privately said that they were influenced to sign by international actors who argued that it was best to initialise a treaty among the ‘willing groups first’, and other parties ‘could join later’. As evidence of a door being open, two EAOs – the LDU (which was initially excluded) and NMSP – did later join the accord in February 2018. But the failure to gain the inclusion of all EAOs in the initial signing affected every aspect of the peace process that followed.

Five major difficulties can be identified, all of which increased a public sense of marginalisation from the accord. First, the signatory groups participating in the formal NCA implementation process represented a small proportion of the total troop strength among all EAOs. They also did not include any organisations based along the China border. Second, NCA exclusion limited the ability of the peace process to cover interests and events in the entire country. Third, without participation by Kachin, Karenni, Kokang, Naga, Ta’ang, Wa and other nationality groups, these populations were restricted in their representation in the political dialogue process, including the UPC-21<sup>st</sup> Century Panglong Conference. In addition, they were not entitled to ethnic-based ‘national dialogues’ as stipulated in the NCA, and they received fewer representatives in all levels of political negotiations (see box: ‘National-Level Dialogue Meetings’).

Related to this, international donors and political actors provided unequal support to EAOs on the basis of NCA status. Over the following years, a number of key donors

unhelpfully blocked or dropped financial support for peace-related activities by EAOs, including engagement with civil society, due to requests from the government and a prioritization of bilateral relationships with the central authorities. This was to have negative consequences for inter-ethnic unity and harmony, leading to a new set of grievances that last until today. Although many international actors demand high ‘conflict sensitivity’ standards, such as inclusivity and non-discrimination in projects they fund, they did not appear to practise these themselves on the main platform for peace, the NCA, in the country.

To cite one example, the increased militarisation and build-up of EAOs in northern Shan State following the NCA signing – and related rise in tensions between Shan, Ta-ang, Kachin and Kokang communities – were among the most worrying consequences of these differentiated treatments of NCA and non-NCA groups. Many ethnic representatives felt that neither the NLD-led government nor peace donors in the international community tried to address these issues. Short-term policy objectives were the priority, and the long-lasting impact of these new conflicts were ignored. Meanwhile Rakhine State became a major war-zone and the scene of new waves of humanitarian suffering.

This leads to the fourth consequence from the lack of social and political inclusion. The effect of these exclusions was that agreements made through the NCA implementation process failed to create a sense of legitimacy and ownership among all EAOs and communities in the country. This, in turn, made it more difficult to create buy-in and acceptance of potential process agreements or political compromises by movements and peoples who believed that they had been left (in some cases deliberately) on the outside. To try and persuade non-signatory EAOs to join, government negotiators under the NLD administration argued that the NCA was more than ‘part of the peace process’: it was the ‘first step towards establishing the democratic federal Union’.<sup>64</sup> Given the tangle of reform, however, many EAOs remained unconvinced.

And fifth, the advent of the NCA did not lead to a reduction in armed conflict in the country at large. Under the USDP and NLD administrations, it was evident that, since 2012, fighting had significantly reduced in most areas where bilateral ceasefires were agreed. But there was no further advance in reducing the general conditions of militarisation in ceasefire areas following the NCA inception. Social and military tensions generally remained high in territories administered by most ceasefire EAOs, including both NCA signatories and non-signatories.

Compounding distrust, NCA exclusion led to a marked increase in conflict in non-ceasefire territories after the Tatmadaw intensified military operations during the second half of 2016. This recourse to arms reinforced the impression that, for Snr-Gen. Min Aung Hlaing and other Tatmadaw leaders, military solutions remained primary conflict strategies. Inevitably, this had a negative impact on the peace process, adversely affecting political impressions both within the country and abroad.

### **Conflict consequences of EAO exclusion**

After the NLD came to office, there were initiatives of varying intensity to persuade more ceasefire EAOs to sign the NCA. There were also tentative meetings and different kinds of discussions with both ‘refusal’ and ‘excluded’ groups in the Federal Political Negotiation and Consultative Committee. During this time, military engagements also took place between the Tatmadaw and some of the NCA signatories. But, in general, this did not compare with the levels of combat with EAOs that were NCA non-signatories. Although conflict was largely centred in the western and northeast borderlands, the escalation in fighting and loss of life negatively impacted on the NCA and prospects for peace in the whole country.

The conflict consequences of these EAO exclusions did not go unremarked. Following the NCA’s inception, nationality parties

continued to reprove the ways in which the government authorities pursued the peace process in non-inclusive ways. A long list of complaints built up: the apparently ad hoc form by which ‘negotiation partners’ were decided; the Tatmadaw’s launching of military operations in selected areas while peace talks and, sometimes, ceasefires were underway; the government’s agreement of major economic and infrastructural deals with domestic and international partners without regard for NCA commitments; and the failure to prioritise a roadmap of nationwide dialogue and reform that is inclusive for all peoples.

Such criticisms represent a powerful indictment of NCA weakness. The respite from conflict was widely welcomed in ceasefire areas after decades of civil war. But this was only part of the conflict resolution story. In other parts of the country, the NCA introduced or reinforced schisms that had become an integral part of the ethno-political landscape. The outcome was increased insecurity and loss of life among communities living across multiple townships in different parts of the country. Diverse conflict actors were involved, with local peoples sometimes pitted against one another in several states and regions.

In the face of these failings, the government seemed unwilling to act, leaving decisions in the field to the Tatmadaw supreme command. Maintaining legitimacy for the NCA appeared to have become more important than facing up to developments on the ground. Despite initial hopes for the 21<sup>st</sup> Century Panglong conference, the four meetings that took place during the NLD administration compounded rather than addressed the lack of inclusion in the country. Exclusion fed polarization and militarization, while restricting avenues for political change.

Adding to this neglect, the government, Tatmadaw, foreign donors and signatory leaders all had a vested interest in the NCA appearing to succeed because, they believed, it provided them with a mark of domestic and international legitimacy. This was an asset that had been notably lacking in national politics for many decades. But this focus on the NCA turned attention away from the



## The Changing Definitions for Ceasefires and Peace Talk Inclusion

Over the years, Tatmadaw leaders have provided different explanations during different eras of government for the varying negotiating conditions with ethnic armed opposition groups. In general, ceasefires have always been offered to breakaway groups, and local militias (pyithusit) have been promoted in the field against stronger nationality forces. At the same time, the Tatmadaw has granted a degree of respect to older parties, such as the Karen National Union, Kachin Independence Organisation and Shan State Progress Party, or those that, as military opponents, are perceived to have never 'surrendered'.

Many difficulties follow from this amorphous set of practices and definitions. The main justification used by military officers is generally one of 'newness'. Unless it is a breakaway group, the Tatmadaw perceives any 'new' force in a 'new' era of government as a personal opponent. Hence ceasefires were not regarded permissible for such EAOs as the Chin National Front during the SLORC-SPDC era since it was considered 'new' during that time.

Following on from this, Tatmadaw officers argue that new opposition forces will continue to be established if any new group taking up arms can demand political recognition and ceasefire talks. For example, the Restoration Council of Shan State was rejected by the SLORC-SPDC from peace talks as a breakaway group from the Mong Tai Army (MTA) led by Khun Sa who 'surrendered' to the government in 1996. Under the Thein Sein presidency, these exclusions were quickly forgotten. The RCSS and CNF became key NCA signatories.

After 2011, the designation of being 'new' was more specifically applied against the Myanmar National Democratic Alliance Army, Ta'ang National Liberation Army and United League of Arakan/Arakan Army in their marginalisation from the peace process. This notion of 'newness', though, was criticised by their supporters. In their view, the MNDA is a continuation of the first ceasefire EAO in 1989 (and key element in the collapse of the Communist Party of Burma),<sup>65</sup> a truce that lasted until the 2009 Border Guard Force order and the Tatmadaw's attack on its territory; the TNLA is a revival of the Palaung State Liberation Party movement that was formed in 1976 and had maintained a ceasefire from 1991 until its 2005 disarmament by the Tatmadaw;<sup>66</sup> and, founded in 2009, the ULA/AA is the latest in a long line of nationality EAOs in Rakhine State since independence in 1948.<sup>67</sup>

In the post-2011 era, other explanations for peace talk exclusion were also given. These include that armed opposition groups are 'small', 'criminals', 'drug-traffickers' or 'terrorists'.<sup>68</sup> In the case of the NCA, there were also requirements by the government for selected EAOs to renounce armed struggle, to have only one movement representing each nationality group, or to achieve a bilateral ceasefire before joining the accord. But, again, many of these definitions were bound by anomalies that exacerbated rather than resolved ethno-political divisions.

Tatmadaw officers, for example, argued that such groups as the Arakan National Council, Wa National Organisation and Lahu Democratic Union were too small for ceasefires.<sup>69</sup> These groups, however, claim legacies from organisations dating back to the 1970s. At the same time, with the exception of the KNU and RCSS, the NCA signatories were by no means the largest or most influential EAOs in the country. Meanwhile, despite its earlier exclusion, the LDU was invited to sign the NCA in 2018. Similarly, while there were three Karen signatories to the accord,<sup>70</sup> only one Rakhine organisation was permitted to sign the NCA: the Arakan Liberation Party (ALP). This led to the incongruous situation where the ALP, whose main force of 50-100 troops was historically based on the Thai border, was recognised for peace talk inclusion while the ULA/AA, with thousands of fighters, was barred.

Inconsistently, too, while the government sought to encourage the ceasefire United Wa State Party and National Democratic Alliance Army from the SLORC-SPDC era to join the NCA, there was no suggestion of inclusion for such EAO groups as the Pa-O National Organisation, which also joined the National Convention (1993-2008) to draw up a new constitution. Today the PNO retains an armed wing – designated as a pyithusit – and was represented by a political party in the legislatures until the 2021 coup. NCA recognition, instead, was granted to the Pa-O National Liberation Organisation, formed in 2009 by breakaway leaders from the PNO and a rival nationality movement.<sup>71</sup>

A similar ambiguity in politics and society developed in Karen State. Here the former Democratic Karen Buddhist Army (DKBA<sup>1</sup>), a 1994 breakaway group from the KNU, became one of the strongest armed forces in the country after its 2009 transition from a ceasefire EAO into a Border Guard Force under Tatmadaw authority. As such, like other ‘transformed’ EAOs from the SLORC-SPDC era, it had no role in the NCA negotiation process. But for local communities these varying distinctions by the government authorities are divisive and confusing on the ground.

It had been hoped that the victory of the NLD in the 2015 general election would herald a mood of innovation and change. But the language of exclusion further escalated after the NLD joined the Tatmadaw in government the following year. Both the ULA/AA and Arakan Rohingya Salvation Army were designated as ‘terrorist’ groups, leading to internet shutdowns in northern Rakhine State and the arrest of journalists who had interviewed ULA/AA leaders.<sup>72</sup> But, as all sides know, such designations are very fickle. The RCSS and All Burma Students Democratic Front, for example, were only removed from the government’s ‘terrorist’ list days before their 2015 signing of the NCA.<sup>73</sup>

At the same time, allegations of narcotics-trafficking also increased during the time of the post-2011 peace process, with all sides – both Tatmadaw and EAOs – trading accusations of involvement. In reality, the illicit trade in opium and methamphetamines – among the world’s largest – has long been a murky business in which many sides have been complicit.<sup>74</sup> Indeed during the past two decades the drugs business has reconfigured its structures to become a key element in the country’s ‘ceasefire economy’ in which Tatmadaw-backed BGFs and militia are among the largest players. Today the continued flourishing of the drugs trade remains a major cause of anti-government grievance in many communities as well as criminal enterprise that benefits, and is tacitly supported by, military rule (see box: ‘Economic Change during a Time of Conflict and Peace Negotiation’).

Since the coup in February 2021, the political ground for peace talks and inclusion has diversified into new forms. But one lesson has remained consistent from the failures in peace language and definitions during the past decade. In a divided landscape, it has long since been crucial that a holistic approach is taken to addressing the many social, political and economic challenges that conflict-divided peoples face in their daily lives. Government approaches have tended to deal with the manifestations of conflict – not the causes – and to exclude many of the most relevant conflict actors. Indeed, from the perspective of an effective peace process, these are the very groups that should be included – a distinction that many international actors also failed to note.

Peace processes should be promoted to treat – not to deepen – social and political divisions. Without inclusion and reform, there can be no solutions. Rather, since 2021, a new cycle of conflict re-alignments and peace definitions has begun.

Tatmadaw's activities, peace process exclusion and the troubling scale of humanitarian crises that developed in several parts of the country. A culture of silence too often prevailed.

In terms of fighting, combat triggers came from both the Tatmadaw and EAOs. In the cases of NCA non-signatories, the root causes were the exclusion of EAOs or their decision not to join the NCA. On the Tatmadaw side, there were two main elements: tactical manoeuvres and military attacks. Following the NCA's inception, the Tatmadaw stepped up its security-first strategies in non-signatory EAO areas even while peace talks were continuing. This included operations by the security forces against the Shan State Progress Party and other EAOs that had bilateral ceasefires with the government.

The most systematic pressures, however, were employed by the Tatmadaw against non-ceasefire EAOs. Conflict warning of the consequences of NCA omission came within six months of the NLD taking office when the Tatmadaw escalated attacks in Kachin and northern Shan States in the aftermath of the first UPC-21PC meeting. Fierce fighting took place in late 2016 when the Tatmadaw captured a key mountain outpost at Gidon close to the KIO's Laiza headquarters on the China border. By the year's end, the number of IDPs had passed the 100,000 mark since the 2011 breakdown of the KIO ceasefire.<sup>75</sup> The KIO, in fact, had held a 'reduction in hostilities' agreement with the government since 2013. But, following the first UPC-21PC conference, such commitments appeared to be forgotten (see 'Disrespect for bilateral and unilateral ceasefires').

At first, the escalation in conflict in non-ceasefire areas received little attention in the outside world amidst hopes for NCA progress. But a sea-change in perspectives took place in late 2017 when the Tatmadaw flew in shock troops from the country's northeast to join 'regional clearance' operations in Rakhine State against the Rohingya population and the newly-formed Arakan Rohingya Salvation Army. In many respects, these tactics were a revival of a 'four cuts' strategy that the Tatmadaw has used since the 1960s to

remove civilian populations in areas where it considers armed opposition groups to be active.<sup>76</sup> This time Buthidaung and Maungdaw townships were the main target. As killings and grave human rights violations escalated, over 725,000 Rohingyas fled as refugees into Bangladesh, leading to international investigations and legal cases for violations of international law, including genocide (see box: 'Conflict Regression in Rakhine State').

Finally, serious questions began to be asked about Tatmadaw objectives. With the majority of the Rohingya population disenfranchised under the Thein Sein administration, there was never any doubt that the government would exclude Rohingya representatives (whether EAO or civilian) from joining the NCA and, subsequently, Panglong-21 conference.<sup>77</sup> But as ethno-political and religious tensions mounted, it was quickly clear that the conflict in Rakhine State could not be seen as an isolated example of exclusion. In a stern rebuke, leaders of the Karen National Union Concerned Group compared the treatment of the Rohingya population to experiences by other nationality peoples of the 'Tatmadaw's strategy to terrorize, subjugate and ethnic cleanse'.<sup>78</sup>

The situation, however, was about to deteriorate even further on Myanmar's western frontier. In late 2018 the Tatmadaw and non-ceasefire EAOs embarked on a game of unilateral 'ceasefire diplomacy' that continued into 2021. There had, in fact, been a state-level ceasefire in Rakhine State since 2012 by the nominal force of the Arakan Liberation Party, an NCA signatory. Similarly, there had been a ceasefire in the adjoining Chin State with the Chin National Front, a fellow NCA signatory. But when Snr-Gen. Min Aung Hlaing declared the Tatmadaw's first 'unilateral' ceasefire in December 2018, the Western Command was excluded, ruling out Rakhine and Chin States from potential relief in active conflict (see 'Disrespect for bilateral and unilateral ceasefires' & 'Northern EAO ceasefire negotiations').

In defence of this policy, government officials argued that the exclusion of the Western Command was in part response

to the Rohingya emergency. But the 2018 announcement was very poorly timed from the perspective of communities on the ground, coming in the wake of a series of government decisions that inflamed rather than reduced grievances after the NLD took office. In particular, the barring of the United League of Arakan/Arakan Army, fast emerging as the strongest EAO in the territory, from the NCA process appeared a strategic attempt to undermine its growing influence and popularity. In response, AA commanders stepped up attacks from January 2019 with

convulsive effect, spreading their activities from the India-Bangladesh borders deeper into Rakhine and southern Chin States. The Tatmadaw replied with aerial and artillery assaults, mass arrests and strikes on rural villages, widening suffering and displacement across the territory.

The reputational consequences could not have been more damaging for the government, Tatmadaw and NCA during a time of promised peace-building. The conditions of conflict also had broader social impact, inflaming

Displaced Rakhine villagers waiting for water supplies at IDP camp, Sittwe township (TNI)



inter-community relations. The ceasefire ALP was accused of anti-Rohingya activities;<sup>79</sup> clashes broke out between the ALP and ULA/AA;<sup>80</sup> and another NCA signatory, the CNF, demanded that the AA withdraw its forces from Chin State.<sup>81</sup> By the end of 2020, over 10,000 Chin civilians were internally displaced or had crossed the border as refugees into India. Despite calls by civil society groups for peace, the government took no action to end the worsening conflict, introducing internet restrictions and designating the ULA/AA as a 'terrorist' organisation.<sup>82</sup>

It was not, however, only in western Myanmar that accusations grew that the NCA was being used to cause ethnic divisions. Ceasefire inequalities and ceasefire exclusions also saw rivalries – and sometimes clashes – between EAOs in other parts of the country. In particular, a number of EAO signatories to the NCA were able to grow in size.<sup>83</sup> Most obviously, within weeks of the NCA signing, the Restoration Council of Shan State began moving troops to the northern Shan State where conflict unfolded – and has since continued – with the non-ceasefire Ta'ang National Liberation Army and, sometimes, ceasefire SSPP. Hundreds of lives have been lost and thousands more civilians displaced in conflicts that are yet to subside (see 'Military violations' & 'Harm to civilians').<sup>84</sup>

Inevitably, too, the tensions between NCA signatories and non-signatories raised the issue of militia forces. These included a number of former ceasefire groups from the SLORC-SPDC era, such as the Democratic Karen Buddhist Army and New Democratic Army-Kachin (NDA-K), which had been transformed into paramilitaries and Border Guard Forces during the previous decade. Their role was to block the activities of EAOs and perceived anti-government groups even while these parties were engaged in the peace process. Supported by the Tatmadaw, many had significant military strength (see box: 'People's Militia and Border Guard Forces').

Another striking example was the emergence of a new EAO, the Shan-ni Nationalities Army (SNA). Initially, the SNA appeared to be promoted as a pro-government militia against

Kachin and Naga movements in the north of the country. The SNA's start-up would not have been possible without Tatmadaw approval. But, as its strength grew, the SNA increased its ethnic and political demands, including the right to join the NCA.<sup>85</sup>

Against this backdrop, there was evidence during 2020 that the Tatmadaw was seeking to reduce the movement of a number of militia forces and NCA signatory EAOs that it had previously sought to encourage. Notably, over 1,000 weapons were 'seized' in March that year during a major capture of illicit narcotics when the Tatmadaw occupied the headquarters of the Kaunghka militia, a breakaway ceasefire group in northern Shan State formerly known as the Kachin Defence Army (KDA).<sup>86</sup> Their leaders were arrested and the force subsequently disbanded. But such actions were little consolation for communities on the ground. While the need is for peace and reform, Tatmadaw tactics often appeared to support militarisation and division as a method of control.

Equally resonant, there was little indication that the Tatmadaw's exclusion of selected EAOs from the NCA process undermined their capabilities. Against a rising tide of human rights violations, popular support was generally perceived to have grown for ethnic opposition forces while the NLD was in office.<sup>87</sup> The MNDAA, TNLA and ULA/AA all significantly expanded their organisations and military outreach, while exclusion galvanised the NCA non-signatories into greater cooperation. Three new united fronts were formed among non-signatory groups: the Northern Alliance (2016), Federal Political Negotiation and Consultative Committee (2017) and Brotherhood Alliance (2019: see chart: 'Ethnic Armed Organisations, February 2021').

Supported by these networks, non-ceasefire groups responded to the Tatmadaw's renewed offensives following the 2016 Panglong-21 conference with their own stepped-up operations. In November that year, Northern Alliance members occupied Mongko on the China border before being forced out by aerial bombardment. Subsequently, heavy fighting

## People's Militia and Border Guard Forces

One of the most important, but often overlooked, aspects in conflict resolution in Myanmar is the role of people's militia (pyithusit) groups that are backed by, and under the formal control of, the Tatmadaw. Distinctions between armed actors are often difficult where their activities are another piece in the conflict jigsaw. Supporting this phenomenon, there is a long tradition of the formation of local 'tats' (militias or pocket armies) in the country and, since independence, the Tatmadaw has always sought to recruit and deploy such forces, often using defectors from larger armed opposition groups. Most notorious were the KaKweYe in Shan State during the later 1960s and early 1970s that were eventually ordered to disarm.

This strategy accelerated again during the SLORC-SPDC era in the 1990s and the 2009 transformation of the Democratic Karen Buddhist Army, Karenni Nationalities People's Liberation Front (KNPLF), New Democratic Army-Kachin and a number of other ceasefire EAOs or breakaway factions into Border Guard Forces.<sup>88</sup> Others, such as the ceasefire Kachin Defence Army, Kayan New Land Party (KNLP) and Pa-O National Organisation, were designated as people's militia, though continuing to wear their original insignia. According to the 2008 constitution (art. 340), the 'strategy of the people's militia' is 'carried out under the leadership of the Defence Services'. Supporters of the PNO and NDA-K also formed political parties, while the KDA – a 1991 breakaway group from the Kachin Independence Organisation – became described as the Kaunghka militia.<sup>89</sup>

Such BGFs and people's militia remained a common feature of the conflict landscape under the USDP and NLD administrations.<sup>90</sup> By an official count, there were over 6,050 such militia forces, with between 20 and 60 members, that were active in different parts of the country during 2019.<sup>91</sup> But the combined strength of the largest could number in the thousands in the conflict zones. In northern Shan State, for example, over 4,500 regulars and reservists were trained in Kutkai township to oppose the KIO,<sup>92</sup> while the Pansay militia was able to call in aerial and artillery support in fighting the Ta'ang National Liberation Army in Namkham township.<sup>93</sup> In Kachin State, the Tatmadaw was also accused of promoting militia among Rawang, Lisu and other ethnic sub-group identities as a means of undermining support for the Kachin nationality cause.<sup>94</sup> In Rakhine State, meanwhile, local militia trained by the Tatmadaw were accused of instigating anti-Rohingya violence.<sup>95</sup>

In several parts of the country, the most powerful militia also became prominent in business, notably the Karen BGF which began to develop a Chinese-backed new town at Shwe Kokko on the Thailand border. Despite the signing of the accord by three Karen EAOs (the KNU, Democratic Karen Benevolent Army [DKBA<sup>2</sup>] and KNU/KNLA Peace Council [KPC]), a complex landscape of armed groups continued in Karen State, Mon State and adjoining territories, with a diversity of militia forces active in business and security during the NLD administration.<sup>96</sup> In these rivalries, the Karen BGF was deployed under Tatmadaw authority against a breakaway faction of the DKBA<sup>2</sup>, which split after the NCA signing, while the ceasefire New Mon State Party also clashed with the Karen BGF after joining the NCA.<sup>97</sup> In essence, EAO NCA signatories were not only in confrontation with the Tatmadaw but, in theory, other armed groups in their local communities as well.

For all these reasons, nationality leaders became sceptical about the negotiation of peace and political reform if the conflict role of paramilitary forces is not factored in. Five criticisms stand out:

- The Tatmadaw's use of pyithusit militias, including former ceasefire EAOs, is ethnopolitically divisive, raises questions about the stability of ceasefire agreements and undermines the purpose of a peace process for inclusive reform.
- Utilisation of such militias, including as an end-state for ceasefire EAOs that had participated in the National Convention to draw up the 2008 constitution, raises the concern that the NCA process was also intended to divide and co-opt EAOs as part of a conflict management strategy that serves military interests rather than clearing a genuine path towards sustainable peace for the entire population.
- The BGFs and pyithusit militia very often appear to have a free hand in business and administrative affairs in their control areas, with many involved in such activities as tax collection, resource exploitation and narcotics trafficking.
- Many of the pyithusit militia are closely aligned with the Tatmadaw-backed USDP and other pro-military interests. During the post-2011 transition, a number of militias were headed by elected MPs, a trend that continued in both the 2015 and 2020 general elections.<sup>98</sup>
- Egregious actions by paramilitary groups – including human rights violations, land-grabbing and economic corruption – are defended by Tatmadaw officers as being outside government liability or responsibility. If, on the other hand, the government or Defence Services benefit from these activities, no restitution is considered. In effect, paramilitary formations serve as a cover for Tatmadaw strategies and interests.

In their defence, militia members from former EAOs have justified their movements by saying that they have not given up on their nationality causes. Caught in the midst of civil war, agreeing to establish a militia is considered to provide some protection for local communities. But the significance of these forces, many of which are stronger in troop terms than most of the NCA-signatory EAOs, should not be under-estimated during the 2015-21 period. Their activities meant that the Tatmadaw's strength in the ethnic states was very much more than garrison numbers, resettled veterans, the Union Solidarity and Development Party, and reservation of seats for Defence Services personnel in the legislatures. With militias also supporting the Tatmadaw's dominance in the economic field, the playing-field has never been level when it comes to negotiating peace and implementing reform.

Prior to the 2021 coup, there were indications that the Tatmadaw was seeking to rein in the activities of some of these forces. But for nationwide peace, ethnic nationality leaders argue that the role of militia groups must be brought into the peace negotiations, including the sensitive issues of Disarmament, Demobilization and Reintegration (DDR) and Security Sector Reform (SSR). Until this happens, community divisions will only continue. This would have been a subject for the Defence Services to lead on. But no action was taken during the NLD administration, furthering the belief that Tatmadaw-backed militia are stalking horses to repress nationality and other political movements while protecting the vested interests of the Defence Services, business groups and governments that do not represent local peoples.

In the aftermath of the 2021 coup, the activities of BGFs, pyithusit and other forms of pro-Tatmadaw militia are in a new state of flux. Embedded in the conflict landscape, they have significantly grown in number and deployment in many parts of the country, with a largely

new force – the Pyu Saw Hti<sup>99</sup> – formed among Tatmadaw supporters as well as a secretive Thway Thauk force that has attacked NLD members.<sup>100</sup> In a broadening of tactics, they have especially been recruited among the Bamar-majority population in the Magway and Sagaing Regions and around the main conurbations.

Notably, too, a host of new groups – known as People’s Defence Forces (PDFs) – have also been formed in many of the ethnic states and regions by anti-SAC movements. Some come under the authority of the rival National Unity Government, some are trained and supported by EAOs, and others remain nominally independent.<sup>101</sup> As a result, the country has regressed in many respects to the conditions of social and political breakdown that enveloped many communities at independence in 1948 when myriad armed groups were formed.

In this volatile landscape, analysis of such different forces is difficult. Instead, such collapse further iterates the need to understand the underlying structures of militarisation in the country and factor in the role of militia groups, especially those trained and deployed by the Tatmadaw, in any future discussions of processes for peace. During the past decade, they continued in operational force without ever becoming part of the NCA architecture and, in many communities, armed militia – in a diversity of guises – remain a key feature of the conflict landscape today.

erupted in March 2017 when MNDAA troops penetrated the provincial capital of Laukkai in the Kokang Self-Administered Zone. And in August 2019 Brotherhood Alliance members attacked the Defence Services Technological Academy in Pyin Oo Lwin to protest at the Tatmadaw’s ‘unilateral’ ceasefire tactics. ‘They announced ceasefires but attacked wherever they wanted to,’ said an ULA/AA spokesman.<sup>102</sup>

Peace talks with excluded groups did not come to a complete end. FPNCC members attended the 2017 and 2018 Panglong-21 meetings as observers and continued to support the principle of unilateral ceasefires. But disillusion against the NCA was growing. With political trust, there was belief that fighting could still be halted. But during 2020 two further obstacles intervened: the Covid-19 pandemic and November general election. With voting cancelled in many of the conflict zones, the sense of ethnic exclusion was deepening (see ‘Covid-19 and the 2020 general election’).

Whether peace dynamics would have changed during a second NLD term in office must remain an unanswered question. But many communities paid a heavy price for the failure

to end conflict following the NCA signing. The politics of exclusion did little to encourage EAO non-signatories to join the accord. And determination was strengthened of the need to gain real evidence of national inclusion and guarantees for reform before making future agreements.

### **Disrespect for bilateral and unilateral ceasefires**

Often lost sight of amidst the reform impasse under the NLD administration, the interwoven network of ‘bilateral’ ceasefires and, more recently, ‘unilateral’ ceasefires added another level of complexity to achieving peace through the NCA process. In addition to the challenges of implementing the NCA, the government, Tatmadaw and EAOs agreed, in principle, to continue working on the basis of the many bilateral ceasefires that had developed over previous years. Far from marking a new start, the peace initiative introduced by President Thein Sein built upon an existing network of ceasefires and relationships between different parties to the conflict.

Some of the present-day agreements date back to the SLORC-SPDC era, and were



concluded verbally as early as 1989. Most of these, such as by the NMSP, NDAA, SSPP and UWSP, were reconfirmed as new bilateral ceasefires – both state-level and union-level – during 2011–2012 under the Thein Sein government, and they were then put into writing.<sup>103</sup> All of these ‘reconfirmed’ agreements were with ethnic ceasefire organisations that had refused to transform into BGFs under the Tatmadaw’s 2009 order. But, of those refusing, it was only against the MNDAA (in 2009) and KIO (in 2011) in the northeast of the country that the government decided to renew military operations.<sup>104</sup>

Today the importance of bilateral ceasefires lives on. Many of the long-standing failings

and suspicions about the peace process have been underpinned by what is perceived as the Tatmadaw’s disrespect for such ceasefires. The same apparent inconsistency was also shown in the innovation or announcement of unilateral ceasefires. And yet, in its early stages, the new ceasefire policy of developing bilateral accords by the Thein Sein administration was designed to avoid these kinds of confusions and bring all conflict parties on to the same page.

The timeline is complex, and there were different policies and events affecting different parties in the field. But, in essence, there were three main elements in the government’s transformation of the ceasefire



Soldiers of the Kaungkha militia in Kutkai township, northern Shan State (TNI)

landscape after President Thein Sein assumed office: the renewal of existing agreements from the SLORC-SPDC era; the introduction of bilateral ceasefires with such non-ceasefire EAOs as the ALP, CNF, KNU, KNPP and RCSS; and the development of this admixture of state-level and union-level ceasefires as precursors to a multi-lateral, third-stage which – as decided later – became the 2015 NCA.<sup>105</sup>

For their part, most EAOs agreed with this general formulation. If there was to be a new peace process, they wanted to be at its heart. Most importantly, this goal was accepted by the United Nationalities Federal Council, an alliance of 11 (subsequently 12) EAOs – both ceasefire and non-ceasefire – that was formed in February 2011 on the eve of Thein Sein taking office. They also proposed the

calling of a nationwide ceasefire. Expecting disappointment, UNFC members were at first preparing for a new cycle of armed struggle. Within a year, most – including such veteran non-ceasefire EAOs as the KNU and KNPP – were talking peace with the government (see chart: ‘Ethnic Armed Organisations, February 2021’).

In conflict resolution terms, the differences in ceasefire histories and agreement processes may not have looked important. But little noticed at the time, an unhelpful division in bilateral ceasefire relationships and alignments was beginning. Most of the ‘new’ ceasefire groups went on to become the core of the NCA signatories in 2015. In contrast, most of the ‘existing’ ceasefire groups from the SLORC-SPDC era, including the KIO, SSPP and UWSP, were hesitant and more watchful of government behaviour. After the experiences under the SLORC-SPDC regime, they wanted a commitment to substantive political reform rather than simply the establishment of a new ceasefire process. They had all attended (with varying levels of involvement) the National Convention to draw up a new constitution (1993–2008).<sup>106</sup> Therefore, having refused to become BGFs or people’s militia, they viewed the promises of the Thein Sein government with a more long-term view than the new ceasefire groups.

Initially, it was hoped that these different parties and networks would be brought together by the new peace process which President Thein Sein set in motion. Concerns had already been aroused by the 2005 arrest for alleged treason of the SSPP leader Hso Ten, politician Hkun Tun Oo and other Shan figures who received jail terms of up to 106 years. These fears were then amplified by the 2009 order for the KIO, SSPP and other ceasefire EAOs to transform into BGFs, followed by the Tatmadaw’s capture of the MNDA’s headquarters at Laukkai when it refused to comply. And, with the resumption of military operations against the KIO in June 2011, many EAOs in the northeast of the country believed that Tatmadaw commanders were once again employing a strategy of ‘divide-and-rule’ against nationality



Chin woman on the banks of the Lemyo River, Rakhine State (TNI)

movements. As fighting spread, the seventeen years of the KIO's bilateral ceasefire appeared to count for nothing as the Tatmadaw sought to press home its advantage (see 'Conflict consequences of EAO exclusion').

During the following years, three categories of bilateral ceasefires were increasingly disrespected by the government authorities over time: SLORC-SPDC era ceasefires that were disrespected as the Thein Sein era began, a practice that subsequently continued; NCA signatory ceasefires that were disrespected despite still being valid and reaffirmed by the accord; and 2011-2012 ceasefires signed by EAOs that were NCA non-signatories.

Of these three groupings, it was the ceasefire EAOs that, ultimately, did not sign the NCA in 2015 which faced the greatest harassment and, sometimes, attack. These included EAOs that had signed or renewed bilateral ceasefires during 2011-12. Of these, the ceasefire UWSP and NDAA – which are militarily strong, well-organised and close to China – were for the most part ignored by the Tatmadaw, while less pressurised strategies were tried to bring them into the NCA process.

If the government's intention was to achieve peace and stability through this combination of military and political tactics, the results were counter-productive. Trust in the NCA among conflict actors and local communities was damaged by these overtly different policies, and suspicion grew over the government's willingness to comply with ceasefires – state-level, union-level or NCA – in any form. Coming at a critical moment in the peace process, the consequences were highly damaging. In essence, the argument developed among nationality leaders that, if bilateral ceasefires could not be trusted, why should the NCA?

In recognition of these uncertainties, the continuing importance of the bilateral ceasefires, both union-level and state-level, was reflected in the final NCA accord. The first sentence 'recognizes, reinforces, and reaffirms all previous agreements' between the government and EAOs, and these principles were reaffirmed again later in

the text. Subsequently, NCA signatories also complained of abuses and disregard for their bilateral ceasefires. But, generally, it was non-signatories that experienced the most persistent breaches of bilateral agreements, a trend that increased after the NCA inception (see 'Military violations').

Among the NCA non-signatories, the main target of the Tatmadaw appeared to have been the SSPP, which had agreed a ceasefire with the SLORC government in 1989 that was superseded by state-level and union-level agreements in January 2012. Some of the fighting was intense, involving multi-day military offensives with airstrikes that caused significant civilian displacement, notably at Wan Hai in 2015 and in renewed operations during 2019. The latter occurred during a time when the Tatmadaw had declared a unilateral ceasefire in Shan State. Whether by ceasefires or military operations, it appeared that – regardless of the humanitarian consequences – the Tatmadaw was seeking to ramp up control and security outreach during a time of peace negotiations (see 'Harm to civilians').

Other EAOs similarly complained of the Tatmadaw's violations of bilateral ceasefires. The NMSP continued to report incidents of military intrusion into its administered areas both before and after its 2018 signing of the NCA. In December 2017, Tatmadaw soldiers also killed three unarmed personnel and one civilian at a checkpoint of the KNPP, extrajudicial executions that were never addressed (see 'KNPP ceasefire negotiations').<sup>107</sup> And in January 2019 the Tatmadaw seized the headquarters of the ceasefire National Socialist Council of Nagaland-Khaplang (NSCN-K) on the India border.<sup>108</sup> Such operations were widely considered in local communities as indication that Tatmadaw commanders could not be relied upon to comply with the meaning of 'ceasefire'.

Further incongruities in the Tatmadaw's respect for ceasefire agreements occurred in Kachin State. Here the KIO was no longer considered a 'ceasefire organisation' following the 2011 breakdown of its 1994 ceasefire. But

UWSA troops at regional headquarters in Namphan township, Wa Self-Administered Division (TNI)



after mediation that involved China, the KIO did sign a ‘reduction of hostilities’ agreement with the government in May 2013, witnessed by officials from the United Nations, China and other EAOs.<sup>109</sup>

This innovation encouraged hopes that new ways to achieve peace were now being sought. Indeed the KIO ‘reduction’ agreement was more detailed than some of the bilateral ceasefire accords, including a commitment to political dialogue and the establishment of joint conflict management teams. The government side, however, dissolved its half of the committee at the time of the 2016 transition from the USDP to NLD administrations, and government officials never agreed to re-establish meetings. Conflict has since continued.

Another anomaly in the ceasefire architecture began to appear in late 2018. With Chinese influence again in the background, the three

members of the non-ceasefire Brotherhood Alliance – the MNDAA, TNLA and ULA/AA – issued a declaration of willingness to join political dialogue for ‘national reconciliation and peace’.<sup>110</sup> Several days later the Tatmadaw responded with the announcement of a ‘unilateral’ ceasefire, initially for four months, in the five regional commands in Kachin and Shan States. For a moment, it appeared that a new ‘ceasefire’ way had been found to break the conflict deadlock. The Western Command, however, was not included, ruling out Rakhine and Chin States from an end to Tatmadaw offensives (see ‘Northern EAO ceasefire negotiations’).

Such unilateral announcements by the Tatmadaw and Brotherhood Alliance members became a constant theme during the following years in the conflict landscape. But with the Western Command excluded from Snr-Gen. Min Aung Hlaing’s declaration, Tatmadaw selectivity in peace partners only

reinforced EAO concerns that ceasefires – whether bilateral or unilateral – were part of a strategy to manage conflict rather than deliver a political roadmap for inclusive reform. Unilateral declarations only served to highlight that the NCA was not ‘nationwide’ despite its public claims.

Fighting subsequently continued in all the territories where unilateral ceasefires were called, prompting critics to call them ‘meaningless’.<sup>111</sup> Min Aung Hlaing also announced the extension of unilateral ceasefires in response to the Covid-19 pandemic and the conduct of the 2020 general election, further extending them until the end of January 2021.<sup>112</sup> He also caused surprise by agreeing an ‘informal’ ceasefire with the ULA/AA in the aftermath of the election polls when the NLD won victory. But, while this move initially reduced tensions in Rakhine State, they appeared more a public relations exercise than a qualitative step towards nationwide peace.

Long before the 2021 coup, the cumulative effect of the Tatmadaw’s lack of respect for ceasefire agreements had undermined trust in the bilateral accords upon which the post-2011 peace process was built. The new generation of unilateral pronouncements only fuelled this mistrust. Critically, too, EAOs noted a weakening in respect for key provisions that some of the bilateral agreements allowed after the NCA was signed, such as for civilian ceasefire monitoring. Such failures were reflected in continuing tensions and outbreaks of conflict in different parts of the country, including areas administered by both NCA signatories and non-signatories.

Optimism, however, remained that the peace process would continue in some form following the 2020 elections, and the importance of bilateral ceasefires remained. Both Tatmadaw and government officials reiterated the policy of bilateral ceasefires in the intended winding down of the NCA process, and it was expected that they would remain a key element in the conflict landscape for the foreseeable future.<sup>113</sup> In November 2020, the FPNCC – which included non-ceasefire EAOs – released a statement

congratulating the NLD on its election victory and expressing willingness to join peace negotiations.<sup>114</sup> The problem, nevertheless, remained that, if inclusive talks were to proceed, bilateral ceasefires would first have to be agreed by the government with FPNCC members that did not have truces, remaining a persistent inconsistency in the peace process.

The consequences of the failure to follow through with bilateral and unilateral ceasefires proved grave. When ceasefires are not complied with, this severely lowers trust between negotiating partners and with the general public. It also teaches ethnic decision-makers that the Tatmadaw and government do not view agreements or announcements as requiring follow-through. Such selective and arbitrary treatment of ceasefires by the Tatmadaw only continued following the 2021 coup. For a peace process to be effective, it is essential all ceasefire commitments are respected by every party that is involved. This has not been the case in Myanmar, causing deep and continuing sufferings for the people.

## 2. Failures in NCA Implementation

### Military violations

During the NCA era, it was not only EAO non-signatories that were engaged in military hostilities. Following the NCA's inception, signatory groups also faced consistent threats, and in some cases attack, from Tatmadaw forces.<sup>1</sup> Clashes shifted in frequency and severity over time. In the process they weakened trust in the NCA and the ability of the Joint Ceasefire Monitoring Committee to address military violations of the agreement. Equally serious, they adversely affected local populations and the prospects for peace in territories administered by NCA signatories where communities were seeking to build peace after decades of civil war.

Initially, the conflict environment of military confrontation and human rights violations changed for the better in ceasefire areas after bilateral agreements were approved between the government and 14 EAOs during the 2011-13 period. In agreeing to the NCA, EAO signatory groups believed, as attested to in the first sentence of the accord, that the terms of these earlier ceasefires remained valid. Building on the bilateral agreements, the NCA imposed additional military rules and restrictions, as well as prohibitions against abusing civilians. After the Thein Sein administration stepped down, however, there were troubling increases in armed conflict in a number of ceasefire areas, including those administered by NCA signatories.

Numerous examples illustrate this. A particular flash-point was northern Karen State. Here clashes began in early 2018 when the Tatmadaw embarked on a road construction project that involved troop reinforcements and attacks on civilians in three brigade areas under the control of the Karen National Union. KNU leaders repeatedly complained that these activities violated the NCA's requirements to gain permission for armed combatants to enter the territory of other NCA parties.<sup>2</sup> The entry of Tatmadaw units also led to other violations of the NCA



Woman at market in Mongmao township, Wa Self-Administered Division (TNI)

that relate to civilian protections and troop movements. In addition to armed incidents between the two forces, the Tatmadaw prohibited civilians from using parts of the new road, fired light and heavy weapons into civilian areas, destroyed civilian property, displaced thousands of civilians, and killed a number of local people (see 'Harm to civilians').

In November 2018, concern over such violations was a primary reason why the KNU leadership – along with the Restoration Council of Shan State – decided to suspend attendance at formal NCA meetings. At the time, inter-party efforts to improve implementation of the accord were badly floundering. Both EAOs subsequently rejoined meetings. But the withdrawal by the two most important NCA signatory EAOs, though temporary, was a significant blow to the NCA's credibility (see 'Re-evaluating the NCA: the KNU and RCSS').

Such incursions and violations did not occur in a vacuum. The territory where most Tatmadaw operations occurred is a KNU stronghold, centred on Hpapun (Mutraw) District. From this base area, KNU influence reaches into surrounding townships where there are competing political, economic and security interests. These include the proposed Hatgyi Dam as well as various natural resource and infrastructure projects.<sup>3</sup> KNU commanders in the area were also known to be more cautious over agreeing to the NCA than the central leadership. In consequence, KNU supporters believed that, with the NCA in place, the Tatmadaw's objectives were twofold: to provoke internal divisions; and, at the same, establish road-building projects designed to further central outreach while undermining KNU authority and Karen autonomy in a territory that has never been under government control since independence.

Complicating the incidence of military violations, the Tatmadaw-backed Border Guard Force – formerly the Democratic Karen Buddhist Army – is also an active presence in Karen State, along with several smaller militia groups and two earlier breakaway EAOs from

the KNU which, in 2015, signed the NCA: the Democratic Karen Benevolent Army and KNU/KNLA Peace Council.<sup>4</sup> This also had troubling consequences for efforts to implement the accord. Critically, the Karen BGF battalions often – though not always – appeared to act unilaterally in relations with other EAOs, including patrols, laying anti-personnel mines, controlling roads and taking a lead in security operations. In essence, they took a combatant rather than policing role (see box: 'People's Militia and Border Guard Forces').

The KNU's decision to suspend attendance at NCA meetings did bring a brief halt to Tatmadaw operations. But incursions subsequently continued, escalating again during the Covid-19 emergency that broke out in early 2020. This led to another warning from the KNU Supreme Headquarters. Although wanting to cooperate with the government in addressing the pandemic, the KNU accused the Tatmadaw of using ceasefires after the NCA signing to double the number of troops in northern Karen State where military columns had engaged in 'hostile activities'.<sup>5</sup> Karen leaders still hoped that it was possible to achieve federalism and democracy by political means but, to achieve this, it was essential to deliver a nationwide ceasefire based upon the implementation of NCA principles.<sup>6</sup> Warned the KNU, trust 'in the peace process had dwindled' among local peoples.<sup>7</sup>

Military violations during the NCA process also occurred in Tatmadaw operations against the New Mon State Party following the accord's 2015 inception. Founded in 1958, the movement has a long history. The NMSP had maintained a bilateral ceasefire with the government since 1995 which, after the party refused to become a BGF, was refashioned with state-level and union-level agreements in 2012. After two decades of relative peace, Mon leaders thus questioned why they should be compelled to sign the NCA. Their position was that, to achieve nationwide goals, the NCA should be inclusive and all parties must agree to its terms.

With this prospect in mind, the NMSP took a leading role in the United Nationalities Federal Council in drawing up 'eight

principles' that, they argued, should be agreed to strengthen the original NCA. Only then, they said, would the party sign the NCA with other UNFC members (see 'The UNFC's "eight-point" proposal'). For this reason, the NMSP leadership continued to hold out against signing the accord following its 2015 inception. In 2017, however, a series of NMSP checkpoints were seized in armed raids by the Tatmadaw.<sup>8</sup> Subsequently, the NMSP agreed to sign the accord in early 2018 on the basis of what they hoped would become an improved roadmap towards political reform. In private, though, officials said that military violations of their bilateral ceasefires were a prime factor behind this change of mind.

As a landmark decision by a veteran EAO, the context of the signing needs to be seen in more detail. Following the NCA's 2015 inception, a multiplicity of pressures came together on NMSP leaders. These included an increase in Tatmadaw incursions into NMSP-administered areas; the arrest of NMSP supporters and personnel whose release could only be secured by signing the NCA; growing conflict over territory with the KNU and Karen BGF which, NMSP leaders feared, the

government and Tatmadaw would support if they did not sign the NCA; the marginalisation of the UNFC; promises of development assistance tied to the NCA signing; lobbying by the Mon Buddhist Sangha, political parties and civil society organisations (CSOs) to sign the NCA so that they could participate in political dialogues; and concern about being left behind as the NCA appeared to gather international support as the only roadmap for peace.

Against this backdrop, the NMSP – along with the Lahu Democratic Union – assented to sign the accord in February 2018. The NMSP was increasingly isolated among ceasefire EAOs in the southeast of the country, with only the KNPP – a key UNFC ally – continuing to defer (see 'KNPP ceasefire negotiations'). At the same time, as a smaller EAO, the NMSP was not well prepared to return to armed conflict nor did members want to risk large-scale civilian displacement. In the face of mounting pressures, it thus appeared the easiest option to sign.

During the next two years, however, Mon leaders complained that there was little

Mon troops at NMSP gate, Ye township (TNTI)





change in Tatmadaw activity. In November 2019, several civilians were injured and over 700 refugees fled into Thailand after the Tatmadaw, backed by the Karen BGF, seized a NMSP base near Three Pagodas Pass on the border.<sup>9</sup> In particular, criticisms grew that the NCA was being used by Tatmadaw commanders to ‘expand militarised state control’ into areas of ‘mixed administration’ in between government and NMSP territories.<sup>10</sup>

Eventually, the conflict was defused. But this was achieved by informal negotiations – not through the formal mechanisms of the NCA and Joint Ceasefire Monitoring Committee. In one of the many anomalies in the NCA, despite having troop deployments in these territories, the NMSP was not allowed to join meetings of the JMC in Karen State or Tanintharyi Region – only in Mon State. The warnings were clear. The failures of the JMC, the very body to address ceasefire violations, were becoming a major obstacle in NCA application following the NMSP signing (see box: ‘NCA Implementation Architecture’).

Further violations then occurred in May 2020 when the NMSP was forced to close a Covid-19 checkpoint near the Thailand border.<sup>11</sup> Government authorities failed to provide an explanation why such health activities contravened NCA terms. But, with long experience of ceasefires, NMSP leaders believed that the violations were part of a long-standing tactic by Tatmadaw commanders of using ceasefires to undermine opposition administration and control.<sup>12</sup> Warned the NMSP Chairman Nai Hongsar: ‘A real nationwide ceasefire agreement should demonstrate the real intention to seek political solutions to end decades of conflict.’<sup>13</sup>

Similar criticisms about military violations were voiced in other parts of the country. Undoubtedly, the most pervasive cases during the time of the NLD administration occurred in Shan State. Myanmar’s largest region or state, it is also home to the greatest diversity of EAOs and militia forces, highlighting the difficulties in NCA implementation without a peace agreement that is inclusive and nationwide. Of most obvious deficiency,

intermittent clashes continued following the NCA signing with the two leading Shan EAOs, both of which had bilateral ceasefires with the government: the Restoration Council of Shan State that signed the NCA in 2015; and the Shan State Progress Party which did not.

The situation on the ground is complicated. Generally, their territories have been considered separate, with the RCSS mostly based in the south of the state and the SSPP in the north. But over the years frontlines have sometimes changed in a struggle that continues today, with the two movements maintaining different ambitions and traditions.<sup>14</sup> Notably, although the SLORC-SPDC government agreed a ceasefire with the SSPP as long ago as 1989, Tatmadaw leaders always refused to hold peace talks with representatives of the RCSS following their 1996 breakaway and formation from Khun Sa’s Mong Tai Army (see box: ‘The Changing Definitions for Ceasefires and Peace Talk Inclusion’).

The conflict balance then changed during 2011–12 following President Thein Sein’s initiation of a new ceasefire process, which both the RCSS and SSPP joined. Clashes continued in the north of Shan State where Kachin, Kokang and Ta’ang EAOs were without ceasefires. But, during the 2012–2014 period, fighting generally began to subside across the rest of the state, and areas administered by the SSPP and RCSS witnessed relative peace.

This came to an end with the NCA’s inception, with military violations again accelerating and all three sides, in different ways, involved: the Tatmadaw, RCSS and SSPP. Despite both state-level and union-level ceasefires with the government, the SSPP came under attack from the Tatmadaw in late 2015 following its decision not to sign the NCA. In contrast, the RCSS was given Tatmadaw approval to transport troops to the north of the state where an apparent ‘proxy’ war began with the non-ceasefire Ta’ang National Liberation Army and, sometimes, ceasefire SSPP. Civilian casualties and internal displacement began to mount (see ‘Conflict consequences of EAO exclusion’).<sup>15</sup>

Following these clashes, military violations continued of the terms of both the bilateral ceasefire agreements by the SSPP and RCSS and also of the NCA signed by the RCSS. There appeared to be no procedural roadmap under the terms of the NCA towards the ending of these conflicts nor a negotiating mechanism that could bring the different parties together. In practical terms, there was little that could be done if the different parties chose to fight and commit violations, regardless of their responsibilities under international law or the NCA.

Nor did the RCSS enjoy unrestricted rights as an NCA signatory. As in other parts of the country, the implementation of the NCA was only partial, and RCSS troops also fought during this time with Tatmadaw units in the field – battles that were not always reported. The RCSS also clashed several times with a fellow NCA signatory, the Pa-O National Liberation Organisation, that – under the terms of its 2012 ceasefire – had been permitted a small territory in the Mawksai area near the Thai border.<sup>16</sup> As tensions rose, the RCSS was signalled out for especial criticism by Snr-Gen. Min Aung Hlaing at the third anniversary meeting of NCA signatories in October 2018 where he warned NCA parties against ‘unilateral’ activities.<sup>17</sup> Meanwhile endeavours to hold Shan national-level dialogue meetings, a key element in the NCA roadmap, were running into persistent obstacles (see box: ‘National-Level Dialogue Meetings’).

Matters appeared to be coming to a head. Concern over military violations was a major reason why the RCSS decided to join the KNU in November 2018 in suspending attendance at formal NCA meetings. In public, RCSS leaders appeared keen to keep to the NCA path. Military violations, however, did not end. Continuing into 2020, RCSS troops fought several times with Tatmadaw forces (and sometimes with the TNLA) during the Covid-19 emergency and run-up to the 2020 general election.<sup>18</sup> With community displacement growing, trust was badly damaged and public demonstrations broke out to protest against killings and other human rights violations.

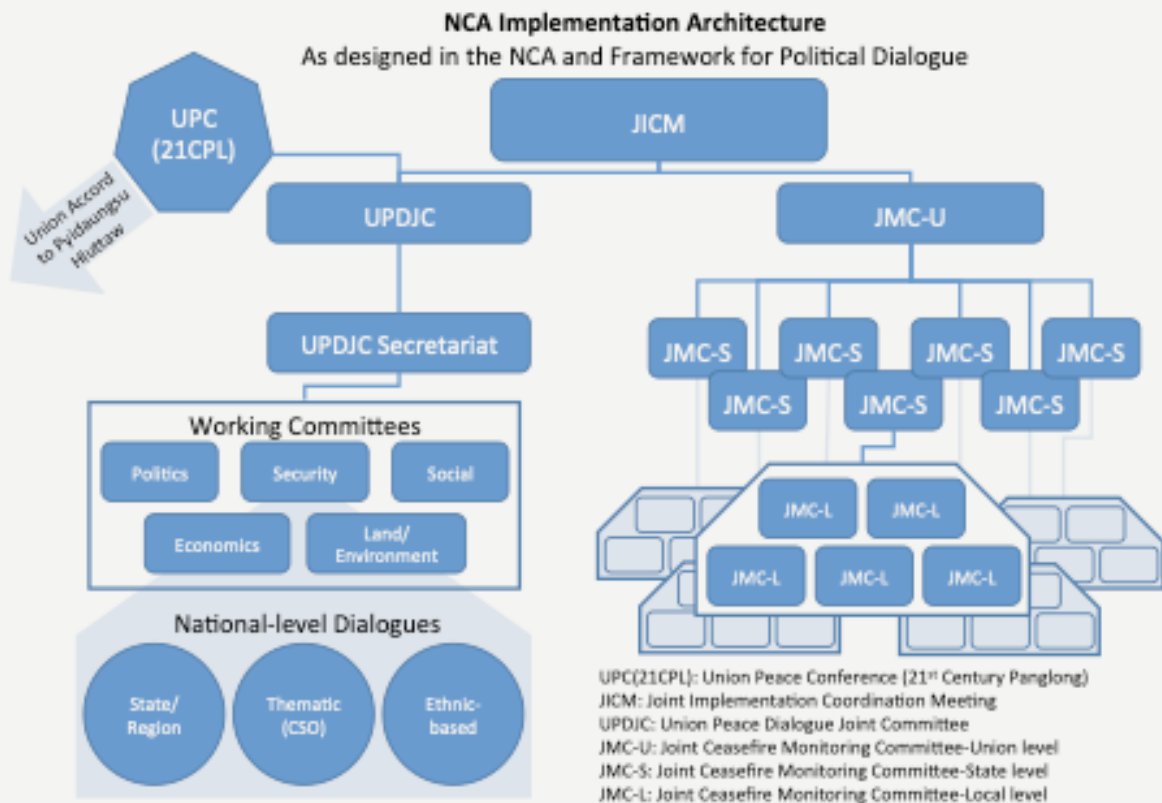
As in other parts of the country, military violations appeared to have strategic motives. In Shan politics, human rights organisations believed that Tatmadaw operations had two purposes following the NCA signing: to provide security for infrastructure projects, notably the China Myanmar Economic Corridor which is a key element in President Xi Jinping’s Belt and Road Initiative; and, in the case of the RCSS and SSPP, to disrupt support in local communities for the electoral Shan Nationalities League for Democracy (SNLD) in the run-up to the 2020 polls (see ‘Covid-19 and the 2020 general election’).<sup>19</sup>

Military clashes, however, were only the most prominent evidence of the NCA failings to bring peace in the country. In the conflict front-lines, there were many other violations relating to military agreements that received less attention. These included day-to-day violations of civilian protections and such security matters as troop movements and surveillance. Anti-personnel mines, in particular, were an under-reported feature of military activity, with Myanmar the only country where the International Landmine Monitor confirmed the deployment of new anti-personnel mines by government forces in its 2018–19 survey.<sup>20</sup> Many EAOs also use anti-personnel mines and, among NCA signatories, the DKBA<sup>2</sup>, KNU and RCSS were reported, like the Tatmadaw, to still be planting mines.<sup>21</sup>

The institution intended to monitor such military violations is the Joint Ceasefire Monitoring Committee. To date, though, the committee has never served this purpose. Following the NCA’s inception, the JMC failed to effectively verify complaints, lacked NCA-mandated transparency, and did not build trust between ceasefire parties. Equally inconsistent, the Tatmadaw blocked some EAOs from full participation in the JMC. Despite signing the NCA in 2018, both the LDU and NMSP were prevented from participating in relevant state-level monitoring mechanisms.<sup>22</sup>

Meanwhile, in another implementation flaw, there were no Rakhine or Chin State-level mechanisms, although both the Arakan Liberation Party and Chin National Front

## NCA Implementation Architecture



This chart outlines the structures that should, in theory, exist under the Joint Implementation Coordination Meeting, Union Peace Conference and two key bodies: the Joint Ceasefire Monitoring Committee-Union level and Union Peace Dialogue Joint Committee. All relevant States/Regions should have a JMC. But, in practice, the Tatmadaw only permitted them to be established in five territories: Karen, Mon, Shan-South, Bago and Tanintharyi. Boxes for further sub-committees under the JMC-U are left blank.

were NCA signatories. Events since 2015 have demonstrated that Rakhine and Chin States both require mechanisms for conflict monitoring at least as much as any other part of the country. At the same time, there were no such mechanisms in other areas where EAOs had either not joined or been excluded from the NCA, such as Kachin and Kayah States. The Tatmadaw, however, refused to permit the establishment of formal mechanisms in these territories, and international donors and advisors generally did not prioritize these concerns.

As always in conflict politics, the reasons for these anomalies and failures have local complexities. Threats of arrest did not

dissipate and, for example, three members of the All Burma Students Democratic Front, an NCA signatory, were jailed under 17/1 of the Unlawful Associations Act for travelling in areas administered by the non-ceasefire KIO.<sup>23</sup> But the very reason for the detailed structure of the NCA negotiation process was to anticipate and address these procedural difficulties in advance. As a result, the subsequent decline in focus and momentum on the NCA's essential goals was all the more deeply felt in affected communities. Rather than confidence building, it was all too often draining away. The consequences of military violations following the NCA signing were never recognised or addressed on the country's troubled road to peace.



Shortly before the 2021 coup, KNU leaders tried one more time to raise this issue. In December 2020, the Karen National Liberation Army (KNLA) – the armed wing of the KNU – issued a statement criticising the failures of the JMC to end military violations. Reflecting experiences in the field, both military and political leaders wanted to express their concerns.

In the KNLA’s view, there had been ‘no implementation’ or ‘discussion’ of such key areas in Chapters 3, 4 and 6 (art. 25) of the NCA that relate to ‘ceasefire areas’, the ‘deployment of troops’, ‘common definition of terms’ and an end to setting up ‘military outposts’ and ‘troop routes’ in civilian areas.<sup>24</sup> Accusing the Tatmadaw of taking ‘huge advantage’ to increase territorial control, the KNLA claimed that the government’s interest in the peace process had been only for its own political gain. In the meantime, it was alleged, NLD leaders had allowed the Tatmadaw to treat the JMC as a military institution, which the Defence Services control, rather than a monitoring committee – including government participation – for NCA signatory parties.

The solution, the KNLA argued, was for the JMC to be reformed, meaningful timetables and implementation to be agreed, troops withdrawn from civilian areas, and the government to take on its responsibilities for the ‘whole peace process’.<sup>25</sup> Only if these steps were taken would ceasefires be strengthened and the trust of the people improved.<sup>26</sup> The same month, however, a further 3,000 civilians were displaced as military incursions and clashes with the KNU continued in Hpapun and Thaton Districts with the Karen BGF operating in support of the Tatmadaw.<sup>27</sup>

As the NLD prepared for its second term in office, military security rather than political reform appeared to be the Tatmadaw’s dominating thought.

### Harm to civilians

In theory, there was nothing in the terms of the NCA to distinguish between the territories of NCA signatories and non-signatories when it comes to the treatment of civilians. Political dialogue is required to be inclusive; non-NCA

groups should be able to take part in peace talks; and the chapter on civilian protections mostly refers to the whole country. This means that Tatmadaw and EAO violations against civilians have also been NCA violations wherever they occur.<sup>28</sup>

To date, however, this basic principle of the NCA to provide security for all peoples has never been enforced. ‘Ceasefire areas’ is an ambiguous term that is not defined in the NCA, does not make sense where the NCA is not nationwide, does not include all EAOs, and implies that there are distinctions between areas covered and not covered by the NCA. As many ask, why is it called an ‘NCA’ if it does not represent the whole country? From the outset, these failings led to some very different NCA experiences in different states and regions, and a pattern of unaddressed human rights abuses.

Since independence in 1948, serious human rights violations have always been a feature of the country’s civil wars. Among ethnic decision-makers and the general public, this remains a prime factor in damaging trust in negotiating ceasefires. It has also undermined confidence over the real intentions of the government and Tatmadaw more broadly. In particular, the re-conflagration of conflict in the Kachin and northern Shan States during 2011-15 contributed to a more general failure of confidence to spread to all parts of the country around the NCA process. Human rights violations and doubts over the NCA then deepened further with the escalation of military operations in Kachin and Rakhine States following the first Panglong-21 meeting in August 2016, attacks on the Rohingya population, and – subsequently – intensified fighting with the United-League of Arakan/ Arakan Army during 2018-20.

Under the previous ceasefires of the SLORC-SPDC era, northeast Myanmar had witnessed relative stability. But following the resumption of conflict in 2011, political trust in a new ‘peace process’ became much more uncertain under the USDP and NLD governments. Over 100,000 civilians were displaced in Kachin and northern Shan States, including a majority of villagers that had been resettled during

the previous 17 years of ceasefire by the Kachin Independence Organisation. Despite a 2013 ‘reduction of hostilities’ agreement between the KIO and government, Tatmadaw operations intensified after the NCA signing and the NLD taking office. As reports of civilian casualties and human rights violations increased, Amnesty International warned: ‘All the civilians suffer’.<sup>29</sup>

During the NLD’s last year in office, daily tensions and fighting generally reduced in Kachin State. But, despite the failure to achieve peace, the NLD-led administration stepped up pressures on IDPs to move into government-controlled areas, re-igniting human rights criticisms and local fears. Until there are guarantees of peace and resettlement with ‘safety and dignity’, many families said that they were reluctant to return from areas where they had sought sanctuary.<sup>30</sup> ‘No Camp Closure Without Restitution,’ the Kachin IDP Land Protection Committee demanded.<sup>31</sup>

In the Shan State, meanwhile, harm to civilians continued to occur following the NCA signing in non-ceasefire and ceasefire (both bilateral and NCA) areas, especially in the north of the state. A growing body of evidence was documented by Shan, Ta’ang and other media and civil society organisations.<sup>32</sup> Civilians are ‘caught in the middle’, warned Amnesty International in a 2019 study that reported arbitrary arrests, torture and killings in ‘indiscriminate’ shootings, predominantly by the Tatmadaw.<sup>33</sup>

Two offensives in areas administered by the ceasefire Shan State Progress Party attracted particular human rights criticism. Over 6,000 civilians were displaced during a 2015 offensive by the Tatmadaw against the SSPP’s Wan Hai headquarters after it failed to sign the NCA, while a villager was killed and a further 700 civilians displaced in a 2019 operation against a SSPP base on Loi Pang Kha mountain.<sup>34</sup> By the end of 2019, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimated that 26,000 civilians had been displaced from their homes during Tatmadaw operations against the SSPP and other EAOs in northern Shan State.<sup>35</sup>

During the same time, killings and other human rights violations against civilians were reported in Tatmadaw operations in areas controlled by the non-ceasefire Ta'ang National Liberation Army and Restoration Council of Shan State, an NCA signatory.<sup>36</sup> This led to a protest by an estimated 10,000 demonstrators in Kyaukme in July 2020.<sup>37</sup> The military's True News Information Team responded by reporting that the Tatmadaw would prosecute the organisers of the protest.<sup>38</sup> After a brief pause, military operations then resumed in the area in October prior to the November general election, putting over 4,500 villagers to flight and disrupting the conduct of the 2020 polls (see 'Covid-19 and the 2020 general election').

Since 2015, a similar pattern in the failure of ceasefire agreements to safeguard the rights of civilians has been apparent in other areas of the country where NCA arrangements were technically in place. After the NLD came to office, a rising number of civilian deaths, injuries and displacements were also reported in Tatmadaw operations in Karen State. Here there are four EAO NCA signatories, including the Karen National Union and, subsequently, New Mon State Party which joined in 2018. But a 2017-18 peace survey found that, although violence had reduced since the 2012 ceasefires, many civilians continued to live in conditions of insecurity, abuse and exploitation.<sup>39</sup> Human rights violations worsened, especially in Hpapun District, after the Tatmadaw resumed 'multi-battalion' operations in 2018 in support of infrastructure projects, causing the internal displacement of over 2,500 people (see 'Military violations').<sup>40</sup>

The government, however, failed to take action as human rights violations and civilian displacement increased. 'Karen heartlands under attack,' the Karen Peace Support Network warned in April 2020.<sup>41</sup> Even the emergence of Covid-19 appeared to make little difference.<sup>42</sup> Two months later, Karen civil society organisations alleged that the Tatmadaw was seeking to expand military control by 'virus warfare', accusing the international community of backing the government's 'centrally-controlled measures'.<sup>43</sup> The following month, over

5,000 villagers called for the withdrawal of Tatmadaw troops from Dwelo township during protests after another civilian was killed.<sup>44</sup>

As the Karen Human Rights Group pointed out, such military operations – whether for security or infrastructural reasons – were in clear violation of the NCA, which states that signatories shall not carry out armed attacks in ceasefire areas nor kill civilians.<sup>45</sup> In townships where large-scale military operations halted, the security situation was generally more stable. But, after the NCA signing, many communities failed to experience a ceasefire dividend. Exacerbating tensions, the NCA signing was followed by an increase in land expropriations and natural resource exploitation that follow Tatmadaw encroachment. The NCA did not provide any proper mechanism to address such issues. The farmer 'becomes the criminal', a Hpa-an lawyer warned.<sup>46</sup>

As the NLD's first term in office came towards an end, the evidence of social and humanitarian suffering remained bleak in many parts of southeast Myanmar. During 2020, it was estimated that there were still over 150,000 IDPs displaced in the local conflict zones, around 100,000 Karen and Karenni refugees in cross-border camps in Thailand, where some three million migrant workers also lived, many from minority groups whose wages are vital for their families at home.<sup>47</sup> Warning of the lack of peace, over 10,000 civilians took part in demonstrations in northern Karen State at the year's end as the Tatmadaw continued military incursions.

Adding to the local sense of failure, there was also Tatmadaw displacement of Mon villagers in NMSP-administered territory in the Three Pagodas Pass area. Meanwhile military tensions and public dissatisfaction were deepening in Kayah State. Despite coming under increased government pressures, leaders of the Karenni National Progressive Party found no reason to sign the NCA (see 'KNPP ceasefire negotiations').

Looking back with hindsight, ethnic leaders in southeast Myanmar believe that many of

the Tatmadaw movements at this time were preparing the groundwork for the much larger operations that followed the 2021 coup.<sup>48</sup> Despite the supposed protections of the NCA, there had again been widespread cancellation of voting in the 2020 general election in Karen State and adjoining territories in Bago Region and Mon State. Many communities were yet to enjoy a meaningful peace. At the time, though, there was no obvious sentiment for a return to war. Following the elections, civil society groups stepped up calls for the prioritization of ethnic peace and political reform by the next government. ‘We want to have our lives back,’ said a Karen refugee in Thailand.<sup>49</sup>

Finally, no analysis of harm suffered by civilians would be appropriate without highlighting the escalation of violations in Rakhine State and Paletwa township, southern Chin State, where conflict spilled over.<sup>50</sup> Following the NCA signing, Rakhine State was the scene of egregious patterns of human rights abuses against civilian populations, including extrajudicial killings, arbitrary arrests and forced displacements. These abuses led to an International Criminal Court investigation and a case under the Genocide Convention at the International Court of Justice, both ongoing. Initially, Rohingya communities in the north of the state were the main victims of these violations. But, as conflict spread, other peoples across the territory were affected (see box: ‘Conflict Regression in Rakhine State’).

Following President Thein Sein’s initiation of a new peace process in 2011, harm to civilians occurred in three escalating waves: anti-Muslim violence in 2012; Tatmadaw ‘regional clearance’ operations targeting the Rohingya population following the 2016 emergence of the Arakan Rohingya Salvation Army; and armed struggles with the United League of Arakan/Arakan Army after the 2018 exclusion of its Western Command’s from unilateral ceasefires by the Tatmadaw. As these violations happened, the 2012 bilateral ceasefire by the Arakan Liberation Party, a small EAO with troops largely based on the Thailand border, proved no protection for the local population nor its 2015 signing of the NCA.<sup>51</sup> Rather, Rakhine State was to

transform from a conflict backwater into one of the most active war zones in the country. During a decade of turmoil, up to one million Rohingyas were displaced from their homes or fled as refugees fled into Bangladesh, while over 230,000 Rakhine and other nationality peoples were internally displaced.

The international community, however, was slow to pick up on the ethnic and political dynamics of this violence. Too often, the breakdown in Rakhine State was regarded in NCA donor and diplomatic circles as peripheral or secondary to the conflict challenges in the country at large. There was little understanding of Arakan, its geopolitical role in Myanmar history, and the marginalisation of local peoples. In particular, perceptions were often framed within the context of the Tatmadaw and government seeking to suppress two emergent forces: the ARSA and ULA/AA. Following the 2021 coup, few analysts would suggest such a simplification in analysis today.



Pa-O woman in Hsihseng township, southern Shan State (TNI)

The strategic uses – as well as omissions – of the NCA can be very clearly seen. Despite its nationwide aims, the accord had no positive impact or bearing for the peoples of Rakhine State. Rather, very different lessons were learned. In the bigger picture of conflict in Myanmar, human rights violations escalated, warning that peace and inclusion are essential for all states and regions if an accord such as the NCA is to have nationwide effect. As the experience of Rakhine State showed, both the government and Tatmadaw remained very selective in their dealings with different nationality movements in different parts of the country.

Against this backdrop, it becomes difficult to generalise about the experiences of civilian populations in the country at large after President Thein Sein's 2011 initiation of a new peace process. In many of the conflict zones, there can be no doubt that fighting generally – and for the most part greatly – reduced after 2012 in areas where bilateral ceasefires were in place. But the situation did not notably improve after the NCA inception in 2015, with Chin, Karen, Rakhine and Shan States all being NCA signatory areas that witnessed serious armed conflict during the following years.

Equally resonant, neither community protests nor international condemnation appeared to make much difference in ending human rights violations against civilians. At the same time, international compromise, seeking business relationships and silence about rights abuses and ceasefire violations also failed to bring about meaningful change. Such practices all accelerated following the NCA signing (see box: 'Economic Change during a Time of Conflict and Peace Negotiation').

In addition to violating the NCA's civilian protection provisions, these abuses likely constituted violations of international human rights law and international humanitarian law. Disrespect for commitments – national or international – have been hallmarks of Tatmadaw behaviour and lessons learned by affected communities. The egregious scale of harm after 2016 proved one of the most basic causes of NCA failure. For the peace process to make progress, it was essential that respect

for international law and an end to human rights violations were made a priority.

Following the NCA signing, a catalogue of detrimental consequences built up that perpetuated rather than addressed the conflict cycle in the country. Even before the 2021 military coup, the disregard by the Tatmadaw for its responsibilities under International Humanitarian Law lowered expectation among local peoples as to whether the government and military authorities can be trusted to uphold peace commitments to protect civilian populations. Similarly, the attacks on ethnic minority communities, including the Rohingya in Rakhine State, polarized Myanmar society. They also reminded many non-Bamar nationalities of their own sufferings at the hands of the security forces. Racism and ethnic discrimination were stimulated, a sentiment felt in many parts of the country.<sup>52</sup>

Distrust in the peace process was then reflected in the political arena. In front-line areas, Tatmadaw operations after the NCA signing pushed public opinion against further negotiations and towards ethnic nationalism. This, in turn, made it more challenging for EAO leaders, who rely on public support, to enter into agreements with the government. Equally damaging, the continued fighting hardened attitudes among a new generation of young people among different nationalities in the conflict field.

Warnings of popular grievance continued in several parts of the country throughout the NLD's time in government. During the 2018–20 period, Rakhine nationalism notably grew in support of the ULA/AA's military campaign in the face of attacks by the Tatmadaw on civilian populations.<sup>53</sup> Similarly, Kachin public opinion turned more overtly nationalist following the Tatmadaw's 2011 resumption of offensives against the KIO. The same sense of ethnic nationalism and distrust also deepened after 2015 among Kokang and Ta'ang communities in Shan State,<sup>54</sup> where Brotherhood Alliance members were excluded from full participation in the peace process. The advance by the RCSS into northern townships after its NCA signing only furthered division and unrest. 'Local people



## National-Level Dialogue Meetings

### Ethnic Based National-Level Dialogue

1. Karen, by KNU, 18-20 January 2017, Hpa-an, Karen State.
2. Pa-O, by PNLO, 18-20 February 2017, Hopong, Shan State.
3. Chin, by CNF, 27 February-1 March 2017, Thantlang, Chin State.
4. Mon, by NMSP, 5-7 May 2018, Ye, Mon State.

### State/Region Based National-Level Dialogue

1. Dawei, Tanintharyi Region, 23-25 January 2017
2. Taungoo, Bago Region, 17-19 February 2017
3. Taunggyi, Shan State, 23-25 April 2017

### Thematic Based National-Level Dialogue

1. Nay Pyi Taw, 24-25 February 2017
2. Nay Pyi Taw, 2-3 January 2018

are frequently killed in northern Shan State,' a Ta'ang community leader warned. 'We have never gotten the truth'.<sup>55</sup>

There is also the question of the political message that is sent out by continued human rights violations against civilians. After six decades of the Tatmadaw in government, the challenge is again urgent in the wake of the 2021 coup. Although the ceasefires of the EAO signatories were generally maintained, military operations did not come to an end following the NCA signing. The warning from the authorities still seemed to be that military solutions to political problems remain on the table, whoever sits in government. If, however, meaningful peace and reform are ever to be achieved, the only way to address the legacy of military abuse and human rights violations will be by tangible evidence of peace progress to conflict-divided communities on the ground and which is part of a nationwide effort.

Equally critical is the question of impunity. Leading voices in communities across the country view the historic impunity for human rights violations as one of the key causes of the 2021 coup and current atrocity crimes. If there are never any consequences for violations, then how can people expect to ever be safe from such grave abuses? Is 'peace' something to expect if committing atrocities remains acceptable?

The NCA did not answer these fundamental questions. These legacies have long stood at the core of the cycles of repression and human rights violations in the country. As the Kachin peace mediator, Rev. Saboi Jum, often said: 'We have ceasefires but we do not have peace.'<sup>56</sup>

## Failure of the Framework for Political Dialogue

In parallel to human rights violations, the signatory parties struggled to demonstrate progress on the political side of the NCA following its inception. Despite intensive efforts put into organisational meetings, the NCA parties never fully followed their own commitments to the political dialogue process as stated in the NCA and Framework for Political Dialogue. As disputes over process issues occupied significant time, the substantive outcomes failed to satisfy stakeholder groups whose goals are to agree to constitutional and other political changes that will address ethnic grievances driving the conflict. Such failures echoed the lack of agreements during ceasefires in the previous SLORC-SPDC era, once again causing divisions between and within EAOs and losing support among communities on the ground.

Initially, it had been hoped that the structural planning which had gone into the NCA

architecture would find ways round the failings that characterised peace processes in the past. The accord set out a seven-step process for political dialogue and reform. As the second step in this roadmap, the Framework for Political Dialogue – negotiated after the NCA signing and 2015 general election – established a complex architecture that required three types of ‘national-level political dialogues’ to be followed by the discussions of working committees, the Union Peace Dialogue Joint Committee (UPDJC), the UPDJC Secretariat and the Union Peace Conference. The three types of national-level dialogue were termed ethnic-based, state-based and region-based, and civil society-organised thematic-based. This sequential process was designed to take place iteratively every six months (see box: ‘NCA Implementation Architecture’).

In developing consensus under this process, the national-level political dialogue was designated as the third of the seven steps in the NCA’s political roadmap. The various national-level dialogues were intended to be the main linkage between a highly elite process and broader public participation.

To try and address this gap, the iterative design was intended to create entry points for grassroots inputs and for feedback to communities about what takes place during the more opaque stages of the process. According to the Framework for Political Dialogue, each ethnic group that is represented by a signatory EAO should hold such a dialogue on a six-monthly basis.

From the outset, however, there were difficulties in keeping to a defined set of meetings and timelines. Both the outgoing USDP government and incoming NLD treated the sequencing of the political process as flexible. First, President Thein Sein prioritized holding a Union Peace Conference during January 2016 before leaving office and before any national-level dialogues had been arranged. And, second, upon taking office, the NLD announced a new 21st Century Panglong Conference that would be the party’s vehicle for supporting ethnic peace and national reconciliation.

It was a critical moment. Subsequently, the NLD’s Panglong-21 and the NCA’s UPC were brought together in the first ‘UPC-21CP’ (also

Ethnic representatives at the third UPC-21CP meeting in July 2018, Nay Pyi Taw (Xinhua/Alamy)



'21 UPC') meeting which took place in August 2016. Most EAOs did in fact attend this first meeting. The Kokang MNDAA, TNLA and ULA/AA, however, were effectively excluded by Snr-Gen. Min Aung Hlaing. Then, with fighting breaking out in Kachin, Rakhine and northern Shan States, other EAOs that had not signed the NCA – as well as communities in many conflict areas – also began to feel that they were being shut out from the peace process. Orthodoxy replaced innovation that was still greatly needed. Despite the NCA introduction, there was no peace breakthrough, and it remained very uncertain by what process political reform might be delivered that reaches all peoples (see 'Peace failures and inconsistencies in process').

Equally important, it quickly became clear that the criteria for holding 'national-level' dialogues under the Framework for Political Dialogue had not been thought through. They were more evident of a performance rather than a meeting point for political discussion. Among many weaknesses, exclusions of EAOs and civil society organisations were decisions by government actors but were not inherent in the NCA; it made no sense that CSOs could only join if an EAO in their area had joined the NCA; and why could these kinds of dialogue not take place before ceasefires and the NCA?<sup>57</sup>

Against this backdrop, the first ethnic-based 'national-level' dialogues were begun by Karen and later Pa-O and Chin communities in the months following the initial 'UPC-21CP' meeting. Although criticised as 'unprepared' by attendees, three state/region 'national-level' dialogues were also organised by the government as well as two thematic-based meetings in Nay Pyi Taw.<sup>58</sup> The government, however, refused permission for Rakhine, Bamar<sup>59</sup> or Shan communities to hold national-level dialogues, despite EAOs of those nationalities being party to the NCA (see box: 'National-Level Dialogue Meetings').

A major stumbling block was emerging. As Khaing Soe Naing Aung of the Arakan Liberation Party remarked, his party would 'have nothing to submit' to the UPC-21CP since 'we have not held a national-

level political dialogue'.<sup>60</sup> In principle, the 48 members of the UPDJC could make recommendations about which groups would be allowed to hold national-level political dialogues. But, highlighting the inconsistencies in process, an official of the government National Reconciliation and Peace Centre revealed that the 'final decision' was made by the State Counsellor Aung San Suu Kyi.<sup>61</sup> 'We told the ALP just to be patient for a while,' he said.<sup>62</sup>

Worse was now to follow. In the case of Rakhine State, the Rohingya crisis and Tatmadaw conflict with the ULA/AA overshadowed NCA progress on the ground. But, during the following years, the dispute over the right to national-level dialogue also caused significant delays to the peace process in another key part of the country, Shan State, blocking progress on negotiations at a critical stage.

Here, following a convening of the Joint Implementation Coordination Meeting (JICM), the government did initially give permission for the Restoration Council of Shan State to hold a series of 14 public consultations in preparation for a national-level dialogue in compromise locations. But the RCSS's first choice of Taunggyi as a meeting place was rejected by the authorities. Then subsequently, when Shan groups tried to continue with discussions, the Tatmadaw interfered in consultations at Panglong and other venues, arriving with troops and intimidating attendees.<sup>63</sup>

Such overt obstruction was a damaging blow to NCA credibility at a time when the NLD was new in government. The NLD's Shan State Chief Minister rescinded his letter directing cooperation with the events, and the Shan dialogue collapsed, further disarranging the NCA process.<sup>64</sup> Under the government's dual 'NLD-Tatmadaw' structure, military leaders had succeeded in blocking Shan communities from holding meetings under the NCA and, in the eyes of the public, the NLD had deferred to the armed forces. There had already been unease that the RCSS would be one of only two EAOs representing nationality peoples in the state on the basis

of NCA signature. The other, the small movement of the Pa-O National Liberation Organisation, was allowed to hold an ethnic-based meeting in Hopong.

Subsequently, a Committee for Shan State Unity (of which the RCSS was a member) continued to hold discreet meetings in line with the NCA goals in townships across the state.<sup>65</sup> But the damage to the national-level dialogue process was never repaired, with RCSS leaders admitting their loss of trust. By these dialogue failures, the NCA process was further delegitimised in public opinion, becoming a major obstacle to political negotiations. Given its territory and location, Shan State is of pivotal importance in Myanmar politics and history.<sup>66</sup> EAO leaders also learned a cautionary lesson from this lack of consultation and inclusion. It is very difficult for them to engage in compromises that may be politically costly without a process that allows for public acceptance and multi-stakeholder buy-in (see 'Re-evaluating the NCA: the KNU and RCSS').

The obstructions over holding national-level political dialogues also continued after two further EAOs were persuaded to sign the NCA in 2018: the Lahu Democratic Union and New Mon State Party.<sup>67</sup> In the case of the LDU, no such meeting followed, although public consultations were allowed. Indeed, of all the NCA EAOs, only the NMSP, which held a meeting in May 2018, held any formally recognised national-level political dialogue after mid-2018. But this only occurred after a challenging negotiation with Tatmadaw officers about the size and location of the event. NMSP officials openly expressed their frustration at what they believed was a deliberate attempt to block the right to public meetings (see box: 'NMSP Leader Nai Hongsar on NCA Public Meetings').

Such criticisms were never addressed. Through to the end of 2020, the ten NCA signatories among EAOs (representing five ethnic nationalities since October 2015 and two more since February 2018) should have held a total of 38 ethnic national-level dialogues contributing to ten Union Peace Conferences. Instead, there were only four

ethnic national-level dialogues<sup>68</sup> and five UPCs, four of which were recorded as UPC-21CPs: in 2016, 2017, 2018 and 2020. Despite discontent over the dialogue process, the main response by the authorities was to employ a de facto top-down process that excluded public participation rather than to redesign the complexity of the NCA and address the political barriers. On the surface, failures looked technical but many actors in the peace process believed that the obstacles were deliberate, a frustration EAOs also expressed when they tried to meet among themselves (see box: 'Impediments to Ethnic Armed Organisation Meetings').

To try and address these limitations, an EAO NCA-signatory Peace Process Steering Team (PPST) meeting took place in Chiang Mai, northern Thailand, in January 2020 in anticipation of the next UPC-21CP conference. Representatives of the 10 EAO signatories took part in order to agree to common points on the conduct and agenda of future peace conferences. These, it was intended, would be raised in working group discussions with the government. Once again the urgency of holding national-level political dialogue was raised. It is 'inevitable', said the ABSDF Chairman Than Ke, for the success of the Panglong-21 goals.<sup>69</sup> The RCSS also reported that it had received government permission to host such a dialogue in 2020. A new momentum for NCA implementation appeared to be building.

Subsequently, the holding of peace meetings and sequencing of events were thrown into disarray by the Covid-19 pandemic. The planned Shan ethnic dialogue was immediately cancelled due to the crisis. Thus it is not known whether the Tatmadaw would have permitted the dialogue to go ahead. A further UPC-21CP also failed to address these restrictions during a tightly-controlled meeting in August 2020. But in many respects the damage had already been done. The obstruction of the national-level and other dialogues stipulated by the NCA was a serious failing by both the government and Tatmadaw to follow through on commitments to carry out the political process as promised under the terms of the NCA.

## NMSP Leader Nai Hongsar on NCA Public Meetings

In May 2018, the NMSP Chairman Nai Hongsar outlined the difficulties that NCA signatories were facing in holding public meetings.

‘When we were preparing to hold the public meetings in our military-controlled areas, the Tatmadaw told us not to have more than 20-30 people in each meeting. Having only 20-30 people is similar to holding a petty cockfight. There are many people. How would it be enough? This restriction wasn’t said to us during the UPDJC meeting. The limit was only placed when we actually started preparing for the public meetings. We were dissatisfied over this restriction. This didn’t happen to us, the Mon, alone. It was the same for the RCSS in the Shan State. The Tatmadaw restricted the areas that were already allowed by the government. Some areas were blocked. We see this as dishonesty. This issue happened because of the Burmese Tatmadaw.’<sup>70</sup>

Equally serious, the Tatmadaw used each step in the dialogue process to advance its interests and effectively block political change sought by EAO signatories. It was not only in the military sphere that the Tatmadaw remained the dominant NCA actor. NLD officials privately expressed their own difficulties. But, because of a continuing lack of direction by party leaders, the NLD-led administration enabled many of these actions by acquiescing to the Tatmadaw’s demands regardless of existing ceasefire commitments and the NCA. In the meantime, ethnic stakeholders were unable to advance their collective interests.

In theory, these were stumbling-blocks that the NCA was designed to avoid. To address differences over interests, the agreement instructs that disputes about its implementation should be decided by the Joint Implementation Coordination Meeting, which includes key leaders from the EAOs, government and Tatmadaw.<sup>71</sup> The NCA required that these meetings should be ‘regularly held’. The JICM, however, had a mixed track-record in its performance for a variety of reasons that were bureaucratic as much as they are deliberate.

The government, in particular, proved wary of holding JICM meetings, and disputes that reached the JICM were often left unresolved. As a get-out, this sometimes meant pushing

back decisions to subordinate or newly-formed committees for ongoing study and discussion. But the outcome was the same. The government leadership appeared to prefer to avoid direct involvement in resolving disagreements among the NCA parties, even though the State Counsellor had herself taken on the role of JICM Chairperson. Instead of taking leadership responsibility seeking to find mutually agreeable solutions, the government deferred. Without an effective deadlock-breaking mechanism, disagreements piled up, clogging the negotiation process in the meantime and giving the Tatmadaw more of a free hand.

During the NLD’s last year in office, the result was a faltering and uneven process for political dialogue. Following five UPCs and inception of writing a new Union Accord under the NCA process, the parties were yet to agree to any binding language that would definitively require meaningful changes to the 2008 constitution. Tatmadaw representatives, whether in parliament or the UPC, continued to veto all proposals that focused on underlying grievances and the causes of civil war, undermining hopes and aspirations for change among nationality peoples across the country. In the face of these challenges, the Framework for Political Dialogue never proved itself fit for purpose, putting the brakes on the momentum for reform under the NCA seven-step roadmap.



## Lack of political agreements

The obstructions on the national-level political dialogues put an end to broader public or political input into the NCA process. But, in the meantime, limited forms of discussion did take place between government, Tatmadaw and EAO NCA-signatory representatives during Union Peace-21<sup>st</sup> Century Panglong meetings in a process that was never completed during the NLD's first term in office. During the second and third UPC-21CP meetings, 51 points were initialled for a future Union Accord.<sup>72</sup> And, at the fourth UPC-21CP, a further 20 principles were added for solving NCA misunderstandings, setting out guidelines for the post-2020 election future and developing a process for building a 'democratic federal union' (see 'The 21<sup>st</sup> Century Panglong Conference').<sup>73</sup>

Such pronouncements, however, presented only the illusion of change. Rather than a ground-breaking document for peace, most of these prescriptions either repeated existing principles that are already included in the 2008 constitution or they were too vague to lead to clear legal changes for political reform. The result was that many participants left from Union Accord meetings expressing frustration at the lack of reform.<sup>74</sup>

These failings impinge on many aspects of the NCA process and its perception by the broader public. In the dialogue thematic area on land and natural resources, for instance, EAO representatives reported that Tatmadaw officers rejected 90 per cent of their suggestions.<sup>75</sup> The Tatmadaw rebuttals were detailed, for the most part arguing that reform proposals were not in line with the 2008 constitution; not in line with existing laws; or not in line with 'six principles for peace' that the armed forces drew up on their own.<sup>76</sup> Civil society organisations also analysed how such principles were employed by military officers in order to block agreements that would lead to change.<sup>77</sup> In consequence, grievance over regression on land and natural resource reform has remained one of the most serious criticisms of the NCA in many communities to date (see 'Interim arrangements and legislative obstacles').

Meanwhile, in the absence of open debate, much of shadow-boxing in the negotiation impasse, both formal and informal, focused on three issues while the NLD was in office. These created multiple obstacles at different stages along the way: proposals for a non-secession clause, one union army, and state constitutions.

It was the first of these – the negotiation of a ‘non-secession’ clause – that attracted most controversy, beginning in May 2017 when Tatmadaw representatives pushed for this demand at the second UPC-21CP meeting. In her opening address, Aung San Suu Kyi acknowledged that the NCA had its limitations. ‘We recognise that ceasefire negotiations can address surface problems, but only political dialogue can address underlying grievances,’ she told the audience. ‘As such the NCA itself is not the ultimate destination.’<sup>78</sup> In fact, the UPDJC had already discussed and agreed on a ‘package deal’ including the ‘non-secession’ clause along with the ‘union army’ and ‘state constitution’ proposals in advance of the UPC-21CP meeting.

Confusion was about to break out. When the non-secession clause was introduced to the full meeting, many nationality delegates considered it counter to the spirit of the 1947 Panglong principles where the right of ethnic autonomy had been guaranteed and the independence constitution that provided secession rights to Shan and Karenni States. They also regarded it as premature to impose such a sensitive requirement before nationwide dialogue had been achieved. If ethnic rights are sufficiently protected, they argued, there is no need for such a clause.<sup>79</sup> Various alternative wordings were proposed.

Eventually, it was agreed to put discussion of the non-secession issue aside. But the situation then deteriorated further. In retaliation for the EAO’s refusal to accept this clause, Aung San Suu Kyi and the Tatmadaw representatives stopped agreement on basic principles in the draft accord related to equality, federalism and self-determination. It was a roadblock moment. Ethnic participants were taken aback by this apparent collaboration between NLD and Tatmadaw leaders. As a compromise, the first 37 points were initialled in the Union Accord, but the government’s handling of the meeting left many participants with a very negative feeling. The NLD’s backing for such a controversial clause and the refusal to support alternative language had not been expected.<sup>80</sup>

After this impasse, the parties to the NCA failed to come to agreement on the details of these key topics, including state constitutions and the question of a union army. Only broad principles were discussed. At the same time, the Tatmadaw’s emphasis on security-focused issues continued to stall the progress of talks. The related issue of Disarmament, Demobilization and Reintegration was especially sensitive, and one that EAOs considered untimely before a meaningful peace and reform process is achieved (see box: ‘Disarmament, Demobilization & Reintegration and Security Sector Reform’).

A pattern thus emerged. All the calls on major issues in the NCA process came from the Tatmadaw, seeking agreement or concessions from the EAOs. In contrast, Tatmadaw representatives blocked even minimal proposals by the EAOs in return. One Karen National Union negotiator privately compared these experiences in the peace process to ‘playing a game of football in which there is no ball and only the Tatmadaw has the whistle’.<sup>81</sup>

On a more progressive level, there were a number of points agreed in the Union Accord that indicated potential political change and could be used for constitutional and other essential reforms in the future. In particular, NCA signatories considered that reform is vital in such thematic areas as eliminating gender discrimination and promoting decentralized land governance that is respectful of ethnic cultural uses. Constitutional amendments on these issues were also proposed by ethnic political parties in parliament.<sup>82</sup> But despite agreement on principles, the NLD failed to put forward proposals for constitutional amendments on these topics, and the party also voted down proposals by ethnic parties in the legislature regardless of whether they were in line with the Union Accord.<sup>83</sup>

These proposed amendments would not have resolved the core issues of federalism. But such obstructions by the NLD and Tatmadaw on the implementation of reforms in line with the Union Accord increased worries among ethnic stakeholders about the failure of the government to lead the NCA process through

to meaningful political change. Equally concerning, even though NCA implementation was not completed, the NLD continued to adopt new and amend existing laws in parliament in ways that were perceived as harmful to ethnic interests. Reforms proposed through the legislatures and the NCA appeared to be regarded as separate processes.

In defence of the NLD's performance in government, supporters pointed out that the parliament enacted laws to bring international human rights conventions into domestic law while the party was in office, and some of the worst among the older laws were repealed. These steps, however, did not necessarily represent a reform advance.

Mostly obviously, in 2017 Myanmar ratified the International Covenant on Economic, Social and Cultural Rights with a declaration stating that Myanmar considered article 1 of the Covenant, about 'the right to self-determination', not to apply within the state and not to undermine the 2008 Constitution's anti-secession provision.<sup>84</sup> This declaration resulted in objections from various UN member states which raised

concerns, including that the reservation was incompatible with international law and the Convention itself.<sup>85</sup> Although the government had in some regard taken an important step relating to international human rights obligations, it simultaneously demonstrated its disregard for ethnic and indigenous rights that were at the very heart of the peace process.

Related to this, much to the concern of nationality parties, the NLD passed laws that aggravated ethnic grievances and stifled aspirations. Indeed, by centralizing powers and infringing on ethnic rights, some changes to laws only made a bad situation worse. Amongst these, the most outstanding example was the 2018 amendment to the 2012 Vacant, Fallow and Virgin Lands Management Law. As one ethnic community leader said: 'This law is like a declaration of war on us' (see 'Interim arrangements and legislative obstacles').<sup>86</sup>

The enactment of such laws also appeared to be a breach of the NCA and its 'interim arrangements' that were intended to maintain peace and stability between the signatory parties while political dialogue continues.<sup>87</sup>

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## Impediments to Ethnic Armed Organisation Meetings

A particular complaint among NCA signatory EAOs was the apparent attempt by government authorities to restrict meetings among EAOs themselves and with other peace actors and interest groups. The situation was generally perceived to have become more difficult after the NLD assumed office. This became explicit in September 2019 when the government formally told signatory EAOs not to communicate with international diplomats and aid organisations.<sup>88</sup> This was a clear breach of both the word and spirit of the NCA.

As implementation faltered, restrictions increased on holding independent meetings among ethnic stakeholder parties themselves. This restriction was in addition to the limitations on public consultations in the 'national-level political dialogue'. As a result, several EAOs no longer tried to arrange meetings in government-administered areas. But attempts by government officials to restrict independent meetings were similarly made in ceasefire areas where EAOs controlled extensive territories. Notably, the military attaché at the Myanmar Embassy in Bangkok also requested that the Thai authorities prevent the holding of cross-border meetings in Thailand among EAOs as well as between EAOs and other stakeholders.<sup>89</sup>

Such interventions caused distrust in government-EAO relations. It is unclear whether NLD and Tatmadaw officials were afraid of meetings among different ethnic organisations. But the consequences were far-reaching at a time when successful implementation of the NCA was crucial in peace-building. In many respects, the government's restrictions proved counter-productive, regarded today as a mistake of historic proportions.

Four key obstacles stood out.

- Preventing NCA signatory EAOs from meeting openly made it more difficult for relevant parties to come to agreements for the benefit of the country.
- The effort by government officials to interfere in EAO communications deepened the perception that the authorities were using the NCA as a strategy to strengthen central control over conflict areas.
- The restriction on EAO freedoms during an uncertain time of political change disincentivized non-signatory EAOs from joining the NCA.
- Discouraging communications between EAOs very likely encouraged the realignment of non-NCA parties, notably in the Northern Alliance and Federal Political Negotiation and Consultative Committee. After the NCA inception, they continued to meet freely and developed strategies on their own without the limitations of the NCA.

Fuelling ethnic concerns, international investments accelerated in many of the conflict zones without consultation among local peoples after the NLD took office. Land loss markedly accelerated, with the NCA having no apparent value (see box: 'Economic Change during a Time of Conflict and Peace Negotiation').

Disappointment in the NLD was reflected in parliamentary by-elections during 2017 and 2018, when the party won only three of

the 17 ballots in the ethnic states. Despite these warnings, no reformative actions were taken. With strong support among the Bamar-majority population, the NLD again won the 2020 general election. But during its time in office, the main preoccupation of NLD leaders appeared to be maintaining the party's delicate relationship with Snr-Gen. Min Aung Hlaing and the Tatmadaw leadership. The NLD also faced its own security challenges. The 2017 assassination of U Ko Ni, the party's constitutional lawyer and

CNF troops marching on 30th anniversary of Chin Revolution Day, March 2018, Chin State–Mizoram border (CNF – Facebook)



a prominent Muslim, cast a dark shadow over the country.<sup>90</sup> But opinion was growing in the country that the NLD's political reform efforts appeared much too slow.

Eventually, in January 2019, the NLD did initiate an attempt to introduce constitutional amendments which it had promised during the party's 2015 election campaign. But, after more than a year of work in parliamentary committees, they were voted down by Tatmadaw and USDP representatives.<sup>91</sup> In essence, although the NLD had tried to work with military leaders in government, the tri-partite division continued in national politics between the NLD, Tatmadaw and ethnic nationality parties. Whether through parliament or the NCA, hopes of a nationwide process of peace-building and inclusive reform through an integrated architecture

of ethnic ceasefires and political negotiation appeared to be fading.

As with the 1947 Panglong Agreement, the Union Accord was intended to set out the principles that will ensure equality, peace and stability for future generations. For peace progress to take root, ethnic leaders urged that this historic task should be prioritised in the next cycle of NLD-led government. Five year's after the NCA was first signed, a meaningful roadmap to reform appeared no nearer completion.

The NLD's likely performance in a second term within the constraints of the 2008 constitution and NCA are subject to conjecture. But, during its first administration, it was never clear that the required political will was present or would have been reinvigorated

under the existing structures. What, though, did become all too obvious with the 2021 coup was that the Tatmadaw leadership lacked any plans to jointly lead the country towards political change and away from military dominance, national division and civil war.

## Interim arrangements and legislative obstacles

Another obstacle in NCA implementation was the failure by government authorities to respect the terms and conditions of the 'interim arrangements'. This section of the NCA was drawn up as an integral element of the document in order to build trust and maintain smooth relations between signatory parties while political negotiations took place. Of particular importance in peace-building, the interim arrangements chapter recognised the responsibilities of the EAOs 'for development and security in their respective areas' and listed functional areas where the government and EAOs should coordinate during the interim period.<sup>92</sup> These areas include health, education, socio-economic development, environmental conservation and land, promotion of culture and the rule of law.<sup>93</sup> But, in many cases, the interim arrangements were inadequately defined or poorly delivered. As a result, much discussion time was taken up in considering how they could be made effective.

In the meantime, the weakness of the interim arrangements became a further cause of disillusion with the NCA among both signatory EAOs and the general public. For this reason, understanding of the interim arrangements was often discussed in broader terms than simply the NCA framework. In a situation of 'neither war nor peace', hopes were widespread that, under the guarantee of the interim arrangements, there would be no regression in the economic and legislative landscape while political dialogue continued. This did not prove to be the case.

A number of criticisms persisted. Difficulties ranged from failures in the socio-economic sector to the security and administrative fields. A common complaint was the attempts

by government officials to restrict the ability of signatory EAOs to communicate directly with international donors, non-governmental organisations and UN agencies about assistance to EAO-administered areas (see box: 'Impediments to Ethnic Armed Organisation Meetings').

From this restriction on communications, problems spread into other NCA fields that were essential to the peace process. After decades of conflict, the transition to peace and democracy was never expected to be straightforward. For this reason, the interim arrangements were supposed to support trust-building in the meantime. But both CSOs and EAOs expressed frustration over an inability to develop consistent policies until a full Union Accord could be agreed and implemented.<sup>94</sup> Every delay meant that critical opportunities for national reconciliation and peace-building were being lost. As the Myanmar Interim Arrangements Research Project highlighted, while political dialogue continues, the interim arrangements were intended to build trust on issues of special ethnic concern, such as language policy, land restitution and forced displacement.<sup>95</sup>

In general, the most notable progress in building inter-community relations under the interim arrangements were considered to have occurred in the health sector after the NCA's 2015 signing. Many of these improvements had already begun with the first bilateral ceasefires under the Thein Sein government. The end to fighting allowed the first access to war-affected communities by different sides to the conflicts in many decades, providing a platform for peace-building initiatives. Advancement in such fields as the treatment of malaria and HIV was marked as different government, EAO and community-based organisations began steps to work together for the first time.<sup>96</sup>

After the NLD came to office, new projects and arrangements for the most part depended on the local context. For accord signatories, coordination was based more upon individual relationships than NCA principles or the interim arrangements. The Karen National Union, New Mon State Party and Restoration

Council of Shan State, for example, had significant responsibilities in territories where they administer their own 'mini-state' systems. But, despite signing the accord, government officials were resistant to developing practical measures that endorsed the NCA's recognition of EAO administrations and the requirement for signatory parties to coordinate in social and administrative affairs. Adding to the uneven landscape, the administrative outreach of most of the other NCA signatories can be considered minimal or highly localised, and in no way compared to such large non-NCA signatories as the members of the Federal Political Negotiation and Consultative Committee (see 'Northern EAO ceasefire negotiations').

The result was a patchwork of initiatives across the country, with schools, clinics and development projects continuing to reflect divisions within the conflict landscape.<sup>97</sup> As with the ceasefires of the SLORC-SPDC era, there was little evidence that the notions of 'peace through development' were leading to political reforms or national inclusion following the introduction of the NCA.<sup>98</sup> For this reason, NCA non-signatory EAOs saw no immediate social or political advantages to joining the new accord.

In this vacuum, local administration was often fragmented and contested, and discontent continued to rise. In many areas, social and economic conditions were reminiscent of the 'wheeling and dealing' environment of the early ceasefire years in the SLORC-SPDC era.<sup>99</sup> Following the NCA inception, there were still multiple conflict actors, and local alignments and inter-relationships were complicated by the inrush of foreign companies and other outside interests. In different parts of the country, there were different priorities. But, to the concern of community leaders, decisions of long-term consequence were being made without reference to the NCA, interim arrangements and processes for political dialogue.

Long overlooked, this sense of discrimination and marginalisation has fuelled many decades of ethnic conflict in Myanmar. But disquiet about such exclusion also continued while

the NLD was in government. Despite the protection of the interim arrangements and NCA promises of reform, local peoples felt voiceless amidst the rapid changes taking place round about them. Economic rather than political decisions were having a major impact on the socio-political direction of the country (see box: 'Economic Change during a Time of Conflict and Peace Negotiation').

Two examples illustrate this: one local and one national.

First local: the NLD's decision to sign a 2018 agreement for the US\$ 1.3 billion Kyaukpyu deep seaport and Special Economic Zone with China's state-owned CITIC Group was made without meaningful consultation with the electoral Arakan National Party, the largest party in the Rakhine State legislatures, or the NCA-signatory, the Arakan Liberation Party. The Rohingya crisis and widening conflict with the United League of Arakan/Arakan Army were similarly ignored. Local peoples, political parties and EAOs – none of whom were adequately consulted (if at all) – also had different opinions about international investment. But, as the deepening divisions warned, ignoring ethnic grievances and political exclusion fuelled NCA distrust at a time when the territory was spiralling deeper into civil war.

There were, however, always alternative roadmaps to trust-building than economic prescriptives that risk repeating the failures of the past. The key is consultation and inclusion. These imperatives were explicit in the final report of the 2017 Advisory Commission on Rakhine State. The warnings of former UN Secretary-General Kofi Annan could not have been clearer about the 'resentment' of local peoples against perceived exploitation by outside interests and investments: 'Once a thriving trading hub and a major producer of rice in Asia, Rakhine today is one of the poorest states in Myanmar, plagued by inter-communal tension and conflict.'<sup>100</sup>

This leads to the second example of neglect of the 'interim arrangements', this time on national scale: the changes to the Vacant,



Gold mining on the Ayeyarwady (Irrawaddy) River in Kachin State (TNI)

Fallow and Virgin Land Management Law (VFV Law) that came after the NCA signing. During the NLD's time in office, perhaps no issue galvanised more concern among political parties, CSOs and EAOs than the 2018 amendment to the 2012 VFV Law.<sup>101</sup>

Other laws were also at issue. But, given the millions of people impacted by the threat of land loss, the VFV Law became the clearest example for the problem of legislation proceeding without coordination – and in conflict – with the peace process. Both the timing and tone of the 2018 amendment were wrong, forewarning extensive land loss among local communities and peoples. Furthering concerns, there had been no restitution of lost lands or stable resettlement of civilians displaced during the decades of civil war following the NCA signing.

In terms of the NCA, the VFV legislation heightened worries that the law reform and peace negotiation processes were moving in contradictory policy directions, despite the government and members of parliament playing decision-making roles in both processes.<sup>102</sup> The KNU, for example, stated

that the amended law ‘discourages peace building, trust building and the formation of the future Federal Union’ and ‘is violating the agreements and contracts’ between the KNU and government.<sup>103</sup> The NMSP, too, argued that the VFV Law broke both the NCA and the party's 2012 bilateral ceasefire with the government which included an agreement to ‘seek solution for cases of people's lands through coordination’.<sup>104</sup>

International experts also raised their concerns. Prominent among these voices was Yanghee Lee, the UN Special Rapporteur on the Situation of Human Rights in Myanmar, who explained:

‘By reinforcing Government control over land use in these States, the VFV Law contradicts the Nationwide Ceasefire Agreement, which requires the Government to coordinate with signatory EAOs on land management.’<sup>105</sup>

As protests grew, CSOs lobbied for the VFV Law to be repealed and replaced with a Federal Land Law, based on parts of the existing, relatively more progressive National Land Use

## Economic Change during a Time of Conflict and Peace Negotiation

Over the years, an often-neglected aspect of Myanmar's peace process has been the economic consequences for local peoples, whether through formal or informal agreements. Economic reform as much as political reform is a central concern in driving ethnic grievances and demands. Although not a formal element in the NCA process, this issue is essential to understand how distrust and frustration with the lack of results from peace negotiations built up in many communities.

An 'interim arrangements' chapter in the NCA recognises that the EAO signatories have been, and continue to be, responsible 'for development and security' in their respective territories. But there are no real guidelines as to how these rights should relate or integrate with the bigger picture of economic decision-making and political change. Even before the 2021 coup halted the NCA, the disparities and inequalities in different states and regions had become very clear.

Since independence in 1948, large areas of Myanmar have remained under the control of armed opposition groups that developed administrative and economic systems of their own. During the idiosyncratic 'Burmese Way of Socialism' of Gen. Ne Win (1962-88), the country collapsed to Least Developed Country status at the United Nations, classified as one of the world's ten poorest nations. Subsequently, under the military government of the SLORC-SPDC (1988-2011), a new phenomenon of 'ceasefire capitalism' evolved in which EAOs that had bilateral peace agreements with the military government were able to diversify their trading activities and economic outreach.<sup>106</sup>

The SLORC-SPDC era was also marked by a significant increase in natural resource exploitation with an advance by government, Tatmadaw, Chinese and Thai business interests into the ethnic states and conflict zones.<sup>107</sup> Integral to the role of the Tatmadaw in these developments were two powerful business conglomerates run through the Defence Services: the Union of Myanma Economic Holdings and Myanmar Economic Enterprise. They remain the two leading companies in the country today. Against this backdrop, the balance became increasingly unequal within the country when it comes to making economic decisions, negotiating peace terms and implementing reforms.

After a new era of political transition began in 2011, economic change accelerated more rapidly, exacerbating ethnic unrest in many parts of the country. Different experiences were reported in different territories. The breakdown of ceasefires in the Kachin and northern Shan States, for example, was attributed by local peoples to the geopolitical and natural resource interests of the government and Tatmadaw.<sup>108</sup> In contrast, the ceasefires in the southeast of the country witnessed the greatest time of relative peace, commercial activity and construction since independence. At the same time, they also brought a deepening sense of marginalisation and exclusion among local communities.<sup>109</sup> Whether in ceasefire areas or not, social and economic volatility was heightened by an inrush of outside business actors into territories that had previously been off-limits for decades.

Many of the key projects agreed with foreign governments and companies were already on the drawing boards under the Thein Sein administration. In important cases, though, they came to a halt in response to local protests during the first years of the peace process. This was highlighted by the government's 2011 suspension of the China-backed Myitsone Dam on

the confluence of the Mali and N'Mai rivers with the Ayeyarwady River in Kachin State. These projects then gathered a new momentum after the NCA signing and NLD advent to office. Their scale was unprecedented, including railways, roads, hydropower dams, mining projects, special economic zones and deep seaports. In an important change from the past, they also promoted regional inter-connectivity and, in many cases, were driven by international interests and perspectives.

Three projects stand out: China's Belt and Road Initiative and the Kyaukpyu deep seaport on the Bay of Bengal; India's Kaladan Multi-Modal Transit Transport Project in the Rakhine and Chin State borders; and the Dawei Development Project initiated with Japan and Thailand in the Tanintharyi Region in Myanmar's far south. These were – and remain – multi-billion dollar programmes, and both ceasefire and non-ceasefire areas are designated in their paths in different parts of the country.<sup>110</sup> Although they faced difficulties, all are eventually expected to proceed in the years ahead.

As these mega-investments took off, informal business ventures continued to proliferate in many of the ethnic borderlands where they were generally carried out by ad hoc combinations of government, Tatmadaw, business, EAO, Border Guard Force and militia interests.<sup>111</sup> Indeed, given their scale, the sense remains widespread in northeast Myanmar that the Tatmadaw was never interested in new ceasefires or promoting the NCA after it resumed military operations against the Kachin Independence Organisation in June 2011. A land of natural resource wealth, the jade mines at Hpakant in Kachin State are the world's most valuable; rare earths, gold and timber remain key sources of exploitation; and Chinese banana cultivation projects saw a seven-fold increase during the 2015-20 period.<sup>112</sup>

Until the present day, there is little sense of local benefit in many of these projects anywhere in the country – whether formal or informal. The numbers of displaced persons, refugees and migrants (both external and internal) all continued to increase following the 2011-12 ceasefires, while there was no significant resettlement or rehabilitation of refugees and IDPs in the wake of the NCA inception promising protection of human rights and community security.<sup>113</sup> As a result, the post-2011 era became a time of unprecedented instability for many nationality peoples, with hydropower projects symbolic of marginalisation and new uncertainties. Myitstone, Hatgyi, Mong Ton (Tasang), Ywathit and Upper Yeywa – the names of dams either planned or underway: all remain highly sensitive in ethnic politics today, with the bulk of electricity designated for export.<sup>114</sup>

In the meantime, the United Wa State Party and New Democratic Alliance Army both strengthened their positions in the China borderlands, presenting a very different vision of ethnic nationalism under 'ceasefire capitalism' and outside the NCA roadmap. Here, in what was historically one of the poorest regions in the country, the local economies continued to expand around thriving border hubs at Pangsang and Mongla following the agreement of the first bilateral ceasefires with the SLORC government back in 1989. In effect, a de facto autonomy was established by the UWSP that was partly recognised by the 'Wa Self-Administered Division' designated under the 2008 constitution.

This legacy explains, in part, why both UWSP and NDAA leaders remained reluctant to join the NCA. What would they gain by signing the accord? Equally important, their organisational success and growth in military and economic capacities have acted as an inspiration to other ethnic movements as a model for protecting identity and ensuring self-determination. As

acknowledgement of their strength, Tatmadaw commanders have always been careful not to intrude into their territories. Indeed, since its 1989 ceasefire, the UWSP has built up and controls a second area, administered as 'UWSA South', in southern Shan State along the Thailand border.

Among the post-2015 initiatives, perhaps the most symbolic of the 'neither war nor peace' economy is a multi-billion dollar new town at Shwe Kokko on the Thailand border in territory controlled by the Karen Border Guard Force, previously known as the ceasefire Democratic Karen Buddhist Army. Backed by Chinese business, the new town was promoted in public relations efforts as a special economic zone that will come under China's BRI. But concerns rapidly spread as thousands of Chinese workers and investors came to live in the town, where the primary business appears to be gambling and casinos. Criticism spread as to how such a controversial project could have gained government permission without public consultation or approval.<sup>115</sup> The NCA appeared to have no role in the discussion or negotiation of major investments in Karen State until a full Union Accord is implemented.

In late 2020, there were indications that the Shwe Kokko project was becoming an embarrassment to the governments of Myanmar, China and Thailand. This led to the remarkable situation in January 2021 when, after the three senior leaders were ordered to resign by the Tatmadaw, the entire Karen BGF leadership tendered their resignations before being persuaded to change their minds. Such events did little to reassure public opinion about the ways such projects are being initiated or conceived.<sup>116</sup> Notably, Shwe Kokko and other such enterprises accelerated back into new life following the subsequent coup.<sup>117</sup> As all sides know, such forces as the Karen BGF are dependent on Tatmadaw patronage for their protection and advantages in business and security.

Similar concerns were expressed over BGFs and pyithusit militia in other parts of the country under both the Thein Sein and NLD administrations. Particular criticisms were voiced about their role in drug-trafficking.<sup>118</sup> Despite many decades of international programmes, Myanmar remains one of the world's largest producers of methamphetamines and second largest (after Afghanistan) of illicit opium, a distinction it has long retained. Occasional drug raids received media headlines. But, given the levels of complicity, these actions have never been convincing to local communities. Indeed the goal of eradicating narcotics was one of the two key reasons that the Ta'ang National Liberation Army gave for its return to armed struggle during the Thein Sein administration: the other was politics.<sup>119</sup>

Clearly, economic change has had enormous impact on the lives of local peoples after the initiation of new peace process in 2011. In one of the poorest and least developed lands in Asia, ceasefires were generally welcomed in areas where they became stable. At the same time, the peace process was accompanied by impoverishment, insecurity and marginalisation in many parts of the country.<sup>120</sup> All too often, these realities were underplayed by international interests who failed to understand the dynamics and structures of conflict in a country that has been in effective civil war since 1948.

In this respect, Myanmar is not alone in falling into a conflict trap. 'War and peace: what's the difference?', the political economist David Keen once asked in a study of modern conflicts.<sup>121</sup> As he argued, war 'is not simply a breakdown in a particular system, but a way of creating an alternative system of profit, power and even protection.'<sup>122</sup> These paradigms very much reflect the experience of Myanmar where there are diverse conflict actors with long-term



perspectives and strategies for self-survival.<sup>123</sup> These became embedded in the peace process during the past three decades, and the NCA never challenged these systems and structures by ensuring inclusion, equality and reform. A political endgame never appeared.

Damagingly, too, the perception became widespread that economic exploitation accelerated after the NCA was introduced, undermining public trust in ceasefires and the peace process. Land, natural resources and economic rights have always been integral to the conflicts in Myanmar. As Cardinal Charles Maung Bo, Archbishop of Yangon, warned:

'The peace agreements we sign are flimsy. They may pause the fighting but forests are still plundered. Precious riches are still taken from our soil and stolen from future generations. Go deeper in your negotiations!'<sup>124</sup>

Policy and a participatory legislative process.<sup>125</sup> Such a reform would have been in line with promises made by both the Thein Sein government and, previously, the NLD before it took office. But, as the months passed by, there appeared no forum where such views could be effectively expressed, whether through NCA meetings, the legislatures or the UPC-21CP process. Instead, the national parliament went on to pass additional regressive land laws and amendments, including the highly problematic Land Acquisition, Resettlement and Rehabilitation Act (2019) and amendment of the Farmland Act (2020). The government appeared impervious to civil society pressure campaigns and countrywide protests.

The consequences were grave. The interim arrangements were designed as a trust-building bridge between the NCA and the achievement of political reform. But, while political dialogue faltered, the NLD and Tatmadaw both pursued their own political and economic priorities without respect to the NCA or broader peace-making goals. The enactment of laws or approval of outside investments that exacerbated ethnic grievances only added to concerns about government preoccupations and the direction of the peace process.

In the meantime, violations of the NCA continued in several of the conflict front-lines, and civil society actors who protested about land-loss and economic projects

that were perceived to be harmful to local communities faced the risk of political harassment and arrest by the authorities.<sup>126</sup> To the detriment of the NCA, the interim arrangements failed in their purpose. In many communities, the accord did not appear to herald a new era of political discussion and reform change, and neither did legislative reforms underway in Nay Pyi Taw.

### Political problems above all else

While the peace impasse deepened, time was often spent under the NLD administration looking at technical problems where the design of the negotiation process and responsible institutions was not supported by successful outcomes. Concentration on this issue, however, ignores the fact that the root of the conflict challenges in Myanmar are political and deep-seated, and they cannot be solved by technical fixes alone. In the short-term, ceasefire adjustments may address day-to-day problems, but experience has long since shown that national reconciliation needs to be based upon political outcomes.

In terms of the peace process, the central problem during the past decade is that the key parties and their leaders did not share the same vision for its goals. There was a fundamental problem in understanding one another, leading them to act in contradictory ways. If there was ever any doubt, the February 2021 coup showed that Tatmadaw

Construction of Shwe Kokko new town in Karen BGF-controlled territory on Thailand border (TNI)



leaders have a fundamentally different view over their rights and role in national politics as well as the endpoint they envision for the country's political structure.

Among the EAOs there have been different views as well, but they generally seek to end the civil wars by negotiating a reconstitution of the state, one that will be federal, democratic and respecting of equal national rights and self-determination. As a basis, this requires constitutional change and protections for ethnic nationalities. They may hold a range of views on the future of the different nationality movements, but they also believe that reform is possible if the state has genuinely changed. In Myanmar, there is no historical antecedent for this process, although it builds upon the 1947 Panglong Agreement, the 1961 Federal Seminar and other historical meeting-points that have delineated the general goals of self-determination, autonomy and a future federal union for the country.<sup>127</sup>

The goal of the Tatmadaw for the peace process is entirely different.<sup>128</sup> During

the post-2011 era, it stood in direct contradiction to that of the EAOs. The aim of the country's generals was to defend the military-drafted 2008 constitution from any significant change. In the meantime, the armed forces sought to manage internal warfare by a number of security measures. These included containing conflict through selective ceasefires, arbitrary ceasefire implementation, and the transformation of EAOs into paramilitaries or disarmed entities. On the surface, this resembled parts of the 1990s strategy for ceasefires, but it did not include something as politically meaningful as the National Convention that produced the 2008 constitution under SLORC-SPDC management. These goals were evident throughout the 2010s and reaffirmed by the 2021 coup d'état.

By contrast, the goal of the NLD in government was less clear and lacked a detailed political blueprint. Under the previous administration of President Thein Sein, the relationship between the USDP and Tatmadaw was essentially symbiotic. But the internal



Primary school children in Loilem District, southern Shan State (TNI)

workings of government became much more confusing under the NLD administration. With the Tatmadaw retaining substantial decision-making powers, an uneasy status quo existed between the two entities.

In consequence, NLD leaders and EAOs often appeared stymied in terms of the peace process by the Tatmadaw, which continued to show a willingness to exercise its power, whether in launching military operations, selecting dialogue partners or using pressure to block progress in negotiations. Against this backdrop, the NLD leadership appeared to take a self-serving position in government of publicly promoting an end to conflict but without confronting the Tatmadaw or giving up its own power.

In the aftermath of the 2020 general election, given the scale of the NLD's victory, speculation immediately began as to whether these relationships would change and, if so, how this would affect the conduct of the peace process. Many people in the country hoped that the door was now open to constitutional

reforms and the NLD showing stronger political direction. Instead, by seizing power the Tatmadaw leaders showed they did not have respect for parliamentary elections, arresting many of the NLD leaders. As the country descended into chaos, what was intended for the peace process was very hard to say though, technically, the new regime leadership said that the NCA was still in progress. These were claims, however, that it was impossible to take at face value.

In Myanmar today, the failure to agree to political reform continues to lie at the heart of conflict challenges that date back to independence in 1948. Despite international support and trusting expectations, the NCA was not implemented in a way that addressed this fundamental requirement. After over seven decades of conflict, inter-party understanding and political will to work together remain severely lacking.

### 3. Efforts to Overcome Negotiation Challenges

#### Differences in outlook: the NLD, Tatmadaw and EAOs

Despite the depth of conflict divisions, it is important not to lose sight of the fact that, after government transition began in 2011 and until the 2021 coup, efforts were maintained to try and achieve a successful peace process. The intervening decade witnessed the most intense period of peace endeavours to chart a new political direction for the country since armed conflicts began in 1948. Although nationwide peace was not achieved, the pattern of ceasefires during the 2012–20 period – while not inclusive – resulted in the first halt to fighting in many conflict zones in decades, especially in the southeast of the country, bringing respite to many long-suffering communities. In another sign of change, many of these initiatives were supported by governments and organisations in the international community.

Following the NCA signing, the central ground in addressing the negotiation impasse continued to be occupied by the three main actors in Myanmar politics at that time: the NLD-led government (which included non-party members), the Tatmadaw and ethnic armed organisations. All continued to launch initiatives of their own. But although the three actors faced different issues in their negotiations, there were clear patterns across their approaches and interactions. The political landscape, though, was not static, and the peace process continued to develop and evolve.

The ‘pre’ and ‘post’ NCA landscape was quickly different. In particular, with the accord theoretically in place, a number of new complexities in negotiation emerged. Most obviously, each EAO grouping became seriously concerned at some point with the content of the ceasefire agreements. In response, they proposed substantive reforms to various agreements and implementation measures. The NLD-led government, in contrast, sought to avoid negotiations that required it to engage with the Tatmadaw in

Dance leader at Kachin Manao festival in Kutkai township, northern Shan State (TNI)





KNU Chairman Mutu Say Po, State Counsellor Aung San Suu Kyi and Sn-Gen. Min Aung Hlaing on NCA third anniversary, 15 October 2018 (AFP)

discussing new commitments or ensuring that existing commitments were respected.

These differences in outlook then led to further negative consequences for the directional arc of the peace process. From the moment of the first Union Peace Conference–21<sup>st</sup> Century Panglong meeting in August 2016, NLD leaders generally avoided confrontation with military officials that did not advance the party’s primary political goals. They also lacked strategies to enable front-line negotiators to negotiate on the substance of agreements and implementation.

In this vacuum, the main interest of the party appeared to be focused on parliamentary and administrative affairs. Simultaneous with this change, the open and often casual style of the Union Peacemaking Work Committee under the Thein Sein presidency was replaced by a more cautious manner under the National Reconciliation and Peace Centre. In the meantime, Snr-Gen. Min Aung Hlaing and the Tatmadaw leaders, even during a time when they were under international rebuke, benefited from the NLD’s passivity and steadily injected new obstacles. These, in turn, harmed the government’s ability to claim a successful peace process.

A cycle of negotiation deadlock thus became entrenched. The different approaches by the various stakeholders repeatedly resulted in stalemates whereby EAOs sought outcomes from substantive negotiations (e.g., by improving ceasefire implementation mechanisms) prior to making symbolic concessions (e.g., by signing the NCA). But rather than negotiating on these issues, the government refused to agree to any substantive changes before the EAOs fully complied with government demands. Again and again, this resulted in negotiations ending – sometimes quickly, other times after more than a year of talks – with the main result being decreased trust. This pattern was described by Gen. Gun Maw, Vice-Chair of the Kachin Independence Organisation and a leading figure in the Federal Political Negotiation and Consultative Committee:

‘We would sign the NCA if it were more comprehensive and acceptable to us.... The government has adopted the NCA as a path to peace. Our view is that there is also a need to discuss the principles proposed by the FPNCC along with the NCA path. They should not say the FPNCC principles are unacceptable when they have not even discussed them.’<sup>1</sup>

Complicating matters, the NLD was unable (or unwilling) to change the Tatmadaw's exclusion of the Myanmar National Democratic Alliance Army, Ta'ang National Liberation Army and United League of Arakan/Arakan Army from equal participation in the peace process. Throughout the NLD administration, Snr-Gen. Min Aung Hlaing continued to make decisions on key aspects of the peace process independently. These divisions furthered the impression that, on the government side, there were always two groups for the EAOs to negotiate with: the NLD and Tatmadaw.

In response, government officials circulated the view that it was the EAOs who were dragging their feet. But this only deepened the sentiment among EAO leaders that the government had no serious plan or intention to carry out its commitments or make the peace process successful. From September 2016 onwards, each new challenge compounded these perceptions, particularly as the NLD-led government – after its first months in office – appeared to display no understanding of the conflict realities in the field. The construction, for example, of statues of Aung San Suu Kyi's late father, Aung San, proved controversial in several of the ethnic states (see 'KNPP ceasefire negotiations').

The fall-out from these different approaches to negotiation was highly detrimental as the different stakeholders put forward their own proposals for breakthroughs and reform. Rather than the NCA and NLD government heralding a new era of peace, the following years saw a sharp escalation in conflict in several parts of the country. At the same time, the Tatmadaw was able to strengthen its constitutional position by blocking political changes or even planned discussions of reforms. The different regional commands were also able to step up operations against selected EAOs, regardless of the NCA or existing ceasefire commitments (see 'Military violations').

In previous government eras, such unilateral decision-making by Tatmadaw leaders had been conducted in great secrecy during half a century under military rule. But now, in an

era of quasi-civilian democracy, many aspects of Myanmar's conflict impasse came under closer scrutiny, both at home and abroad. Despite increased visibility, the structural inequalities and political failings in the peace process were never addressed. Warnings were ignored. And, subsequently, hopes among NCA supporters that new commitments and understandings could be developed during the NLD's second term in office were erased by the 2021 coup and the Tatmadaw's open disregard for both the constitution and various ceasefires. Relationships between the Tatmadaw, NLD, EAOs and political movements more broadly were fundamentally changed.

## The 21st Century Panglong Conference

Following the transition to an NLD-led government in March 2016, both the EAOs and incoming officials made efforts to build mutual trust and revitalise the peace process in the wake of the NCA's inception. The main NLD vehicle for this was the 21<sup>st</sup> Century Panglong Conference. In this new era, the new 'Panglong' was intended as a way to rebuild peace momentum and connect with reform discussions in the country at large.

For what were considered pragmatic reasons, the 21<sup>st</sup> century incarnation of Panglong became rebranded with the Union Peace Conference that had grown out of the NCA. But, in the invigorated UPC-21CP, the government also sought to overcome the problems of exclusion that had weakened the NCA. Less than half the active EAOs in Myanmar had signed the founding agreement. The NLD thus hoped to encourage the Tatmadaw to accept all 21 EAOs that had been considered part of the peace process to be invited to the first UPC-21CP in August 2016 (see chart: 'Ethnic Armed Organisations, February 2021').

The subsequent difficulties of the UPC-21CP have been discussed in Part One. But because of the particular importance of this first meeting, the events need to be looked at in more detail. By invoking the historic name

of Panglong, hopes for nationwide peace and a new political breakthrough had spread rapidly to all corners of the country. The NLD's advent to government, it was hoped, would inaugurate a consolidation of peace and democracy in a federal democratic union.

To get around the NCA and non-NCA divisions, the issuing of invitations to the conference was theoretically easy. Since no decisions would be made at the meeting, the NLD-led government and Tatmadaw could agree that all participants, including political parties and non-NCA signatory EAOs, be allowed equal roles and permitted to make televised remarks. On this occasion, the Tatmadaw leadership accepted that the six EAOs specifically excluded from signing the NCA at that time could join: i.e. Arakan National Council, Lahu Democratic Union, Myanmar National Democratic Alliance Army, Ta'ang National Liberation Army, United-League of Arakan/Arakan Army and Wa National Organisation.

There were, however, some preconditions. Before receiving invitations, Snr-Gen. Min Aung Hlaing insisted that the MNDAA, TNLA and ULA/AA issue a public statement containing five points dictated by the Tatmadaw, including a commitment to give up armed struggle. This was a particularly

sensitive subject for the MNDAA and TNLA. Both had negative experiences of ceasefires during the SLORC-SPDC era. Subsequently, negotiations broke down over the wording of this statement prior to the meeting, leaving three of the EAOs – the MNDAA, TNLA and ULA/AA – shut out from the UCP-21PC. However they did release a joint statement shortly before the conference began, expressing their willingness to participate in the peace process.<sup>2</sup>

Other EAO non-signatories to the NCA also had concerns about the Panglong-21 meeting. Members of the United Nationalities Federal Council, especially, debated the issues of attendance and remit of the conference intently. But given that EAOs would participate equally, they agreed to join in order to support the NLD and promote its ability to lead the peace process.<sup>3</sup> As a result, 17 EAOs eventually attended the event, the majority of which had not signed the NCA, and their remarks were broadcast to the public.<sup>4</sup> In a short exchange of speeches, the Kachin Independence Organisation leader and then UNFC Chairman Gen. N'Ban La said: 'The reason why we, the non-Bamar ethnic people, are staging armed revolution is because of the loss of the Panglong Agreement's guarantees for democracy, national equality and self-determination of ethnic people.'<sup>5</sup>



Panglong Monument commemorating the 1947 agreement on union and equality (TNI)

Many problems, however, were looming. Not all parties were pleased with the conference outcome, and UNFC members were not allowed to deliver their prepared remarks collectively. The United Wa State Party delegation also left the conference early after a dispute about their representational status.<sup>6</sup> But, in the general euphoria at the time, opinion was widespread that a major peace breakthrough had been achieved. With international diplomats present, the NLD's calling of such a meeting and consensual advocacy for the political goals of federalism all appeared to mark a turning-point in history.

In fact, no substantive agreements had been made. But memories of the first Panglong-21 conference continue to have resonance in national politics. Many reasons can be identified. But inclusion was key to the perceived ground-breaking nature of the meeting at the time. In negotiating terms, this was successful because:

1. Political decision-makers prioritized inclusion over other interests.
2. Decision-makers agreed to remove distinctions between stakeholders. The various participants were mostly treated equally, and given the same powers and roles in the conference. Equally important, EAOs were not discriminated against on the basis of ceasefire status, and political parties were also treated the same despite not participating in ceasefires.
3. Government leadership used influence to shift the Tatmadaw's position towards agreeing to these terms.
4. The new government enjoyed extensive goodwill and broad public support. After many years of struggle for democracy, the NLD was largely viewed as an independent and neutral party that was needed to lead the process.

After this inaugural meeting, peace momentum was not maintained. Two factors underpinned this failure. First, the Tatmadaw resumed military operations against EAOs



Guard outside hotel at KIO headquarters at Laiza on China border (TNI)

in several parts of the country. This began in the Kachin and northern Shan States at the time of this first Panglong-21 meeting, and subsequently escalated in Rakhine State where the Rohingya crisis exploded later the same year. And second, government leaders failed to shape conditions for subsequent peace conferences to enable equal or greater inclusion. At the later UPC-21CPs, distinctions were made between EAOs based on their ceasefire status, although this was not required by the NCA (see box: 'The 2015 Nationwide Ceasefire Agreement').

With the failure to achieve full inclusion, NCA non-signatory EAOs were only able to attend as observers at subsequent meetings. But intensive interventions were required from China to make this happen. In consequence, the 'UPC-Panglong-21' architecture became as complicated and opaque as the NCA which, critics believed, was embedding the 2008 constitution rather than charting a new path towards peace and reform. These failings were also apparent at the subsequent UPC-21CP meetings in May 2017, July 2018 and August



2020. During these meetings, 71 ‘principles’ for the new Union Accord were agreed. But with many nationalities and stakeholder parties unrepresented – or under-represented – at these meetings, the high hopes of the first Panglong-21 meeting were never maintained.

Exclusion and non-representation were deepening. At the last UPC-21CP meeting in August 2020, none of the NCA non-signatory EAOs were present at a conference held in a limited format under the shadow of Covid-19 and the imminent general election. For the NCA signatories, the main goal was to ensure that the peace process would continue following the November polls – a commitment that was agreed to during the meeting. According to Sai Laeng of the Restoration Council of Shan State: ‘It is meaningful to agree on how to build a federal union beyond 2020.’<sup>7</sup> But, as experiences had shown, meaningful solutions would require much more than technical fixes and procedural re-arrangements.

## The UNFC’s ‘eight-point’ proposal

Often overlooked during discussions of the peace process, there were many efforts by ethnic opposition organisations to reform and improve the NCA path. A key moment came during the NLD’s early days in office while government attention focused on a smooth transition in administration. Prior to the first Panglong-21 meeting in August 2016, 17 EAOs met at Mai Ja Yang in Kachin Independence Organisation territory. All had been part of NCA negotiations in their earlier stages, with most of them included in the 2013 Nationwide Ceasefire Coordination Team that had 16 members. Political exclusion, however, and the subsequent direction of the NCA caused a split among EAOs (see chart: ‘Ethnic Armed Organisations, February 2021’).

For its part, the United Nationalities Federal Council experienced the departure of such NCA signatory groups as the Chin National Front, Karen National Union and Pa-O National Liberation Organisation from the alliance.<sup>8</sup> In the KNU case, this was even before the

NCA was completed.<sup>9</sup> The 2015 signing of the NCA by just eight organisations thus made the EAO split explicit and rendered the NCCT defunct. EAOs in different parts of the country nevertheless continued to voice their concerns about the peace process, whether they were UNFC members or not.

It was against this backdrop that the 17 EAOs met at Mai Ja Yang. Here, in wide-ranging discussions, a number of agreements were made between NCA signatory and non-signatory EAOs. They also discussed an ‘eight-point’ proposal that UNFC members had delivered to the government the previous month to improve NCA implementation and inclusion. EAO groups – whether signatories or non-signatories to the NCA – were keen to get the peace process back on a track. Three main worries stood out: the structures by which political dialogue was being carried out; how to ensure that monitoring was effective; and the need to achieve full inclusion of all EAOs (see appendix: ‘The “Eight-Point” Proposal of the UNFC’).

Since this time, the eight principles of the UNFC have remained at the core of EAO criticisms over the NCA’s technical failings and, for this reason, they require closer examination. A number of stumbling-blocks can be identified. Several of the principles proved challenging. But the issue that never came close to resolution were the EAO calls (points 6 and 7) for an international role in the Joint Ceasefire Monitoring Committee and dispute resolution mechanisms. The UNFC position was based upon two beliefs: first, that the JMC would be ineffective without international participation; and second, that international support to the JMC would not be productive unless embedded at all levels of the peace mechanisms.

These issues were never properly addressed. After the NCA was signed, a series of unintended consequences followed in its wake. Once the accord was agreed, the Tatmadaw leadership proved highly resistant to giving up their unique power in the JMC, and commanders opposed international involvement in ceasefire monitoring and other sensitive issues in the NCA. Similarly,

although there was some international interest in finding ways to assist, the geopolitical sensitivity of the issues – and opposition by Tatmadaw representatives – dissuaded active support for finding a creative solution to address UNFC concerns. The NLD also showed unexpected indifference by allowing the role of the UN Special Advisor to the Secretary-General, Vijay Nambiar, to lapse. Under the Thein Sein government, his presence at meetings had provided confidence to different sides in the negotiations.

From this point onwards, optimism declined about the prospects for peace. As fighting escalated in the northeast and west of the country, the NLD put its full support behind the NCA, blocking off alternative routes towards improvements in the peace process. Meanwhile international donors negotiated to fund the JMC's existing operations without consulting NCA non-signatories or considering the detrimental effect on the UNFC's 'eight-point' negotiations. As EAOs

pointed out, the NCA explicitly permitted international participation in the JMC as observers, technical assistants and advisors.<sup>10</sup>

As peace negotiations dragged on, it proved impossible to agree on how to implement these key NCA provisions. This, in turn, fed into EAO worries about the JMC's weaknesses. Furthermore, what international assistance was provided to the JMC often served to fund poorly-designed structures and prioritize Tatmadaw concerns. From the day of the NCA signing, ceasefire violations went unheeded and Tatmadaw interests came to dominate all of the JMC structures (see 'Military violations').

Against this backdrop, the KIO, Karenni National Progressive Party, New Mon State Party, Shan State Progress Party and other UNFC members continued to promote the 'eight principles' for NCA reform. UNFC leaders had previously met with Aung San Suu Kyi on peace missions to Yangon during the

International representatives speaking with President Thein Sein at the 2015 NCA signing ceremony, Nay Pyi Taw (AFP)



Thein Sein presidency, encouraging optimism that negotiations could address NCA concerns. Through such a process, they hoped to bring on board most of the EAOs who had originally negotiated the NCA but not been satisfied with the 2015 outcome. The need was not simply to amend the NCA but to ensure its effective implementation.

NLD and Tatmadaw officials took a different view. After the first Panglong-21 meeting, the government instead sought to motivate the EAOs to sign the NCA without agreeing to any new commitments. Their strategy was to accelerate meetings with the NCA signatories, implementing the accord on paper as quickly as possible. The government thinking was that, once the NCA non-signatories saw implementation moving ahead, they would not want to be left behind in decision-making. To back this up, the government invited NCA non-signatories to meetings to review the accord's Framework for Political Dialogue. This gesture included the scheduling of UNFC negotiations with the government at the same time in order to make it convenient for EAO representatives to attend NCA review meetings.

For the next year, the two approaches – government and UNFC – to the negotiations continued, but they ultimately proved incompatible. The UNFC's negotiators made significant concessions on their eight principles. But they did not receive commitments in return that assuaged their concerns about the effectiveness of the JMC and other NCA stipulations. Instead, the resistance by government and Tatmadaw officials on agreeing how to implement key NCA provisions created greater distrust among EAOs in the NLD's commitment to the peace process. Evidence from the field, including military violations of the ceasefire and weakness of the interim arrangements, suggested that implementation was proving ever more difficult as the months passed by (see 'Interim arrangements and legislative obstacles').

Negotiation relationships were never repaired. The government's efforts to draw EAOs in through a 'don't get left behind' strategy left

ethnic leaders – including representatives of both political parties and civil society organisations – with an increasingly negative view of the NCA process. After attending the Framework for Political Dialogue review sessions, NCA non-signatory groups observed that decisions about the country's future would be made only by the fragmentary groupings – initially just eight EAOs – which had signed the NCA. The NLD's promise of the 21st Century Panglong Conference to initiate a peace negotiation re-start was soon dispelled.

Equally serious, UNFC negotiations with the government were overshadowed by increased armed conflict and worsening instability in the China and India-Bangladesh borderlands. The Rohingya crisis was on the brink of becoming one of the greatest refugee crises in the modern world. As displacement and civilian casualties mounted, public trust in peace negotiations began to drop, and the government's silence on humanitarian suffering was widely noted. In October 2016, the KIO – then still a UNFC member – was early in its warnings:

'These kind of military actions are undermining and interrupting the genuine peace process, which is just emerging. The Tatmadaw's military hostilities and offensive attacks with the use of excessive force can only lead to an escalation of the civil war at the time when the government and the EAOs are to initiate further political dialogue.'<sup>11</sup>

Subsequently, the influence of the UNFC decreased rapidly. If the Tatmadaw's aim was to disrupt EAO unity, then it was successful. Two developments dealt the UNFC a crushing blow.

First, three new alliances were formed during the 2016-19 period among NCA non-signatory EAOs, shifting the locus of united front politics towards the China border: the Northern Alliance, Federal Political Negotiation and Consultative Committee and Brotherhood Alliance. The FPNCC now represented the most powerful EAO grouping in the country (see chart: 'Ethnic Armed Organisations, February 2021').<sup>12</sup>

## International Actors in the Peace Process

One of the distinguishing characteristics of the post-2011 peace process was the involvement of international actors. As a sign of recognition, such leaders as Presidents Barack Obama and Xi Jinping, Prime Minister Narendra Modi and UN Secretary-General Ban Ki-moon all visited the country. This marked a historic change from the previous half a century under military rule when Myanmar became one of the most isolated countries in the world, both politically and economically.

After 2011 an increasing number of governments, donors and international agencies became involved, including China, Japan, the multi-partner Joint Peace Fund, the World Bank and the office of the UN Special Envoy to Myanmar. In terms of new initiatives, this began with the Norway-backed Myanmar Peace Support Initiative (2012-14), which in many respects was superseded by the JPF at its 2015 inception following the NCA signing.<sup>13</sup> But there was no collaborative effort among international actors and groupings that brought the different parties in the country together. In the main, international organisations developed networks and policies that often reflected interests and practices of their own.

A number of characterisations can be made about the conflict landscape. The JPF favoured by many Western donors was close to the government and the NCA signatories; China maintained relationships with all stakeholders, including the government, Tatmadaw, business groups and EAOs (i.e. those on its borders); Japan stood somewhere in between, favouring a development approach but also supporting international peace initiatives; India focused on the Kaladan Gateway project, security interests, ethnic Naga, Chin and other nationality movements that transcend both sides of the modern borders;<sup>14</sup> and UN agencies were involved in programmes that touched upon a range of socio-economic and humanitarian needs. There was also a plethora of foreign non-governmental organisations and consultants engaged in different aspects of the peace process.

As this complexity suggests, there was no shortage of international interest and concern. But many actors in Myanmar questioned whether the diversity of agenda-setting by outside voices helped create a new set of challenges, rather than solutions, in the quest for nationwide peace. Following the NLD's advent to government, the focus on the peace process wavered, and the escalation of the Rohingya crisis challenged international confidence over the country's reform path. In particular, in a conflict-divided land where armed struggles and military rule had continued for over 60 years, there was too much reliance on the NCA – once signed – as clearing the way to a political endgame. Ultimately, it did not come close.

The ethno-political landscape remained fraught with ambiguities. Throughout the NLD's time in office, Western governments appeared undecided – both wanting to continue aid engagement with the government but also condemning human rights violations (especially related to the Rohingya issue). Similarly, while the UN Human Rights Council and UN Special Rapporteur took broader perspectives to engage with the complexity of challenges, UN development agencies remained aligned with the programmes and agendas of the NLD-led government. The role of Vijay Nambiar, UN Special Advisor to the Secretary-General, was also discontinued after the NLD took office, weakening focus on the peace process and challenges of transition.<sup>15</sup> Meanwhile, symbolised by President Xi Jinping's Belt and Road Initiative, China reasserted itself as the most powerful influence in Myanmar and regional geopolitics. Subsequently, Japan also stepped up peace efforts through the Nippon Foundation which broadened its focus from the Thailand border to take a special interest in Rakhine State affairs.

In the meantime, many civil society organisations believed that non-state actors were marginalised from the peace process, marking a change from the SLORC-SPDC era when mediation efforts largely came from community-based actors at the local level and UN special envoys at the governmental level. In consequence, international peace efforts became widely criticised as top-down and donor-driven, with too much emphasis on the National Reconciliation and Peace Centre.

Many of these trends had been evident under the Thein Sein presidency but the NLD-led government did not herald a new era of change. Particular concern was expressed over the perceived focus by Western actors on the NCA signatories; a lack of understanding of the broader political challenges in the country; encouraging a culture of 'sign first' and 'worry about details later'; and a failure to monitor and insist that peace process agreements (which they had supported – and in some cases witnessed) were effectively implemented.<sup>16</sup>

This also leads to the question of political inter-relations with other Asian neighbours. Although Myanmar is a member, ASEAN played no real role in the peace process. Against this backdrop, the prospect of Asian and Western rivalries in a new 'great game' for Myanmar – especially involving China and the USA – was one that many people in Myanmar came to fear.<sup>17</sup> Under the Thein Sein government, China's influence had been in decline, illustrated by the 2011 suspension of the Myitstone Dam in Kachin State. The shock resonated deeply in political and business circles in China.<sup>18</sup> But, after the NLD came into office, Chinese officials once again promoted their country as Myanmar's leading partner and 'pauk phaw' (fraternal) ally.

Uncertainties nevertheless remained. Born out of long (and sometimes fraught) experience, Chinese officials are constant monitors of Myanmar's internal landscape. The two decades of support (1968-88) that China provided to the Communist Party of Burma have not been forgotten in the two countries. Lessons have been learned. At the same time, following the CPB's 1989 collapse, Beijing did not want to see forces perceived inimical to China's interests developing in the Yunnan borderlands.<sup>19</sup>

For this reason, while observing many of the key events, Chinese officials chose not to engage closely in the NCA process, which government officials perceived as Western-influenced. They also continued to maintain close relations with the UWSP, KIO and fellow members of the Federal Political Negotiation and Consultative Committee in the northeast of the country. Notably, too, Chinese Foreign Minister Wang Yi hurried to Myanmar in January 2021 as the first international diplomat to visit Nay Pyi Taw after the NLD's general election victory.<sup>20</sup> Beijing remained keen to maintain influence with stakeholders on all sides.

As the 2021 coup highlighted, international responses to Myanmar's political and conflict challenges have been unsuccessful in every era of government since independence in 1948. A major reevaluation is long overdue, but international introspection has been minimal to date.<sup>21</sup> Under the USDP and NLD governments, there was a huge international investment in expenditure and energy. Little evidence, though, of breakthroughs can be seen today: rather, a re-arrangement in the conflict landscape. Indeed, since the 2021 coup a new international actor – Russia – has become the most visible supporter of the Myanmar military in government.

As state failure continues, the international community is yet to find a cohesive way to address the causes of conflict, help to bring peace and end the long-standing divisions within the country. On a key geopolitical crossroads in Asia, the dilemma of Myanmar remains.

Soldiers at checkpoint near KNU headquarters, KNLA 7th Brigade area (TNI)



And second, two of the remaining UNFC members – the New Mon State Party and Lahu Democratic Union – signed the NCA in February 2018. The NMSP’s then Chairman Nai Htaw Mon denied that this was a ‘betrayal’ of the UNFC. ‘Signing the NCA means to discuss politics with the majority,’ he said.<sup>22</sup> In coming to this decision, NMSP leaders determined that, in an increasingly pressurised environment, signing the NCA was now the best way for the party to voice its aims and survive (see ‘Military violations’).

In contrast, the (non-ceasefire) Arakan National Council and (ceasefire) KNPP continued to hold out as non-signatory EAOs from the remaining UNFC members. The ANC came close to signing along with the LDU and NMSP in 2018, but ultimately chose not to over the issue of inclusion. The KNPP, meanwhile, continued its 2012 ceasefire on the basis of bilateral negotiations, maintaining its UNFC membership (see ‘KNPP ceasefire negotiations’). But, as a negotiating group, the UNFC was much weakened, and in mid-2019 the alliance announced that

it would suspend some of its activities – temporarily the remaining UNFC members hoped.<sup>23</sup>

Memory of the UNFC continues to live on today. The ‘eight principles’ are no longer on the negotiating table. But they are still referred to as evidence of an effort at genuine reform and how non-signatory parties were blocked from amending the accord or strengthening implementation. To the concern of reform advocates, the subsequent signing of the NCA by the LDU and NMSP were presented as victories for the government.<sup>24</sup> The shift in the centre of gravity for ethnic alliances to the China border also affected the international balance of influence away from Western actors who had pushed for a partial NCA signing and often marginalized the concerns of non-signatory EAOs. Meanwhile, armed conflict and human rights violations escalated in several parts of the country even before the 2021 coup. The UNFC’s ‘eight-point’ proposals were ignored, and the NCA did not hasten the delivery of political reform and nationwide peace.

## NCA party efforts to address implementation difficulties

Following its 2015 signing, the NCA's implementation process involved complex multi-party negotiations. Different parties constantly sought ways to advance their interests and overcome obstacles, both small and large. During this time, there were a few periods of reassessment, backed up by attempts to reform the peace process to function more effectively. But even within the limits of the NCA text, signatories struggled to implement basic components of the agreement. On the eve of the 2021 coup, there had been little deviation from the original NCA template.

The first time that change was attempted took place following the second Panglong-21 conference in May 2017. That meeting resulted in the first section of the Union Accord being announced. At the last minute prior to the conference, seven members of the Federal Political Negotiation Consultative Committee were allowed to attend the opening session as 'invited guests' following intercession by Chinese officials. But the meeting ended in controversy when the first Union Accord decisions were agreed under unclear procedures and decision-making processes. Although the state media celebrated the agreement of the first 37 'basic principles' on the basis of 'federalism', the NCA-signatory EAO delegates believed that the Tatmadaw was seeking to push through its own agenda.<sup>25</sup> In essence, they argued that the dialogue process was heading on a course that was more likely to legitimize the 2008 constitution than establish a federal democratic union.<sup>26</sup>

From this moment, trust in the negotiation process began to stall. Until the second Panglong-21 meeting, EAO leaders among the NCA signatories had sought to overcome process obstacles with the intention of pursuing the NCA framework until the eventual Union Accord. But with the growing difficulties and lack of results, the EAO signatories decided to pause the process of meetings with the government to review the NCA implementation over the following months.

After this period of reflection, the EAO signatories put forward 21 proposals to fix specific problems in the NCA implementation when the parties met again later in 2017.<sup>27</sup> Although some points were agreed to by the Joint Implementation Coordination Meeting, the EAOs failed to overcome the government's lack of will to implement the NCA. Equally serious, the initiative to improve implementation was frozen when the Tatmadaw responded by calling for discussion on the sensitive issue of Disarmament, Demobilization and Reintegration to be brought forward. This, in turn, raised fears among EAOs who want to achieve political change before discussing issues of security and disarmament that are tied together in the NCA (see box: 'Disarmament, Demobilization & Reintegration and Security Sector Reform').

With agreement elusive, the formal processes of NCA implementation continued to break down. Despite setting up administrative systems, the Joint Ceasefire Monitoring Committee never carried out its central functions of building trust between ceasefire parties, conducting verification missions, and covering ceasefire violations as and when they occurred. Public trust in the peace process was waning. Critically, permissions to hold national-level dialogues, which were a key element in the NCA mandate, were contested by the Tatmadaw and were only intermittent. This had the consequence of weakening the formal linkages between the political process and wider population (see box: 'National-Level Dialogue Meetings').

In this gap, the NCA parties sought to establish alternative mechanisms to agree upon needed decisions. These new tactics were introduced when EAOs started bringing disputes over ceasefire violations to bilateral meetings between the relevant organisations. A notable example of this followed the start of the Tatmadaw's road construction projects in northern Karen State in early 2018 in areas under KNU administration. Instead of relying on the JMC, the KNU sent letters of complaint directly to the Tatmadaw and the government about the South Eastern Command's violations of the NCA. To back this up, the KNU leadership sought direct meetings with

the Tatmadaw. Since the conflict could ‘no longer be resolved on the basis’ of the NCA, the military wing of the KNU warned that it ‘will no longer remain silent’.<sup>28</sup> Defensive action was called for, KNU commanders said (see ‘Military violations’).

Subsequently, the KNU President Gen. Saw Mutu Say Poe met with Snr-Gen. Min Aung Hlaing, who personally agreed to postpone road construction during the 2018 rainy season.<sup>29</sup> This, however, proved only a temporary respite, and the Tatmadaw later resumed military operations and road construction in the contested area. In an apparent negation of its responsibilities, the JMC never became the primary venue for addressing this dispute nor did it step up to play an active role. Tensions continued to build in Karen State as well as ceasefire areas – both NCA signatory and non-signatory – in Shan State into early 2021 (and subsequently beyond), with the Tatmadaw accused of targeting civilian populations in its drive to gain access to strategic areas under EAO control (see ‘Covid-19 and the 2020 general election’).

Another way signatory parties sought to address deficiencies in the NCA was by setting up alternative committees to discuss political and security affairs. These were termed ‘informal’ committees as they did not fit within the procedural steps outlined in the Framework for Political Dialogue, which were mostly frozen, and they allowed for greater flexibility in assigning personnel. The committees and their meetings still met in fairly traditional ways. But there were a number of advantages to creating different channels for negotiations. The parties could continue substantive talks, avoid some of the procedural challenges created by the Framework’s complexity, and bypass the many unresolved disagreements.

Contradicting this adaptability, there were also disadvantages in ‘informal’ practices that worked against the principles and purposes of the NCA. Setting up alternative committees might enable negotiators to focus on their priorities and take top-down decisions with fewer external pressures. This

proved efficient, for example, in setting an agenda and potential areas of agreement for peace meetings. But alternative committees still left unanswered questions about how to resolve process disputes and the formal peace architecture. They also reduced the transparency of the NCA process, further removing public participation from the political dialogues. With public confidence declining, non-signatory EAOs and political parties became steadily more critical of the NCA as a vehicle to bring national reconciliation and peace.

The flaws in the NCA decision-making process were further exposed during the third 21<sup>st</sup> Century Panglong Conference in July 2018. Acknowledging the lag in peace momentum, both the government and EAO signatories were eager to hold a new meeting, with the Lahu Democratic Union and New Mon State Party now joining their ranks. Once again the influence of China was apparent when officials organised invitations for representatives of the FPNCC to attend as ‘guests’. Step by step, whatever the delineated role of the NCA, it was becoming clear that all parties to the peace process – the NLD, Tatmadaw and EAOs – felt bound to accede to Chinese government requests.<sup>30</sup>

Unlike the previous UPCs, the agenda was agreed only shortly beforehand and the participants had little time to prepare. To avoid problems from the previous conferences, they decided not to raise sensitive political issues. Instead, they focused on topics that touched less directly on the main interests of the different parties (i.e., government, Tatmadaw and EAOs), but were still on the EAO agenda for political change. With this in mind, five categories of rights were proposed for the conference agenda. But if the organisers were hoping for a different outcome, they proved wrong. The Tatmadaw representatives vetoed all the proposed topics except for gender equality. Military representatives even said that the topic of ‘minority rights’ was unnecessary because all citizens had the same rights.<sup>31</sup>

The fourth Union Peace Conference (third UPC-21CP) thus ended in disappointment. The



meeting proceeded with a focus on gender equality, and 14 additional points were agreed for the Union Accord.<sup>32</sup> But, as with the 37 points from the previous conference, the new points ended up as vague and lacking in practical effect. And even with Union Accord principles agreed, the government did not use these decisions to endorse policies on gender equality in the near term. As the NLD's critics complained, political reform was also stalling in the legislatures.<sup>33</sup>

Following these setbacks, a general scepticism deepened among ethnic nationality parties, and face-to-face negotiations never recovered momentum. The previous National Convention for constitutional reform of the SLORC-SPDC government took place during intermittent meetings for 15 years. But now many ethnic parties and democracy supporters believed that both the government and Tatmadaw leaders were treating the Union Peace Conference in the same way.

There was, though, one difference. This time a constitution had already been promulgated. Once in office, the NLD did not hasten to introduce constitutional change and, when it did so, it opposed amendments promoting

federalism. Despite expectations of the NLD as an initiator of reform, it was the government and Tatmadaw that dominated the NCA, UPC-21CP and legislatures, and it was difficult to see how ethnic political reforms might emerge in the future.

### The '10-plus-10 meeting' to streamline decision-making

Following the lack of progress at the third UPC-Panglong meeting, government officials decided to take the initiative to try and bring the key decision-makers together and resolve the disputes hanging over the dialogue process. By October 2018, the NCA had been in place for three years. But little advance had been made in political talks beyond the agreement on broad principles that were already included in the NCA. The actual meaning of the key issue of federalism had not been agreed in any level of detail, and the Tatmadaw had succeeded in stymying most of the NCA implementation in different parts of the country. Meanwhile military violations and human rights abuses against civilians were becoming ever-greater sources of concern in many communities.



CSO backpack medics treating villagers in Kachin State (Hkun Li)

RCSS Chairman Gen. Yawd Serk addressing troops on Shan Revolution Day, Loi Tai Leng (TNI)



In coming to their decision, voices on the government side viewed the complexity and breadth of the peace process as a major hindrance to achieving a single political agreement among the EAOs, Tatmadaw and government. They also viewed the complexity of EAO decision-making – both internal and collective – as an additional delaying factor. Clearly, it was time for a new approach.

To try and overcome these obstacles, the government sought to hold a meeting of only top decision-makers from the government, Tatmadaw and the 10 EAO signatories to the NCA. With all the decision-makers in one room, the idea was that agreements could be quickly reached on major issues, overcoming blockages that had obstructed progress until then. The new conference was therefore termed the ‘10-plus-10 meeting’ and held on the symbolic anniversary of the NCA signing in October 2015. In effect, just as NCA parties had promoted alternative structures in an attempt to bypass frozen mechanisms, the new meeting was intended as a work-around

for decisions that had failed at such bodies as the UPC, UPDJC and JICM during the previous years.

For their part, the EAO signatories to the NCA were also keen to find new ways forward, notably the two most influential: the Karen National Union and Restoration Council of Shan State. Both were concerned about the rising number of military violations of the NCA. In advance of the meeting, the chairmen of the two organisations sent a joint letter seeking the assistance of international witnesses to the NCA, copying to Aung San Suu Kyi, the Commander-in-Chief and others.

In this, they outlined three major concerns: the peace process was deadlocked; the Tatmadaw was continuing to commit ceasefire violations and human rights abuses; and the Union Accord agreements had not been substantive.<sup>34</sup> By way of explanation, the letter identified three major causes of the deadlock: the NCA parties were working without a

common agenda for the peace process; they had yet to agree on how to interpret the NCA; and they lacked a shared vision for the future of the country.

The 10-plus-10 meeting, however, failed to solve any of these concerns. Although the 10-plus-10 meeting was a creative idea aimed at serious challenges, the organisers did not sufficiently anticipate that the lack of political will and leadership from the Tatmadaw were the underlying causes of many of the problems. This became clear at the outset of the meeting when Sen-Gen. Min Aung Hlaing upended the initiative with introductory remarks that appeared deliberately provocative and confrontational.

Today the Commander-in-Chief's speech is regarded as a landmark in NCA failure. In a long list of complaints, Min Aung Hlaing claimed that the constitution was already fully democratic and federal in line with international standards; denied any discrimination in the country; cautioned against efforts to change laws; leaked unreleased – and unverified – ethnic data from the 2014 Population and Housing Census; and emphasised the need for 'security reintegration', which was his term for the controversial issues of security and disarmament (see box: 'Disarmament, Demobilization & Reintegration and Security Sector Reform').<sup>35</sup>

Ominously, too, Min Aung Hlaing singled out the RCSS for particular criticism, discussing the organisation's history and accusing it of taking advantage of the NCA. In a stark choice of words, Min Aung Hlaing warned that 'the Tatmadaw, which is responsible to protect the lives and property of ethnic people, will not just stand by and do nothing'.<sup>36</sup> With these words, he left the meeting. Arguably the most important decision-maker was no longer present, undermining the logic of the government endeavour. Although discussions continued, the meeting could no longer achieve its intended results.

After this intervention, the negative fall-out from the '10-plus-10' failure was significant, further undermining confidence in the NCA as

a vehicle for peaceful reform. The government had unsuccessfully tried to bypass the complex decision-making processes, and a breakthrough could have made a difference. But, with the 10-plus-10 meeting failing, the different EAO networks began to assert their own positions in reaction to both the NCA's perceived weaknesses and the Tatmadaw's lack of will to negotiate a union peace agreement.

## Re-evaluating the NCA: the KNU and RCSS

By November 2018, the NCA peace process had broken down in formal terms. Concerns that political negotiations had become counter-productive were growing in the country. Among the NCA signatories, the Tatmadaw's promotion of road construction in strategic areas of Karen State and the failure of the Joint Ceasefire Monitoring Committee and other mechanisms to address ceasefire violations were undermining trust in the NCA's sustainability. Meanwhile Tatmadaw offensives against the Kachin Independence Organisation and other non-ceasefire EAOs in Kachin and northern Shan States were increasing loss of life and civilian displacement.

Adding to the deepening crisis, the mass exodus of Rohingya refugees into Bangladesh to escape the Tatmadaw's genocidal 'regional clearance' operations was sending shock-waves around the world. At the same time, the United League of Arakan/Arakan Army was infiltrating forces into Rakhine State to step up activities. None of these issues was being addressed in NCA meetings, increasing concerns about the government's willingness to support peaceful and inclusive solutions. Three years after the NCA was introduced, the peace process was stumbling.

At this crucial moment, the Karen National Union and Restoration Council of Shan State, the two strongest EAOs of the NCA signatories, decided that attending the same peace meetings repeatedly would continue to produce the same unsatisfactory results. 'National-level' dialogues appeared to be

blocked, and the failure of the ‘10-plus-10 meeting’ in October 2018 only added to the sense of urgency among EAO signatories to try and fix the NCA process rather than continue along a path that, they believed, was heading in a wrong direction.<sup>37</sup>

On 10 November, these concerns led the KNU Central Standing Committee to announce that the organisation would temporarily suspend its attendance at formal NCA meetings to undertake a review.<sup>38</sup> The KNU statement identified three key obstacles that were holding peace progress back: the ongoing fighting in violation of ceasefires; the exclusion of other EAOs from the political process; and the practice by both the government and Tatmadaw of raising substantive issues of their own as preconditions to continue negotiations on subjects that are essential to NCA progress.<sup>39</sup>

Two days later the RCSS followed with a similar statement, suspending its participation in the JMC until core problems had been resolved. Among the points raised, the RCSS highlighted the need to develop common understandings of bilateral ceasefire agreements; to reform all levels of the Joint Ceasefire Monitoring Committee; and to involve international mediators in the JMC.<sup>40</sup> In important qualifications, the two parties stressed that they were not departing from the NCA. Both affirmed that they would continue to talk to other NCA parties through informal meetings. But they also said that they would no longer spend time attending formal meetings that the public viewed as window-dressing if they did not actually implement the NCA.

The response to these KNU and RCSS moves varied across stakeholders and other interested parties. The government initially appeared to blame EAOs for the NCA breakdown and attempted to bring them back quickly to the existing process. The other NCA-signatory EAOs, in contrast, had mixed views depending on their concerns about the peace process. While the KNU and RCSS had considerable forces and populations to take responsibility for, a prime concern for some smaller groups was to maintain a steering role in the negotiations. Being recognised

as NCA signatories was a key factor in their legitimacy. Meanwhile the NCA non-signatories, primarily the Karenni National Progressive Party and seven Federal Political Negotiation and Consultative Committee members, took the suspension by the KNU and RCSS of participation in formal meetings as further recognition of NCA inadequacies.

A deadlock thus developed. Over the following months, the KNU and RCSS held firm to their positions as they instituted internal reviews of the NCA process. From these discussions, the EAOs produced a series of proposals targeting the multiple challenges in the peace process. The main points can be summarised as follows:

- Affirming mutual commitments to continue the peace process beyond the 2020 general elections.
- Setting a clearer, sequenced agenda for the process. This included agreeing on the focus of pre-election negotiations and a phased approach for political agreements to ensure that concrete elements are implemented to build trust.
- Agreeing on definitions and interpretations of NCA terms that continue to cause disagreement and prevent implementation.
- Setting a sequential process for negotiating the reform of the JMC into an effective mechanism.
- Finding ways to make the process more inclusive so that it will no longer leave out major political stakeholders.
- Agreeing to a mechanism to implement the Interim Arrangements.
- Agreeing to a process for ensuring that legislative reforms support peace negotiations and for amending or repealing repressive laws in the near-term.<sup>41</sup>

Eventually, the government appeared to recognise that it had to acknowledge these



Kayan troops of the KNLP 'ceasefire militia', Pekhon township, Shan-Kayah State borders (TNI)

concerns before the formal meetings could resume. The structure, framing and details of EAO proposals were subsequently adapted over the course of resumed negotiations, and the government agreed to discuss some (although not all) of the terminology proposed by the EAOs. Negotiations then began on the third part of the Union Accord to be agreed at the next UPC-21CP. There were to be three key elements: a framework for implementing the NCA; additional federal principles; and a phased process for negotiations beyond 2020.<sup>42</sup>

Progress, though, remained halting. At an event marking the fourth anniversary of the NCA signing, State Counsellor Aung San Suu Kyi made a public call for federalism:

'Division of power must be in accordance with a federal system. All federal units are equal. States will have a constitution that assures self-determination.'<sup>43</sup>

Ethnic negotiators were pleased to hear this positive iteration, regarding it as a good start for rebuilding relations. Significant challenges, however, had not been addressed.

Government officials agreed to discuss the major concerns of the KNU and RCSS. But, conversely, they would not embark on detailed negotiations on process changes until the EAOs returned to the original NCA framework that had led to the withdrawal of the two movements from formal meetings. For the EAOs, it was a frustrating situation. Although there were glimmers of hope, no clear results had been achieved.

In early 2020, talks between the EAOs and government (including Tatmadaw) working committees accelerated, seeking to agree on a framework for the NCA going forward and a substantive outcome for the next UPC-21CP. At this inopportune moment, the Covid-19 pandemic added a new layer of complexity to the peace process. By March travel and in-person meetings in any numbers were no longer possible. Although the government and RCSS had finally agreed on a way for the Shan national-level dialogue to resume, it was now postponed indefinitely.<sup>44</sup> The target date for the fourth 21<sup>st</sup> Century Panglong Conference (fifth UPC), originally scheduled for April, was again pushed back until August.<sup>45</sup>

In the meantime, Tatmadaw relations deteriorated with both the RCSS and KNU, with clashes breaking out as government forces continued troop movements in sensitive front-line areas.<sup>46</sup> In May, the KNU issued a statement accusing the Tatmadaw of using the Covid-19 crisis as a cover to build up troop strength in Hpapun (Mutraw) and neighbouring districts.<sup>47</sup> But, throughout the middle of the year, civilian casualties and new displacements occurred in Tatmadaw stand-offs with both the KNU and RCSS in northern Karen and northern Shan States respectively. Serious failures in ceasefire arrangements were not being resolved.

Focus then returned to the NCA in the countdown to the November general election. With the NLD determined that the polls should go ahead, all sides to the NCA were concerned that there should be some form of commitment that the negotiation process would continue after the elections. 'It is not the time to seek a solution through arms,' said the RCSS Chairman Gen. Yawd Serk. 'It is now the time to solve these conflicts through

peaceful means and political dialogue.'<sup>48</sup> But it was also recognised that, as yet, no defining end-point was nearing in sight.

The game of political jockeying thus continued. After over four years of meetings, the credibility of the entire process was on the line. The fourth UPC-21CP was now long overdue. In these unusual circumstances, KNU and RCSS representatives joined other NCA signatories in attending a much scaled-down Panglong-21 conference in Nay Pyi Taw in August. A further 20 principles were added to the Union Accord, and EAO signatories were relieved that agreement was achieved on continuing discussions on the basis of forming a 'federal union', as well as some general commitments aimed at a better structuring of talks, following the general election. But the underlying problems in NCA implementation and inclusion were not addressed.

Despite the tense situation, both KNU and RCSS leaders hoped that the next NLD-led administration would take on the challenges of reform during the life of the

## Disarmament, Demobilization & Reintegration and Security Sector Reform

Terminology around security-related terms was particularly sensitive and divisive during the NCA negotiations and following years. Disarmament, Demobilization and Reintegration and Security Sector Reform are inter-related terms (though not the same) used by UN peacekeepers and other international actors in conflict resolution initiatives around the world.<sup>49</sup> The Tatmadaw leadership, however, used the different (and single) term of 'security reintegration', and military representatives consistently tried to reinterpret the definition and role of these two policies in the peace process.

During NCA negotiations, Sen-Gen. Min Aung Hlaing first introduced the unique expression 'Security Reintegration'. This was clearly related to the international practices of DDR and SSR, but the ambiguity in its exact meaning led to confusion during the discussions. To resolve the impasse, NCA negotiators included in their ground-setting definitions a 'meeting decision 14' (referenced by NCA art. 30), which defined 'Security Sector matters' as meaning DDR and SSR and stated that the parties agree 'that negotiations on the security sector reintegration will not delay, obstruct or impair in any way the political dialogue at different levels'.<sup>50</sup>

Despite this wording, the issues of DDR and SSR remained unaddressed, and a common language was never achieved. It proved a key failing in the lack of demilitarisation after the NCA's inception. These issues will continue to require thoughtful political and technical attention in any future process that aims to end Myanmar's civil wars.

next parliament. In both public and private, officials expressed the need for NCA reform to support peace-building. Having invested so much political capital in the process, they were very keen to ensure that the NCA was not hurried to completion or allowed to unpredictably change course without meaningful implementation and tangible reform. After decades of conflict, the NCA was still a work in progress, and the experiences in political transition had confirmed that a just settlement of the Karen and Shan struggles for autonomy, equality and political rights is integral to peace and stability in the country.

At the year's end, however, Tatmadaw operations resumed in northern Karen State, witnessing thousands of civilians come out in anti-military protests in the targeted areas.<sup>51</sup> Tatmadaw respect for the election results and NCA remained tenuous, and on 1 February Min Aung Hlaing's coup d'état took place. In the following months, the paths of the KNU, RCSS, NLD and Tatmadaw – the four leading parties in the NCA – turned from the route of the peace process in some very different directions. Hopes of NCA reform now lay broken.

## KNPP ceasefire negotiations

Amidst the focus on NCA signatories, there was frequent neglect among government negotiators and international peace donors of the challenges faced by EAOs that did not sign the 2015 agreement. In organisation and troop numbers, they were in the majority. These nationality movements included both ceasefire and non-ceasefire EAOs, most of which were also represented in, initially, the United Nationalities Federal Council or, subsequently, the Federal Political Negotiation and Consultative Committee. Among these groups, one of the oldest and most politically active is the Karenni National Progressive Party.<sup>52</sup>

Founded in 1957, the KNPP has a long history of armed struggle. The party had previously agreed a ceasefire with the SLORC government in 1995, but fighting resumed within three months. Like the Karen National Union and

Restoration Council of Shan State, the KNPP agreed union-level and state-level ceasefires with the Thein Sein government in the early days of post-SPDC transition. But following the 2011 foundation of the UNFC, the KNPP also remained a key mover in the new alliance as well as in the subsequent Nationwide Ceasefire Coordination Team to achieve an inclusive nationwide agreement. In line with this position, the KNPP did not sign the NCA in 2015 and continued its support for the UNFC, promoting the alliance's eight-point platform for NCA reform (see 'The UNFC's "eight-point" proposal').

In early 2018, however, the decision of the party's UNFC allies, the Lahu Democratic Union and New Mon State Party, to sign the NCA left the KNPP leadership with a serious dilemma. With the UNFC's membership now including a mix of NCA-signatories and non-signatories, the EAO alliance no longer served as an effective focal point for NCA negotiations. At the same time, joining with the United Wa State Party and other EAOs in the new FPNCC on the China border was not a realistic option for the KNPP. This was due as much to geography as political alignment.

In the light of this new position, the KNPP initially shifted from collective negotiations to bilateral negotiations with the government to see if there was a way to address its existing worries and sign the NCA. In promotion of this policy, KNPP leaders emphasised that the organisation remained 'on the NCA path'.<sup>53</sup> The government's priority, however, was to try and get the KNPP to sign the NCA as quickly as possible without directly addressing the party's concerns.

With this stumbling-block in the way, negotiations proved fitful and no breakthrough occurred. For many inhabitants of Kayah State, this failure was deeply depressing, reflecting broader concerns about peace transition and the political direction of the country. The KNPP's 2012 ceasefire had been widely welcomed in communities across the state. During the USDP and NLD-led governments, however, there remained over 30,000 Karenni IDPs in the territory as well as 12,000 Karenni refugees in Thailand.<sup>54</sup> Complicating the

conflict landscape, there were also a number of earlier breakaway groups from the KNPP that had ceasefires with the government, one of which – the Karenni Nationalities People’s Liberation Front – had become a Border Guard Force in 2009 while others became Tatmadaw-backed militia.<sup>55</sup>

The 2012 ceasefire of the KNPP ‘mother party’ was therefore heralded as a progressive sign. In support of the peace process, a community-based Kayah State Peace Monitoring Network was established in June 2012 with over 60 local monitors.<sup>56</sup> But disillusion subsequently set in. The KNPP’s bilateral ceasefire was never fully implemented;<sup>57</sup> UNFC negotiations failed to address the weaknesses in NCA implementation; and the heavy-handed actions of both the Tatmadaw and NLD-led government increased tensions among the state authorities, KNPP and wider public.

No ameliorative actions, however, were taken. Rather, the situation markedly worsened from December 2017 when five civil society leaders were imprisoned after protesting against the Tatmadaw’s killing of three KNPP troops and a civilian at a checkpoint.<sup>58</sup> Unrest then deepened when the state government began promoting the construction of a statue of Aung San, the State Counsellor’s late father. From mid-2018 demonstrations escalated, reaching a crescendo the following year.<sup>59</sup> But again the government appeared insensitive to local opinion or criticisms of Tatmadaw behaviour.

After negotiations over the statue failed, the security services responded with force, injuring and arresting dozens of protesters. Meanwhile the state authorities imposed restrictions on public meetings and arrested youth leaders for issuing a statement critical of the government.<sup>60</sup> At the same time, despite the KNPP ceasefire, the Tatmadaw continued to build new outposts, increase troop strength and extend its patrols into new areas in Kayah State beyond the towns. Rather than negotiate, it seemed that the government’s strategy was to force the KNPP to sign the NCA (see ‘Disrespect for bilateral and unilateral ceasefires’).

If the KNPP was to remain on the NCA path, Karenni leaders saw two immediate challenges before signing the accord: ensuring that the 2012 bilateral ceasefire was properly implemented; and building trust to make certain that the NCA is respected and made effective. To advance this position, the KNPP approached negotiations with the government as two inter-linked sets of talks at the state and union levels. Both levels were considered necessary to ensure that government officials understood the NCA, existing bilateral agreements and the need to implement them fully.

There was, though, no significant breakthrough. The KNPP and government initially agreed to set up monthly meetings at the state level. But these did not occur regularly and rarely solved major problems.<sup>61</sup> At a functional level, they did help maintain points of contact, providing a forum for raising complaints between the different parties. The KNPP also regularly met with civil society organisations between the different rounds of negotiations, and it was often requested to seek assistance from the authorities in Nay Pyi Taw to solve the growing problems of political unrest. Since the state government was appointed by the Union government, the KNPP hoped that the Union authorities would help solve the problems between the state government in Loikaw and the Karenni public. This in turn, it was hoped, would build trust in the peace process.

Despite these new meetings, the negotiations failed to lead to the implementation of key sections of the bilateral ceasefire. As a more positive experience, tensions between the state government and civil society protesters were temporarily smoothed over with the assistance of KNPP negotiators in early 2018 when a potentially violent crackdown was averted following a KNPP intervention with the state government.<sup>62</sup> But arrests subsequently continued, and none of the major causes of dispute in Karenni politics and society were resolved. 2019 witnessed a major escalation in demonstrations and arrests over the construction of the Aung San statue. At the same time, the security forces stepped up the arrest of farmers who were protesting



about land-grabbing and the VFV Land Law (see 'Interim arrangements and legislative obstacles').<sup>63</sup>

In this impasse, a familiar pattern evolved in the KNPP negotiations. At each meeting, the government asked the KNPP to agree to sign the NCA or commit to sign by a certain date. In reply, the KNPP provided a set of issues that it wanted to negotiate before finalizing a date to sign the NCA. Government negotiators then said that they could agree to discuss these issues in the future or that they would bring them to their superiors for instructions. In the meantime, no tangible commitments were offered for KNPP negotiators to bring back to the party leadership to consider while they discussed the government's insistence on signing the NCA. Eventually, the KNPP put its core issues down on paper in an attempt to move the discussions on to concrete issues. The government, however, responded by dropping its interest in continuing negotiations at all.

The result was another peace failure at a time of growing crisis in the country. The peace process initiated by the Thein Sein government in 2011 was supposed

to establish negotiating structures to end conflict and introduce political reform. But the government's single-minded focus on NCA signing did not succeed in convincing KNPP leaders. Nor was the KNPP successful in building trust or implementing its 2012 ceasefire through its own reliance on the UNFC, united front or bilateral negotiating strategies that it conducted on its own.

Instead, two very different views emerged on the opposing sides. Concerns grew stronger among Karenni nationalists that neither the government nor Tatmadaw intended to implement ceasefires, whether bilateral or NCA. On the government side, peace negotiators – unable to deliver substantive commitments – concluded that the KNPP and Karenni people were not a priority in national politics and reform, a view that they often expressed in private.

Further progress in negotiations was then halted by the outbreak of the Covid-19 pandemic. Initially there had been hopes that the crisis might bring about a change in relations with the state government. Twenty-three medical checkpoints were opened in KNPP-administered territory as part of a



KNPP Chairman Khu Oo Reh and head of UNFC's Delegation for Peace Negotiation during talks at MPC, Yangon (KNPP)

community-based project in EAO areas.<sup>64</sup> But anger about security intransigence renewed in May when the state government issued a ban on speeches, writings and activities considered defamatory to the authorities.<sup>65</sup> Meanwhile the Kayah State Peace Monitoring Network warned that the continued prosecution of farmers for protesting against land-grabbing was becoming an obstacle to the peace process.<sup>66</sup>

Many of these frustrations were expressed during the run-up to the November general election. The Kayah State chief minister was impeached for corruption.<sup>67</sup> At the same time, two Karenni parties merged to create a single Kayah State Democratic Party (KySDP) in the hope that it would provide local peoples better representation in the legislatures. But, in an election where campaigning was restricted due to Covid-19, ethnic parties were out-muscled by the superior financing, organisation and media dominance of the NLD and the Tatmadaw-backed USDP. In the face of these challenges, the new Karenni party, although not meeting its optimistic targets, managed to grow from zero seats for its predecessor parties in 2015 to eight in the 2020 elections, a markedly better performance than a number of other nationality movements in the country.

This representation, however, did not signal imminent change. As expected, the NLD and USDP still won most seats under the country's 'first-past-the-post' electoral system in urban areas as well as constituencies with large Tatmadaw concentrations. In consequence, the results strengthened opinion among Karenni nationalists that meaningful reforms will not come through the present legislative system or constitution. Rather, hopes for social and political change remained invested in the peace process.

For this reason, as the NLD prepared to form a new government, Karenni leaders said that they would continue to seek peace and political reform through three main avenues: the KySDP MPs in parliament, CSOs in the communities, and KNPP representatives in the peace process. After a decade of impasse with ceasefires, Karenni politics and society

were very awake, and Kayah State and its surrounding borderlands became a main centre of pro-democracy activism and ethnic resistance following the 2021 coup.

## Northern EAO ceasefire negotiations

Following its 2015 inception, it was the NCA that generally received most attention in international peace support policy. In part, this was due to the government's emphasis on the agreement and, also, the greater amount of information that was publicly available. This was especially evident in southeast Myanmar where the door opened to international tourism and investment. But for peace to come to the whole country, much depended – and still depends – on ending the conflicts, often on largescale, between the Tatmadaw and non-ceasefire EAOs that continued in the northern borderlands.

The evidence is stark. After a new peace process was initiated in 2011, the armed conflicts in Kachin and northern Shan States, and subsequently Rakhine and southern Chin States, reignited with devastating consequences for local communities. There was a cascade of regressive consequences for the peace process, a crisis that deepened from late 2016.

As fighting escalated, conflict and human rights violations inflamed nationalist opinion; fighters on all sides suffered significant casualties; NCA signatories took heed of what might happen if their ceasefires broke down; resentment – and sometimes fighting – grew as the ceasefire Restoration Council of Shan State sent forces into northern Shan State after the NCA signing; and developing trust became ever more challenging among the conflict parties. On the eve of the 2021 coup, although peace talks were resuming, military tensions remained high in many of the northern borderlands.

In conflict terms, the reasons for the escalation in civil war in these specific territories were strategic as much as they are political. The borderlands with China, Bangladesh and India are home to diverse



TNLA troops in Mantong township, northern Shan State (AFP)

peoples, rich in natural resources and of considerable geopolitical importance. Contributing to this breakdown was the fact that the conflict parties started from positions of much lower trust when the NLD assumed office in 2016. This was underpinned by the politics of exclusion practised by the Tatmadaw under the USDP-Thein Sein administration. The legacy inherited by the NLD was increasing antipathy and a highly unstable landscape in these conflict-divided territories.

Given the complexity of politics, there is probably no single factor that, over the years, can account for the government's treatment of nationality movements in different ways in different parts of the country. But the most powerful and influential of the northern EAOs came to believe that, under the USDP and NLD administrations, their marginalisation was systematic and deliberate which, in large part, came to underpin their subsequent solidarity and determination. In contrast, the activity or influence of other armed groups in the northern borderlands could be considered localised, small or, in militia cases, co-opted by the Tatmadaw.<sup>68</sup>

During 2015-16, there were three stages that set up a pattern of selected exclusion of important movements from the peace process. First, the four key non-ceasefire forces in the north of the country – the Kachin Independence Organisation, Myanmar National Defence Alliance Army, Ta'ang National Liberation Army and United League of Arakan/Arakan Army – were unable (or not allowed) to negotiate bilateral ceasefires with the Thein Sein government. The KIO did negotiate a 'reduction of hostilities' agreement in May 2013, but this had little impact in halting the spread of fighting.<sup>69</sup>

Second, despite their involvement in peace talks as members of the Nationwide Ceasefire Coordination Team, both the USDP-led government and Tatmadaw chose to prohibit the MNDAA, TNLA and ULA/AA from signing the NCA or taking part in its implementation. The MNDAA and TNLA were also members of the United Nationalities Federal Council at the time.<sup>70</sup>

And third, after talks broke down over the wording of a statement demanded by Snr-Gen. Min Aung Hlaing, the MNDAA, TNLA

and ULA/AA were excluded from the first 21<sup>st</sup> Panglong Conference (first UPC-21CP) in August 2016. In essence, they believed that they were being pressed to give up armed struggle without any guarantees of political dialogue or reform.

From this moment onwards, the political rifts deepened. As fighting escalated between the four non-ceasefire EAOs and the Tatmadaw, the stage was set for a realignment of northern movements in the NCA aftermath. Three concentric groupings emerged: the seven-party Federal Political Negotiation and Consultative Committee, the four-party Northern Alliance, and a related third-party grouping that became known as the Brotherhood Alliance.<sup>71</sup> Based in strongholds in the borderlands with China's Yunnan Province, these three groupings had increasing impact – individually and collectively – on the military and political stage. Importantly, too, this networking included three influential ceasefire groups, the Shan State Progress Party, National

Democratic Alliance Army and United Wa State Party, which had not signed the NCA and which continued to provide support to the non-ceasefire EAOs.

Of these alliances, the key political grouping was the seven-member FPNCC that in 2017 brought the four non-ceasefire EAOs together with three ceasefire EAOs in UWSP territory on the China border. With over 50,000 troops under arms, its combined strength greatly outweighed other EAO formations in the country and its members, both individually and collectively, posed a locally-supported challenge to Tatmadaw authority (see chart: Ethnic Armed Organisations, February 2021').

At its inception, the UWSP – the largest armed group in the alliance – presented to the FPNCC alternative visions for a multilateral ceasefire and a new political settlement, documents which the alliance then delivered to the Tatmadaw in the lead-up to the 21<sup>st</sup> Century Panglong Conference (second UPC-21CP) in May 2017.<sup>72</sup> The policy document

Troops of the Arakan Army, a Northern Alliance and FPNCC member, in forest training (JG)



presented a vision for amending or redrafting the 2008 constitution based on ‘Panglong Spirit’ and was divided into fifteen topics. In the new initiative and subsequent attendance of FPNCC members as ‘guests’ at the UPC-21CP meeting, the influence of China was clear.<sup>73</sup>

The FPNCC proposal was not a radical document. Described by EAO leaders as a modified version of the NCA, its main thrust was to include additional details that they argued were necessary for ceasefire implementation. Given that the UWSP, NDAA and SSPP had maintained bilateral ceasefires since 1989, they did not see the NCA as a political advance. Indeed all three organisations – along with the KIO and MNDAA – had previously attended the National Convention during the SLORC-SPDC era. In particular, Wa leaders believed that the NCA suffered from a lack of ceasefire guarantees to prevent conflicts from continuing.<sup>74</sup> They thus proposed clarifications on such ceasefire issues as definitions, dispute resolution, separation of forces, guarantees for humanitarian assistance, and the right of displaced persons to return to their homes.

The FPNCC proposal also raised questions as to whether they were advocating a new negotiation process that would be separate from other EAOs. Certainly, the FPNCC allies believed that the existing NCA was non-inclusive and incomplete. The FPNCC’s approach was also different from the UNFC. Whereas the UNFC had proposed topics for negotiation, the FPNCC delivered a draft ceasefire that built upon the NCA. But, in terms of detail, both alliances identified a common theme: that the mechanisms for implementing the ceasefire were insufficient for peace to be sustainable. Reflected in both FPNCC and UNFC proposals, these shared evaluations were based on separate studies of international best practices and similar observations of the weaknesses in NCA implementation (see ‘The UNFC’s “eight-point” proposal’).

Faced with the new proposal, the response of the government and Tatmadaw echoed ongoing negotiations with such UNFC members

as the Karenni National Progressive Party and New Mon State party. Once again, the government prioritized signing the NCA first and addressing EAO concerns later. According to UWSP officials, the government instructed them, if they wanted to raise questions, to negotiate directly with the Tatmadaw.<sup>75</sup> In turn, the Tatmadaw told them to submit their proposed NCA amendments for consideration. After receiving the Wa document, however, Tatmadaw officials maintained their position that not a single word of the NCA would be changed. In essence, negotiations were now going around in a circle.

With dialogue faltering, the division between the government and FPNCC continued to deepen. Although FPNCC members again attended the third UPC-21PC as ‘guests’ in July 2018, they remained outside the NCA process. Both government and Tatmadaw negotiators held to the position that the UWSP – and by implication other non-signatories – could only negotiate for amendments after signing the NCA – and without guarantees that the government would support any changes. Further fracturing the peace process landscape, the MNDAA, TNLA and ULA/AA also remained barred by the Tatmadaw from participation in the NCA.

Following the third UPC-21PC, the government continued to meet every few months with the four Northern Alliance members to discuss bilateral ceasefires and ways to address the NCA. Multiple approaches and ceasefire options were offered, but none took hold. As their leaders made clear, even if allowed, none of the Northern Alliance – nor FPNCC – members were willing to join the NCA as it stood.

Adding to the impasse, the UWSP was consistent in its argument that its existing ceasefire was more favourable than the NCA. As Wa leaders pointed out, the party had lived without armed conflict since 1989. Moreover, although the 2008 constitution created a Wa ‘self-administered division’ in eastern Shan State, the UWSP still had other priorities. Two, in particular, stood out: greater development assistance; and the formal recognition of a ‘Wa State’ with the

full status of a state equal to other states or regions and borders reflecting the UWSP's claims of control. The NCA, however, did not guarantee either of those demands. Without modifications or improvements, the UWSP thus had no reason to sign the NCA. Despite business linkages with Tatmadaw interests, UWSP leaders did not trust the authorities in Nay Pyi Taw.<sup>76</sup>

Importantly, too, with scepticism deepening over the NCA process, the UWSP – and by extension FPNCC – successfully built up their military strength as a key element in their political strategy. 'One has to be strong to avoid fighting' has always been the concept of Wa leaders. This is a stratagem for which they have continued to receive support through their old friends in China from their days of relationship with the Communist Party of Burma (see box: 'International Actors in the Peace Process').

This show of EAO unity did not mean that FPNCC members were always of one mind in politics and strategy. The KIO, SSPP, TNLA and ULA/AA, in particular, have always been keen to support political change in the country at large. The UWSP and NDAA, in contrast, have largely focused on Shan State where their position has strengthened markedly since their 1989 formation and ceasefires. Their leaders always took a long-term view and, certainly, Tatmadaw commanders never sought to take on either the UWSP or NDAA in battle. In this context, the introduction of the NCA was perceived as an attempt by the central authorities to cause ethno-political division where military tactics had failed.

Against this backdrop, the prospects for a political breakthrough began to ebb away. In November 2016, members of the Northern Alliance had already signalled that they would not stand quietly by in the face of Tatmadaw operations when they launched a counter-offensive on the Shan State border. As NCA non-signatories without ceasefires, they recognised that they were strategically exposed. But the goal of national reconciliation was not entirely lost. Northern Alliance members also released peace proposals and, through the sometime

mediation of China, the doors to ceasefire negotiation were left open.<sup>77</sup>

In late 2018, this led to the initiation of 'unilateral' ceasefire announcements as a way to break the conflict impasse. Such ideas were discussed by Northern Alliance members in September 2018. Then on 12 December, following a meeting in Yunnan Province with representatives of the Myanmar government's Peace Commission,<sup>78</sup> three members of the Northern Alliance – the MNDAA, TNLA and ULA/AA – made a formal ceasefire declaration. Their language was conciliatory: 'We desire to take a political approach instead of a military approach and will first stop military actions in order to be able to achieve peace.'<sup>79</sup> A few days later, the Tatmadaw responded with its first unilateral 'ceasefire and eternal peace' announcement.<sup>80</sup> A new avenue to peace talks appeared to be opening.

Hopes, though, did not last long. The Tatmadaw order was temporary (for four months), and only effective in five regional command areas covering the northeast of the country. The Rakhine and Chin States under the Western Command were not included. In response, different parties to the peace process called during the following weeks for the ceasefire to cover the entire country,<sup>81</sup> and further time extensions were subsequently announced. But, up until the end of 2020, Tatmadaw leaders maintained their refusal to formally extend the unilateral ceasefire to the Western Command. Among arguments advanced, officers claimed that it would prevent the government from defending the country against the Arakan Rohingya Salvation Army, which was not a party to the peace process.<sup>82</sup>

From the moment of the Western Command exclusion, fighting spread across Rakhine State and the adjacent Chin State borders. In government circles, Snr-Gen. Min Aung Hlaing's ceasefire declaration was promoted as a genuine attempt to make a peace breakthrough. In contrast, the exclusion of Rakhine State was regarded in ethnic political circles as a strategy to allow the Tatmadaw to focus military attention on the country's troubled western frontier. Here the ULA/

AA was building up strength and advancing deeper from the India-Bangladesh borders, while the Tatmadaw and government were under severe international condemnation for human rights violations against the Rohingya population. As fighting erupted, Rakhine communities and other local peoples were brought into the front-line of conflict. The ULA/AA Commander-in-Chief Twan Mrat Naing said of the Western Command exclusion: 'The declaration was a declaration of war on Rakhine State.'<sup>83</sup>

The notion of unilateral ceasefires did not end. But, with the Western Command excluded, the new tactic of declaring ceasefires failed to achieve a breakthrough in the northern EAO negotiations. During the following two years, an intermittent game of 'ceasefire diplomacy' continued between the Tatmadaw and Brotherhood Alliance EAOs, with both sides announcing 'unilateral' ceasefires of varying duration.<sup>84</sup> Tatmadaw offensives were generally reduced in Kachin and northern Shan States following these declarations. But they were never fully eliminated, and they were not followed by a rebound of trust or progress in negotiations. Rather, they reinforced the belief that the Tatmadaw continued to use the agreement or declaration of ceasefires for its own strategic ends.

In the case of unilateral ceasefires, a series of negative consequence was now set in motion by the failure to end fighting. Five key issues stood out.

First, the declaration of unilateral ceasefires did not bring the country any closer to inclusive peace. Instead, armed conflict, population displacement and casualties escalated to levels not seen in many decades in Rakhine State and adjoining territories in Chin State. Even within the regional commands covered by the Tatmadaw's declaration, militarization continued apace. Myanmar was not a land at peace.

Second, rather than having a peace negotiation purpose, nationality leaders believed that the manner and timing of these ceasefire declarations by the Tatmadaw were facilitating conflict-insensitive development,



Displaced Rohingya man at IDP camp near Sittwe, Rakhine State capital (TNI)

predatory land seizures and accommodation with domestic and international business interests. This would account, for example, for the government priority of a ceasefire in northern Shan State to allow entry to business actors.

Third, as the exclusion of the Western Command continued, the combination of increased repression and fighting soured relations between local communities and the government. Such practices as human rights violations against civilians, internet blackouts and the use of security laws to target journalists and suspected ULA/AA supporters raised political tensions. During a time of supposed peace-building, the designation of the ULA/AA as a 'terrorist' movement was considered especially dangerous with implications that could be long-term and negative nationwide. According to U Zaw Htay, the government peace negotiator and Director General of the State Counsellor's office: 'The president's office has instructed the military to launch an operation to crush the terrorists'.<sup>85</sup>

Fourth, the confusion over unilateral ceasefires and deepening conflict in the India–Bangladesh borderlands sent a very detrimental message to other EAOs in the country, including NCA signatories, at a time when the peace process was faltering. During 2019, it was the continued fighting in the non-cessfire areas of the country that dominated humanitarian concerns and media attention. In October 2019, the UN Special Rapporteur on Human Rights Yanghee Lee warned that communities in Myanmar were facing a ‘continuing devastating cycle of abuse’ while parties carried out activities that violate ‘international humanitarian law and may amount to war crimes’.<sup>86</sup>

And fifth, the failure to achieve ceasefires with the Northern Alliance EAOs under an NLD-led administration exposed the weaknesses and rivalries in interest between different actors in the government. To consolidate unilateral ceasefires into a meaningful negotiation with the northern EAOs, both ceasefire and non-cessfire, depended on a coherent relationship between the country’s civilian and military leaders. This clearly did not happen.

From the time of the Western Command exclusion, the government and Tatmadaw took a notably unified and aggressive approach towards the ULA/AA. In response, ULA/AA leaders claimed that the targeting of its supporters was a deliberate attempt by the authorities ‘to break up’ the peace negotiation process.<sup>87</sup> At the same time, the Tatmadaw did not coordinate its ceasefire declarations and exclusions with the government, which was ostensibly taking the lead on negotiations. This dysfunction further added to the view in political circles that Min Aung Hlaing’s ceasefire declarations were part of a competition between military and civilian elements in the administration. In essence, despite their promises, unilateral ceasefires came to reflect rather than resolve the exclusion of non-cessfire EAOs from the peace process as well as highlight the Tatmadaw’s opportunistic approach.

Adding to distrust among northern EAOs, the Tatmadaw occupied the headquarters of the ceasefire National Socialist Council of

Nagaland–Khaplang in the Sagaing Region on the border with India in January 2019.<sup>88</sup> The NSCN–K ceasefire subsequently endured. But, from this time, government and security relations continued to improve between the Nay Pyi Taw and New Delhi capitals. For all EAOs in the country, it was a reminder of the fragility of ceasefire arrangements in the conflict zones.

For their part, the northern EAOs tried various tactics to break the peace talk impasse, presenting government negotiators with draft bilateral ceasefires during intermittent meetings that occasionally took place. This included EAOs in both the Northern Alliance and FPNCC groupings. In March 2019, for example, Dr Tin Myo Win, Vice-Chair of the National Reconciliation and Peace Centre, sought to convince FPNCC members that the NCA was a founding step in the establishment of a ‘democratic federal Union’.<sup>89</sup> The KIO, especially, emphasised the need to address the return of internally displaced persons to their homes. But there was little transparency or confidence in the NCA or negotiation procedures on either side. As the KIO Vice-Chair Gen. Gun Maw warned: ‘Frankly speaking, there is no trust at all.’<sup>90</sup>

In April 2019, there was another moment of expectation when the ceasefire UWSP commemorated the thirtieth anniversary of the movement’s founding at its Pangsang headquarters on the Yunnan border.<sup>91</sup> Both FPNCC and other EAO leaders were well represented at this high-profile event, including the ULA/AA and other Northern Alliance members. Also in attendance was China’s Special Envoy for Asian Affairs Sun Guoxiang. But, despite invitations, neither Aung San Suu Kyi nor Min Aung Hlaing took part; rather, Tatmadaw officers gained public attention by complaining over the UWSP’s military display which included heavy weaponry and armoured vehicles.<sup>92</sup> Meetings nevertheless continued between government and Northern Alliance representatives, with the EAOs presenting a bilateral ceasefire proposal. KIO spokesperson Naw Bu said, ‘We are ready to sign a bilateral ceasefire agreement if the government and Tatmadaw agree’.<sup>93</sup>



Two months later, the government team responded with a counterproposal during the NDAA's thirtieth anniversary celebrations in Mongla.<sup>94</sup> Substantive negotiations, however, were made difficult by Tatmadaw demands that all sides knew to be non-starters. These included the insistence that Brotherhood Alliance EAOs give up most of their territory and relocate to positions that the Tatmadaw considered acceptable. This would mean the ULA/AA leaving Rakhine State and the TNLA staying within the confines of the Ta'ang Self-Administered Zone, which had been demarcated under the 2008 constitution.<sup>95</sup>

Equally controversial, the Tatmadaw demanded that EAOs begin steps towards implementing Disarmament, Demobilisation and Reintegration, the very issue that had contributed to refusals by both the KIO and MNDAA to join the Border Guard Force scheme in 2009. Such requirements suggested to Northern Alliance and FPNCC members that the Tatmadaw was not serious about negotiating peace.

Meanwhile fighting was continuing in Rakhine and northern Shan States where the declaration of unilateral ceasefires appeared to make little difference to Tatmadaw tactics. In response, the ULA/AA joined with the MNDAA and TNLA for a series of Brotherhood Alliance attacks in mid-August 2019 on military targets, including Pyin Oo Lwin, home of the Defence Services Academy. Claiming that the government was using the guise of ceasefires to try and neutralise ethnic opposition groups, an alliance spokesperson said that the attacks had two objectives: to stop Tatmadaw offensives and to bring the government to the negotiating table (see 'Conflict consequences of EAO exclusion').

Subsequently, ceasefire talks resumed in August between Northern Alliance members and the government in Kengtung, eastern Shan State, and then again in mid-September when Tatmadaw representatives formally joined the negotiations for the first time. This was a necessary step if the parties were to reach an eventual ceasefire. In a confidence-boosting measure, the state media publicised a statement by the EAOs and the agreement

to continue the negotiation process.<sup>96</sup> The Brotherhood Alliance also announced another three-month unilateral ceasefire on 9 September, extended on 20 September until the end of the year.<sup>97</sup> But, despite agreeing on initial talking points, the parties remained far apart on the practical realities of forging a mutual ceasefire arrangement.

Any optimism over a peace agreement proved short-lived. Until this moment, there had still been hopes that the Tatmadaw's unilateral ceasefires might provide the platform for a negotiation breakthrough, provided that the Western Command was included. On 21 September, however, the day after the Brotherhood Alliance's announcement of its latest unilateral ceasefire, the Tatmadaw announced the ending of its own declaration.<sup>98</sup> Coming in the wake of the Kengtung meetings, the timing was acute, reinforcing the conviction that the military leadership was using the declaration and termination of unilateral ceasefires as a means to deliver its own security agenda and political messages in the peace negotiations.

As fighting continued, the northern EAOs, including the KIO, made another attempt with a new proposal in December 2019.<sup>99</sup> This time, there were three key elements: a prisoner exchange; an end to the government's arrest of people accused of supporting their movements; and the incorporation into the ceasefire agreement of a monitoring mechanism that included other EAOs and China. The government, however, again rejected the EAO proposals, and fighting continued.

The prospects for peace thus looked unpromising as 2020 began. The potential for matching unilateral ceasefires to engender peace negotiations appeared to have failed. In January, the different sides met again at an informal meeting in Yunnan Province and agreed to resume formal talks the following month. The Brotherhood Alliance EAOs also extended their latest ceasefire pledge that had run out in December until the end of February, subsequently extending again to the end of March. But the planned meeting never took place. A new and very unexpected crisis –

Covid-19 – now completely disrupted every sector of public life and society across the country.

Against this backdrop, the peace process was one of many imperative issues that were pushed into secondary place. With a general election looming, more than ever the achievement of peace and national reconciliation appeared urgent. A new question emerged: would the pandemic act as a unifier or divider in territories entrapped in decades of conflict?

On 1 April and 3 May the Brotherhood Alliance were quick to extend their unilateral ceasefire as other EAOs and organisations followed an appeal by UN Secretary-General António Guterres for a ‘global ceasefire’ to combat the emerging pandemic.<sup>100</sup> The Western Command, however, remained excluded when Snr-Gen. Min Aung Hlaing eventually responded to Guterres’ appeal with the announcement of a four-month unilateral ceasefire on 10 May. Again it was asserted that the ceasefire would not extend to areas where ‘terrorist’ organisations were present.<sup>101</sup> In reply, the TNLA commander Brig-Gen. Phone Kyaw called on the Tatmadaw to announce a ceasefire for the whole country so that all parties could ‘prevent the spread of Covid-19’ and ‘work for peace’ together.<sup>102</sup>

Subsequently, the Brotherhood Alliance extended their ceasefire for another three months on 1 June to match the Tatmadaw’s timeframe. In a six-point statement, the alliance called for political dialogue, cooperation in combatting Covid-19, and the implementation of bilateral ceasefires to ‘end civil war completely’.<sup>103</sup> These ceasefires, however, did little to reduce military tensions in the north of the country. It was not only in the Western Command where the fighting persisted. Tatmadaw clashes continued into mid-year with Northern Alliance members in the northern Shan State as well as with the ceasefire SSPP, an FPNCC member, and the RCSS, an NCA signatory.

Any chance of meaningful negotiations was now subsumed by the spreading pandemic and 2020 general election. In August, the

Tatmadaw extended its ceasefire declaration until the end of September (and subsequently until the polls), while the Brotherhood Alliance also extended its ceasefire declaration for seventy days (its seventh such extension) to reach the election date as well.<sup>104</sup> Both sides referred to the health crisis, while the Brotherhood Alliance also expressed the aim of negotiating a ‘bilateral peace dialogue as soon as possible’.<sup>105</sup> The Tatmadaw nevertheless remained firm on its exclusion of the Western Command.

In these tense circumstances, elections went ahead in the northern EAO territories in November amidst tight restrictions on political campaigning and travel. Despite the promulgation of ceasefires by the key conflict actors in the country, the impact of cancellations by the Union Election Commission was especially felt in Rakhine State, where three-quarters of the population lost their right to vote, as well as in Kachin and Shan States. Rakhine, Shan and Ta’ang parties still performed relatively well but hopes of an electoral breakthrough by ethnic movements did not happen. The NLD still won another landslide victory in most parts of the country (see ‘Covid-19 and the 2020 general election’).

Events then took a new turn in the election aftermath. Prior to the polls, there had been a disagreement between the Tatmadaw and government-appointed Union Election Commission over who was responsible for the increased number of voting cancellations.<sup>106</sup> After the polling, this theme was taken up again in a different light. Peace diplomacy now focused on the opportunity presented by the fact that election dynamics were no longer looming over the conflict actors. With polling ended, ceasefires would no longer be viewed as giving the NLD a pre-election ‘win’. And, though their reasonings were different, both the Tatmadaw and a number of EAOs shared grievances relating to the election outcome.

In Rakhine State, this had immediate and unexpected impact, providing an opening to the combatant sides to seek a peace breakthrough by two conciliatory gestures:

## Conflict Regression in Rakhine State

Following the NCA inception, the manifestations of conflict and human rights abuse remained outstanding under the Tatmadaw's Western Command, headquartered in Rakhine State. The military operations against the Rohingya population during 2016-18 resulted in one of the most devastating episodes of displacement and human rights violations in the country's history. Over 725,000 displaced civilians fled across the border to join the estimated 350,000 Rohingya refugees already living in Bangladesh.<sup>107</sup> At the height of this campaign, Médecins Sans Frontières found that at least 9,400 people died within one month after the Tatmadaw launched 'regional clearance' operations against the perceived threat by the new Arakan Rohingya Salvation Army.<sup>108</sup>

Subsequently, the UN Independent International Fact-Finding Mission established that the Tatmadaw had committed crimes against humanity and war crimes and that genocide should also be investigated for prosecution.<sup>109</sup> It publicly named Snr-Gen. Min Aung Hlaing and five other Tatmadaw leaders as alleged perpetrators. Related legal actions are underway at the International Criminal Court and International Court of Justice. These warnings, however, made little difference in the field. In 2023, the Rohingya crisis remains unaddressed.

Meanwhile human rights violations continued to spread in the western borderlands after the NCA signing in the context of fighting between the Tatmadaw and United League of Arakan/Arakan Army. This escalated from late 2018 after a series of decisions that appeared targeted against the Rakhine nationality cause. Particular causes of grievance included the marginalisation of the Arakan National Party which had won most seats in the state in the 2015 general election, the exclusion of the ULA/AA and residual Arakan National Council (a UNFC member) from the NCA, and the omission of the Western Command from the Tatmadaw's unilateral ceasefires.<sup>110</sup>

For Rakhine leaders, such treatment appeared a 'divide-and-rule' stratagem to weaken the Arakan cause and allow the Tatmadaw to redeploy resources from other parts of the country to defeat the largest and most popular EAO – the ULA/AA – by military means. At the time, the movement was rapidly expanding its territory and size. As fighting flared, during the December 2018-September 2020 period a further 226,000 civilians were reported to have fled from their homes, 289 civilians killed and another 641 injured, including in Paletwa township in Chin State where the ULA/AA is also based.<sup>111</sup>

Notably, too, the 2012 ceasefire of the small Arakan Liberation Party, which in 2015 signed the NCA, provided no defence for the local peoples. Whether there is an NCA signatory in Rakhine State or not, harm to civilians significantly increased after the 2015 accord was signed. Indeed, as community leaders warned, the ALP's 2012 bilateral ceasefire was followed by anti-Muslim violence in which the security forces were deemed complicit and over 190 people died, most of whom were Rohingyas.<sup>112</sup> There was no apparent priority for peace-building and inter-community inclusion in Rakhine State during a time of peace talks and ceasefires.

Many of these human rights violations by the Tatmadaw reflected a pattern of abuse against civilian populations that goes back many decades.<sup>113</sup> Especially notorious are the 'regional clearance' or 'four cuts' campaigns. During 2018-20, Amnesty International and other human rights organisations documented a systematic pattern of arbitrary arrests and torture, shelling and airstrikes on villages, and the extrajudicial killing of civilians suspected of being ULA/AA supporters.<sup>114</sup> In April 2020, the UN Special Rapporteur on Human Rights in Myanmar Yanghee Lee further alleged new 'war crimes and crimes against humanity' in Rakhine and

Chin States.<sup>115</sup> All the local peoples, she claimed, were being targeted, including Rakhine, Rohingya, Mro, Dagnet and Chin. The ULA/AA were also accused of abductions and attacks on government personnel. As Yanghee Lee explained, accountability and a ceasefire by all sides are 'critical to ending the conflict'.<sup>116</sup>

In response to international criticisms, the government set up a series of commissions to investigate the political and human rights situation in Rakhine State, including two that were established by the Tatmadaw.<sup>117</sup> Potentially the most important was the Kofi Annan 'Advisory Commission on Rakhine State' which reported in August 2017 on the eve of the second ARSA attacks.<sup>118</sup> However, with the exception of the Annan Commission (which did not have a human rights focus), the government-mandated investigations were neither independent nor transparent, and appeared to many observers as efforts to stave off international pressure without actually implementing the Annan Commission's recommendations or holding higher-level authorities responsible for crimes.

In an especially notorious case, seven soldiers who were convicted of killing 10 Rohingya men and boys served less time in prison than two Reuters journalists who reported the incident.<sup>119</sup> Causing human rights consternation, Aung San Suu Kyi also defended the actions of the government and Tatmadaw in December 2019 at the International Court of Justice in The Hague.

Into 2020, many of the government's tactics in Rakhine State became more targeted. The Western Command continued to be excluded from Tatmadaw ceasefires; the ULA/AA was listed as a 'terrorist' organisation; internet restrictions were maintained in eight (initially nine) townships in the conflict areas;<sup>120</sup> and peace demonstrators and journalists reporting on the conflict continued to be arrested.<sup>121</sup> Neither Covid-19 nor the forthcoming general election brought apparent change to the government path.

Against the backdrop of Covid-19, such actions were deeply injurious to the welfare of local peoples, depriving them of the right to information and freedom of expression as well as the fundamental rights to life and health. As health specialists warned, it was in Rakhine State that Covid-19's second wave emerged in August 2020.<sup>122</sup> With conflict continuing, civil society voices argued that local communities were more afraid of 'military attacks on civilian targets' than threats from the disease itself.<sup>123</sup>

The selective cancellation of voting in the run-up to the November 2020 election was also widely perceived as an attempt by the government to try and restrict support for the electoral Arakan National Party. The constituencies cancelled by the Union Election Commission were those where the ANP rather than NLD or USDP were expected to win.<sup>124</sup> Warning of the worsening tensions came in October when the ULA/AA abducted three candidates who were canvassing for the NLD.<sup>125</sup> Ultimately, voting was fully or partially cancelled in 13 of 17 townships in Rakhine State; only 25 per cent of registered voters were able to cast ballots; and, as in 2015, the majority of the Rohingya population were excluded from voting. The ANP still won a plurality, but on a constrained scale due to cancellations that made victory less decisive.<sup>126</sup>

Following the election, both Tatmadaw and NLD leaders expressed willingness for by-elections to go ahead in the cancelled constituencies, leading to a reduction in front-line tensions with the ULA/AA and release of the NLD politicians. But the government's handling of the elections in Rakhine State was widely regarded as an egregious example of the suppression of the human rights of local peoples. A major reassessment of the peace process and government policies in Rakhine State was long overdue.

The NLD was never to have this opportunity. In a volte-face in the aftermath of the polls, Snr-Gen. Min Aung Hlaing reached out to the ULA/AA, agreeing a new kind of ceasefire described as 'informal'. However, while initially welcomed among the public, this did not indicate the initiation of a new trend towards demilitarisation and peace. Unexpected at the time of the ceasefire, the Tatmadaw generals were planning a seismic change in conflict management and political control, culminating in the 2021 coup. Now it was the NLD – not the ULA/AA – which was targeted as the principal opponent of the military leadership.

In the aftermath of the coup, an uneasy peace initially continued with the ULA/AA in Rakhine State and, in an exception to other parts of the country, growing numbers of IDPs began to return home. Here the ULA/AA effectively established a system of 'parallel governance'.<sup>127</sup> But peace did not last long and, from mid-2022, clashes resumed, sparking a new cycle of conflict and displacement before a new 'humanitarian' ceasefire was announced in November. Tensions, however, remained.<sup>128</sup> Meanwhile, despite international condemnation, there was no policy change by the military State Administration Council towards the Rohingya population, and investigators reported that human rights violations were again increasing in Rakhine State in tandem with other parts of the country.<sup>129</sup>

The evidence is sobering. The NCA ultimately proved of no effectiveness at all in ending conflict in one of the most potential, but neglected, lands in the country. Equally divisive, rivalries continued in Rakhine State following the coup between the ULA/AA and ceasefire ALP that attempted to keep to the NCA path, and in January 2023 the ALP commander and two colleagues were assassinated in Sittwe after attending Independence Day celebrations with SAC officials. The ALP accused the ULA/AA, an allegation it denied.<sup>130</sup> At the same time, violence continued in the Bangladesh borders where the ARSA attempted to assert control in the refugee camps.<sup>131</sup>

This time, however, conflict was not concentrated in northern Rakhine State and the tri-border region with Bangladesh and India under the Tatmadaw's Western Command. Inter-connected territories in Chin State witnessed a dramatic escalation in fighting in response to Snr-Gen. Min Aung Hlaing's seizure of power. In the preceding years, Paletwa township had become a strategic battleground during the rise of the ULA/AA. Now, in the aftermath of the SAC takeover, the ceasefire of the Chin National Front, an NCA signatory, quickly broke down as repression and resistance swept the state with a new generation of young people taking up arms. With the return to military rule, the Chin nationality movement was regvanized.

During the next two years, Chin State became a major war zone. As of December 2022, UN agencies estimated that the number of displaced persons in the territory had increased from 6,500 to nearly 50,000 since the coup with a further 50,000 civilians fleeing into India.<sup>132</sup> Previously, the CNF had not been a key conflict actor. But now other groups formed up to join the CNF in armed struggle against the central government.<sup>133</sup> Even greater numbers of IDPs were reported in the adjoining Magway and Sagaing Regions where more armed movements were formed to resist the new regime.<sup>134</sup> If there had ever been any doubt, the inadequacy of seeking to de-link the NCA from broader events in the country was further highlighted.

The judgment of history will be severe. The neglect of conflict and human rights violations during a decade of supposed trust-building and national reconciliation in Rakhine and Chin States will forever stand as an indictment of peace process failures and the NCA.

an informal cessation of hostilities, and the release of public statements by both the Tatmadaw and ULA/AA. First, on 9 November the Tatmadaw announced a new 'Peace Negotiation Committee', reaching out to both NCA signatory and non-signatory EAOs.<sup>135</sup> Second, the Tatmadaw released a statement welcoming a call by the ULA/AA for the government to hold elections by the end of December in townships where voting had been cancelled.<sup>136</sup> Meanwhile, little noticed at first, in the background of these events was Yohei Sasakawa, Japan's special envoy for national reconciliation in Myanmar and chair of the Nippon Foundation, who was lobbying for a ceasefire in Rakhine State to support the completion of the polls.<sup>137</sup>

The political pace now picked up. Dating from 12 November, an informal cessation of hostilities was put in place in the Western Command and, following a series of exchanges between the ULA/AA and Tatmadaw's Peace Negotiation Committee, three previously-abducted NLD candidates were released by the ULA/AA on New Year's Day.<sup>138</sup> Initially, the government seemed unwilling or unprepared to build on the initiative, and there was no immediate reduction in the military build-up in Rakhine State. But, from the turn of the year, the government also sought to become engaged in peace negotiations, beginning tentative ceasefire talks with Northern Alliance members. The TNLA was quick to welcome the apparent change in government policy.<sup>139</sup>

Amidst these speculations, on New Year's Day State Counsellor Aung San Suu Kyi announced a new 'Peace Talk Architecture' for the country as the NLD prepared to form a new government. But there was no indication how the northern EAOs – whether Northern Alliance or FPNCC – would be brought into the peace negotiations. There was also a lack of clarity as to what this new approach might mean for the NCA, NLD and Tatmadaw as parliamentary change went ahead. With Tatmadaw leaders continuing to question the conduct of the November polls, political tensions rather than prospects for peace appeared to have grown following the ULA/AA ceasefire.

At this moment, the February coup by Snr-Gen. Min Aung Hlaing changed everything. What might have followed next under another NLD administration can never be known. In the election aftermath, the Tatmadaw had moved against its partner in government, the NLD, which it now sought to bring down, while its previous enemy in conflict – the ULA/AA – was welcomed with an informal ceasefire. Equally ominous, any expectation that the ULA/AA ceasefire would lead to change for the better in boosting peace negotiations and ending fighting in the north of the country were soon diminished. Clashes swiftly resumed with the KIO, MNDAA and TNLA, while major new conflicts broke out in Chin State and adjoining territories in Sagaing and Magway Regions.

As new divisions and alignments in national politics rapidly spread, Myanmar's northern borderlands – areas the NCA had barely reached – remained a critical landscape in determining peace and conflict trends in the country.

## Covid-19 and the 2020 general election

In early 2020, when the Covid-19 pandemic first emerged, it appeared that little had been learned from the government's previous experiences of political exclusion. Whenever the Tatmadaw leadership excluded EAOs – and hence certain territories – from opportunities for ceasefires, the results were very similar: an increase in conflict and a growth in local support for ethnic opposition causes. After the NLD came into office, this experience was especially acute in the Kachin, Rakhine and northern Shan States. And, from March 2020, this trend initially gathered pace again as local leaders and civil society organisations issued appeals around the country, calling for peace and inter-ethnic cooperation to address the Covid-19 emergency together.<sup>140</sup>

In appealing for nationwide peace, there were three underlying arguments: a cessation in hostilities was essential on public health grounds; Myanmar was deemed to be at especially high risk due to

its fragmentary and historically underfunded healthcare sector; and, more positively, the unprecedented nature of the Covid-19 pandemic opened up an opportunity for a humanitarian ceasefire that could allow the different parties to save face, de-escalate conflict and focus efforts on fighting the pandemic together.<sup>141</sup> Covid-19 has no limits between peoples and lands.

In Myanmar's case, these arguments were especially cogent among the poorest sectors of society and in conflict zones located in the ethnic states.<sup>142</sup> There was simply not the technical capacity to conduct testing or provide health treatments, including vaccination, on a scale that was needed as the crisis escalated. Particularly at risk were IDP populations unable to take physically distancing measures and who lacked sufficient hygiene and healthcare services and supplies. In this vacuum, ethnic health organisations and local EAO administrations sought to provide essential services in both NCA signatory and NCA non-signatory areas,

but they also faced difficulties due to a lack of funding and secure access to conflict-divided communities. Myanmar already has among the highest rates of such treatable and preventable diseases as malaria, TB and HIV/AIDS in the sub-Asian region.

The social impact of Covid-19 in Myanmar was also not, in the first place, simply about health. The economy was immediately affected, deeply hurting the poor. In the following months, the global lockdown saw hundreds of thousands of workers lose their jobs, with large numbers of migrants returning home from Thailand, China and other neighbouring countries. Over 420,000 migrants were recorded travelling through government-controlled checkpoints, but many others also crossed back through areas administered by EAOs.<sup>143</sup> Following the onset of the crisis, all sectors of society had to deal with the consequences, a challenge replicated in every country in the world. The dilemmas facing Myanmar were a 'new unknown', now on international scale.



Troops in PPE masks at Shan Revolution Day, SSPP headquarters, Wan Hai (Tai Hun Mai / S.H.A.N.)

Such questions of equitable access to health are especially serious in countries in conflict. To that end, the UN Secretary-General António Guterres announced an appeal for a ‘global ceasefire’ on 23 March.<sup>144</sup> The declaration was quickly echoed in Myanmar by CSOs, international NGOs and diplomats, who stepped up their calls for a nationwide ceasefire by all armed actors. ‘Covid-19 does not discriminate on the basis of ethnicity, nationality, religion or social status,’ a joint statement by 18 Western ambassadors in Myanmar explained.<sup>145</sup>

Ethnic health organisations and EAOs were also quick in their responses. Both NCA signatories and non-signatories promoted the same national reconciliation goals. In addition to calling for a nationwide ceasefire, the Karen National Union announced that its health department was prepared to coordinate with the government.<sup>146</sup> Chapter Six of the NCA specifically commits the signatories to coordinate together on ‘projects concerning the health, education and socio-economic development of civilians’.<sup>147</sup> Such a nationwide

response, the KNU argued, would ‘lead to all-inclusive “National Reconciliation” and bring invaluable support to the peace process’.<sup>148</sup>

In the following days, such ceasefire EAOs as the Chin National Front, Karenni National Progressive Party and Restoration Council of Shan State also issued calls for a nationwide truce.<sup>149</sup> Meanwhile on 1 April the non-ceasefire EAOs of the Brotherhood Alliance extended their unilateral ceasefire, calling on other ‘revolutionary organisations across the world struggling for political equality and the right of national self-determination to declare global ceasefire’.<sup>150</sup> The United League of Arakan/Arakan Army also issued its own Covid-19 ceasefire announcement.<sup>151</sup> A consensus appeared to be emerging over the need for nationwide peace.

Parallel to these appeals, EAOs continued to develop their own Covid-19 programmes. In the age of global media, EAOs and administrative authorities in all parts of the country were quickly aware of the scale of the crisis. As with government agencies, EAOs

Kayaw women at Kayah State Democratic Party meeting, Hpruso township (KySDP)





and local ethnic health organisations initially concentrated more on public awareness and prevention than capacity building and health delivery. But with many migrants returning and large numbers of IDPs in the hills, EAOs struggled with the challenges of physical distancing and health monitoring. Despite government lockdowns in the towns, Myanmar was still a land of considerable displacement and population movement, with several million migrants, refugees and IDPs.<sup>152</sup>

To cope with these challenges, EAOs set up Covid-19 checkpoints and quarantine centres in their administered areas. But the larger EAOs, including the non-ceasefire Kachin Independence Organisation and ceasefire United Wa State Party, also sought to develop Covid-19 expertise of their own. The KIO, for example, imported test kits from China and Singapore; a Covid-19 Concern and Response Committee-Kachin was formed by local volunteers and CSOs; and the UWSP initiated a policy of ‘early detection, early reporting, early isolation and early treatment’.<sup>153</sup> Within weeks of the virus arriving, it was clear that Covid-19 was energising a significant response among organisations and communities in all parts of the country.

Many questions nevertheless remained about the likely trajectory of the pandemic. Until August 2020, at least, Myanmar did not suffer the same degree of virus impact as a number of neighbouring countries. It was, in fact, during the third wave of Covid-19, after the 2021 coup, that the virus first had serious attack on a scale comparable to other countries deeply affected around the world. But it is very likely that these precautionary measures, taken by health actors on the different conflict sides, did much to prevent an upsurge in cases during the first months of the pandemic. On a positive note, the health emergency did galvanise action among diverse actors.

In terms of peace-building, though, the question is much more open. The initial response from Tatmadaw leaders did not provide grounds for optimism. When asked about a Covid-19 ceasefire, Brig-Gen. Zaw Min Tun replied that it was ‘not realistic’,

elaborating that previous unilateral ceasefire announcements had failed to work.<sup>154</sup> Instead, whether in NCA signatory or non-signatory territories, there was no-let up in Tatmadaw operations and movement during the first months of the pandemic. Almost forgotten, the Joint Ceasefire Monitoring Committee had not met since the end of 2018.

A long list of setbacks built up in the weeks following Guterres’ ‘global ceasefire’ call. Plans to allow a Shan State national-level dialogue remained on hold; a team of RCSS medics was attacked carrying out Covid-19 awareness activities;<sup>155</sup> the KNU and New Mon State Party were forced to close Covid-19 checkpoints; and increasing numbers of villagers fled their homes in northern Karen State where the Tatmadaw was accused of using Covid-19 as a cover to encroach into KNU-administered areas.<sup>156</sup>

Meanwhile conflict continued uninterrupted in the Tatmadaw’s Western Command. In a tragic incident, a World Health Organisation driver carrying coronavirus swabs was killed in Minbya township, with the Tatmadaw and ULA/AA accusing each other of culpability.<sup>157</sup> As Amnesty International warned, the combination of conflict, security restrictions and human rights violations during a pandemic raised serious concerns in key areas of health delivery and capacity.<sup>158</sup> Brushing off criticisms, a Tatmadaw spokesman claimed: ‘We are not just ambushed by enemy troops, but also by the media.’<sup>159</sup> There was little surprise, then, that an increased incidence of Covid-19 was first noted in the country’s most active – and neglected – conflict zone, Rakhine State, spreading to Yangon and other states and regions during the second virus wave which began in August.<sup>160</sup>

Complicating the national response, the arrival of Covid-19 appeared to set off rivalries between the NLD and Tatmadaw over which part of the government was in charge of addressing the pandemic. At the start of the pandemic, the pro-military Union Solidarity Development Party organised a joint statement calling upon the National Defence and Security Council (which is Tatmadaw-dominated) to lead the country through the

health crisis.<sup>161</sup> In response, civilian figures in the government also appeared to accept the special role of the Defence Services through the formation of a Containment and Emergency Response Committee, announced by President Win Myint. Headed by Vice President Myint Swe, a military appointee, half the 10-person committee was selected from the Tatmadaw. Civil society groups, in contrast, feared that such moves were indication of a ‘weaponization’ of the virus.<sup>162</sup>

Amidst this impasse, the Ministry of Health and Sport continued to lead the main Covid-19 response. It took, however, until late April for the President’s Office to form a coordinating committee to work with EAOs in containing the spread of the disease.<sup>163</sup> Headed by Dr Tin Myo Win, Vice-Chair of the National Reconciliation and Peace Centre, the committee appeared ready to work with both ceasefire and non-ceasefire groups. The government’s policy would be one of ‘no-one-left-behind’, regardless of ethnicity, religion and location.<sup>164</sup>

To begin with, the health initiative was broadly welcomed. But the implementation of policy ideas was poorly handled, repeating the pattern of peace failures in the past. The appointment of the new committees caused confusion – and sometimes competition – between the government, Tatmadaw and EAOs during the following weeks. Communications remained weak and trust was still poor among the different authorities. In particular, worries were widespread that both government and Tatmadaw programmes were designed to extend central outreach into EAO-controlled areas and bypass local administration. According to the government, if a Covid-19 case was found in EAO-administered areas, the EAOs had to ‘cooperate in accordance with’ NRPC guidelines.<sup>165</sup> In response, EAOs asserted that they would prefer to deal directly with the local state health authorities rather than committees set up by the NRPC or President.

Within a month, these dilemmas played out in Kachin State. When the non-ceasefire KIO refused to accept a small aid donation initiated by the NRPC, the

Tatmadaw immediately responded with its own presentation of packages of protective equipment which it delivered by helicopter.<sup>166</sup> But, as Kachin officials complained, there had been no negotiation about military or political affairs which, they asserted, was the main requirement for progress in the peace process.<sup>167</sup> In the following weeks, the Tatmadaw also made deliveries of Covid-19 equipment to other EAOs, including the ceasefire KNPP and UWSP, which – like the KIO – were NCA non-signatories.<sup>168</sup> The underlying tensions, however, remained in many parts of the country.

Fuelling distrust, government authorities chose this moment to step up efforts to compel internally displaced persons to move into government-controlled areas. The situation remained especially acute in the northeast of the country, where over 100,000 Kachin IDPs remained in camps. Here the Kachin Humanitarian Concern Committee and Joint Strategy Team organised an aid conference to discuss the looming crisis in March.<sup>169</sup> But no effective action followed to provide emergency relief. Human Rights Watch described the camps as ‘Covid-19 tinderboxes’.<sup>170</sup>

The ambiguity in government intentions was then reflected in May when Snr-Gen. Min Aung Hlaing finally appeared to acknowledge the UN’s ‘global ceasefire’ call. At the time, the diplomatic pressures were intense, with the government due to report to the International Court of Justice about measures taken to protect the Rohingya population from genocide.<sup>171</sup> Against this backdrop, a week after the Brotherhood Alliance extended its latest unilateral ceasefire, Min Aung Hlaing announced a four-month unilateral ceasefire by the Tatmadaw to focus on the spreading pandemic.<sup>172</sup> For a brief moment, it appeared that Covid-19 might be having impact on the peace process.

Once again, though, there was a catch. As with Min Aung Hlaing’s first unilateral ceasefire declaration in 2018, the Western Command was excluded due to the claimed presence of ‘terrorist’ groups in the territory. From this point, both the Tatmadaw and Brotherhood Alliance continued to extend their ceasefire

declarations until the general election in November. But, by mid-year, it was clear that Covid-19 had not made any significant change to Tatmadaw tactics in the operational field.

As the rainy season set in, conflict continued in several parts of the country. In Shan State, clashes occurred with the non-ceasefire Ta'ang National Liberation Army in Kutkai township, the ceasefire Shan State Progress Party in Hsipaw township, and the RCSS, an NCA signatory, in Kyaukme township.<sup>173</sup> In Rakhine State, the Tatmadaw was accused of 'indiscriminate' attacks on civilians, including airstrikes.<sup>174</sup> And relations with the KNU, an NCA signatory, deteriorated as Tatmadaw incursions continued in Hpapun District, leading to warnings of ceasefire breakdown by KNU leaders. In response, public protests were reported at different times in Karen, Rakhine and Shan States about the loss of life and deteriorating human rights situation (see 'Military violations' & 'Harm to civilians').

Various go-between actors tried to bring the different conflict parties together. China, especially, was keen to see progress. Following the virus outbreak, Covid-19 caused delays to Xi Jinping's Belt and Road Initiative. In Kachin circles, this caused concern about tactical manoeuvring when the Tatmadaw began pressuring the KIO to remove its camps from Chipwi township, an area rich in natural resources and the location of a Chinese-backed hydropower project.<sup>175</sup> Rumours were rife that Chinese officials, as part of the country's 'vaccine diplomacy', were offering the Tatmadaw priority in Covid-19 treatments and equipment in return for support for Chinese interests in the economy.

In other parts of the country, it was the NLD's performance that raised most concerns. In Kayah State, peace talks with the ceasefire KNPP, an NCA non-signatory, were halted at the start of the pandemic. This led civil society organisations to accuse the NLD of ignoring the peace process while using Covid-19 to try and improve the party's image. 'They are so weak in implementing the building of a future federal union through negotiation and dialogue meetings,' a CSO spokesperson warned.<sup>176</sup>

Against this background, a reduced 21<sup>st</sup> Century Panglong Conference (fourth UPC-21CP) took place in mid-August, with only the NCA signatories in attendance among the EAOs. A further 20 principles were added to the Union Accord. But the key outcome for the signatory EAOs was recommitment that the NCA process should continue following the elections, temporarily warding off concerns that, as a vehicle for political change, the NCA was being sidelined by the NLD and Tatmadaw.

The general election then went ahead in November with, as expected, another landslide victory for the NLD and resonant defeat for the Tatmadaw-backed USDP. In the year beforehand, there had been hopes that ethnic parties would improve their performance from previous elections. To try and improve their conduct, a number of nationality movements agreed such measures as party mergers and policy development. But, when it came to election day, the multiple impact of security restrictions, constraints posed by Covid-19, constituency cancellations by the Union Election Commission on the claimed basis of conflict, and the country's 'first-past-the post' voting system put paid to their hopes of significant advancement.<sup>177</sup>

Most EAOs, in fact, were supportive of the elections going ahead, despite misgivings over proceeding during the Covid-19 pandemic. Rather, the statistical increase in cancellations was largely due to the rise in conflict in Rakhine State. If this is taken into account, the performance of ethnic parties was broadly similar to the 2015 general election. On this basis, some nationality movements performed relatively well, winning sufficient seats in the regional legislatures to have influence in four ethnic states: Kayah, Mon, Rakhine and Shan. Smaller Pa-O, Ta'ang and Wa parties also did well in the 'self-administered' areas designated under the 2008 constitution. But for the larger Chin, Kachin and Karen parties, the results of the 2020 general election were deeply disappointing. In the national structures of Myanmar politics, the ballot-box did not appear to bring progress or better representation for the ethnic nationality cause.

Inevitably, the failure to make electoral breakthroughs had a negative impact on political perceptions in ethnic circles even before the 2021 coup. It was recognised that decades of armed struggle had not brought about significant change; but neither, it seemed, have the seven general elections since independence.<sup>178</sup> Following the polls, it was not doubted that the NLD had won a powerful mandate. But, at the end of the NLD's first term in government, there was little evidence of conflict resolution or political reform. At the heart of frustrations, the 2008 constitution, brought in under military government, was regarded as an enduring impediment to meaningful change.

There was thus deep caution when, in the election aftermath, both the NLD and Tatmadaw appeared to signal a change in their approaches towards the peace process. The Tatmadaw agreed a de facto or 'informal ceasefire' with the ULA/AA (i.e. outside of the bilateral or NCA processes), calling for by-elections to be held in the cancelled constituencies in Rakhine State. The NLD wrote to 48 ethnic political parties calling on them to work together in building a democratic federal union, 'ending civil war' and forming a 'national unity government'.<sup>179</sup> And hopes were expressed in the international community that, following a second democratic election, political transition was stabilising in the country.<sup>180</sup>

Ethnic parties and EAOs, however, remained 'wary'.<sup>181</sup> The dysfunction in the hybrid NLD-Tatmadaw government was apparent. Neither elections nor the NCA had achieved qualitative progress in advancing national reconciliation and political change. The NLD focused on parliament as the main vehicle for modernising reform while the Tatmadaw guarded security as its exclusive sphere, continuing to take unilateral actions in national politics and the peace process.

In the case of the NLD, if the political impasse was to be broken, nationality leaders wanted guarantees of reform during the next cycle of parliament, including the appointment of ethnic representatives as Chief Ministers in the states and the devolution of powers

to the state governments.<sup>182</sup> But during the following weeks meetings with the NLD were often cancelled, while the Arakan National Party – the winning party in the Rakhine State legislature – again appeared to be excluded.<sup>183</sup> At the same time, the NLD did not respond to the ULA/AA's release of three candidates who had been detained with a reciprocal release of political prisoners, saying that it was a matter for the Tatmadaw and courts to decide.<sup>184</sup> Notably, too, although President Win Myint expressed hopes that by-elections would soon go ahead in the cancelled constituencies, Japan's special envoy for national reconciliation in Myanmar, Yohei Sasakawa, claimed that it was NLD officials who were stalling in practice.<sup>185</sup>

For her part, State Counsellor Aung San Suu Kyi announced a new 'New Peace Architecture' on New Year's Day.<sup>186</sup> Both 'formal and informal dialogues', she said, would be essential, with implementation prioritised during the party's next five years in office.<sup>187</sup> The government also reached out to restart peace talks with Northern Alliance members.<sup>188</sup> There were, however, few details suggesting how the 'New Peace Architecture' might work with the existing NCA; who would be involved in its design; and how the failures in NCA implementation would be addressed.

Meanwhile warnings signs were increasing that Tatmadaw leaders were preparing their own course. Although voting was largely considered to be 'free and fair', military officers escalated claims of election fraud, reminding that the potential for a coup was not ended.<sup>189</sup> Despite the new ceasefire in Rakhine State, conflict continued in several parts of the country.

Raising concerns, the Tatmadaw attacked a KIO base in Waingmaw township, Kachin State, with heavy weaponry in early January;<sup>190</sup> over 3,700 civilians were displaced in renewed fighting in northern Shan State between the RCSS, an NCA signatory, and non-ceasefire TNLA;<sup>191</sup> and clashes and displacement increased in northern Karen State where the Tatmadaw, backed by the Karen Border Guard Force, stepped up operations, including the shelling of local villages.<sup>192</sup> In response, over



Lahu village in Kengtung township, eastern Shan State (TNI)

10,000 civilians took part in protests against Tatmadaw attacks, while KNU leaders called for a fundamental review of the NCA process (see ‘Military Violations’).

A defining moment was approaching. With the clock ticking down on the NLD’s first term in government, ethnic leaders welcomed the promise of a new peace process, but they did not want more years of delay.<sup>193</sup> New ways to national reconciliation had been tried during the previous decade of ceasefires. Yet, there had been no major breakthrough in achieving peace, democracy and reform. As the 2013 Ramon Magsaysay Award winner Lahpai Seng Raw warned: ‘after waiting more than 70 years’ the country was still at a crossroads between ‘armed struggle’ and an ‘electoral path’ in the endeavour to establish ‘equal rights’ for all peoples.<sup>194</sup>

On 1 February 2021, all hopes of peace and negotiated reform came to a halt. With the constitutional deadline for the formation of a new parliament approaching, Snr-Gen.

Min Aung Hlaing obstructed its seating and arrested Aung San Suu Kyi and other NLD leaders, plunging the country into chaos and a state of national breakdown. Following in the footsteps of Ne Win, Saw Maung and Than Shwe, once again a supreme commander of the Myanmar armed forces had shown total disregard for democratic principles. While intensifying its repression of public protests, the military State Administration Council claimed defence of the same constitution it had violated on 1 February, sending a stark warning to anyone who might believe the military was a trustworthy negotiation partner.

After a decade of peace initiatives, Myanmar was on the brink of renewed civil war. What might be salvaged from this in terms of peace politics was – and still remains – far from clear.

## 4. Myanmar Today: A Land in Conflict Crisis

### SAC post-script: an end to the NCA road?

Any continuation of the NCA and broader peace process was rendered impossible following the seizure of power by the military State Administration Council. Agreements and relationships were completely disrupted, meaning that no significant negotiations have since been considered or taken place that involve all parties in the earlier peace frameworks. Snr-Gen. Min Aung Hlaing may have hoped to recalibrate the political landscape to the Tatmadaw's advantage by the 2021 coup. But after another two years of military domination – effectively the fourth incarnation since independence in 1948<sup>1</sup> – the country remains deeply entrenched in a new cycle of instability and conflict.

Aspirations for peace and justice have not been dimmed. But the military coup also instigated seismic shifts in the political landscape which divided the country on a scale bearing comparisons with the national breakdowns in 1948, 1962 and 1988. In response, a new wave of resistance movements emerged in both Bamar-majority and non-Bamar areas, with conflict expanding in most of the ethnic states and regions. Reflective of the new cycles of conflict, there were in effect – and still are – two rival governments claiming authority in the country: the SAC and the National Unity Government (NUG: formed 16 April 2021), consisting of MPs-elect, civil society activists, strike committees, women's groups, and nationality leaders including some representing ethnic armed organisations.<sup>2</sup>

Amidst such a complexity of events, it is difficult to draw narrative lines. Mass demonstrations and strikes by a Civil Disobedience Movement of public workers following the coup brought many government services to a halt until protests were brutally suppressed. Then, as repression intensified, the ceasefires of three NCA signatories broke down: the Chin National Front, Karen National Union and All Burma Students Democratic Front. The bilateral ceasefire of

Ethnic protesters in demonstration against the 2021 coup, Yangon (private source)





Youth from Mon, Karen and Pa-O communities join 'anti-dictatorship' march, Mawlamyine, Mon State capital (private source)

the Karenni National Progressive Party also collapsed; fighting escalated with the non-ceasefire Kachin Independence Organisation, Myanmar National Democratic Alliance Army and Ta'ang National Liberation Army in the northeast of the country; and, from mid-2022, the informal ceasefire with the United League of Arakan/Arakan Army began to fracture, with fighting resuming in Rakhine State.

Resistance to the regime did not end here. In what became known as the 'Spring Revolution', a new generation of armed opposition groups, many known as People's Defences Forces, multiplied in different parts of the country, including Yangon, Mandalay and the main conurbations. Escaping repression in the towns, many activists also took sanctuary in lands administered by EAOs where they underwent armed training, a trend that gained momentum after the NUG announced a policy of 'people's defensive war' in September 2021.<sup>3</sup>

In the new struggle, some PDFs allied with or were established by the NUG, some remained independent, while others worked with or

came under the command of EAOs.<sup>4</sup> Emerging movements in the ethnic borderlands included the Chin National Defence Force, Karenni Nationalities Defence Force and a diversity of local armed groups in Kachin and Karen States.<sup>5</sup> To improve cohesion and policy development, interim 'consultative' or 'coordination' councils were also set up in states and areas inhabited by Chin, Kachin, Karenni, Mon, Pa-O and Ta'ang peoples.

In response, the SAC has, to date, shown no sign of wavering from its intention to impose military rule. As fighting spread, the Tatmadaw increasingly reverted to its draconian tactics of the past. 'Four cuts' or 'regional clearance' operations were launched in the conflict zones, marked by the 'wholesale razing of villages' and an escalating use of aerial and artillery attacks against civilian targets.<sup>6</sup> 'We have to live in fear all the time,' said a displaced young woman in Kayah State.<sup>7</sup> At the same time, new paramilitaries known as Pyu Saw Hti have been formed among the Bamar-majority population to combat the NUG and PDFs as well as a shadowy Thway Thauk force that targets NLD supporters. In parallel, the regime

has increased support to Border Guard Forces and Tatmadaw-backed militia in the ethnic borderlands, many of which continue to be linked to criminal enterprise.<sup>8</sup>

Such tactics, though, manifestly failed to suppress political protest and armed opposition. Instead, many EAOs, PDFs and the NUG have been able to expand their areas of operation, and by mid-2022 the new regime was deemed to control less than half the country.<sup>9</sup> Under the SAC, the structures in warfare and alignments in national politics are importantly different from the era in which the NCA as a peace process was developed.

The peoples of Myanmar, meanwhile, have paid a very heavy price for the fallout precipitated by the coup. During the past two years, the economy has been in collapse; land grabbing and natural resource exploitation have increased;<sup>10</sup> the third wave of Covid-19 passed largely untreated;<sup>11</sup> over 17 million of the 56 million population are in need;<sup>12</sup> and, as of March 2023, over 3,000 civilians had been killed by the security forces, and over 16,000 political prisoners remained in prison or detention.<sup>13</sup> Prominent figures receiving long jail terms include Aung San Suu Kyi, President U Win Myint and leaders of the NLD which, two years previously, had won the general election by a landslide.

Similarly, the human suffering and devastation in the conflict zones has been immense. Fighting has frequently been fierce, with enmities and human rights violations deepening. At the beginning of 2023, over 1.5 million civilians were recorded by UN agencies as internally displaced, of whom more than 1.2 million had lost their homes since the coup.<sup>14</sup> At the same time, new waves of refugees have been fleeing into Bangladesh, India and Thailand, pushing the total number of refugees and IDPs – not including migrant workers – towards the 3 million mark. But, with access limited, official statistics can never represent the full picture. Myanmar is in deep humanitarian crisis today. As Volker Türk, UN High Commissioner for Human Rights warned on the second anniversary of the coup:

‘By nearly every feasible measurement, and in every area of human rights – economic, social and cultural, as much as civil and political – Myanmar has profoundly regressed.’<sup>15</sup>

For combatant casualties, reliable figures can be difficult to discern.<sup>16</sup> Chin, Kachin, Karen, Kayah and parts of Mon, Rakhine and Shan States have become (or remained) major war zones during the past two years, with conflict spreading in Bago, Magway, Mandalay, Sagaing and Tanintharyi Regions.<sup>17</sup> A bitter propaganda struggle is underway. For its part, the NUG claimed that the Tatmadaw and its various militia lost more than 20,000 lives against around 1,500 deaths, including EAO members, on the Spring Revolution side during the twelve months after its declaration of ‘people’s defensive war’.<sup>18</sup> In reply, the SAC provided no estimates. But, highlighting the extent of conflict, analysis by the Armed Conflict Location and Event Data Project suggests as many as 27,000 people may have died as a result of ‘political violence’ since the coup, making Myanmar the second most conflict-afflicted country in the world after Ukraine.<sup>19</sup>

Tragically, as these events continue, there are presently few signs of imminent change. Since the coup, the NCA process has largely been forgotten, and any immediate prospect of democratic governance in Nay Pyi Taw effectively stopped. Rather, the key question for the moment is whether the SAC can succeed in imposing its military-dominated vision on the peoples and country. To date, there are few clear signs of what may happen if the regime continues to try and pursue its own way.

Upon seizing power, Min Aung Hlaing declared a state of emergency, in violation of the 2008 constitution, pledging that a new general election would be held within two years once investigations into allegations of voting fraud had been carried out.<sup>20</sup> At the same time, the SAC’s ‘five-point roadmap’ promised that ‘emphasis will be placed on achieving enduring peace for the entire nation’ in line with agreements set out in the NCA. Two new peace committees were



announced: a National Solidarity and Peace-making Central Committee, chaired by Min Aung Hlaing, and a National Solidarity and Peace-making Working Committee, chaired by his deputy, Vice Sen-Gen. Soe Win.<sup>21</sup>

From this platform, no peace revival took place. As pro-democracy protests continued, the SAC's priority has remained the holding of another general election, this time without the NLD. The Tatmadaw generals appear determined that any future polls will be won by their proxy party, the Union Solidarity and Development Party. The military hopes to gain support by claiming the elections as an 'off-ramp' to the current crisis. Far from a way out, the polls, which are already rigged, are also causing greater political divisions and violence while being prepared in the context of the SAC's suppression of free speech, independent media and the right to organise.<sup>22</sup>

To back this up, two steps have been pursued by the SAC: removing the NLD as an effective party from national politics; and devising a new system of proportional representation and party registration to ensure USDP-Tatmadaw dominance in any future legislatures.<sup>23</sup> In these strategies, there is no respect for the peace process nor democratic gains during the previous decade upon which national transition had hinged.

Inevitably, such a change in Tatmadaw tactics has major implications for the landscape of national politics. On the ethnic front, while repressing pro-democracy movements, the SAC has reverted to the admixture of three kinds of peace talk strategies that characterised the Tatmadaw's actions after the NCA's 2015 signing: largely bilateral meetings with ceasefire EAOs; occasional joint meetings with NCA signatories (i.e., those that agree to meet the regime); and the declaration of 'unilateral ceasefires' under the Tatmadaw regional commands that presently run until the end of 2023.<sup>24</sup> But no systematic pattern has emerged around which a peace process might evolve or revive.

Anomalies and inconsistencies abound in the SAC's approach, and a new politics of exclusion is underway. Of obvious omission:

there is no place in the regime frameworks for the NLD which won victory in the 2020 election; the 21<sup>st</sup> Century Panglong Conference lies neglected; restrictions are being imposed on civil society and non-governmental organisations;<sup>25</sup> and the new NUG and PDFs are branded as 'terrorists'.<sup>26</sup> As a result, many parties and leaders who devoted so much commitment to peace endeavours during the past decade are in despair. In a bleak assessment on the sixth anniversary of the NCA signing, the KNU warned that the SAC coup had destroyed the accord's founding principles, urging the Tatmadaw to withdraw from national politics.<sup>27</sup>

Since this time, occasional meetings between the SAC and different EAOs have continued. In April 2022, Min Aung Hlaing used the occasion of the Thingyan festival to announce a 'year of peace'.<sup>28</sup> But no substantive change followed. Those EAOs in active conflict with the SAC, such as the CNF, KIO, KNPP and KNU, have refused to attend talks with the regime on the basis that there is no point, preferring the nomenclature of 'ethnic resistance organisations' to describe their movements.



Pro-democracy protestor in Yangon (private source)



In contrast, SAC invitations have been accepted by a number of EAOs whose bilateral ceasefires were sustained after the coup. Prominent movements include the ceasefire United Wa State Party, National Democratic Alliance Army and Shan State Progress Party from the Federal Political Negotiation and Consultative Committee as well as the New Mon State Party and Restoration Council of Shan State among NCA signatories.

The chronology, though, is complex for what the SAC billed as two ‘rounds’ of peace talks during 2022. The initial round consisted of intermittent talks (most separately) with a total of 10 EAOs in a series of meetings during May and June, while the same EAOs attended the second round in two groupings: the UWSP, NDAA and SSPP from the FPNCC alliance in late September,<sup>29</sup> and seven EAOs among the NCA signatories on the October anniversary of its 2015 inception.

These meetings, however, made little difference to the conflict landscape. With the exception of the RCSS and NMSP, the NCA

signatories are among the smallest and least active EAOs in the country.<sup>30</sup> Meanwhile heavy fighting by the Tatmadaw continued with two NCA signatories, the KNU in Karen State and CNF in Chin State, as well as with the KIO in Kachin State and northern Shan State where the KIO, MNDAA and TNLA from the FPNCC and Northern Alliance stepped up military operations. There has been no apparent symmetry in NCA status or EAO-SAC versus EAO-NUG relations.

The reasons for the seemingly different approaches among EAOs to the challenges posed by coup are diverse.<sup>31</sup> In general, veteran leaders among such stronger movements as the UWSA and SSPP have experienced divisions in national politics many times before. They have thus been historically reluctant to ally themselves on one ‘government’ side or another in conflicts that, they consider, are neither of their choice or making. From the struggle of the Communist Party of Burma at independence to the formation of the National Coalition Government Union of Burma in the 1990s,

armed conflict and the contestation of government in national politics have remained largely constant. Since 1958, Tatmadaw interventions and coups have been an integral feature of this landscape.<sup>32</sup>

Similar sentiments have been expressed by NMSP and RCSS leaders among NCA signatories that met with the SAC. Such explanations, however, have not been well received in other opposition circles. As critics allege, the NCA appears to represent the main hope for legitimacy and self-survival for the fragmentary grouping of EAO NCA-signatories, most of which are breakaway or legacy movements, that have agreed to peace meetings with the SAC so far.<sup>33</sup> Notably, their former NCA partners – the CNF, KNU and ABSDF – have been absent from these meetings, while such other leading EAOs as the KIO, KNPP, MNDAA and TNLA were also not involved. For his part, Min Aung Hlaing claimed that only movements connected with the PDFs and CRPH, ‘groups we define as terrorists’, and foreign countries have been refusing his call for peace talks.<sup>34</sup>

For these reasons, the SAC’s peace outreach demonstrably failed to win any new converts during the regime’s first two years in office. In private, many EAO leaders were also critical about the NLD’s performance when in government and, remembering the failure of the NCGUB in the SLORC-SPDC era, similarly harbour doubts about the abilities of the present-day NUG. But, in balancing perspectives, they also hold the Tatmadaw responsible for the present collapse within the country. Furthering doubts about talks with the regime, pro-democracy supporters also note the failure of all international meetings with the SAC to date to bring about human rights improvement or change, including those by ASEAN, UN or other diplomats and intermediaries.

A backlog of evidence is building up. SAC officials appear to be offering a roadmap to nowhere other than a continuation of military-dominated rule. In essence, SAC officials have only been delivering lectures during these meetings, insisting on the 2008 constitution, EAOs transforming into militia

or BGFs, and only promising aspects of ethnic autonomy at a vague time in the future.<sup>35</sup> A proportional representation electoral system is being promoted that may give more seats to nationality parties in the ethnic states. But, when combined with registration rules that limit the ability of non-USDP parties to compete, future elections are intended to entrench military government in the long-term.<sup>36</sup> On this basis, the SAC is proposing no prospect of dialogue and reform: only a bunkering down under the limitations of a Tatmadaw-designed system.

It is little surprise, then, that EAO meetings with the SAC have neither halted conflict nor advanced the cause of peace during the two years since the coup. Rather, the spread of national division has only deepened, with Tatmadaw violence – and opposition counter-action – further increasing. The regression in human rights violations has been extreme, documented by the UN-established Independent Investigative Mechanism for Myanmar (IIMM) in what it describes as a significant escalation in ‘crimes against humanity and war crimes’.<sup>37</sup> These include the first executions of political prisoners in several decades as well as the indiscriminate killing of civilians during military operations in every state and region.

Equally concerning, in a return to ‘divide and rule’ strategies, SAC tactics appear designed to further inter-community divisions and local conflicts. Since the coup, inter-ethnic tensions – and sometimes violence – have worsened in many parts of the country. This is the very obverse of a peace process, presenting a bleak picture of a land in civil war.

Many examples can be given. Violence between pro-SAC Pyu Saw Hti militia and pro-NUG PDFs has become an everyday occurrence; the KNU is in battle with the Karen BGF;<sup>38</sup> the SAC has deployed the Pao National Organisation against Karenni and PDF forces in the Kayah-Shan State borders;<sup>39</sup> rivalries between the NCA signatory Arakan Liberation Party, non-ceasefire Arakan National Council and ULA/AA have broken out into the open;<sup>40</sup> the KIO and allied PDFs have fought with the Shan-ni Nationalities

Army and other Tatmadaw-backed militia in the northeast of the country;<sup>41</sup> clashes have occurred between the CNF and Zomi Revolutionary Army in the India borderlands;<sup>42</sup> political movements in Mon State have fractured between those working with the SAC, ethnic parties (principally the NMSP) seeking to maintain the NCA, and those taking up arms in support of the NUG;<sup>43</sup> and the ceasefire SSPP, with backing from its UWSP and TNLA allies in the FPNCC, has pushed the RCSS back from northern Shan State where it had advanced following its 2015 NCA signing.<sup>44</sup>

It is important to stress, then, that this scale of conflict does not mean that peace discussions have come to an end: rather the reverse. Conversely, many ethnic movements and political parties argue that, in the vacuum caused by the military coup, a new realism is apparent over NCA failures and the need to return to the fundamental objectives of inclusive dialogue and political change to address the causes of conflict and state failure in the country. At root, a consensus has emerged in political circles that the peace process needs to be reconsidered in new form.

As a result of these reflections, the gravity of political dialogue has shifted in many parts of the country from the NCA to newly-formed alliances and networks opposed to the SAC. Following on from peace negotiations during the past decade, the formation of a federal democratic union is at the heart of many of these discussions. Particular advocacy has come from supporters of the Federal Democracy Charter adopted by the Peoples' Assembly and drafted by the National Unity Consultative Council (NUCC), part of the pro-federal democracy interim governing institutions that include elected members of parliament, political parties, civil society, EAOs, and interim state and ethnic committees.<sup>45</sup> This, in turn, has been developed and supported by CDM activists, urban resistance movements and civil society organisations, denouncing 'sham' talks and accusing the Tatmadaw of being the cause of suffering among the peoples.<sup>46</sup> Although the SAC has retained control of the towns, Myanmar remains a hotbed of political activism.

On this basis, it is difficult to imagine the NCA as a central element in any peace structure unless there is substantial change to the conflict landscape and politics of exclusion. Like the 2008 constitution, the NCA has become identified as a mechanism for state control rather than a gateway to reform. Instead, the NUG, NUCC, leading EAOs and other opposition movements are advocating the need for a new peace process based upon the principles of federalism, democracy and inclusion. This is a process, they argue, that the Tatmadaw has no legitimacy to initiate or lead. According to Dr. Lian Hmung Sakhong, CNF Vice-Chairman and NUG Federal Union Affairs Minister, who was involved in the original NCA development:

'Min Aung Hlaing does not have the authority to hold any dialogue. The objective to amend the constitution based on the NCA no longer exists. Min Aung Hlaing has called for peace talks to deceive the people so that he can retain the power he has seized.'<sup>47</sup>

Complicating the conflict challenges facing the country, international peace efforts of any meaningful impact or resonance have been halted since the coup, and there has been little cohesion in the global response. The NUG has generally enjoyed Western sympathy, and economic sanctions have been ratcheted up against the SAC and its supporters. But much of the aid inside Myanmar has been curtailed, confined largely to the humanitarian field or focused on support for the pro-democracy cause, a position confirmed by the 2023 National Defense Authorization Act in the USA. In an important sign of political recognition, the NUG, NUCC and CRPH were all mentioned in the amended Burma Act, but authorised aid does not include arms.<sup>48</sup> In effect, opposition forces in Myanmar must rely on their own resources to combat the SAC.

In the meantime, Russia has become the SAC's closest ally, supplying modern aircraft and weaponry. China has continued to keep doors open to all sides, prioritising stability and Xi Jinping's Belt and Road Initiative.<sup>49</sup> India and Japan remain close – and very interested – observers of Myanmar politics.

And ASEAN, the UN and other international bodies have failed to develop policies that might end the state of conflict and bring substantive change.

Consensus initially emerged in the months after coup behind the member states of ASEAN taking the lead with a ‘five-point peace plan’.<sup>50</sup> More recently, this was backed up by a UN Security Council resolution in December 2022, the first resolution on Myanmar in 74 years, calling for an end to violence and the release of all political prisoners.<sup>51</sup> But, for the moment, no tangible results that might end the political crisis have been achieved.

Reflecting this dilemma, arguments still continue over which government – the SAC or NUG – should represent the country in the international community. As evidence of the depth of Myanmar’s schisms, the UN General Assembly has to date maintained recognition of the previous NLD-appointed ambassador.<sup>52</sup> In contrast, pro-democracy groups privately

express worries over interference by international actors – both Western and Asian – who seek to launch their own ‘peace’ initiatives by reaching out to the SAC and selected EAOs without understanding the greater political challenges in the country.

Certainly, Myanmar has moved to the top tier of international concerns about humanitarian emergency and state failure. During the past two years, the International Criminal Court, International Court of Justice and IIMM have stepped up human rights investigations.<sup>53</sup> As documentation efforts slowly gain momentum, the SAC concurrently launches new massacres and other abuses. Initiatives to prevent atrocity crimes and provide humanitarian aid to communities in the conflict zones have been blocked, CSOs have been marginalised, and peace actors feel ‘abandoned’ by the international community.<sup>54</sup> As Tom Andrews, UN Special Rapporteur on the Situation of Human Rights in Myanmar, warned, it is time for the international



Karen villagers and casualties sheltering from air strikes, Hpapun District (FBR)

community to ‘rethink what is clearly not working, and set a new course of action.’<sup>55</sup>

This was highlighted in November 2022 when an informal ‘humanitarian’ ceasefire was agreed between the Tatmadaw and ULA/AA following an apparent intervention by Japan’s special envoy in Myanmar, Yohei Sasakawa.<sup>56</sup> Any hopes, however, that this might indicate a softening in SAC tactics were short-lived. Within days, the Tatmadaw launched an aerial and ground assault on a stronghold of the ULA/AA’s Northern Alliance partner, the TNLA, in northern Shan State. Regime officials claimed that the attack was a ‘misunderstanding’.<sup>57</sup> But subsequently a major attack was also launched against another Northern Alliance member, the MNDAA, in the Kokang region on the China border.<sup>58</sup> The message was clear. Military operations remain very much the first-choice option by SAC leaders to try and enforce regime control.

All the time, the list of atrocities has been growing. Outstanding examples include: the Christmas Eve massacre in Kayah State in December 2021 in which over 30 civilians were burnt alive; the execution of the 88 student leader Ko Jimmy and ex-NLD MP Phyo Zeya Thaw; the helicopter assault in Depayin township in which eleven schoolchildren were killed; and the aerial attack on a music festival in KIO-administered territory in Kachin State in which over 80 people died and 100 were injured. Meanwhile Aung San Suu Kyi and NLD leaders remain in prison, and the number of political prisoners has continued to increase. As voices around the country question, how can negotiations be considered with the perpetrators of abuse whose only motivation appears central power and control?

Faced with this dilemma, few reformers held out hope for the NCA to act as a bridge to a better future as 2022 came towards a close. Remaining members of the Peace Process Steering Team among EAO signatories attempted to keep the lifeline of the NCA alive.<sup>59</sup> But after their meetings with the SAC, signatory groups were blunt in their criticisms. Accusing the Tatmadaw of coercion and disrespect, Col. Saung Han of the RCSS warned:

‘The implementation of the NCA halted in 2021 due to the political crisis. The issue of continuing to hold the 21st Century Panglong Conference as agreed by the NCA is no longer possible.’<sup>60</sup>

Similar sentiments were expressed by signatory leaders who refused to take part in meetings with the SAC, arguing that the NCA was effectively dead. According to Padoh Saw Taw Ni, KNU head of foreign affairs:

‘The military council is now the enemy of both federalism and democracy.... The KNU has been actively involved in the peace process since the signing of the NCA in 2015, but the military has suppressed it. The military council has violated all agreements and continuously targeted the public after the coup.’<sup>61</sup>

For their part, non-ceasefire EAOs saw even less reason to join the accord. ‘It’s a system of process-driven control,’ said Gawlu La Awng, KIO’s deputy-chief of foreign affairs.<sup>62</sup> ‘We are shocked after learning of the civilian casualties caused by deadly airstrikes,’ the UWSP declared in a call for conflict resolution.<sup>63</sup> And, arguing for a conjunction between military and political tactics, TNLA general-secretary Tar Bone Kyaw warned that all parties need to adjust their strategies if military rule is to end:

‘It is impossible for a group to hold dialogue with the military without having a strong revolutionary organisation that can protect its people and territory. It is also impossible to revolt against the dictatorship with armed resistance alone. Both the NUG and the ethnic armed forces, as well as everyone taking part in the revolution, must prepare strategically on both military and political fronts.’<sup>64</sup>

The first weeks of 2023, however, saw no reason to expect an imminent end to conflict. With one eye on a pledged general election, the Tatmadaw’s ‘ceasefire’ for the country was extended until the end of the year.<sup>65</sup> But, in the meantime, the SAC continued with its ad hoc stratagems to maintain central control, based around an assortment of selective



Farmers in rice paddy fields, Lashio District, northern Shan State (TNI)

repression, ceasefires and military attacks. There was no reduction in the overall levels of violence.<sup>66</sup> From Kachin and Chin States in the north to Karen State and Tanintharyi Region in the country's far south, conflict escalated, with the Tatmadaw maintaining martial law in many districts and ever more reliant on aerial assaults in the place of troop operations on the ground. As the death toll rose, the BBC headlined: 'Myanmar: Air strikes have become a deadly new tactic in the civil war.'<sup>67</sup>

The landscape is currently dark. But drawing upon sufferings and experiences from the past, it is important to remember

that there remain many committed voices who believe that peaceful change is still possible. The challenge is to transform long-frustrated hopes and aspirations for peace and democracy into political reform that is equitable and inclusive for all peoples. This is the vision which has sustained the peace process and struggle for freedom during the past decade. The late Karen intermediary, Rev. Saw Mar Gay Gyi, used to finish his speeches at peace conferences with a message addressed to leaders on all sides of the conflict lines: 'No peace without justice, no justice without peace'.<sup>68</sup> Never have these words been more apposite and true.

## Key Points and Conclusions

During the past three decades, the term ‘peace process’ has been commonly used in Myanmar to describe endeavours to end the country’s long-running political and ethnic conflicts. In reality, the Myanmar peace process has always been one of the most labyrinthine in the world. Dating back to 1989, a diversity of unilateral, bilateral and multilateral processes has been underway. In recent years, they were held together by the aspirations of a Nationwide Ceasefire Agreement and 21<sup>st</sup> Century Panglong Conference. These two initiatives came to an abrupt halt with the military coup on 1 February 2021.

To date, there has been no ‘peace process’ breakthrough that has led to national reconciliation and meaningful reform. The country remains far from the achievement of peace that reaches to all peoples, and Myanmar is currently in the midst of one of its most violent and conflict-divided periods of history since independence in 1948. The peace process – as reconfigured by government after 2011 – no longer exists.

The present breakdown, however, should not be a time of resignation and despair. In the determination of young people and re-imagining of national politics since the coup, there are hopes that a new realism has entered the peace and reform vocabulary which will ultimately lead to effective solutions. For this to happen, it is vital that lessons are learned from the injustices and experiences of the past. Far from being new, the NCA was the latest in a long line of peace process failures, and it repeated many of the inequalities and inconsistencies that undermined peace efforts during previous cycles of government. Despite its high profile, the NCA never marked a moment of national breakthrough. Rather, conflict spread in several parts of the country from the time of its signing, pre-shadowing the state of ethno-political collapse which exists today.

For this reason, the NCA’s journey demands the closest examination. Many problems can be identified in the failure to build a nationwide process for peace. These were

Buddhist monastic education in Hopong township, southern Shan State (TNI)





evident even before the military coup and renewed spread of civil war. Following the NCA's 2015 signing, a catalogue of errors quickly built up. The treaty was initiated under the quasi-civilian administration of the Union Solidarity and Development Party. But the difficulties continued after the National League for Democracy came to government office in 2016. Problems and weaknesses in the NCA were not acknowledged; the peace process was not inclusive; the hand of the Myanmar military was never far away; and initiatives to address the reform impasse too often ended in stagnation, political regression and increased conflict. Ultimately, over many years of meetings, the NCA did not bring the key stakeholders and conflict actors to the same table.

Underpinning these failures, the complex nature of the NCA process led to procedural breakdowns and a build-up of disagreements over technical issues. Restructuring the peace process and addressing technical problems was undoubtedly necessary. But the challenges at the root of conflict and failure in negotiations have always been political. Technical fixes alone were never likely to bridge the political divides that exist on such scale. The outcome was the prioritisation of process over delivery, meaning that many commitments were never fulfilled.

In part, these failures stemmed from very different perspectives among NCA signatories over the role of the agreement as a process towards ending armed conflict, protecting the human rights of war-affected communities and negotiating reform. For their part, ethnic armed organisations – both those party to the NCA and those outside the agreement – focused on the need for trust-building and substantive agreements first. In contrast, government and Tatmadaw (Sit-Tat) leaders insisted on resuming formal meetings or signing agreements before addressing concerns about trust, substance and the implementation of ceasefires. Meanwhile, despite the promise of Panglong-21, NLD leaders focused on electoral politics rather than the peace process as the instrument for reform once in office. In consequence, fundamental differences in interests and

needs were never addressed, and the parliamentary and peace processes were never brought on to the same track.

Warning signings were persistently ignored. After the NCA was signed, frustration with the peace process tangibly grew in many ethnic states and regions. Continued fighting, land expropriation, the internal displacement of civilians, natural resource exploitation and the acceleration of business deals with outside investors all sustained an impression that the peace process was being used as a delaying device to constrain ethnic demands while the social, legal, political and economic landscape was reshaped to the government's agenda and advantage. Too often, renewed conflicts in different parts of the country (including anti-Rohingya violence) were regarded by NCA donors and supporters as exceptions rather than evidence of urgent and systemic failings that need to be addressed. Rather than aiming towards peace, many political actors came to view the process as a continuation of war by other means. In consequence, the NCA never gained the momentum of countrywide support.

Among many failings, the most outstanding was the continuing launch of military operations by the Defence Services. Even while the NCA and peace talks continued, further militarization and the build-up of Tatmadaw forces took place in both ceasefire and non-ceasefire territories of the country. While new ceasefires were agreed in areas that had seen decades of fighting, old ceasefires broke down in places where armed conflict had been mostly absent for 15 years. For communities living in these areas, the words 'peace process' sounded very hollow. Military security – not human security – appeared to be the main priority of the central authorities, raising serious questions about the intentions of both the government and Tatmadaw leaders.

For all these reasons, contemporary judgments will be harsh. Despite many fine words, there were no fundamental changes in the conflict landscape before or after the NCA signing. Rather than charting a political roadmap for inclusive peace, the NCA process

all too frequently appeared to be a vehicle for asserting and increasing Tatmadaw control. All the major challenges in conflict resolution remained, most of which exacerbated over time, and no political endgame ever came in view. Once the NCA had been signed, there was little momentum towards improving the functioning of ceasefires, deepening the reform basis of dialogue or making the process work.

As these failures continued, key elements in the NCA architecture either fell by the way side or were never fully implemented. Major omissions and weaknesses included the inadequacies or lack of national-level dialogue meetings, interim arrangements, security sector reform and new processes for political negotiation and agreement. Warnings were constantly flagged up. But ameliorative steps were never sufficiently taken.

Instead, from the beginning of 2020 both the NCA and national landscape were dominated by two new imperatives: Covid-19 and the November general election. Hopes that they might produce reflective shifts in the transitional landscape swiftly evaporated. The opportunity to use political and health responses as a means to promote cooperation and understanding between EAOs and government departments was missed by the NLD-led administration. Continued fighting, NCA neglect and the conduct of polling amidst a global pandemic only exacerbated ethno-political concerns.

As these events unfolded, the actions of the international community also reflected different, and often divergent, aspects of Myanmar's conflict impasse. A decade of international support for the peace process and political transition ultimately came to count for very little. Many decisions came out of self-interest rather than informed understanding of the diverse and complex challenges on the ground. A coherent peace programme never emerged, and there were many inconsistencies in the international response.

Egregious human rights violations became the subject of investigation by the International

Criminal Court and the International Court of Justice. At the same time, political and business actors in China, India, Japan and various Western states were in rivalry for influence over the country's political and economic direction. All affirmed support for the NCA and peace process as an essential step in political transition. But there was no consensus on policies or priorities to pursue. There was a failure to recognise Tatmadaw stratagems and the inherent weaknesses of the Myanmar state, opportunities were lost, and the manifest problems within the NCA were never addressed.

Adding to the difficulties, while Western actors mainly focused their peace efforts on engagement with the Myanmar government and ethnic armed organisations based in the eastern borderlands with Thailand, the prism of Chinese officials and businesses – the other key influence on the country – was mainly through the Myanmar government, Tatmadaw and EAOs based along its Yunnan border. Neither Western nor Chinese actors seemed willing and able to engage with all relevant groups. Rather, both apparently failed to understand that leaving out key groups in the peace process would be a major obstacle to achieving lasting solutions.

For the moment, the 1 February 2021 coup by the military State Administration Council has consigned the NCA as a potential and inclusive model for political negotiation and peace-building to history. Daw Aung San Suu Kyi and leaders of the NLD which won the 2020 general election are in prison, and peaceful protests have been brutally suppressed. To all intents and purposes, the tentative moves during the past decade towards a new system of federalism and democracy, brought about by negotiation and peace building, have been brought to an end.

By seizing power, Snr-Gen. Min Aung Hlaing may have thought it easy to return the political clock back to the Tatmadaw-controlled past. Instead, the country is faced with a scale of repression, violence and humanitarian emergency that echoes the worst times of civil war since independence in 1948. Protest and resistance against the

regime has spread among the Bamar-majority population; ceasefires – including by three NCA signatories – have broken down in different parts of Chin, Kayah, Karen, Mon and Rakhine States; existing conflicts have escalated in Kachin and northern Shan States; and new armed struggles have developed in Magway, Sagaing, Tanintharyi and other regions as well as urban areas.

The consequences have been profound. The NCA and broader peace process have been subsumed into a very different ethno-political landscape from the context in which they developed. The structures and divisions in conflict have significantly changed. Amidst a diversity of new movements and alignments, there are two rival governments claiming legitimacy in the country: the SAC and National Unity Government. In this new battleground, a host of resistance groups – generally known as People’s Defence Forces – have proliferated across the country, and their roles in any future process of political negotiation and 'peace-building' are very uncertain.

Reflecting the scale of violence, the nature of warfare has also changed. Anti-regime forces seek to launch urban attacks, while the SAC has increasingly relied on aerial attacks and creating new Pyu Saw Hti and other local militia forces as it loses control on the ground. Many communities and civilians are caught in the crossfire, with it dangerous to publicly express political opinions or allegiances.

SAC leaders, in the meantime, have been using the empty language of a new general election and the NCA as a theatre to try and divide opponents and deceive credulous outsiders. Since the coup, there has been no peace process or political roadmap of real prospect underway. If the NCA did not achieve breakthroughs under an NLD-led administration, it is improbable that this could happen under a regime headed by the Tatmadaw which, even before the coup, was the most disruptive actor in the implementation of the accord, consistently escalating violence and negating its own agreements.

In the propaganda struggle, there have been intermittent meetings by the SAC with the remaining EAO NCA signatories since the coup. Such parties, some of which are breakaway or remnant factions, can never be regarded as representative of political opinion in the country at large while civil war continues and most of the leading voices for political change are excluded. The same lack of credibility awaits any future general election held by the military while major pro-democracy parties are repressed and during ongoing suppression of freedom of expression.

Looking forward, discussions continue in political circles – framed around the vision of federal democracy – about how a successful peace roadmap might be achieved. Although a single unifying platform may be difficult to achieve, the significance of the challenging work on coordination, relationship-building and practical governance across ethnic and pro-democracy forces should not be underestimated. It is urgent that these efforts be strengthened if military rule and state failure are to come to an end.

As experience warns, national peace processes in Myanmar over the past three decades have only led to assimilation into systems designed by the Tatmadaw. They are not platforms for negotiation, demilitarisation and reform. Indeed the further proliferation in local militia and paramilitaries under Tatmadaw authority since the coup pushes even further into the future the prospect of a peace process that answers the root causes of conflict by political dialogue and democratic reform. After sixty years in power, the Tatmadaw strategy of 'managing' rather than 'resolving' conflict still continues.

The post-coup landscape also compounds the challenges of engagement for the international community. Currently, the SAC is one of the most criticised armed actors in the world. This is evidenced by repeated condemnation by the Office of the UN Commissioner for Human Rights, UN Special Rapporteur on the Situation of Human Rights in Myanmar, Independent Investigate Mechanism for Myanmar and

other international bodies. Since the coup, impoverishment, the loss of life and civilian displacement due to conflict have only increased. Currently, there are counts of over 2.5 million refugees and IDPs, more than 16,000 political prisoners, and estimates of over 20,000 people killed in political violence since the coup.

It is vital, then, that a united response is developed which supports national healing rather than exacerbates division. It is for Myanmar's peoples to determine their political future. But, in support of this, human rights protections are essential, and the perpetrators of violations on all sides must be held accountable if lasting peace and justice are to be achieved. In any conflict resolution path, accountability must be at the heart of peace-building. This has been demonstrably missing until now. To date, there is little indication of lessons learned. Despite the scale of humanitarian emergency, there has been no indication of a cohesive strategy, whether by the United Nations, ASEAN or other governments and international institutions.

The same imperatives are also essential in any international efforts to build a future peace process. While peace is required, a new process may well be considered inappropriate in the circumstances of coup d'état and repression. New realities should be explored, including those that reflect the role of youth and social dynamics driving elite-level political change, the momentum supporting federal democratic reform, and agreements among stakeholder parties that go beyond the agenda of the 21st Century Panglong Conference.<sup>69</sup> After decades of conflict and military rule, it needs to be recognised that fundamental mistakes were made in support for the NCA in the hopes for rapid change after the accord was signed.

Manifestly, a different and broad-based approach has long been overdue. It is critical that historic errors are not repeated once again. Simply continuing the same ceasefire practices, tinkering with accord guidelines and mechanisms, or changing faces around the NCA or other peace talk tables will never be

enough. Most importantly, talks that exclude current major stakeholders or that primarily serve to reduce national and international pressure on the SAC to accede to the public's demands for meaningful political change will never be enough, and indeed may instead further postpone the time when nationwide peace could become achievable.

In this respect, Myanmar is not unique. After the ending of the Cold War, aid became a Western response to conflict. But this, in itself, does not provide the platform for peace and reform. Rather, it may entrench division and an unrepresentative elite in power. Too often the word 'transition' has been invoked as a panacea during the last three decades without understanding the political context and causes of state failure. At best, peace processes in Myanmar have frozen conflicts without opening the way to political solutions. Sustainable peace requires political agreement and compromise. In contrast, approaches that only serve to strengthen the state and existing security apparatus will cause resistance among the wider population, feed community grievances and undermine the opportunity for meaningful change.

In Myanmar, a legacy of failure has built up during the past decade that overshadows the NCA and peace process in five key areas: military dominance, non-inclusion, lack of implementation, lack of accomplishment, and lack of political will. After decades of conflict, all sides must take responsibility for their actions. But standing at the centre of these obstacles has always been the Tatmadaw. All too often, international actors have fallen for the illusion of a 'normative' state, which can be reformed, without recognising that the Tatmadaw has continued to dominate central government for more than half a century, claiming 'prerogative' powers for itself and intruding into every aspect of national life.<sup>70</sup>

In the aftermath of the 2021 coup, the evidence is clear. Under the 2008 constitution, the Defence Services already enjoyed sweeping powers. But Tatmadaw leaders operate well beyond these parameters, including arbitrary arrests, extrajudicial killings, land seizures, resource exploitation, paramilitary

deployments, and political manipulation in favour of its own party, the USDP. As long as these practices continue, the peace process can never be an instrument for national reconciliation and democratic reform.

Transparency, inclusion, understanding, compromise and dialogue have always been essential steps in any meaningful process towards political transformation and lasting peace.

On a cautionary note, precedent warns that the Tatmadaw leadership may continue to employ an ad hoc mixture of stratagems of political repression and ethnic ceasefires – bilateral, unilateral and NCA – as a means to try and maintain central control. But this was never the purpose for which the NCA was conceived. As history has repeatedly shown, military-imposed systems will never achieve inclusive, just or sustainable solutions in the country. If the government does not represent the people, why should the people support it? Headed by a hermetic clique of ruling generals, the Tatmadaw leadership represents a Bamar-centric elite and a narrow nationalist view of the world. The question, then, remains for how much longer they can continue to find, persuade or coerce sufficient support to maintain such dominant position without long-needed reform.

Myanmar today is a land in grave suffering and civil war. A decade after a new peace process began, the NCA did not lead to conflict resolution; it did not build the foundations for peace; and it did not lead to agreement for genuine political reforms to address the root causes of conflict and national instability. At the same time, the political landscape is far from static, and the polarisations in politics and society run deep. While the military continues to control Nay Pyi Taw and other cities and towns, a diversity of ethnic armed movements remain in control of extensive territories, presenting very different visions for the future of the country.

Adding to the complexity, there are a further cast of conflict actors in the wake of the new divisions created by the coup, claiming the right to be in the seat of government. These

are presently symbolised by the SAC, NLD and NUG. In any new peace process, these contested dynamics must also be taken on board.

A critical moment in post-colonial history has been reached. Hopes for better change still remain, and the struggle to shape Myanmar's destiny is far from over. Shaken by the 2021 coup, there is a willingness among diverse parties to look at the challenges of conflict resolution anew, and there is a determination that young people today will be the first generation to enjoy nationwide peace. The needs for reform are greater than simply regime change, requiring a democratic system of governance which, as the 1947 Panglong Agreement set out, is based upon the equality and union of all peoples.

A political process towards peace, taking account of experiences in the past, can be a key element in such change. But to achieve this, the politics of exclusion must end and a fundamental change in political mind-set are essential. Political transformation, including sustainable and inclusive peace, are urgently required today.



## Appendix: The 'Eight-Point' Proposal of the UNFC

United Nationalities Federal Council Members Proposal (draft)\*

### Introduction

The UNFC member organizations, which have not yet signed the Nationwide Ceasefire Agreement (NCA), the signing of which by others took place on October 15, 2015, agreed upon the points mentioned below, for the establishment of a Federal Democratic Union, participation in the review and adoption of the Framework for Political Dialogue and attending the 21st Century Panglong Conference.

1. After reaching this agreement, the government/Tatmadaw is to declare nationwide ceasefire, within 24 hours, and the UNFC member organizations likewise are to declare ceasefire respectively within 48 hours.
2. On the basis of freedom, equality and justice and in accordance with the Panglong Spirit, to establish the Nation of a Federal Democratic Union, which has full guarantee for the rights of national equality and self-determination.
3. In the various levels of political dialogue, the government, parliament and Tatmadaw representatives, the ethnic armed resistance organizations' representatives and the official political parties' representatives are to be included, and the ethnic representatives and other representatives, who are appropriate for participation, are to be included only in the sectors relevant to them.
4. Provisions of law, including those of the Constitution, are to be drafted and adopted in accordance with decisions arising from the 21st Century Panglong Conference.
5. Agreements are to be acquired, in advance, relating to the ceasefire rules to be abided by the two sides, the military Code of Conduct, Terms of Reference for ceasefire monitoring and relocation of troops, including the Framework for Political Dialogue.
6. A Joint Ceasefire Monitoring Committee is to be formed with representatives of the government, the ethnic armed resistance organizations and persons respected and trusted by the public, together with an international monitoring team composed of government representatives, acceptable to the two sides.
7. If differences occur with regard to the responsibilities, rules and regulations of the NCA and this agreement, the two sides are to accept the decision of an independent Mediation Commission, composed of local and international legal experts and judges, acceptable to the two sides.
8. If there are projects to be implemented in the ceasefire areas that would have serious impact on the local populations, they are to be undertaken in consultation with the local populations, in accordance with the process and procedures of the Extractive Industries Transparency Initiative (EITI) organization and also in consultation and agreement with the ethnic armed resistance organizations concerned. In addition, the international humanitarian assistance is to be managed in consultation by the government and the ethnic armed resistance organizations, in accordance with this agreement.
9. The NCA is to be signed, right after agreement is reached upon the points mentioned above, after negotiation by the two sides.

\* These are the original 'eight points' proposed by the UNFC in July 2016. The ninth point was later added saying that, if the eight points were agreed, then all the remaining UNFC members would sign the NCA. During negotiations the UNFC tentatively agreed to significant modifications of sections, but no final agreement was reached.

## End Notes

### 1. Challenges in Implementation and Negotiation

1. The term ‘conflict’ occurs frequently in this analysis, reflecting the complexity of upheavals. In general, it refers to armed struggles and political violence rather than disputes or tensions. In 1989 the then military government changed the official name from ‘Burma’ to ‘Myanmar’. They can be considered alternative names in the Burmese language, and their use has become a politicised issue. Bamar (Burman) today refers to the majority ethnic group and ‘Burmese’ is still often used for the language and a general adjective for aspects of peoples and cultures.

2. For background histories, see e.g., Martin Smith, *Burma: Insurgency and the Politics of Ethnicity* (Zed Books: London & New York, 2<sup>nd</sup> edition 1999); Transnational Institute, ‘Beyond Panglong: Myanmar’s National Peace and Reform Dilemma’, Myanmar Policy Briefing No.21, September 2017.

3. In recent years, there have been moves in political circles away from ‘Tatmadaw’ (the Myanmar’s military’s preferred name) to ‘Sit-Tat’ as a more appropriate term for the national armed forces. This report will largely use ‘Tatmadaw’ for historical consistency since it was the name used in most contemporary reports.

4. The titles used for EAOs often vary, depending on whether armed or political wings are referred to. This report uses the names most commonly employed in the media and political discourse for consistency. Four groups are generally referred to by their military names: the Myanmar National Democratic Alliance Army (MNDAA), National Democratic Alliance Army (NDAA), Ta’ang National Liberation Army (TNLA) and United Wa State Army (UWSA). Since the 2021 coup, the term ‘ethnic resistance organisation’ (ERO) is often preferred to ‘EAO’ for armed nationality movements, especially in opposition to the Tatmadaw.

5. There are inconsistencies in the forms of ceasefires signed by different EAOs. For the evolution of ceasefires negotiated at ‘state’ and ‘union’ levels, see, Burma News International, ‘Deciphering Myanmar’s Peace Process: A Reference Guide 2013’, April 2013. For updates, see, Myanmar Peace Monitor: <https://www.mmpeacemonitor.org>.

6. Between 2011 and 2021, 21 EAOs were generally considered to be part of peace process talks. The eight signatories at the NCA’s 2015 inception were: the Arakan Liberation Party (ALP), Chin National

Front (CNF), Democratic Karen Benevolent Army (DKBA<sup>2</sup>), Karen National Union (KNU), KNU/KNLA Peace Council (KPC), Pa-O National Liberation Organisation (PNLO), Restoration Council of Shan State (RCSS) and All Burma Students Democratic Front (ABSDF). The Bamar-majority ABSDF, although not technically an ethnic-based organisation, signed a bilateral ceasefire in 2013 and requested to join the collective NCA negotiations with the EAOs, subsequently signing the accord. Its position in the NCA architecture represents a number of anomalies. It has taken part in meetings, public consultations and different levels of discussion but was not permitted ‘ethnic-based’ dialogue.

7. United Nations Secretary-General, ‘Secretary-General’s remarks at the 21st Century Panglong Conference in Myanmar’, [www.un.org](http://www.un.org), 31 August 2016.

8. For a history of conflicts in Rakhine State, see e.g., Martin Smith, *Arakan (Rakhine State): A Land in Conflict on Myanmar’s Western Frontier* (Transnational Institute: Amsterdam, 2020).

9. See e.g., Mandy Sadan (ed.), *War and Peace in the Borderlands of Myanmar: The Kachin Ceasefire 1994–2011* (Copenhagen: Nordic Institute for Asian Studies, 2016).

10. See e.g., UNOCHA, ‘Myanmar: Humanitarian Needs Overview 2020’, December 2019; UNOCHA, ‘Myanmar: IDP sites in Kachin State (as of 31 March 2020)’, 11 May 2020; Nan Lwin Hnin Pwint, ‘Myanmar IDP Killed While Fetching Rice in Chin State’, *The Irrawaddy*, 11 June 2020; Kaung Hset Naing, ‘Rakhine IDPs: Displaced, demoralised... disenfranchised?’, *Frontier Myanmar*, 12 October 2020. The Rohingya figure includes existing refugees and the estimated 725,000 civilians who fled during 2017.

11. Tom Kramer, ‘“Neither war nor peace”: failed ceasefires and dispossession in Myanmar’s ethnic borderlands’, *The Journal of Peasant Studies*, 2021, 48:3: 476–96.

12. For this phenomenon, see, Marc Weller, ‘Settling Self-determination Conflicts: Recent Developments’, *European Journal of International Law*, Vol.20, Issue 1, February 2009: 111–65.

13. The analysis in this report is a continuation of TNI research that began in the SLORC–SPDC era. Multiple stakeholders have been interviewed, involving representatives and organisations engaged on different sides in the conflicts.

14. Hnin Yadana Zaw, ‘Myanmar’s Suu Kyi says peace process will be government’s priority’, *Reuters*, 4 January 2016.



15. 'A speech on peace delivered by Chairman of the State Administration Council Prime Minister Commander-in-Chief of Defence Services Senior General Min Aung Hlaing', Global New Light of Myanmar, 23 April 2022.
16. Twenty domestic witnesses representing political parties, government advisors and other influential organisations also signed. Forty-five foreign diplomats signed the document, noting that the NCA was signed in their presence, including representatives of the USA, Russia, Australia, Switzerland and the UK. For the official list, see KNU website: [https://www.knuhq.org/public/user/pdf/agreements/2015\\_Nationwide\\_Ceasefire\\_Agreement.pdf](https://www.knuhq.org/public/user/pdf/agreements/2015_Nationwide_Ceasefire_Agreement.pdf)
17. See, Sai Khuensai, 'Decisions and minutes made during NCA' (unofficial translation), S.H.A.N., 11 January 2016.
18. 'Peace Deal Signed', Global New Light of Myanmar, 16 October 2015.
19. Ibid.
20. 'The Nationwide Ceasefire Agreement Between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations (15 October 2015)', available at: [https://peacemaker.un.org/sites/peacemaker.un.org/files/MM\\_151510\\_NCAAgreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/MM_151510_NCAAgreement.pdf). The NCA was preceded by a 'Deed of Commitment for Peace and National Reconciliation' to build a 'Union based on democratic and federal principles in the spirit of Panglong' that was signed on Union Day, 12 February 2015, by the government, Tatmadaw and four EAOs: the RCSS and three Karen forces: the KNU, DKBA<sup>2</sup> and KPC.
21. Thant Myint-U, *The Hidden History of Burma: Race, Capitalism and the Crisis of Democracy in the 21st Century* (New York: W.W. Norton & Company, 2020): 176.
22. The MNDAA's political wing is the Myanmar National Truth and Justice Party (MNTJP); the TNLA's political wing is the Palaung State Liberation Front (PSLF): see also note 53.
23. For signatories, see note 6. The DKBA<sup>2</sup> and KPC, for example, were breakaway groups from the KNU, while others – notably the ALP and PNLO (the latter, also formed from breakaway groups) – had limited military strength and negligible territory at that time. For the PNLO, see note 71.
24. Based at Mongla on the Yunnan border, the NDAA is best known by this name. Its political wing is the Eastern Shan State Peace and Solidarity Committee.
25. Transnational Institute, 'Beyond Panglong': 25-6.
26. Given the diversity of interests, it is difficult to generalise about perspectives. On the NLD side, there were supporters who had promoted Panglong-21 as a political innovation that would bring about inclusion and dialogue, something that EAO NCA non-signatories, ethnic political parties and civil society organisations (CSOs) also wanted. At the same time, there were NCA supporters who believed that Panglong-21 was – or could have been – on track with the Union Peace Process. Indeed, given the limitations of the 2008 constitution, they argue that it was only in the UPC – not in parliament – that real political reforms could be discussed and agreed. But inside sources also claim that a complicating factor was because Aung San Suu Kyi accepted, after apparent pressure from Snr-Gen. Min Aung Hlaing, that it was only in parliament that 'political' reforms could be agreed upon and that relationships with EAOs were a 'security' issue – and hence the responsibility of the Defence Services. Certainly, Aung San Suu Kyi could be critical of EAOs and, after the first Panglong-21, NLD leaders showed little public commitment to taking ethnic reform forward or making the peace process work.
27. See e.g., NCA arts. 9, 22(d), 24 & 25. See also, Myanmar Interim Arrangements Research Project, 'Between Ceasefires and Federalism: Exploring Interim Arrangements in the Myanmar peace process', Covenant Institute, Yangon, November 2018.
28. At the time, there were different advocates for quick NCA signing. These included Thein Sein supporters who believed that the NCA would provide the Union Solidarity and Development Party (USDP) with an election advantage; EAOs who were facing internal criticisms for a lack of progress; those who believed that a better deal was possible while Thein Sein was still president; those who believed that it was important to get Tatmadaw commitment while the USDP was in office; and international donors to the peace process who wanted evidence of success.
29. Transnational Institute, 'Beyond Panglong': 12-17.
30. For an analysis of the NMSP ceasefire, see, Martin Smith, Ashley South, Banya Hongsar & Kasauh Mon, 'Reflections on the 1995 New Mon State Party Ceasefire', Covenant Institute, Yangon, July 2020.
31. For Aung Min's activities, see e.g., Myint-U, *The Hidden History of Burma*: 163-70 and passim; Ye Htut, *Myanmar's Political Transition and Lost Opportunities* (ISEAS-Yusof Ishak Institute, 2019): 78-80 and passim.

32. For the reservation of seats, see e.g., Jason Gelbort, 'People Say Myanmar's Constitution Can't Be Changed. They're Wrong', *New York Times*, 21 February 2019; European Union Election Follow-Up Mission, 'Republic of the Union of Myanmar: Final Report', 10 April 2019: 9.

33. Htet Khaung Lin, 'The outsiders: who are the NLD's military-linked leaders?', *Myanmar Now*, 10 December 2018.

34. See e.g., Saw Yan Naing, 'Where Has Burma's Peace Money Gone?', *The Irrawaddy*, 1 April 2016.

35. For an official explanation of peace policies and structures, see, 'Fourth-Year Performances of Ministry of the State Counsellor Office of the Republic of the Union of Myanmar', *Global New Light of Myanmar*, 23 May 2020.

36. 'Borderlands' can be a subjective term, interpreted as implying a secondary or peripheral status. In this report, the term is used in geographic relation to other territories or countries.

37. Many nationalities reject the notion of being described as 'minority' while one nationality, Bamar (Burman), is attributed the status of 'majority'. In a political union, they believe, such terminology can be regarded as implying a lesser status for non-Bamar peoples and ignores the fact that many nationalities are 'majorities' in their own lands.

38. These are the 21 organisations broadly recognised in the 'ethnic' peace process during the 2011–21 period, and most peace discussions continue to be seen through the lens of these groups. There are considerable variations in size, history, outreach and influence. A plethora of new military formations, generally known as People's Defence Forces (PDFs) were also established to resist the regime following the 2021 coup, including among the Bamar-majority population. Many support the new National Unity Government (NUG), and some are also ethnic-based and trained by EAOs. A number of the 21 EAOs have allied or worked with the NUG, but relationships are not always transparent or formal. Formed in 2016, the Arakan Rohingya Salvation Army (ARSA) is relatively new, and its objectives and organisation are not clear. A Shan-ni Nationalities Army is also active in the north of the country as well as a Zomi Revolutionary Army (ZRA) and Kuki National Army in the India borderlands with Chin State. In addition, there are numerous Tatmadaw-backed pyithusit (militias) and Border Guard Forces (BGFs), some of which are former Kachin, Karen, Karenni, Kokang, Mon, Pa-O and Shan ceasefire groups. One ceasefire EAO uninvolved in the post-2011 peace process, the Kayan New Land Party (KNLP), has retained a quasi-independent identity: the government has

designated it as a pyithusit but its troops do not wear Tatmadaw insignia.

39. Advisory Commission on Rakhine State, 'Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report of the Advisory Commission on Rakhine State', August 2017.

40. See e.g., UN Human Rights Council, 'Report of the Independent International Fact-Finding Mission on Myanmar', 12 September 2018; UN Human Rights Council, 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', 9–27 September 2019; Office of the High Commissioner for Human Rights, 'Myanmar: "Possible war crimes and crimes against humanity ongoing in Rakhine and Chin States": UN Special Rapporteur Yanghee Lee', 29 April 2020.

41. See e.g., Anthony Davis, 'Myanmar's military and its proxy armies', *Bangkok Post*, 7 February 2016. 'Myanmar's peace process can only be successful when JMC's implementation is effective', *Mon News Agency*, 3 October 2018.

42. 'President Thein Sein's Speech at Chatham House (The Royal Institute of International Affairs)', London, 15 July 2013.

43. For a recent analysis, see, Kramer, "Neither war nor peace".

44. See e.g., Saw Ralph & Naw Sheera, *Fifty Years in the Karen Revolution: The Soldier and the Teacher* (Ithaca: Cornell University Press, 2019): 56.

45. See e.g., Martin Smith, 'The Enigma of Burma's Tatmadaw: A "State Within a State"', *Critical Asian Studies*, 2003, 35:4: 621–632. In Ernst Fraenkel's theory of the 'dual state' (developed in the 1930s), the 'normative' state co-exists with the 'prerogative' state whereby authoritarian parties or actors employ unlimited, arbitrary powers and violence unchecked by legal protections: see, Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (Oxford University Press, 2017).

46. NDF membership fluctuated, but there were generally nine parties. In the 1980s, the main EAOs were: the ALP, KIO, KNU, KNPP, LDU (then known as the Lahu National United Party), NMSP, PNO, SSPP, WNO and Palaung State Liberation Party (PSLP: today revived as the TNLA/PSLF). The CNF joined in 1989. The NCUB included pro-democracy groups among the ethnic Bamar majority, including alliance with the NCGUB of MPs-elect, headed by Aung San Suu Kyi's cousin Dr Sein Win, and the armed ABSDF, today an NCA signatory.

47. Compared to the post-2011 peace process, ceasefires of the SLORC-SPDC era were very lightly sketched, initially largely verbal, and only that of the KIO began with a written agreement. See e.g.,

Transnational Institute, 'Ending Burma's Conflict Cycle? Prospects for Ethnic Peace', Burma Policy Briefing No.8, February 2012.

48. There were two other ethnic breakaway groups from the CPB: the NDAA in Mongla and New Democratic Army-Kachin (NDA-K). There were also three formerly CPB-allied EAOs that agreed ceasefires: the Karenni Nationalities People's Liberation Front (KNPLF), KNLP and (now defunct) Shan State Nationalities People's Liberation Organisation (SSNPLO).

49. For a chart of the 2006 landscape, see e.g., Martin Smith, *State of Strife: The Dynamics of Ethnic Conflict in Burma* (East West Center Washington, Policy Studies 36, 2007): 67-9.

50. Transnational Institute, 'Ending Burma's Conflict Cycle?'

51. See e.g., Sadan (ed.), *War and Peace in the Borderlands*.

52. Through Chinese mediation, this resulted in a 'reduction in hostilities' agreement with the KIO in May 2013: 'Seven Points Agreement Between Myanmar Government and Kachin Independence Organisation', Myitkyina City, 30 May 2013.

53. Founded in 2009, the TNLA brought together two groups of Ta'ang nationalists: those who had not agreed with the 2005 disarmament of the PSLP and those who rejected the earlier 1991 ceasefire, forming a new PSLF on the Thailand border.

54. The ULA/AA (established in 2009) was initially set up and trained in KIO territory on the China border.

55. See e.g. Smith, *Arakan (Rakhine State)*: 73-83.

56. From the end of 2011, the anomaly in the Tatmadaw's post-2009 insistence on BGFs appeared to be recognised, and the government negotiator Aung Min dropped the requirement for ceasefire EAOs to become BGFs. Under the contemporary State Administration Council (SAC), the situation is more ambiguous with regime officials again saying ceasefire groups, including NCA signatories, must eventually become BGFs or other militia under Tatmadaw authority: see Ch.4, 'SAC post-script: an end to the NCA road?'

57. Of the other ex-CPB groups, the MNDAA – following the 2009 attack on its territory – subsequently became more aligned with the United Nationalities Federal Council (UNFC), while the NDA-K transformed into a BGF. See also note 48.

58. There have been fluctuations in UNFC membership over the years, which currently is inactive. The longest-remaining members are the ANC, KNPP, LDU and NMSP. Previous members

were the CNF, KIO, KNU, MNDAA, PNLO, SSPP, TNLA and WNO. The internationally-based Kachin National Organisation was an initial member but its representation subsequently merged with the KIO. The ULA/AA was also an affiliate member. The SSPP's position sometimes appeared ambivalent, with its June 2017 resignation never formally ratified.

59. Transnational Institute, 'Beyond Panglong': 19-20. The establishment of the NCCT also represented a compromise to prevent rivalries among conflict actors. The Tatmadaw did not want the UNFC directly negotiating; not all EAOs wanted to join the UNFC; and there were differences of opinion about leadership within the UNFC. Subsequently, although not a nationality force, the ABSDF joined as the 17<sup>th</sup> representative in the EAO's Senior Delegation for the final two rounds of NCA negotiations in mid-2015.

60. Under the Thein Sein government, the Tatmadaw did not recognise these six parties out of the 16 negotiating members in the NCCT as being permitted to sign the agreement they were helping negotiate. In June 2015, the EAOs transformed the NCCT into a Senior Delegation, representing all 16 NCCT members and the ABSDF, to complete the NCA development and tried to convince the government to recognise the six excluded movements. Subsequently, both the Tatmadaw and government continued with their exclusion of the six EAOs (with the later exception of the LDU).

61. Lawi Weng, 'Ethnic Reps Remain Wary During Pause in Peace Talks', *The Irrawaddy*, 25 March 2015; Lun Min Mang, 'Senior delegation stands with groups fighting in Kokang', *Myanmar Times*, 31 July 2015.

62. While the UWSP and NDAA are politically close, they do not always share the same views. There were some tensions between the two allies in the early NCA period, with the NDAA interested to explore economic options.

63. 'Interview with Nai Hong Sar, Leader of Nationwide Ceasefire Coordination Team (NCCT)', *Mon News*, 30 July 2015. This is an amended TNI translation of the original in the published article.

64. 'NRPC, eight EAOs hold peace talks in Nay Pyi Taw', *Global New Light of Myanmar*, 22 March 2019. Despite the continuing fighting in Rakhine State, this meeting included the ULA/AA and other Northern Alliance and Federal Political Negotiation and Consultative Committee (FPNCC) members as well as the KNPP.

65. In many respects, the MNDAA's breakaway inspired the UWSA, NDAA and NDA-K to take the same steps.

66. See note 53.
67. For histories of Arakan parties, see, Smith, *Arakan (Rakhine State)*, passim.
68. Following a series of bombings, the official designation of ‘terrorism’ was set out by the government in a 2013 Anti-Terrorism Law.
69. The active status of the WNO has become uncertain since it allied with the UWSP in the 2017 FPNCC.
70. The KNU, KPC and DKBA<sup>2</sup>. For background, see note 96.
71. The PNO breakaway group had previously formed a Pa-O People’s Liberation Organisation. In 2009, the contemporary PNLO was established by their conjunction with a breakaway group from another ceasefire EAO, the now disbanded SSNPLO. For a small EAO, the PNLO’s prominence in the NCA process often caused comment. The oldest and largest Pa-O force in both military and political terms remains the PNO, which agreed a ceasefire with the SLORC government in 1991 before joining the National Convention at which a Pa-O ‘self-administered’ zone was demarcated under the 2008 constitution. At the time of its 2012 ceasefire, the PNLO was permitted a small territory in Mawkmai township close to the Thai border, and in 2018 it also took over security for several villages in Mong Pan township. The party’s lead NCA negotiator, Hkun Okker, is a lawyer and former PNO member.
72. The ARSA was declared a ‘terrorist’ group in April 2017: The Republic of the Union of Myanmar, ‘Anti-terrorism Central Committee: Order No. 1/2017’, 25 August 2017. The ULA/AA’s designation by this term was formalised by the government in March 2020.
73. ‘SSA-S, ABSDF no longer “terrorists”, says govt’, DVB, 13 October 2015. The military wing of the RCSS is often referred to as the ‘SSA-South’ as opposed to the ‘SSA-North’ of the SSPP. See also Ch.2, note 14.
74. See e.g., ‘Drug Lords in Parliament’, Shan Drug Watch, Issue 4, October 2011; Nan Tin Htwe, ‘RCSS calls on government to lift game on drugs’, Myanmar Times, 1 September 2013; Transnational Institute, ‘Bouncing Back: Relapse in the Golden Triangle’, Amsterdam, 2014; Transnational Institute, ‘A Distortion of Reality: Drugs, Conflict and the UNODC’s 2018 Myanmar Opium Survey’, March 2019; International Crisis Group, ‘Fire and Ice: Conflict and Drugs in Myanmar’s Shan State’, Report No.299, Asia, January 2019; ‘Myanmar vice: Illegal drugs have become deeply rooted in Burmese society’, The Economist, 18 July 2020; Transnational Institute, ‘Poppy Farmers Under Pressure: Causes and Consequences of the Opium Decline in Myanmar’, December 2021.
75. Transnational Institute, ‘The Kachin Crisis: Peace Must Prevail’, Burma Policy Briefing No.10, March 2013; ‘Myanmar: Kachin IDPs’ woes grow with fall of KIA’s Gidon outpost’, DVB, 23 December 2016.
76. For its origins, see, Smith, *Burma: Insurgency: 258–62*.
77. See e.g., Smith, *Arakan (Rakhine State)*: 38, 47–51, 63–5, and passim. Prior to the ARSA’s emergence, there were two remnant Rohingya EAOs in the Bangladesh borderlands: the Arakan Rohingya National Organisation (ARNO) and Rohingya Solidarity Organisation. Like the Rakhine-majority ALP and ANC, they could be considered legacy movements dating back to the 1970s and 1980s. The ARNO halted armed struggle in 2003 but has continued to campaign for political rights.
78. Nyein Nyein, ‘KNU Concerned Group Backs Call for Military Leaders to Face ICC’, The Irrawaddy, 17 September 2018. Led by ex-KNU vice-chair, Naw Zipporah Sein, the Concerned Group includes other former central committee KNU members. It should be added that, whatever they privately felt, many other parties in the country publicly kept quiet on the Rohingya issue.
79. Allegations of provocations to create community divisions began after the ALP bilateral ceasefire in April 2012 when Tatmadaw-backed militia were accused of instigating the anti-Muslim violence which erupted that year: see e.g., Republic of the Union of Myanmar, ‘Final Report of Inquiry Commission on Sectarian Violence in Rakhine State’, 8 July 2013: 15–16.
80. See e.g., Lei Lei, ‘Three Killed in Feud Between Rakhine Rebel Groups’, The Irrawaddy, 24 July 2020.
81. ‘Stable and Secure?: An Assessment on the Current Context of Human Rights for Chin People in Burma/Myanmar’, Chin Human Rights Organisation, 2018: 11–12.
82. See e.g., *Ibid.*, and passim; Smith, *Arakan (Rakhine State)*: 45–6; Nyan Lin Tun, ‘Chin National League for Democracy demands immediate release of Chin MP’, Eleven Myanmar, 6 November 2019.
83. At the time of the NCA signing, the ALP, CNF, KPC, PNLO and ABSDF did not control significant territories and had not been involved in combat of any notable size for many years. Unlike such groups as the KIO, KNU, RCSS, UWSP and ULA/AA, their armed wings were counted in the dozens or low hundreds rather than thousands.

84. See e.g., Khun Say Lone, 'The Advance and Retreat of a Shan Army', TNI Myanmar Commentary, 3 May 2022.
85. Chit Min Tun, 'Without Territory, the Shanni Army's Difficult Path to Recognition', The Irrawaddy, 8 April 2019; International Crisis Group, 'Identity Crisis: Ethnicity and Conflict in Myanmar', Report No.312, Asia, 28 August 2020.
86. Lawi Weng, 'Myanmar Army Seizes Shan State Militia Chiefs Over Drugs Bust', The Irrawaddy, 26 March 2020. The force defected from the KIO's 4<sup>th</sup> Brigade in 1991 to form the KDA and agree a ceasefire with the military government.
87. See e.g., Lawi Weng, 'Many Arakanese Embrace AA's Presence', The Irrawaddy, 12 February 2019.
88. A 1994 breakaway group from the KNU, the DKBA<sup>1</sup> became a BGF with 12 battalions; the KNPLF, a 1978 breakaway movement from the KNPP, transformed into two BGF battalions; the NDA-K, a 1968 breakaway group from the KIO (and 1989 from the CPB), became a BGF with three battalions; and a 2009 breakaway group from the Kokang MNDA became a BGF with one battalion. See also note 48.
89. For the PNO, see also note 71. For the Kaungkha militia, see note 86.
90. See e.g., Kim Jolliffe, 'Ethnic Armed Conflict and Territorial Administration in Myanmar', Asia Foundation, June 2015; John Buchanan, 'Militias in Myanmar', Asia Foundation, July 2016; Institute for Security and Development Policy, 'A Return to War: Militarized Conflicts in Northern Shan State', Stockholm, July 2018; International Crisis Group, 'Fire and Ice'; Kramer, "Neither war nor peace".
91. Myat Thura, 'Tatmadaw to keep people's militias part of defence policy', Myanmar Times, 13 September 2019.
92. 'Table of Militias under the mobilizing areas of Military Strategic Command (Kutkai)', confidential source, June 2020.
93. For local reports, see e.g., Liu Yun, 'The Rise of The Kokang Militia Force', Tea Circle Oxford, 21 November 2017; Kyaw Lin Htoon, 'Militia groups in Muse: Swagger and impunity', Frontier Myanmar, 22 October 2018; 'Fatalities Reported in Clashes Between TNLA, Pansay Militia', S.H.A.N, 18 March 2020.
94. The Khaunglanghpu militia, promoted by the Tatmadaw among the Rawang population, maintained an explicitly anti-KIO stance, and the Gwihtu-Lawayang militia was formed from a KIO breakaway group: see, Kumbun, 'Understanding the Gwihtu-Lawayang and Khaunglanghpu Militias', The 74 Media, 14 October 2020.
95. Smith, *Arakan (Rakhine State)*: 81–3, 98, 106; UN Human Rights Council, 'Report of the Independent': 17. See also note 79.
96. After refusing to become a BGF, the DKBA<sup>2</sup> (Benevolent) is itself a breakaway force, splitting from the DKBA<sup>1</sup> (Buddhist) in 2010 before agreeing state and union-level ceasefires at the end of 2011. The KPC is a 2007 breakaway from the KNU and agreed the same ceasefires in February 2012. In 2022, the DKBA<sup>2</sup> splinter faction also remained active without a ceasefire. In addition to the Karen BGF, there are a number of smaller Karen militia formed from KNU breakaway groups during the SPDC era, notably the Phayagon Special Region Group, Karen Peace Force (Haungthayaw Special Region) and Thandaung Special Region Group. In 2013, the KNU set up a 'Committee for Reunification of Separated Karen Armed Groups', but to date there has not been progress.
97. See e.g., 'Clashes between army, BGF and a DKBA splinter group occur in Kayin', Eleven Media Group, 22 June 2019; Karen Human Rights Group, 'Hpa-an District: Fighting between the Tatmadaw/BGF and the DKBA splinter group results in temporary displacement and restrictions to freedom of movement in T'Nay Hsah Township', 13 September 2020; Lawi Weng, 'MNLA Attacks DKBA Splinter Group in Myanmar's Karen State', The Irrawaddy, 23 September 2019.
98. In the 2020 general election, the USDP gained 39 seats in the Shan State legislatures in areas controlled by people's militia. In Kachin State, two militia leaders were elected as MPs, one for the USDP and the other for another Tatmadaw-aligned party. The best known nationally is T Khun Myat, an independent (formerly USDP) MP and outgoing speaker of the Union Assembly in the NLD-majority parliament, who was previously head of the Kutkai militia. In the 2015 elections, eight MPs who headed militia were elected as USDP representatives, including three ethnic ceasefire leaders: see, Jolliffe, 'Ethnic Armed Conflict': 97.
99. Militia known as the Pyu Saw Hti, modelled on Israel's settlement defence system, were initially formed in the 1950s but were later disbanded after becoming too difficult to control.
100. See e.g., Progressive Voice, 'Blood on the streets runs a river of sadness', 9 May 2022; Human Rights Foundation of Monland, 'The Rise of Pro-Junta Militias in Southeastern Burma', August 2022; '11 killed, including NLD members, in Myanmar's Mandalay region', RFA, 5 October 2022; Yuzana, 'Myanmar Junta's Village Militias "Committing Atrocities" in Resistance Strongholds', The Irrawaddy, 24 October 2022.

101. See e.g., David Scott Mathieson, 'Myanmar people's army aims wishfully at Tatmadaw', *Asia Times*, 8 June 2021; International Crisis Group, 'Taking Aim at the Tatmadaw: The New Armed Resistance to Myanmar's Coup', Briefing No.168, Asia, June 2021; Matthew Arnold, 'Myanmar at War: D-Day and Its Repercussions', Brief 3, 8 October 2021; Myo Hein, 'Understanding the People's Defense Forces in Myanmar', U.S. Institute of Peace, 3 November 2022; Emily Fishbein, 'Chin nationalism "blossoms" on northwestern front against junta', *Frontier*, 9 January 2023.

102. Thu Thu Aung, 'Myanmar insurgents attack elite military college, other targets; 15 killed', *Reuters*, 15 August 2019.

103. Transnational Institute, 'Beyond Panglong': 19–20, 39 n.71.

104. For the Tatmadaw's changing position on EAOs becoming BGFs, see also note 56.

105. In government terminology, this was described as three steps: 1. state-level bilateral (for any group); 2. union-level bilateral (for any group that had achieved a state-level ceasefire); 3. the NCA.

106. At the National Convention, the EAOs were generally represented in two blocks: a 13-party grouping led by such veteran forces and former NDF members as the KIO, NMSP and SSPP which advocated federal reform; and a four-party ex-CPB group – the MNDAA, NDAA, NDA-K and UWSA – that proposed autonomous regions similar to China.

107. See e.g., Tom Kramer, Oliver Russell & Martin Smith, *From War to Peace in Kayah (Karen) State: A Land at the Crossroads in Myanmar* (Amsterdam: TNI, 2018): 51–2.

108. As a justification, the NSCN-K was accused of sheltering militant groups from India: see e.g., 'NSCN-K demands release of leaders by Myanmar government', *North East News*, 15 April 2019. Several Naga leaders were arrested and not released until April 2020 by presidential amnesty. Operating on both sides of the border with India, the NSCN-K has generally been the least involved movement in multilateral discussions with other EAOs in peace talks in Myanmar. In addition to the NSCN-K, the Kuki National Organisation, ZRA and a number of other armed nationality movements also move on both sides of India-Myanmar frontier. See also Ch.3, note 68; Ch.4, note 42.

109. See note 52.

110. Smith, *Arakan (Rakhine State)*: 117.

111. Joe Kumbun, 'Myanmar's Meaningless Unilateral Ceasefires', *The Diplomat*, 29 May 2020.

112. 'Myanmar military extends ceasefire period', *Mizzima News*, 1 January 2021. The timings of unilateral ceasefires can be confusing. Five announcements, though not simultaneous or parallel, were declared by the Tatmadaw and Brotherhood Alliance between December 2018 and August 2020. The first Tatmadaw ceasefire was between 21 December 2018 and 30 April 2019. The second declaration and continuing extensions were 1 May, 1 July and 1 September 2019 before being halted on 21 September the same year. They then resumed again on 10 May 2020 and subsequently continued. Unlike declarations by the Brotherhood Alliance, which included all their territories, the Tatmadaw's Western Command remained excluded despite the 'informal ceasefire' with the ULA/AA in November 2020. The announcement of unilateral ceasefires by Snr-Gen. Min Aung Hlaing also continued after the 2021 coup and, most recently, were extended until the end of 2023. But Tatmadaw operations and conflict continued in many parts of the country. According to the state media, the Tatmadaw declared 21 such ceasefire statements between 21 December 2018 and 31 December 2022, but no clarifications were provided of when or which organisations and territories were covered: *Global New Light of Myanmar*, 3 January 2023.

113. 'Arakan Army Collects Taxes, Polices Streets in Parts of Myanmar's War-Torn Rakhine State', *RFA*, 20 July 2020.

114. 'FPNCC Open to Negotiations With NLD Govt, But Members Need Bilateral Ceasefire', *Network Media Group*, 26 November 2020.

## 2. Failures in NCA Implementation

1. Accusations of military violations carried out by EAO signatories were few in comparison. Most abuses occurred in the territories of local peoples where Tatmadaw units, mostly of different ethnicities, either entered or were based.

2. Karen National Union, 'Karen National Union (KNU) Position Statement on Tatmadaw military activities in sending military forces into Mutraw District (Papun) to build a road based for military use, during the implementation of the ceasefire', 16 March 2018; Karen National Liberation Army, 'Statement', 10 May 2018.

3. *Ibid*; Nyein Nyein, 'Karen Villagers Protest Hatgyi Dam, Other Projects on Salween River', *The Irrawaddy*, 14 March 2018. See also note 40.

4. See Ch.1, note 96.

5. Karen National Union Supreme Headquarters, 'KNU Statement on challenges facing implementation: The Nationwide Ceasefire Agreement', 15 May 2020; 'KNU: Burma Army Militarization Forces Karen to Flee Villages: Government Used National Ceasefire Agreement to Increase its Troops in Brigades 5 and 7', Karen Information Center, 3 June 2020. In addressing the crisis, the KNU called upon the Tatmadaw to abide by NCA Chapter (3) Section (5). The same allegation of the Tatmadaw increasing local troop numbers following EAO ceasefires was also made in other parts of the country during the SLORC-SPDC era.
6. Ibid.
7. Karen National Union Supreme Headquarters, 'KNU Statement on challenges'.
8. 'Tatmadaw seizes another checkpoint from Mon armed group', Mon News Agency, 8 March 2017.
9. 'Mon civilians continue to flee fighting in Myanmar', Bangkok Post, 28 November 2019; Lawi Weng, 'Myanmar Army Seizes Ethnic Mon Armed Group's Base on Thai Border', The Irrawaddy, 29 November 2019.
10. South, 'Unfinished Business: Achievements and Challenges of the NMSP Ceasefire', in, Smith, South, Hongsar & Mon, 'Reflections on the 1995': 28 (see Ch.1, note 30).
11. 'Tatmadaw pressures NMSP to withdraw C-19 medical checkpoint near TPP border', Mon News Agency, 18 May 2020.
12. See e.g., Smith, South, Hongsar & Mon, 'Reflections on the 1995', *passim*.
13. Nai Hongsa, 'Preface', in Ibid: 7.
14. The RCSS was generally considered a maverick group following its 1996 defection from Khun Sa's Mong Tai Army (MTA) which surrendered to the government. At its formation, it claimed traditions from an earlier EAO, the Shan United Revolutionary Army. In contrast, the SSPP (formed 1971) and its armed wing, the Shan State Army (SSA: formed 1964 by university students) was for many decades regarded as the leading EAO for the Shan cause. Somewhat confusingly, both became colloquially known during the 2000s by the same name for their armed forces, SSA-North (SSPP) and SSA-South (RCSS). Unlike the SSPP, RCSS leaders have always refrained from united fronts with EAO coalitions, including the NDF and UNFC. There are also a number of militia forces in Shan State, supported by the Tatmadaw, that have former SSPP or MTA legacies. See also, Lone, 'The Advance and Retreat' (see Ch.1, note 84).
15. Ibid. See also, Anthony Davis, 'Myanmar's military and its proxy armies', Bangkok Post, 7 February 2016; Lawi Weng, 'Human Casualties Will Be the Cost of War as RCSS Moves North', The Irrawaddy, 30 November 2018; Lone, 'The Advance and Retreat'; Institute for Security and Development Policy, 'A Return to War' (see Ch.1, note 90).
16. 'RCSS and PNLO clash in Mongpan', Eleven Media, 19 October 2018; 'Clashes between fighting forces continues in Myanmar', The Nation, 5 January 2019. For the PNLO, see also Ch.1, note 71.
17. 'Commander-in-Chief: Any attempt to make unilateral demands in the name of peace talks poses a hindrance to the peace process', Global New Light of Myanmar, 16 October 2018.
18. See e.g., 'Burma Army, RCSS Clash Nearly 20 Times – After Peace Meeting', S.H.A.N., 8 March 2020. RCSS sources say that many fights again went unreported in the media.
19. See e.g., Nan Lwin, 'Experts Warn of Backlash Against Chinese Infrastructure Projects in Myanmar', The Irrawaddy, 7 January 2021; Shan Human Rights Foundation, 'Indiscriminate shelling, torture, looting by Burma Army during large-scale offensive against RCSS/SSA in southern Kyaukme', 19 October 2020. In the case of Kyaukme operations, it was also believed that Tatmadaw incursions were to support construction of the Upper Yeywa dam: Shan Human Rights Foundation, 'Extrajudicial killing, torture by Burma Army during operation against RCSS/SSA near Upper Yeywa dam site in Kyaukme', 9 July 2020.
20. International Campaign to Ban Landmines, 'Landmine Monitor 2019', November 2019: 1.
21. Ibid: pp.9-12. Myanmar is not party to the Mine Ban Treaty. The non-ceasefire KIO, TNLA and ULA/AA and ceasefire SSPP were also reported to deploy mines.
22. See e.g., 'NMSP's request for participation in Karen, Tanintharyi JMC-S is still being submitted to the JICM', Mon News Agency, 18 September 2018.
23. Nyein Nyein, 'Court Accepts Unlawful Associations Lawsuit Against ABSDF Member', The Irrawaddy, 17 July 2017; Lawi Weng, 'Two ABSDF Members Jailed for 2 Years for Unlawful Association', The Irrawaddy, 12 April 2019. Article 17/1 of the Unlawful Associations Act (1908) has long been used to limit freedom of movement and arrest political activists, especially in the ethnic conflict zones, whereby contact with groups deemed illegal by the government can result in detention.
24. 'KNLA Out of Patience with NCA: Demands Government and Military Takes Civilian Concerns

for the Removal of Troop and Army Bases Seriously', Karen Information Center, 4 December 2020.

25. Ibid.

26. Ibid.

27. Saw Nyunt Thuang, 'Renewed Clashes as Karen Chafe at Stepped-Up Myanmar Military Presence in Kayin State', RFA, 31 December 2020; Saw Tun Lin, 'Karen people angry over Tatmadaw incursions into KNU territory in post-election period', Burma News International, 8 January 2021.

28. For an analysis, see, International Human Rights Clinic, 'Legal opinion regarding abuses against civilians in non-ceasefire areas as potential violations of the Myanmar Nationwide Ceasefire Agreement', Harvard Law School, October 2016.

29. Amnesty International, "'All the civilians suffer": Conflict, Displacement, and Abuse in Northern Myanmar', June 2017. Despite local protests, displacement increased again after the Tatmadaw stepped up military operations in Tanai, Chipwi, Waingmaw and other Kachin State townships during 2018: Nan Lwin Hnin Pwint, 'More than 3,000 People Now Trapped by Fighting in Kachin State', RFA, 3 May 2018.

30. Lahpai Seng Raw, "'The cycles of conflict and displacement must be brought to an end": The IDP crisis in northeast Myanmar', TNI Myanmar Commentary, 30 March 2020; 'Govt, KHCC Meet in Naypyidaw to Discuss IDP Return', BNI Media Group, 15 July 2020.

31. Kachin and Northern Shan IDP Land Protection Committee, 'No Camp Closure Without Restitution', TNI Myanmar Commentary, 11 March 2020.

32. For reports, see e.g., Shan Human Rights Foundation, <https://www.shanhumanrights.org>; 'Human Rights Abuses Still Rampant in Ta'ang Area: TWO', Network Media Group, 25 July 2019.

33. Amnesty International, 'Myanmar: "Caught in the Middle": Abuses against Civilians amid Conflict in Myanmar's Northern Shan State', 24 October 2019.

34. Charm Tong, 'Govt invasion of Shan state mocks ceasefire pact', Bangkok Post, 24 October 2015; Shan Human Rights Foundation, 'Naypyidaw's escalated offensive in central Shan State displaces over 6,000', 3 November 2015; Shan Human Rights Foundation, 'Burma Army ground and aerial attack to seize strategic mountain in N. Shan State kills one villager, injures two, and displaces 700', 20 March 2019.

35. Kan Thar, '10,000 Rally Over Shooting of

Civilians in Myanmar's Shan State', RFA, 10 July 2020.

36. See e.g., 'Ethnic Ta'ang Groups, Families Accuse Myanmar Army of Killing Three Civilians', RFA, 25 August 2020; Shan Human Rights Foundation, 'Burma Army troops shell indiscriminately, loot property, use forced labor during large-scale operation against NCA signatory RCSS/SSA in Mong Kung', 27 March 2020.

37. Thar, '10,000 Rally Over Shooting'.

38. 'Military to Prosecute Protesters in Kyaukme', Network Media Group, 14 July 2020.

39. Saferworld & Karen Peace Support Network, 'Security, justice and governance in south east Myanmar: A knowledge, attitudes and practices survey in Karen ceasefire areas', January 2019.

40. Ibid: p.xiv; see also, Indigenous Karen village leaders, 'Petition calling for Tatmadaw to immediately withdraw its troops and cease military road construction in northern Mutraw (Hpapun) District, Karen State', 27 March 2018; Sally Kantar, 'Military road defies Myanmar national ceasefire, fuels insecurity', Al Jazeera, 11 September 2019; Karen Human Rights Group, 'Southeast Myanmar Field Report: Growing concerns about militarisation, land tenure security, development projects and human rights abuses, January to June 2019', 3 September 2019.

41. Karen Peace Support Network, 'Karen heartlands under attack', 20 April 2020.

42. Transnational Institute, 'No One Left Behind?: Covid-19 and the Struggle for Peace and Justice in Myanmar', Myanmar Commentary, 30 November 2021: 16 and passim.

43. Karen Peace Support Network, 'Virus warfare: Burma Army destruction of Karen community defences against Covid-19', June 2020.

44. 'Ethnic Karens Press Myanmar Army to Remove Troops Over Killing of Civilian', Radio Free Asia, 28 July 2020.

45. See, Chapter 3, Sections 5(a) & 8(A) of the Code of Conduct; and Sections 9(b) of the NCA & 7(B) of the Code of Conduct. Karen Human Rights Group, 'Mu Traw District: Tatmadaw soldiers killed a Karen community leader and a KNU forest ranger in March 2020', 13 April 2020.

46. Human Rights Watch, "'The Farmer Becomes the Criminal": Human Rights and Land Confiscation in Karen State', 3 November 2016.

47. Ashley South, 'Towards A Tipping Point? Climate Change, Disaster Risk Reduction and Resilience in Southeast Myanmar', ActionAid



Myanmar, 2020: 23; Thomas Wilkie-Black, 'Myanmar's Karen displaced in a quagmire', *Asia Times*, 27 April 2019. For updates and statistics, see, The Border Consortium: <https://www.theborderconsortium.org>.

48. For snapshots of Tatmadaw offensives shortly after the coup, see e.g., Karen Human Rights Group, 'Karen Human Rights Group Condemns the State Administration Council's Targeted Attacks on Civilian Populations', 30 March 2021; Karenni Civil Society Network, 'Summary in Karenni State and Pekhoh Township (June 22-Jul 4 2021)', *Progressive Voice Myanmar*, 7 July 2021.

49. See e.g., 'Burma Election 2020: "We Don't Want a Government that Protects the Military: We Want a Government that Works for the People"', *Karen Information Center*, 5 November 2020.

50. Historically part of the Arakan Hill Tracts, Paletwa township – today in Chin State – became a conflict front-line during 2018–20. The majority population is Chin-related, and there are also Rakhine communities in the territory.

51. In 2017, the ALP deputy information minister was jailed for alleged incitement against the Tatmadaw for condemning human rights violations against civilians: Skylar Lindsay, 'Earth Rights defender Khaing Myo Htun released from prison', *Earth Rights International*, 5 March 2018.

52. See, e.g., Karen National Union Supreme Headquarters, 'Statement Released on the 2<sup>nd</sup> Anniversary of the Karen National Union's Signing the Nationwide Ceasefire Agreement (NCA)', 15 October 2017.

53. Weng, 'Many Arakanese' (see Ch.1, note 87).

54. See e.g., Transnational Institute, 'Military Confrontation or Political Dialogue: Consequences of the Kokang Crisis for Peace and Democracy in Myanmar', *Myanmar Policy Briefing*, No.15, July 2015.

55. 'Ta'ang CSOs Call for Justice in Unsolved Murder Cases', *S.H.A.N.*, 27 May 2020.

56. 'A Life Striving for Peace: Reflections and Lessons from Reverend Saboi Jum', *Nyein (Shalom) Foundation*, 2020: 48.

57. Experiences from other peace processes in different parts of the world suggest there is no reason why political dialogues cannot start without ceasefires already being agreed.

58. See e.g., 'Shan State regional dialogue criticized as hasty and unprepared', *S.H.A.N.*, 25 April 2017.

59. As with such nationality identities as Kachin,

Kokang and Ta'ang that have not been represented under the NCA, many actors questioned the absence of any Bamar group. The ABSDF is Bamar-majority and an NCA signatory, but it is not an ethnic-based movement.

60. 'ALP "doesn't expect a good outcome" from the Panglong meet: interview', *Karen News*, 25 May 2017.

61. Moe Myint, 'Arakanese Politicians Threaten to Boycott Panglong Peace Conference', *The Irrawaddy*, 23 February 2017.

62. *Ibid.*

63. Nyein Nyein, 'Shan National Dialogue to Continue Despite Myanmar Army Obstruction', *The Irrawaddy*, 19 December 2017; Nyein Nyein, 'Shan National Dialogue In Doubt After Public Consultation Cancelled', *The Irrawaddy*, 5 January 2018.

64. See, Restoration Council of Shan State, 'Statement on the National Political Dialogue of Shan Nationalities', 8 January 2018; Nyein Nyein, 'Peace Process Hits Another Hurdle', *The Irrawaddy*, 9 January 2018.

65. Formed in 2013, the Committee for Shan State Unity included the two main Shan EAOs, the RCSS and SSPP, and the two leading Shan political parties, the Shan Nationalities League for Democracy (SNLD: headed by Hkun Tun Oo) and Shan Nationalities Democratic Party (headed by Sai Ai Pao), as well as representatives of youth and community-based organisations.

66. As recognition of its history of independence, Shan State was granted (along with the then Karenni State) the extraordinary right of secession under the 1947 constitution after a ten-year period.

67. 'LDU holds congress, sets down important future plans', *Network Media Group*, 20 March 2018; Min Thuta, 'Mon national-level political dialogue to strive for emergence of healthy federal principle', *Mon News Agency*, 3 May 2018.

68. Karen, Pa-O, Chin and Mon.

69. 'Peace Process Steering Team to hold national-level political dialogue', *Mon News Agency*, 22 January 2020.

70. Banyar Aung, "What can the EAOs do under the 2008 Constitution if they have to lay down their arms? What can the elected government do?": interview with Nai Hongsar, vice-chair of New Mon State Party', *Mon News Agency*, 7 May 2018.

71. NCA arts. 13(a), 29, & 31(b).

72. See e.g., '37 points signed as part of Pyidaungsu Accord', *Global New Light of Myanmar*,

30 May 2017; Myanmar State Counsellor Office, '14 points signed as Part II of Union Accord', 16 July 2018.

73. Nyein Nyein, 'Myanmar Peace Conference Ends With Participants Praising "Meaningful" Principles, Post-Election Plan', *The Irrawaddy*, 21 August 2020.

74. Transnational Institute, 'Beyond Panglong': 28-9, 32-35 (see Ch.1, note 2).

75. TNI interviews with EAO representatives who attended these meetings.

76. Translations vary, but they have been summarized by the Institute for Security and Development Policy (ISDP) as follows: '(1) To have a keen desire to reach eternal peace; (2) to keep promises agreed to in peace deals; (3) to avoid capitalizing on the peace agreement; (4) to avoid placing a heavy burden on local people; (5) to strictly abide by the existing laws; (6) to "march" towards a democratic country in accordance to the 2008 constitution.' See, ISDP, 'Myanmar's Nationwide Ceasefire Agreement: Backgrounder', October 2015.

77. Karen Peace Support Network, 'Burma's Dead-End Peace Negotiation Process: A Case Study of the Land Sector', July 2018: 5, 20, 23.

78. 'State Counsellor Daw Aung San Suu Kyi's speech at the Opening Ceremony of the Union Peace Conference – 21st Century Panglong 2nd Session', Ministry of Information, 25 May 2017.

79. Transnational Institute, 'Beyond Panglong': 34.

80. The process by which the 37 principles were reached was far from transparent and democratic. Under the Framework for Political Dialogue, the UPDJC organised the UPC and brought subjects to the UPC for discussion and agreement. Thus the UPDJC had already worked out several dozen federal principles that it hoped the UPC would approve. When some of the key and contentious ones (e.g., non-secession and state constitutions) could not be agreed, then there were debates among stakeholders over whether anything should be agreed. In the end, the UPDJC Secretariat brought together the 37 principles, had the UPC (in front of the media) approve them by acclaim (not by voting), and one representative from each stakeholder group signed the document. This solution was essentially patched together overnight.

81. Interview with KNU official, 7 May 2019.

82. The SNLD, for example, proposed an amendment to delete a clause in article 352 of the 2008 constitution that permits gender-based

discrimination in the civil service. Nine political parties also proposed amendments related to land ownership rights or governance.

83. During its first term in government, the NLD-dominated Parliamentary Joint Committee for Amending the Constitution voted down proposals on all the points raised by ethnic parties and did not bring any of them to the full Pyidaungsu Hluttaw for a vote. See, 'Proposals by Political Parties, Clusters and Individual Representatives (Members of Parliament) for changes, additions, removals and additional articles', Pyidaungsu Hluttaw (Union Parliament) Office, 15 July 2019 (unofficial English translation by International IDEA); and 'Law for the Second Amendment of the Constitution of the Republic of the Union of Myanmar', Office of the Pyidaungsu Hluttaw, 27 January 2020 (unofficial English translation by International IDEA).

84. International Convention on Economic, Social and Cultural Rights, 16 December 1966, Treaty Series, Vol.999.

85. See e.g., for an objection by the Government of the Kingdom of the Netherlands, 'Objection with regard to the declaration made by Myanmar upon ratification (October 3, 2018)', <https://wipolex.wipo.int/en/treaties/parties/remarks/NL/380>

86. "'A Declaration of War on Us": The 2018 VFV Law Amendment and its Impact on Ethnic Nationalities', TNI Myanmar Commentary, 13 December 2018.

87. Jason Gelbort, 'Implementation of Burma's Vacant, Fallow and Virgin Land Management Law: At Odds with the Nationwide Ceasefire Agreement and Peace Negotiations', TNI Myanmar Commentary, 10 December 2018.

88. 'Gov't Tells NCA-Signatory Groups not to Communicate with the UN, Embassies, INGOs', Mon News Agency, 20 September 2019. These restrictions were often ignored. But, following the NCA, the government's view was that all international aid should be approved and conducted through government channels – not through EAO networks and relationships.

89. 'Thailand blocks Shan organization's meeting in Chiang Mai', S.H.A.N., 20 July 2017.

90. See e.g., Tom Lasseter, 'Special Report: In a Muslim lawyer's murder, Myanmar's shattered dream', Reuters, 13 December 2018.

91. San Yamin Aung, 'The Untouchable Articles in Myanmar's Constitution', *The Irrawaddy*, 23 March 2020.

92. NCA, art. 25.

93. NCA, art. 25, and NCA Meeting Decision 25, referenced by NCA, art. 30.
94. Nyein Nyein, 'Central Govt Infringing Administration of KNU Regions, Say Leaders', *The Irrawaddy*, 10 October 2017.
95. Myanmar Interim Arrangements Research Project, 'Between Ceasefires and Federalism: Exploring Interim Arrangements in the Myanmar peace process', Covenant Institute, Yangon, November 2018: 8.
96. Shoklo Malaria Research Unit, 'Myanmar: Health Care in a Changing National Landscape: Lessons, challenges and aspirations on the way forward', Mahidol-Oxford Universities Research Unit, Mae Sot, 2017.
97. For a 2018 overview, see, Myanmar Interim Arrangements Research Project, 'Between Ceasefires and Federalism'. For analysis of the NMSP ceasefire, see, South, 'Unfinished Business': 23-8.
98. For analyses of Kachin, Ta'ang and ceasefire experiences during the 1989-2011 era, see e.g., Sadan (ed.), *War and Peace in the Borderlands* (see Ch.1, note 9).
99. See e.g., Doug Porter, 'Wheeling and Dealing: HIV/AIDS and Development on the Shan State Borders', Background paper supported by UNDP, Rangoon Institute of Economics & Australian National University, October 1994.
100. Advisory Commission on Rakhine State, 'Towards a Peaceful': 6, 23 (see Ch.1, note 39).
101. See, e.g., 'Civil Society Organizations' Statement on the Vacant, Fallow & Virgin Land Management 2018 and related announcement', (signed by 346 CSOs), 16 November 2018; 'Statement on 2018 VFV law by IDPs from Kachin and Northern Shan state', Progressive Voice Myanmar, 26 November 2018; United Nationalities Alliance and Partner Organisations, 'Joint Statement of the United Nationalities Alliance and its Sister Organisations on the Vacant, Fallow & Virgin Land Management Law', November 2018.
102. Gelbort, 'Implementation of Burma's Vacant'.
103. Karen National Union Headquarters, 'Statement of KNU's Position regarding Land laws of the Myanmar Government', 15 December 2018.
104. Gelbort, 'Implementation of Burma's Vacant'. See also, The Central Head Quarter Office PSLF/TNLA, 'Rejecting Myanmar Government's 2018 New Vacant, Farmland and Virgin (VFV) Land Policy', Statement Number (3/2019), 11 March 2019.
105. 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, 5 March 2019, paragraph 20.
106. Kevin Woods, 'Ceasefire capitalism: military-private partnerships, resource concessions and military-state building in the Burma-China borderlands', *The Journal of Peasant Studies*, 2011, Vol.38:4: 747-770.
107. See e.g., EarthRights International, 'Total Denial Continues: Earth Rights Abuses along the Yadana and Yetagun Pipelines in Burma', May 2000; Global Witness, 'A Disharmonious Trade: China and the Continued Destruction of Burma's Northern Frontier Forests', 2009; John Buchanan, Tom Kramer & Kevin Woods, 'Developing Disparity: Regional Investment in Burma's Borderlands', TNI-BCN, Amsterdam, 2013.
108. Ibid. See also, Global Witness, 'Guns, Cronies and Crops: How Military, Political and Business Cronies Conspired to Grab Land in Myanmar', London, 2015; Global Witness, 'Jade: Myanmar's "Big State Secret"', London, 2015.
109. See e.g., Human Rights Watch, "'The Farmer Becomes the Criminal'"; Saferworld & Karen Peace Support Network, 'Security, justice and governance'; and reports passim of the Karen Human Rights Group: <https://khr.org>; Kramer, Russell & Smith, *From War to Peace in Kayah (Karenni)*: 26-9, 36-9, 86-9, 110-29 (see Ch.1, note 107).
110. See e.g., Transnational Institute, 'Selling the Silk Road Spirit: China's Belt and Road Initiative in Myanmar', Myanmar Policy Briefing No.22, November 2019; Lwin, 'Experts Warn of Backlash'; EarthRights International, 'Communities in the Balance: Local Voices and Prospects for the Dawei Special Economic Zone Project', November 2018; Nojima Tsuyoshi, 'Two Japanese Supporting Peace Efforts with Myanmar's Ethnic Minorities', nippon.com, 21 August 2019; Smith, *Arakan (Rakhine State)*: 45-6, 99-102, 110-22 (see Ch.1, note 8).
111. For an analysis of the timber trade, see, Environmental Investigation Agency, 'State of Corruption: The top-level conspiracy behind the global trade in Myanmar's stolen teak', February 2019.
112. For jade, see note 108; Hein Ko Soe & Ben Dunant, 'Kachin's plantation curse', *Frontier Myanmar*, 17 January 2019; Sebastian Strangio, 'Myanmar's Kachin State Sees Boom in Chinese Banana Cultivation', *The Diplomat*, 3 December 2020; Lahkyen Roi, 'Challenging Extractivism in Kachin State: From Land of Jade to Land for the People', *TNI Myanmar Commentary*, 7 July 2022.

113. Transnational Institute, 'Ethnic Politics and the 2020 General Election', Myanmar Policy Briefing No.23, September 2020: 21–2.

114. See e.g., Nang Shining, 'Hydropower in Myanmar: For Whose Benefit?', TNI Myanmar Commentary, 16 December 2016; Ye Mon, 'Beyond Myitsone: the sleeping Chipwi hydropower project', Frontier Myanmar, 12 August 2019. The Myitsone dam, although suspended, remains in the background, threatening local communities on extensive scale: see e.g., 'Thousands of Downstream Villagers Protest Against Myitsone Dam', The Irrawaddy, 22 April 2019.

115. Karen Peace Support Network, 'Gambling Away Our Lands: Naypyidaw's "Battlefields to Casinos" Strategy in Shwe Kokko', 26 March 2020; 'Shwe Kokko: Big Winners – Burma Army and international Crime Syndicates at Expense of Karen People – KNU, Community Groups Want it Stopped', Karen News, 27 March 2020.

116. 'Incoming Myanmar Govt Must Tackle Chinese Casino Haven in Myawaddy', The Irrawaddy, 26 October 2020; Naw Betty Han, Thomas Kean & Lawi Weng, 'Will the Kayin BGF go quietly?', Frontier Myanmar, 26 January 2021.

117. 'The Chinese and Thai Shwe Kokko project and BGF (Border Guards) accused of deploying torture regime on casino employees', Karen Information Centre, 10 January 2023. Human trafficking and scamming businesses have also been reported in an expansion of criminal enterprises since the coup: Priscilla Clapp & Jason Tower, 'Myanmar's Criminal Zones: A Growing Threat to Global Security', United States Institute of Peace, 9 November 2022.

118. See Ch.1, note 74.

119. Phyu Phyu Ko, 'Two Joint Ta'ang Objectives: War on Drugs and National Liberation', Burma Link, 17 May 2013; 'TNLA, Militia Clash During Anti-Drug Campaign in Northern Shan State', Network Media Group, 16 March 2020.

120. See e.g., 'Myanmar Angers Coal Region Residents by Extending Life of Polluting Chinese-run Mine', RFA, 17 October 2019; Sa Eh Sue & Win Zar Ni Aung, 'A way of life under threat in the Kayin hills', Frontier Myanmar, 22 October 2019; Nan Lwin, 'MP Warns Australian-backed Mining in Myanmar's Far North May Spark Protest', The Irrawaddy, 20 May 2020; see also notes 19, 40.

121. David Keen, 'War and Peace: What's the Difference?', in Adekeye Adebajo & C.L. Sriram (eds.), *Managing Armed Conflicts in the 21st Century* (London: Frank Cass Publishers 2001).

122. David Keen, *The Economic Functions of Violence in Civil Wars* (London: International Institute of Strategic Studies, Adelphi Paper 320, 1998): 11.

123. For an analysis in the SLORC–SPDC era, see, Smith, *State of Strife*: 3–25 (see Ch.1, note 49).

124. Cardinal Charles Bo, 'Why war never ends in Myanmar?', UCA News, 13 July 2020.

125. Transnational Institute, "'First they grabbed our land with guns; now they are using the law'", Commentary on the Right to Land of People Displaced by War and Militarization, 26 August 2019.

126. See e.g., 'Land Right Activist Naw Ohn Hla Arrested Over Housing Protest in Myawaddy', Karen News, 25 April 2019; 'Interview with the chairperson of Karenni State Farmer's Union, Khu Tu Reh, on the farmers' land lawsuits', Union of Karenni State Youth, 16 January 2020; 'Meeting Between Military, Farmers Does Not Resolve Southern Shan State Land Grab', Network Media Group, 10 June 2020; Shan Human Rights Foundation, 'Extrajudicial killing, torture by Burma Army'.

127. For primary source documents and analysis in the contemporary landscape, see 'Panglong Agreement: Defining Panglong Agreement, Panglong Promises and Panglong Spirit', Panglong Handbook Drafting Team, 2019, available for download at: <https://www.pyidaungsinstitute.org/index.php/en/component/k2/item/563-panglong-agreement-defining-palong-agreement-panglong-promises-and-panglong-spirit>.

128. For a historical analysis of Tatmadaw thinking, see, Andrew Selth, 'Myanmar's military mindset: An exploratory survey', Griffith Asia Institute research paper, Griffith University, 2021.

### 3. Efforts to Overcome Negotiation Challenges

1. Nan Lwin Hnin Pwint, 'When NCA Is Comprehensive We Will Sign: Senior KIO Official', The Irrawaddy, 25 April 2019.

2. 'Joint Position Statement by MNTJP/MNDAA, PSLF/TNLA and ULA/AA on Current Peace Building Process and Effort', 18 August 2016. The TNLA also sent a letter to the conference with policy recommendations: 'Palaung State Liberation Front (PSLF/TNLA) Political Letter to Union Peace Conference (21st Century Panglong)', 31 August 2016.

3. United Nationalities Federal Council, 'Statement on Union Peace Conference – 21st

Century Panglong First Meeting', 25 August 2016.

4. The four notable absentees were the MNDA, TNLA, ULA/AA and NSCN-K.
5. Lun Min Mang & Ei Ei Toe Lwin, 'Speech highlights from Panglong Conference opening ceremony', Myanmar Times, 1 September 2016.
6. In what was apparently an error, the UWSP was initially classed as an 'observer'.
7. Nyein Nyein, 'Myanmar Peace Conference Ends With Participants Praising "Meaningful" Principles, Post-Election Plan', The Irrawaddy, 21 August 2020.
8. Lawi Weng, 'Ethnic Alliance Upholds Suspension of Two Members', The Irrawaddy, 10 December 2015. For UNFC members, see Ch.1., note 58.
9. 'KNU Decision to Withdraw from UNFC Undemocratic Claims Karen Women's Organisation', Karen News, 7 October 2014.
10. NCA art. 12(c).
11. Kachin Independence Organisation Central Committee, 'Statement', 8 October 2016.
12. Its founding members were: non-ceasefire EAOs: KIO, MNDA, TNLA and ULA/AA; ceasefire: NDAA, SSPP and UWSP.
13. See e.g., Myanmar Peace Support Initiative, 'Lessons Learned from MPSI's Work Supporting the Peace Process in Myanmar: March 2012 to March 2014', Yangon, March 2014; <https://www.jointpeacefund.org/en>.
14. See e.g., Kalita, 'India-Myanmar Military Ties Pay Dividends as Naga Rebels Return to Mainstream', The Irrawaddy, 7 January 2021; Salai Thant Zin, 'Six Members of Rebel Group Along Myanmar-Indian Border Charged With Unlawful Association', The Irrawaddy, 19 January 2021. See also Ch.1, note 108; Ch.4, note 42.
15. This decision appeared to be fostered by Aung San Suu Kyi and non-NLD actors in the government who wanted to end such UN monitoring and observation.
16. See e.g., Charles Petrie & Ashley South, 'Peace is broken in the Karen hills. How will donors respond?', Frontier Myanmar, 18 January 2021. The list is too long and diverse to summarize all international organisations involved in the peace field – from aid and development agencies to more specialist actors in conflict resolution. Other criticisms included the desire by international actors to 'sit at the top table'; the predominance and turnover of consultants; INGOs and 'peace experts' lacking context experience; conflicts of

interest among actors; and a preference for (and sometimes creation of) donor-controlled networks rather than supporting local initiatives to build from the grassroots. See also note 21; and Ch.1, note 16.

17. See e.g., David Steinberg, 'Burma in the US-China Great Game', YaleGlobal Online, 5 December 2011; Yuichi Nitta, 'US and China engage in "war of words" over Myanmar and Philippines', Nikkei Asia, 27 July 2020.
18. See e.g., Transnational Institute, 'China's Engagement in Myanmar: From Malacca Dilemma to Transition Dilemma', Myanmar Policy Briefing No.19, July 2016; Transnational Institute, 'Selling the Silk Road Spirit' (see Ch.2, note 110).
19. Beijing's priority was to maintain border stability, supporting economic growth in southwest China. In effect EAOs, especially those previously linked to the CPB, continued to act as buffer zones. Until today, it remains the policy of the Chinese government to distinguish between 'government-to-government' and 'party-to-party' relations. See also note 30.
20. Larry Jagan, 'China seeks to shore up its influence in Myanmar', Bangkok Post, 9 January 2021; Laura Zhou, 'China promises to support Myanmar peace talks with rebel groups', South China Morning Post, 12 January 2021.
21. For analyses of dilemmas in the SLORC-SPDC era, see, Mark Duffield, 'On the Edge of No Man's Land: Chronic Emergency in Myanmar', School of Sociology, Politics & International Studies, University of Bristol, Working Paper No.01; and, in the SAC era, Damian Lilly, 'The UN's Response to the Human Rights Crisis after the Coup in Myanmar: Destined to Fail?', International Peace Institute, June 2021. See also Ch.4, note 52.
22. Joe Kumbun, 'The UNFC: Reasons Behind Signing and Not Signing the NCA', The Irrawaddy, 14 February 2018.
23. 'UNFC Suspends Some Activities as Members Drift Apart', Network Media Group, 5 August 2019.
24. Republic of the Union of Myanmar Office President Office, 'New Mon State Party and Lahu Democratic Union sign NCA', 12 February 2018.
25. '37 points signed as part of Pyidaungsu Accord', Global New Light of Myanmar, 30 May 2017; see also Ch.2, note 80.
26. Transnational Institute, 'Beyond Panglong': 32-4 (see Ch.1, note 2); and Ch.2, 'Lack of political agreements'.
27. 'Consensus reached on half of 21 points proposed by signatories to NCA', Global New

Light of Myanmar, 27 October 2017; '6th Joint Implementation Coordination Meeting on NCA held', Global New Light of Myanmar, 28 November 2017.

28. See Ch.2., note 2.

29. Karen National Union, 'Statement on Informal Meeting between Delegation Led by KNU President Gen. Saw Mutu Say Poe and Tatmadaw Delegation led by Chief of Defense Services Senior Gen. Min Aung Hlaing', 17 May 2018.

30. For their part, Chinese officials felt that, by these actions, they were supporting – not undermining – the broader objectives of the peace process and Myanmar government. Their concern was that the peace process might be used to promote Western interests. In comparison, the UN, Western governments and donors largely focused on NCA signatories and the NLD.

31. Htet Naing Zaw, 'Tatmadaw Objects to Discussion of Ethnic Rights at Peace Conference', The Irrawaddy, 2 July 2018.

32. Myanmar State Counsellor Office, '14 points signed as Part II of Union Accord', available at: <https://www.facebook.com/state.counsellor/posts/1334128990054647>.

33. See e.g., Oliver Slow, 'Two Years In, Myanmar's NLD Falls Short on Campaign Promises', VOA, 17 May 2018.

34. Karen National Union & Restoration Council of Shan State, 'Letter To the International Witnesses of Myanmar's Nationwide Ceasefire Agreement', 14 October 2018.

35. 'Commander-in-Chief: Any attempt to make unilateral demands in the name of peace talks poses a hindrance to the peace process', Global New Light of Myanmar, 16 October 2018.

36. Ibid.

37. These concerns had been escalating for over a year; see e.g., Karen National Union Office of the Supreme Headquarters, 'Statement on the Review of Peace Process', 23 June 2017; Nyein Nyein, 'Peace Process Team Calls to Review NCA Misunderstandings', The Irrawaddy, 11 August 2017. RCSS leaders were also frustrated over the blocking of ethnic-based national-level dialogues. From this time, they privately said that they lost trust in the NCA process but that it was better than fighting.

38. Karen National Union Headquarters, 'Statement on the 6th Central Standing Committee emergency meeting', 10 November 2018.

39. Ibid.

40. Restoration Council of Shan State, 'Statement of Central Executive Committee of RCSS Emergency Meeting', 12 November 2018.

41. TNI interviews with senior EAO representatives, Yangon, Mae Sot and Chiang Mai, May and December 2019.

42. See e.g., 'Speech delivered by State Counsellor at 4th Anniversary of NCA', The Global New Light of Myanmar, 29 October 2019.

43. Ibid.

44. Sai Wunna, 'RCSS postpones Shan dialogue amid COVID-19 fears', Myanmar Times, 12 March 2020.

45. 'Peace process convention – 21st Century Panglong (Fourth Meeting), to move forward', Mon News Agency, 15 January 2020.

46. See e.g., 'Burma Army Attacks, Displaces 300 Karen Villagers as Suu Kyi Tours Karen State', Karen Information Center, 27 February 2020; Karen Peace Support Group, 'Burma Army Kills Karen Community Leader Shopping for Food', 2 April 2020; Kyaw Lwin Oo, 'Myanmar Investigating Soldiers in Shooting Death of Karen Woman', RFA, 20 July 2020.

47. See Ch.2, note 5.

48. For an interview with RCSS leader Yawd Serk, see, "'We Have Never Talked About Secession": RCSS Chief', The Irrawaddy, 14 February 2020.

49. See e.g., <https://peacekeeping.un.org/en/disarmament-demobilization-and-reintegration>; <https://peacekeeping.un.org/en/security-sector-reform>.

50. Khuensai, 'Decisions and minutes' (see Ch.1., note 17).

51. Saw Nyunt Thaung, 'Renewed Clashes as Karen Chafe at Stepped-Up Myanmar Military Presence in Kayah State', RFA, 31 December 2020.

52. See e.g., Kramer, Russell & Smith, *From War to Peace in Kayah (Karenni)* (see Ch.1., note 107).

53. Nyein Nyein, 'KNPP, Kayah State Gov't to Resume Regular Meetings', The Irrawaddy, 6 May 2019.

54. Kramer, Russell & Smith, *From War to Peace in Kayah (Karenni)*: 86–91.

55. Ibid: 55–63, 134–5. Many Kayan people, who are part of the Karenni ethnic family, also live in adjoining townships in Shan State where another ceasefire EAO, the Kayan New Land Party, administers territory. Since the 2009 BGF order, it has functioned more as a pyithusit militia.

56. Ibid: 36–9.

57. This included sections that provided for

a monitoring mechanism and development coordination. See, 'Eight Points Agreement between UPWC and KNPP', Loikaw City, 20 June 2013.

58. Zue Zue, '5 Karenni Men Sentenced Under Peaceful Assembly Law', *The Irrawaddy*, 15 January 2018.

59. Dee De, 'The Promise and The Statue', *TNI Myanmar Commentary*, 28 June 2019; 'Chronology on the Statue Case in Loikaw, Kayah State', A Commentary by UKSY/LAIN, Transnational Institute, 28 June 2019. As in other ethnic states, perceptions of Aung San in Kayah State are often different to those among the Bamar-majority population in other parts of the country. Amidst many needs, such a statue was regarded as insensitive at that time.

60. 'Kayah State Government Decrees', on activities by UN Organisations, INGOs and NGOs, CBOs and CSOs; instructions to hotel businesses; and instructions to religious premises, 28 August 2018.

61. See e.g., Nyein, 'KNPP, Kayah State'.

62. Nyein Nyein, 'Court Dismisses Peaceful Assembly Charges Against Karenni Protestors', *The Irrawaddy*, 24 January 2018.

63. Sai Wansai, 'Karenni Land Confiscation: Government's land reform amendment and its negative consequences', *S.H.A.N.*, 28 August 2019; De, 'The Promise and The Statue'.

64. 'Armed Organisations Join The Fight Against COVID-19', *Kantarawaddy Times*, 20 April 2020.

65. Zue Zue, 'Myanmar's Kayah State Angers Activists with Protest Ban', *The Irrawaddy*, 7 May 2020.

66. 'Military Prosecution of Karenni Farmers Interfering With Peace Efforts, Analysts Say', *Kantarawaddy Times*, 24 July 2020.

67. Htin Lynn Aung & Ei Ei Toe Lwin, 'The scrap over Loikaw's industrial zone', *Frontier Myanmar*, 7 September 2020.

68. Often overlooked, there were, in fact, three EAOs in the India borderlands that agreed bilateral ceasefires with the government in 2012: the ALP and CNF, both of which became NCA signatories, and the NSCN-K. But, in comparison to such EAOs as the KIO, SSPP and UWSP, their strength or influence could be considered minimal during these years. At the time, the CNF was a small force based around Camp Victoria on the Mizoram border; ALP presence in the tri-border region with Bangladesh was mostly for political liaison; and the political agenda of the NSCN-K – a larger

movement in history – was generally different, with troops active in both northern Sagaing Region and India. See also Ch.1., note 83; for the NSCN-K, see also Ch.1, note 108. Instead, of more interest and concern to the northern EAOs was the Tatmadaw's promotion of militia forces, such as the former ceasefire groups of the NDA-K and KDA, a policy that continued after President Thein Sein assumed office.

69. See Ch.1., note 52.

70. Although not formally a member, the ULA/AA was an affiliate to the UNFC.

71. There is sometimes overlap in the evolution and use of Northern Alliance and Brotherhood Alliance names. The latter, which consists of the MNDAA, TNLA and ULA/AA, does not include the KIO and emerged as a distinct entity in 2019.

72. Federal Political Negotiation and Consultative Committee, 'The General Principles and Specific propositions of all nationalities upon the Political Negotiation', 19 April 2017; 'Provincial and Federal Peace Agreement and National Parliament-level Ceasefire Agreement by and between Republic Government of the Union of Myanmar and All Ethnic Revolutionary Armed Forces', *Wa State*, 20 March 2017.

73. 'News Analysis: China Plays Its Hand in Burma's Peace Process', *The Irrawaddy*, 23 May 2017.

74. United Wa State Party, 'Process of Wa State's Consultation and Negotiation with the Government of Myanmar on Modification of Nationwide Ceasefire Agreement', 30 April 2017.

75. *Ibid.*

76. For UWSA/P history and analysis, see e.g., Tom Kramer, *The United Wa State Party: Narco-Army or Ethnic Nationalist Party* (East West Center Washington, Policy Studies 38, 2007); Bertil Lintner, 'The United Wa State Army and Burma's Peace Process', *Peaceworks*, United States Institute of Peace, No.147, April 2019; Hans Steinmüller, 'Conscription by capture in the Wa State of Myanmar: acquaintances, anonymity, patronage, and the rejection of mutuality', *Comparative Studies in Society and History*, 2019, 63, Vol.3: 508–34.

77. Nyein Nyein, 'Peace Commission Holds Talks With Northern Alliance Members in China', *The Irrawaddy* 5 September 2018.

78. For the government's explanation of events, see, 'NRPC, eight EAOs hold peace talks in Nay Pyi Taw', *Global New Light of Myanmar*, 22 March 2019.

79. Nyein Nyein, 'Three Armed Groups Offer to Stop Fighting, Enter Peace Talks', *The Irrawaddy*, 13 December 2018.
80. 'Myanmar Military Declares Four-Month Cease-fire in Shan, Kachin Conflict Zones', *Radio Free Asia*, 21 December 2018.
81. See e.g., Karen National Union Headquarters, 'Statement regarding the Defense Services Commander-in-Chief's Office Statement on the Ceasefire and Eternal Peace', 22 December 2018; Karenni National Progressive Party Central Committee, 'Statement of the Karenni National Progressive Party on the Burma Army's Commander-in-chief office's statement', 24 December 2018.
82. Htet Naing Zaw, 'Military Extends Ceasefire by 2 Months, Rakhine Still Excluded', *The Irrawaddy*, 1 July 2019.
83. Nan Lwin Hnin Pwint, 'Arakan Army Chief Promises Myanmar Military, Govt Eye For an Eye', *The Irrawaddy*, 17 January 2019.
84. See e.g., 'Tatmadaw releases statement on ceasefire and eternal peace', *Global New Light of Myanmar*, 10 May 2020; Kumbun, 'Myanmar's Meaningless' (see Ch.1, note 111). For a unilateral ceasefire chronology, see Ch.1, note 112.
85. Mratt Kyaw Thu, 'Govt stirs Rakhine anger with warning about Arakan Army', *Frontier Myanmar*, 14 January 2019. As a local news organisation warned, the government's use of such language 'legitimised the actions of the military': 'The NLD's Broken Promises in Arakan', *Development Media Group*, 29 May 2020.
86. 'Statement by Ms. Yanghee Lee Special Rapporteur on the situation of human rights in Myanmar', *UN Human Rights Council*, 24 October 2019.
87. 'Myanmar Charges Arakan Army Leadership Under Counter-Terrorism Law', *RFA*, 8 July 2019.
88. See Ch.1, note 108.
89. 'NRPC, eight EAOs hold peace talks in Nay Pyi Taw', *Global New Light of Myanmar*, 22 March 2019. In addition to FPNCC members, the KNPP attended this meeting.
90. For an interview with Gun Maw, see, Pwint, 'When NCA Is Comprehensive'.
91. 'Myanmar's Wa rebels march in show of force', *AFP*, 17 April 2019.
92. Htet Naing Zaw, 'Military Says It Tolerated UWSA Parade for Sake of Peace', *The Irrawaddy*, 3 June 2019.
93. Chan Thar & Myat Moe Thu, 'Alliance submits ceasefire plan to govt', *Myanmar Times*, 1 May 2019.
94. Lawi Weng, 'Military's Draft Peace Deal Demands Retreat of Northern Alliance Troops', *The Irrawaddy*, 1 July 2019.
95. *Ibid*; International Crisis Group, 'Myanmar: A Violent Push to Shake Up Ceasefire Negotiations', September 2019: 1-2, 8-9, 24.
96. 'Joint Communiqué of NRPC and KIO, PSLF, MNTJP, ULA representatives', *Global New Light of Myanmar*, 31 August 2019; 'Seven points agreed during ceasefire talks in Kengtung', *Global New Light of Myanmar*, 18 September 2019.
97. MNTJP/MNDAA, PSLF/TNLA & ULA/AA, 'Statement on the unilateral ceasefire of the Three Brotherly Alliance', 9 September 2019; MNTJP/MNDAA, PSLF/TNLA & ULA/AA, 'Statement on the unilateral ceasefire of the Three Brotherly Alliance', 20 September 2019; Nyein Nyein, 'Ethnic Armed Alliance Extends Ceasefire for Rest of Year', *The Irrawaddy*, 22 September 2019.
98. Htet Naing Zaw, 'Myanmar Military Abandons Truce, Citing EAOs' Lack of Interest in Peace', *The Irrawaddy*, 23 September 2019.
99. 'Gov't Northern Alliance Discussed Release of Detainees: Source', *Kachin News Group*, 23 December 2019.
100. Three Brotherhood Alliance, 'Emergency Press Release of the Three Brotherhood Alliance in the time of the spread of COVID-19', 1 April 2020; Lawi Weng, 'Myanmar Rebel Coalition Calls for Military to Extend Ceasefire to Rakhine', *The Irrawaddy*, 11 May 2020.
101. *Ibid*.
102. *Ibid*.
103. MNTJP/MNDAA, PSLF/TNLA and ULA/AA, 'Press Release of Three Brotherhood Alliance's Unilateral Ceasefire Extension as a Sixth term for Three Months and Offering a Bilateral Ceasefire to Myanmar Army', 1 June 2020.
104. Aung Htein, 'Tatmadaw extends ceasefire by one month, excludes Arakan State', *Development Media Group*, 25 August 2020; Aung Htein, 'Three Brotherhood Alliance trio extends unilateral ceasefire by 70 days', *Development Media Group*, 1 September 2020.
105. *Ibid*; Sai Wanna, 'Tatmadaw extends ceasefire until 31 October', *Myanmar Times*, 30 September 2020.
106. Transnational Institute, 'The 2020 General Election in Myanmar: A Time for Ethnic Reflection',



Myanmar Policy Briefing No.24, December 2020: 8.

107. See e.g., UN Human Rights Council, 'Report of the Independent' (see Ch.1, note 40); Wa Lone, Kyaw Soe Oo, Simon Lewis & Antoni Slodkowski, 'Massacre in Myanmar: A Reuters Special Report', Reuters, 8 February 2018; Amnesty International, 'We Will Destroy Everything: Military Responsibility For Crimes Against Humanity in Rakhine State, Myanmar', June 2018.

108. Médecins Sans Frontières, "'No one was left': Death and violence against the Rohingya in Rakhine State, Myanmar', March 2018: 5.

109. UN Human Rights Council, 'Report of the Independent': 1,17.

110. Other grievances included the snubbing of the ANP from the post of Chief Minister despite the party's election victory in Rakhine State; the arrest of ex-ANP leader Dr Aye Maung following protests over the killing of seven demonstrators in Mrauk-U; the government's agreement of unpopular economic deals with China and India; and cuts to the internet (see note 120).

111. Amnesty International, 'Myanmar: Villages burned, civilians injured and killed as Rakhine State conflict escalates', 12 October 2020; Kaung Hset Naing, 'Rakhine IDPs: Displaced, demoralised... disenfranchised?', Frontier Myanmar, 12 October 2020; Min Aung Khine, 'Arakan Army Kills Govt Troops in Raid Near Myanmar-Bangladesh Border', The Irrawaddy, 28 October 2020.

112. For a discussion, see, Smith, *Arakan (Rakhine State)*: 73-7 and passim (see Ch.1, note 8); see also Ch.1, note 79.

113. See e.g., Amnesty International, 'Burma: Extrajudicial Execution and Torture of Members of Ethnic Minorities', London, 1988; Amnesty International, 'Union of Myanmar (Burma): Human Rights Violations against Muslims in the Rakhine (Arakan) State', London, 1992; Smith, *Burma: Insurgency*: 258-62, 307-10 (see Ch.1, note 2).

114. See e.g., 'Myanmar military target civilians in deadly helicopter attack, UN rights office issues war crimes warning', UN News, 5 April 2019; Amnesty International, 'Myanmar: Military commits war crimes in latest operation in Rakhine State', 29 May 2019; Amnesty International, 'Myanmar: Indiscriminate airstrikes kill civilians as Rakhine conflict worsens', 8 July 2020.

115. See Ch.1, note 40.

116. Ibid.

117. For commissions, see e.g., Smith, *Arakan (Rakhine State)*: 128 and passim.

118. Advisory Commission on Rakhine State, 'Towards a Peaceful' (see Ch.1., note 39).

119. 'Myanmar soldiers jailed for Rohingya massacre freed after months', Al Jazeera, 27 May 2019.

120. Human Rights Watch, 'Myanmar: End World's Longest Internet Shutdown', 19 June 2020; Kyaw Hsan Hlaing & Emily Fishbein, 'To Fight the Coronavirus, Myanmar Needs a Cease-Fire in Rakhine', Foreign Policy, 3 September 2020.

121. Human Rights Watch, 'Myanmar: Stop Prosecuting Peaceful Protesters', 23 September 2020; Amnesty International joint statement of ten human rights organisations, 'Myanmar: Release Arbitrarily Detained Student Protesters and Cease Further Prosecutions', 23 November 2020.

122. Transnational Institute, 'No One Left Behind?': 17-20 and passim (see Ch.2, note 42).

123. Kyaw Lynn, 'To fight COVID-19 in Myanmar, a call to end the war and internet shutdown in Arakan region', Global Voices, 29 April 2020.

124. Transnational Institute, 'The 2020 General Election': 6-10.

125. Nyein Nyein, 'Myanmar's NLD Calls for Release of Three Candidates Abducted by AA in Rakhine', The Irrawaddy, 22 October 2020.

126. 'General election in Arakan State is unfair', Development Media Group, 6 November 2020.

127. Kyaw Lynn, 'The Nature of Parallel Governance and Its Impact on Arakan Politics', TNI Commentary, 24 February 2022.

128. Ibid; Kyaw Hsan Hlaing, 'Insurgents in Myanmar's Rakhine State Return to War on the Military', United States Institute of Peace, 3 October 2022; 'Military reinforcing troops and supplies in Arakan State, residents say', Development Media Group, 13 December 2022.

129. See e.g., 'UN investigator says Myanmar post-coup abuses a "major focus"', Al Jazeera, 13 September 2022.

130. 'AA accused of killing ALP leaders, allegation denied by AA', Narinjara News, 6 January 2023.

131. Nazmul Ahasan, 'In Bangladesh's border with Myanmar, 2 Rohingya militant groups fight for dominance', Benar News/RFA, 2 February 2023.

132. UNHCR, 'Myanmar Emergency: Regional Overview Map', 5 December 2022.

133. Project Maje, 'Under the hornbill flag: Chin State resistance continues', January 2023; Fishbein, 'Chin nationalism' (see Ch.1, note 101).

134. Ibid. 118,200 in Magway Region and 598,500 in Sagaing Region.
135. 'Myanmar Military Launches Body For Talks With Ethnic Armies as Vote Count Goes On', Radio Free Asia, 10 November 2020.
136. 'Election monitors say UEC mum on make-up voting in northern Arakan', Network Media Group, 10 December 2020.
137. Nan Lwin, "'I Can See the UEC Does Not Want Elections'" in Rakhine, Japanese Envoy to Myanmar Says', The Irrawaddy, 4 December 2020.
138. Due to Covid-19 and logistical difficulties, communications were not easy and initial discussions took place online. Online talks, for example, were reported on 25 November, while a meeting between the two sides was held on 9 December in Pangsang, the headquarters of the ULA/AA's FPNC ally, the UWSP: 'NLD spokesman urges Tatmadaw to share details of talks with Arakan Army', Development Media Group, 7 January 2021.
139. 'TNLA welcome State Counsellor's peace overture', Mizzima News, 19 January 2021.
140. Statements issued by Myanmar Civil Society Organizations, 'Disregard for human rights, dignity, democratic values and justice will hurt us to the core', Transnational Institute, 3 April 2020; 'The Life of Ethnic Fearing of War Crisis More Than COVID', Kantarawaddy Times, 4 May 2020; 'Environmental Group Demands Military Not "Instigate Conflict" Amid COVID-19 Pandemic', Network Media Group, 9 May 2020.
141. International Crisis Group, 'Conflict, Health Cooperation and COVID-19 in Myanmar', Briefing No.161, Asia, 19 May 2020.
142. See e.g., Nwet Kay Khine, 'Hitting where it hurts: Impacts of COVID-19 measures on Myanmar poor', TNI Myanmar Commentary, 6 July 2020; Dr Axel Harneit-Sievers, 'Flying blind: Myanmar in the COVID-19 crisis', Heinrich Boll Stiftung, 5 May 2020; Transnational Institute, 'No One Left Behind?': passim.
143. Ibid., 29-30; Transnational Institute, 'Toward a just transition to a democratic new normal in Myanmar: Cross-border migrant workers and the COVID-19 pandemic', October 2020.
144. United Nations Secretary-General, 'Secretary-General's Appeal for Global Ceasefire', 23 March 2020; see also, Peace Direct, 'COVID-19 and the impact on local peacebuilding', 10 April 2020.
145. 'Statement from Ambassadors to Myanmar', Yangon, 1 April 2020.
146. Karen National Union Supreme Headquarters, 'KNU Statement Concerning the COVID-19 Pandemic', 26 March 2020.
147. NCA, art. 25(a)(1).
148. See note 146.
149. Karenni National Progressive Party Central Committee, 'Karenni National Progressive Party's Appeal to Myanmar Government, Tatmadaw, and all Relevant Ethnic Armed Resistance Organisations', 27 March 2020; Restoration Council of Shan State Central Executive Committee, 'Statement on the information, protection and containment of COVID-19 pandemic', 27 March 2020; Chin National Front Central Executive Committee, 'CNF Statement on the COVID-19 Pandemic and Appeal for a Nationwide Ceasefire', 3 April 2020; Kyaw Lin Htoon, 'From north to south, ethnic armies confront an unseen enemy', Frontier Myanmar, 15 April 2020.
150. Three Brotherhood Alliance, 'Emergency Press Release of the Three Brotherhood Alliance in the time of the spread of COVID-19', 1 April 2020.
151. United League of Arakan/Arakan Army, 'Announcement on COVID-19 exigency', 26 April 2020.
152. Transnational Institute, 'No One Left Behind?': 29-30.
153. Ibid: 25; Emily Fishbein & Ring Nu Awng, 'Life in coronavirus quarantine in a camp on the Myanmar-China border', South China Morning Post, 24 May 2020.
154. Htoon, 'From north to south'.
155. Nang Seng Nom, 'Burma Army Attacks RCSS While Shan Medics Perform COVID-19 Wellness Checks', S.H.A.N., 15 April 2020.
156. For sources and closer examination, see, 'Military violations', 'Harm to civilians' & 'Re-evaluating the NCA: the KNU and RCSS'.
157. 'Driver killed in WHO vehicle carrying virus swabs in Myanmar's Rakhine', Reuters, 21 April 2020.
158. Amnesty International, 'Myanmar: Censorship Harms COVID-19 Response', 27 April 2020.
159. 'Myanmar Army Defends Rakhine Internet Ban Rights Groups Say Hinders Aid, COVID-19 Awareness', RFA, 27 July 2020; see also, Human Rights Watch, 'Myanmar: End Unlawful Internet Restrictions', 27 July 2020.
160. From just 749 recorded cases and 6 deaths at the end of August, the official figure increased to more than 125,000 cases and over 2,500 deaths by

- the beginning of 2021: Transnational Institute, 'No One Left Behind?': 17–20.
161. Because of the Tatmadaw's dominance, the NLD did not call a council meeting during its government.
162. Progressive Voice, 'A Nation Left Behind: Myanmar Weaponization of COVID-19', June 2020: 5–7.
163. 'Myanmar sets up COVID-19 committee with rebel armies', The Irrawaddy, 28 April 2020; Sai Wansai, 'Government's Overture: COVID-19 prevention coordination committee to cooperate with EAOs', S.H.A.N., 6 May 2020.
164. Office of the President, 'Forming coordinating committee with EAOs on preventing, controlling and treating on Covid 19', Directive No 63/2020, 27 April 2020.
165. See e.g., 'EAOs Cautious About Collaboration With Govt's COVID-19 Coordination Committee, Insiders Say', Kachin News Group, 13 May 2020.
166. 'Tatmadaw Discusses COVID-19 Prevention With KIO', Kachin News Group, 26 May 2020; Nan Lwin Hnin Pwint, 'KIA Says Myanmar Military Offers Supplies, but No Planning, to Fight COVID-19', The Irrawaddy, 22 May 2020.
167. Ibid.
168. See e.g., 'KNPP Accepts Tatmadaw Donation of COVID-19 Protective Equipment', Kantarawaddy Times, 25 May 2020; Swe Lei Mon, 'Wa armed group reaches out to Tatmadaw leader', Myanmar Times, 21 May 2020.
169. Transnational Institute, 'No One Left Behind?': 28.
170. Human Rights Watch, 'Myanmar: Displacement Camps Are COVID-19 Tinderboxes', 30 March 2020.
171. See e.g., 'Myanmar submits first report on Rohingya to UN's top court', Al Jazeera, 24 May 2020.
172. For unilateral ceasefire dates, see Ch.1, note 112.
173. 'TNLA Reports Capturing Burma Army Weapons in Kutkai Clash', Network Media Group, 2 June 2020; Seng Phoo, 'Hsipaw IDPs Return Home Fearing Further Clashes Between Tatmadaw and SSPP', S.H.A.N., 27 July 2020; 'RCSS/SSA Clash With Burma Army 20 Times In Last Month', S.H.A.N., 28 July 2020.
174. Amnesty International, 'Myanmar: Indiscriminate airstrikes'.
175. 'Tatmadaw Warns KIO/A to Remove Military Camps in Chipwi Township', Kachin News Group, 17 September 2020.
176. 'Karenni State Govt "Not Paying Attention" to Peace Process, CSOs Say', Kantarawaddy Times, 23 July 2020.
177. See e.g., Transnational Institute, 'The 2020 General Election', passim.
178. In 1951–2, 1956, 1960, 1990, 2010, 2015 and 2020. Ethnic-based parties have not reached to winning 15 per cent of the seats in the legislatures in any elections since independence: Transnational Institute, 'The 2020 General Election': 16–20; Transnational Institute, 'Myanmar: Ethnic Politics and the 2020 General Election', Myanmar Policy Briefing No.23, 24 September 2020: 4–8.
179. Nyein Nyein, 'NLD Reaches Out to Myanmar's Ethnic Parties Seeking Federal Union and an End to Civil War', The Irrawaddy, 13 November 2020; Hay Man Pyae, 'Despite landslide victory, NLD appeals to ethnic parties to join its "national unity government"', Myanmar Now, 13 November 2020.
180. See e.g., 'FCDO Minister for Asia, Nigel Adams statement on the Myanmar elections', UK Government Press Release, 9 November 2020.
181. See e.g., Kaung Hset Naing, 'NLD olive branch leaves ethnic parties wary', Frontier Myanmar, 16 December 2020. According to Dr Manam Tu Ja MP-elect, Kachin State Democracy Party leader and former KIO Deputy-Chair, the NLD would need to 'walk the walk, and not just talk the talk' during the next parliament.
182. Ibid. 'Myanmar's Ethnic Parties Cautiously Optimistic about Outreach from Victorious NLD', The Irrawaddy, 25 November 2020; 'Ethnic Parties Want to Hear Concrete Plans From Myanmar Leadership', RFA, 4 January 2021.
183. 'Meeting Between NLD and MUP Cancelled', Network Media Group, 5 January 2021; San Yamin Aung, 'Another Meeting Between Myanmar's NLD, Ethnic Party Collapses Over Venue Dispute', The Irrawaddy, 12 January 2021; 'Leading Arakan Party Wonders Why No Invitation received from NLD to meet?', Development Media Group, 27 January 2021.
184. Min Wathan, 'NLD shuns AA demand to reciprocate the release of politicians', Myanmar Times, 6 January 2021.
185. Sai Wunna, 'President seeks polls in nine Rakhine townships', Myanmar Times, 15 December 2020; Sithu Aung Myint, 'Fresh vote unlikely soon in Rakhine, but Japan's Sasakawa deserves praise', Frontier Myanmar, 22 December 2020.

186. 'New Year's Speech of State Counsellor Daw Aung San Suu Kyi, Chairperson of National Reconciliation and Peace Centre', *Global New Light of Myanmar*, 2 January 2021.

187. *Ibid.* To back this up, participation by political groups, CSOs and the general public would be welcomed, promising a special focus on peace process design, including policy and framework guidelines, working groups, systems and mechanisms.

188. 'Government Could Resume Peace-talks With Northern Alliance this Month', *Network Media Group*, 5 January 2021. As with the ULA/AA, communications were often held online, with a first discussion on 8 January.

189. San Yamin Aung, 'Myanmar Military Refuses to Rule Out Coup as It Presses Claim of Fraud in Nov. Election', *The Irrawaddy*, 26 January 2021. Allegations of election fraud were not backed up by independent analyses. In fact, it was the pro-military USDP which was the most direct beneficiary of voting manipulation and malapportionment: *Transnational Institute*, 'The 2020 General Election': 17-18 & *passim*.

190. Khaung Nyol, 'Military tensions grow between the Tatmadaw and the KIO/KIA in the post-election', *Kachin News Group*, 12 January 2021.

191. Nan Lwin Hnin Pwint, 'Myanmar Villagers Flee Warring Ethnic Armies in Northern Shan State', *The Irrawaddy*, 6 January 2021.

192. 'Government Troops in KNU Zones of Myanmar's Kayin And Mon States Spark Protests', *RFA*, 27 January 2021; *Karen Peace Support Network*, 'Situation update of IDPs in Mutraw (Papun) and Kler Lwee Htu (Nyaunglebin) Districts with the recent armed conflict between Tatmadaw and KNLA', 29 January 2021; Lin, 'Karen people angry' (see Ch.2, note 27).

193. See e.g., 'KNU Welcomes Government's Talk of New Peace Process, But Says It Will Take More Than Words To Make It Work', *Karen Information Center*, 26 January 2021.

194. Lahpai Seng Raw, 'Reimagining the Electoral Path for Kachin State', *Kachinland News*, 13 January 2021.

## 4: Myanmar Today: A Land in Conflict Crisis

1. The others were the 'military caretaker' administration (1958-60), Ne Win's 'Burmese Way to Socialism' (1962-88) and the SLORC-SPDC (1988-2011).

2. Headed by the Kachin lawyer Duwa Lashi La as acting president, the NUG grew out of an alignment of new anti-SAC fronts that emerged after the coup, notably a Committee Representing Pyidaungsu Hluttaw (CRPH: formed 5 February 2021) of mostly NLD MPs-elect. In April 2021, a broader National Unity Consultative Council (NUCC) was also established under a Federal Democratic Charter to bridge discussions between the NUG, CRPH, political parties, EAOs, interim committees representing states and regions, strike committees and CSOs. Their roles and relationships are set out in the charter: 'Federal Democracy Charter, Part I: Declaration of the Federal Democratic Union 2021', & 'Federal Democracy Charter, Part II, Interim Constitutional Arrangements 2021', declared 31 March 2021, ratified by the First People's Assembly, 27-29 January 2022.

3. Sebastian Strangio, 'Myanmar Shadow Government Declares "National Uprising" Against Military Rule', *The Diplomat* 7 September 2021.

4. By May 2022, the NUG claimed to have formed 259 PDF battalions or local forces in 250 of the country's 330 townships. For an interview with the NUG Defence Minister Yee Mon, see, Min Min, "'It's certain that the military is losing ground'", *Myanmar Now*, 6 May 2022.

5. See e.g., 'Cooperation in Kayin turns a corner', *Frontier*, 12 January 2023; 'Kayah Resistance: 797 Myanmar Junta Troops Killed Last Year', *The Irrawaddy*, 7 January 2023; Sai Wansai, 'Assessing the EAOs in 2022', *Mizzima News*, 14 January 2023; for Chin, see Ch.3, note 133, and also box: 'Conflict Regression in Rakhine State'.

6. UN Human Rights Council, 'Illegal and Illegitimate: Examining the Myanmar military's claim as the Government of Myanmar and the international response', 31 January 2023: 29; Nayt Thit, 'Why Myanmar Junta's "Four Cuts" Arson Strategy is Failing to Quell Resistance', *The Irrawaddy*, 22 October 2022.

7. Quoted in *Amnesty International*, "'Bullets rained from the sky": War crimes and displacement in eastern Myanmar', 31 May 2022.

8. Clapp & Tower, 'Myanmar's Criminal Zones' (see Ch.2, note 117).

9. Special Advisory Council for Myanmar, 'Effective Control in Myanmar', *Briefing Paper*, 5 September 2022.

10. See e.g., Roi, 'Challenging Extractivism in Kachin' (see Ch.2, note 112).

11. *Transnational Institute*, 'No One Left Behind?': 31-5 (see Ch.2, note 42).

12. UNOCHA, 'Humanitarian Needs Overview; Myanmar', January 2023.
13. Assistance Association for Political Prisoners (Burma): <https://aappb.org>
14. UNOCHA, 'Humanitarian Needs Overview; Myanmar', January 2023.
15. 'Myanmar mired ever deeper in crisis as human rights spiral backwards, warns Türk', UN News, 27 January 2023.
16. For example, for a recent attempt to determine human loss, including combatants, in Kayah State, see: RFA Burmese, 'Since coup, nearly 450 civilians killed in Myanmar's eastern Kayah state', RFA, 4 April 2023.
17. See e.g., Progressive Voice, 'Setting the Tinderbox Alight: The Humanitarian Crisis in Myanmar's Dry Zone (Sagaing, Magwe and Mandalay Regions)', August 2022; Human Rights Foundation of Monland, "'The Junta Wiped Us Out Again": Socio-economic impacts post-coup in Southeastern Burma', October 2022; Southern Monitor, 'Myanmar: Tanintharyi Region: Monthly Situation Update', 31 October 2022. See also note 5.
18. Tin Htet Paing, 'As struggle rages on, Myanmar's resistance prepares to go on the offensive', Myanmar Now, 13 September 2022.
19. As quoted in, Zaheena Rasheed, 'Myanmar's coup is faltering. Activists want tougher ASEAN action', Al Jazeera, 11 November 2022: see also, <https://acleddata.com/conflict-severity-index/>
20. Whilst the election was not perfect, no evidence has been found of NLD fraud that would have impacted on the election outcome. See Ch.3, note 189.
21. Joe Kumbun, 'Do the Myanmar junta's new "peace-making committees" stand any chance of success?', The Diplomat, 4 March 2021. For liaison with EAOs, Lt-Gen. Yar Pyae was retained who headed the NCA Joint Ceasefire Monitoring Committee and also the Tatmadaw's Peace Negotiation Committee, established the previous November.
22. As precedent warns, the 2010 general election was held under repressive conditions to ensure USDP victory. See e.g., Transnational Institute, 'A Changing Ethnic Landscape: Analysis of Burma's 2010 Polls', Burma Policy Briefing No.4, December 2010.
23. 'Myanmar junta tries to win support of ethnic political parties to change constitution', RFA, 3 November 2022; 'New law raises bar for Myanmar's political parties ahead of general election', RFA, 30 January 2023.
24. 'Myanmar to further extend ceasefire period until end of 2022', Xinhua, 8 January 2022. For unilateral ceasefires, see, Ch.1, note 112.
25. 'Junta attempts to control organizations' operations', Than Lwin Times, 3 November 2022.
26. 'Myanmar's junta brands rival government a terrorist group', Reuters, 8 May 2021.
27. 'KNU: Military Coup Leaders Destroyed Nationwide Ceasefire Agreement – Time to Remove Military from Politics', Karen News, 21 October 2021.
28. 'Junta pledges "year of peace" after Thingyan, but opposition says fight just starting', RFA, 18 April 2022. In a contradictory message, Snr-Gen. Min Aung Hlaing ruled out negotiations with 'insurgent' organisations three weeks earlier, pledging to 'annihilate them' and warning EAOs to live within the 'legal framework': Global New Light of Myanmar, 28 March 2022. Min Aung Hlaing also backed the 'year of peace' by announcing 'Wunna Kyaw Htin' awards for 25 ethnic leaders involved in peace processes (he also awarded himself two). Of the recipients, nine were ceasefire veterans, mostly from breakaway factions, who agreed to become militia leaders during transition from the SPDC era. Seven were leaders from mostly small (with the exception of the KNU and RCSS) EAOs who had signed the NCA. And five were civilians involved in NCA mechanisms and monitoring: Global New Light of Myanmar, 18 April 2022: 4.
29. Sai Wansai, 'Myanmar junta plays games with EAO "peace talks"', Mizzima News, 3 October 2022.
30. Those in attendance were: the ALP, DKBA<sup>2</sup>, KPC, LDU, NMSP, PNLO and RCSS: see also, Ch.1, note 83.
31. 'Assessing Myanmar Civilian Government's Cooperation With Ethnic Minorities', The Irrawaddy, 7 February 2023.
32. See e.g., Smith, *Burma: Insurgency: 175–86 & passim* (see Ch.1, note 2).
33. See e.g., 'Ethnic Armed Group Criticized for Holding Talks With Myanmar Regime', The Irrawaddy 25 May 2022; David Scott Mathieson, 'Myanmar's "peace talks" a dangerous diversion', Asia Times, 7 July 2022; 'Uproars over KNLA-PC and DKBA leaders' decision to meet with military leader again', Karen Information Center, 18 September 2022.
34. 'Junta leader accuses EAOs not attending peace meet of having PDF, CRPH ties', Mizzima News, 14 May 2022. In an apparent rebuttal, the SAC also rejected an attempt by the remaining EAO NCA signatories to call a meeting with the

regime's National Solidarity and Peace Negotiation Committee at the year's end; 'Myanmar Junta Snubs Pro-Regime Armed Groups' Call for Peace Talks', *The Irrawaddy*, 14 December 2022.

35. These views have been represented to TNI by several sources. See also, 'Armed ethnic groups reject junta proposal to join Myanmar military', *RFA*, 9 September 2022; David Scott Mathieson, 'Myanmar Coup Leader's Turbulent Affair With Shan Warlord Yawd Serk', *The Irrawaddy*, 22 September 2022; 'Myanmar Regime not Interested in Genuine Peace Talks With EAOs', *The Irrawaddy*, 28 September 2022; 'Junta chief rejects SSPP's proposal to establish Burmese State', *Than Lwin Times*, 3 October 2022; Sai Wansai, 'Barking at the wrong tree: Wa State, Mongla self-administered division aspirations and SSPP's federal amendment proposal', *S.H.A.N.*, 4 October 2022; New Mon State Party, '76<sup>th</sup> Mon National Day Statement', 5 February 2023.

36. See note 23.

37. 'Myanmar: Increasing evidence of crimes against humanity since coup', *UN News* 12 September 2022.

38. See e.g., Linn Htin, 'Karen army prepares for clashes as junta-allied forces close in on base near Thai border', *Myanmar Now*, 31 May 2022; 'Myanmar Junta Battalion Commander "Among Casualties" in Karen State Battles', *The Irrawaddy*, 10 January 2023.

39. See e.g., 'Soldiers and PNO gunmen stationed in civilian houses in Pekon', *S.H.A.N.*, 5 October 2022; Nyein Swe, 'Resistance, regime forces clash in southern Shan State amid wave of arrests', *Myanmar Now*, 9 January 2023.

40. See e.g., 'ANC, ALP criticise Arakan Army's assertion of exclusive right to Arakanese armed struggle', *Development Media Group*, 18 August 2022; Min Htee, 'Confederate Dreams and Political Realities in Arakan State', *Development Media Group*, 22 October 2022; Maung Tun Kyaing, 'A Dicey Political Landscape Prevails in Arakan State', *Development Media Group*, 16 November 2022. For the assassination of the ALP commander, see Ch.3, note 130.

41. 'Military council is using strategy which creates fighting among ethnics in Kachin, KIO/KIA says', *Myanmar Peace Monitor/NMG*, 25 February 2022; 'Ethnic Kachin Fighters to Attack Pro-Junta Forces in Northern Myanmar', *The Irrawaddy*, 17 May 2022; 'Kachin Resistance Attacks Myanmar Junta-Allied Outposts', *The Irrawaddy*, 4 August 2022.

42. Khin Yi Yi Zaw, 'ZRA attacked in Tedim after

alleged meeting with junta officials', *Myanmar Now*, 21 December 2021. See also, Anthony Davis, 'India's Ties With Myanmar Junta in Focus After Chin Group's Attack on Manipur Rebels', *The Irrawaddy*, 26 January 2022; Rajeev Bhattacharryya, 'India's Frontier Districts Bordering Myanmar to Remain Under Draconian Security Law', *The Irrawaddy*, 8 April 2022; Makepeace Sitlhou & Ninglun Hanghal, 'Insurgents from India add fuel to fire in Myanmar's restive north', *Nikkei Asia*, 19 June 2022.

43. 'Collaboration, Negotiation or Resistance: How Junta Rule Has Politically Fractured Myanmar's Mon State', *The Irrawaddy*, 27 October 2022; 'Mon new armed forces join eradication of military dictatorship', *Than Lwin Times*, 21 December 2022.

44. Lone, 'The Advance and Retreat', see Ch.1, note 84.

45. See note 2.

46. See e.g., 'Myanmar Rights Groups Urge Ethnic Armed Organizations to Shun Junta Peace Talks', *The Irrawaddy*, 27 September 2022.

47. Interview with Dr. Salai Lian Hmung Sakhong, "'This Is Not The Time For Peace Talks": Chin Leader', *The Irrawaddy*, 6 May 2022.

48. 'US Senate Passes Defense Authorization Bill, Including Myanmar Language', *VOA*, 16 December 2022.

49. This includes EAOs. See e.g., 'China's new Special Envoy to Myanmar Meets Ethnic Armed Organizations', *The Irrawaddy*, 29 December 2022.

50. Sebastian Strangio, 'Indonesian FM Says Myanmar Military to Blame for Country's Crisis', *The Diplomat*, 4 November 2022.

51. Amnesty International, 'Myanmar: UN Security Council resolution a small but important step in addressing human rights crisis', 21 December 2022. Only China, India and Russia abstained.

52. For analysis of international challenges, see e.g., Damian Lilly, 'The UN's Response to the Human Rights Crisis after the Coup in Myanmar: Destined to Fail?', *International Peace Institute*, June 2021; Marc Weller, 'Is the ICJ at Risk of Providing Cover for the Alleged Genocide in Myanmar?', *European Journal of International Law-Talk*, 11 February 2022; Civil Society Alliance, 'UN Funds at Risk of Being Used as Weapon Against People of Myanmar', *Karen Information Center*, 15 June 2022; '864 CSOs call for withdrawal of UN Special Envoy's mandate', *Progressive Voice*, 23 August 2022; Bo Kyi, 'UN Mission in Myanmar is Lending Legitimacy to Genocidal Military Regime', *The Irrawaddy*, 7 October 2022; Paul

Greening, 'For UN's Migration Agency, Business as Usual With Myanmar Junta', *The Irrawaddy*, 10 January 2023.

53. 'The Independent Investigative Mechanism for Myanmar says scale and scope of military's abuses have expanded', *Al Jazeera*, 13 September 2022.

54. See e.g., Gareth Evans, 'Applying R2P to Myanmar', *Global Centre for the Responsibility to Protect*, 26 April 2021; Mumyit Sinli Pukdun, 'The Time for Change in International Aid: The Importance of Civil Society', *TNI Myanmar Commentary*, 2 August 2022; Charles Petrie, 'Myanmar Peace Activists Abandoned by International Community', *The Irrawaddy*, 21 September 2022. The last author was coordinator of the Myanmar Peace Support Initiative and ex-UN Resident & Humanitarian Coordinator in the country.

55. 'Myanmar junta peace talks with ethnic groups are a sham', *Mizzima News*, 7 October 2022. For full report, see, Thomas Andrews, 'Report of the Special Rapporteur on the situation of human rights in Myanmar', *Advance Unedited Version*, 3 October 2022.

56. 'ULA/AA Reaches Informal Ceasefire With Regime', *Narinjara*, 30 November 2022.

57. 'Ta'ang Groups Condemn Regime's War Crimes In Namhsan', *Network Media Group*, 20 December 2022; 'Myanmar Junta Calls Ta'ang Army Battle a "Misunderstanding"', *The Irrawaddy*, 19 December 2022. Officials claimed that the real target were anti-SAC PDFs.

58. Nyein Swe, 'Major junta offensive in northern Shan State fails to capture Kokang base, MNDAA says', *Myanmar Now*, 25 December 2022.

59. See e.g., 'Nationwide Ceasefire Agreement: Signatory, Ethnic Armed Organizations', *PPST Briefing Paper*, May 2022. The remaining members also said that the PPST intends to continue talks involving all EAOs regardless of their ceasefire status: 'PPST says an EAO conference is being planned', *Network Media Group*, 14 October 2022.

60. 'RCSS admits to coercion used to achieve some agreements during the NCA process', *Network Media Group*, 18 October 2022.

61. 'KNU says military council is enemy of federalism and democracy', *Than Lwin Times*, 18 October 2022.

62. Interview, 2 November 2022.

63. 'UWSP Shocked By Hpakant Concert Bombing', *Network Media Group*, 1 November 2022.

64. Linn Htin, 'NUG must "build trust to form

more meaningful alliances"', *TNLA leader says*', *Myanmar Now*, 14 October 2022.

65. For unilateral ceasefires, see Ch.1, note 112.

66. Among events, bombs were dropped on the CNF headquarters on the India Mizoram border and civilian villages in Karen and Kayah States as well as Sagaing Region; a Tatmadaw build-up was begun around the SSPP's GHQ at Wan Hai; the CNF, KIO, KNU and KNPP responded with counter-attacks in conjunction with the new anti-SAC formations; the Brotherhood Alliance of the MNDAA, TNLA and ULA/AA urged unity among those fighting 'military dictatorship'; the ALP commander and two colleagues were assassinated; Rohingya rivals overran the main ARSA base on the Bangladesh border; PDFs stepped up armed resistance in Magway, Sagaing, Tanintharyi and other regions; and in a joint statement with 22 political and ethnic movements, the NUG predicted that 2023 would mark a 'turning point' in the civil war; 'Burma Acting President: 2023 Will Mark Turning Point for Myanmar's Revolution', *The Irrawaddy*, 2 January 2023.

67. 'Myanmar: Air strikes have become a deadly new tactic in the civil war', *BBC News*, 31 January 2023.

68. Martin Smith, 'Burma (Myanmar): The Time for Change', *Minority Rights Group International*, 2002: 34.

69. See e.g., National Unity Consultative Council, 'New Year Joint Declaration on the People's Revolution', *Announcement No. (1/2023)*, 1 January 2023, signed by the NUG, NUCC, CRPH and 20 other political, ethnic and civil society movements.

70. See Ch.1., note 45.

The ethnic 'peace process' in Myanmar is one of the most labyrinthine in the modern world. Dating back to 1989, a variety of bilateral, multilateral and unilateral initiatives have been underway. In recent years, they were linked by the aspirations of a Nationwide Ceasefire Agreement and 21st Century Panglong Conference. Both came to a halt with the military coup on 1 February 2021. Since this time, national breakdown has ensued, and a new cycle of armed conflicts has begun. Myanmar today is among the most war-torn lands in Asia.

Using the NCA as a spectrum, this report seeks to analyse the most significant attempt to resolve ethnic conflict by negotiation since independence in 1948. Critical issues include the challenges in the negotiation of ceasefires; the failure to implement the NCA, including military violations; endeavours to overcome peace obstacles while the National League for Democracy was in office; and analysis of how conflict parameters have changed in the fall-out from the 2021 coup.

The NCA, though, did not occur in a vacuum. Over the years, a host of other challenges came to overshadow implementation and focus, undermining peace progress on the ground. Key issues include conflict regression in Kachin, Rakhine and Shan States, people's militia and Border Guard Forces, economic opportunism and exploitation in the ethnic borderlands, and the divergent responses by different international actors. Such factors are integral elements in Myanmar's conflict landscape.

Ultimately, there was no single reason why the NCA failed. The lack of inclusion, implementation, political will and political accomplishment are outstanding. Positioned at the heart of these failures is the Tatmadaw or Sit-Tat. After decades in government, the country's military leaders sought to use the NCA as a mechanism for state control rather than a gateway to ethnic peace and reform. Myanmar was never a land at peace following the NCA's 2015 inception.

Myanmar is currently in its deepest state of civil war in several decades. Repression, violence and humanitarian emergency are sweeping every state and region. All the peoples are suffering. It is thus vital that lessons are learned from the bitter experiences of peace failure in the past in order to build a better path to reform and reconciliation in the future. Any new process to address such challenges must be equitable, inclusive, just and sincere among all parties to contribute to this task.



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#### **TNI Myanmar Programme**

The past decade in Myanmar has witnessed a time of hopes for fundamental reforms but also regression in endeavours to end some of the longest-running armed conflicts in the world. TNI's Myanmar Programme aims to strengthen (ethnic) civil society and political actors in dealing with the social and humanitarian challenges posed while working to bring about an inclusive and sustainable peace. In this programme, TNI's work on agrarian justice, alternative development, conflict resolution and a humane drugs policy come together.