

## **NEGOTIATIONS ON FEDERALISM IN MYANMAR'S PEACE PROCESS SINCE 2011**

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### **Abstract**

This study examines the struggle for federalism among the key stakeholders in peace and political negotiations in Myanmar since 2011. Conflict over power-sharing arrangements has resulted in a long-running civil war. After the 2011 political reforms, federalism has reemerged in peace talks under and beyond the Nationwide Ceasefire Agreement (NCA) regime. However, a narrow sense of both unitarianism and centralism continue to present obstacles to the realisation of a federal system in Myanmar. This paper raises two main research questions: i) How have the major players (especially the government, the Tatmadaw, and the ethnic armed organizations-EAOs) discussed a future federal state? and ii) What are the key opportunities and challenges in national dialogues on federalization?. We argue that ethnic armed conflicts will continue so long as the federal issue remains constitutionally unresolved. We hypothesize that only a genuine level of politico-socio-economic autonomy will allow the conflicting parties to pursue a genuine federalism in the country. This paper employs a qualitative analysis, relying on documentary proposals authored by some EAOs as well as personal interviews with EAOs and political parties, military officers and government authorities. This study concludes with recommendations on how ethnic minority groups can best deal with the ruling government to promote federal constructional reforms during the peace negotiations.

**Keywords:** federalism, peace negotiations, EAOs, Myanmar, NCA

### **Introduction**

Myanmar is composed of multiple ethnic groups, many of whom hold competing interests and territory. The establishment of a federal system in the country is an important precondition for the long-term stability of Myanmar. Demand for this federal system began in the early stages of Myanmar's nation-building and persisted afterwards. However, successive central governments have never made concrete progress towards implementing a federal system. Discontent over this state of affairs is reflected in the rise of ethnic armed organizations (EAOs). Identity-based politics have caused armed

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revolutions between EAOs and Myanmar's Armed Forces (*Tatmadaw*), and violence that have been used as a regular tool by all parties to achieve politico-socio-economic goals. Therefore, Myanmar has suffered the longest-running ethnic armed conflicts in the world, largely motivated by the search for self-determination in their respective territories.

Many authors writing on the topic believe that federalism is divisive for countries with diverse populations, like Myanmar. Roeder (2009) points out that federalism and autonomy arrangements, especially if designed along ethnic lines, may encourage secessionism and ethno-federalism cements ethnic cleavages and thereby keeps ethnic conflict alive. Brancati (2009) agrees that regional parties can foster regional identities that may be mobilised for ethnic conflict or secessionism. In addition, Suberu (2001) declares that federalism serves to foster competition over powers and resources between the centre and periphery as well as among constituent units. Sisk (1996) says that problems of majoritarianism can develop within federal/autonomous units. According to these authors, demands for federalism would be equated with secessionist aspirations in Myanmar. However, this paper argues that federalism could act a promoter for peace and stability in Myanmar, if its focus is on good governance. Conversely, federalism could be an accelerator if its focus is on separation. It is therefore very important to look more closely at the discussions being had by both parties in the peace process to determine what they mean by federalism and if their federal vision will be peace promoting or separatist and dividing.

This paper examines the struggle for federalism among the key stakeholders in peace and political negotiations in Myanmar. Therefore, two main research questions are raised in this paper: i) How have the major players (the government, the *Tatmadaw*, and the ethnic armed organizations-EAOs) discussed a future federal state? and ii) What are the key opportunities and challenges in national dialogues on federalization?. It hypothesizes that building a federal system based on genuine politico-socio-economic autonomy is highly likely to result in a peace and more sustainable state-building in Myanmar. This paper employs a qualitative analysis, relying on documentary proposals authored by some EAOs as well as personal interviews with EAOs

and political parties, military officers and government authorities. Current legal limitations prevent any interviews with non-NCA members.

This paper falls in four parts. In the first part, the historical background is described to have an insightful understanding on building federalism in Myanmar. The discussion on building a federal state between the main stakeholders is approached in the second part. The opportunities and challenges in national dialogues on federalization are analysed in the third part, and finally, brief recommendations on how ethnic minority groups can best deal with the ruling NLD government for the federal constructional reforms during the peace negotiations are mentioned.

### **Historical Background**

Intrastate conflicts in Myanmar have remained one of the major threats for domestic peace and security and have posed additional challenges to the state-building and peace-building process since 1948. Historically, young Myanmar nationalists and major ethnic leaders in frontier areas made attempts to build collective agreement towards a new nation-state in the process of seeking for freedom from Britain. To establish a newly independent state was one of most important goals for all independence-supporters at that time. General Aung San, a national leader, requested that ethnic leaders support his ambition on national unification, guaranteeing that the future Union of Myanmar would be founded on democratic principles and practices.

The Panglong Conference was held in February 1947. Burma, Shan States, Kachin and Chin Hills were the main signatories. They participated in the hopes of equal political rights and participation in the nation's political process. In a sense, the Panglong spirit embodied a sense of collective work for an independent state of Myanmar. Although the agreement had no clause about '*secession*', some significant points referred to democracy, self-rule and equality to be enjoyed after regaining the country's independence. However, the right of secession from the Union after ten years of independence was enshrined in the 1947 Constitution of the Union of Burma if every State applied for this right through a decentralized federal system.

The Panglong Agreement only represented the formally recognized ethnic groups of Myanmar, so that many smaller ethnicities were not included

in that agreement. The ethnic groups' hope for self-determination after independence took an unforeseen direction due to the assassination of General Aung San and his government members in July 1947. Myanmar never formed a federal union, but it became a quasi-federal state which has been led by a majority ethnic group (Burma) in all governing bodies since independence. The policy of 'Burmanization' (promoting Burman culture as the only culture in Myanmar) was a key factor in bringing Myanmar over sixty years of civil war. Nonetheless, the Panglong agreement was the foundation of the 1947 Constitution of the Union of Burma which was approved by the constitutional assembly in September 1947.

To achieve self-governance, the Kayin National Union (KNU) was founded in February and a Union Defence Organization was created in May which was renamed the Kayin National Defense Organization (KNDO) in August 1947. Its aim was to achieve a separate Kayin State. The KNDO's strategy demanding self-determination by means of using armed forces led to a struggle for power-sharing arrangements. The KNU and KNDO tried to control some areas, leading to the enactment of martial law in Karenni State in August 1948, which was extended for another six months. That was the beginning of the domestic crisis and multi-coloured insurgents' issues for Myanmar.

In 1961, Prime Minister U Nu decided to formulate a religious policy on Buddhism as the state religion of the Union of Burma. Indeed, it was the breach of the Panglong Agreement in which the principle of equal rights was agreed for the non-Burmas and non-Buddhists. Promulgation of Buddhism was problematic to some Christian communities. So, some radical groups began armed rebellions to counter the U Nu's government, aimed at gaining their full political autonomy, self-rule, and religious freedom. The Kachins, almost all of whom are Christians, felt particularly distressed on this issue. As a result, the Kachin Independence Army (KIA) was founded in 1961 and immediately began growing in military personnel mobilization.

In the same year, leaders of the Kachin, Chin, Shan and other nationalities attended the 1961 Taunggyi Conference to discuss the formation of the Federal Union. The country's political instability, weak administration, growing ethno-centric problems, and emergence of insurgents paved the way

for General Ne Win to seize the state power and form the Revolutionary Council (RC) in March 1962. The decree of Buddhism was seen as an intervening factor that destabilizes the country and resulted in military rule.

Under the rule of the RC, General Ne Win invited the major ethnic armed groups on 1 April 1963 to give up their weapons legally by issuing a general amnesty. However, few insurgents accepted General Ne Win's offer and the Burma Communist Party (BCP) demanded to hold peace talks with the government instead. Those talks failed due to lack of agreement on the power to secession from the Union. Fear of secession led the RC government to issue a Law to Protect National Solidarity on 28 March 1964 which made one party (Burma Socialist Programme Party-BSPP) as the sole legal political party in Myanmar.

With the establishment of the BSPP on 4 July 1962, the concept of '*Burmese Way to Socialism*' was included in the 1974 Constitution. U Ne Win intended to use the Tatmadaw and his party (BSPP) as the main engines in building an ethnically homogenous state. However, that proved impossible for heterogeneous Myanmar society and it led to more diversity without unity in the country. Some ethnic groups opposed to the 1974 Constitution because they felt that all their rights were removed from their aspiration of democratic principles and federalism.

As a collective group, the Federal National Democratic Front was founded in 1975 and in May 1976, changed into the National Democratic Front (NDF). The group aimed to establish a federal union, based on the democratic principles of self-government and equality and to abolish national chauvinism and military bureaucratic dictatorship as well as the one-party state system. Not denying that these demands led Myanmar to the military regime in 1988.

Under the Tatmadaw government (1988-2010), hope for a democratic state was so diminished that the EAOs believed that their demands could only be achieved through armed revolution. The State Law and Order Restoration Council (SLORC) adopted a policy of '*arms for peace*' and entered into discussions with many major EAOs. The government signed bilateral ceasefire agreements with seventeen armed insurgent groups in 1996 but this did not include the KNU, or others.

After the introduction of the 2008 Constitution, twenty-five armed groups were invited to discuss ceasefire plans. New concerns emerged over the new constitution. Several major EAOs, such as the KIA, disagreed to the Article 20 which stated that the Myanmar Defence Services would be the sole armed forces for the Defence of Myanmar. They also rejected the requirement to transform their forces into Border Guard Forces (BGFs). Only five out of the twenty-five agreed to transform to BGFs and fifteen negotiated to remain as militias. Therefore, only five armed groups did not sign ceasefire agreements with U Thein Sein's government.

Before the new government took power in 2011, some EAOs gave up their arms and others combined or affiliated with their main partners. Therefore, U Thein Sein's government recognized only fifteen EAOs as major actors to the conflict and officially invited them to ceasefire talks on 18 August 2011. Finally, the Union Solidarity and Development Party (USDP) government signed bilateral ceasefire agreements (state level) with fourteen EAOs, but notably not with the KIA/KIO. Among those fourteen groups, only eight signed the Nationwide Ceasefire Agreement (NCA) on 15 October 2015 (See *Table 1.*). The USDP government could not totally achieve a genuine peace, but its positive initiatives would be some extent useful for the current National League for Democracy (NLD) government in the next phase of the peace process.

**Table 1: NCA Members and Non-NCA Members**

No.	NCA-Members	No.	Non-NCA Members
1.	All Burma Students' Democratic Front (ABSDF)	1.	Kachin Independence Organization (KIO)
2.	Arakan Liberation Party (ALP)	2.	Karenni National Progressive Party (KNPP)
3.	Chin National Front (CNF)	3.	National Democratic Alliance Army (NDAA)
4.	Democratic Karen Benevolent Army (DKBA)	4.	National Socialist Council of Nagaland – Khaplang (NSCN-K)
5.	Karen National Union (KNU)	5.	New Mon State Party (NMSP)
6.	KNU/KNLA Peace Council (KNU/KNLA-PC)	6.	Shan State Progressive Party (SSPP)
7.	PaO National Liberation Organization (PNLO)	7.	United Wa State Army (UWSA)
8.	Restoration Council for Shan State (RCSS)		

**Source:** Myanmar Peace Center. "Peace and NCA", MPC: Yangon, 2016.

Since the NLD came to power, it has prioritized national peace and reconciliation and has been trying to build a federal state. One of its main concerns is based on the constitutional amendment. Before moving forward to establishing a federal democratic state, it is necessary to include all EAOs (both of members of NCA and non-NCA) in the political dialogue process. Therefore, a series of the 21st Century Panglong Peace Conferences (21CPPC) has been held in order to review the political dialogue framework under the NLD government. As a result, the New Mon State Party (NMSP) and Lahu Democratic Union (LDU) were able to join the NCA regime on 13 February 2018.

Along with the ongoing political transition to democracy, all interested parties under the peacemaking process have been discussing the development of a federal system, allowing power-sharing arrangements between central and local constituencies. However, federalism alone is not sufficient to ensure sustainable peace. A credible consensus needs to be built on a shared vision of the way forward and on the particular shape federalism will take in Myanmar in the future.

## **Negotiations on Federalism-building in Peacemaking Process**

'Federalism' has been a very sensitive word to previous governments in Myanmar. For incumbent governments, federalism was seen as a first step towards disintegration of the country, resulting in a strong preference towards unilateralism. The 2008 constitution clearly fails to promote the ideals of federalism. The USDP government fully understood that the 2008 Constitution would be unable to usher the establishment of a genuine federal Union as it was envisaged in the 1947 Panglong Conference. The ethnic groups' goal on returning federalism was spearheaded by the USDP government with a move of peace invitation to all EAOs on 18 August 2012. Reforming the 2008 Constitution and forming federalism have been discussed at the third step in political dialogue in accordance with the seven steps roadmap for national peace and reconciliation, adopted in 2013.

However, the 2008 Constitution, even drawn by the military government and came into effect on 31 January 2011, significantly signals positive statements of progress towards the ethnic nationalities' goal for self-determination, stating some provisions for ethnic nationality rights and equality. It also guarantees a multi-party democracy in the country. It can decipher that a future Myanmar federation with decentralization of power will be created. Because it includes a bicameral legislature consisting of an Upper House (*Amyotha Hluttaw*) and a Lower House (*Pyituh Hluttaw*), to be equal representation from each state at the *Amyotha Hluttaw*, and all Union-member states have their own separate State Assemblies and State governments.

The United Nationalities Federal Council (UNFC) called for a system of democratic federalism. Since February 2013, the UNFC has held several rounds of negotiations with the government concerning the framework for a political dialogue. In May 2013, representatives of the UNFC presented a draft Framework Agreement for a national political dialogue to the government. However, different approaches to peace plan made negotiation stalemate. In 2011, the USDP government encouraged EAOs to enter the legal fold (disarm and transform into BGF/PMF, that is, submit to Myanmar Army control) and then to set up political parties to contest elections. If elected, they could discuss political issues in Hluttaw (Parliament) and they could legally run their businesses. In this context, transforming their armed forces into



BGFs/PMFs is not acceptable for some major EAOs. They objected the Article 20 that invites them to become BGFs. In their opinion, it is a very ill-conceived idea and if this system is adopted, the ethnic armed wings could be absorbed into their respective armed police forces. Alternatively, if not well managed, locally commanded BGFs could easily degenerate into bands of border bandits and smugglers. Therefore, a more suitable and sustainable model for integration of all armed forces should be developed.

During its ceasefire negotiations with the government, some EAOs, such as the KIO and its affiliated small armed bodies, adhered to the '*political dialogue first*' principle, whereas the KNU, the CNF, and the RCSS have chosen the '*ceasefire first*' principle. For the first group of EAOs', political talks should work to amend the Constitution and ensuring ethnic self-determination first. They work for an agreement on Federal Union that would be approved and ratified by parliament. In the eyes of these particular EAOs, a national political dialogue is an effective tool. This dialogue would ideally take the form of a national conference in which all the relevant interest groups of a state would participate and present their ideas for the country's political future. An officer interviewed from the USDP has the second view. He commended that political dialogue would be coming after ceasefires and development had been achieved. An anonymous interviewee from Kachin State said that this position is worrisome for those EAOs who had past experiences in which they were only allowed to engage in their business but not in political talks. It can be seen that there remains some mistrust about the government's good will to its peacemaking process.

Since 2013, the USDP government had paid special attention to concluding a NCA with all invited EAOs because of the desire to gain political good-will and to win the 2015 election. However, some EAOs still say they prefer more political dialogue before signing any ceasefire agreement. According to the USDP, the NCA was intended to include political dialogue around the creation of federalism. After achieving armistice nationally, the USDP promises that structures could develop to broaden the scope of dialogue to include political parties and other representative groups. However, for this to occur, the USDP requires that a ceasefire must be agreed upon first. In the end, eight EAOs signed the NCA, demonstrating to some,

the power of the government in negotiating the peace process. One of the NCA-signatories explained that it saw the current peace process as the first step towards reestablishing the federal structure Myanmar had before the military seized power in 1962 and abolished the 1947 Constitution.

During their political dialogues, the NCA signatories focused on establishing basic principles for new federal union of Myanmar, including the principles of equality, self-determination, minority rights, secular state, democracy, human rights and gender equality. The representative body of EAOs (i.e., UNFC) demanded equal rights and equal opportunity for all citizens before the law. They asked for all ethnic groups to be afforded equal rights to promote and protect their culture, language, religion and national identity. They demanded all member states be granted equal political powers and rights.

In addition, the interesting parties also claimed to protect the minority groups' rights and to develop their own characteristics and personal autonomy. Moreover, they called for a secular state in which it must legally forbid using of religion for any political purposes in the new federal constitution and the Union must stand on neutrality in any religious matters. Based on democratic principles, freedom of speech and expression, freedom of religion, freedom of association, freedom of movement, freedom of voting and contesting general elections, freedom of holding public office, freedom of pursuing an education and a professional life, and freedom of pursuing happiness in life have to be enshrined in the new Federal Constitution of the Union of Myanmar. This includes gender equality, equal rights and equal opportunity for every citizen regardless of gender, race, ethnicity, language, religion and age.

The participants in the peacemaking process discussed that the 2008 constitution differs significantly on several points from the EAOs' proposed ideas on a new federal state. For example, no state constitutions and no quota for women participation in the political domain are enshrined in the 2008 constitution. The EAOs claimed that states should have the right to draft their own constitutions. Another of their concerns is based on equality. The 2008 constitution is uncertain about equality. The 2008 constitution is uncertain about equality. Nonetheless, a number of ethnic nationalities are satisfied, to a

certain extent, with this constitution because it can democratically guarantee the rights of all citizens, political equality for all ethnic nationalities, and the internal rights to self-determination for all member states of the Union of Myanmar.

In regards with the role of military, many EAOS see the 2008 constitution providing for unbalanced power between the military and civilian government. Some argue that the military-backed 2008 Constitution gives almost absolute power to the Commander-in-Chief to stage a coup d'état when need arises. Moreover, the President has no direct power and no command in managing and administrating the military affairs although he is the Head of State. One NCA member interviewed suggested rebalancing military and civilian power (i.e., right of military intervention should be removed) as an important step in the peace process.

Forming a federal army is another contentious issue between the Tatmadaw and its dialogue partners. Two Articles of the 2008 Constitution are particularly contentious: "*The main armed force for the Defence of the Union is the Defence Services (Art. 337). All the armed forces in the Union shall be under the command of the Defence Services (Art. 338).*" The Tatmadaw is assumed here to be the sole people's army or union army. One EAO member suggested that the military habitually shows off its internal legitimacy as the main guarantor of national unity and sovereignty. In their federal proposal, the EAOs demand to have a separate defence force for their respective states. With regard to the formation of a federal army, the Tatmadaw has consistently resisted to accept a building a separate federal army because the Tatmadaw considers itself a union army and believes that all the armed forces must be under its command (Article 338). According to Article 386, every citizen has the right to join the country's armed forces. In principle, the Union Peacemaking Working Committee (UPWC) agreed to form a federal union proposed by the EAOs which would mean that a federal army would be built in accordance with federal lines in the future.

Efforts are currently being undertaken to initiate a national dialogue process under the NLD government as well. Non-secession is the primary concern for both the government and Tatmadaw. This issue arose at the second round of Myanmar's 21CPPC, held in May 2017, under the leadership

of the NLD government. Many EAOs have persistently sought recognition of their rights to equality, self-determination and to draft their own state constitutions in the Union Peace Dialogue Joint Committee (UPDJC) meetings. In the views of the government and Tatmadaw, conceding the right to self-rule to the EAOs might result in secessionism in the future. Therefore, these upper-handed peacemakers said that the EAOs must first commit to non-secession in order to end the long-standing separation debate. Many believe that the government and Tatmadaw have tried to delimit the political rights of the EAOs with a string of non-secession commitments. The EAOs are being asked to give a political guarantee of non-secession and are being promised in return a democratic federal system. Some EAOs agreed in principle to the idea of non-secession and accepted integration into the Union. However, as a precautionary measure, some EAOs submitted a proposal for an exceptional clause to be added specifying they would not secede from the Union as long as their demands for equality and a federal system are carried out. Most EAOs declared that they have strong desire to remain part of the state of Myanmar, but only if their rights to cultural, economic and political autonomy are guaranteed. Although this issue was skipped in subsequent rounds of talks, it has still become a matter of critical importance for all peacemakers that will need to be dealt with soon. Succession remains a potential roadblock for peace.

Another important issue lies in the check-and-balances system. According to the 2008 Constitution, state power is divided into four different branches with equal power: President, Parliament, Military and Political Parties. However, Myanmar is not comparable to the checks-and-balances system of most democratic systems. The constitution seemed to ensure that former military leaders remain powerful and protected. No other group can become too powerful over the others. Although this issue could be gradually changed, the 25 per cent quota of non-elected military personnel in the law-making bodies at both Hluttaws remains a major issue for establishing a federal democracy in Myanmar. Therefore, it is necessary to legally amend the 2008 Constitution as part of a future legitimate political process.

## **Opportunities and Challenges**

There is no doubt that the structure of the current peace process in Myanmar indicates the best opportunity to address the political, social and economic issues that have long driven armed conflict. Although negotiations between the government and ethnic armed groups have struggled to reach agreement on a number of key issues, it has made progress. The NCA was signed on 15 October 2015 and the NCA regime is currently composed of ten EAOs. The USDP government's peace plan made significant progress in bringing key actors to the negotiation table and the NLD government has been working to achieve a federal settlement.

Despite provisional agreement on a number of substantive issues, all parties could diplomatically restructure their state-society relations through peace talks. President U Thein Sein started the first move towards a federalism-building. In principle, he and some EAOs understood that ethnic conflicts could be resolved by holding concrete peace negotiations through which the ethnic nationalities' goal on the self-determination, federalism, and ethnic equality could be discussed. Indeed, the USDP government supported the introduction of a federal system and publicly it was stated in the President's occasional speeches. However, a common position on the issues of federalism and constitutional reforms did not reached at the USDP party congress, held at the end of June 2013. Some concluded that most USDP members are former military persons who had the same ideas with the military ideology and are not willing to make any major concessions towards federal reforms. Few USDP soft-liners did not concur with those hard-liners on this issue in their circle.

In contrast, the incumbent NLD government has publicly stated that constitutional reform is one of its main priorities and it is highly supportive of a democratic federal union. Its strong stance on federalism will unquestionably be of major significance for Myanmar's future. As a positive sign, the Commander-in-Chief Senior General Min Aung Hlaing, for the very first time, used the word 'federalism' at the second session of the 21CPPC. In principle, the military has accepted this system, but he, at the previous conference, only paraphrased the word 'peace and unity' instead of using the word 'federalism'. In his speech, building a democratic federal union can be

created with the results from political dialogue based on freedom, equality and justice, without damaging the three main national causes: non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty.

Federalism is one of the main themes of the ongoing peace process. The process has successfully involved a number of parties in a series of political dialogues, giving them the chance to express their political, social, economic and cultural views and voices. Although there is lack of all-inclusivity in the NCA, the NLD government invited both NCA members and non-NCA members to join the series of the 21CPPC to collectively craft a Myanmar model of federalism.

Despite enormous opportunities, several challenges complicate the idea of federalism. In reality, the core demands (self-determination and equality) are not problems at all for the democratic NLD government. However, the military behind the government sees that federalism has a potential to lead to separatism. The military have no tolerance for any possibility of disintegration of the Union.

Another pitfall in the negotiation process has been the vertical role of elites. Many EAOs leaders say they feel powerless. Some have argued that the constitution does not allow the NLD government to be above the military and therefore that the NLD must always agree with the military on all political matters. The military appears to having influence over the negotiations. It is noted that the ethnic movement cannot be avoided if their different perceptions are unequal with the government's policies.

The most important challenge lies in the internal right to self-determination for all ethnic nationalities of the Union. The right to self-determination can be achieved through the development of state/region constitutions. Without any state/region constitutions, it would be difficult to structure any kind of federal arrangements or power-sharing procedures. Without a state/region constitution, any kind of talk of self-determination is meaningless. So long as internal self-determination is absent, there is no guarantee that ethnic nationalities in the country would be able to protect, promote and preserve their respective language, culture, religion, way of life, homeland and their respective ethnic national identities. Without a state

constitution, a state/region governments struggle with weak Assemblies and remain dependent on the central government for key law making actions.

In order to have control of and responsibility for local issues, concrete institutional arrangements have to be established in all states/regions while there is no state/region constitution. The launching of meaningful regional self-governments still need to be worked out in many details, but it can be accomplished within a national political framework. One crucial challenge is that many parties cannot clearly articulate what kind of federalism Myanmar should create to replace the current 2008 constitutional framework. Currently, lack of unity in the EAOs' representative body, no cohesive plan and no collective demands are also challenging to the upcoming peace talks and will present a challenge in establishing a federal nature of Myanmar. Unfortunately, the remaining EAOs seem to be showing no sign of joining the NCA in the near future, demonstrating their lack of trust in the peace negotiations. This is another challenge for the federal dream. An inclusive political dialogue is essential in multi-ethnic diversity of Myanmar.

### **Conclusion**

Achieving the goal of federalism is an essential pre-requisite to ending long-standing armed conflicts and securing a sustainable peace in Myanmar. The call for a federal system of government has been growing louder since 2011. With increasing local recognition of this matter, the failure to achieve this goal will almost certain pose a significant obstacle to national integrity, reconciliation and the maintenance of law and order in the country. A political dialogue is the only mechanism for nation-building with federal system in which various stakeholders (the government, the political parties, the Tatmadaw, the ethnic and religious minorities, EAOs and representatives of Myanmar's civil society) have to have meaningful involvement in this process.

The 2008 Constitution is not federal in nature. It stipulates a largely centralist unitary state. Most importantly, it suggests that reforming the current constitution is significantly less risk than creating a new one. Changing the structure of Myanmar into that of a federal state would require changing the constitution, but this, under the 2008 constitution, could only be

achieved by 75 per cent majority consent in a parliament in which a quarter of all seats are held by members of the military. Therefore, the proposals to the constitutional amendment should not be used as a political tool to prevent further peace negotiations. If the peace talks were unsuccessful, the Tatmadaw would use its absolute right to use of force that is constitutionally provided to.

Federalism should not be seen as a “*one-size-fits-all*” approach. Federal and autonomy arrangements have received much positive attention as means to manage ethnic conflict and ethnic movement because they foster minority rule and increase opportunities for political representation. Federalism can become an even more effective constitutional tool to prevent and resolve conflicts the more it is understood and used as an instrument to promote good governance and inclusion instead of ownership and exclusion. There is no recipe as to the right balance of such instruments, but awareness of the consequences of each of them is often lacking and this represents a danger. Nonetheless, the constitutional reform is not a problem if Myanmar goes through a democratic federal system in which political and economic reforms, resource distribution, sharing political power, rebalance civil-military power, adoption of proportional representation, armed forces integration, and public finance system are well established or functioned. Otherwise, federal reforms, not based on a broad consensus among the elite, might thus prompt the military to block the current reform process or even to stage another coup.



## References

### Books

Sakhong, H. Lian and Keenan, Paul. *Ending Ethnic Armed Conflict in Burma: A Complicated Peace Process*, "A Collection of BCEF Analysis and Briefing Papers," Burma Centre for Ethnic Studies, BCES Press: Chaing Mai, 2014.

Taylor, Robert. *Myanmar's Military and the Dilemma of Federalism*, Issue No. 7, ISEAS: Singapore, 7 February 2017.

### Working Papers

*Changing the Governing System should be the Centrepiece of the Peace Process* (Retrieved on 22 June 2018 from <http://www.eprpinformation.org/en/peace-resources-section/myanmar-peace-process-analyses/changing-governing-system-centrepiece-peace-process/>)

Lorch, Jasmin and Roepstorff, Kristina. *Myanmar's Peace Process*, "The Importance of Federal Reforms and an Inclusive National Dialogue", SWP Comments 29, German Institute for International and Security Affairs: Berlin, September 2013.

*Political Reform and Ethnic Peace in Burma/Myanmar: The Need for Clarity and Achievement Myanmar*, Policy Briefing No. 14, Transnational Institute (TNI): The Netherlands, April 2015.

### Journals, Newspapers and Others

Lintner, Bertil. A Federal Model that Fits. *The Irrawaddy*, Yangon, March 2014.

*Myanmar Peace Center*. "Peace and NCA", MPC: Yangon, 2016.

*The Global New Light of Myanmar*, 14 February 2018.

*The Global New Light of Myanmar*, 25 May 2017.

### Interviews

Interviews were conducted with the main resource persons engaged in the peace process, in Kayin State and Naypyitaw in April and June 2016, and in Mon and Kayah States in January and November 2018, respectively.