

Assessing the Peace Process

An EBO commentary on the ICG's 'Rebooting Myanmar's Stalled Peace Process'

The following paper has been written in response to the International Crisis Group's latest Report No.308/Asia of 19 June 2020, 'Rebooting Myanmar's Stalled Peace Process' and is designed to further complement and put forward some of our conclusions to facilitate further discourse.

ICG's Executive Summary

The Panglong-21 peace conference would be largely symbolic and do little to address the fundamental obstacles on Myanmar's road toward sustainable peace... the primary objectives for both sides are modest. The NLD sees the Panglong-21 meeting mostly as a way to boost its political campaign, while ethnic armed groups want to ensure that the peace process continues after the vote, regardless of who comes to power.

The ICG fails to understand that ensuring the peace process continues after the elections is not symbolic and it is not a modest objective. It would be a very significant achievement.

The Tatmadaw has never believed in negotiations and still does not. In 2011, for the first time in over sixty-four years, Thein Sein, decided to try to find a political solution to the civil war. If the talks do not continue after the elections, it means a return to war. The Commander-in-Chief has in the recent past stated that the peace talks must end by 2020 and that the ethnic forces must be either disbanded or demobilized. Aung San Suu Kyi has also said that she wants the peace talks to end by 2020. If both of them can be made to agree to continue the peace talks beyond 2020, it would be a major achievement indeed.

The election period, however, will also be an opportunity to reflect on how to take the peace process forward... The current government, the military and ethnic armed groups should use this period to review their own strategy and goals, ramp up informal dialogue and examine crucial issues that have so far been put aside, such as the growth of the illicit economy and the mounting might of military-aligned militias... This downtime constitutes a unique opportunity for all parties to reflect on how to restart the process with a more constructive approach in 2021.

The downtime may apply to the government and the Tatmadaw. ICG has mistakenly assumed that the ethnic armed organizations (like the government) have been idle during the two-year period when the peace talks were deadlocked (2018 and 2019). The ethnic armed organizations (EAOs) have been very busy reviewing their strategy and goals, having intense internal dialogue and examining crucial issues in order to see how they can be addressed in a way that will be acceptable to all stakeholders. They do not want to go back to war and are committed to trying to find political solutions. They have not had, and will not be having, any downtime. The problem lies with the government and the Tatmadaw.

If the NLD forms the next government... it should... reinvigorate its leadership of the peace process. Overcoming the deadlock in negotiations toward a political settlement requires a fundamental shift in approach. As a first step, Naypyitaw should overhaul institutions like the National Reconciliation and Peace Centre.

Agreed. The NRPC could also be expanded to include senior military commanders like the Commanders of Special Bureau Operations, Speakers of Parliament and Chief Ministers, to enable the NRPC to have more capacity to solve problems. It may also be useful to ensure that the Comander-in-Chief is a member of the Joint Implementation Coordinating Meeting (JICM) which is supposed to be a deadlock breaking body. However, this is easier said than done. As stated in the last sentence of the ICG Report, *“the onus will be on the NLD government to articulate a new, more inclusive vision for the peace process and to exhibit the political will to make it a reality”*.

IV. The Need for a Decisive Shake-up

Articulate a new vision for the peace process. The NLD approached the peace process in 2016 as a means to an end – achieving its desired constitutional reforms – and the hollowness of its commitment soon became apparent... the NLD should articulate a vision that goes beyond the platitudes that presently dominate its statements and more clearly distinguishes its own position from that of the military.

Agreed. However, how does one gather grapes or figs from a thorn bush? One cannot. Similarly, it is impossible for the NLD to articulate a vision of a future federal democratic union when its leaders have no empathy or understanding of ethnic grievances.

Back up this vision with short-term actions. The 2008 constitution is a barrier to decentralisation of power... Nevertheless, the NLD could do much more under the current framework to signal its commitment to granting more autonomy to ethnic minorities.

Agreed. But if the NLD was serious about amending the 2008 constitution, it could have done so in several different ways. One was through the peace process. The Tatmadaw has already agreed that if the peace process required the 2008 Constitution to be changed, it could be changed. Why then did the NLD not seriously consider changing the Constitution through the peace process? Instead, it paid lip service to the peace process and tried to change the Constitution (at the eleventh hour) through the parliamentary system. Then instead of changing the Constitution on points where the Tatmadaw is already in agreement, such as the President appointing chief ministers based on election results for State legislative assemblies, the NLD went for reducing the number of military appointed parliamentarians, which they knew the Tatmadaw opposed. In other words, the NLD went for the impossible. Cynics would say that the NLD did so just to emphasize to the general public that it is really committed to changing the Constitution but could not do it because of the Tatmadaw. The message being, if you want the Constitution changed, you must vote for us again, or the Tatmadaw will never change it. The Constitutional change process also showed that the NLD is not serious about decentralizing or federalism even though Aung San Suu Kyi makes a big show of it. Ethnic nationality parties made many recommendations to the Constitutional change committee on which articles should be amended. But none of their recommendations were accepted? Why? The

amendments were selected based on a simple majority vote. So which amendments were selected? All the NLD amendments. Therefore, the question remains. If the NLD could have done all the above in its first term and did not, why would they do it in their second term?

Overhaul and expand the peacemaking team ... The NLD should look both within its own ranks and its broader network to overhaul and expand its current team by bringing in full-time members and advisers from diverse backgrounds, including business leaders, political representatives, civil society leaders and academics, who have the commitment and vision to help the government drive the process forward.

Agreed. But again, the NLD could have done all the above in its first term. It did not do so and will still win a second term in office. Why should they do it now? There is no political incentive.

Empower peace representatives. The government's decision-making process is highly centralised in the office of Aung San Suu Kyi. The representatives it sends to negotiate are not empowered to make decisions and instead have to relay proposals back to headquarters. "We are like messengers", said one negotiator. "We note down what the ethnic armed groups say and give it to [the State Counsellor's Office]".

Agreed. The Tatmadaw representatives do the same thing. There has been no real negotiation since 2016. Both Aung San Suu Kyi and the Commander-in-Chief have given themselves veto power and exercise it often. There is no appeal and no discussion. They do not delegate power. Again, one cannot gather grapes or figs from a thorn bush.

Prioritise genuinely informal dialogue. The Thein Sein administration's peace team developed trust with ethnic armed group leaders in part through regular informal meetings at which issues could be discussed openly... More recently, the government has recognised the importance of more open dialogue, but it has yet to pursue genuinely informal talks.

Agreed. But it is doubtful that Aung San Suu Kyi has truly recognised the importance of more open dialogue. To her, it may be just another tool to get what she wants. Aung San Suu Kyi herself prefers formal meetings with set agendas and bureaucrats also want everything controlled and recorded. It will again be like trying to gather figs and grapes from a thorn bush.

In parallel, the military should:

Halt infrastructure projects in ethnic armed group territory. The military's construction of a strategic road through Karen National Union-held territory in Kayin State – and the inability of the Joint Ceasefire Monitoring Committee to resolve the dispute – was one of the key reasons that the Karen National Union withdrew from the peace process in 2018... The military should immediately stop building infrastructure in areas under the control of ethnic armed groups.

Agreed. But the Tatmadaw will not stop unless and until it revises its policy of resolving political problems using armed might. They cannot stop because these roads are strategic roads necessary to

surround and control the KNU. In discussions, they have admitted that the roads are strategic – not to control the KNU, but to repel a Thai invasion.

Demarcate territory with NCA signatories. The military has argued that building the road in Kayin State is not a violation of the NCA in part because territory has not yet been demarcated... Immediately demarcating territory would rebuild some trust and create more confidence among ethnic armed groups that the military is genuinely interested in a negotiated solution, rather than using the NCA to weaken the ethnic armed groups' hold over their territory, as has often been the case in the past.

Agreed. But the Tatmadaw cannot agree to territorial demarcation because they believe that if they agree that certain territories are under the control of ethnic forces, they will be ceding sovereignty over those areas. Unless and until they can wrap their minds around it, they will not accept demarcation. Some ethnic forces are also wary of territorial demarcation because they are afraid that they will be boxed in and not have the flexibility to move about at will. Be that as it may, territorial demarcation is not the only way to achieve a separation of forces. Different methods can be used as long as people have an open mind and are willing to discuss mutually acceptable solutions. So far, the Tatmadaw has not shown any flexibility on this matter.

Together, the government and military should:

Strengthen the joint nature of the peace process. The peace process is supposed to be co-managed by all parties, but the government and military have been reluctant to genuinely share control with ethnic armed groups... Introducing a rotating leadership, particularly for the Joint Ceasefire Monitoring Committee, would send an important message that these bodies are “joint” in practice and not merely in name, and could help to make them more effective.

Agreed. The jointness of the peace process was emphasized in the NCA. The Tatmadaw deliberately ignored it in the Joint Ceasefire Monitoring Committee (JMC) from the very beginning. The government was less obvious in the Union Peace Dialogue Joint Committee (UPDJC) but, under the NLD, it is very clear as to who calls the shots. Instead of a rotating Chair for the JMC and UPDJC, creating Joint-Chairs could also help. But until the government (including Kyaw Tint Swe and Dr Tin Myo Win) and the Tatmadaw truly accept that they are negotiating with equals, this will not change.

Strengthen the ceasefire and adhere to its terms. The failure to implement some ceasefire terms or to jointly define terms in the text such as “ceasefire areas” and “interim period”, have sapped confidence among signatories and discouraged other ethnic armed groups from signing... The government and military should work with NCA signatories to clarify key sections of the ceasefire accord and begin implementation of the interim arrangements, such as those that specify coordination on health, education and social development. Most pressingly, they ought to coordinate on measures to prevent the spread of COVID-19.

Agreed. Again, the NLD and Tatmadaw could have done all the above since 2016. There was no political will. What will have changed to make them reconsider? The EAOs have reached out to both the government and Tatmadaw regarding measures to prevent the spread of Covid-19. In typical bureaucratic fashion, Joint Committees have been set up, while the Tatmadaw has been destroying Covid-19 testing stations set up by KNU.

Adopt a more flexible policy toward NCA non-signatories. Presently, ethnic armed groups that have not signed the NCA are unable to formally participate in political dialogue negotiations toward a Union Peace Accord... Without their participation, the process lacks legitimacy and inclusivity. The government and military should adopt a more flexible policy.

Agreed. There was no good reason to exclude the Non-Signatories in the NLD's first term. Unfortunately, Aung San Suu Kyi accepted the Commander-in-Chief's definition of the peace process as a security matter and listened to his advice. Until this definition is changed, it is unlikely the NLD will be more flexible in its second term. Under Thein Sein, the peace process was a political matter which falls under the mandate of the President.

For their part, ethnic armed groups should:

Clarify policy positions on key issues. Ethnic armed groups have yet to clearly articulate what they want from the peace process beyond statements covering broad ideals... Most urgently, ethnic groups should detail the powers they would want ethnic minority-dominated areas to have under a federal system.

Agreed. This has been an on-going debate for at least the last two years, if not since the beginning of the peace talks in 2011. The EAOs should also put forward their own vision of how they see a future federal union functioning.

Sequence demands to build trust. Ethnic armed groups that have signed the NCA should give careful consideration to how they approach negotiations after the election. Immediately pushing for significant political concessions, such as the withdrawal of the Myanmar military from politics... could further harm relations with senior government and military leaders. A better approach may be to focus on less controversial topics – for example, land law reform... in order to build trust and avoid a backlash, and then make progress over time on the bigger issues of federalism, power sharing and integration of armed forces.

Agreed. This has also been an on-going debate for at least the last two years, if not since the beginning of the peace talks in 2011. But to begin with land reform may not be a good idea. The Tatmadaw is one of the largest landowners in Myanmar – mostly acquired through confiscation in the 'national' interest.

All parties should:

Simplify the peace process structure. The present architecture is overly complex, particularly the aspects dealing with the political dialogue process (see Appendix B).

Agreed. All stakeholders have been debating this for at least two years. It is on the agenda for the peace talks if the talks are continued after 2020.

Enhance women's role. Despite commitments in the NCA and framework for political dialogue that women would be given a significant role, the peace process remains dominated by older men... Away from these large conferences, women hold even fewer positions on key peace process institutions, such as the Joint Ceasefire Monitoring Committee or Union Peace Dialogue Joint Committee... Many women in Myanmar have valuable political experience as mediators, facilitators, negotiators and peacebuilders but are excluded from formal processes... All parties should create opportunities for women to meaningfully participate in every aspect of the peace process and future governance, not just peace conferences.

Agreed. The participation of women and youth in the peace process has been pushed by EBO since 2012. But it is easier said than done. Just look at the internal decision-making structure of the NLD – centralized and almost exclusively male-dominated, ditto the Tatmadaw and the EAOs. Aung San Suu Kyi also does not want any competition – especially from capable females. Without youth participation, it is also doubtful that the peace process will be sustainable as older leaders fade away. However, unless Aung San Suu Kyi and the NLD changes, it is not likely the peace process will change anytime soon.

Finally, donors and non-governmental organisations should help all parties to:

Begin examining the economics of conflict. To date, the peace process has focused on reaching political solutions to Myanmar's conflicts. On their own, however, these are unlikely to suffice. Armed groups, including Myanmar military-aligned Border Guard Forces and militias, rely on various sources of mostly illicit income and almost certainly will not give up their arms without a viable plan for replacing (them)... In parallel, however, donors could begin supporting non-governmental organisations, think-tanks and independent researchers to undertake detailed studies on the economic dynamics underlying the conflict... Similarly, the next six to twelve months offer an opportunity for the same groups to devote time and resources to studying other important but overlooked political economy issues – the China-Myanmar Economic Corridor (part of China's Belt and Road Initiative)

Agreed. As pointed out by ICG, Border Guard Forces (BGFs) and militias and some EAOs rely on illicit income. BGFs are paid by the Tatmadaw and have Tatmadaw troops embedded within each BGF unit to manage their finances and logistics. Militia are more independent but come under the command of the Tatmadaw. Therefore, income substitution for the BGF and militia will not be sufficient. Income substitution for the Tatmadaw will also have to be studied if such studies are to have any impact. The Tatmadaw is also a key major player in Myanmar's formal economy. The

studies may, therefore, need to be very comprehensive and will definitely need more than six months to complete.

Another area donors could consider funding in the interim period is sub-national dialogues at the State and Regional-level in preparation for the renewed peace talks post 2020. Both Aung San Suu Kyi and the Commander-in-Chief have agreed that in a future federal union, each constituent state should have its own 'state' constitution. Such state-based concepts will require stakeholders at the sub-national level to also dialogue, research and document data for each of their own State or Region. The 'National' dialogues in various States during 2012-14 were very successful in getting the public to be excited about and buy-in to the peace process.