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THE UNFC AND THE PEACE PROCESS

OVERVIEW

At the beginning of June 2013 the United Nationalities Federal Council (UNFC), an alliance representing 11 armed ethnic groups, took the unanticipated decision of withdrawing from the Working Group for Ethnic Coordination (WGEC). The WGEC had been formulating a framework that would focus on upcoming political dialogue including the agenda, the composition, the mandate, the structure, any transitional arrangements, and also its core principles.¹

After the WGEC had created the framework that would be used in the peace process the UNFC declared that the WGEC was no longer relevant. And, as such, should be disbanded thus allowing the UNFC, using the framework, to be the sole negotiator with the Government. According to UNFC General Secretary Nai Han Tha:

The main object for setting up the WGEC was to design a draft framework for political dialogue with the government . . . Now that the work is completed, we have to focus on the negotiations with the government instead.

Khun Okker, the UNFC joint Secretary - 2 stated that one of the main reasons for the UNFC's withdrawal from the WGEC was that:

We came to a hitch concerning the formation of the negotiation team . . . The WGEC wanted an overhaul (to make way for non-UNFC movements) while we could allow only a UNFC plus arrangement.

According to the Euro-Burma office which supports the activities of the WGEC, the WGEC itself had proposed that a negotiating team be formed, in March 2013, for all armed ethnic groups.² It was this proposition, that would have been all-inclusive involving both UNFC and non-UNFC members, that led to the UNFC withdrawal and its call for the WGEC to be disbanded.

In an attempt to consolidate its negotiating position and secure further support for such a mandate, the UNFC organised a multi-ethnic conference from July 29 to July 31 in Chiang Mai, Thailand. In total 122 delegates attended including 18 armed ethnic groups and the United Nationalities Alliance (UNA) which is comprised of ethnic political parties that had contested the 1990 election. In addition, representatives from the United Wa State Army (UWSA), the National Democratic Alliance Army

(NDAA) and exiled representatives of the Myanmar National Democratic Alliance Army (MNDAA)³ also attended. Neither the Restoration Council of Shan State (RCSS) nor the Karen National Union attended the conference.⁴

THE ETHNIC NATIONALITIES CONFERENCE

The conference resulted in six major points being made:

- (a) To form the present Union of Burma/Myanmar into a Federal Union of national states and nationalities states, having national equality and self-determination;
- (b) To practice federal democracy in this Federal Union;
- (c) To form Federal Union Defence Forces that will defend the Federal Union from external dangers;
- (d) The current 2008 Constitution practiced by U Thein Sein government is not accepted, as it is devoid of democratic essence and not in accordance with the principles of federalism. A new Constitution based on genuine federal principles will be drafted and promoted for practice;
- (e) The UNFC and UNA will lead in drafting the new Constitution, and a drafting committee consisting of representatives from the democratic forces, women organizations, youth organizations, CBOs and other organizations will be formed, as part of the realization of the aim.
- (f) In political dialogue and negotiation, the 6-point political program, laid down by the Ethnic Nationality Conference held in September 2012, will be followed. In political dialogue and negotiation, all the resistance organizations are to be represented as a bloc, and not individually.⁵

In addition, the UNFC's 2 August statement noted that

In meeting with the democratic forces, agreement was reached for the formation of a Bama/Myanmar state, with a view to expressing the equality of all the national groups in the country.

To what degree such aspirations can be achieved by the UNFC remains a matter of conjecture. The fact that the Karen National Union and the Restoration Council of Shan State, two of the largest and most influential armed groups, were not party to the conference remains a major hurdle. Both groups have suggested that they sought to represent themselves individually in the negotiation process with the Government. In a joint statement issued after the UNFC walkout from the WGEC they noted that:

Over the past year, the 18 ethnic armed groups have worked together to develop a framework for political dialogue with the Government. Armed groups have committed to this framework in order to ensure that the peace process does not stop with individual ceasefires. Groups continue to work together to ensure that the peace process moves forward. In the spirit of the words of the late Karen leader, Saw Ba U Gyi, "The destiny of Karen people will be decided by the Karen People," each armed group retains the legal authority and mandate to negotiate with the government on behalf of their people.⁶

Consequently, both the KNU and RCSS see the attempt by the UNFC to control the negotiations as detrimental to the gains they have so far achieved. While there is yet to be substantial peace on the ground and minor skirmishes continue to occur in Karen and Shan States, the leadership of both groups believe in the current process and that it should continue to move forward supported by the WGEC. They see the UNFC role, acting as a sole negotiator, as counter to their attempts to achieve

peace believing that it could either delay or force individual groups to adopt policies that do not best serve their individual peoples' interests.

The WGENC maintains that it was more than willing to have a joint-negotiating team, considering that WGENC members, including those in the UNFC, had collaboratively created the framework. However, the UNFC had refused the offer due to the fact that the UNFC had already created a negotiating team, although it did state that members who wanted to join the UNFC could be given a place on such a team.⁷ Additionally, further problems were highlighted in relation to the UNFC when the KNU stated that David Thackerbaw, formerly vice-president of the KNU and UNFC vice-chairman 2, had no mandate to negotiate on behalf of the KNU.⁸

Further concerns were raised when it was stated that the UNFC had proposed that Daw Aung San Suu Kyi be involved in the process. According to Padoh Mahn Mahn, Joint-Secretary 2 of the KNU and head of the UNFC technical team, it was his belief that:

It is necessary to have her at our talks at least as an observer if not a mediator. If we hold talks without mediators, we will face some problems when discussing sensitive issues such as military matters. And it is not good to have tension between us. So, we asked for mediators to avoid such tensions,⁹

Both the KNU and the RCSS repudiated the idea that help was needed in the process noting in their joint-statement that:

Numerous sources have referred to the use of mediators or facilitators. The dialogue process in Burma is very complicated, with multiple stakeholders simultaneously involved.

This is not conducive to use of a single mediator. To overcome this situation, the National Dialogue process designed by ethnic armed groups enables all stakeholders to address their concerns without the use of mediators. As the process matures, stakeholders can request to utilize mediators or facilitators for specific discussions. Normally, stakeholders do not act as mediators or facilitators.¹⁰

Another issue raised by Padoh Mahn Mahn was that:

If a political agreement comes after a nationwide ceasefire agreement, the peace process will even go backward, like previous experiences that some ethnic armed groups have faced . . . To ensure that the peace process won't go backwards, we proposed that a concrete and specific agreement on a political framework must come at the same time as a nationwide ceasefire agreement,¹¹

One of the major results of the conference was outlined in article (e) 'The UNFC and UNA will lead in drafting the new Constitution, and a drafting committee consisting of representatives from the democratic forces, women organizations, youth organizations, CBOs and other organizations will be formed, as part of the realization of the aim.'

According to UNFC leaders they have created a three tier system to work on the writing of the new Federal Constitution:

1. Supervising and Guiding Group
2. Legal Consultants (Foreign and Local)
3. Community organisers (including representatives of the UNFC and UNA)

In addition, there will also be a small information collection group. It is anticipated that the Constitution will be completed by 31 November 2013 and that there will be a three month consultation process.¹²

According to Khun Okker, the UNFC joint-secretary 2:

We will give priority to the people's desire. Only when the draft is acceptable to the majority of the people, can it be written by legal experts and members of parliament and finishing touches we will put . . . The draft committee of the federal constitution will be formed by women organisations, youth organisations, community-based organisations and other democratic organisations. Drafting the constitution and coordinating the formation of a national union army will run parallel.¹³

For many observers the re-writing, and not amending, of the constitution seems a questionable task and is unlikely to gain support from many of the stake holders. While Yawd Serk, leader of the RCSS stated that he agreed in principle with the resolution passed and that the UNFC ' . . . stand for what the people really desire' he also noted that:

Nobody except for a few likes the 2008 constitution . . . But for the sake of peace and reconciliation, what we can do now is its amendment. Not all of it can be amended at present either. So we need to consider what should be amended first.¹⁴

Aung San Suu Kyi has also previously stated that she is willing to work within a Government framework in relation to the constitution and that:

If they really want to change the constitution, there's no reason not to fully co-operate with them . . . All together we can co-operate. The USDP made a proposal to organize the committee to amend the constitution. We did support that proposal.¹⁵

Union Assembly Speaker Thura Shwe Mann has stated that a commission had already been formed by the Parliament to look into amending the constitution and will start its work soon.

The extent of how much will be done depends on their efforts and the involvement of MPs . . . The involvement of the executive body is very important when drafting laws,

As a result, it is unlikely that a purely ethnic framed constitution which, according to the UNFC leaders, will be based on a number of previous state constitutions, the Manerplaw agreement, and the Mae Tha Raw Tha agreement,¹⁶ will be acceptable to the Government. Consequently, the UNFC's insistence that the acceptance of such a constitution should provide the basis for dialogue *and* a nationwide ceasefire is likely to prove a hindrance to ensuring an early peace in the country.

THE 2015 ELECTION

The UNFC position, including the writing of the Constitution and the consultation period of three months after, suggests that a tangible nationwide ceasefire cannot be achieved until February 2014 at the earliest. As noted in earlier briefing papers,¹⁷ constant divisions within the ethnic armed movement further weakens their bargaining power and allows the Burma Army to consolidate control over territory prior to the signing of a nationwide ceasefire. The UNFC has, therefore, provided a greater opportunity for the Burma Army to further their objectives.

In addition, it is likely that after the 2015 election both Thura Shwe Mann (USDP) and Aung San Suu Kyi will form a coalition government.¹⁸ Thura Shwe Mann has alluded to such a possibility, if it's in the national interest, when he visited Washington in June 2013, noting that:

I believe time will decide on this matter. But the important thing here is to have confidence between Aung San Suu Kyi and us.¹⁹

There has, thus far, been little to suggest that either individual will be more open to supporting ethnic aspirations than the Thein Sein Government. Therefore, should the UNFC continue to delay the process and not work within it, it is likely that the UNFC will weaken the ethnic nationalities current bargaining power. Even if, and it is unlikely, that the UNFC constitution is accepted by the Thein Sein Government, there is nothing to stop a future Government from suspending it and then implementing its own.

Notes

¹ Deciphering Myanmar's Peace Process, BNI, January 2013

² 'Analysis of the UNFC Position', EBO Briefing Paper, August 2013

³ The MNDAA were forced to retreat to China after a Burma army offensive in 2009 replaced its leadership and it became part of the Border Guard Force.

⁴ Although members of the KNU were present at the conference they were not officially representing the organisation.

⁵ 'Statement of the Ethnic Nationalities Conference', UNFC, 2 August 2013

⁶ 'Joint Statement - Karen National Union & Restoration Council of the Shan State', 17 July, 2013

⁷ 'Analysis of the UNFC Position', EBO Briefing Paper, August 2013

⁸ David Thackerbaw was not elected at the last KNU congress but was appointed as being in -charge of Alliance Affairs

⁹ 'Ethnic Rebels Want Suu Kyi at Next Peace Talks with Govt', Saw Yan Naing, The Irrawaddy, 15 July 2013

¹⁰ 'Joint Statement - Karen National Union & Restoration Council of the Shan State', 17 July, 2013

¹¹ Ibid.

¹² Personal Conversation with Khun Okker, Nai Han Tha, and Dr. Khin Maung, 14 July 2013

¹³ 'Ethnic coalitions to write federal-based constitution', Eleven Media, 22 August 2013

¹⁴ 'Shan leader supports UNFC resolution, but..', SHAN, 21 August 2013

¹⁵ 'Aung San Suu Kyi Says Burma to Amend 'World's Most Difficult' Constitution', Daniel Pye & Tha Lun Zaung Htet, The Irrawaddy, 10 May, 2013

¹⁶ Personal Conversation with Khun Okker, Nai Han Tha, and Dr. Khin Maung, 14 July 2013. The Manerplaw Agreement to Establish a Federal Union of Burma was written and signed ethnic opposition groups on 31 July 1992. The Mae Tha Raw Hta agreement which further consolidated ethnic aspiration emerged out of a seminar held in January 1997.

¹⁷ See 'Allied in War, Divided in Peace' BCES Briefing Paper 12, February 2013

¹⁸ Currently the constitution has a clause blocking anyone whose spouse or children are foreign citizens from becoming president, but it is likely this will be amended prior to the 2015 election.

¹⁹ <http://bigstory.ap.org/article/myanmar-ruling-party-suu-kyi-coalition-possible>