

Lessons Learned from Myanmar's Peace Process

Aung Naing Oo



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ABBREVIATIONS

AA	Arakan Army
ABSDF	All Burma Students Democratic Front
ANC	Arakan National Congress
CBMs	Confidence Building Measures
CBO	Community Based Organization
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CNF	Chin National Front
CSO	Civil Society Organization
DDR	Disarmament, Demobilization and Reintegration
DKBA	Democratic Karen Buddhist Army
DoC	Deed of Commitment to Peace and National Reconciliation
EAO	Ethnic Armed Organization
EU	European Union
FPD	Framework for Political Dialogue
IDP	Internally Displaced Person
JICM	The Joint Implementation Coordination Meeting
JMC	Joint Ceasefire Monitoring Committee
KIO	Kachin Independence Organization
KNU	Karen National Union
LDU	Lahu Democratic Union
MNDAA	Myanmar National Democratic Alliance Army
MPC	Myanmar Peace Centre
NCA	Nationwide Ceasefire Agreement
NCCT	Nationwide Ceasefire Coordination Team
NGO	Non-Government Organization
NLD	the National League for Democracy

NMSP	New Mon State Party
NSCN-K	National Social Council of Nagaland - Khaplang
RCSS-SSA	Restoration Council of Shan State - Shan State Army - South
SD	Senior Delegation
SOP	Standard Operating Procedure
SPDC	State Peace and Development Council
SSR	Security Sector Reform
TNF	The Nippon Foundation
TNLA	Ta'ang National Liberation Army (The Palaung)
ToR	Terms of Reference
UN	United Nations
UNOPS	United Nations Office for Project Services
UPC	Union Peace Conference
UPCC	Union Peace Central Committee
UPDJC	Union Peace Dialogue Joint Committee
UPWC	Union Peace Working Committee
WNO	Wa National Organization

FOREWORD

By Lt. General Khin Zaw Oo (Retired)

I came to know Aung Naing Oo whilst he was a Director at the Myanmar Peace Center (MPC). During the Nationwide Ceasefire Agreement (NCA) negotiations until March 2016 he was the facilitator representing the government on many occasions. He has been involved in the peace process since 2011. I traveled with him to South Africa and Colombia to study the peace processes and transitions of these countries.

Aung Naing Oo has written analyses, essays and articles in both domestic and international publications in English. In March 2016, he organized a book – a collection of analyses and experiences by those who were deeply involved in Myanmar’s peace process. In December that year, he published his collection of essays and articles in a book called “Pathway to Peace: An Insider’s Account of the Myanmar Peace Process,” in both English and Myanmar languages.

I was happy that he published another book titled “*Lessons learned from Myanmar’s peace process*” in Myanmar language and I am now happy to learn that the book will come out in English. This book gave me a chance to read about the lessons learned from someone who has been at the heart of the peace negotiations in Myanmar. I will not agree or disagree with the lessons he has shared; instead I view them as an opportunity to learn from the invaluable experience he is sharing with us all. I am happy that there will be records of this for those who are interested in Myanmar’s peace process.

In “*Lessons learned from Myanmar’s Peace Process*,” Aung Naing Oo mentions some 140 points under 22 headings. I must say it is too many. For this reason, I will mention 10 points I think are critical for Myanmar’s peace process.

1. The need for vision
2. The critical nature of teamwork
3. The critical importance of experience and expertise
4. The critical importance of informal talks

5. The value of a review of the peace process (For instance, in Colombia the government spent a few years studying the high and low of the peace process before embarking on the last attempt to negotiate with FARC, which has been proven to be successful. Our peace process has entered into its 7th year and I think it is time for a review)
6. Ensuring a clear chain of command, responsibilities and communication
7. The role of the Tatmadaw in the peace process
8. Achieving 'all-inclusive' policies
9. The need for less bureaucratic peacemaking institutions
10. Risk-taking

I am certain that individual outlooks on the peace process differ. I think this is also true of the lessons learned and therefore we need to look at the peace process with an open mind. No matter how one sees the peace process or the lessons learnt, I hope that Aung Naing Oo's book will contribute enormously to those involved in the peace process.

Lt. General Khin Zaw Oo (Retired)

May 30, 2018

FORWARD

By the author

“Lessons learned from Myanmar’s peace process” was originally published in November 2016 in Myanmar language.

In this book I present the lessons and experiences I learned during my time at the Myanmar Peace Center (MPC) and from peace negotiations between November 2011 and March 2016. In other words, the lessons discussed in this book were entirely derived during the tenure of the government of President U Thein Sein.

During this time, I learnt new skills and lessons, experienced new things and got valuable insights into the dynamics among and within organizations, about personalities, feelings, strategies, fears and desires. On the whole, I was extremely lucky to have experienced the negotiations first hand.

I had no time for reflection during the time at MPC, however, as the result of hectic schedules and never-ending talks and negotiations. I never had time to share what I had learned or to reflect on how the whole peace process worked. I only had time to sit down and gather my thoughts after my time at the MPC came to an end in March 2016.

The lessons and key experiences I share in this book are based mostly on what I saw, experienced and thought throughout my time at the MPC. In other words, the majority of the lessons contained in the book come from the perspective of a negotiator/facilitator representing the government of Myanmar. I think someone or individuals from an ethnic armed organization should pen his/her own thoughts to share with us.

At a glance, one will think having over 140 lessons is too many to learn. In reality, there are more. The readers may also detect my own naivety when conveying my thoughts, ignoring how much politics dictated the peace process.

The peace process in Myanmar is complex. It has many stakeholders with different backgrounds and interests, and many factors that govern its direction and success. One needs to examine the more structural aspects of the process to understand it. These include but are not limited to: negotiations,

confidence and trust building, armed conflict, agreements and process; and also intrinsically related issues including, politics, identity, expertise, emotions, relationships, transitional issues, ethnic politics and interests. This is why, in my opinion, there are so many lessons that need to be included.

As mentioned, the book's original language is Myanmar and it is intended for Myanmar stakeholders. It is not an academic book. As such, I wrote the original version in simple, short-and-to-the-point and easy-to-understand language, providing longer explanations only where necessary. Likewise, in the English version, I tried my best to stick to the original Myanmar version. There are however new additions, which I did not have the chance or the time to include in the original version.

I cannot end this note without thanking the Center for Peace & Conflict Studies (CPCS) based in Siem Reap, Cambodia for its support of this project – both the Myanmar and English language versions. My thanks also go to Kate Boucher and Erik Nilsson who edited the book and gave me invaluable advice in order to make the book more readable and coherent in terms of its translation. I am also indebted to Dr. Andrew Ngun Cung Lian at the Center for Peace and Reconciliation and former MPC Special Adviser U Hla Maung Shwe for their invaluable advice. My thanks also go to staff from the Center for Peace and Reconciliation who helped me with the project. Above all, my thanks go to Lt. General Khin Zaw Oo (retired) for his generosity to write the foreword for the book.

I will be satisfied if readers learn something from my book regarding the peace process in Myanmar and delighted all the same to hear suggestions and contributions from both readers and individuals who have been deeply involved in the Myanmar peace process.

Aung Naing Oo

May 2018

INTRODUCTION

A List of the Lessons Shared¹

A. A shared vision

- A. 1. Vision and purpose
- A. 2. Clarity of purpose and probability of change of purpose
- A. 3. The objectives of the peace process

B. Basic requirements for negotiators

- B. 1. Understanding the nature of armed conflict
- B. 2. Understanding the history of Myanmar's armed conflict
- B. 3. Understanding the war economy
- B. 4. Understanding Myanmar's reforms

C. Negotiators need to know...

- C. 1. First impressions matter
- C. 2. Experience matters
- C. 3. Expertise matter
- C. 4. Understanding ethnic grievances
- C. 5. Patience and tolerance
- C. 6. Ambiguity in the beginning of the process
- C. 7. Expect the unexpected
- C. 8. Creating an enabling environment for peace
- C. 9. Risk-taking is necessary
- C. 10. Understanding and overcoming the "Pay Hter Chet"
- C. 11. Understanding the unique nature of the peace process
- C. 12. Human stories matter
- C. 13. The problem with frustration
- C. 14. Give negotiators and negotiating parties a break
- C. 15. Avoid negotiating with those who are angry or upset
- C. 16. Bringing about empathy in negotiation
- C. 17. Problematic for peace: minimal discussion of illicit drugs

¹ For ease of reference, each lesson shared has been given an alphabetical and numerical 'code'.

D. Understanding the EAOs' concerns, feelings and interests

- D. 1. Fears and concerns
- D. 2. Desires
- D. 3. Interests
- D. 4. Understanding the EAO negotiators and negotiating parties
 - a. Experience
 - b. Preparation
 - c. Demands
 - d. Language proficiency
 - e. Constant learners
 - f. The educated
 - g. Orators
 - h. Expert negotiators
- D. 5. Myanmar chauvinism

E. Peace is our shared future

- E. 1. The peace process is a joint-venture
- E. 2. Multiparty negotiations
- E. 3. Bilateral negotiations
- E. 4. Building relationships
- E. 5. Deepening relationships
- E. 6. Creating mutual understanding
- E. 7. Friends or foes
- E. 8. Collegial negotiations

F. Informal talks

- F. 1. Informal talks
- F. 2. Informal talks involving only three or four representatives
- F. 3. More talks required
- F. 4. Insider-negotiators
- F. 5. Active listening
- F. 6. Firmness and flexibility
- F. 7. Accommodation in negotiation
- F. 8. Recognition of the role of the facilitators
- F. 9. Negotiation is about trade-offs
- F. 10. Negotiation all around

G. Institution building for peace

- G. 1. The need to build peacemaking institutions
- G. 2. The need for less bureaucratic peacemaking institutions
- G. 3. Cooperation between management and the negotiators
- G. 4. Encouraging creativity and innovation
- G. 5. Sufficient funding
- G. 6. Instituting all necessary structures of a peacemaking institution
- G. 7. Sufficient manpower
- G. 8. Teamwork matters
- G. 9. Teamwork among U Aung Min and government negotiators
- G. 10. The Chief Negotiator
- G. 11. Clear chain of command, responsibility and communication

H. Commitment of the chief negotiator

- H. 1. Commitment of the Chief Negotiator
- H. 2. Chief Negotiator's leadership

I. The process

- I. 1. The process matters
- I. 2. Structured dialogue
- I. 3. The peace process happens outside the parliamentary framework
- I. 4. Total commitment to the NCA
- I. 5. The dilemma of whether or not to sign the agreement
- I. 6. The nature of agreements
- I. 7. Should the process be rushed or not?
- I. 8. Timelines and deadlines
- I. 9. The Deed of Commitment to Peace and National Reconciliation as a deadlock breaking mechanism

J. Peace is politics

- J. 1. Peace is politics so think "irrationally"
- J. 2. Paying attention to key stakeholders outside the negotiation room
- J. 3. Paying attention to geopolitics
- J. 4. Elections and peace
- J. 5. The new political culture

- J. 6. The media and the peace process
- J. 7. Government politics and peace

K. Results matter

- K. 1. Getting results matters
- K. 2. Blaming is to be avoided
- K. 3. Progressive realization
- K. 4. Only good negotiators can bring about viable results

L. Transparency

- L. 1. Transparency
- L. 2. Engage pro actively with all stakeholders
- L. 3. There are no secrets
- L. 4. Criticality of outreach
- L. 5. Admit mistakes

M. Home-grown process

- M. 1. Home-grown process
- M. 2. Make use of outside help as and when necessary
- M. 3. Impartiality of mediators/ facilitators
- M. 4. Use foreign advice carefully and wisely
- M. 5. Utilize external expertise
- M. 6. Criticality of the lessons learned from other conflicts
- M. 7. Educate them in such a way that they do not know they are being educated

N. Delivering on promises

- N. 1. Delivering on promises
- N. 2. Change of government and promises

O. Trust

- O. 1. Trust
- O. 2. Reciprocity of trust and distrust
- O. 3. Trust and distrust can be selective
- O. 4. The longer the conflict, the less trust there is

- O. 5. Periods of trust and distrust
- O. 6. Do not dwell on distrust or insincerity

P. Reasons for armed clashes

- P. 1. Just the flip sides of a coin
- P. 2. Clashes over resources
- P. 3. Smuggling leads to clashes
- P. 4. Territorial disputes
- P. 5. Other factors

Q. Commitment of the key stakeholders in the peace process

- Q. 1. Commitment to peace
- Q. 2. The role of the Tatmadaw in the peace process
- Q. 3. Six principles of the Tatmadaw in the peace process
- Q. 4. The three main causes
- Q. 5. Flexibility, desire and commitment of the President
- Q. 6. Soldiers and individuals who have been involved in the armed conflict are better peacemakers
- Q. 7. Do not underestimate the power of soldiers
- Q. 8. Invisible bonds and mutual respect

R. All-inclusive policy

- R. 1. Inclusiveness within one's own party
- R. 2. Problems of all-inclusiveness with the EAOs
- R. 3. Big groups versus small groups
- R. 4. Understanding the problem with spoilers

S. The need for a holistic approach

- S. 1. The need for a holistic approach and strategic thinking
- S. 2. Review of the peace process
- S. 3. Preparation

T. Confidence building measures

- T. 1. The release of political prisoners

- T. 2. Relaxation of restrictions
- T. 3. Provision of national IDs to the ethnic people and security during travel
- T. 4. Assisting ethnic leaders with health problems
- T. 5. Negotiating with foreign governments for the release of ethnic leaders traveling on fake passports
- T. 6. Agreeing to the visits of diplomats to meet the EAOs
- T. 7. International travels
- T. 8. Joint studies
- T. 9. Humanitarian and development assistance
- T. 10. Provision of vehicle licenses to the EAOs
- T. 11. Peace dividends
- T. 12. Visits to IDP and refugee camps
- T. 13. The Community Forum
- T. 14. Drinking and peace negotiations

U. Recognition and legitimacy

- U. 1. Recognition
- U. 2. Legitimacy
- U. 3. Understanding conflict sensitivities

V. Civilian protection

- V. 1. Women and children
- V. 2. Encouraging the participation of women in the peace process
- V. 3. Abuse
- V. 4. Taking responsibility for instances of abuse and introducing changes

W. Conclusion



A. A shared vision

A. 1. Vision and Purpose

The landscape of the peace process changed dramatically when President U Thein Sein offered peace talks to the ethnic armed organizations (EAOs) on August 18, 2011. The State Peace and Development Council (SPDC), the military regime that preceded political reforms and the government of U Thein Sein, reached numerous, mainly verbal, bilateral ceasefires with various EAOs during its rule between 1988 and March, 2011. Throughout the SPDC led ceasefire negotiations the regime maintained that it was not the political government and thus would not negotiate politically with the EAOs. All of that changed in 2011 under the government of U Thein Sein when Myanmar embarked on an unprecedented period of political transition, a road never traveled in Myanmar before.

The culmination of such political negotiation towards peace under the Thein Sein government was at the first Union Peace Conference (UPC) held in January 2016, as stipulated by the Nationwide Ceasefire Agreement

(NCA).² Delegates of the conference proposed to finish political negotiations within three years.³ However, no one knows or can predict how long the road to transform Myanmar into a federal union and to end armed conflict will be.

No matter how long or how windy the road is, Myanmar must continue its journey. Undoubtedly, the journey would be smoother if Myanmar had a shared vision of peace and reconciliation. In some ways, the peace process' objective to end armed conflict and to build a federal state based on democratic values can be considered a shared vision for Myanmar's future. But, Myanmar needed a clearer vision. The Myanmar Peace Centre (MPC)⁴ touched on this in the later part of its tenure, but in reality, the directors of the MPC could not actually delve into the issue deeply enough as they were busy dealing with one pressing challenge after another.

I am of the opinion that in a country like Myanmar with its complex history, protracted conflict and familiarity with violence we need a shared vision in regard to peaceful coexistence. Myanmar is often like a boat without a rudder because there is no shared articulation of what the vision for our country is. Given this collective lack of a shared vision, all stakeholders, including the general public, should articulate what type of country they would like Myanmar to be, what type of society they want Myanmar to have, what kind of peaceful coexistence they desire in Myanmar, what sort of justice system and what measures of security they want to be in place to guarantee their way of life.

If there are just demands in regards to what we as individuals or groups want without having a shared vision of what we want our country to become, it concerns me that negotiations may take longer than necessary. In that case, efforts to rehabilitate the country and societies affected by war will be delayed.

Therefore, the first lesson learned from Myanmar's peace process is that we must have a shared vision for peace.

² Within the NCA, it is stipulated in Article 21C that political dialogue needed to commence within 90 days from the date of signing.

³ No decisions were made at the first Union Peace Conference in January 2016, because it was held in a period of transition from the USDP led government to the NLD led government. The NLD won the November 2015 election and came to power after this transition period in March 2016.

⁴ The Myanmar Peace Center was established by an executive order from the President.

Myanmar is not the United States of America, so it would be fruitless to talk about the notion of a *melting pot* where all different peoples in the country become more or less the same. Therefore, we could perhaps use what Minister U Aung Min⁵ described as his vision for Myanmar in which he likened peaceful coexistence to “*a beautiful flower bouquet*.”⁶ In that bouquet, there are all kinds of flowers with different colors, sizes, shapes, and smells. All of them together form a beautiful flower bouquet, but they simultaneously retain their distinct identity.

In Myanmar, the notion of identity is fixed. It is not common to accept that an individual can have multiple layers of identity. Nor is it common to accept that identity is malleable. U Aung Min wanted to point out these shortcomings. He wanted to say that while all ethnic groups retain their specific identities (individual flowers) they also contribute to his idea of common identity (flower bouquet).

We need to take these critical issues into account moving forward. For this reason, the need for a shared vision is one of the most important lessons in Myanmar’s peace process.

A. 2. Clarity of purpose and probability of change of purpose

We all want peace but often find it hard to fathom where and how to start. This particularly happens when the peace process is new to stakeholders. Typically, what is likely to happen – especially when the government is weary of foreign involvement – is that the government follows examples of what has been done previously.

As in the case of Myanmar, such tactics and policies can change overtime as the peace process ripens. Depending on the development, stakeholders, objectives and tactics of the government and stakeholders can change. Change can come as a result of difficulties in the peace process or based on the situation on the ground. The probability of reaching an agreement can change tactics, policies and intentions too. It is critical to change or revise objectives that do not work or are out of date. Under these circumstances it is necessary to have clarity of purpose, which is one of the lessons learned.

⁵ The government’s Chief Negotiator and a Minister of President Office charged with negotiating peace and initiating political reforms. U Aung Min is a former general in the Tatmadaw.

⁶ U Aung Min often explained this vision of new Myanmar to visitors to MPC.

The best example is the government's policy (the 8-point peace plan) when peace talks were offered to the EAOs in August 2011. They 8 points are:⁷

1. Durable coexistence within the Union.
2. Non-disintegration of the Union, perpetuation of sovereignty and non-disintegration of national unity.
3. Mutual cooperation in economic and development matters in line with existing laws and regulations.
4. Cooperation in combating illicit and hallucinogenic drugs.
5. For the EAOs to form political parties and to enter into electoral politics.
6. For the EAOs to accept the 2008 constitution and to amend the constitution within the parliamentary framework with the consent of the majority of parliamentarians.
7. For durable peace, the EAOs are to enter into the legal fold once and for all and to live and work in line with the constitution, based on equality.
8. To cooperate in the transformation to a single army in accordance with the constitution.

These points were the primary policy projections in the beginning of the peace process. As the peace process matured, the government stopped mentioning them. Once the drive for the NCA, which is centered on democracy and federalism, became the focus of the negotiation, the government shifted its efforts toward this end. In other words, the NCA contains a negotiated direction and a clear process and as to how the peace process should happen and what the end game is going to be.

It is believed that it is likely that the EAOs policy has been amended in a similar manner. They did not trust the government, whom they considered an extension of military rule, at the start of the peace process. However, they decided to give the process the benefit of the doubt. As they started to believe that the peace process was serious and they could negotiate an agreement, they started investing more in the peace process and their objectives became clearer.

⁷ Translated independently. For further context and reference, please see Myanmar Peace Monitor: http://www.mmpeacemonitor.org/peace-process/index.php?option=com_content&view=article&id=76&Itemid=138

One conclusion that can be drawn here is that if both sides have similar and clear objectives and some common ground, then perhaps it is easier to reach an agreement.

A. 3. The objectives of the peace process

The objectives of the peace process are to end the armed conflict and to build a federal state based on democracy. There needs to be clear understanding of these objectives regardless of what political ideology one espouses or what political party or grouping he or she belongs to. This is widely known and should not need repeating again and again. However, there were times during the peace process that reminders had to be given, in particular during the informal meetings on the Framework for Political Dialogue (FPD).

The EAOs did not trust the government or believe that they were serious about the promise of political dialogue. This was understandable because they had been burned before and were consequently particularly cautious to trust again. So they demanded that it be stipulated in the NCA that the FPD, on which political negotiations would be based, be developed within 60 days from the signing of the NCA.

My colleagues and I at the MPC were told by foreign experts that developing such a FPD could take up to a year. Given that we had no experience of working to develop a political dialogue framework and that the negotiations were going to be complex and long, we knew two months was too short.⁸ We, therefore, created an informal process parallel to the NCA negotiations. In those informal workshops, participants heard more than once the objectives of the peace process, but despite this there was more emphasis on the elections than on the peace process and development of the FPD. Such discussion – whether intentionally or through plain ignorance – worried us. For this reason, reminders were given on the objectives of the peace process to all those in the room. Key stakeholders did not want confusion between the objectives of the peace process and election aspirations. Most critically, they had to stick to the goals of the peace process. Therefore, I included this as a lesson learned.

⁸ The Framework for Political Dialogue has been reviewed ten times already and all stakeholders are still working on the complete and comprehensive framework more than two years after NCA was signed and the first FPD was developed and agreed upon.

B. Basic requirements for negotiators

B. 1. Understanding the nature of armed conflict

Those who are to be deeply involved in the peace process, in particular the negotiators, require basic knowledge about the peace process, above all the nature of the armed conflict. There are many factors in an armed conflict to consider, including actors, issues, interests, territory, weapons, politics, a war economy and geopolitics. The negotiators should have some grounding in these matters so that they may understand the direction of the peace process, the people who are involved, the moderates and the hardliners and the critical matters that determine the outcome of the peace process.

Moreover, one cannot think of the armed conflict as linear or constant. In an armed conflict, dynamics are always changing because of a complex mix of factors, issues, situations and interests. They may be pushing and pulling in all directions at all times. For this reason, agreements made among leaders only - without taking into account the rank and file, in particular their welfare and reintegration and those who are not happy with the deal - can run into trouble when they are implemented. For this reason, it is important to understand the nature of the armed conflict.

The peace process is absolutely critical for Myanmar's future and therefore we need skilled and qualified negotiators. One can safely assume that if someone is given a task to make peace he/she must have some natural qualifications, but that does not mean that they need to be a trained negotiator. No one is a born negotiator; he has to learn to be a negotiator. The point is, peace negotiators should have some basic understanding of the armed conflict so that he/she can do their job well and learn as they go.

U Aung Min is an excellent example. He is a former army officer and through his career has dealt with many ethnic groups. He thus had experience of dealing with the EAOs, although he needed to learn more about them and about groups he had never met or dealt with before, especially the new groups. U Aung Min thus had a natural grounding in the factors of the peace process, which was a significant advantage.

B. 2. Understanding the history of Myanmar's armed conflict

Myanmar's history of armed conflict is an important aspect of Myanmar's peace process. The negotiators should have some knowledge regarding how the armed conflict started, why it started, how successive governments have tried to solve it and what the root-causes of the armed conflict in Myanmar are, to name but some of the key elements.

Negotiators should also be aware of the fact that EAO alliances are formed and broken up and why that happens. If they understand these facts, it may be easier for the negotiators to understand the nature of the EAOs, then perhaps they can figure out how to deal with various groups and alliances that often determine the direction of the peace process. Likewise, the negotiators should not only know the politics of the big groups but also the myriad of smaller groups that operate in many ethnic areas. Here what is critical is that negotiators are aware of the constantly changing alliances and layers of relationships between EAOs. If the negotiators have this knowledge they will examine the armed conflict from a much deeper and more serious point of view.

B. 3. Understanding the war economy

Wars cannot be waged without adequate financing and this includes Myanmar and the EAOs; it is notable that the price of weapons in our region has risen dramatically in the past decades.⁹ Developing an understanding of how the EAOs secure funding for their fight for autonomy may be helpful and thus, it would be beneficial if negotiators understood the mechanics and harmful effects of the war economy.

No one knows how much money is generated from the war economy and armed conflict in Myanmar. However, a rough estimate I calculated of the incomes from resource extractions such as jade, precious stones, rare earth elements, smuggling of timber and the drug trade is anywhere between 20 to 30 billion US dollars, per annum. This sum does not include the illegal taxation the majority of the EAOs levy from various sources.

⁹ The Rising Costs of Waging War: Pathway to Peace: An Insider Account of the Myanmar Peace Process: Aung Naing Oo. December 2016. Page 227.

The war economy is one of the biggest problems in Myanmar's armed conflict and it is essential for negotiators to understand its dynamics so they can strategize about how to deal with the groups making money off of it. Additionally, understanding the war economy, which is considered illegitimate by the government, will help the negotiators and policy makers develop and lay down future policies and plans so that the war economy cannot function after the conflict is resolved.

It is extremely difficult to take control of informal and illegal economies in all contexts, especially when connected to war. It must however be transformed once the conflict has been transformed. Failing to do so will disrupt the legitimate post-conflict economy and contribute to the prevalence of a lack of rule of law.

B. 4. Understanding Myanmar's reforms

All reforms in Myanmar since 2011 were initiated together, including the peace process. One may say that it came about since democracy was reintroduced when the elected government of President Thein Sein came to power in 2011. There is an intrinsic link between the peace process and other major reforms, and they are unable to be separated from one another. Due to the inseparability, all other reforms can have either a positive or negative effect on the peace process. For this reason, negotiators and policy makers should not lose sight of all other reforms and keep abreast of the status of them. Necessary adjustments can be made to the peace process so that it is compatible with other reforms pushing the country forward.



C. Negotiators need to know...

C. 1. First impressions matter

In peace negotiations, the first meeting or round of negotiations is critical. Negotiators and leaders have to be extremely careful to demonstrate and build trust in their ability to negotiate and negotiate well. In the first meeting it is likely that the negotiating parties are introduced to one another formally for the first time, even if they have previously heard of one another. If well-known negotiators are designated the role of lead negotiator, their counterparts will know in advance their personalities, traits, relationships and how they negotiate. If the negotiators are new, the other side may be in the dark as to what kind of personality their counterparts espouse.

If both sides come to the table willingly or with good intentions to strike a deal the negotiator may not have to worry about the downside of the negotiation. However, the first impression of negotiators is critically important when there is no trust between the negotiating parties. This is particularly the case when they are meeting for the first time, and one side is unsure of the negotiation and shows up to test the water. In these

circumstances, one side can demand too much or establish an unfriendly or uncompromising stance. Even if the first impression is not good, negotiations can continue to take place. However, without the feeling that one can work with his counterpart or a glimpse of trust through a very good first impression, negotiations may be delayed or even be hard to initiate.

For negotiators, it is critical to leave the table with good intentions and feelings. At a minimum, the parties should leave the table with the feeling that they can give each other the benefit of the doubt. Only then can the negotiations continue, which is vital for ending violence.

In hindsight, U Aung Min's first meetings with five EAOs in November 2011 in Chiang Rai, northern Thailand were the single-most important events for Myanmar's peace process. Following those first meetings, his negotiations—both formal and informal—with the EAOs became frequent. The EAOs each had two-hour meetings with him and his team from Myanmar Egress¹⁰, after which they felt they could give U Aung Min and the government he represented the benefit of the doubt. The EAOs could and would not trust the government, but, the first impression of the government team was good and it was a turning point. U Aung Min was able to remove the wall of distrust and consequently his good reputation quickly spread, leading to 14 bilateral ceasefires within two years.

If U Aung Min had left the EAOs with a negative impression, the negotiations would have been negatively affected. Consequently, they would have been slow to start or run into roadblocks even before the process could begin. There is no doubt that securing a good first impression in the first meeting is critical for negotiators, especially when there is no trust.

C. 2. Experience matters

Experience is a critical element in a peace process. Oftentimes, there is no match for experience, regardless of how educated the negotiators are or how many trainings they have attended. Having no prior knowledge about the conflict does not however mean one should not be a negotiator; but negotiation experience or friendly relations with negotiating parties, such as the EAOs, enhances the likelihood of effectiveness. Likewise, in my experience, those who have witnessed the armed conflict or have been

¹⁰ A well-known capacity building organization established by academics, intellectuals and progressive businessmen that trained so many young people to think critically and strategically

involved in it, such as the Tatmadaw and ethnic army officers, are critical players in the peace process.

Perhaps for this reason, President Thein Sein did not follow his predecessors when he formed the MPC, which was to spearhead the peace process. He included top former army officers, experts and former rebels who had known many of the key EAO leaders. Such a compilation of individuals with varying experiences meant the government was not only able to use their expertise, but also the connections they had had with the EAOs and their critical insights into the conflict. Along with ensuring an enabling environment for the peace process to be successful, it is also important to have negotiators with a wealth of prior experience in conflict, negotiation, legal issues and public relations.

C. 3. Expertise matter

Experience matters in Myanmar's peace process. So does expertise.

It is necessary to bring on board those who have expertise in conflict resolution, negotiation, ethnic affairs, armed conflicts, and legal and constitutional issues. Peace is entirely connected to politics, therefore the peace process needs individuals wired to political establishments, as well as analysts and observers. They can keep the government or the negotiating team abreast of changes that can advance the peace process or otherwise have an adverse effect on the peace process. They can build bridges between the peace process and detractors. As they have an understanding of ethnic politics they can reach out to key individuals at any given moment of intractability. Likewise, the peace process is about reaching an agreement to amend the constitution, so it needs legal and constitutional experts. Moreover, peace agreements (such as the NCA) are signed at the Union level, and thus the peace process need experts who can advise on the legality of the agreement, terminology and its compatibility with existing laws.

It should be becoming evident to readers that the peace process is broad and complex and needs to be understood by the public. There are not only supporters but also critics. The peace process needs experts working on public outreach. Sometimes, controversial ideas or agreements need to be put forward out of necessity and this should be possible without hurting the peace process. To do this, media experts are needed to deal with the

media, as the media can often be the main opponent or critic of the peace process.

The complexity of the process also requires expertise in financial management, diplomacy and knowledge of government bureaucracy. Expertise is required for raising funds, managing the technical staff efficiently and accountants who have experience working with international organizations. Due to the geopolitical location of Myanmar and the involvement of many foreign diplomats in Myanmar's peace process, individuals with diplomatic skills are needed.

Finally, individuals with expertise in dealing with government bureaucracy and protocol are also required because the MPC was made up of individuals who had no prior experience of working with the government, including experts, exiles and political analysts. Therefore, retired army and civilian officers were hired to assist in relations with the government and the MPC team encouraged the government to include former high-ranking officials to work with them. This was an important step, as the MPC, as a semi-governmental institution, needed help to have smooth and cooperative relationships with various government departments, including police and other security officials.

C. 4. Understanding ethnic grievances

It is vital to understand the feelings, mentality and grievances of the ethnic groups. This is central in resolving the armed conflict.

The ethnic groups have numerous grievances. They feel they have been at the receiving end of the armed conflict. They feel they have been wronged. They feel they have lost their land, rights, resources, cultures and historical and traditional relics. They like to explain or air their grievances. My experience with the EAOs is that when they do so, time is of no essence. One has to show patience and tolerance and listen attentively. Only after they get their feelings off their chest do they feel better. (Please also see *C.5. Patience and tolerance.*)

U Aung Min along with his peace Ministers, army colleagues and the MPC directors spent hours listening to ethnic stories of disenfranchisement, loss and destruction. U Aung Min, as the Chief Negotiator, spent more time than anyone else in his team listening to what the ethnic groups had to say.

It was critical in the early part of the peace process and it will remain critical in ensuring progress in the peace process. As mentioned earlier, in *C.1. First Impressions Matter*, having discussed their feelings to an empathetic U Aung Min, the EAOs felt that they could negotiate with him. Perhaps, for this reason, the distrust that existed previously thawed. Therefore, the Myanmar negotiators should spend time listening to the grievances of the EAOs and this should be a part of the strategy in reaching out to them.

C. 5. Patience and tolerance

A fundamental quality of a negotiator in Myanmar is to be patient and tolerant, without which they should not be a negotiator in Myanmar. Patience and tolerance was vital in the beginning of the process when there was no trust. The EAOs questioned the legitimacy of the government and naturally had doubts about the process the President initiated. The need for patience and tolerance to build trust and understanding was far greater than at any other time.

U Aung Min and his team, especially the Tatmadaw representatives, had to respond patiently to a myriad of accusations against the Tatmadaw of wrongdoings and alleged injustices committed. In some of the public meetings organized at the MPC, fervent youth activists, hardline ethnic leaders and other critics publicly challenged U Aung Min and U Soe Thane¹¹ (MPC Chairman and Vice-Chairman respectively), including by pointing fingers at them. They declared more than once “We do not trust you!”

In those moments of heightened tensions, emotions and accusations, one could feel the frustration, if not the anger, of some of the Ministers present in the room. Patiently, U Aung Min and U Soe Thane responded to the outbursts and they did so with smiles. One could not envy them in those moments. Their responses and friendly behavior did not solve the problem but it increased the understanding of what the government was trying to achieve. In some cases, such a situation even contributed to trust building.

Also connected to the point above (*C.4. Understanding ethnic grievances*), U Aung Min wrote an article entitled “*Peace for everyone*” in which he explained his first encounter with New Mon State Party (NMSP) leader

¹¹ Former navy chief and a top minister in U Thein Sein’s government

Nai Han Thar (Nai Honsa).¹² U Aung Min and his Myanmar Egress team (before MPC was formally instituted) met the NMSP for the first time in Sankhalaburi in Thailand. The meeting took place on December 2, 2011. U Aung Min wrote,

“The meeting lasted two hours. Nai Han Thar talked for about one and half hours. When the first 30 minutes were finished, Nai Han Thar was talking about the time around 1948. Myanmar still did not have her independence. When the meeting hit one hour mark, he was talking about 1962 military takeover. The most important demand then was to make the Mon language the official language of the Mon State. But after an hour and half, Ko Maung Maung¹³ who accompanied me as a peace emissary became impatient and began to interrupt the meeting. So I had to remind Ko Maung Maung telling him not to disrupt the talks and to leave the room if he could not put up with the lengthy monologue. The result of my patience was that the NMPS signed the bilateral ceasefire with the government about two months later on February 25, 2012.”

This was the result of being patient. If patience had not been exercised, or the government Chief Negotiator had not listened enough to the grievances of the EAOs, it would have been difficult even to sign the bilateral ceasefire, not to mention the NCA. Exercising patience and tolerance, therefore, is a critical lesson learned from Myanmar peace process.

C. 6. Ambiguity in the beginning of the process¹⁴

Dr. Min Zaw Oo¹⁵ discussed how negotiators should expect “ambiguity in the beginning of the process.” Negotiators should be aware of this important lesson as a result of the lack of trust and relationships between the negotiators and representatives from negotiating parties. The parties came from different political and ethnic backgrounds and had prior assumptions of one another and different expectations, dissimilar policies and objectives. They may have come to the first meeting to see what the other had to say or offer and therefore negotiators could not predict what

¹² The article appeared on page 17 in Myanmar language publication I organized and published by the MPC in May 2016 entitled “Analyses of the negotiators who were at the heart of peace negotiations.”

¹³ A Mon businessman

¹⁴ Ten lessons from Myanmar’s peace process. Min Zaw Oo. Nikkei Asian Review. December 2, 2015

¹⁵ Director of Ceasefire Negotiation and Implementation at MPC

would happen. Perhaps they came to examine what was behind the peace overture, what the real offer was, why the other side came for the talks or if they were committed to peace. Both sides had to take risks and if one side really wanted the peace process to go on, it had to try harder so that there were more negotiations in the future. The parties had to overcome the ambiguity so that they knew exactly where the peace process was heading.

C. 7. Expect the unexpected

Nothing is simple in Myanmar's peace process, it is complex and non-linear. It is often the case that expectations are not met. Therefore, preparing oneself to expect the unexpected, both events and outcomes, is a critical element in the peace process. Sometimes, no matter how thorough the preparations were or how one felt about the negotiations before they began, they often encountered difficulties and obstacles that were totally unexpected. Sometimes, issues that were thought to be easy turned out to be difficult to solve and issues that were considered to be the main roadblocks turned out to be relatively easy to overcome. In other words, it was difficult to fathom which way the negotiations were going to go. This is perhaps also the nature of peace negotiations elsewhere and therefore unexpected turns should not disappoint negotiators. If I remember correctly, the only negotiation that required little argumentation was on civilian protection.¹⁶ All sides readily agreed to all 17 points.

C. 8. Creating an enabling environment for peace

Another lesson learned is about creating an enabling environment for the peace process.

For all of us at MPC, our original mindset was focused on reaching an agreement whether we took a short cut or went step by step, it did not matter. In reality, U Aung Min and his MPC team went step by step. Progress in the peace process requires an enabling environment, and this needs to be reiterated after each step. A successful step forward needs to be followed by another step, more public outreach, informal negotiations and confidence building measures. Each solution along the way requires an enabling environment and therefore we endlessly attempted to create

¹⁶ Civilian protection, Chapter 3, the NCA

mechanisms and maintain the environment. Ceasefires were initiated step by step, starting at the State and Region level, then the Union level, followed by the NCA.¹⁷

One of the stories relevant here is the story of “The Swiss bank account and the pauper.” U Aung Min told this to a number of people. I did not know how he heard it¹⁸ but it illustrates the manner in which critical deals are made, and how the process of securing an agreement or agreements is managed step by step with the right kind of environment and strategy. It goes like this;¹⁹

A pauper wants to marry the beautiful daughter of a wealthy man, but he has no money, influence or power. He has nothing to offer for her hand in marriage. He does not even know if the daughter actually likes him. All that he wants to do is win her heart, so he approaches a middleman for advice.

The middleman goes to the rich man and proposes the marriage of his daughter to the pauper. The rich man knows him and that he has neither money nor any prospects, so he rejects the proposal. The middleman asks him if he will agree to give his daughter's hand in marriage if the pauper has a Swiss bank account, and he agrees. In this way, the middleman secures the first agreement.

The middleman then goes and asks the daughter if she will marry the pauper? She does not know the pauper, so she refuses to marry him. The middleman tells her that her father has already agreed. Being an obedient daughter, she says, “I will marry the pauper if my father has already given his word.” In this way, the middleman secures his second agreement.

Finally, the middleman goes to a Swiss bank. He asks the bank to open a Swiss bank account in the poor man's name. The bank, knowing the pauper has no money, refuses to open a bank account for him. The middleman tells the bank that the pauper is going to marry the beautiful daughter of a very wealthy man and that his prospects are good. In all likelihood, the pauper

¹⁷ The sub national governance structure of the Union of Myanmar is comprised of 7 States and 7 Regions and then is further decentralized and includes 5 self-autonomous zones and 1 self-autonomous division. Both States and Regions are considered equal, with the key difference being the States have large non-Burman ethnic populations and Regions are mostly populated by Burmans.

¹⁸ U Aung Min later told me that he heard the story from one of the MPC Special Advisors.

¹⁹ Building peace: One deal at a time. Page 252. Pathway to peace: An insider's account of the Myanmar peace process. Aung Naing Oo. December 20 16.

could have not only one but many Swiss bank accounts once he marries the rich man's daughter. Given the prospect of obtaining a potentially important client, the bank agrees to open the Swiss bank account for the pauper. In this way, the middleman secures his third and final agreement to enable the pauper to marry the rich daughter.

The story is not about what is right or wrong in a peace process, or about trickery. In my opinion, it is a story about the necessary commitment required to create an enabling environment for protagonists to come to agreements. It is about making things happen out of nothing. In hindsight, this approach helped U Aung Min and his team secure 14 bilateral ceasefires in less than two years.

C. 9. Risk-taking is necessary

Risk-taking is often necessary in the peace process. The courage of leaders on all sides in Myanmar's peace process to take the necessary risks was key to securing agreements. For example, had the KNU leaders not taken a risk in January 2012, peace in our country would have been a distant dream. If the 8 EAOs had not signed the NCA in October 2015 the conflict may have worsened.

If necessary risks are not taken then the conflict remains unresolved. Such a risk-averse mentality is common. Distrust, inability to look at the bigger picture and prioritizing one's own interests over the collective interest can contribute to risk-averse decisions. A risk-averse mentality can have a significant impact on the broader peace process. There are ways to discourage a risk-averse mentality including frequent meetings with those who harbor such a mentality, building friendly relations with them or showing them concrete and pragmatic steps towards peace.

C. 10. Understanding and overcoming the "Pay Hter Chet"

The "Pay Hter Chet" are situations that are often intractable, policies that are uncompromising, preconditions and all other issues that are filled with a myriad of restrictions. "Pay Hter Chet" exist and are real challenges. As examples, the government may have strict policies that will be hard to sell to the ethnic groups, the Tatmadaw may not accept certain demands at all costs, the EAOs may say they cannot continue the negotiation if

federalism is not on the agenda and that they cannot accept Disarmament, Demobilization and Reintegration (DDR). These are real obstacles in reaching agreements.

Negotiators have to understand what the “Pay Hter Chet” are. If they do not appreciate or understand the depths of these restrictions, it is difficult to overcome them and turn them into agreements. Sometimes, negotiators may promise more than they can in order to overcome the “Pay Hter Chet” either because they are frustrated with slow progress or because they do not appreciate the depths of these restrictions, which is dangerous in sensitive negotiations.

Understanding the “Pay Hter Chet” is an important lesson that must be learned. The negotiators’ job is to overcome the troublesome “Pay Hter Chet.” Failing to do so means no agreement will be reached and may also mean that both sides have remained in positional bargaining situations. Uncompromising stances characterized in situations of positional bargaining need to be overcome to secure agreements.

C. 11. Understanding the unique nature of the peace process

It can be assumed that all violent conflicts are similar in nature, but due to differences in history, politics, cultures, actors and the extent of violence, each conflict is unique. Myanmar’s conflict is also unique. One often hears that Myanmar’s conflict is complex due to the multiplicity of actors, factors such as the transition to democracy from dictatorship, history of violence and other conditions such as geopolitical interests therefore it is more difficult to solve. This may be so, but it is not something to boast or complain about. The bottom line is that negotiators can have a better overarching view of the peace process if they understand the uniqueness of the context.

C. 12. Human stories matter

Conflicts occur between humans. Therefore, human stories such as the recalling of events, personal stories, sacrifices - both difficult and heart-warming - matter in making peace. Oftentimes, discussions at the negotiating table focus on politics, policies, demands and personal interests. That is the core of the negotiation. However, it is often critical to talk about the people

suffering due to continued conflict, about people sacrificing their lives to bring peace to their communities and about peace dividends that change peoples' lives. Heart-warming stories in particular are important reminders that peace can change peoples' lives.

U Aung Min often told a story of how the military hospital in Mingalardon, just outside of Yangon, formerly performed up to 40 amputations a day and medical students were lectured as experienced surgeons performed medical examinations and surgeries on real soldiers who had sustained major injuries in the battles. After the ceasefire agreements, the army surgeons had to use dummies to teach medical students because fighting was dramatically reduced.

There are many such stories out there and they need to be told to remind all sides that no matter how one sees the peace process, ceasefires have worked and had wonderful results. There are also many such stories of suffering due to armed conflict told by the ethnic groups and army personnel. Human stories should be told to reflect the human impact of the conflict.

C. 13. The problem with frustration

Frustration damages the peace process. Frustration can occur at anytime, but is perhaps more likely when there is an impasse or if fighting rages on as the negotiators sit down to talk and in particular when things run aground at a critical time. If the process continues without any concrete achievements, frustration can occur. If the negotiators are frustrated they may get upset or angry or may lose their calm and therefore negotiators need to be monitored for signs of frustration. When this happens, it is best to give the negotiator a break or postpone the negotiations.

C. 14. Give negotiators and negotiating parties a break

The Myanmar peace process began in 2011. By 2012, the talks became frequent. As multilateral negotiations for the NCA began, the meetings became more and more frequent. The government side had to work 7 days a week. MPC staff were asked to take weekdays off, rather than weekends, while the directors and advisers did not get days off. Just like his team, U Aung Min worked 7 days a week.

The situation was worse for some of the EAOs because they had more meetings than the government. They had to travel and negotiate amongst themselves constantly. Indeed, they needed to prepare so that all disparate EAOs had a common negotiating position. For this reason, they worked harder and had no days off. There were times they missed Christmas or important religious events. Due to having so many meetings and travelling constantly, some of the EAO leaders complained that they were so tired they could barely think.

There must be clear breaks for negotiators and negotiating parties important holidays should be respected with a break. One will find that negotiations will become more energized after breaks, having had the time to reflect and prepare mentally.

C. 15. Avoid negotiating with those who are angry or upset

If negotiations start with groups or individuals who are angry or upset, they will likely break down before they begin. If someone is visibly angry or upset, or if he exhibits anger and uses angry words, talks should be stopped or postponed. Sometimes, continuing the talk without detecting the anger can lead to further alienation. If negotiations take place with those who are angry or upset it is unlikely that constructive solutions will be reached. Problems will continue, which may ignite the anger of other counterparts. Under such circumstances, no formal negotiation should take place and only informal talks should be held, if possible. Listening with empathy to what he/she has to say may help reduce the anger. At least in this way he/she takes some anger off their chest.

The government's first negotiation with the Ta'ang National Liberation Army (TNLA), also referred to as the Palaung, in 2013 is a good example. At that time, the government had just secured two major bilateral ceasefire agreements²⁰ and was upbeat about their meeting with the TNLA. They did not know that the TNLA had to walk for about two days to reach the appointed location, they were tired and hungry. In addition, local officials treated them badly along the way. Consequently, they were angry before the negotiations began. The government side realized what was happening and immediately made amends, including organizing an informal talk

²⁰ With the KNU and the Restoration Council of Shan State - Shan State Army South (RCSS-SSA).

before the actual meeting took place. Unfortunately, it was too late and both sides went home empty-handed.

In hindsight, the TNLA's unrealistic demands may have significantly contributed to the breakdown of the talks but anger and frustration certainly played a critical part. A few months later, U Hla Maung Shwe²¹, Dr. Min Zaw Oo and I spent a few days with TNLA leaders in Ruili, China. We agreed on an amicable way forward. Sadly, the momentum from the informal talk in Ruili could not be continued due to increased fighting on the ground and the shift of focus from bilateral talks to the NCA negotiations.

Another example is from the negotiation with the Chin National Front (CNF), where we learned a number of invaluable lessons, particularly for negotiations regarding military matters. In this negotiation, military personnel from both sides talked and from the start, a top military leader from the CNF launched tirades of attacks against the Tatmadaw officers. Everyone was stunned. The Tatmadaw officers found it hard to get a word in. It went on for quite some time and the situation was getting out of hand and so I intervened and changed the subject and talked continuously so he had no chance to continue. He stopped and we were able to get onto substantive issues. Later, I learned that he was a former Tatmadaw officer and was pressured to change his religion for promotion. He left his beloved army without giving in to the pressure and had held a grudge against the army since. The anger came out when he was confronted with the Tatmadaw officers, perhaps for the first time in years.

Negotiators have to be careful when going into talks with individuals or groups under such circumstances. The relationship can sour before its starts and they will go home empty-handed. In such situations, it is advisable to hold informal one-on-one talks first and avoid talking to them in a group.

C. 16. Bringing about empathy in negotiations

I have talked and written about the role of empathy in peace negotiations. A decade or so ago I learned from a number of Myanmar scholars that empathy does not exist in Myanmar language, though there is a translation. Empathy is the most critical element in negotiations. Empathy is the heart

²¹ Senior adviser to MPC and currently an adviser to the Peace Commission

of negotiations, especially in a country like Myanmar where all groups have pledged to find solutions through joint efforts. Once there are empathetic negotiations, one can say that they are closer to the solution.

Based on our experience, one cannot ask for or demand empathy. Nor can anyone be pressured to be empathetic in negotiations. Empathy can only be brought about when there are frequent meetings, building or deepening relationships, cooperation, actual feelings and understandings of joint ownership and joint-problem solving.

Given the lack of a definition and concept of empathy in Myanmar, it is no surprise that there is little understanding of the role empathy plays in peace negotiations. There is however a general understanding that solutions can only be found through cooperation and coordination. When opposing negotiating parties realize that there is no other way but to walk the path to peace jointly they begin to exchange crucial information and help each other. This is exactly what happened in the NCA negotiations and empathy was brought about without anyone realizing it.

C. 17. Problematic for peace: minimal discussion of illicit drugs

Myanmar is a country facing significant problems with illicit narcotics and ranks as one of the most affected countries in the world in terms of growing, processing, production and trafficking. Some senior ethnic leaders have been indicted by US Courts for drug trafficking. Despite this, the production and trafficking of illicit drugs do not feature greatly in the peace process. Some EAOs from Shan State, where the problem is most prominent, brought it to the table but it was never a central part of discussions.

This is interesting in a country with so many drugs problems originating from some of the conflict areas. Some argue that for some EAOs illicit drug production and trafficking is one of their main sources of income, and some further argue that is why it is not prominently featured in the NCA. The main reference to the drug problem can be found in the NCA, Chapter 6, article 25, which deals with arrangements during the interim period. The provision states that the signatories will “carry out the following programs and projects in coordination with each other,” listing “Eradication of illicit drugs” as item No.6.



D. Understanding the EAOs’ concerns, feelings and interests

D.1. Fears and concerns

Ethnic groups are minorities in Myanmar so they understand that they are no match for the government in terms of power and resources. The EAOs have fears and concerns as minorities and those need to be understood. Due to their fears and concerns, they are always on guard, and if undue pressure is put on them the end result is likely to be negative. This mentality tends to be more pronounced in smaller EAOs, because they have more to lose than the bigger groups. By extension, their positions and demands often turn out to be tougher. Fears and concerns may also spur some of the EAOs to expand their territory, aided by the lack of clear demarcation in many conflict areas. Understanding these dynamics is critical in reaching out to various EAOs in Myanmar.

D.2. Desires

While understanding the concerns and fears of the EAOs is critical, it is equally critical to understand their desires. Like everyone else in the

country, they want to live peacefully and independently and focus on the development of their areas. As a result of focusing on their respective areas, there is a perception that they do not look beyond their borders. This is an extremely vital point because a mindset change is necessary in order to embrace the idea that the ethnic groups belong not only in their respective areas but also as a part of the nation. Sensing such a mental block, President Thein Sein once told the EAOs leaders at a meeting at his little farm in Nay Pyi Taw in 2015 that the nation's capital belongs to the ethnic groups too.

In hindsight, the fact that they have agreed to the establishment of federalism in Myanmar can be considered as “looking beyond their borders.” This may stem from pragmatic reasons rather than internal aspirations.

D.3. Interests

The EAOs have varied interests, including personal, ideological and institutional interests, like any other organization involved in the peace process. Interests may exist in many forms and some are more important than others. Some EAOs pay attention to the interests of their own organizations, while others focus on personal interests. The number of EAOs in Myanmar is indicative of the many different and diverse interests. It is therefore unsurprising that it is not easy to establish common ground. Personal grievances can also be considered interests, because failing to see them will block negotiators from reaching agreements. However, understanding them will help the negotiators to see how their positions are linked to their interests.

D.4. Understanding the EAO negotiators and negotiating parties

- a. Experience** - The EAOs are constantly negotiating and are expert and experienced negotiators. They have their own training ground in the form of their own negotiations. The EAOs and their alliances have to meet each other continually in order to be prepared for negotiations with the government. They have to seek common ground or come up with sets of strategies among them before heading off. In the preparation meetings they often need to fight to make their point and position heard or to be taken seriously. In other words, their internal or inter-ethnic negotiations are in many ways harder than the

negotiations with the government. It is often the case that they use their well-oiled and well-drilled negotiation skills in their negotiations with the government. Likewise, many of them have spent time overseas working with advocacy organizations and have experience dealing with international organizations.

- b. Preparation** - As discussed, the EAO preparation meetings mean they have to negotiate among themselves and play the 'devil's advocate' as and when necessary to prepare and develop accepted strategies. In many ways, they are oftentimes more prepared than the government. Their diligence in preparation is on a par with that of the Tatmadaw.
- c. Demands** - Whether realistic or unrealistic, whether the government can actually respond or not, the EAOs tend to put forward all kinds of demands. They include almost everything they want in their demands, including entitlements. Perhaps, it is normal in a negotiation. Their attitude to negotiation, which I often hear from them, is "our job is to demand and it is up to the government to determine whether they will give in to our demands" and tenacity is their key strategy. One ethnic leader puts it eloquently, "The EAOs are good at milking the buffalo's horns." He meant even if there is nothing much to gain from the negotiation, they are prepared to push for more.
- d. Language proficiency** - I have heard ethnic groups and/or individuals say that they are not proficient in Myanmar language. It may be true in some cases, but in the peace negotiations the EAO negotiators often have better Myanmar language skills than the government negotiators. It is perhaps because they have studied at educational institutions or graduated from universities in Myanmar. All negotiators speak at least two to three languages, their mother tongue, Myanmar language and English, whilst some speak up to four or five. Myanmar language is used in EAO meetings as it is the Lingua Franca for all of them as they speak different mother tongues.
- e. Constant learners** – The EAOs know they are underdogs in the armed conflict in Myanmar as they are often divided due to their diverse interests. So the only way is to learn and adapt. As required by the rigor of the process, they need to be well-prepared and well-versed on key issues to negotiate effectively, which necessitates constant learning.

As an example, they are learning about legal matters, negotiation methods, technical skills, federalism and constitutional issues and more at all times. They organize workshops and write papers to explain their points of views or hone their negotiation skills and methods. They know they need to learn and prepare to be taken seriously.

- f. The educated** - Many of the EAO leaders and negotiators have spent a long time in the jungles or on the mountains but this does not mean that they are uneducated. Many of the EAO negotiators have degrees from Myanmar universities, some of them are lawyers, some are engineers and some of them even hold Ph.Ds from prestigious universities overseas. As mentioned above, as constant learners, they are skilled and equipped to learn new subject matter.
- g. Orators** - As mentioned above, the EAOs meet among themselves constantly to prepare for negotiations with the government. They have to negotiate, present and argue so that their points are taken into account in the development of a joint position. The repeated practices of presenting, negotiating and arguing have made many of the ethnic leaders and negotiators orators.
- h. Expert negotiators** - Based on our experience, the EAOs are expert negotiators. They are a force to be reckoned with. They do not give up easily and are the veterans of their own internal and inter-ethnic negotiations. If one way is blocked, they will find another. In some cases, if they do not get what they want they will try to secure at least something – for instance adding a new word a phrase in a potential agreement that they think will favor them later.

D.5. Myanmar chauvinism

For as long as one can remember, ethnic groups have accused the Myanmar (Burman) leadership of being chauvinistic. Myanmar chauvinism or “Maha Lumyo Gyi Warda” was a phrase or mantra that was included in almost every speech that the EAO leaders made in the past. Generally, Myanmar chauvinism for the EAOs is understood as “blind patriotism characterized by a hegemonic desire to dominate the ethnic groups.” Other variations may be in more diplomatic language but carry similar negative connotations.

The phrase was in most cases directed at the leadership during the period of military and socialist rule. Since the peace process began it has somewhat faded. One has not experienced ethnic leaders using it in public since the start of the peace process. The phrase was never used in the peace negotiations but in our experience when some ethnic leaders used it they used it with such animosity; it made one feel that reconciliation in Myanmar was impossible. For now it is not used in the peace process but it has never gone away; it is just hidden. All key stakeholders must be aware that the phrase is still around and that being accused of being a Myanmar chauvinist carries such negativity that it can disrupt the peace process.

Notably, chauvinism is not only reserved for the military leadership of the past or some of the inflexible and conservative civilian leadership, but it is also used for some of the EAOs. While some of the top EAOs accuse the Myanmar majority of chauvinism, there are also accusations against them. Such accusations carry significant negative connotations and can impede peace negotiations. The use of the term therefore should be avoided.

E. Peace is our shared future

E. 1. The peace process is a joint venture

The peace process in Myanmar is owned by all; it is not owned by just one organization or individual. U Aung Min used to say, “The peace process in Myanmar is like a joint-venture” to the EAOs in the beginning of the peace process. He often emphasized that if there were three groups trying to make peace, all of them would have to take equal responsibility in success and in failure; no single group could be blamed. If all stakeholders believe that the process is jointly owned it is certainly easier for negotiators as both sides are likely to bargain collectively and a solution can be reached quicker. Perhaps, one could say that all sides more or less felt there was joint-ness in securing the NCA.

Dr. Min Zaw Oo has previously talked about how protagonists in war know the other side’s intentions and objectives because the objective of war is annihilation of one side by the other.²² In a peace process, he said such distinction was not that clear and therefore one had to make their objectives clear. He urged all stakeholders to remove the fog of war.

The objectives of war and peace are largely different from one another – from annihilation, to peace - but at times, this can be blurred. Especially, when talks continued without any agreement and trust was still in deficit. When one side adopts a totally adversarial position during war it is not particularly problematic but knowing the destructive power the other side can have is a problem for the peace process. It is critical therefore to understand each other’s real intentions in a peace process and see the process as a joint venture. Such an understanding does not come about automatically. Establishing clear protocols and ground rules is the best way to build trust, alongside concrete confidence building measures. Through such steps, both sides can understand the others intentions.

The NCA created jointly structured institutions. On the ceasefire side, the Joint Ceasefire Monitoring Committee (JMC), is comprised equally of government and EAO representatives. On the political side, there is

²² Ten lessons from Myanmar’s peace process. Min Zaw Oo. Nikkei Asian Review. December 2, 2015

the Union Peace Dialogue Joint Committee (UPJDC), again with equal representation from all sides. The Joint Implementation Coordination Meeting (JICM) sits above the two joint bodies as the deadlock breaking mechanism. The UPC is the negotiating forum for political issues and also provides equal representation among all stakeholders. The decision making in all mentioned peace institutions is joint because they all use consensus or 'sufficient consensus' models.

E. 2. Multiparty negotiations

The negotiations in Myanmar are considered to have two sides; with the government as one and the EAOs as the other, which is what it should be, it is how observers see it and also how it is often portrayed.

However, the role of the Tatmadaw can sometimes be different because it is sometimes counted as part of the government and sometimes as a separate group. Given the unique situation, all negotiators likened the Tatmadaw to the "elephant in the room." It was understood like this, because it was on occasion also a negotiator. For instance, in some negotiations, the Tatmadaw and the government was in agreement so it stood solidly behind the government and they negotiated as a team. However, in other instances the Tatmadaw had reservations about specific issues or a mandate they needed to uphold, so the Tatmadaw entered the negotiation as part of the government but negotiated for itself.

In a similar vein, the EAOs negotiate as a group with a common position, but they have different backgrounds, political affiliations, strengths and interests. One cannot say that they negotiate collectively at all times; sometimes they negotiate for their own organization, which may not be apparent to outsiders. Thus negotiations in Myanmar are truly multilateral and the negotiators need to understand the changing dynamics.

E. 3. Bilateral negotiations

Despite the fact that the peace negotiations in Myanmar have become multiparty in nature and practice, it can also be said that they are or can be done bilaterally. The preliminary ceasefires were signed bilaterally, before the negotiations became multiparty as they were geared towards the NCA. All groups maintained the right to speak to the army or the government

individually. In many ways, bilateral negotiations are critical in a multiparty setup. Sometimes there are impasses when negotiating collectively and bilateral negotiations are likely to be helpful in breaking the deadlock.

E. 4. Building relationships

Building relationships of all shapes and sizes is another important element. Relationships are critical for ceasefire and political negotiations. As all stakeholders have agreed to form a federal state it is better we build relationships now and strengthen them along the way. If we have adversarial relationships, not only will federalism negotiations take longer but a union built on enemy-like positions and mentalities will not hold together for long. The government has firmly maintained secession from the Union is not allowed; only coexistence.²³ By building good relationships, we can overcome deadlocks through friendliness and cooperation. It is the key to finding common ground for our shared future. Whether we like it or not, building relationships across the table is a must.

In my opinion, the peace process in Myanmar is about repairing relationships that have been damaged by war. Some of the negotiations from both sides were friends or classmates at some point in their lives. They met each other again for peace and their relationships were easily rekindled. Likewise, the peace process is where new relationships are forged. Relationship building must be made a key negotiation strategy.

E. 5. Deepening relationships

There is no doubt that all stakeholders in Myanmar's peace process desire peace. At the beginning of the peace process, understandably, there was absolutely no trust. Overtime, distrust slowly dissipated. Following numerous confidence building measures, bilateral ceasefire agreements are some of the first evidence of trust. As the NCA negotiations gained momentum, relationships between the parties improved, as discussed above. By and large, relationships were strengthened to the extent that

²³ The NCA mentions "upholding the principles of non-disintegration of the union, non-disintegration of national solidarity and perpetuation of national sovereignty" as one of the basic principles. The political dialogue section of the NCA also stipulates "avoiding issues that violate three main national causes of non-disintegration of the union, non-disintegration of national solidarity and perpetuation of sovereignty". In other words, the government of Myanmar does not allow the EAOs to break away from Myanmar.

criticisms were no longer regarded as offensive, rather as friendly advice on how to improve the general situation of the peace process. Such a breakthrough did not spread to all groups. All stakeholders should think of ways to strengthen and deepen their relationships, particularly when weak.

E. 6. Creating mutual understanding

The reasons why the peace process started are now in the past and all stakeholders should focus on the present and the future. To do so, it will likely require initiatives to create mutual understanding. The “Pay Hter Chet” in the preconditions of the NCA rules out secession and instead focuses on togetherness, which is also the prevailing sentiment among the general public. So it is crucial to create mutual understanding as opposed to mutual destruction, which existed previously. There were times when differences in interests, continued fighting and other instances of mutual destruction pushed the peace process off the road. Due to mutual understanding, all sides tried their best to bring the process back to normalcy.

E. 7. Friends or foes

Following the successful signing of the bilateral ceasefire agreement with the KNU in early 2012, U Aung Min went back to the capital to report the achievement to the President. For him and the country it was an incredible feat; the KNU were the first to fight government forces in the late 1940s and they had never signed an agreement with the government since. Indeed, the signing was to be celebrated. At the meeting with the President however, a top leader in the government warned U Aung Min that “he was cozying up to the enemy.” The Chief Negotiator was upset and often discussed it.

The first lesson from this example is that perhaps at the beginning of a peace process, a warning such as this is highly likely because foes have not yet become friends and the fog of war had not yet been cleared. The second lesson is that there are people within one’s own side who can undermine peace efforts with such comments and views.

E. 8. Collegial negotiations

Either due to similar cultures or past relationships, the negotiations in Myanmar's peace process are entirely civil and collegial. Despite contentious issues and numerous deadlocks, the talks are often as if they are among friends. No rude words are used; harsh words are avoided if at all possible and politeness is largely the order of the day. Likewise, there are no physical gestures or throwing water bottles across the table. Accusations are made solemnly, but the expressions on the faces of the negotiators are as if they are saying something like "sorry-we-have-no-choice-but-to-bring-this-up," demonstrating friendliness and an unwillingness to talk about difficult issues. This importantly indicates that despite decades of fighting, battle-hardened soldier-turned negotiators are willing to go the extra mile for peace.



F. Informal talks

F. 1. Informal talks

Informal talks are by far the most important element of Myanmar's peace process. They are always critical; in the beginning, in the middle and in the end. Due to the trust deficit in the beginning of the process, the first part of the negotiations focused on establishing a ceasefire and not on political negotiations. This does not mean though that politics was not discussed; politics was often the center of the discussion. The government negotiators often had to explain the political situation, related reforms and the intention of the former military rulers to the EAOs. This was mainly to build trust, understanding, induce empathy and encourage the EAOs to enter a truce with the government. From the ethnic side, their demands were mostly of a political nature.

The first part of the peace process was all about informal talks because both sides wanted to figure out what the other side wanted and what their demands were. 'Informal talks' does not mean that they were not official;

they were entirely official. Informal talks involve only a handful of people. The main essence of informality was that their schedule was flexible, they were easy to set up, issues were freely discussed, meals and drinks were shared and friendships were made. This was where demands, agendas, venues for further talks, communication, and more, were discussed. Informal talks were precursors to formal talks, where official agreements were made. In informal talks the ground is prepared, trust is built and gaps are narrowed. No matter what they are called proxy talks, pre-negotiations or informal talks, the MPC spent hundreds of hours talking to the EAOs informally, continually preparing the ground for formal agreements. Talks, formal or informal, are critical for a peace process because talking is unquestionably better than fighting.

Informal talks involve only a handful of people. Its exclusiveness and secrecy can be questioned. At the same time, it takes time to get to the formal negotiations and there is never a guarantee that a solution will be found. As a result of there being less people involved, it is easier to arrange and does not attract the media attention of the big formal talks. The talks can be extremely open and assist in reaching the final agreement. Generally speaking, due to distrust and for record keeping, during formal and even informal ceasefire negotiations both sides used video and voice recording. This became a norm, but there were times during informal talks when recording devices had to be removed, especially when crucial information was passed from one side to the other.

Throughout the NCA negotiations, the MPC was able to meet and hold talks with the EAOs' Nationwide Ceasefire Negotiation Coordination Team (NCCT) informally and at any given time or location. The informal talks established enough trust to secure the NCA agreement. However, the situation was different when we negotiated with the Senior Delegation (SD), which succeeded the NCCT. The SD did not accept informal talks and there were times when the government delegation could not even call or hold talks with individual members of the SD. There might have been many reasons why we could not come to an agreement with the SD, but one of the reasons may have been the lack of informal talks.

For U Aung Min and the MPC, informal talks were by far the most critical element in not only reaching 14 bilateral ceases in two years and but also the NCA after 22 months of grueling negotiations.

F. 2. Informal talks involving only three or four representatives

Prior to the end of MPC's tenure in March 2016, the MPC encouraged all stakeholders to meet informally as often as possible. Among many informal dialogues, the most successful were those between the KNU and the Tatmadaw. Both sides had what was known as '3+3' (three each) at the top level and '5+5' (four each from both sides) at the regional level. The process was easy enough. If they had anything important to discuss, all they had to do was call each other. From the Tatmadaw's side at the '3+3' level, lieutenant generals were involved while the KNU sent top military and civilian leaders. At the '4+4' level, the Tatmadaw sent regional commanders and the KNU sent regional commanders and top district level officials.

Through these informal talks, both the Tatmadaw and the KNU were able to establish an incredible amount of trust. The meetings helped solve some outstanding issues, not only between the government and the KNU, but also in regards to the peace process. They also contributed to greater cooperation between the two.

The MPC continually urged all stakeholders to follow the example of the Tatmadaw-KNU informal dialogue, including the RCSS-SSA.²⁴ This method can be used for solving political issues, including with the constitution, not only for ceasefire discussions. Informal talks are a key conflict resolution and confidence building mechanism.

F. 3. More talks required²⁵

Dr. Min Zaw Oo talked about the need for more talks as a key lesson of the peace process, and I could not agree more. I have always urged all stakeholders to talk more. No communication or talks mean both sides have yet to overcome their adversarial positions, but more talks and communication demonstrate a friendlier relationship. The more the protagonists talk, the better it is for the peace negotiations.

²⁴ One of the NCA signatories: Restoration Council of Shan State-Shan State Army South (RCSS-SSA)

²⁵ Ten lessons from Myanmar's peace process. Min Zaw Oo. Asian Nikkei Review. December 2, 2015

Dialogue is much cheaper than fighting. At the Oslo Forum on dialogue in 2014, I heard a Middle-eastern delegate quote the late Israeli President Shimon Perez about the importance of dialogue. President Perez had said, "It is cheaper to talk for five years than to fight for 5 minutes."

F.4. Insider-negotiators

I am not certain how widespread the phrase 'insider-negotiators' is in the peace process, perhaps it has only been emphasized for a little while. The phrase as I understand is about negotiators who are deeply involved in the peace process, with critical information and knowledge about how the peace process functions at an intimate level. This includes being willing to trade information and working closely with their counterparts to reach agreements. I think their role is even more critical in a country like Myanmar where direct foreign participation or intervention is not permitted as the peace process is a nationally-led process. Under the circumstance, negotiators have to be self-reliant in resolving problems. *(also refer to section M- homegrown process)*

Insider-negotiators understand the thinking of both sides. They know what the obstacles are. They are able to reason empathetically and understand the overall "Pay Hter Chet." Most importantly, they do not shy away from innovative options. They are good negotiators with experience and expertise and are critical in overcoming the stalemates and reaching solutions. There are insider-negotiators in all groups around the table in Myanmar, and they are vital in negotiations. Although the government established the MPC, its negotiators often worked like insiders-negotiators with their EAO counterparts.

Dr. Min Zaw Oo has called moderates from both sides, allies. Throughout the negotiations, there was evidence of moderates from all sides working together in a friendly manner to find a common solution. This is not a surprise as it is common to make allies across the divide, particularly if they have a common or similar understanding regarding resolving the conflict. They often become insider-negotiators.

F. 5. Active listening²⁶

Paying close attention, through active listening, to what is being discussed is a requirement for a negotiator. It does not come automatically though and needs experience and practice. If one is good at active listening it is said that he can separate facts from fiction, facts from misinformation and real interests from false interests. Likewise, he will be able to detect instances of procrastination as well as openness. It is said that he will even be able to separate people from problems and this could help a negotiator find a suitable solution.

Throughout the NCA negotiations, as the facilitator representing the government I, along with my counterpart, had the best seat in the room. As I witnessed the negotiations unfold I was continually amazed at the skills some of the negotiators from both sides had developed and their ability to pick out problematic words and phrases, separate people from problems and identify potential spoilers. This was perhaps due to active listening developed overtime.

F. 6. Firmness and flexibility

It is said that negotiations are a combination of firmness and flexibility and in my experience there has to be a balance between them. U Aung Min is considered a flexible negotiator and some have accused him of being too accommodative to the EAOs. From my understanding, he made the peace process as flexible as possible and accommodated what he thought he should. He was also firm on issues that he knew he needed to be absolutely firm about. For instance, when the crunch time came about who would sign the NCA he stood firm on who was qualified to sign, and when some of the EAOs reasoned that more time was needed, he firmly stood by the government policy.

²⁶ Also based on classroom notes on negotiation from Harvard Kennedy School

F. 7. Accommodation in negotiation

Critics of U Aung Min often accused him of being too accommodating to the EAOs. Did he really accommodate all the EAOs demands? Perhaps not. Accommodation can mean a number of things; it can be giving in to some demands because the negotiator is looking at the larger picture, they may be focused on building trust and relationships, or may accommodate temporarily to persuade the other side to stay at the table.

Accommodation should not be confused with confidence building measures (CBMs). Indeed, CBMs are critical and need to be instituted throughout the negotiations, which the MPC always emphasized. U Aung Min was constantly looking for ways to build trusting relationships with the EAOs, which could be seen as accommodation by his critics. He did accommodate to the EAOs where necessary; but largely through CBMs.

Accommodations can be perceived as giving in too much and can be counterproductive. An example is the invitation U Aung Min extended to the Arakan Army (AA) in 2014 to attend the all-Rakhine Conference in Kyauk Phyu, Rakhine State. It was largely a CBM that went wrong because the AA took advantage of U Aung Min's goodwill and used the occasion to recruit. There were other CBMs that were not well received by the public, such as the provision of free motor vehicle licenses to the EAOs. (*Please also see T.10 Provision of motor vehicle license to the EAOs*)

Accommodation in negotiation is critical, but it needs to be strategic and well executed. The strategy needs to be discussed thoroughly among one's own negotiation team before accommodating, so that potential issues are hopefully foreseen and predicted.

F. 8. Recognition of the roles of the facilitators

As discussed earlier, the ceasefire and peace negotiations in Myanmar are multiparty. There are also many issues and conflicts that are either bilateral or multilateral, that are often characterized by distrust and a multiplicity of players. For this reason, negotiators from all sides have to appoint their respective facilitators. The number of facilitators ranges from two to three each. The Myanmar peace process is home-grown and domestically led,

meaning there is no foreign participation is allowed. Facilitators are needed to assist the negotiations and move them forward.

The role of the facilitators is well recognized and understood to be important. Without their contribution, complex negotiations would not be successful. They do not only act as facilitators, helping negotiators move from one negotiation point to the next, but they also have to work as the Masters of Ceremonies and moderators of events. It is not an easy job because both sides often berate them as they navigate through difficult words and issues, and they need to keep calm and collected. They often find it hard to navigate through the issues, especially when the emotions are high and tensions are palpable in the room.

The facilitators in Myanmar are not independent because they represent one side or the other, and they also work as negotiators when they are not facilitating. At such times, they join their own group and brainstorm. Once they are back in the facilitators' seat they have to behave like facilitators and have to be neutral. This is perhaps something different from other peace negotiations.

F. 9. Negotiation is all about trade-offs

In a negotiation, demands are not only made by one side. For instance, the majority of the original provisions of the NCA – over 140 points – were brought to the table by the EAOs to negotiate with the government. In response, the government made trade-offs with the EAOs. Sometimes, there were counter-offers, other times both sides worked together to change a word, phrase or demand to make it more acceptable and in some cases, the EAOs made additional demands or countered the government's offer. The NCA is evidence that both sides made appropriate compromises, otherwise the talks would have broken down. In the worst case scenario, fighting would have resumed in all conflict areas.

The lesson is that no one around the table gets away purely with what he wants, everyone needs to make compromises to get an agreement. If a negotiation drags on it is likely that both sides have not made acceptable compromises.

F. 10. Negotiations all around

Negotiations happen everywhere and all the time, not just between the government and the EAOs. Different institutions and organizations involved in the peace process also have to negotiate. For example, the government has to negotiate amongst themselves before the negotiation with the EAOs. On the side of the government, there is the combination of the representatives from the government, the Tatmadaw and the parliament. They have to individually negotiate among themselves and then all three groups have to meet right up to the last minute before they go into the negotiation room. The EAOs also have to negotiate between themselves before the meeting with the government. The same applies for the EAOs. They have their own internal preparations. Then all EAOs have to meet in order to come to an agreed strategy to negotiate. After which, both sides may have to reach out to their allies to see if their plans and moves will work.

Without internal negotiations for common position, which in effect are part of the key preparations for negotiations, negotiators would find it extremely hard to reach agreements with the other side. This negotiation and preparation happens all the time and is in addition to formal meetings; such as during breaks, dinners, on the planes, in the car, on the phone, via emails, through proxy or friendly mediators, etc.



G. Building institutions for peace

G. 1. The need to build peacemaking institutions

Since Myanmar's independence, Myanmar has continually initiated peace with various armed groups. However, no government had formed or built institutions – government or otherwise - specifically to make peace. Only under the leadership of President Thein Sein, did he form an institution to spearhead the peace process but its emergence did not come about automatically.

Following his offer of peace to the EAOs in August 2011, he formed two peace negotiation teams. They were not permanent; they were ad hoc. Only after the government secured two major bilateral ceasefires with the RCSS-SSA and the KNU, it realized that it needed specialized institutions to help with

the peace process. Thus the government formed the Union Peacemaking Central Committee (UPCC) headed by the President himself and the Union Peacemaking Work Committee (UPWC) headed by the Vice-President. It also issued an executive order to form the MPC to help the UPWC and the government's Chief Negotiator U Aung Min in the negotiations. A total of 13 Ministers and high-ranking army officers were appointed to work with MPC. Importantly, the government also encouraged exiles, academics, intellectuals, constitutional experts, etc, to work with the government through the MPC and allowed the MPC to recruit some 120 'outsiders' to fill various positions.

In hindsight, these institutions were critical at all levels of the peace process, from negotiations (UPWC/MPC) to key decision-making (UPCC). Without these institutions, it would have been difficult for Myanmar to move from bilateral ceasefire negotiations to political negotiations.

G. 2. The need for less bureaucratic peacemaking institutions

In our experience, the peace process requires rapid responses, when necessary and so peacemaking institutions need to be un-bureaucratic and flexible. In a peace process, there are frequent and unexpected turns of events and negotiators should always be ready to respond urgently in order to prevent conflict escalating. In Myanmar's peace process, the negotiators need to be able to pick up the phone and speak to field commanders on all sides to urge restraint or to stop the fighting. They may need to travel without notice. They need to adapt to sudden changes, which may affect the negotiations. All of these will not be possible if peace institutions have unnecessary red tape.

As the successor of military rule, President U Thein Sein inherited a bureaucracy filled with red tape. In order to overcome the restrictions and be able to respond to the needs of the peace process, the MPC was formed as a "One Stop Shop or Service" for peace, providing all services possible to make the peace process run as easily and smoothly as possible. The MPC was a semi-government organization that did not have decision-making power and it could not lay down policies. It could and did advise and help the government negotiate its policies with the EAOs.

The MPC was a masterful creation under the leadership of Ministers U Aung Min and U Soe Thane. The MPC developed a culture in which the directors and advisers could advise government ministers, not just on peace, but also other matters relating to democracy, politics, transition and public relations. They could tell U Aung Min openly “no” if something was impossible and some senior United Nations (UN) officials even said that there was no other institution like the MPC in the world.

If the MPC had to write to the Ministers for permission for everything that needed to be implemented for the peace process, it would never have moved forward. If U Aung Min had to meet the President for simple matters, the peace process would have slowed down. The tasks were delegated from the President to U Aung Min, and from U Aung Min to MPC advisers and directors. U Aung Min was never once involved in the day-to-day running of the MPC and he never interfered with our work. U Aung Min provided us stability, leadership, guidance and policy orientation. He gave his complete trust to MPC leaders. Importantly, the one thing he held was the policy and decision-making power.

For example, Dr. Min Zaw Oo and myself organized regular briefings for diplomats, international non-government organizations (INGOs) and others known as ‘Key Stakeholders Briefings’. They were held roughly once a month or after major negotiations. For these events, we just needed to inform MPC leadership, and make a call or send an email to U Aung Min’s personal assistant to inform him about the briefing. He never said no and he only participated once.

The MPC’s success was due to the fact that it was formed with solid support, reduced bureaucracy and increased flexibility. It could not have worked otherwise.

G. 3. Cooperation between the management and the negotiators

The MPC negotiators often had trouble dealing with management because there were no clear terms of reference between them. Given our experience, in the future there should be a clear demarcation or balance between the management and negotiators.

The job of the MPC executive director was different from those of other directors. While the executive director was responsible for the overall management of the work of the MPC work, the directors were responsible for negotiations. Tension arose between the executive director and the directors because of misunderstandings over responsibilities and unclear roles. The MPC management was good, but it was seen to be interfering in the work of the directors. From the managements' perspective, they were just doing their job to run the organization as smoothly as possible. The strict rules of the management often ran into trouble with the directors of different programs.

Using this example, a peace institution will not work efficiently if there are tensions between the management and the negotiators who are often focused entirely on getting results. Proper terms of references need to be instituted and roles and responsibilities spelt out to reduce and minimize tension and encourage a team spirit.

G. 4. Encouraging creativity and innovation

Peacemaking is about overcoming intractable problems and sometimes negotiators need to think 'outside the box', be innovative and creative to get around them. They need to be able to use available tools effectively. Peacemaking institutions should pay attention to creativity and innovation that will advance the peace process. One simple ways is to encourage innovation within the institution by telling staff they can think freely to overcome hurdles in the peace process. This especially needed in a country such as Myanmar where there is perennial fear of hierarchy.

In contrast, too much bureaucracy and/or instilling fear in the minds of staff through threats and harsh warnings, especially from management, can impede innovation. If such an environment exists, not only will creativity suffer, so will productivity. Creating an environment that encourages creativity and innovation is critical.

G. 5. Sufficient funding

For the peace process to be successful it needs enabling conditions, including politics and supportive structures. Chief among them is the availability of sufficient funds for peacemaking.

U Aung Min went to the President following his appointment as the leader of the second peace negotiation team. The President told him that he had earmarked 1 Billion Myanmar Kyat (approximately 100,000 USD at the time) for peace negotiations and that the first peace negotiation team had already used about 70% of the funds and that some 30,000 USD was available for his disposal.

This was a ridiculously low amount of funds for peace negotiations given the number of EAOs. \$30,000 USD would be just enough for three trips to Thailand for roughly six negotiators and their support staff. In the end, U Aung Min did not take the money from the President and instead began with the support of a number of businessmen, until the MPC was established and proper financial assistance was secured.

The MPC received sufficient funding from the European Union (EU) and the Nippon Foundation (TNF) – about 4 million USD a year. The EU provided core funding, for the running of the office, salaries, organizing meetings and travel. The MPC also used funding from TNF, which was a bit more flexible than the EU funds, to travel and negotiate. They could be used simultaneously or separately. The funds had to be negotiated in advance, not once, not twice, but many times. The funds from the EU were not given directly to the MPC. It was channeled through the United Nations Office for Project Services (UNOPS), which acted as the fund manager. For this reason, negotiations took several forms with the EU, UNOPS and TNF. Then the money was spent systematically and transparently. We had both internal and external audits, involving both local and international audit firms.

During the MPC tenure, it was rare that government funds were used. If I recall correctly, the only time Union government funds were used was for the first UPC in January 2016 and Karen and Kachin State government funds were partially used for big negotiations in those States.

War is expensive and so is peace. Without sufficient funding, a peace process cannot be sustained. Securing sufficient funding, either from donors or the government, is critical.

G. 6. Instituting all necessary structures of a peacemaking institution

A peacemaking institution should have the necessary structures and characteristics to support a peace process. The MPC was set up to run functionally, its structure included:

1. Special advisers
2. An executive director
3. Program directors such as the Directors of Ceasefire Negotiations and Implementation and Political Dialogue
4. Research and Program Support
5. Legal Support
6. Outreach and public diplomacy
7. Admin support
8. Peace building operations and coordination
9. Geospatial activities and resources
10. Mine action

At a glance, it is obvious that the MPC was well-equipped with programs to deal with the key issues in the peace process. The formation might not have been perfect, but the institution had the necessary structures to support and make peace. The roles and responsibilities of each and every member of the organization and the line of communication and chain of command had to be absolutely clear so that there was no confusion among the staff and directors.

G. 7. Sufficient manpower

The MPC was staffed by 120 people working in different capacities in addition to an appointed leadership committee, comprised of 13 ministers and high-ranking military officers. In other words, there were about 130 people on the government side alone working towards peace in Myanmar. During our trip to Colombia in 2015, I asked the Colombian negotiation team how many people they had in their organization - about 70 - and they had comparably fewer groups to negotiate with. I think the MPC having around 120-130 staff was justified.



G. 8. Teamwork matters

Teamwork is critical because without it, it would be hard to accomplish anything. Negotiators on the same team need to meet at least daily, exchange views and information and set out strategies and tactics together. This is the best way to resolve potential problems within the team and to uphold a team spirit. The negotiators need to encourage creativity and innovation, but also common sense, to resolve problems.

The teams were comprised of people with different backgrounds, expertise, experience and expectations and so it can be hard to build team spirit. Given the diversity among the MPC directors, it was not unusual for there to be arguments and heated words exchanged. Indeed, there were times when someone in the team tried to stab a teammate in the back, but there was also openness and check-and-balances to tackle potential inter-organizational problems. Regardless of egos and personal issues, the teamwork of the MPC was always good and this was modeled in the stable leadership of U Aung Min and U Soe Thane. The MPC directors were mature and life-long advocates committed to peace and saw the larger picture, and thus they understood the need for cohesion among the team members and they set aside personal issues in times of need.

G. 9. Teamwork among U Aung Min and government negotiators

The main government negotiators consisted of U Aung Min, several ministers, high-ranking army officers, a ranking member of the Parliament and a former military officer. They met once a month to prepare and plan for the negotiation. The preparation generally lasted one whole day and ended after dinner, and they also met when there were critical issues to discuss.

On the day of the negotiation with the EAOs, the government negotiators were at MPC by 7:30 or 8 Am at the latest and undertook final preparations. When they arrived, all MPC directors and advisers left the room so that U Aung Min and his government team could make final preparations.

G. 10. The Chief Negotiator

There must be a chief negotiator who has the appropriate authority and responsibility to implement the peace process in accordance with government policies. There must also be an institution and a consolidated team to help the Chief Negotiator make peace. U Aung Min was given such authority and responsibility and the government negotiating team accepted it. His decision was final. Sometimes, there were issues with the Tatmadaw side being unhappy with certain decisions, but nonetheless they accepted them. This was because the 'government' made them, as in U Aung Min representing the government. Such recognition of the role of chief negotiator was critical in overcoming the deadlocks.

G. 11. Clear chain of command, responsibility and communication

A clear chain of command between the president, the chief negotiator and his team of negotiators are essential. Not only should they have clear responsibilities, but there should also be a clear line of communication. All negotiators, including the Chief Negotiator, should comprehensively understand these so that they know who to contact and who to consult if the need arises.

The mechanisms between the UPCC, UPWC and MPC were well-defined. The UPCC had 11 members headed by the President, whereas the UPWC was led by the Vice-President and had about 50 members from all across the

government, the parliament and the Tatmadaw. The formation, especially of the UPWC, was aimed at inclusiveness.

The table below explains the mechanisms.

Mechanism	Responsible person/s
UPCC (Policy and decision)	President U Thein Sein
UPWC (Policy and decision)	Vice-President Dr. Sai Mauk Kham
U Aung Min, U Soe Thane and MPC Committee (Negotiations, policy and decision)	Minister and Chief Negotiator U Aung Min
MPC (Negotiation and technical assistance)	Special advisers and directors

U Aung Min received policy guidance and instruction directly from the President. He had the authority to negotiate and make decisions, and only went to the President for policy decisions, for final approval or on issues that he could not decide or promise on. In this way, he was able to move the process forward as quickly as possible. In some decisions, mostly military matters, the army representatives received policy decisions from the Commander-in-Chief directly. Preparations and technical assistance were the job of the MPC.

U Aung Min was accused of not meeting all the members of the UPWC, which was true. From his point of view, it would have been a waste of time to meet all the members of the UPWC to report on the progress of the process when there were pressing matters and not enough time. He did however send reports to the Vice-president who chaired the UPWC.

The lesson is that there should be a clear chain of command, of responsibilities and communication among the key peacemaking institutions. Retrospectively, it is understandable that President U Thein Sein wanted to create inclusive institutions. They would have worked better and faced less criticism if they were leaner. Perhaps the reason U Aung Min bypassed some the institutional hurdles without going through the whole 50 members of the UPWC was to create a leaner peacemaking institution.



H. Commitment of the chief negotiator

H. 1. Commitment of the Chief Negotiator

The MPC had sufficient manpower, funding, expertise, experience and adequate political support, but it could not have worked without U Aung Min's commitment to peace. U Aung Min worked 7 days a week. The MPC consequently had no other choice but to work the whole week. Without the leadership and commitment of the likes of U Aung Min and U Soe Thane, we would have experienced more challenges during the negotiations. The diligence, stamina, perseverance and good will U Aung Min demonstrated as the Chief Negotiator and chairman of the MPC were central to the success of peace negotiations.

From the time he started as the peace negotiator, he began to give up some of his primary role as the Rail Transport Minister and transferred all of his authority to his deputy minister. He "jumped into the peace process" as the Myanmar people would say and did not look back. His appointment

as a Minister of the President's Office in charge of the peace process and political reform strengthened his commitment to peace.

During the week, he worked in Nay Pyi Taw and on Friday afternoon he would travel to Yangon where the MPC was located. By 7:30 am on both Saturday and Sunday morning, he was at the MPC and so were we. Over breakfast, we exchanged views, shared information and strategized for on-going talks. By 9 Am, visitors arrived or the meetings started and he spent all day talking, meeting and negotiating. If there was nothing more to do or no meetings to be had, he would go back Nay Pyi Taw late Sunday afternoon. This was his routine throughout the negotiations, working 7 days a week. There was never a time that he missed a meeting he was required to attend, he was never late for a meeting or a negotiation. He always arrived well in advance. He stayed for the length of meetings, including the functions and receptions the MPC organized. As a rule, he would take his leave at 9 PM or when everything was finished for the day.

Such total commitment and sacrifice – personal, time-wise, work-wise – were critical for the success of the peace process. In many ways, they were central to peace process because by extension, his team and the MPC had to follow his example and provide full commitment to the peace process, contributing to overall teamwork and commitment.

H. 2. Chief Negotiator's leadership

U Aung Min is not only a good negotiator but also a good leader. Visitors to the MPC would often ask us about him and we always replied that we were happy working with him. This was not an overstatement. Perhaps, due to his military background, he was good at delegation and never interfered with our daily work. He did not control anyone and was not officious at all, instead he focused on communicating policies to the other side, building relationships and getting results. He even asked, almost as a rule, if one of the directors was missing around the lunch table on the weekends in order to foster team spirit and togetherness, as illustrated by eating and talking together.

This arrangement was suitable for those of us who were not accustomed to restrictions and red tapes and the hands-off approach gave us leeway and flexibility. All we had to do was to provide proper advice and administrative

and management support so that he could do his job effectively. According to his critics, he had many weaknesses but for those of us who worked with him closely we could identify his leadership traits; he is patient, tolerant, a good listener, an inclusive thinker, good at building relationships and trust and providing a strategic vision.

The leader of a peace process and the leadership skills they will manifest can never be predicted in advance, but for a Chief Negotiator to be a good leader is one aspect that can make a significant difference.

I. The process

I. 1. The process matters

In the fourth year of the Myanmar peace process in 2015 in some places the process remained unclear. There were still disagreement over how the process should end, especially in regard to constitutional issues and mechanisms related to DDR and Security Sector Reform (SSR) programs.

The peace process should be simple and clear. How the negotiations will take place, and how the agreement will be implemented should be clear. Key principles such as transparency and accountability should be instituted. Most critical of all, the process to be undertaken should be agreed by everyone before negotiations begin. Once agreed, all stakeholders must abide by it. Otherwise, confusion and disagreements over the process and substantive issues will delay it. Periodic reviews of the process should be undertaken to see if it is working and to improve it if necessary.

I. 2. Structured dialogue

Critical for the success of the political negotiations is that the peace process and the political dialogue are structured carefully. The structure and process of the talks must be discussed and decided in advance with all stakeholders, including deadlock breaking mechanisms, in case the talks stall, and how to prevent clashes, etc.

The talks were not properly structured in the early days of the U Thein Sein government; in fact, the peace process started out on ad hoc basis, but it is an important part of moving forward. Despite the number of ceasefire deals made in Myanmar's history, there was never any structured dialogue under the military regime because it maintained that political negotiations were the responsibility of a politically elected government.

The NCA negotiations were a combination of ad hoc, informal and structured formal negotiations. Once the NCA was signed, the signatories had to adhere to more clearly-defined and structured dialogue complete with Standard Operating Procedures (SOPs) and Terms of Reference (ToRs). Such structures are outlined by the institutions established by the NCA, including the UPDJC, JMC and the UPC. Likewise, the UPDJC agreed upon

the Framework for Political Dialogue within 60 days from the signing of the NCA, so that dialogue could commence within 90 days as stipulated by the NCA. These structures are an example of how rules, SOPs and ToRs can and must be instituted in order to create a structured dialogue involving many actors.

I. 3. The peace process happens outside the parliamentary framework

The EAOs firmly contend that the peace process and negotiations must happen outside the parliamentary framework. This is mainly because they have no representation in the parliament and they do not yet trust the Myanmar polity and the establishment of the parliament. Further, they are opposed to the current structure of parliament.

In 2013, Thura U Shwe Mann, the then Speaker of the House, gave interviews about the peace process. While he touched on many important issues, he also spoke strongly about the illegal taxation of the EAOs from the point of view of a top lawmaker, connecting legislation and peace. However, the EAOs became so concerned about the role of the parliament in the peace process that they refused to negotiate with the government for three months. It is still unknown whether he knew the impact of his interview.

In Myanmar, political negotiations must happen outside the parliament. The role of the parliament will be to turn agreements into legislation and to amend the constitution based on the political agreements. The EAOs want to represent themselves and do not want to give their representation to others, including their own ethnic brethren. This is a broader issue than being just related to the parliament.

I. 4. Total commitment to the NCA

The basis of the Myanmar peace process is the NCA. It took 22 months to produce the final agreement. Along the way, there were many challenges to overcome, including both frequent deadlocks and endless clashes on the ground.

The NCA is a historic document, the first written, comprehensive, multilateral and negotiated political agreement since the armed conflict broke out immediately after Myanmar's independence in 1948. Despite

being historic, it is not perfect because it is a compromise; there were groups who were opposed to the NCA and there were groups who negotiated the entire 22 month period but refused to sign it in the end.

The NCA contains details about how to make the ceasefire work and how to hold the political dialogue. Some of the key features of the NCA are the promises by all signatories to form a “Union based on democracy and federalism,” the JMC, the UPDJC, to follow the political road map, and to ensure civilian protection, etc.

The NCA is not an ordinary ceasefire agreement because it also has many political components. The NCA is dubbed the doorway to political negotiations in Myanmar, because there is little evidence of political dialogue existing beforehand. Chapter 1 (Basic Principles) Article (b) states one of the principles as, to “Secure a nationwide ceasefire as a first step to end armed conflict, and establish a new political culture of resolving political conflicts through political dialogue instead of force and arms.”

Without the NCA, it would be extremely difficult to maintain the ceasefire because it institutionalizes systematic ceasefire arrangements. Without the NCA, political dialogue would be difficult. Currently, there is no other document that governs ceasefires and political dialogue. If the NCA is no longer wanted, negotiators need to go back to the drawing board, which is not desirable or possible, and fighting may easily resume. I believe there is no alternative to the NCA and the only way for the peace process to go forward is to remain committed on the NCA.

1. 5. The dilemma of whether or not to sign the agreement

Once negotiations have successfully produced a final agreement, key stakeholders are likely to face final doubts before signing the agreement. Doubts may come from existing distrust or a history of broken promises or uncertainty over the compromised nature of the agreement or for other reasons. Spoilers may also emerge and dampen the goodwill that exists and cast doubt on the sincerity of the other side.

The eventual signatories of the NCA, including but not limited to the KNU, RCSS-SSA, the All Burma Students Democratic Front (ABSDF) and CNF, took time to review the NCA agreement concluded in March, 2015.

Some groups who were left out of the negotiations protested vehemently against the NCA and more demands were made. The Senior Delegation succeeded the NCCT in June 2015 and produced more demands which were followed by more negotiations. Critical questions were raised in the period before the signing, including who would sign the agreement from the government side. Would it be the President and the Commander-in-chief? Who among the EAOs would ink the agreement? Who was qualified to sign the NCA?

The dilemma of whether to sign was more pronounced for the EAOs, both institutional and personal, than for the government. Such a process is entirely natural. Hesitating before making a big commitment for an organization is natural. No one can be blamed. In the end it took almost 7 months from finishing final agreement in March to signing the NCA on October 15, 2015. This is an important lesson because once the negotiators understand and can predict such doubt before making a big commitment, they can employ a variety of strategies to make stakeholders more comfortable.

I. 6. The nature of agreements

Wording in an agreement must be clear and comprehensible to everyone around the table, including terms, phrases and definitions. There were times when both sides had to compromise and agree on dubious and unclear words. Some parts of the NCA may be unclear because of vague words with a broad meaning. This may be because the Myanmar language is rich and the words can sometimes be unclear, broad or dubious. Where possible, these terms, words, phrases and definitions must be made clear and comprehensible. There are also words and terms that both sides had no problem agreeing to, but in reality will find them difficult to implement.

The agreements are mostly written in legal and formal terms. The negotiators may need to consult legal experts and experienced government officials and have them around the negotiating table, to standardize the agreements with legal, technical and national requirements without changing the contents or words. Myanmar's Deputy-attorney general participated regularly in the negotiations, and the MPC also had three legal experts.

1. 7. Should the process be rushed or not?

It seemed the government and the MPC were keen to rush the process and get the agreement, others said that it should not be. They may have been right. The government side felt that prolonging the ceasefire negotiations had adverse effects on the military situation on the ground. For them, the sooner an agreement was reached, the sooner the fighting could stop. The EAOs did not share the same sentiment; they had fought for decades and spending a few more months negotiating the agreement would not hurt.

There may be times the process should be rushed. There may also be times it should not. Whether the process should be rushed or not depends on the balance, rhythm and dynamics of the negotiation as well as the broader political environment.

1. 8. Timelines and deadlines

There are different opinions as to whether a peace process should have clear timelines and deadlines. Realistically, given the fluid and non-linear nature of a peace process, it is difficult to have a definitive and clear timeline and deadline. The process is often dependent on the situation around the table, on battle fields and in politics, not all of which the negotiations can control.

In Myanmar, negotiators often met to chart tentative timelines. Sometimes the timeline worked as planned, and oftentimes they worked against the negotiators, but without having the tentative timeline, the process can throw the negotiators off the goals. There were discussions about whether there should be an ultimate deadline for when the negotiations should end. International experts said it was impossible because no one knew where the process would go and when it would end. This was the case in Myanmar.

Given our experience, there were negotiators like myself who were in favor of having some deadline. The NCA negotiations went on and on, meandering like a crooked river and with no end in sight. Perhaps, it was good to have some idea as to when the negotiations should end in order to give the negotiators some urgency.

At the first UPC in January 2016, there was a proposal to set a deadline of 3 to 5 years to end all the peace and political negotiations. Likewise, the Deed of Commitment to Peace and National Reconciliation (*see below*) signed on February 12, 2015 was signed to encourage all stakeholders to start the political dialogue before the 2015 General Elections. In other words, setting a potential deadline to end the ceasefire negotiations and start a political process.



I. 9. The Deed of Commitment to Peace and National Reconciliation as a deadlock breaking mechanism

There are always impasses and deadlocks in a difficult negotiation. There are various methods and ways to overcome them, which may be different from one place to another. The MPC and U Aung Min used a variety of methods to overcome problems, such as informal talks, endless phone conversations, one-on-one meetings, to get a sense of where things were at or what stakeholders feel about certain issues regarding the impasse and find alternative proposals to the issue in dispute. Sometimes, insider-negotiators took respective responsibility and encouraged their own

side to come forward with a proposal to get past the deadlock and other times, through cooperation of insider-negotiators, the deadlocks were overcome.

As an example, by early 2015 before the draft text of the NCA was finalized in March, the negotiations entered into a contentious period, and resulted in a series of deadlocks. Some of the EAOs were doubtful of the governments' commitment to the NCA and unsure if the top leaders would sign. On top of these uncertainties, fierce fighting with the Kokang broke out in northern Shan State.

To overcome the deadlock, the MPC encouraged all sides to sign the Deed of Commitment to Peace and National Reconciliation (DoC), which originated from the EAOs. The DoC was not binding, but it was a pledge from the highest office in Myanmar. In some ways, it was more critical than an agreement because it was "a pledge, a promise" by the President to "promptly hold an all-inclusive political dialogue." At the time a promise of a leader was believed to be stronger than the actual agreement.

The purpose of the DoC was to overcome the prevailing deadlocks, to strengthen the commitment of all stakeholders for a peaceful settlement of the problems and to sign the NCA before the November 2015 General Elections. The DoC was signed on February 12, 2015 –Myanmar's 'Union Day.'²⁷ On the morning of the signing, the tension was palpable and numerous attempts at shuttle diplomacy seemed fruitless. In the end, the DoC was signed by; the President, representatives of the Tatmadaw, some EAOs and the majority of political parties. In hindsight, it significantly contributed to concluding the draft agreement just over a month later. Signing such a pledge by leaders of all sides can overcome major deadlocks.

²⁷ Union Day in Myanmar is a public holiday that takes place every February 12th. It commemorates the signing of the Panglong Agreement in order to gain full independence from Great Britain after more than 100 years of colonial rule.

J. Peace is politics

J. 1. Peace is politics so think “irrationally”

Peace and the peace process are all about politics, and are as complicated, complex and non-linear. Regardless of the intentions, as in politics, peace and the peace process can be dirty. Seeking a solution for only one side will not work, and stakeholders will lose patience if they try to think of the peace process as linear. Despite having ideological, personal and organizational reasons why the negotiations should result in a win-win situation, black-and-white politics often take over the negotiation. Such a situation can disappoint those who think of peace purely from their hearts and understanding this will help negotiators not to lose hope.

A former 1988 student leader, Moe Thee Zun, once provided an interesting analysis of Myanmar politics; he said to understand Myanmar politics, one has to think “irrationally”. Rational thinking in politics does not work when interests are hidden by positions, and thus one side can see the other side’s rational thinking as irrational. In the peace process, this analysis raises the need for empathetic thinking, because without putting oneself in the other side’s position he/she will only see the ‘irrational side’ of the demand, and not comprehend their logic.

J. 2. Paying attention to key stakeholders outside the negotiation room

It is important to pay attention to the politics of those around the table and it is even more important to pay attention to the politics of decision-makers who are not around the table. They can determine the direction of the peace process without physically sitting at the negotiating table. Thus, negotiators need to keep abreast of the moves, policies, thinking and preferences of such decision-makers and update them otherwise, the process may move in the opposite direction of their wishes.

Some key political leaders were never at the negotiation table, such as President U Thein Sein, the Commander-in-Chief of the Armed Forces, Senior General Min Aung Hlaing, and the then opposition leader, Daw Aung San Suu Kyi. Nonetheless, their roles, power and thinking will determine final decisions. Likewise, some of the EAO leaders, who not

only stay out of the actual negotiations but also never visit Yangon or Nay Pyi Taw, can determine the outcome of negotiations. As they are key to reaching agreements, negotiators should be fully aware of their thinking, power, politics and standpoints. Negotiators more or less know the personality, thinking, skills, politics, decision-making power and influence of those around the table. However, it is difficult to surmise what key leaders not around the table think and do and it is critical for the peace negotiations.

Knowing this dilemma, U Aung Min often asked the KIO delegation to let him and his team visit Laiza, the KIO's headquarters, so that he could meet KIO leaders he had never met before, in particular the KIO Chief of Staff General Gun Shawng, who never visited Yangon or Nay Pyi Taw or participated in the peace talks. He also repeatedly asked the KNU leaders to meet Baw Kyaw Heh²⁸, the then commander of the KNU Brigade 5, because he thought Baw Kyaw Heh held a key to strengthening the ceasefire with the KNU. On both accounts, U Aung Min was not successful because none of his requests were responded to positively.

J. 3. Paying attention to geopolitics

The armed conflict in Myanmar almost entirely takes place in ethnic and border areas and close to Myanmar's porous borders with Bangladesh, India, China, Laos and Thailand. The informal and illicit economy flourishes in this environment and the smuggling of humans, resources, narcotics and weapons happens all the time. There is also an unavoidable aspect of rivalry among the regional powers in the region. For this reason, negotiators should be aware of their geopolitical and geostrategic interests.

More critically, the EAOs fighting for autonomy in Myanmar have their ethnic brethren in these neighboring countries and in many cases they receive both financial and political support from them. There are also EAOs who are based in Myanmar but launch attacks against neighboring sovereign states. Some of them get involved in the smuggling of weapons and resources.

²⁸ Currently, Baw Kyaw Heh is the Deputy Chief of Staff of the Karen National Liberation Army

Likewise, some of the neighbors have at one point or another been involved in the armed conflict in Myanmar. There is a firm belief that at one point or another some of the EAOs have been supported by neighboring countries. There is also a belief that the assistance is continuing. On the whole, it is understandable that the influence of geopolitics has continued to abet armed conflicts in Myanmar. Due to this entanglement, it is also undeniable that finding a solution of some issues is extremely hard.

Such existing conditions create complex geopolitical realities. Negotiators need to be fully aware of their interests and roles in Myanmar's peace process to know the red lines.

J. 4. Elections and peace

For better or worse, elections often bring changes. They can and do change the policy and direction of a nation and they create new leaders who may bring different ideas and understandings to the peace process. Elections can be held during peace processes but they should be closely watched. Negotiators and peace strategists need to think in advance all the probable good and negative effects resulting from elections.

In Myanmar, the majority of the EAOs have both armed and political wings. In some groups, the former is led by the latter and in others, the armed wing has more say than the political wing. Critically, the political wings often have internal elections and negotiators should pay attention to such elections. Some EAOs do not have internal elections and instead leadership is appointed and generally speaking, negotiators more or less can guess the politics of these EAOs because their leadership is often stable and linear. The negotiators often have a clear idea if the leadership has a real interest in peace.

For EAOs that have elections regularly, the direction of the organizations can change drastically as and when the new leadership takes over. If the leader is considered a peacemaker, then he will provide continuation and stability for the peace process, but if the leader-cum-peacemaker loses the election, the situation can change. Unless one is intimately familiar with the politics of these EAOs, pays attention to the election and makes the necessary preparations in case the leadership direction changes as a result of the election, things can go wrong in the peace process.

The 2015 national elections also created uncertainties, not least because it happened on the eve of signing the NCA, but also because the election campaigns and preparations, took up precious time. In pursuing an election victory, the MPC directors felt that “the agenda of peace is very much likely to be put on the back burner.”²⁹ There was also the probability that the incumbent government, who initiated and invested heavily in the peace process, was likely to lose the election. Realizing the adverse effect that the 2015 election could have on the peace process, the MPC directors explained the potential impacts to the EAOs on many occasions.

In the end, the 2015 election unfortunately discouraged some of the EAOs from signing the NCA. Some of the EAOs that are more ideologically driven never wanted to give President U Thein Sein’s government the credit for the peace agreement, because of his connection to the Tatmadaw. As they were confident the National League for Democracy (NLD) would win the election they postponed signing the NCA. For these reasons, at least in the case of Myanmar, negotiators and peacemakers must give full attention to elections.

J. 5. The new political culture

Both President U Thein Sein and Minister U Aung Min talked frequently about the new political culture. Their version of such a culture constituted 1) competition of politics (meaning elections) 2) democracy 3) inclusion 4) principle of agreeing to disagree 5) respect and acceptance of each other’s opinion and 6) dialogue to resolve conflict. The new political culture contributed enormously to the peace process, as opposed to restrictions, an absence of democracy, disrespect for different opinions, oppression and the lack of dialogue under the former military regime. It was the foundation to “resolve political problems through political means.” The emergence of the new political culture befitting of the reforms and changes that happened in the five years was a lesson for us. It was the foundation for the new thinking essential to bringing the EAOs to the table and for garnering public support for the peace process.

²⁹ How Election Politics Could Harm Chances of a Peace Deal. An Insider’s Account of the Myanmar Peace Process. Aung Naing Oo. Page 238. December 2016.

J. 6. The media and the peace process

The peace process was initiated as part of broader reforms, including the relaxation of restrictions on the media. This on occasion posed a dilemma for the peace process. Due to the reforms, the media had quickly move from one side of the spectrum of restrictions to the other, from having so many restrictions under military rule to enjoying the freedom to write with relatively few restrictions. One seasoned journalist told me at a meeting in 2013 that for the media the “sky was the limit now.” Understandably but unfortunately, in most cases, the media had not adjusted to notion of freedom with responsibility. Consequently, there were times when young journalists got it wrong and we were misquoted. One MPC director was quoted not only ‘on the record’ but also ‘off the record.’ When we saw that printed there was nothing we could do but laugh.

The biggest problem was that some top media outlets were very critical of the peace process and how it was being implemented. Sometimes they published incorrect facts. The criticism put significant negativity on the MPC and the government. For the MPC’s part, it was too busy working towards agreements and in the process failed to pay attention to what was being written about it. There were occasional outbursts from the peace ministers or the MPC directors about the unfair treatment of the media. Unfortunately, the MPC had no communication strategy and the outreach department was not up to the task of dealing with the media. So the directors had to organize individual interviews and off-the-record background briefings to reporters. In hindsight, the media’s reports of the MPC and the government negatively impacted them both.

The key takeaway is that an organization such as the MPC should have a clear media and communications strategy. It should have someone in charge of dealing with the media and continually engaging with the media. If the media wrote something in an incorrect or non-factual manner, it should have immediately pointed it out and taken appropriate action. Simultaneously, negotiators and peacemakers need to understand that dealing with the media is not a short-term activity; it is one that needs close attention throughout the process and long-term thinking.

J. 7. Government politics and peace

U Aung Min often told us that we did not understand government politics and at first we did not understand what he meant. Later, we realized that there were people within his own government who turned out to be not-peace-process-friendly for ideological or personal reasons.

It is also critical that peacemakers and negotiators pay attention to government politics, including; the government's collective commitment to peace, the politics of individual peace ministers, and the politics of a handful of former generals in the government because they are all critical factors controlling the direction of the peace process. Some of the former generals continued to hold hardline positions against the EAOs due to their bitter experiences or nationalistic attitude and perhaps because of their relationship with the Tatmadaw. Obviously, such conditions can exist in any government because governments are not monolithic, but understanding these dynamics within the government is critical in 'pushing the envelope' to find solutions when it comes to peace.

K. Results matter

K. 1. Getting results matters

Achieving concrete results in the peace process is critical, such as reaching bilateral ceasefires and other smaller agreements that can stop clashes, build trust and open the door for political negotiations.

In spite of an on-going peace process, if a mutual solution is not reached through negotiation, there is always the likelihood that large scale fighting will erupt again and again and disrupt the negotiations endlessly. Alack of a solution or the absence of concrete results may push the parties into a stalemate which will frustrate the stakeholders and signal the troops on the ground to be alert at all times. As discussed, negotiating with those who are frustrated and upset is not constructive and at times can even intensify the conflict.

In a collaborative bargaining situation it may be that concrete results are not for one's own side. Rather, they are for one's counterparts because achieving the results is critical for the other side, particularly to keep counterparts at the table. For the directors and negotiators at MPC, the results mattered more than anything in the peace process. The MPC motto was "getting results matter whether they are for the right or wrong reasons" because we knew they could overcome hurdles in a difficult and complex peace process.

K.2. Blaming is to be avoided

Sometimes, it is difficult to say who is right and who is wrong. As is clear, in Myanmar there are numerous factors and actors to consider and lots of possible solutions. Negotiators and peacemakers often find it hard to pinpoint the real problem and find the right solution. Given their own interests and imperatives, each side is right and wrong at the same time. For instance, clashes happen on the front line at any given moment and the media reports will typically point the finger at the Tatmadaw. In reality, it is difficult to find out who actually started shooting, especially in conflict areas with no clear rules of engagement and an unclear peace process. The troops - unless they are under a ceasefire agreement – "shoot first and talk later." In many cases, they only shoot and do not talk at all.

Apportioning blame on one side, in particular publicly, will only increase acrimony. Instead, the aggrieved party should seek a dialogue with those who it believes is at fault. A solution will remain elusive if parties debate on who is at fault all the time.

K. 3. Progressive realization

There is a constant need for rapid responses to the changing context of the peace process and in order to stop any fighting during the peace talks. There are also many issues that cannot be responded to quickly and immediately. For instance, the negotiators needed to work in a step-by-step manner for the NCA and needed to institutionalize political dialogue to reach agreements geared towards federalism, which takes time. Negotiators and peacemakers need to sit down and negotiate for hours and days on end, build trust and follow through with the provisions of the agreement.

For this reason, the term “progressive realization” had to be used on a regular basis for those who were frustrated with the slow progress in the peace process. “Progressive realization” does not mean slow, nor rapid, progress. It means real and steady progress – both in substance and in essence. The term can also be used politically to justify the delays in the peace process. In that sense, there should be some clear indicators as to what constitutes “progressive realization.”

K. 4. Only good negotiators can bring about viable results

Throughout the negotiations, one hears complaints and protests directly and indirectly. Some groups will say, “We will not negotiate with you if he (a particular person) sits in the room or travels with us.” Only under dire circumstances should negotiators give in to such demands because whom one side chooses to represent themselves should not be a concern to the other. If the protesting side desires peace, they have no choice but to accept the representatives of the other side honorably. If a negotiator is rude however, and does not demonstrate respect to the other side, he/she should be removed from the negotiation team.

The MPC received complaints from some EAOs that they did not like some of the MPC negotiators, but they turned out to be good negotiators and experts. Perhaps, some EAOs considered them to be clever in the

negotiations, which might have been the reason why they protested or objected their inclusion in the first place. The question arose that if they believed they could negotiate with those who had no or limited experience did they think they could get more out of the negotiations?

In our experience, if one side has good negotiators and the other side does not, the result will not be constructive and fair. It would be like a soccer game between FC Barcelona and a team from the Myanmar National League. Any results from such a one-sided negotiation would make implementation difficult. If the negotiators from both sides are experts, even if they do not like each other personally, the situation at some point will compel them to work together because they will soon realize that they cannot out-negotiate each other. If there is cooperation in an integrative bargaining situation, it is highly likely that the solutions are equitable and mutual.

Given our experience, it is important for all sides to have good negotiators around the table because they can bring better results together.

L. Transparency

L. 1. Transparency

The activities, policies and direction of the peace process are closely monitored. As are the use of funds, travel, relationships, public statements and dialogues. The government's leadership is also closely scrutinized. The media, civil society, neighboring countries and the international community watches everything and closely follows every step negotiators and peacemakers make. Civil society organizations and diplomats, to name two, also get involved in the peace process in different capacities. For this reason, there must be transparency, because a lack of transparency draws unwanted attention from media, the public and all those who have stakes and interests in the peace process. This can frustrate negotiators and policy makers, which in turn can have negative effect on trust-building. Adopting transparency in the peace process is an important policy.

L. 2. Engage pro actively with all stakeholders

Following a successful negotiation trip to Kachin State in 2014, I was quipped by an old professor as to what was happening in the peace process. I told him to read the newspapers as more than 130 media personnel covered the event. He responded that he had but could not make out what was actually happening as several papers he had read had different versions of the negotiation. I was stunned and checked the news myself and was shocked to discover he was right. We then realized that it was not just the media that read the negotiation differently, there were also disparate opinions and facts among diplomats, civil society and the public.

Shortly afterwards, it dawned on us that the results of the negotiations were viewed by various stakeholders differently, and our opinion was just one of many competing for attention. This phenomenon made it difficult for the old professor, and the public, to comprehend exactly what was happening in the peace process, both good and difficult. The solution is for the negotiators, peacemakers and/or the government to get engaged with various stakeholders and the media pro actively to explain their side of the story.

Having learnt this lesson, Dr. Min Zaw Oo and I began to organize 'Key Stakeholder Briefings' every time we had something important to say or after a big negotiation. We mainly invited the UN, diplomats and international NGOs and were keenly aware that those present at the briefing had access to information prior to the briefing, so we had to speak carefully. Our policy was to explain our side of the story and not to blame anyone. We were later told by those that regularly attended the briefings that they were appreciated.

Not only did we provide information to diplomats and international NGOs regarding the peace process, but we also spoke to the media and provided background information and analysis for the things we could not speak about publicly or on the record. We also met various concerned groups regularly to explain the situation. All of these methods helped us tell our story as well as build relationships with various stakeholders.

L. 3. There are no secrets

There are very few secrets in Myanmar's peace process. There are also very few things or issues that one needs to keep in the dark. Some facts or information that remained hidden may be a secret for a matter of a few hours or a few days at the most. Even the most protected secrets came out eventually. This is because the negotiations take place in full view of the media and because there are so many actors and stakeholders directly involved in the peace process. As previously discussed, transparency is critical.

For example, all a journalist had to do was to call a few people on both sides of the negotiating table to get the key information. Any formal negotiations that took place at the MPC had representatives of the Tatmadaw, the government, the parliament as well as 16 EAO representatives along with their support staff, and MPC staff. Under the circumstances, it would have been extremely difficult to keep the negotiations secret.

Following the signing of the NCA, political parties became part of the official peace process. The set-up became tripartite; a) the government (along with the Tatmadaw and the parliament), b) the EAOs and c) political party representatives. At any given time, there were between 70 and 80

people in the room and it would have been extremely difficult to keep the meeting proceedings secret.

Blaming someone for leaks is counterproductive because no one actually knows who among the many people in the room has spoken to the media, their friends and constituencies. Sometimes, one side tries its best to keep what it considers a secret, but the information is already out there in the public. Such “open secrets” are common. It does not mean however that confidential discussions should not be kept so as and when necessary, especially in informal talks involving only a few delegates from both sides. The point is that transparency should be maintained when possible and that the negotiators need to keep a cool head when leaks occur, because they will.

L. 4. Criticality of outreach

It is important for the peace process to include the public so that they accept the results coming out of the negotiations. To do so it is essential to communicate to the public about activities and results and to educate them on the peace process. The peace process is not black-and-white and the public needs to be informed to appreciate its complexity. Throughout the MPC’s tenure, along with meeting various stakeholders to explain the process, sport and music festivals with peace themes were held when possible. The MPC directors and advisors also gave lectures on the peace process to various groups and institutions.

The MPC also organized ‘Youth and Peace’ forums throughout the country with the aim of explaining the complexities of the peace process and garnering their support as they were active in social and political movements in Myanmar. The MPC did not take these forums lightly and invited a number of Union and Chief Ministers to speak at the forums, to encourage openness and transparency.

L. 5. Admit mistakes

One of the most important lessons learned from the peace process is to learn to admit the mistakes of one’s own side, even if the mistakes were not made by your own organization. They may have been accidental. Whether

intentional or accidental, the responsibility may fall on the negotiators, above all the Chief Negotiator. By admitting mistakes, tensions can be dramatically reduced.

As an example, in 2014, there was an important negotiation in Myitkyina, Kachin State. There were not only KIO delegates in the room, there were representatives from all EAOs. The UN and the Chinese Special Envoys attended as official observers. The meeting took place in a context of a likely imminent resumption of fighting between the KIO and the government. There was public concern and it was expressed as we touched down in Myitkyina. The Tatmadaw and the KIO were prepared for the worst. The commentary on the streets of Myitkyina was that the fighting would definitely break out if the negotiations failed to reach any agreement.

Before the negotiation, we heard that the KIO would make some serious accusations against the Tatmadaw. We thought it was a rumor, but it turned out to be true. To counter the KIO's accusations, the Tatmadaw came well prepared with their own complaints and counter-accusations. We at the MPC knew that there would be no positive result if the talks began with the accusations, and it would result in more acrimony. We had to figure out how to discourage both sides from bringing the accusations to the table because we wanted the negotiations to proceed. We held discussions at breakfast with representatives of the Tatmadaw. We tried to strategize with U Aung Min, but he told us that he had the answer to the potential impasse. There was nothing we could but to watch the proceedings with anxiety.

On the day of the negotiation, both the KIO and the Tatmadaw came with a large number of files. All invited attendees were present in the room, including the Special Envoys and the media. As soon as the opening remarks and pleasantries were exchanged, we saw KIO leader General Gun Maw pick up the files from the floor and put them in front of him. We waited in suspense. Immediately, the KIO leader began by saying that his side had many things to talk about. He said that he would start with government (Tatmadaw) violations.

In response, U Aung Min turned the microphone on and told the KIO leader that it was him who had the most responsibility as the Chief Negotiator and no one else was to blame for the violations. He said he took full responsibility

for the things that had happened. Everyone was stunned and the mood in the room changed suddenly. The agenda changed immediately and no one continued to raise accusations. The files in front of General Gun Maw were placed back on the floor.

It is our experience that both sides are equally responsible for violations in a conflict. U Aung Min appeared to understand it well. If the accusations were made at the beginning of the talks, it was highly likely that they would result in a breakdown of negotiations. If that happened, the fighting would surely resume and affect civilians. So he took a chance and admitted that mistakes had transpired. For this reason, leaders of the peace process may need to admit mistakes that his or her side may or may not have made in order to reduce tensions.

M. Homegrown process

M.1. Homegrown process

The peace process in Myanmar began entirely as a result of Myanmar initiative, without any assistance from any foreign countries or institutions. The talks were kick-started by either Myanmar nationals or Myanmar exiles. This – the homegrown process – is a critical aspect of Myanmar peace process. National ownership has meant that any outside intervention can be effectively managed.

It is critical to get concrete results regardless of whether the process is homegrown or not, but we feel that our homegrown process is infinitely more valuable than one mediated by outsiders. An Indonesian peacemaker in a workshop in Nay Pyi Taw used a metaphor to describe outside intervention; he said ‘it is like taking an antibiotic because the body cannot cope with the internal problems.’ Thus, a homegrown process is like a healthy body that does not need antibiotics. We believe the success of the NCA was down to the fact that it was initiated and negotiated by all stakeholders in Myanmar with minimal technical assistance from outsiders.

Resolving one’s own issues without assistance from outsiders involves taking more responsibility, greater transparency and accountability and more efforts to reach agreements. Further, for peace negotiators, knowing that there is no one else but oneself to rely on to make peace means they value their achievements more. As there are no outsiders around the table, all sides have no choice but to seek to build relations across the divide.

The homegrown nature of Myanmar’s peace process helped build relationships, trust and promoted cooperation. Such collaboration assisted negotiators from all sides to overcome deadlocks. For this reason, the homegrown process needs to be maintained as much as possible.

M. 2. Make use of outside help as and when necessary

There are many aspects of Myanmar’s peace process that may require outside help. The process is complex with, as discussed, amongst other issues a multiplicity of actors and geopolitical elements that often dictate the direction of the peace process. Consequently and despite the fact that

the peace process was homegrown U Aung Min and the MPC made use of outside help as and when necessary. The help the MPC sought was only for specific parts and not the whole process.

The support the MPC sought could not be called mediation or intervention. The support requested was often in the form of friendly requests to international NGOs, diplomats and friends from overseas. They were mostly simple requests, such as to pass messages (mostly the government thinking) to the EAOs. The government would not let outside assistance interfere with the process so it was done strategically and in the spirit of flexibility.

M. 3. Impartiality of mediators

It was clear from our experience that some of the mediators who came from outside the official peace process were not neutral and in fact biased. They took part in the peace process because they were asked by the government or given a specific mission to intervene. While stakeholders may tolerate domestic mediators because they are known to all sides, the situation may be different for foreigners, in particular if the foreign mediators blame one side over the other in their attempts to get the message across.

This can be problematic if a mediator blames one side hoping to change their minds or forcefully encourages them to do so, because it is often interpreted as a threat. Such tactics frequently backfire in Myanmar because he/she may not understand aspects of the relationship between the disputants.

As also stated earlier, there are no secrets in Myanmar's peace process, and despite the divides, all sides talk to each other constantly, exchanging views and information. Outside mediators may not understand or know this. What is likely to happen is that as soon as the message is delivered, information about the meeting with the mediator will be given to the other side and the details of the talks revealed. They may be told directly that they do not like the tone of the mediator expressing a strong opinion against them. Under these circumstances, the mediator will have immediately lost the respect of all sides and in a worst-case scenario, may have done more harm than good.

M. 4. Use foreign advice carefully and wisely

When it was time to decide whether or not to sign the NCA, the EAOs held a number of meetings and sought the opinions of international experts, both those working with them directly and overseas. Doubts were raised about whether the President and the Commander-in-chief would sign the NCA, because as some foreign advisers to the EAOs pointed out, the NCA was beyond the mandate of the 2008 constitution. As their concerns were similar to those of the advisers, some EAOs used this as a reason not to sign the NCA. They were proven wrong when the top leaders of Myanmar signed the NCA and declared commitment to the agreement.

There were other times that advice from foreign advisers delayed the process, which at times may have been in the interests of some EAOs but on the whole they were impediments to the peace process. Seeking advice from foreign experts is critical because the negotiators need to establish all available options. However, the advice needs to be carefully examined. At the end of the day, decisions should be based on our own judgment, rather than those of the outsiders.

M. 5. Utilize external expertise

The peace process is broad and requires all types of expertise. While the peace process in Myanmar is considered “homegrown,” it still needs occasional external technical expertise and interventions. For instance, the MPC sometimes sought and received advice on ceasefires, negotiations, security issues and design of the talks. The MPC was a governmental institution and could not directly get the views of the EAOs, whereas experts could meet the EAOs and exchange views. These views could be shared to bring about a solution. Additionally, and as a result of how time-consuming and tiring the peace negotiations were, negotiators did not have time to do research and therefore they relied on the research of international experts to advance the negotiations.



M. 6. Criticality of the lessons learned from other conflicts

The MPC had a number of experts but because Myanmar's peace process is so broad and linked to democratic reforms, it was not enough. So, we used international support to study international examples of conflict resolution. All peace processes are unique and not everything can be emulated, but it is important to hear, see or read about conflicts overseas. Drawing lessons from them can significantly contribute to the peace process.

M. 7. Educate them in such a way that they do not know they are being educated

The peace process and negotiations are a way to educate negotiators every step of the way, on all aspects. Learning must be continuous and includes lessons from other conflicts. However, there is also another type of learning that was critical for MPC advisers and directors – that was – to follow Minister U Aung Min's advice. He told us at one point that we needed

to educate his government colleagues assigned to the peace process. The majority of them were former generals and had spent more than half their lives in trenches. So to paraphrase U Aung Min's words 'they were not familiar with peace and the notion of democracy' – the two issues critical to Myanmar's reforms, so we were told to educate them.

One cannot educate or lecture top ministers in a classroom or through lectures. So U Aung Min's instructions were – 'educate them in such a way that they do not know they are being educated.' He said we had been educated at well-known institutions in the West and should know how to do it. So we conveyed information through short papers, but mostly through dialogue and friendship. As we traveled with them on a number of occasions, we had the opportunity to talk about many issues relating to peace, security, ethnic politics, democracy, transition, economy, law, personal stories and more.

But it turned out that the education was not one way; we learned a lot from the peace ministers regarding government procedures, policies, thinking and sides of the ethnic conflict we were not familiar with and more.

N. Delivering on promises

N.1. Delivering on promises

As most likely exists in conflicts everywhere, there is a trust deficit in Myanmar's peace process. As there is distrust, peacemakers and negotiators need to be true to their words and keep their promises. If they cannot keep their promises, they can go back to the negotiation table to renegotiate or make appropriate amends. The EAOs believe that successive Myanmar governments have broken promise after promise. Correspondingly, they distrust the government and the Tatmadaw. Unsurprisingly, the Tatmadaw and the government distrust the EAOs based on their own experiences and beliefs. It is therefore critical that all sides keep their promises. Negotiators should bear in mind the history of broken promises and that they bring about deadlocks and distrust.

During his time as the Chief Negotiator, U Aung Min did all he could to fulfill promises he had made to the EAOs. One case I witnessed was when a special military task force detained Lahtaw Bran Shawng, an internally displaced person (IDP) living in the Jamaikong Baptist Camp in Kachin State in June 2011. He was accused of violating the Unlawful Association Act³¹ by coming into contact with the KIO. During peace talks in Kachin State, his case was brought up and U Aung Min met his family in the presence of media and UN Special Envoy, Mr. Nambiar, at the IDP camp. He promised Shawng's family that he would bring him back within a week of his sentencing. U Aung Min could not interfere with the legal process but encouraged the relevant judicial officials to speed up the proceedings. Exactly two years after his first arrest, Shwang was sentenced and U Aung Min went straight to the President for a presidential pardon. He was able to secure Shawng's immediate release and personally accompanied him home to his family within four days of his release.³²

³¹ An old penal code of the British came into effect in 1908 during the colonial rule. Those who meet with an unlawful association, or take part in or assist its activities, face a jail term of a minimum of two years and a maximum of three years.

³² The Nationwide Ceasefire Agreement and the Unlawful Association Act: An Insider's account of the Myanmar peace process. Page 74. AungNaingOo. December 2016

N.2. Change of government and promises

Any new government inherits the former's legacy, both good and bad. A new government can review what it does not like from the previous government and make appropriate changes in accordance with their policies. However, we believe the peace process in Myanmar is different because in a peace process, there are things that are agreed and a new government cannot or should not change.

Given Myanmar's unique circumstances, the new government should keep the promises made by the previous government as much as it can, especially if they are in writing and were made by the top leaders from the outgoing government. It would be better still if they could make the promises more appealing. Every peace process is difficult and governments are likely to make some promises that they can only keep, largely on pragmatic grounds. As discussed in section 'N.1. Delivering on Promises', EAOs in Myanmar often accuse the Myanmar governments of not keeping their promises, importantly also when power changes hands and thus keeping the promises made to the ethnic groups is critical for trust.

The new government should review any promises made by the previous government, including those that it does not agree with. If the new government adopts the position that it will not uphold promises made by the previous government, it will surely hurt the peace process.

O. Trust

The peace process in Myanmar started with distrust. When President Thein Sein offered peace talks to the EAOs on August 18, 2011, the reaction from the EAOs was roughly ‘there they go again!’, ‘is it a political trap?’ and ‘is the government really sincere in offering talks?’ Consequently, the start of the process was slow as building trust is central to the peace process but complex and time consuming. Trust is needed to get out of a situation of positional bargaining, making peace eternally elusive.

O.1. Reciprocity of trust and distrust

As trust is needed at every level, the MPC negotiators and U Aung Min had to work hard to build trust. As discussed, a solution to the problem cannot be found without trust and will lead to a continuation of the armed conflict. This meant that MPC negotiators and U Aung Min had no choice but to swallow the harsh words and accusations of the EAOs. No one likes accusations and harsh words especially when one believes he is acting in good faith in the name of peace. Sometimes, we needed to pretend that we trusted the words of the EAOs just to move the process forward. Even if one repeats the mantra that he trusts the other party, it is unlikely to be enough. Building trust can be a complex function but having a basic understanding of how trust works in a conflict situation will help the negotiators and peacemakers.

O.2. Trust and distrust can be selective

Trust and distrust are linked to the issues, actors, organizations and the conditions on which the conflict occurs, including relationships. Due to these characteristics, trust and distrust can become selective. In some cases, there is trust in an individual but not in the organization he represents or vice versa. Negotiators and peacemakers in Myanmar need to understand the selective nature of trust and distrust. Understanding it will help them identify where the problems lie and find appropriate remedies. Based on our experiences, frequent meetings between and among the opposing sides can reduce the incidence of distrust. On the contrary, if there is little or no contact between or among the warring parties it is highly likely that the relationship between them will be characterized by little or no trust.

O.3. The longer the conflict, the less trust there is

There is no denying that the longer the conflict the less trust there is. One of the reasons deep-rooted conflicts in Myanmar cannot be resolved easily is because there is little trust among the stakeholders. Similarly, perhaps having little trust prolongs the conflict and the harder it is for negotiators to rebuild trust. This situation makes it easier for opposing sides to slide back into open conflict.

O.4. Periods of trust and distrust

There are periods alternated by trust and distrust in Myanmar's peace process. When there is enough trust, difficult issues can be overcome easily. It can help all sides reach controversial agreements even if the peacemakers may find them hard to implement later. Likewise, critical yet controversial issues can be put aside for the sake of a speedy agreement. If there is enough trust, the negotiators can visit them again. However, such a constructive condition can be, and sometimes are, replaced by periods of distrust. There may be many reasons why such situations occur but when it happens, concerns will arise, questions will be asked and suspicion will supersede cooperation.

This is normal in the Myanmar peace process where distrust is always in the back of the minds of negotiators from all sides. The distrust is often thinly covered by constructive progress but when progress is slowed or halted for any reason, distrust reappears and the process slows further. Negotiators need to be aware of such situations and make necessary amendments to maintain trust and stay on course.

O.5. Do not dwell on distrust or insincerity

In Myanmar's peace process, one often hears outbursts such as 'I don't trust him' or 'he is not sincere.' Presumably, this is normal in a conflict. Negotiators must not feel disappointed or disinterested because their counterparts are deemed cunning and insincere or be deterred. While their job is to bring about trust through negotiation and cooperation, they should not pay too much attention to existing distrust and presumed insincerity. If they do, negotiations will easily get bogged down or weighed down by such sentiments. As distrust is one of the key "Pay Hter Chet", it needs to be overcome.

P. Reasons for armed clashes

P.1. Just the flip side of a coin

One often hears complaints and accusations about who started the conflict or the armed clashes. It is often difficult to verify who in fact started firing or violated the agreement. On the frontline, no soldier talks first and shoots later; they shoot first and will talk as and when required. If he does not shoot first he will most likely be shot first. Therefore, it is difficult to blame one side.

Soldiers are trained to fight and will fight as commanded by their superior officers. Given “fighting” the innate soldierly duty, there may be an assumption that soldiers do not want peace, as the notion of violence is opposed to peace. As a matter of fact, they too want peace like everyone else. For this reason, with or without an order on the frontline, they are likely to exercise restraint when peace talks begin. Peace talks give them a glimmer of hope about returning home sooner and being reunited with their loved ones. One former army officer once said to me “why would I sacrifice my life during peace talks?”

War and peace are just flip sides of the same coin. When peace negotiations fail and break down or news spreads that they will fail, their peace mode will immediately turn to fighting mode. For this reasons, if the peace talks fail, conflict will resume in the first instance on the frontline and in contested areas.

P.2. Clashes over resources

Myanmar is rich in natural resources. Therefore, one cannot be wrong to say that one of the main reasons why the conflict or armed clashes occur is due to the competition over the exploitation of natural resources such as timber, precious stones and other lucrative minerals. If one looks at the conflict area or where the conflict occurs most in Myanmar he will certainly find precious minerals and/or resources.

P.3. Smuggling leads to clashes

Fighting often occurs over the extraction and smuggling of precious minerals. One example is following a negotiation with the KIO in 2014. As stated earlier, the negotiation with the KIO went well and the potential resumption of the armed conflict was averted. The negotiators went home very pleased with the results. However, within two days of the negotiations, fierce fighting broke out between the army and the KIO. Immediately, the media blamed the fighting on the government and the Tatmadaw.

The MPC and government negotiators were at a loss; they could not make out why the fighting suddenly raged following a successful meeting. So the MPC launched an enquiry and through collaboration and effective communication between the leaders of the army, the government and the KIO, the fighting was halted a few days later. When the dust settled, we found out that the fighting occurred over timber smuggling.

The Minister of Environment and Forestry was on the government negotiation team and was with us in Kachin State for the negotiation. During the talks, timber smuggling on a large scale occurred, involving hundreds of flat-back trucks bound for China. Upon return from Myitkyina, the Minister went straight to the President. He showed him the satellite pictures of the trucks ready to enter China. The Minister asked for his help to send in the army because his ministry officials and the police could not contain the smuggling any longer because the scale was too large to contain. At the cabinet meeting, U Aung Min was outnumbered as the opinion to send in the army was overwhelming. His opinion did not matter under the circumstance, but everyone knew it would result in fighting. In the end, peace was sacrificed to stop the smuggling.

P.4. Territorial disputes

Territorial disputes are very frequent in Myanmar and are one of the reasons why fighting of all forms often takes place. Shan and Mon States are most affected because they have overlapping claims of territory by many groups. Fighting most frequently occurs in contested areas where groups are competing to control the land. One of the potential ways to resolve this problem is through the NCA. Otherwise, clashes will continue to threaten the prospects of peace.

P.5. Other factors

There are numerous other contributing factors as to why there is armed conflict in Myanmar – corruption, control over smuggling routes, illegal taxation, economic control of territory, arrogant and ignorant attitudes of military might, geopolitical interests, to name but a few.

Q. Commitment of the key stakeholders in the peace process

Q.1. *Commitment to peace*

Without the commitment, ardent participation and contribution of key stakeholders, there would be no peace process. Even if there was a formal process, achievements would be elusive. Key stakeholders include the President, Tatmadaw and EAO leadership. The focus of section Q is the commitment of the Tatmadaw, top leaders from all sides and those with a military background.



Q.2. The role of the Tatmadaw in the peace process

Either based on the military's history of involvement in Myanmar's conflicts or in on-going reforms, the most important organization in the peace process is the Tatmadaw. The policies, opinions and standpoints of the Commander-in-Chief on the peace process are by far the most critical for reaching agreements. To further determine the role of the Tatmadaw in the peace process, one has to consider the commitment of the Tatmadaw to the NCA and its history of relationships with various ethnic groups and EAOs.

Q.3. Six principles of the Tatmadaw on the peace process

The Tatmadaw has often expressed its 6 principles on the peace process, which cannot be ignored. They are:-

1. A genuine desire for durable peace
2. To keep one's promise in accordance with the provisions of the agreements
3. Not to exploit the weaknesses of the agreements
4. Not to make oneself a burden to the public
5. To abide by the existing laws of the land
6. To accept the three main causes (see below) and the essence of democracy and to participate in the efforts for democracy based on the 2008 constitution.

Not all of those points were accepted by the EAOs. Therefore, during the peace talks, the EAOs thought that the Tatmadaw's 6 principles would form the basis of the government demands. For this reason, they expressed their opposition against the majority of these principles at every opportunity. However, when the NCA negotiations were finished, none of them made it directly to the agreement although there are provisions in the NCA with some connections to the principles. One still needs to pay attention to the Tatmadaw's 6 principles as they are still being used, to gain a better understanding .

Q.4. The three main causes

The three national causes of the Tatmadaw are at the core of its ideology, they are; non-disintegration of the Union, non-integration of national unity and perpetuation of sovereignty. They are now an integral part of the NCA, so negotiators in Myanmar need to understand the depth of these causes. It is unlikely that the Tatmadaw will support anything that it deems an infringement of these principles. For this reason, they are a key aspect of the peace process.

Q.5. Flexibility, desire and commitment of the President

It would not be wrong to say that the success of the peace process depended on the flexibility, desire, humbleness and strong commitment of the Head of State. In one of his meetings with the EAOs, at his farm where he often met them, he said to the EAO leaders, 'Thank you very much for recognizing me as one of your partners in peace.' I will never forget that statement straight from the mouth of the leader of the nation; it demonstrated his humbleness and commitment.

Q.6. Soldiers and individuals who have been involved in the armed conflict are better peacemakers

Throughout the negotiations, the MPC directors met and exchanged views with former army officers and ministers who had spent half their lives in the army and battle-hardened EAOs. In our experience, more often than not, they turn out to be better peace negotiators and peacemakers. On the EAOs side, the KNU's President Mutu Say Po can be considered a soldier of peace. On the government side, there were many former high-ranking army officers such as Minister U Aung Min, a former general, who took peace seriously and tried their best to reach agreements.

They have all had their fair share of the atrocities and miseries of war, having been an integral part of the civil war that has raged in Myanmar for decades. They have shared experiences and have often fought in the same area, even on opposing sides in the same battle. They desire peace more than anyone and it is unsurprising they are better peacemakers than those who have not fought or directly suffered its consequences.

Q.7. Do not underestimate the power of soldiers

At any given peace negotiations in Myanmar, there are both active and former soldiers around the table representing both sides. They often outnumber civilians or politicians negotiating peace. For this reason, I came to the conclusion that one cannot underestimate their combined power to make peace.

Q.8. Invisible bonds and mutual respect

It seems there is some sort of invisible bond and mutual respect between the soldiers across the divide. This is so critical that negotiators need to understand it and harness trust and relationships from it for the success of Myanmar's peace process.

Early on in the peace process, former army officers and ethnic leaders made friends with each other very quickly. The MPC directors often listened to Mutu Say Po and U Aung Min or U Soe Thane exchange war stories. For instance, U Soe Thane, a former admiral, talked about how he was constantly worried about his crew being fired on or ambushed by the KNU while operating as a naval officer in the waterways near Papun in Karen State. Mutu Say Po would similarly share his fears and concerns about fighting the army in the same area. Sometimes, they fell into silence as they drifted off into the past.

In late 2015, on our way back from the opening ceremony of the new road built with Thailand's support between Myawaddy (on the border of Thailand) and Kawkaik in Karen State, we dropped by Mutu Say Po's house in Laykawcoe. Laykawcoe is a new town built for Karen refugees and KNU families just outside Myawaddy. He and U Aung Min talked about peace and development and suddenly the old Karen leader turned to U Aung Min, pointing to a mountain in the east, and said, 'Minister, do you see that mountain?' Without waiting for an answer, he continued. 'It is Phalu and I was the commander defending it.' Then U Aung Min said to him in response, 'I was the commander leading the attack against Phalu.' The two leaders stopped talking and looked towards the mountain. Such bonds are critical in building relationships.

This is a story I can also relate to. In early 1989 when Phalu fell to the Tatmadaw, I was also in the jungle at Thay Baw Boe village, less than one hour drive from Phalu. Phalu was at the time the main stronghold of the KNU 6th Brigade.

These bonds are strengthened by mutual respect. During the President's meetings with the EAOs, some of the former army officers in his cabinet, asked the KNU leader to bring his Chief of Staff, General Johnny, to Nay Pyi Taw. General Johnny is known for his tactical brilliance and they wanted to ask him how he had outmaneuvered them in battles in the 1980s. I have also heard EAO leaders talk of their respect for their former enemies. Understanding such relations is critical for trust building and the success of the peace process.

R. All-inclusive policy

Inclusion is context specific. In Myanmar's peace process there are at least two frequent references to inclusion; one is within one's own institution and the other is "all-inclusiveness" among key stakeholders.

R. 1. Inclusiveness within one's own party

It appeared that U Aung Min made up his mind to try to make the peace process as inclusive as possible, partly to garner support for it. In reality though he faced many challenges along the way. Undaunted, he met all disparate groups such as civil society organizations (CSOs) and community based organizations (CBOs), political parties and the parliament and listened to what they had to say about the peace process. He also continually tried to reach out to the army in order to get its backing in the peace process.

As discussed, U Aung Min's peace team was comprised of ministers, between 4 to 7 active-duty generals representing the army in his team and the Deputy-Attorney General regularly attended meetings. In order to build trust, he assigned his ministers to directly contact and deal with corresponding ethnic groups. For example, the Immigration Minister, U Khin Yee, had spent a long time in Karen State as an army officer and thus was assigned to assist the KNU. The KNU could always go to him for assistance as his doors were open day and night.

U Aung Min was not able to include all members in his UPWC except his immediate ministers and he was often criticized for this. It could have been a weakness, but since he had a direct line to the President there were fewer people in between him and the President who could make the final decision. Such a clear chain of command compensated for the lack of inclusion of everyone in the UPWC.

R.2. Problems of all-inclusiveness with the EAOs

Inclusiveness is an important and politically correct policy and no one can question that. Undoubtedly, it should be accepted by all but in reality it does not work that way; it is filled with problems and there are many reasons why.

The multiplicity of actors and groups, the differences in statuses among the EAOs and the fact that the government cannot recognize the existence of some EAOs, are some of the key factors why all-inclusiveness does not work. Further, there are smaller organizations such as the Arakan National Congress (ANC), Lahu Democratic Union (LDU), Wa National Organization (WNO), who are not recognized as organizations that can sign the NCA.³³

There are also small and big groups whose decision-making method is by consensus. Consensus decision-making makes it difficult for everyone to come to a united position because their interests and standpoints are at times different. The EAOs are also members of various alliances fighting the government, but it is a condition of the NCA that individual groups sign because alliances are not recognized as legitimate signatories, which also makes inclusiveness difficult.

The government inherently distrusts some EAOs and doubts their commitment to peace. For this reason, their inclusion can be denied. There may be other factors that prevent inclusiveness, but, given such deep diversity and differences in status it will be difficult for all groups to be included at the same time. In this regard, the government's approach to inclusiveness is pragmatic and fair, as they have to deal with all disparate groups at once. The government cannot give more concessions to some groups and not others. Thus so long as there are groups who want more than what is on offer, the notion of inclusiveness will remain troublesome and the government will need to stand its ground. Perhaps, regular and frank meetings with those yet to sign the NCA could help overcome the hurdles that have arisen from the notion of all-inclusiveness.

R.3. Big groups versus small groups

The relationship between the big and small EAOs is directly connected to the notion of inclusiveness and negotiators need to understand that it matters. Based on our experience, negotiations cannot take place if the big groups do not want them. However, the power of the smaller groups cannot be underestimated because they have much more to lose, so they naturally make more unrealistic demands, can be tough negotiators and may use stronger words. The bigger groups are often torn between the need for unity among disparate groups of EAOs because they are up against a bigger

³³ The restrictions on the LDU and other smaller groups were finally lifted as NMSP and LDU promised to sign the NCA. They did so on February 13, 2018. The ANC and WNO remain outside the NCA.

adversary in the government and dismay at the uncompromising tactics the smaller groups use. Therefore, the idea of inclusiveness remains elusive while the bigger groups emphasize pragmatism and sign agreements with the government.

R.4. Understanding the problem with spoilers

Spoilers exist for a variety of reasons. Generally, they are the type to want to maintain the status quo and go against the tide of change. They are the ones who fear their wealth and power will be reduced or destroyed by peace or the changes peace will bring. Likewise, those who are ideologically driven can be considered spoilers because they also have power to prevent peace. Sometimes, they can be harder to deal with because they are not interested in the incentives that peace offers to them or their groups. There are also those who can be considered extremists in the peace process and they exist for a variety of reasons; including personal grudges and animosity as a result of injustices they have suffered. In Myanmar they are often referred to as hardliners.

Spoilers do not exist before the peace process, only when the prospect of peace strengthens do they emerge. They may remain part of the peace process to demonstrate their desire for peace, but become a 'spoiler' on the eve of reaching an agreement to guard their interests. Some spoilers exist purely for material wealth and use the power they have to maintain it; this type may be more common in resource-rich conflict areas. This nexus between politics, power and wealth may be common in conflict; but spoilers are more likely to use ideological reasons, at least verbally, to stand against peace.

Exclusion can also create spoilers, such as if those who should be in the process are denied participation because they are not recognized by one party or another. Sometimes, larger groups may use the interests of smaller groups when their opposition to a common enemy intercept.

The notion of spoilers can be controversial. Not everyone recognizes the power they have to hold back the peace process and they exist in all organizations in Myanmar's peace process. Once they are understood, the negotiators may find ways to deal with them and to overcome the hurdles that they create.

S. The need for a holistic approach

S. 1. The need for a holistic approach and strategic thinking

Achieving peace is not just about resolving the conflict; it is linked with all other reforms in Myanmar. The peace process in Myanmar started with bilateral ceasefires, then the NCA and is being followed by political negotiations. Simultaneously broader reforms are taking place. Like other reforms, the peace process has to be executed step by step and a holistic approach needs to be taken. The outcomes from the political dialogue will be used to amend the constitution; so federalism needs to be well understood by peace stakeholders. Other topics that will need breakthroughs in political dialogue include aspects of “security reintegration” (dealing with the issues of DDR and SSR) and issues relating to rehabilitation, reintegration, development and economic recovery.

The MPC negotiators understood well that the peace process was directly linked to democratization. So we did everything we could to open up democratic space by engaging or encouraging the government to engage with various stakeholders at all times. For the peace process to be successful peacemakers need to think through all relevant issues from A to Z and beyond and be well prepared on all critical issues. Many of these were discussed at the MPC and some ideas were conveyed to the government, but the majority of them did not materialize because the MPC was preoccupied with the NCA negotiations and convening the first UPC in accordance with the NCA provisions. On the whole, it is critical to look at the process holistically.

Put differently, the peace process requires long-term strategic thinking and should not be executed in a piecemeal or ad hoc basis. To be holistic and strategic, negotiators need to think not just about ceasefires but also about political negotiations. If there is no strategic thinking built into the peace process about how to do this, ad hoc actions will work temporarily but in the long run will disrupt the prospects of durable peace.

S. 2. Review of the peace process

In February and March 2016, before the MPC was abolished, we felt there was a need for a review of the peace process, so we organized a couple of

review sessions. The turnout from the international community and those we considered experts was not encouraging and the discussions were short and lacked depth. Even within the MPC the majority of the negotiators were not interested in participating because the MPC and the government that established it were on the way out. The realization that the new NLD government was going to abolish the MPC discouraged many of the dedicated staff deeply involved in the peace process. The only thing that we were able to do was to publish a book of essays from the government negotiators in Myanmar language entitled “Analyses of the negotiators who were at the heart of peace negotiations.”³⁴

Then the NLD said it would review the peace process. Some questioned how it could review the process because the NLD had not previously been involved in the peace process and lacked experience and expertise. However, we welcomed the idea and discussed among ourselves who should participate in the NLD’s proposed review. Unfortunately, the proposed review did not materialize. Later, MPC advisers and directors met Dr. Tin Myo Win³⁵, who would become the next Chief Negotiator, in both a group and/or one-on-one and explained to him the nature of the peace process, its conditions, strengths, weaknesses, strategies and dos and don’ts.

Such meetings were not a review and now that the process has entered its seventh year, there should be a review.

There were both successes and failures in the peace process during the tenure of President U Thein Sein. They have not been examined; they need to be examined. Likewise, there were many good ideas as to how the MPC would be reformed and there was willingness and an understanding that reviewing the successes and failures of the MPC would benefit the process. Ultimately, we lost an opportunity to review the process. It is not too late; there is still time. Going forward is critical but looking back is equally critical to see what worked and what did not. In the case of a review of the process being organized, all that has been discussed in regards to holistic and strategic approaches can be included and examined in a more comprehensive manner.

³⁴ A collection of essays and analyses by negotiators from the government side published in May 2016 by MPC

³⁵ Dr. Tin Myo Win was a member of the MPC Board of Directors

S. 3. Preparation

Preparation is the key to success in peace negotiations. This is well understood internationally, with sayings like “success is the meeting of preparation and opportunity,”³⁶ and I learned in the negotiation class at the Harvard Kennedy School that ‘there is no substitution for preparation.’ There are different ways to prepare in a team; developing arguments, discussion, debate, role plays among team members, exchanging critical information, research and division of labor. It is said that preparations should be simple and flexible and help negotiators foresee the dynamics of the negotiation in his/her mind’s eyes. If a negotiator comes to the table prepared, it strengthens him.

As the MPC got into the swing of the negotiations, preparation became routine. From countless pre-talks, debate and discussion among the MPC directors, to preparation meetings with Ministers and high-ranking army officers, the MPC was well-prepared. As and when necessary, the MPC met with external experts to get advice on specific designs of the talks or the process. The MPC also spent hundreds of hours talking to the EAOs as preparation before formal negotiations. Sometimes, preparation had to be undertaken through cooperation with other stakeholders involved in the peace process.

There are sometimes surprises in the talks that no amount of preparation can help the negotiators overcome the issues suddenly put on the table by the opposing side. When this happens it is perhaps an indication that more preparation is needed to think holistically and strategically and minimize the chance of being caught by surprise.

³⁶ Bobby Unser Quotes. https://www.brainyquote.com/quotes/bobby_unser_126431

T. Confidence building measures

Confidence Building Measures (CBMs) are critical for the peace process and have to be implemented at all times. The MPC and peace ministers initiated many CBMs.

T. 1. The release of political prisoners

The release of political prisoners was directly linked to the peace process. Before the reforms, they were deemed ‘trouble-makers’ by the government. When President U Thein Sein came to power, he began releasing them and it was a clear indication that Myanmar was changing. The release contributed to convincing the EAOs, who monitored the reforms closely, that the peace talks were not a ploy.

Notably, there were also political prisoners linked to the armed conflict and releasing and sending them home became an integral part of the peace process. U Soe Thane was the Chairman of the ‘Committee to Release Political Prisoners,’ who met former political prisoners at the MPC, along with officials from the Ministry of Home Affairs and its’ Prisons Department. It was an important step for the democratic reforms as well as peace, so the MPC contributed whenever possible.

T. 2. Relaxation of restrictions

Following bilateral ceasefires, it was agreed that the EAOs were allowed to travel freely within the country provided they did not carry weapons. They visited their birthplaces, relatives, friends, supporters, corresponding ethnic groups, and more. They were allowed to meet the media freely and spoke at different forums openly. Following the signing of the NCA, EAOs that had been classified as unlawful associations were declassified from the Unlawful Associations Act colloquially known as article 17/1. Restrictions were relaxed step by step and became increasingly comprehensive.

This helped build trust, but there were cases of the relaxed restrictions being misused. The misuse was most often led by individuals posing as EAO representatives in business and for the illegal acquisition of land. The sudden opening up of the country meant there was confusion over who they were and made this possible. Law enforcement agencies could not

keep up with the pace and type of criminality that the changes brought. The lesson is that relaxing restrictions is critical to demonstrating commitment and willingness to change for peace, but at the same time abuses of these rights can lead to the public's negative perception so they need to be monitored closely.

T. 3. Provision of national IDs to the ethnic groups and security during travel

The government provided hundreds of thousands of national IDs to the ethnic groups, which was critical to building bridges with the EAOs and ethnic peoples who during the armed conflict had no access to such important documents. The government also issued Myanmar passports to EAO leaders and helped them secure multiple entry visas to neighboring countries where they are based. Having a Myanmar passport was needed for their safe travel, including to Yangon and Nay Pyi Taw for negotiations.

The MPC and U Aung Min also assisted them when they needed to travel to their home regions, by informing and requesting the help of local security officials. Understandably, some of the EAO leaders have become citizens of a third country and need visas to travel to Myanmar for negotiations; so we helped them with multiple entry visas for Myanmar.

T. 4. Assisting ethnic leaders with health problems

The MPC assisted a number of EAO leaders with their health problems. The first one was Saw David Taw, the architect behind the very first bilateral agreement between the government and the KNU.³⁷ Unfortunately, he passed away at Yangon Military Hospital in 2012.

Then there was the Naga leader, Kaplang (National Social Council of Nagaland - Kaplang - NSCN-K). He was gravely ill and his group contacted U Aung Min for help. He let the NSCN-K leader receive medical treatment in Yangon. Given his fight against the Indian Government from Myanmar's western border, U Aung Min had to inform the Indian Embassy about the Naga leader receiving medical attention in Yangon. The timing was sensitive, as the arrival of the Naga leader in Yangon coincided with NSCN-K troops

³⁷ For his contribution to peace between the government and KNU, the Government of President U Thein Sein named a hall in the Government House of the Karen State "David Taw Hall" in his honor.

attacking Indian soldiers. We kept his stay in Yangon absolutely confidential and out of the media with the help of local security services and Yangon General Hospital doctors.

Another leader U Aung Min helped was the Democratic Karen Buddhist Army (DKBA) leader Saw Lar Bwe. He was seriously ill but could not receive medical attention in neighboring Thailand, which is a stone-throw away from his headquarters, because there was an outstanding warrant out for his arrest from the Thai Ministry of Interior. So the government provided him with a passport and we spoke to the Embassy of Singapore in Yangon so that the ailing ethnic leader could receive medical attention in Singapore. In the same manner, the MPC and U Aung Min assisted a number of the other EAO leaders with their medical issues.

T.5. Negotiating with foreign governments for the release of ethnic leaders traveling on fake passports

The large majority of exiles and ethnic leaders traveled overseas on Myanmar passports issued under different names. As they were in exile, they could not use authentic travels documents from their home country. Without travelling, they would not have been able to spread their democratic aspirations and anti-military stance. For them, overseas travel was essential. As corruption was rampant in Myanmar, Myanmar travel documents were easily available overseas, especially in Thailand, where the majority of the exiles were based. During overseas trips however, some exiled and EAO representatives were detained and imprisoned when caught using fake passports. They had no other choice so they continued to use them until they got their authentic passports from Myanmar government during the peace process.

There were two cases of ethnic leaders being detained at two different European airports shortly after the MPC was formed. The MPC negotiated with the respective governments for their release and at the same time had to negotiate with the Immigration Minister, who was on the peace team, to be flexible with immigration rules in the name of peace. He not only agreed but his officials were very helpful in bringing the ethnic leaders home. Upon their arrival, the MPC sent them all the way back to their headquarters.

T.6. Agreeing to the visits of diplomats to meet the EAOs

Diplomats did not need permission to go and see the EAOs in Thailand, but if they did so without informing the government they would look bad because the government would eventually find out about their visits later. So they often came to see U Aung Min before making trips to Thailand. U Aung Min would readily agree to their visits and even thanked them for their help because “ethnic groups are our brethren.” Such flexibility was an important factor, not only in terms of diplomatic relations but also in reaching out to the EAOs indirectly.

T.7. International travels

There were a number of joint international travels. The MPC and high-ranking army officers visited South Africa in 2015 and later representatives of the three Karen armed groups (KNU, DKBA and KNU/KNLA Peace Council) joined us on our trip to Colombia. There were other joint-trips to Indonesia and the Philippines. Such joint study trips are critical because it illustrates and supports closeness between former enemies. There were also discussions, lessons, sharing of meals and drinks together during the trips.

T.8. Joint-studies

Joint international travels are important, but there should also be joint-studies and workshops inside the country. Issues such as ceasefires, design of the political dialogue, federalism, DDR/SSR should be discussed jointly in the presence of international experts. During the MPCs tenure, the focus was on the NCA and there was not much joint learning. Due to a lack of such a concept and perceived distrust, foreign experts rarely held joint discussions involving key stakeholders; there was only separate learning. Thus, joint-learning should be encouraged, especially if designed to solicit confidence among stakeholders.

T.9. Humanitarian and development assistance

Here are refugees and IDPs from Myanmar’s conflicts. Some became IDPs during the peace talks. Support, both domestic and external, should be provided to refugees and IDPs, as they cannot go back to their place of

origins. This is an important aspect of the peace process to build support and confidence among the public.

T.10. Provision of motor vehicle licenses to the EAOs

The methods used under President U Thein Sein's government were different from that of his predecessors. His peacemaking was a departure from the military regime and others before him. During periods of ceasefire with the military regime, the EAOs were left alone to engage in both legal and illegal businesses. Therefore, when they signed the ceasefire with U Thein Sein they expected something in return. Some EAOs asked the MPC if they could sign a ceasefire "like before" inferring the former deals they had with the military regime.

By 2012, the times had changed and the government could not give anything in return. At the same time, the government knew some EAOs were rich and some did not have enough money. The government wanted to give something practical to the EAOs for agreeing to the ceasefire and as part of a CBM early on in the process. So it provided motor vehicle import licenses to EAOs in accordance with their size. It is believed some 80 vehicles were imported. Once the media got wind of it though, it became a scandal and U Aung Min and the MPC were in the firing line. Accusations were made that some EAOs made a few million dollars, given the number of licenses they received.

It happened early on in the process and was initiated to build confidence. It was done out of goodwill but caused problems. Thus, while CBMs are critical for the peace process these should be well considered and strategized before implementation.

T.11. Peace dividends

As the peace process is entirely of a political nature, it has as many problems as politics. There are constant criticisms and the media in particular often focuses on problems rather than positives coming from the peace process. It is extremely rare to see anyone focus on peace dividends.

Bilateral ceasefires have changed the lives of millions of people and directly benefitted those in conflict areas. As the ceasefires were strengthened

and trust gained, checkpoints were removed and roads reopened, making traveling easy. The villagers were able to work on their land once again and trade was restored. While very few refugees have returned, the provision of hundreds of thousands of ID cards to ethnic groups has also made traveling for business, health or pleasure easier.

On the political front, the acceptance of federalism by all parties and agreeing to political negotiations will ensure peace dividends endure. The government should focus on these enormous benefits from the ceasefires and peace process and have a strategy to do so. The public should be informed of them and be encouraged to appreciate them as a CBM for maintaining the ceasefires and support for the peace process.

T.12. Visits to the IDP and refugee camps

The negotiators and peacemakers should not only pay attention to negotiations, they should also pay attention to the community and visit IDP and refugee camps whenever possible. They need to demonstrate that they care and that they are working towards peace so that the IDPs and refugees can go home. At times, such visits are seen as political ploys, but it does not matter. What matters is that the peacemakers and negotiators meet and listen to the IDPs and refugees.

Formal negotiations are often lifeless in a sense that they talk peace, politics and standpoints but are completely removed from what is happening on the ground and may not reflect the will of those who are suffering due to the conflict. Hearing the personal stories of the IDPs and refugees can bring humanitarian and protection issues into the minds of pragmatic negotiators. It can remind them that they do not just work for their sides and that they work for the whole nation, including those suffering most. The visits are also indicators that things are changing in the country, so even if not on joint visits with the EAOs, the government should visit the IDP and refugee camps regularly.

T.13. The Community Forum

The MPC organized a monthly discussion called ‘the Community Forum,’ held under the Chatham House Rule.³⁸ The MPC had a list of some 100 participants ranging from ethnic leaders to journalists, academics, writers, historians, politicians, and more. The original idea was to discuss peace and ongoing reforms, but during the MPC’s tenure discussions mainly focused on the peace process. The peace ministers often attended it; particularly, Minister U Aung Min who was a regular. All ministers were reminded that at this event they were just participants, like anyone else.

The idea behind it was to provide a forum where participants could discuss issues and topics openly without fear of persecution. It was important because there was still distrust over the reforms and military rule was still fresh in the participants’ minds. As a result of our history, participants were not used to speaking frankly in front of high-ranking government officials and individuals they were not sure whether to trust.

‘The Community Forum’ was very successful in enabling participants to open up and the ministers were receptive to the criticisms and ideas from the floor. It not only helped instill the idea of open discussions under internationally recognized the Chatham House Rule, but also contributed to the confidence and trust in the MPC and peace process.

T.14. Drinking and peace negotiations

Drinking socially among the negotiators and peacemakers is often an important aspect of peace negotiations because it helps build relationships and confidence. Due to cultural sensitivities, this section was not included in the Myanmar version of the “Lessons learned” because it may be misunderstood as glorifying drinking. This section is absolutely not about glorifying drinking in a society that often frowns upon it. It is however to say that during many ceasefire negotiations drinking was an integral part of the process and some have even likened it to some sort of lubricant.

³⁸ The Chatham House Rule originated at Chatham House, a UK think tank, with the aim of providing anonymity to speakers and to encourage openness and the sharing of information. It is now used throughout the world as an aid to free discussion. When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

I do not believe this is just the case in Myanmar. Someone from Africa once told me that in their region, negotiators from opposing sides can disappear behind the bush with a bottle of whiskey but when they come out they come out with an agreement. In Myanmar, the EAO negotiators arrived at the MPC around mid-day and by 5 PM bottles of alcohol were brought to the table. We continued to strategize over drinks. The closeness, bonding and relationship building contributed enormously to opposing teams becoming one and strategizing together on common grounds.

During receptions at the MPC, alcoholic drinks were served. There were times when Minister U Aung Min had to carry crates of fine whiskey to Karen and Kachin States. There anywhere between 200 to 300 participants at negotiations and accompanying dinners in Kachin State. Aside from one or two generals and EAO leaders, everyone drinks. Leaders from all sides went around to all dinner tables to make toasts, including Union Ministers, Chief Ministers and both UN and Chinese Special Envoys.

The sight of these leaders – who were former enemies – sharing a meal and a drink and having intimate personal conversations was an incredibly powerful message that at least temporarily, there was peace. When it happened before the very eyes of the international community, it sent a powerful message that peace was possible in Myanmar.

U. Recognition and legitimacy

U.1. Recognition

There is a need for the recognition of both individual EAOs and some alliances or groupings in the peace process. The recognition should be mutual, as the EAOs need to recognize the government in return. It is clear that the government recognizes big groups and alliances such as the NCCT and SD and that it helps them as and when necessary. They also recognize smaller groups who have equal or more destructive power politically (and in some cases militarily) as the big groups.

There are also instances where recognition is not given. When that happens, problems arise. For instance, the government did not give consent to three small groups - ANC, LDU and WNO³⁹ – to sign the NCA on the ground that they were not militarily active, but they agreed to their participation in the political dialogue. From the government side, it was an accommodation but it was never enough for the EAOs and it created tensions amongst them. In the case of the Myanmar National Democratic Alliance Army (MNDAA – the Kokang), any possible recognition was withdrawn due to their attack on Laukai in February 2015 and other subsequent attacks in northern Shan State. Likewise, the TNLA was not recognized as a legitimate partner in the later part of President Thein Sein's tenure due to increased military offensives against the government.

There may be other types of recognition that vary from EAO to EAO, region to region, strength to strength or from political or military standpoints. Nonetheless, there is de facto recognition regardless of their status with the government as some of the EAOs, such as the TNLA, continued to demonstrate their military prowess by engaging in armed clashes with the government.

The question of recognition and non-recognition is complicated. There are historical reasons why some groups are recognized and some are not. At the same time, recognition of smaller groups that are not militarily

³⁹ At the time of the publication of this book in English, their status has changed again. The LDU for instance was allowed to sign the NCA on February 13, 2018. They were allowed to join the UPDJC. However, the government did not allow them to be part of the JMC, maintaining the fact that they are not militarily active and thus cannot be part of the JMC.

or politically active invites now-defunct EAOs to resurface and demand recognition. During the MPC's tenure, several defunct groups regrouped in a bid to gain recognition and sign a ceasefire.

The key takeaway is that in a country like Myanmar with multiple EAOs and actors, the differences in and lack of due status and recognition creates problems for negotiators. Recognizing groups that should not be recognized in the first place can also create a proliferation of armed groups, which would be counterproductive when building peace. Issues around recognition need to be carefully examined in order to bring about inclusiveness, prevent fall-outs from non-recognition and exclude those who should never be recognized in the first place.

U. 2. Legitimacy

The legitimacy of a government or lack thereof may not determine the ultimate outcome of the negotiation, but is a critical aspect of Myanmar's peace process. The majority of the EAOs considered the Government of President U Thein Sein an extension of military rule. Thus in their eyes, both the President and the Government lacked legitimacy. As a result, some of the more ideologically driven EAOs did not wish to give them credit for the peace process. That is why some EAOs refused to sign the NCA despite the fact they had been at the forefront of the negotiations from the very outset.

Before the 2015 election, it was widely understood that the NLD would win and thus once the NLD was elected it would become a legitimate and democratically elected government. Under these circumstances, some EAOs felt it would be better for them to sign the NCA with the NLD government. This was the thinking. The election and the signing of the NCA were less than a month apart and there were reports of deals between some EAOs and the NLD to sign the NCA after it came to power. Regardless of the reasons for not signing, it is clear that the legitimacy of the government negotiating peace is critical to the peace process.

U. 3. Understanding conflict sensitivities

Peacemakers and negotiators need to understand sensitivities in the conflict when working to resolve it. Conflicting parties use derogatory words for their enemies; they write songs and poems and make movies to depict their enemies as sub-humans. Once they come to the negotiating table, they need to change their attitude, which is not easy. In our experience, all sides try their best in the name of peace and overtime they come to better understand each other's sensitivities.

Official and formal names of the organizations and representatives around the table need to be used correctly. Honorific titles, military ranks and/or titles of other sorts must be correct. Use of words such as "rebels" must be avoided. For example, the EAOs are known as Ethnic Armed Organizations and not the Armed Ethnic Organizations. Titles and names are an expression of who the stakeholders are, and showing respect to them is critical.

Further, patronizing behavior or talking down to an opponent must be avoided at all costs. All representatives around the table should feel that, at least outwardly, there is a semblance of equality even if it is not the case in reality and that everyone is treated with respect.

In terms of understanding sensitivities, those mentioned above are just the tip of the iceberg, but understanding sensitivities of all kinds surrounding the peace process and even those specific to one organization or an individual is critical if the stakeholders desire durable peace in Myanmar.

V. Civilian protection

Article 9 of the NCA is all about the protection of civilians. It has a total of 17 provisions.

V. 1. Women and children

Women and children are often deeply affected by armed conflicts. During the negotiations there were repeated calls for their protection. Despite the number of pressing issues, the protection of women and children must be prioritized and all parties need to put their attention towards it.

V. 2. Encourage the participation of women in the peace process

One of the most frequently asked questions in the peace process was about the role of the women, another important element of inclusion. It was clear that there were not many women in the peace process, especially in positions of power. There were highly regarded women at the MPC, but they did not play major roles in the negotiations when compared to the male staff. Criticism of the lack of women in senior and influential positions was justified.

The MPC directors were fully aware of these criticisms and knew that Myanmar is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁴⁰ They were also aware of the United Nations Security Council resolutions regarding the participation of women in peace process (such as resolution 1325⁴¹). They subscribed to the understanding that the inclusion of women in peace process brings “politics of care” to the peace negotiations. The MPC directors knew exactly what was missing in the peace process but there was little they could do to change the situation.

⁴⁰ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

⁴¹ The Security Council adopted resolution (S/RES/1325) on women and peace and security on 31 October 2000. The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security.

As a matter of fact, women are not absent in the peace process; there are many capable women working towards peace. However, they are predominately in the NGO sector. It is not always clear why they do not try to participate in the official peace process. Perhaps, they find the official peace negotiations ‘too political or too close to the powers-that-be’ on both sides and want to maintain their independence. They should be encouraged and supported to participate in the official peace process.

Regardless of the prevailing conditions for women’s participation in the peace process, their increased participation of women in the peace process should be prioritized. At the first UPC in January 2016, there was a proposal to include a 30% quota for female participation in the political dialogue, which should be taken seriously by all stakeholders.

V. 3. Abuse

Instances of abuse during armed conflict are common and have always been. By nature, there will always be accusations and counter-accusations of abuse. While opponents accuse each other of abuse and try their best to defeat each other in conflict, during peace negotiations the situation changes. Such changes are critical in bringing peace dividends, because stakeholders hopefully begin to notice that instances of abuse are synonymous with the armed conflict. If the abuse continues during the peace talks, trust will be severely damaged. Perhaps, the JMC is the best institution to monitor instances of abuse and to take appropriate actions.

V. 4. Taking responsibility for instances of abuse and introducing changes

If instances of abuse occur during the peace process, those perpetrating them need to be held accountable and reprimanded as quickly as possible. Necessary changes to laws, rules and regulations to prevent abuse must be immediately introduced. Holding those responsible and changing legislations and regulations demonstrates accountability but also illustrates a commitment to peace. Such actions would undoubtedly contribute to trust building. As instances of abuse are most often linked to civilian protection, quick and decisive action against instances of abuse also indicates commitment to the NCA.

W. Conclusion

The peace process in Myanmar has entered its seventh year since President U Thein Sein's offer of peace to the EAOs on August 18, 2011. During this time, there have been successes; chief among them the signing of 14 bilateral ceasefires and the NCA, holding political negotiations and achieving a promise of federalism to end the war. These milestones have brought unprecedented peace dividends in conflict areas, to an extent that Myanmar has never seen or experienced before. Such achievements are remarkable particularly when Myanmar is often considered incapable of achieving peace after almost 70 years of incessant fighting.

Such progress has been marred by numerous failures; including the fighting in the north of Myanmar which rages on and that the overall objectives of the peace process remain elusive. For this reason, there are, at times, concerns the gains in the peace process may disappear overnight. There are times when doubts seep in and the resilience of the peace negotiators on all side is continually tested.

Despite the heavy odds against eventual success, there are optimists like me who feel that there has never been a better time in Myanmar's history (since Independence in 1948) than this to make peace in Myanmar. To consider if such optimism has prospects, all we need to do is to look around. None of the stakeholders have said they do not want to negotiate peace and there is enough commitment from all sides. A total of 10 groups have signed the NCA and negotiations with the groups outside the NCA are continuing. This is more than enough to press ahead. Furthermore, institutions and mechanisms that the NCA created are not perfect, but they have already set Myanmar on a new course.

Overall, the peace process in Myanmar would benefit enormously if all stakeholders looked back with some trepidation at both the successes and failures of the peace process. We need to figure out what has worked and what has not, and devise new strategies where necessary to move the political negotiations forward and to bring in those who have yet to sign the NCA. In this regard, I just hope that "Lessons learned from Myanmar's peace process" plays a tangible part in moving the process forward.

Aung Naing Oo

About the author

Aung Naing Oo is currently the Executive Director of the Technical Secretariat Center of the Joint Ceasefire Monitoring Committee (JMC). He was a director of the Center for Peace and Reconciliation following his tenure as the director of the Peace Dialogue Program at the MPC and as facilitator for the government side throughout the ceasefire negotiations under MPC. Before returning from exile in 2012, he was the Deputy Director of the Vahu Development Institute and Community Development and Civic Empowerment Program (CDCE) at Chiang Mai University in northern Thailand. Following the 1988 Uprising, he became the Foreign Affairs Secretary of the All Burma Students Democratic Front (ABSDF) and head of the Jungle University. He has a B.A from the University of Yangon and an MPA from the Harvard Kennedy School.

Previous publications

1. Dialogue (in Myanmar language) 2002
2. Compromising with the Burmese generals (in Myanmar language) 2004
3. Pathway to peace: An insider's account of the Myanmar peace process (in Myanmar and English) 2016.
4. Lessons learned from Myanmar's peace process (in Myanmar language) 2017



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