

A Common Sense Approach to Overcoming Obstacles in Myanmar Peace Process

Like many peace process around the world, the peace process in Myanmar is not exempt from challenges and obstacles, unforeseen as well as expected. Despite facing challenges, both negotiating teams – the government of Myanmar and ethnic armed opposition organizations – are making a concerted and cooperative effort. They persistently pursue the objectives of finding a mutually acceptable solution to the remaining points of contentions in the Nationwide Ceasefire Agreement (NCA). Securing the NCA is the first step along their seven-step road map towards attaining a durable solution to end over 60 years of political conflict. With the general election coming up in November, it is fair to say that they are now entering into the final rounds of negotiation to reach the NCA at least before election. The government side even hinted that there might not be any further rounds of negotiation. The stakes are too high. More than ever before, this is the moment in time when key actors and policy makers from both sides are welcoming creative ideas, applicable advice and best practices that will help them advance the cause of peace by moving beyond current obstacles. They are standing at the gates to the political world of series of serious negotiations on fundamental political questions through political dialogue. The fate and destiny of over almost 60 million people in Myanmar/Burma is in their hands. Both sides have to ask themselves whether they are willingly and sincerely prepared to open these gates for good and for the best interests of the country's future. With this question in mind, and hoping to contribute to facilitate the process of their negotiations, here are some of the guiding principles to take into consideration as they enter the negotiation room.

Being able to differentiate issues is essential:

Adopting the right strategy is vital for any negotiation. What we need now is a thorough deliberation as well as a clear differentiation of contentious issues pertaining to the NCA. Addressing the right issue at the right time and within the right platform is fundamental for saving the process. This also requires some deep thinking about each specific issue through the prisms of short-term and long-term perspective. There are some issues they can decide at this stage of the process, but there are also issues that they can and should only decide as part of future political dialogue. It would be very unwise to devote time and resources arguing over issues that cannot be decided at this initial stage of ceasefire negotiations. Take the issue of federalism for instance. What particular form of federalism should be adopted for the Union of Myanmar is a question that all relevant stakeholders are going to deliberate as part of their envisioned inclusive political dialogue. Both negotiating teams cannot decide on the exact form of federalism at this time. Their adoption of the principle of federalism as a governing system for the future Union of Myanmar is more than enough at this stage of the game. The bottom line is that no matter what decision they take, the most important question to keep in mind is to ensure that what they agree and decide now should serve as a stepping stone for further negotiations on key political issues at the right time and within the right platform.

Setting ultimatums is counter-productive:

It is understandable that some members on the government side are applying different forms of pressure on ethnic armed groups in order to have them sign the Nationwide Ceasefire Agreement. Such pressure might stem from their sincere willingness to secure a lasting peace with leaders of ethnic armed organizations (EAOs). However, it is also counter-productive. In fact, it is politically naïve to expect that ethnic armed organizations - who have been enduring enormous hardship over the last several decades as underground movements - to yield to any form of pressure. The simple fact is that there is no military solution here, which means none of the top-down approaches, enforced by any form of pressure, will work. Unfortunately, some members of the government camp have set one deadline after another for a public signing of the NCA, a goal they cannot deliver. Setting deadlines for the signing of the NCA is not only interpreted by EAOs as a form of unjustified pressure, to which they strongly object. A failure to deliver by the set deadline is also a political embarrassment, questioning the judgment of whoever set such a deadline. Logically speaking, before setting a date for the signing of the NCA, it is paramount to first reach a deal – only then can a date be discussed. This should be the guiding principle for future negotiations. Moreover, embracing the principle of peaceful negotiation to resolve differences makes any form of ultimatum inappropriate. An ultimatum does a disservice to the overall peace process.

Making a public statement about one's firm position before negotiations is unhealthy for the process:

What is and will continuously be very disruptive for the negotiation for peace in Myanmar is seeing a public statement by either side announcing a firm position that is declared non-negotiable while discussions are still ongoing. It is well understood that both sides are engaged in sustained rounds of negotiation over the NCA in order to agree a settlement to one of the longest-running political conflicts in the world. This task is far from easy. Both negotiating teams deserve appreciation for making progress on an ongoing draft of a comprehensive, thoughtful, and encompassing agreement that contains all the steps they pledge to undertake in order to ultimately secure a lasting peace in this country. Whether or not they end up signing this NCA is different matter. However, the ceasefire document contains key mutual agreements outlining the basic principles, among others, for the restructuring of the country's political system, which is politically significant and will be instrumental for any future attempt to resolve the political crises in the Union of Myanmar/Burma for generations to come.

While the government has every right to advocate its policy position, ethnic armed organizations are entitled to do the same. However, before coming to the negotiating table, they should not make public statements about what they are willing and unwilling to compromise on. *Everything must be up for negotiation. After all, negotiation is about finding a compromise acceptable to both conflicting parties.* One of the problems so far is that some leaders from both parties have at times voiced publicly their position before negotiating with their counterpart. This imposes public pressure to defend whatever has been publicly proclaimed to save face before their followers and the population. There is no more room for real negotiation. Such public statements are extremely disruptive to the peace process. Therefore, conscious of the fact that both sides are negotiating on behalf of the entire country with almost 60 million people, both sides should avoid making irresponsible condemnations against each other, neither should they make any public statements on issues that are still under negotiation. It is not a popularity contest nor is about who is good or bad after all.

For instance, it is quite unhealthy for the NCA process when some of government representatives rush into criticizing the leadership of EAOs for the collective decisions that they have made during their own summit. Rather than deliberating their strategic responses, some officials from the government side have spent their precious time questioning the legitimacy and mandate of the new EAO Senior Delegation and their collective decisions during the summit. It is not up to outsiders, nor the government, to decide who should represent the EAOs in the ongoing peace negotiations. EAOs can do anything they want politically as they are independent by all accounts. Equally, it is and would be unacceptable for EAOs to decide who should represent the government side. What is important is the mandate that each negotiating team carries in representing their respective constituencies. The NCA process would have been served better if the Senior Delegation of EAOs, as mandated by the highest decision-making body in their alliance structure, had presented their modified formal positions on the NCA, and the rationales for all their decisions, to the government delegation at the negotiation table. Moving forward, no official statement from either side should be made before they have a chance to sit down in a formal negotiating meeting. Such mistakes should not be repeated.

Sticking to the best option as long as it is viable:

It is human nature to strategize and adopt alternative options to pursue goals in life. Thus, it makes sense for the government to prepare for different scenarios as well. Of course, each option must be informed by the best possible analysis of each possible specific context. Both parties have agreed that signing the NCA is the best starting point for the peace process in Myanmar. Thankfully, they have been persevering in their pursuit of this option to date.

While both sides are working tirelessly for this NCA, they should not give mixed signals that only and can distract from the first best option, the NCA. Without realizing it, a discussion of the government side's "Plan B and other option" is unhelpful to the process of securing the NCA. The public pursuit of alternative options only feeds into the longstanding suspicions of conservative hardliners from the EAOs who have always been skeptical of the government's intentions regarding the peace process. Rather than accelerating the NCA process, exploring alternative options during the current NCA negotiations is sending too many mixed signals to EAO leaders. Consequently, EAO leaders have become increasingly distrusting of the peace process. In short, pursuing alternative options while the preferred option is still within reach is counter-productive, and it is necessary that the government demonstrates its commitment to adhering to their preferred outcome of achieving the NCA without any hidden agenda.

Clearing their minds of suspicion and distrust might be advisable for some EAO leaders:

With the NCA negotiation process dragging on longer than expected, there is genuine concern over what is the best deal for EAOs, especially in the run up to the general election. Based on all the statements made by most of the EAO leaderships, the question is not whether they will ever sign the NCA, but rather when and what deal they are willing to sign. The outcome of their summit at Law Khee Lar (June 2-9, 2015) shows that a majority of top EAO leaders still want a better and stronger deal than what they are promised under the current NCA draft, which has already been agreed between Nationwide Ceasefire Coordinating Team (NCCT) and Union Peace-making Work Committee (UPWC) on March 31, 2015. While the government is ready to sign the draft NCA, the delegation of EAO leaders is calling for further rounds of negotiation over additional amendments, a collective decision agreed at their recent summit. For those who want the NCA to be signed as soon as possible, the outcome of the EAO summit is hardly welcome news. However, in fairness to the EAO leadership, we should not forget their seriousness and commitment to the NCA, which has also been displayed at

the summit. This willingness to move NCA negotiations forward has been represented by the formation of a new Senior Delegation team, comprising top-tier leaders from various opposition EAOs, who asked for additional amendments to clarify some of the more ambiguous provisions contained in the NCA draft.

Having a strong NCA in place is necessary to lay down a firm foundation for the future peace process. It is also the key to unlock a political and peaceful dialogue to address the protracted fundamental political problems of the country. After years of broken promises and the government's failure to abide by the agreed terms, one can appreciate a genuine lack of trust in its sincerity and ultimate objectives. However, it is important to realize that each government of the day has been charting its own course of reform. It might not be perfect, but at least the current government is treating EAOs as equal partner at the negotiating table. None of the previous governments have done so in the past. Therefore, it would be unfair to equate the current government with its predecessors who have failed to demonstrate any interest in entering into dialogue with EAOs.

When assessing viable options, the EAO leadership needs to take into account the importance of timing (time factor) and achievable deals in the short-term so long as it opens up the process. It raises concern that some members of the EAO leadership seem to consistently fail to consider the limitation of time in their strategy. Any deal they get will necessarily be imperfect. There simply is not enough time to reach a perfect deal. At the same time, the EAO leadership should not hold on to the unrealistic expectation that the NCA will solve all of their problems. The NCA is not the end of the peace process, but just its starting point. Without a beginning, there cannot be future process, such as a political dialogue that EAOs have been demanding for years. The EAO leadership should keep in mind the paramount importance of safeguarding all the mutually agreed substantive provisions in the current NCA, instead of halting the negotiation process until the government accepts all their additional demands. Moreover, stating "we do not trust the government" is no longer enough. It is not the question of who leads the government. The most important factor in any deal they make is the essence and substance of what is agreed in a written agreement/accord. In fact, mutual trust is something both sides will have to work hard to build and nurture over time. This is only possible if both sides adhere to the agreed terms contained in the NCA draft that lies in front of them, ready to be signed. No doubt, the NCA will give EAOs a chance to test the current government's sincerity and intentions in furthering the peace process.

Moreover, EAO leaders should not start thinking whose government they would prefer to enter into agreement with. It is highly unlikely that the controversial substantive clauses of the 2008 constitution will be amended soon, and the Army (tatmadaw - the most powerful institution in the governmental power structure) will uphold its ultimate political power on the government side. Whether we look at the current government or its future successors after 2015 – the army will still call the final shots. Keeping in mind the reality of this political context, ethnic leaders should not hang on to any illusion that they might get a better deal with the next government. The point of the matter is that deliberations of whoever might form the future government of Myanmar should not affect considerations whether or not to sign the NCA. This is an entirely unrelated process. From a legal point of view, all that matters is that the NCA be signed by the legitimate representatives of the government of Myanmar. The deal they sign will be between them and the country of Myanmar.

It would be a strategic blunder if EAO leaders keep delaying the NCA process in the hope that a future government – knowing that military will be in control – will be more amenable to their demands than the current government. Following the same logic, no one should use the potential lack of commitment to the peace process by any future government to pressure EAOs into signing the NCA either.

A final question that EAOs may not lose sight of is how their demands are being perceived by the government. If EAOs are seen as dragging the peace process on with new additional demands, which cannot be met at this stage of negotiations, they could be sending the wrong signal: It may suggest to the government that EAOs do not have a desire for peace. Such a mischaracterization of their position would be highly damaging to the integrity and image of the EAOs legitimate armed struggle.

Therefore, and as cautious as they are to avoid making mistakes in the current negotiation process, EAO leaders should be careful not to be seen as not wanting peace. What matters is the current NCA draft, which they themselves painstakingly prepared. They share ownership with the government of Myanmar, and will have to jointly decide if it is a workable document that will allow EAOs to pursue their political aspirations and goals gradually and steadily.

Conclusion:

Point has to be made again that there is no military solution to armed conflict in Myanmar. Only a peaceful mean of negotiation through political dialogue aiming to hammer out compromise acceptable to both sides is a viable and best option. More than ever before, both sides are getting closer to Nationwide Ceasefire Agreement (NCA), which would be their historic Ceasefire Deal. A deal that is expected to lead ultimately to resolve the political crisis of the country, which will benefit the entire citizens of the country in the long run. Allowing this noble process of negotiation with the goal of attaining lasting peace that they have been undertaking to breakdown would be a national tragedy politically for the country of the Union of Myanmar/Burma.