



Armed Conflicts between the Kachin Independence Organization and Myanmar Army: A Conflict Analysis

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Abstract

The paper examines the armed conflicts between the Kachin Independence Organization (KIO) and Burmese army since 1961 after ten years of Burma/Myanmar independence from the British rule in 1948. With the aspect of political justifications, the paper positions from the Kachins' perspective to analyze the armed conflicts between KIO and the Burmese army in terms of political injustice. The armed conflicts are conceptually approached with the theory of what the Galtung (1996) has termed as '*Conflict Triangle*', in which the attitude and contradiction that have become the formation and catalysts towards the armed conflicts as behavior. Therefore, the paper identifies the ways in which the Burmese supremacy and dictatorship that escalated the armed conflicts between KIO and Burmese army as the root cause. The research applied a case study approach to analyze the armed conflicts between the KIO and Burmese army, in which the armed conflicts have been scrutinized with '*Cultural, Structural and Direct Violence*' (Galtung, 1996) and the theoretical frame of negative peace. The study mainly relied on relevant secondary data for analysis. Historically, a wide range of cultural differences including language and religion between the Kachin and majority Burmese have yielded divergently ingrained attitudes of the two societies since the Burmese supremacy escalated the acrimonious attitude of the Kachin as an existential threat. As a result, the inequality in political participation for the decision-making power vested in the state constitutions. Consequently, such political discrimination has become one of the biggest contradictions enshrined as structural violence to move forwards the armed conflicts as direct violence. Furthermore, with the theoretical lens of negative peace; this paper explores how the KIO attempted peace negotiations with different central regimes for political resettlement. The paper attempts to pinpoint the root cause of the armed conflicts using theoretical framework and work towards a sensible solution that would be helpful for both the academia and stakeholders of the armed conflicts.

Keywords

Cultural, Structure and Direct Violence, Armed Conflicts, Negative Peace

Introduction

The armed conflicts between the Kachin Independence Army (KIA) and the Burmese army⁽¹⁾ have been intermittently ongoing throughout all central regimes after 1961 in Burma/Myanmar⁽²⁾. In this paper, the term 'KIO' is applied rather than the term 'KIA' unless it needs to clarify a special indication; the KIA is the military arm of the KIO, whereas the KIO is the political arm aiming to settle the political goals of the Kachin people. Throughout the history, several peace negotiations were intermittently carried out between KIO and central regimes. However, all peace negotiations were fruitless. Fortunately, a bilateral ceasefire agreement was achieved between the military regime and KIO in 1994 and lasted until 2010. Sadly, once the so-called quasi-democratic regime led by President Thein Sein took power amid 2011, the armed conflicts between KIO and Burmese army resumed more intensely than before. In fact, the resumed armed conflict was ignited by the Burmese army because it pressured the KIA to turn into Border Guard Force (BGF). However, the KIO subsequently rejected the BGF proposal. As a consequence, the Burmese army attacked intensive gunfire, jet fighters, helicopter gunships, and 105 mm howitzers, among many powerful weapons (Kuppuswamy, 2014). Most importantly, the 17-year ceasefire broke down and the armed conflicts continued until the present where the National League for Democracy (NLD) regime headed by Aung San Suu Kyi is in power. The paper aims to analyze the whole gamut of armed conflicts between the KIO and Burmese army because the armed conflicts have been on-and-off and even seem to continue unless the political solution is fully compromised.

Despite the so-called democratic transition process, the fighting is not brought up to end, instead the intensity of armed conflicts between the KIO and Burmese army has reached its historical peak during this era. As a result, there have been more than 100, 000 internally displaced persons (IDPs) now living in the Kachin and northern Shan states, while a bigger proportion of IDPs sought safety in KIO administered areas, some of which are under the government's administered areas (KWAT, 2012 cited by Lut, 2013, p,2). Some publications have exposed a wide range of atrocities that the Burmese army has committed, including extrajudicial killings, human shields, ill treatment and torture, enforced disappearance, sexual violence including rape, destruction of property and pillaging, forced labors and the like. This paper, therefore, attempted to identify the root causes of the armed conflicts that adversely inflicted the local people particular the Kachin people. In doing so, it is hoped that an increasing understanding of the root causes would help find ways to alleviate the armed conflicts.

The study employed a case-study approach to explore the armed conflicts between KIO and Burmese army. This is a useful research method to focus on the behaviors of individuals, a group of people or groups of people. Moreover, a case study helps to explain social phenomenon (Starman, 2013). With this approach, the study was able to perceive

deeper understanding of the behaviors between the Kachin and Burmese societies and then screened through the theoretical framework of the conflict triangle that addressed attitudes, contradictions and behaviors towards cultural, structural and direct violence. Tellis (1997) also stated that case studies help explain both the process and outcome of a phenomenon through complete observation and analysis (cited in Zainal, 2007, P.1). Therefore, the study investigated and scrutinized the process and outcomes of peace negotiation with the theory of negative peace. The study used a wide range of secondary data that have been pertinent to analyze and help understand the phenomenon of the armed conflicts. The unit of analysis in this study has been groups of people such as the Burmese and Kachin. The Kachin people are considered part of Kachin societies, the perspective of the Kachin ethnicity helped understand for deeper understandings of the two societies between the Kachin and Burmese. Therefore, the author applied his knowledge on the social and cultural understandings of the Kachin and Burmese ethnicities. In addition, the analysis of the paper is based on the view of the Kachin ethnicity for the political equality that used to have been the fundamental principle between the Kachin and Burmese delegates when the Kachin's land territories were drawn into Burma/Myanmar's territories by the time Burma/Myanmar independence was culminated from the British.

The paper attempted to highlight the historical background of Kachin and Burmese societies, in which social and cultural differences have been compared and contrasted in order to highlight the nature of the two societies. It also highlighted the occupations of land territories during the British rule towards Burma/Myanmar independence. Given analyzing part, the paper explained the theoretical framework of the conflict triangle of violence and then analyzed the nature of Burmese and Kachin societies towards the armed conflicts between the KIO and Burmese army. In addition, peace negotiations have also been examined to understand the genuine political environment that failed to compromise the political solution. The principle of political equal status has been the fundamental justification that could terminate armed conflicts for direct violence because it would be able to correct the injustice political system as structural violence that discriminate Kachin societies. In doing so, the Kachin and Burmese would be able to move forwards peaceful societies so as to alleviate cultural violence.

Background of the Armed Conflict

The nature of ethnicity between Burmese and Kachin is strikingly dichotomous in terms of their culture, religion and language. In addition, the Kachins are hill people occupying their own land territories across the current Kachin state and partially in northern Shan state. The Burmese, on the other hand, are flatland/valley people with a distinct culture

including language, religion, customs and traditions. Despite having some legendary history, the earliest era of the Burmese kingdom can be considered from Pagan established by Aniruddha in A.D (1044) and the last epoch of the kingdom was Konbaung. King *Thibaw* was the last dynasty of Konbaung that British ousted in 1885 (Yi Yi, 1965). These have revealed that Burmese possessed several kingdoms throughout its history. Hence, Burmese have a different social background for their political system, culture and religion. The Kachin generally represents all Kachin tribes, namely (1) Lhaovo (Maru), (2) Lachid (Lashi), (3) Zaiwa (Atsi), (4) Li Su (Lasaw), (5) Rawang (Nung), and (6) Jinghpaw. The Kachin tribes are common in tribal-based clan system called '*the Triangular System*' as '*a tripod*' that is believed to have derived from the same progenitors, in which (1) *bride givers (mayu)*, (2) *bride takers (da ma)* and (3) *brothers or sisters (kahpu kanau)* that they [among the clans] cannot intermarry as '*bride givers*' or '*bride takers*'. The Kachins used to be animists before converting into Christianity, in which they have their own customs and traditions. The majority Kachin have now turned into Christianity. Moreover, the Kachin used to be self-governing people as the Kachin chieftains called '*Duwas*' ruled the Kacihn villages within their individual territories as domains. In this paper, the term '*Kachin*' is applied as a singular form to address all the above-mentioned Kachin tribes while the term '*Kachins*' is used as a plural form for all Kachin people.

The British occupied the whole lower Burma/Myanmar after three Anglo-Burmese Wars. The first took place from 1824 to 1826, the second in 1852, and the third in 1885 with the overthrow of King *Thibaw*. As a result, the British formally annexed the whole lower Burma/Myanmar on January 1, 1886 as Burma Proper covering upper Burma regions including Mandalay, Magwe and Sagain (Thant Myint U, 2001 and Tegenfeldt, 1974). The British continued to occupy the Kachin land territories, however, they faced strenuous resistance by the Kachins. The Kachin territories such as Hukawng Valley were not brought under the control of British until 1920s (Tegenfeldt, 1974). Eventually, with its military might, the British defeated the Kachins and ruled the Kachin land territories by enacting "*the Kachin Hill-Tribes Regulation (Regulation No. 1 of 1895)*" as a legal document that recognized the Kachin traditional governing systems including Kachin customaries and traditions. For instance, in this regulation – (1) "*hill-tract*" means any hill tract to which this Regulation has been extended; (2) "*hill-tribe*" means any hill-tribe to which this Regulation has been made applicable; (3) "*clan*" means any subdivision or section of a hill-tribe; (4) "*headman*" means the chief or head of any hill-tribe, or clan or villages, or group of clans or villages, and includes a *Duwa* and *Akyi* (Article 2 of Chapter I). The British government subsequently enacted the *Government of Burma Act (1935)*, through which the British government divided its administrative territories into three major parts, namely Burma Proper, Part One and Part Two. The territories of Burma Proper encompassed the lower Burma and most parts of

current Mon state, Rakhine state, some part of Karen state and current Tanintharyi⁽³⁾ Division. Part One and Part Two comprised *Federated Shan States*, which now covers both southern and northern Shan states, the Chin Hill Tracts, the Arakan Hill Tracts, the Sallween District, the Areas known as the Triangle, Hukawng Valley laying to the north of the Upper Chindwin District, all Unadministered Tribal Territories, *Kachin Hill Tracts of the Myitkyina, Bhamo and Katha Districts* (Second Schedule of Government of Burma Act, 1935:94). By that time, Karen territories were independent, and their territories later turned into Kayah state⁽⁴⁾ (Ban, 2016). Most importantly, these areas of Part One and Part Two were commonly known as Frontier Areas since the term “*Frontier Areas*” was applied in the Frontier Areas Committee of Enquiry, 1947 along the way the enquiry was carried out in accordance with article (8) of Aung San-Attlee Agreement towards Burma/Myanmar independence.

Looking back at the history of current Burma/Myanmar land territories recognized by the international community, they emerged to form an independent state from British through the *Panglong Agreement*. In contrast, the territories of Burma/Myanmar sovereignty would have been only the central part of current state regions, and ethnic territories particularly the Kachin's land territories remained with a different political status without the Panglong Agreement. After World War II, Burma/Myanmar was engaged in the struggle towards total independence from the British rule. In February 1947, Panglong Agreement, with 9 Articles, was negotiated between and among the delegates of Kachin, Chin and Shan, as well as General Aung San who was from the Anti-Fascist People's Freedom League (AFPFL) de facto government during that time, and then the agreement was officially signed. As a result, the Panglong Agreement made the territories of Burma Proper together with the Frontier Areas independent from the British rule. According to Article (6)⁽⁵⁾ of the Panglong Agreement, the Kachin state was demarcated on 10 January 1948, six days after Burma/Myanmar independence in January 1948. On the other hand, the Kachin leaders from *Mungmyit Sinli*⁽⁶⁾ regions in northern Shan state formed *Mungmyit Sinli Kachin Leaders Council*, later turned into *Kachin Sub-state Council* after World War II and the council considered that the Kachins had sacrificed thousands of their lives and properties during the war, therefore, on 3rd March 1945 they proposed to the Civil Affairs Service Burma (CASB) of British government for their territories as a Kachin state either. Consequently, at *Japan Padang Manau*⁽⁷⁾, a victory celebration over the Japanese in World War II, the council continued to propose to Governor Sir Dorman Smit during his attend to the celebration on 16th January 1946. Eventually, Mr. Stevenson, the Deputy Commissioner of the Frontier Areas, came up to Kut Kai in current northern Shan state and explained that if the Kachins from Mungmyit Sinli regions demanded for the Kachin state, the main land Kachin would lose flat areas such as Myitkyina and Bhamo and not possible to have two Kachin states, therefore, recommended that Kachin Sub-state be proposed. As a consequence, the council

changed to propose an agreement with *Fifteen Provisions*⁽⁸⁾ as suggested. The agreement for Kachin Sub-state was signed by Mr. Stevenson, three *Shan delegates*⁽⁹⁾ and four *Kachin delegates*⁽¹⁰⁾ on 9th December 1947, thereby Kut Kai Kachin Sub-state, covering 66 areas⁽¹¹⁾ that the Kachin chiefs (Duwas) used to control under British authority, was legitimate on 9th December 1947 (Mungmyit Sinli, Kachin Sub-state History Committee, 2014:96 and Brang Di, 2015:369). As a result, the Kachin Sub-state was officially recognized by Shan state government through a notification on 6th July 1948 (Mong, 2005, p.115).

The Fundamental Problem of the Armed Conflicts

The first construct of Burma/Myanmar nationhood appeared as a Union of Burma construed on the Constitution of the Union of Burma (1947) and the regime lasted until 1958. According to the 1947 Constitution, there were two Chambers, namely the Chamber of Deputies and the Chamber of Nationalities, in which the Chamber of Deputies was composed of representatives from population-based constituents. The Burmese-dominated AFPFL party occupied the Chamber of Deputies because the Burmese population was the majority and the constituency of the Chamber was allowed as many as twice that of the Chamber of Nationalities (The Constitution of The Union of Burma, 1947, Articles 83, paragraph 2 and 4). On the other hand, the Chamber of Nationalities was composed of one hundred and twenty-five seats for the member of the ethnic nationalities across the state. Although the Chamber of Nationalities was for non-Burmese ethnic groups including the Kachin, the non-Burmese ethnic groups were able to occupy only seventy-two seats, in which 12 seats for Kachin, 8 seats for Chin, 25 seats for Shan, 24 seats for Karen, and 3 seats for Karenni, and the rest fifty-three seats were reserved for other non-ethnic areas. This implied that the Burmese majority still had a chance to occupy a certain extent of seats in the Chamber of Nationalities (The Constitution of The Union of Burma, 1947, Articles 87 and Second Schedule). Therefore, this political system allowed the Burmese hegemony at the expense of ethnic pluralism that constituted. The executive power enshrined in the constitution, both Chambers of Parliament elected a President in a joint session by secret ballots. Then the President appointed a Prime Minister, who was the head of the Union Government, nominated by the Chamber of Deputies occupied by the Burmese majority. Once the Prime Minister was appointed, the President had to appoint the Ministers of the Union Government proposed by the Prime Minister and the President had to terminate any Minister of Union Government if the Prime Minister advised him to do so. It was promulgated that the President had to summon or dissolve Parliament on the advice of the Prime Minister. Therefore, the President just took the ceremonial role instead of an administrative one. In fact, the Prime Minister had full power to dictate not only on the executive power but also on legislative power. On the other hand, the Prime Minister dictated the State government including Kachin state government. For instance, in the case of Kachin state, the President appointed a state

Minister on the nomination of the Prime Minister and the state Minister was the Head of the Kachin state as well as in charge of the executive authority of the Kachin state government. Moreover, the President appointed the Attorney General on the nomination of the Prime Minister (The Constitution of The Union Of Burma, 1947, Articles 46, 56, 126, 160, and 161). Thus, the 1947 Constitution was the core issue that provoked ethnic groups, particularly the Kachin.

As has been discussed, while the 1947 Constitution was the fundamental issue that engendered the political acrimony for the Kachins, other political indignations aggravated the political circumstance for the Kachins. The additional resentments that escalated the political circumstance of the Kachins were two issues. One was the Sino-Burmese Border that directly inflicted the Kachin people and was discussed in detail during the Prime Minister U Nu's visit to China in September 1956. He returned with a tentative plan for a settlement that called for Chinese recognition of Burmese sovereignty over the so-called Namwan Assigned Tract ⁽⁸⁾ in exchange for ceding to China three Kachin villages in Kachin State: *Hpimaw, Gawlum and Kangfang*. China also pledged to recognize Burmese claims on the remainder of the 1, 357 mile frontier (Lintner, 2017, p.6-7). The second issue was the promulgation of Buddhism as the state religion along with the political turmoil of General Ne Win's military coup in 1961 (Mong, 2005, p.6). Consequently, the KIO emerged to hold arms as the last resort to demand self-determination rights and political equality for the Kachins in 1961. As a result, armed conflicts between the KIO and Burmese have been engaged throughout the years until now.

Theoretical Framework of Violence

The term 'conflict' can be viewed from different perspectives to distinguish the interests of individuals as well as groups because conflict occurs within a person making internal choices around similar interests, things, and the like. Likewise, the term and concept of conflict has usually been used to refer the clashes between one group of people and another. Therefore, conflict could range from the clashes of inner to outer circles, meaning the outer circles are usually derived from the inner ones. For instance, inner circles could be clashes related to beliefs, religion, ideologies, culture, language and the like. As a consequence, such inner circle could lead to trigger clashes amongst individuals or between groups, in which clashes vary from disputes to physical harm. At the same time, the term 'violence' has a wide range of meanings to differentiate. Human rights activists and scholars have indicated that both offensive words and behaviors may be interpreted as violence. Armed conflict therefore are said to be violent conflict between groups at the outer circle. Galtung (1996) systematically delineated the "Conflict Triangle" to demonstrate and identify a formation, in which conflict resulted from three forces: contradiction (C), attitude (A), and behavior (B).

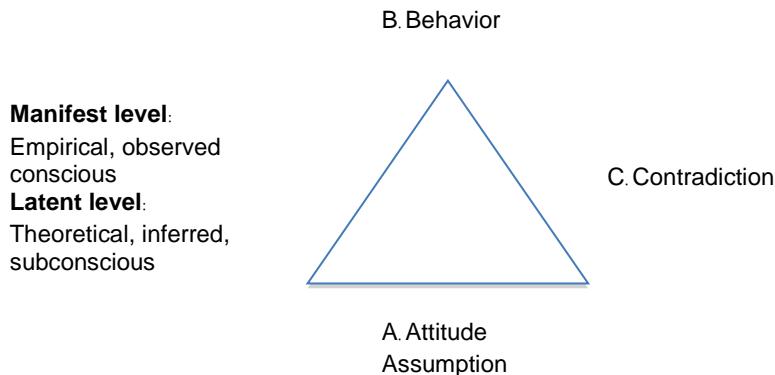


Figure 1 The Conflict Triangle

Source: (Galtung, 1996, p.72)

Based on the elaboration of Galtung (1996), violence emerges throughout these three stages, namely cultural, structural and direct violence. The stages of attitude and contradiction incriminating cultural and structural violence cannot be easily noticed because they are usually embedded across society and appear in different forms such as religion, language, governance, culture, economic exploitation, political competition, and the like. However, they can at times lead to aggressive behavior in terms of direct violence. For instance, if a dominant group or groups, structurally discriminate against another group or other groups for any reason or justification, which could consequently generate direct violence. Direct violence has several forms such as war, murder, rape, assault and attacks (Hathaway, 2013).

Armed Conflict as Direct Violence

As mentioned above, the armed conflicts between the KIO and Burmese army can be screened through inner-outer theory comprising two aspects such as inner and outer circles. The inner circle is embedded within individuals and between groups, on the other hand, the outer circle is addressed for the conflicts between and among individuals and groups. In societies conflicts cannot be avoided, instead conflicts are to be reduced or resolved for the purpose of maintaining normative levels of social cohesiveness. However, unless conflicts are identified in pursuit of their root causes, they will not be resolved according to systematic and effective means. In order to identify the root causes, conflicts have to be diagnosed according to the logic and patterns of violence. Likewise, it is necessary to identify the root cause that engendered the armed conflicts between the KIO and Burmese army so that proper means would be ascertained to unravel.

After Burma/Myanmar nationhood was culminated from the British rule since 1948, Burmese nationalism dominated throughout the political arenas as it was derived from Young

Men's Buddhist Association in 1906 by 'English-reading schoolboy' (Ian, 2011, p.33). For instance, Burmese language has been officially promulgated as a national language through the educational system and Buddhism has been a de facto religion of the state. Moreover, Burmese literature has been officially promoted across the country including in the remote areas with different means. Although Buddhism has not been officially promulgated, it has been officially implemented. For instance, the Buddhist affairs have been officially considered to be national events and religious buildings such as stupas have been constructed with the national budget. Most importantly, the majority Burmese have occupied all powerful positions within the state political system throughout the regimes. In this case, the cultural element of violence is observed in the ways in which the attitudes, beliefs and culture of the Burmese majority are legitimatized and allowed to dominate the political system of Burma/Myanmar. Consequently, the Burmese culture discriminated and exploited other cultures and built a Burmese-dominated state. In doing so, such a political system was built to continue engendering structure violence. As a consequence, the KIO took up its arms as the last resort to demand the right to self-determination and political equality for the Kachin. For this reason, the armed conflicts between the KIO and Burmese army can be considered as direct violence derived from Burmese supremacy as cultural violence. Quinn and Gurr (2003) empirically stated that out of estimated 700 to 800 minority groups of substantial size worldwide through the Minorities at Risk (MAR) project, 285 were politically active at some time since the 1950s. These groups have pursued various self-determination goals such as collective rights, political autonomy, or an independent state. Consequently, 148 that pursued self-determination goals, 78 engaged in conventional, non-violent politics, but 70 have waged some form of armed struggle at one time or another in the past 50 years (Oberschall, 2007, p.13). The armed conflicts between the KIO and Burmese army can thus be addressed as one of many worldwide armed struggles that implicated various types of the use of force.

It is somewhat complicated to justify the armed conflicts between the KIO and Burmese army. However, it is worthwhile to consider these particular armed conflicts through the lens of various theories, since theories usually help offer cohesive explanations in terms of cause and effect phenomenon. According to Martinez Guzman (2001), the word *polemology* is derived from the Greek word, in which *polemos* means that wars against foreigners and *logy* is the discourse of a subject matter to study (p.62-63, cited by Pindavaniya, n.d). Likewise, as a repercussion of the collapse of Twin Towers in New York City on September 11, 2001, the United States invaded Iraq, this war was justified on the basis of terrorism and weapons of mass destruction. Thus, justifications of wars have different reasons. From the KIO's point of view, the wars that it has been raging against Burmese army have been justified as defensive wars. The Burmese army, on the other hand, has proclaimed that the wars that they have been operating are addressed as castigating the

KIO as though KIA troops were mere armed criminals. Whatever the case, the wars between the KIO and Burmese army, as mentioned, have engendered thousands of deaths and injuries as well as extrajudicial killings. Moreover, these armed conflicts have displaced thousands of local peoples and created other social upheavals. For these reasons, the armed conflicts between the KIO and Burmese army have affected both individuals and ethnic groups as a whole, particularly the Kachins across the conflict-affected areas.

Peace Negotiations

Negative peace is a term frequently used to refer to the absence of war, meaning that there is a condition in which no active, organized military violence is taking place. The noted 20th century French intellectual Raymond Aron elaborated on the idea of negative peace by viewing it as a condition of “more or less lasting suspension of rivalry between political units.” This perspective suggests that negative peace is found whenever war or other direct forms of organized state violence are absent (Barash & Webel, 2003, p.6). Over the past 50 years, peace negotiations have sporadically attempted between the KIO and the central regimes in terms of negative peace. In 1963, the first ever peace negotiation was attempted with the Revolution Council government led by Ne Win to engage a constructive dialogue after he announced his willingness to meet representatives of the armed opposition groups with firm guarantees of a ceasefire and safe passage to and from their jungle bases. As a consequence, thirteen armed opposition forces, including the Kachin Independent Council (KIC)⁽¹²⁾, were interested in Ne Win’s promises and agreed to join the peace talks. With hope and trust, the KIC had dispatched its delegates twice: first to Mandalay and second to Rangoon for peace talks (Kachin Research Society, 2014). However, these peace negotiations did not yield authentic political dialogues, instead Ne Win merely aimed to convince the KIC to surrender its arms.

Again in 1979, the KIO made contact with the central government led by the Burma Socialist Programmed Party (BSPP) under the eldership of president Ne Win through the respected local Kachin leaders for peace negotiations. In the following year, the BSPP made a state announcement offering a general amnesty to all parts of the country. This general amnesty initially lasted three months. But in the case of the KIO, the peace negotiation was extended to ten months (Kachin Research Society, 2014). Again, peace negotiations did not bring about a political solution, instead, the KIO was pressured to surrender its arms, and therefore was not in a position to accept the general amnesty. The KIO adamantly demanded the autonomy with self-determination within the Union of Burma. On 14th December, 1980 the KIO Headquarters sent its third round peace delegation to Myitkyina in Kachin state. The third round of peace negotiations were held on 17th to 24th December 1980. In the meeting, mainly regarding the KIO’s demand, the enactment of autonomous rights in the 1974 constitution were rejected by saying that as the 1974 constitution had been adopted

through referendum, the BSPP had no right to acceded to the demands unless which were accepted by the votes of the people (Kachin Research Society, 2014). The KIO delegates, however, firmly demanded the autonomous right to be accepted as a policy because such demand was not done by the KIO and it was instead derived from Kachin public opinion. However, such demand was denied.

Furthermore, the KIO had gone through various peace phases of on-and-off participation with other ethnic negotiation bodies and democratic alliances, such as the National Democratic Front (NDF) in the early 1990s, as well as with other ethnic armed coalitions including Working Group for Ethnic Coordination (WGEC) and Ethnic Nationalities Council (ENC) in the 2010s (Euro-Burma Office, 2015 and Oo, 2014). Fortunately, the longest period of negative peace between the KIO and military junta culminated in 1994. At that time, both sides agreed that a new constitution must be construed in order to frame the most appropriate means of democratic form to include all ethnic groups so that every ethnic group could be able to have what they have demanded in terms of self-determination and political equality. But nevertheless, as has been stated, the armed conflict between the KIO and Burmese army resumed in mid 2011 and terminated the negative peace that lasted for 17 years.

Politically speaking, one of the most significant political alliances to date, the United Nationalities Federal Council (UNFC), was formed in 2012 and composed of twelve ethnic armed organizations (EAOs), namely the KIO, Karen National Union (KNU), Karenni National Progressive Party (KNPP), New Mon State Party (NMSP), Shan State Progressive Party/Shan State Army (SSPP/SSA), Lahu Democratic Union (LDU), Pa-Oh National Liberation Organization (PNLO), Chin National Front (CNF), Wa National Organization (WNO), Arakan National Council (ANC), Ta'ang National Liberation Army (TNLA) and Myanmar National Democratic Alliance Army (MNDAA). The KIO took a leading role in the UNFC and it was seen as the most consolidated coalition that the EAOs had ever formed. Unfortunately, the KNU later left the UNFC. Following that, the EAOs including UNFC and non-UNFC set up the Nationwide Ceasefire Coordination Team (NCCT)⁽¹³⁾ at Lai Za, the KIO's headquarter, in early November 2012 and with a mandate to collectively negotiate with the central government. As a result, the NCCT and the Union Peace Work Committee (UPWC) of the government held their first official meeting in March 2014 and mutually agreed to combine their different proposals of both sides into a "single-text document" on 8 April 2014. Eventually the NCCT and the UPWC incisively agreed on the Nationwide Ceasefire Agreement (NCA) on 7 August 2015 (Myanmar Peace Center, 2016, p.40-41). Despite having agreed to the NCA, it was understood amongst the EAOs, the NCA was not finalized, and had only been agreed as a draft document. However, the UPWC politicized the draft by prematurely holding national event for the NCA-signing ceremony attended by international

representatives and diplomats. Moreover, politically and technically speaking, there were several flaws in the NCA for the EAOs including the KIO. For instance, the composition of decision-making body of *Framework for Political Dialogue (FPD)* ⁽¹⁴⁾ is unequally shared for the Union Peace Conference (UPC), in which the political bargain would likely be determined with votes. For these reasons, the EAOs submit then formed a Senior Delegation (SD) that purported to negotiate some crucial agreement with the central government particularly with the Burmese army. Inclusiveness for all EAOs signing NCA was the highest priority; nevertheless, the attempt went in vain. Despite inconsistency of the NCA, some UNFC members such as CNF and PNLO firmly decided to sign the NCA together with non-UNFC groups, namely KNU, Democratic Karen Buddhist Army (DKBA), Karen National Union/Karen National Liberation Army (Peace Council) KNU/KNLA (PC), Restoration Council of the Shan State/ Shan State Army (SSA) (RCSS/SSA), All Burma Student's Democratic Front (ABSDF) and Arakan Liberation Party (ALP) in October 2015 after EAOs submit was held in September 2015.

To move forward on the peace process, the UNFC then formed the Delegation for Political Negotiation (DPN) and attempted to negotiate with the government delegates several times; however, the peace negotiations did not seem to improve. The negotiations, in this case, were that the DPN proposed nine points to add up in the NCA for political propositions to equalize the NCA. On the other hand, the government side, particularly the Burmese army, did not want to consider the proposal. The peace process, thus, became and has remained stagnant as a means to compromise and settle the political dilemma. As a result, the negative peace that will diminish the armed conflict between the KIO and the Burmese army for direct violence remains unavailable.

Political Equal Status

In order to build harmony and peace between the Kachin and Burmese, both need equal political status. Burma/Myanmar has undergone three state constitutions, namely the Constitution of the Union of Burma (1947), the Constitution of the Union of Burma (1974) and the Constitution of the Republic of the Union of Myanmar (2008). As it has been argued, due to political discrimination through the political system based on the 1947 Constitution, armed conflicts between the KIO and Burmese army had emerged over a decade after Burma/Myanmar gained independence in 1948. Moreover, the second Constitution of the Union of Burma (1974) was construed with the flavor and political ethos of Marxism and was considered the Burmese way to socialism. Most importantly, the current 2008 Constitution has many flaws for democratic principles, for instance 25% of the constituents has taken by the military without election. These have indicated that the ethnic groups including Kachin have been structurally discriminated in terms of structural violence. Thus, the political system has to be structurally amended. In 1961, a *Federal Proposal* was developed and adopted by

the Shan state government and then endorsed by the All States Unity Organization at the All States Conference in Taunggi. The All States Conference was organized by ethnic representatives for all states members such as Kachin, Shan, Chin, Mon, Karen, Arakan (Transitionalinstitute, 2017). The federal proposal was locally called ‘*Shan Mu*’ meaning the “*Shan Principles*” because it had been developed and adopted by the Shan state government during political turmoil along the political system under 1947 Constitution right before General Ne Win’s coup. In other words, the federal proposal was a sign of political acrimony over the 1947 Constitution that failed to implement political equal status among ethnic groups including the Kachin. Chan Htoon, who was a Constitutional Adviser of the 1947 Constitution, even exposed that: “*Our Constitution, though in theory federal, is in practice unitary*” (The Union of Burma by Hugh Tinker, Page 30 cited in the book of The Federal Proposal, 1998, p,65). The federal proposal, therefore, was intended to amend the 1947 Constitution for political equal status among ethnic groups including majority Burmese, in other words, equal rights for all ethnic peoples.

The federal proposal addressed five elements to amend the 1947 Constitution, namely (1) to demarcate the Burmese state, (2) distribution powers, (3) parliaments, (4) taxation and budget system, (5) complete autonomy. Most importantly, a Burmese state as other ethnic-based states was proposed to be created for the territories of Burma Proper for ethnic equality within a federal union. In terms of distribution powers, foreign relations, national defense, currency, postal offices and telecommunications had to be entitled for the whole country as a federal level; the rest of the powers which were called “Residual Powers” should be vested in ethnic-based states including the Burmese state. Addressing the parliaments, the two parliaments should equally exercise legislative powers, in which the representatives of the upper house should be equally composed of ethnic states and the representatives of the lower house should be based on the population. The proposal did not precisely address how the taxation and national budget should be made – however it did suggest shared taxes and a national budget in accordance with equal status. In addition, the ethnic groups who were not compatible to form states should be demarcated as “*National Areas*” and the rights of ethnic nationalities should be legally promulgated. Last but not least, all ethnic-based states including Burmese and Kachin states should have legislative, executive and judicial branches for state levels, to which complete autonomy should be granted. Drawing on these principles, the *Federal Proposal* can be construed as a multi-state political system for a federal union of states, in which there is a division of powers between two levels of government” (Law, 2013, p.E-105). This indicated that if the federal proposal had been implemented, the Union of Burma/Myanmar would have been established for political equal status between the two levels of federal and ethnic-based state governments in terms of the divisions of power for legislative, executive and judicial branches. Moreover,

the states would have sent their equal representatives to the upper house. Importantly, Hueglin and Fenna consistently asserted that in a federal system, sovereignty is shared and powers are divided between two or more levels of government each of which enjoys a direct relationship with the people (2006, p.32-33 cited in Law, 2013, p.E-95). Hence, the state sovereignty of Burma/Myanmar should be considered as a shared power between the federal union and ethnic-based states.

Along with this federal proposal, it is consistent and legitimate to address the political principles that the Kachin leaders had proposed and agreed among ethnic leaders throughout the political negotiations of Burma/Myanmar independence because these principles can be reflected for the rights of the Kachins in a supposedly federal Union of Burma/Myanmar. As has been delineated, the Panglong Agreement was the certificate that married the Burma Proper and the Frontier Areas as an independent state from the British. Although the Panglong Agreement was signed on 12 February 1947, the Kachin and Shan leaders had previously made an agreement on 6 February prior to the arrival of Aung San because he appeared on 8 February. Some relevant principles that the Kachin and Shan leaders had agreed were: (1) equal right with Burmese in accordance with democratic principles, (2) to demarcate a separate Kachin state (Tun Myint, 2014, p369). Based on the federal proposal to which the Kachin representatives inclusively endorsed, the assertions were obviously made for political equal status and self-determination right within a federal union. Hence, despite a small population, the Kachins have political equal status just like the Burmese for the political rights that dictate the economic, social and cultural rights on the whole Kachin society. Thus, a political system has to be developed with the principles of political equal status between the Kachin and Burmese so that structural violence between the two societies could be eliminated. In doing so, armed conflict between the KIO and Burmese army that have addressed direct violence would be terminated.

Conclusion

The analysis reveals that the root cause of the armed conflicts is politically institutionalized inequality between Kachin and Burmese societies, in which the central regimes including Burmese junta justified and enforced the Burmese culture as the primary cultural identity of the state through state constitutions. The Burmese identity itself has thus been vested as Burmese supremacy for a source of cultural violence over the Kachins. As a consequence, such Burmese's cultural values dramatically allowed discrimination and exploitation over the Kachins through state powers that have been entrenched as structural violence. Importantly, it has shown that the KIO's decision to take up arms against the central regime has been the last resort since 1961 because it has attempted to compromise political resettlement over the past decades. In addition, holding arms by KIO has been the aftermath that all political means were exhausted. Thus, the armed conflicts between KIO and Burmese

army have explained the direct violence rooted in underlying patterns of cultural and structural violence. The result has shown that political equal status and self-determination right are the fundamental problem of the two societies between Kachin and Burmese, for which the political system has to be structurally amended. For this reason, a negative peace ought to be further attempted with a genuine political framework so as to resettle political solution. Taking a federal union of Burma/Myanmar into consideration, the principles of federal proposal could be the most appropriate and relevant to create political equal status for the political system of Burma/Myanmar in order to end the armed conflicts between KIO and Burmese army. In doing so, the armed conflicts derived from cultural and structural violence of the two societies would be resolved to create peaceful societies between the Kachin and Burmese in pursuit of their cultural, social, and economic development.

- (1) The usage of Burmese army is of the ethnic perspective as a direct translation since the time of junta regime and even now it is not fully acceptable for what they call "Public Military or Public Army (Pyitu Tatmataw)". Despite current democratic transition, genuine federal democratic system is at stalemate. On the other hand, the Burmese army is holding the political power through 2008 Constitution. Therefore, it is implausible that the Burmese army represents all ethnic groups. In this case, when someone goes out there in the Kachin societies and ask to any individual Kachin for "Public Military or Public Army (Pyitu Tatmataw)", they usually reply as "*Myen Hpyen Dap*" in Kachin, which means "*Burmese Military or Burmese Army*".
- (2) The paper uses Burma/Myanmar since Myanmar is a legal and official name, on the other hand, the term 'Burma' is more likely to make understand its original terminology for the international community, the scholars and the academia.
- (3) Formerly known as *Tenasserim* (The Irrawaddy, 2018).
- (4) See Article (31) of The Constitution of The Union of Burma (1974).
- (5) Though the question of demarcating and establishing a separated Kachin State within Unified Burma is one, which must be relegated for decision by the Constituent Assembly, it is agreed that such a State is desirable. As a first step towards this end, the Counselor for Frontier Areas and the Deputy Counselors shall be consulted in the administration of such areas in the Myitkyina and Bhamo Districts, as are Part II Scheduled Areas under the Government of Burma Act of 1935.
- (6) *Mungmyit Sinli* is the Kachin term addressing a certain territory of the Kachin in northern Shan state that the Kachin occupied for centuries.
- (7) Which was a victory celebration over Japanese by dancing 'Manau' after World War II. *Manau* is Kachin traditional public dancing, in which four to six dancing leaders take a lead and people can be involved as many as they can as far as the dancing ground is convenient.

The Kachins do not celebrate *Manau* for the usual event, instead it is held for remarkably distinct events such as public anniversaries, Juliees, and centennial events.

(8) The *Fifteen Provisions* covers the territories of the Kachin Sub-state, the administration authority of Sub-state Council, representativeness and power sharing including state budget, non-discrimination for native people, and the like (Kachin Sub-state Research Group, 2015:102-105).

(9) The three Shan delegates were Sao Hom Hpa who was Senwi Saopha, Sao Khun Ohn Kya (Amatchuk) and Sao Hman Hpa (Kyenmong).

(10) The four Kachin delegates were Duwa Hkun Seng, La Hkang, Duwa Hkung Hpung, Namhkyek Duwa Naw Seng.

(11) The 66 areas situated in nothern Shan state and these included: (1) Mungbaw, (2) Wandin Kapna, (3) Hpawngseng, (4) Mung-ya, (5) Munggu, (6) Namhkyek, (7) Howa, (8) Zaubung (Namtau), (9) Namkang Lung, (10) Munghawm, (11) Hubren, (12) Kyinghung, (13) Mungji, (14) Wawhkyung, (15) Namjawn, (16) Munghtam, (17) Nati, (18) Lung-wai, (19) Bangnoi, (20) Mungwun, (21) Kangming, (22) Manlun, (23) Hwidawng, (24) Huhpyek, (25) Mungli, (26) Ninglum, (27) Urabum, (28) Bangkai, (29) Humaw (Nam-ngawn), (30) Mung-yu, (31) Loikang, (32) Nanoi, (33) Namhpalun, (34) Hpak-yai, (35) Kawnglim, (36) Zaubung (Npk), (37) Galeng, (38) Nahkyem, (39) Namput, (40) Kanhtang, (41) Pangkut, (42) Nawnglung, (43) Manmak/Kawnggaw, (44) Loi-ngu (Huhpik), (45) Kapna (Mungjet), (46) Nammaw Auka, (47) Jayang (Mungleng), (48) Namtawng, (49) Pying-ye, (50) Manghang, (51) Namngu, (52) Oilaw, (53) Banma, (54) Mung-wi, (55) Saihkau Bangjang, (56) Sambu, (57) Namnak, (58) Mungmaw, (59) Hpasawn, (60) Hkaukang, (61) Mung-yin, (62) Nam-yau, (63) Dingswi, (64) Wingmyit, (65) Bangnang, (66) Loipyi.

(12) Kachin Independence Council (KIC) appeared as the very first established organization and later Kachin Independent Organization (KIO) had superseded it. KIC has now been the administrative body of the KIO.

(13) The members of NCCT were KIO, KNU, KNPP, NMSP, SSPP/SSA, Arakan Liberation Party (ALP), CNF, KPC, DKPA, PNLO, ANC, United League of Arakan (ULA)/Arakan Army (AA), LDU, TNLA, WNO, MNDAA. Non-NCCT members were All Burma Student's Democratic Front (ABSDF), National Democratic Alliance Army (NDAA), Restoration Council of the Shan State/ (RCSS)/ Shan State Army (SSA), United Wa State Army (UWSA).

(14) The Framework for Political Dialogue (FPD) is a political roadmap addressed in Chapter (5): Article 20 of NCA. It was later negotiated and kept drafted. It detailed to conduct political dialogue from the state to national levels as well as political dialogues for level of ethnic nationalities in relation political issues namely political system, social, economic and cultural issues, and so on.

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