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## **Natural Resources of Myanmar (Burma)**

By Zo Tum Hmung  
Executive Director  
Ethnic Nationalities Affairs Center

### **Introduction**

I am honored to be here again to speak about the *Natural Resources of Myanmar (Burma)*. Thank you, Prof. James Scott.

Our challenge is to establish a sustainable peace in Burma. In order to do so, there is one major roadblock that remains. Political stakeholders in Burma—especially the ethnic armed organizations (EAOs), the military, and the government-- must come to an agreement regarding natural resource governance - ownership , management, revenue sharing, and social and environmental impacts. Our hopes and aspirations for these current negotiations to address this and other important issues can best be understood by recalling the historical roots of Burma.

EAOs want to establish a federal democratic union. This dream goes back to the very beginning when the Panglong Agreement was signed to create the Union of Burma in 1947. At that time, the Burman ethnic nationality (interim gov't or Burma Proper)—led by General Aung San, Aung San Suu Kyi's father-- and leaders of the Shans, Kachins, and Chins all signed the agreement. Unfortunately, General Aung San was assassinated less than six months after the agreement was signed and the dream of a federal democratic Union has not materialized. Prior to the recent election in 2015, the government has been under military control since 1962. Moreover, the current constitution put in place by the military in 2008, leaves the military with extensive power.

The current political negotiations, started by President Thein Sein, are called the 21<sup>st</sup> Century Panglong Conference or Union Peace Conference. Rooted in Burma's history, the aim of this new effort is to solve political issues by political means. That means to discuss and negotiate matters put on the negotiating table, instead of deciding them on the battle field. The steps are first to sign a nationwide ceasefire, then to have the political dialogue.

During the time of President Thein Sein, 8 signed the National Ceasefire Agreement out of 21 EAOs. There was great hope for achieving a nationwide ceasefire and successful political negotiations when the National League for Democracy (NLD), led by Daw Aung San Suu Kyi, won the election with a landslide victory in November 2015. For example, the National League for Democracy 2015 Election Manifesto expressed the following goal – “Strive for the

establishment of a genuine federal democratic union based on the principles of freedom, equal rights and self-determination.”

Unfortunately, no additional EAOs have signed since the NLD took power in March 2016. There have been two sessions of the 21<sup>st</sup> Century Panglong Conference or Union Peace Conference. During the 2<sup>nd</sup> one, the latest one in May 2017, 37 points of principle were agreed. But none of them specifically addressed the division of power between the state/region and the federal/union. This means no division of power over the crucial matter of management of natural resources and related revenue sharing.

### **ENAC Role to Develop Consensus Policies**

The Ethnic Nationalities Affairs Center (ENAC) was established to develop consensus policies for building a federal democratic union. ENAC developed eleven policies which have also been adopted by several EAOs and political parties. I want to turn to natural resource issue to illustrate both the content and process for ENAC policy development.

### **About the Paper**

In September 2017, ENAC published “*The Natural Resources of Myanmar (Burma)*”<sup>1</sup>. The purpose is to describe, analyze, and offer recommendations to address a fundamental political issue: the non-Burman ethnic states of Burma are rich in natural resources but their people live in poverty. The in-depth analysis paper particularly focuses on ownership, management, revenue sharing, and social and environmental impacts in Rakhine State and Kachin State. It was developed to a tool for political dialogue at the state level and also the union level. (The union level dialog is known as the Union Peace Conference or the 21<sup>st</sup> Century Panglong Conference). The ultimate hope is that the dialogue will lead to political change or constitutional reform.

### **Methodology**

The ENAC research team visited the natural gas fields of Kyaukhpyu, Rakhine State and the jade mines in Hpakant, Kachin State. The team met with local people, political parties, civil society, and state government officials and wrote a draft based on the field visit and other research and analysis. ENAC then organized workshops with ethnic armed organization, ethnic political parties, civil society organizations and got feedback and comments on the draft and used those to finalize the study and its recommendations.

### **Recommendations**

1. Ownership--The native people who have historically resided in and the ethnic people who continue to reside in a particular state or region must have ownership of its natural resources. (Currently, under the Union Constitution Sec. 37 (2008), the Union owns all natural resources.)
2. Management--The state or region and local government must have the rights to manage the resources in their territory. (Currently, the state or region has no management power)

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<sup>1</sup> *Natural Resources of Myanmar (Burma)*, ENAC, September 2017, available at [http://www.burmaenac.org/wp-content/uploads/2017/09/ENAC\\_NaturalResourceofMyanmarBurma\\_English.pdf](http://www.burmaenac.org/wp-content/uploads/2017/09/ENAC_NaturalResourceofMyanmarBurma_English.pdf)

3. Revenue Sharing --When sharing revenue, the producing state or region shall receive 70% and the union shall receive 30%. (Currently, the Union government controls revenue sharing, and the result is not a fair one. E.g., Despite huge natural gas reserves, Arakan/Rakhine State is the second poorest in the country. Even though Kachin State has rich jade deposits, its people do not benefit from those riches. The Union government reports jade earnings in 2013-2014 of \$1.15 billion, while other sources report much higher amounts—the Ash Center, Harvard University reports \$8 billion in 2011, and \$15 billion in 2014, the Chinese government reports \$12.2 billion and Global Witness reports \$31 billion (48% of Myanmar GDP). It is noteworthy that since 2014 more and much larger extraction equipment is being utilized in the jade mines, so that recent annual earnings could be even higher.
4. Social and Environmental Impacts--Safeguard mechanisms must be in place to prevent negative social and environmental impacts. Due to jade extractions, the nearby rivers are polluted and nearby hillsides destabilized, causing landslides that have killed hundreds of people.

### **Pathways to Reform**

The current law regarding natural resources states:

The Union:

- (a) Is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union;
- (b) shall enact necessary law to supervise extraction and utilization of State-owned natural resources by economic forces... (*Section 37 of 2008 Constitution*)

In order to reform this law, there are two existing pathways. One pathway to reform is through the peace accord. Another less promising pathway since approval requires more than 75% of Parliament, is to use the constitutional amendment process described below:

‘If it is necessary to amend the provisions,..... the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which a nationwide referendum only with the votes of more than half of those who are eligible to vote.’ (*Sec. 436 (a) of 2008 Constitution*)

### **Conclusion**

In closing, I want to refer to two statements on these matters, one by State Counsellor Daw Aung San Suu Kyi and the other by President U Htin Kyaw:

On October 15, 2017, the State Counsellor said at the *2<sup>nd</sup> Anniversary of the Signing of the Nationwide Ceasefire Agreement*:

“At the upcoming sessions of the Peace Conference, I urge all of you to finalize all the fundamental principles on Federalism. .... We will need to continue our dialogue on the division of power, allocation of resources and revenue between the Union, States and Regions, .....If we are able to conclude the discussion on fundamental principles during the upcoming sessions of the Peace Conference, we would have a strong foundation for the Federal Union.”

On January 4, 2018, Burma Independence Day, President U Htin Kyaw said

“We all must collaborate to adopt a Constitution suitable for the country as we build a democratic federal Union in accordance with the results of the political dialogues,”

I welcome the State Counsellor’s references to power sharing and revenue sharing and also welcome the President’s call to adopt the constitution based on the political dialogue. But while being welcomed remarks, they are not enough. For example, Daw Aung San Suu Kyi has not expressed specific, substantive proposals for power sharing and revenue sharing. What level of power or revenues should go to the state/region? What level of power or revenue should go to the union or federal government? We have made our recommendations that natural resources should be owned by the producing state or region, that management should be done by the state/region, and that revenue should be shared with 70% going to producing state/region and 30% to the federal government.

The State Counsellor and President should also make the government’s recommendations. The State Counsellor leadership in these matters, and a range of other matters, is crucial.

Thank you!

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