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Understanding Justice and Myanmar's Ethnic Armed Actors

January 11, 2017

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In the past month, the civil war in Myanmar took a new turn as ethnic armed organizations in northern Shan State and Kachin State formed an alliance and went on the offensive against the government. Fighting in this area since 2011 has resulted in the displacement of over 100,000 people, according to United Nations estimates. Meanwhile, a so-called nation-wide ceasefire signed by eight groups in eastern Shan State and Myanmar's southeast has largely brought tentative peace to these areas, but has yet to produce real, substantive change in the political situation.



Myanmar's ethnic areas are often maintained by resilient and traditional forms of village justice. Photo/Flickr user Alex Berger

As a result of decades of civil war, large swaths of Myanmar remain under the control of ethnic armed actors (EAAs), which include the 17 ethnic armed organizations, around 20 People's Militia Forces, and an unclear number of smaller militias, according to Myanmar Peace Monitor and The Asia Foundation's recent report, "[Militias in Myanmar](#)." Even larger areas remain under varied degrees of mixed control between the government and EAAs. Yet, in each of these areas, there is a surprising amount of order among the civilian populations. In many cases, this order has been maintained by resilient and traditional forms of village justice underneath a layer of more formalized justice systems that has been superimposed by each of the EAAs.

Over the last few years, researchers have paid greater attention to Myanmar's justice institutions and rule of law, but most of this attention is limited to central Myanmar and ethnic areas under government control. Village and EAA justice systems in mixed and EAA-controlled areas remain little studied and poorly understood. The implications of understanding EAA justice systems extend to the ongoing peace process, the shape that government reforms will take in these areas, opportunities to protect rights, and a greater understanding of EAA governance systems more broadly.

In October, The Asia Foundation released a [new research report](#) that studied seven major ethnic armed organizations and one large state-backed ethnic militia in order to better understand how village level justice systems function in mixed and EAA-controlled areas. Below are a few key highlights from the report:

- The real foundations of stability and order in mixed and EAA-controlled areas are the village-based justice systems. These systems handle the bulk of petty crimes and civil disputes, and are based on arbitration, negotiation, and compromise rather than rigid

adherence to the law and favor compensation over punishment. Based on customary law or customary practices, the core aim of village justice systems is maintaining stability and harmony in the village.

- All the EAA justice systems studied are organized from the township level up and are superimposed on local village systems. Cases may then make their way up through an EAA system to the district and central levels, depending on the appeal process or the level at which an EAA mandates that a case must be adjudicated. A few EAAs have dedicated police forces, while others task ordinary soldiers with internal security responsibilities, including arrests and sometimes criminal investigations. They may be assisted by members of the political/administrative wing.
- EAA judges and justice officials (or judicial committees) try cases, invite witnesses, review evidence, and hear testimony from both sides before making decisions of guilt. Sentencing usually follows established guidelines set forth in the organization's law books or regulations. Typical punishments include fines, a period of time in leg stocks, or jail time, usually with labor attached. For serious crimes, many groups still reserve the death penalty.
- Research found a number of areas of EAA justice that are in need of reinforcement and reform. There is a need for increased understanding of the EAA justice systems among their respective civilian populations. There is also a need to create better access to these systems. Order and stability would be enhanced through the establishment of dedicated police services embodying sound ethics and principles together with solid investigative skills and knowledge of the EAAs' own laws and those of the government. This need is particularly acute for groups that do not yet have police and are moving away from direct conflict with the government, creating space for improving internal order and stability.
- The study also points out the need to avoid unilaterally strengthening and applying the government's justice system, at least during the political dialogue period, in order to prevent further misunderstandings and grievances. It is also important to recognize that, while there are many similarities, each EAA system is unique and arises from each organization's historical condition, political aims, and cultural modes.

Although the EAA justice systems are criticized, our research indicates that they remain the system that most rural communities know and prefer. Therefore, as the peace process continues, maintaining order and stability outside government-controlled areas will continue to depend on the justice systems and institutions created by EAAs. Government attempts to subvert or override them could create greater distrust between ethnic communities and the government, fuel instability, and undermine the peace process.

Instead, reforming and improving EAA systems and developing complementary relationships with the government system will provide increased stability and confidence in the longer term.

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