HOW CAN MYANMAR EFFECTIVELY REGULATE CORRUPTION IN ITS BANKING AND PUBLIC FINANCE SECTORS?

Naing Ko Ko

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Declaration

Unless otherwise indicated, this thesis is my own work and has not been submitted for a higher degree to any other university or institution. I do affirm that, to the best of my knowledge, the thesis contains no material previously published or written by another parson, except the references in the thesis utilized. This project was approved by the Australian National University's Human Research Ethics Committee on October 31, 2016 (Protocol 2014/751). This thesis was supervised by Professor Veronica Taylor (ANU), Professor Peter Larmour (ANU) and Associate Professor Sean Turnell (Macquarie University), throughout the years of 2014-2021 and by Professor Veronica Taylor (ANU) and Dr Grant Walton (ANU) between 2021-2023, following Professor Larmour's retirement and during the period of Professor Sean Turnell's imprisonment by the Myanmar junta.

Naing Ko Ko

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Abstract

This project investigates public finance sector and the regulation of the banking industry in Myanmar, and in particular, how to manage corruption more effectively. It focusses in particular on the period of Myanmar's democratic transition in the decade 2011 to 2021, which was cut short (as this project was) by a military junta seizing control on 1 February 2021 and ousting the democratically elected National League of Democracy government, which was just about to begin its second term in government.

The future prosperity of Myanmar, both then and now, depends on managing corruption in its both private economic entities and public policy institutions. Many of the measurable governance indexes show that the quality of policy agencies in Myanmar up to 2021 had been declining, while the rates and quantities of corruption were increasing. The onset of the COVID-19 pandemic in 2020, followed by the 2021 coup, which provoked ongoing armed conflict and a civil disobedience movement in Myanmar, means that reliable economic data from Myanmar is now unavailable. This thesis argues, however, that cronyism, regulatory discrimination and fiscal corruption in Myanmar have been major problems during the country's second round of economic reforms and that they continue to threaten national integrity and the country's future economic security.

In the decade leading up to the 2021 coup, Myanmar's public finance sector and banking industry suffered from fiscal corruption and rent seeking and were under pressure from global regulatory agencies on multiple fronts. The economy has a small banking industry, with advanced financial technologies still under development. It is overseen by policy agencies with limited regulatory capacity and competence, and an unclear regulatory mandate. What is needed is a package of robust policy tools for more competent and impartial policy agencies of the kind that have effectively regulated corruption and money-laundering in other economies.

This thesis analyses the nature, types and activities of corruption of both the public finance sector and the banking industry in Myanmar prior to 2021 and finds that corruption in the country is systematic and widespread. Views divide about the causes

of individual, opportunistic and institutional corruption. This thesis argues that totalitarian regimes are prone to corruption, cronyism and nepotism because they are insulated from external scrutiny. Periods of economic transition are also ripe environments for opportunistic corruption, where rules are changing or are unclear. Arbitrary prosecution and discriminatory regulation are customary in Myanmar's legal system, and its laws --including the 2008 Constitution -- are shaped by the legacy of authoritarianism that continues to influence political and economic outcomes. This attracts businesses to engage in corruption and build connections, growing a form of military-cronyism.

A major objective of the thesis is to ask how Myanmar could regulate corruption more effectively in future, particularly if the National Unity Government (NUG) in exile succeeds in returning to, and leading, the country. Drawing on over 20 elite-interviews and more than 3000 pages of the Parliamentary reports, it analyses how current regulation shapes Myanmar's public financial agency and banking industry, incentivizes rent-seeking practices and mistrust, and how this impacts regulatory agency performance.

Outmoded regulation by policy agencies in Myanmar also underpins corruption, deters trust and competition, leads to extra corruption, and distorts the mobilization of public goods. Regulatory discrimination in the pre-coup period led to distrust between the government, the market and institutions, and this has been exacerbated by the brutality of the coup and its aftermath

This thesis argues that improving the Central Bank of Myanmar (CBM) matters for better policy outcomes. Democratic concepts such as policy credibility, public accountability and regulatory transparency are required for the leadership team of the CBM to improve trust, their management of monetary policy, and the banking industry in Myanmar more broadly. This research indicates that the CBM can participate in managing corruption and anti-money laundering actions with regulatory support from the global institutions responsible for making a rules-based market, and that this is likely to have the effect of achieving more economic prosperity and reducing cronyism and corruption in the system, assuming that a further transition from the current military dictatorship is possible.

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I dedicate this project to Daw Aung San Suu Kyi and we, the people of Myanmar.

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List of Abbreviations

ACA/ACC	Anti-Corruption Agency/Anti-Corruption Commission
ACCC	Australian Competition and Consumer Commission
AD	Authorized Dealer
ADB	Asian Development Bank
AFC	Asian Financial Crisis
AML/CFT	Anti-Money Laundering & Counter Financing of Terrorism
AMLO	Anti-Money Laundering Office
ASEAN	Association of Southeast Asia Nations
APG	Asia Pacific Group
APRA	Australian Prudential Regulatory Authority
ASIC	Australian Securities and Investments Commission
AusAID	Australian Agency for International Development
ATM	Automated Teller Machine
BCB	Burma Currency Board
BCBS	Basel Committee on Banking Supervision
BIS	Bank of International Settlements
BNM	Bank Negara Malaysia
BoT	Bank of Thailand
BOE	Bank of England
BSPP	Burma Socialist Programme Party
CBM	Central Bank of Myanmar
CDD	Customer Due Diligence
CMLL	Control of Money Laundering Law
COFTAM	Committee for the Coordination of Financial Sector Technical Assistance to Myanmar
CPI	Corruption Perception Index
CPMI	Committee on Payments and Market Infrastructure
CTR	Currency Transaction Report
DFID	Department for International Development
DEMI	Dedicated E-money Issuer
DVB	Democratic Voice of Burma
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FCPA	Foreign Corrupt Practices Act

FDI	Foreign Direct Investment
FIL	Foreign Investment Law
FinCEN	Financial Crime Enforcement Network
FIU	Financial Intelligence Unit
FRD	Financial Regulatory Department
FSB	Financial Security Board
FSDP	Financial Sector Development Program
FY	Fiscal Year
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GDP	Gross Domestic Product
HDI	Human Development Index
IAACA	International Association of Anti-Corruption Authorities
IADI	International Association of Deposit Insurers
IAIS	International Association of Insurance Supervisors
IBRD	International Bank for Reconstruction and Development
IFAC	International Federation of Accountants
IFC	International Financial Corporation
IFI	International Financial Institutions
IFRS	International Financial Reporting System
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
ITIC	International Tax and Investment Centre
JICA	Japan International Cooperation Agency
JFSA	Japan Financial Services Agency
KYC	Know Your Customer
LDC	Least Developed Countries
LLR/LOLR	Lender of Last Resort
MACC	Myanmar's Anti-Corruption Commission
MADB	Myanmar Agriculture Development Bank
MEB	Myanma Economic Bank
MEC	Myanmar Economic Corporation
MFIU	Myanmar Financial Intelligence Unit
MFTB	Myanmar Foreign Trade Bank
MIC	Myanmar Investment Commission
MMK	Myanmar Kyat
MNPED	Ministry of National Planning and Economic Development
MoD	Ministry of Defence
MoFR	Ministry of Finance and Revenue
MoPF	Ministry of Planning and Finance

MPF	Myanmar Police Force
MPU	Myanmar Payment Union
MSEC	Myanmar Securities Exchange Centre
NCCT	Non-cooperative countries and territories
NIC	Newly Industrialised Country
NFBP	Non-Financial Business and Professions
NLD	National League for Democracy
NPL	Non-performing Loans
OAG	Office of Auditor General
ODA	Overseas Development Assistance
OECD	Organization for Economic Cooperation and Development
OFAC	Office of Foreign Assets Control
OMO	Open Market Operation
PAC	Public Account Committee
PBUB	People's Bank of the Union of Burma
PEFO	Pre-election Economic and Fiscal Outlook (Australia)
PEPs	Politically Exposed Persons
PFC	Planning and Finance Committee
PREFU	Pre-Election Economic and Fiscal Update (NZ)
RBA	Reserve Bank of Australia
RBI	Reserve Bank of India
SDNs	Specially Designated Nations and Blocked Persons List
SDR	Standard Drawing Right
SECM	Securities and Exchange Commission of Myanmar
SEEs	State Economic Enterprises
SLORC	State Law and Order Restoration Council
SME	Small and Medium Enterprises
SMEB	Small and Medium Enterprises Bank
SOB	State Owned Banks
SOE	State Owned Enterprises
SPDC	State Peace and Development Council
STR	Suspicious Transactions Report
TI	Transparency International
TTR	Threshold Transaction Report
UBB	Union Bank of Burma
UMFCCI	Union of Myanmar Federations of Chambers of Commerce and Industry
UN	United Nations
UNCAC	United Nations Convention Against Corruption

UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Program
UNODC	United Nations Office on Drug and Crime
UNTOC	United Nations Convention Against Transnational Organized Crime
USAID	United States Agency for International Development
US$/USD	United States Dollar
USDP	Union Solidarity and Development Party
UMEH	Union of Myanmar Economic Holdings Ltd.
WB	World Bank
WEF	World Economic Forum
YSX	Yangon Stock Exchange

Chapter 1: Introduction

[1.1] Research purpose

After Burma (later Myanmar) gained its independence from the UK in 1948, the U Nu governments of 1948–58 and 1960–62 pursued Keynesian economic policies. Myanmar's monetary and financial systems were included in the sterling bloc.[1] Although Myanmar gained political independence, its economy and financial system were monitored and supervised by the regulators of the Reserve Bank of India and the Bank of England.

Ne Win's military junta seized power in 1959–60 and introduced the 'Burmese Way to Socialism' (1962–88)[2]. One result was that institutions and governance within the country became disorganised, and by 1987 Burma had become one of the Least Developed Countries (LDCs) in the World Bank's Index. After ousting Ne Win's regime, the second-generation junta, comprising generals led by Senior General Saw Maung, commenced the first economic regulatory reforms (1988–97) and enacted a number of market-oriented regulatory policies. This was the first time that market-oriented economic regulations were installed in the country. It also followed the crushing of the student-led 'four-eight' democracy uprisings in 1988.

U Thein Sein's government led the second round of economic regulatory reforms (2011–16), which reinstated market-oriented policies and regulations and included managing foreign exchange regulation, anti-corruption measures, privatisation, liberalisation, democratisation (Naing Ko Ko, 2019), deregulation and fiscal decentralisation, all announced on 11 March 2011. The period that followed – from

[1] Although the (then) Union of Burma was granted independence in 1948, its monetary, central banking and financial systems were kept under Great Britain's sterling pound areas until 1952; the sterling bloc was a group of countries that pegged currencies to pound sterling. This is discussed further in Chapters 6 and 7.

[2] A policy document, *The Burmese Way to Socialism*, was introduced by the Revolutionary Council led by General Ne Win on 30 April 1962. The origins of socialism in Burma have been traced back to Robert Owen (1771–1858), Henri de Saint-Simon (1760–1825), Frederick Engels (1820–1895) and Karl Marx (1818–1883). The *Communist Manifesto* was translated by Mon-Burmese political leader Thakin Soe (1906–1989) in the 1930s. For more on Burmese economic and social development views of the political economy of Myanmar see, Tun Wai (1962), Mya Maung (1992, 1998) and Myat Thein (2004).

2011 to 2021 – is what I refer to in this this thesis as Myanmar's political and economic transition period. This thesis focusses primarily on the transitional years 2011–16. The reason for this is that, during this period, Myanmar was trying to re-regulate its economic institutions, as well as re-integrate into the Western economic and trade order. That period was cut short by a military ouster of the newly elected National League for Democracy (NLD) government, led by Daw Aung San Suu Kyi, on 1 February 2021, following the first year of the COVID-19 pandemic. The coup ignited waves of civil protest and armed resistance, closed the borders, sparked widespread retreat by foreign investors and had the effect of immediate economic stagnation and a return to poverty for a large part of the population.[3]

As this abbreviated economic history shows, Myanmar has been tested by regulation, de-regulation and re-regulation[4] for a quarter of a century. However, the results have not been supported with appropriate policy choices, although technocrats have sought to cure Myanmar's chronically ill economy.

The period that is the primary focus of this thesis – U Thein Sein's quasi-civilian government (2011–16) – saw Myanmar adopt a number of economic regulatory reforms. Regulation and policy priorities included mitigating corruption in the banking industry and in the public finance sector. The election of democratic civilian government under Aung San Suu Kyi that served from 2016-2021 raised hopes that institutional corruption in Myanmar would be a policy focus. Progress was slow in its first term, but there were some indications that the NLD government would advance economic and tax policy reform in its second term. Being ousted by the military – which this thesis identifies as a major corrupt and corrupting institution – has made that a diminution in corruption highly unlikely in the short term. It remains a major problem impeding the country's economic outlook, but also a threat to the country's national security. It can be seen at all levels of the state's regulatory agencies, from national institutions down to the regional and local administrative levels. The fragility of centre-periphery relations in Myanmar prior to the coup was one reason that the

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[3] The World Bank predicts a GDP growth of 3% in Myanmar in 2023, which puts it below pre-coup levels: Al Jazeera (2013) 'Riding A Rollercoaster in Myanmar's Post-Coup Economy': https://www.aljazeera.com/news/2023/2/2/riding-a-rollercoaster-in-myanmars-post-coup-economy

[4] Although few Burmese policymakers and scholars would understand it in these terms: regulatory discourse, understanding of regulatory regimes and informed choices about regulatory practice in Myanmar are limited, due to the lack of formal study of regulation and governance.

National Unity Government (NUG), now operating in exile, has included much more substantive representation from States and regions within Myanmar.[5] Myanmar deserves a credible, responsible and accountable government that safeguards the interests of the nation and its future generations by addressing the integrity and quality of its key economic institutions. While political events have overtaken the period during which data was gathered for this thesis, its analysis and arguments remain salient - both for the current military coup leaders and for a future NUG government.

The main objective of this thesis is to investigate corruption in Myanmar's public finance sector and banking industry, based on the assumption that, by regulating corruption, the economic development of the country can be improved. Myanmar's regulatory agencies could be springboards for managing corruption and combatting money laundering if they could be reconstituted as impartial and systematic regulators. Myanmar's ability to manage its many forms of financial corruption is linked to the capacity, mandate and quality of these policy institutions. How to sustain momentum for these reforms was a key challenge for the National League for Democracy government (2016–2021) and it will remain so for the current coup leaders and for future governments.

[5] See: https://www.nugmyanmar.org/en/

[1.2] Research questions

The thesis starts with the major research question: 'How can Myanmar effectively regulate corruption in its banking and public finance sectors?' To answer this question, the thesis examines the following five subsidiary questions:

(i) How is corruption understood in the international scholarly literature and in contemporary Myanmar?

At the global level, experts in multilateral agencies and business professions define the extent, effects, types, causes and forms of corruption. This thesis examines what corruption means in Myanmar; the nature of the many types of corruption that have developed within the economic infrastructure; how the people of Myanmar understand these types and forms of corruption; and how the international definitions of corruption have been applied to the Myanmar context. The question is discussed in Chapters 2 and 3.

(ii) What are the most serious forms and patterns of corruption in Myanmar's public finance sector and in its banking sector?

Within the public finance sector, the major issues are abuses of public assets (including public budgets) by line ministries and state-owned enterprises, particularly after the country adopted a policy of fiscal decentralisation. They also include back-dated receipts, falsified vouchers, shell companies, salary withdrawal for non-existent staff, assets re-assigned in staffers' names, holding public funds in private hands, gaining interest income from savings funds held in banks, re-assigning ownership of land, kickbacks, embezzlement, lending public money for staff investments, signature fraud, and bribery to attain a licence/tender. These issues are examined in Chapter 4. Within the banking sector, the major forms of corruption involve cash used in economic transactions (e.g. for tax evasion or over/under invoicing); profits made from banking illegal income, at both private and state-owned banks; and bankers and other regulators failing to practice compliance. These issues are discussed in Chapter 5.

(iii) What are the social causes and political outcomes of corruption within the banking and public finance sectors?

This thesis argues that one of the root causes of Myanmar's corruption is regulatory discrimination, expressed as arbitrary legal enforcement, and concession fees levied for market entry by domestic investors, bankers and central bankers. Failure of public trust in Myanmar's economic institutions – in particular the banking and financial sectors – is an outcome of corruption. Trust is the scarcest commodity in the economy of Myanmar. Money laundering through the domestic banks is the norm and anti-corruption campaigns have not so far been successful. The quality of regulators, their capacity and their mandate have declined in recent decades.

(iv) Can the effects of corruption on society be mitigated by instituting high-quality regulatory techniques and instruments?

This question is discussed in Chapter 6. Among the various economic theories of regulation, what modes of regulation might be effective in combatting corruption within public financial institutions, and under what conditions would these be effective in Myanmar? This thesis identifies high-quality regulation and impartial, policy-oriented agencies as policy tools needed to regulate corruption in the economic sectors in Myanmar. The thesis examines the role of present regulatory tools in use against corruption and considers their effects and impact in Myanmar.

(v) Can the Central Bank of Myanmar (CBM) curb corruption?

In a modern regulatory economic system, a central bank is a pivotal public policy institution. It also provides a number of remedies for addressing syndromes such as money laundering and banking corruption. The Central Bank of Myanmar (CBM) was re-established as an independent central bank in 2013 in a minimal way and staffed with former military officers during 2014–16. Chapter 7 explores the extent to which the CBM, as a regulatory institution, is likely to be effective in curbing corruption and what conditions will constrain or support its performance.

[1.2.1] Core Arguments

There are three main arguments in this thesis. First, a main theme of the thesis is that corruption in Myanmar's banking and public finance sectors is often triggered by regulatory discrimination. Regulatory discrimination means arbitrary regulation, applied differently to different banks and public finance institutions. The effect of arbitrary regulation is to corrode trust – in the central bank, in the banks and in the state. This is consistent with Uslaner's argument (2000) that the roots of corruption lie in the unequal distribution of resources and lower levels of trust in a society. This regulatory discrimination both lowers trust among the people of Myanmar and is driven by corruption.

We need to acknowledge that the perspective of this study is distinctively 'top-down' – the focus is a select number of peak economic institutions, particularly public finance management (Chapter 3) and the Central Bank of Myanmar (Chapter 6). There is an interrelated issue of the institutional weakness at all levels of governance in Myanmar, which is a contributing factor to the way in which the banking sector functions, but which is beyond the scope of this thesis. This also opens up questions about different cultural norms and practices (e.g. gift exchange, religious offerings) that may support or morph into cultures of corruption in Myanmar and the different social domains in which those are visible (e.g. Kawanami, 2020). Those are important sociological questions but they are not considered directly in this thesis.

This thesis argues that both arbitrary regulation and the lack of trust (or mistrust) among market participants strengthen the deficit of rule of law in the country, not only with regard to banking and public financial institutions, but also in its polity. This is consistent with Cheesman's observations about how Myanmar's criminal courts have been used to support authoritarian politics (Cheesman 2015:11). Thus, regulatory discrimination encourages mistrust, contributes to the deficit of rule of law, discourages integrity, and depresses saving and investment within and among Myanmar's commercial banks and public finance sectors.

On top of this, the lack of rule of law supports various types of corruption. Myanmar still has arbitrary and discriminatory legal enforcement and unaccountable judicial institutions. Weakness of law enforcement and judicial bodies are policy matters for Myanmar, but they also reinforce constitutional corruption (addressed in Chapter 3), because there is no separation of powers or checks and balances between the executive, legislative and judicial systems. With the top institutions in the state mechanism corrupt, how can anti-corruption remedies for low-wage public servants and the private sector be formulated? These issues are taken up in Chapters 3, 4 and 5.

The second argument concerns regulatory governance and quality, and here this thesis draws on work by criminologist and regulatory theorist John Braithwaite. The regulatory quality, frameworks, mandates and capacity of the policy institutions in Myanmar that oversee banks and public banks are unsuited to tackling corruption and money laundering, due to multiple institutional failures. Policy and regulatory enforcement for banking and public finance has been ignored for half a century. There are many regulatory quality issues and trust problems raised by interviewees as part of the fieldwork conducted for this project. These regulatory governance and regulatory issues are discussed in Chapters 6 and 7.

In the 'dark-ages' of Myanmar politics, (1988–2010), the Generals (the military regime leaders of the day) managed the public and private economic sectors punitively under a rigid regulatory framework of incentives and repression. This dictatorial regulation discouraged self-regulation by Myanmar's banking industry and financial markets. Thus, the problem of corruption in Myanmar is endogenous politics, not exogenous economics; the Generals gave their blessing to their business cronies' businesses, and the cronies supported them in turn. An outcome of this policy is that the revenue of government institutions relies on issuing business licences for, and on connections with, crony capitalists, rather than on taxation and investment.

Since the 1990s, the Myanmar Investment Commission (MIC) and the Directorate of Investment and Company Administration[6] (DICA) have been seeking to attract foreign investment from wealthier countries; however, global investors do not trust the economy of Myanmar due to the country's political and reputational risk.

On top of that, among the many legacies of authoritarianism is the 2008 Constitution, which was drafted by the military: it is an instrument of repression, which lacks a bill of rights or a social contract between the rulers and ruled. Rather than enshrining human integrity and individual liberty, this constitution has contributed to Myanmar's longstanding culture of what I term 'constitutional corruption'. This constitutional

[6] https://www.dica.gov.mm/en

corruption intensifies the lack of trust among the Myanmar's business community, and between its economic institutions, while favouring security and defence personnel.

In fiscal and monetary affairs, the country's policy and strategy have also been largely ignored for half a century. Myanmar's fiscal management requires legal and regulatory reform; in the meantime, its budget-executing agencies engage in acts of misconduct during the budget cycle. This thesis also considers how to mitigate risks arising from Myanmar's fiscal corruption problems.

The leadership of Myanmar needs to embrace globally accepted norms of democratic constitution-making, legislation, fiscal discipline, monetary stability, evidence-based policymaking and evidence-based budgeting, and to update the country's property law, competition law, bankruptcy law, merger and acquisition law, and payments and settlement law. Key policy agencies – such as a parliamentary budget committee, ethics committee, fiscal and monetary affairs offices in the President's Office and a genuinely independent anti-corruption agency that can monitor, educate and investigate at all levels of society – are also needed.

Finally, this thesis considers the regulatory capacity of the Central Bank of Myanmar. The quality of governance at the CBM is important to the country's economic stability and monetary management[7]. This thesis finds that the regulated banking sector is small, while unregulated banking activities in Myanmar are enormous in scope. Currently, the governance and leadership team of the CBM suffer from a deficiency of cooperation, collaboration, skills and implementation. The supervisory skill and regulatory capacity of the CBM are not comparable to its peers such as the Bank of Thailand and the Central Bank of Malaysia. Likewise, its monetary policy management is still in its infancy, exemplified in its handling of interest rates (with a foreign reserve ratio of less than 2.5 months) and in the inferior (depreciated) local currency.

[7] Monetary management is interchangeably utilised as monetary policy governance/management - in particular - money supply, credit lending system, liquidity, real interest rate, foreign exchange rate, nominal interest rate, and open-market operation and discount window rates of monetary policy instruments.

Apart from conventional monetary policy, the leadership of the CBM has many opportunities to pursue monetary policy options and advice from global, regional and local public policy institutions in the process of modernising Myanmar's central banking activities, mitigating money laundering, and countering terrorism financing. I also suggest that the lessons of the Asian Financial Crisis (AFC) and business cycle problems[8] ought to be digested in anticipation of the country re-opening its money market and capital accounts. Combatting money laundering and terrorism financing in Myanmar's banking sector is one of the responsibilities of a central bank. The CBM has received technical and regulatory assistance from global banking regulators such as the Bank of International Settlement (BIS) and the Financial Action Task Force (FATF). However, without addressing the foundational weakness of the CBM as a regulator, these more technical goals are unlikely to be realised.

[1.3] Theoretical framing

Transitional states such as Myanmar are well understood to be settings in which financial corruption and financial crime are pervasive. For framing the research undertaken for this thesis, I draw on work by Eric Uslaner, John Braithwaite and Nick Cheesman. This thesis views corruption primarily through the theoretical lens provided by Uslaner (2000, 2002, 2004, 2006, 2008, 2009), a political scientist, who uses a statistical approach to understand corruption. He argues that the roots of corruption lie in the unequal distribution of resources and lower levels of trust in a society (2008). Uslaner's main argument is that economic inequality causes low levels of trust, which provides a fertile breeding ground for corruption – which, in turn, leads to more inequality (2009:127–130). This challenges the popular view that wealth creation is the key to building social cohesion and controlling corruption.

Uslaner (2000) argues that societies with more equal distributions of wealth are more trusting. Societies with higher levels of trust, in turn, have institutions that function better. Trust leads to better institutions – not the other way around. It also produces higher spending on the kinds of policy that foster equality (e.g. more redistribution,

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[8] Business Cycle Theory and other conventional monetary policy tools and problems are discussed in Lucas (1980).

more funding for education). So, the countries with the lowest levels of trust are those with the most unequal distributions of wealth (2000:1).

Uslaner’s main argument is that unequal resource distribution in a society breeds corruption by: (1) leading ordinary citizens to see the system as stacked again them (2002:181–183); (2) creating a sense of dependency and a sense of pessimism about the future among ordinary citizens, which, in turn, undermines the moral dictate to treat one’s neighbours honestly; and (3) distorting the key institutions of fairness in society: namely, the courts, which ordinary citizens (should) see as their protectors against evil-doers, especially those who have more influence than they (Uslaner, 2009:129–130; Glaeser, Scheinkman and Schleifer 2003; You and Khagram 2005).

Inequality also leads to clientelism – leaders establishing themselves as monopoly providers of benefits for average citizens (Uslaner, 2002).On the other hand, societies with more equal distributions of wealth are more trusting. Societies with higher levels of trust, in turn, have institutions that function better. Uslaner’s key claims about trust are that:.

(1) When people have faith in each other, political life is less contentious and leaders are more willing to seek compromise solutions to complex problems (nations with trusting citizens have more efficient and less corrupt governments); and

(2) People who participate in their communities are also active in political life (Uslaner, 2008, 2009).

Uslaner’s corruption analysis seems particularly well-suited to Myanmar, where the lack of trust after decades of a military dictatorship is well understood. Chapters 3, 4 and 5 of this thesis highlight the lack of trust and regulatory discrimination that shape corruption in Myanmar, while Chapters 6 and 7 show that this can be reduced by installing more effective regulatory governance and an evidence-based regulatory policy response.

Part of Uslaner’s argument, as we saw, is that corruption distorts the key institutions of fairness in society. In Myanmar’s case, this includes the 2008 Constitution and its legal institutions., Australian political scientist Nick Cheesman provides a detailed account of how successive authoritarian regimes in Myanmar have moulded the legal system, including legislation and the courts, to function as tools of oppressive social ordering. On the issue of rule of law in Myanmar, Cheesman's *Opposing the Rule of Law: How Myanmar's Courts Make Law and Order* (2015) provides a robust analysis of Myanmar's law and order as part of the state's modus operandi, especially the prosecutors' case formulation and the role of judges in the courts. Using a Western liberal discourse, in particular Albert Venn Dicey 's concept of the rule of law[9] as an analytical instrument, Cheesman combines case analysis, empirical data and in-depth interviews with political activists, legal practitioners and social-legal scholars to consider how the rule of law, law and order, rule by law and rule by man have been theorised, legislated, litigated and employed by the government of Myanmar against its own people. Cheesman's argument is a product of his reading of 393 criminal cases in 86 courts at all levels across Myanmar (2015:12).

Cheesman argues, utilising socio-legal and political studies, that Myanmar is a country in which the rule of law is 'lexically present but semantically absent' (2015:30); that 'the political ideal … in Myanmar is law and order: in Burmese *ngyeinwut-pibyaye* (2015:30)', as opposed to the rule of law prioritised in the Western scholarly literature. More specifically, he situates 'law and order' as an idea in conflict with the rule of law. These two concepts have utterly different outlooks but based on his investigation of Myanmar's law reports and statutes, Cheesman suggests that the concept of 'rule of law' in Myanmar refers to nothing more than 'law and order'.

Cheesman's critiques of law and order in Myanmar reveal the hollowness of legal and judicial institutions in that country. He begins by advocating for study of the rule of law through opposing concepts; he then rejects 'rule by law' as an alternative concept for study of the rule *of* law, because rule by law empties the rule of law of its normative contents while remaining referential to them (2015:16). In conceptualising this dichotomy of ideals, he make two important points:

[9] Albert Venn Dicey (1835-1922) was Vinerian Professor of English Law at the University of Oxford and his *The Law of the Constitution* and *Introductory to the Study of Law of the Constitution* is a canonical texts for students of governance, law and economics.

> (1) the rule of law relies on general rules to maintain order, where law and order rests on particularistic commands and directives, in response to exigencies, and
>
> (2) law and order entails the exogenous imposition of discipline, which requires a superordinate-subordinate political relationship, whereas under the rule of law, discipline is an endogenous feature of political relations (2015:34).

Western democratic concepts such as justice, equality and individual freedom have been lacking in Myanmar since 1962 as a political reality, when the first military junta usurped the political and economic institutions of Myanmar. Cheesman's thesis provides a nuanced theoretical explanation for the enduring absence of justice and equality within the judicial and legal sectors in Myanmar. Cheesman's theoretical findings resonate with the discussion of constitutional corruption in Chapter 3 of this thesis. More recently, empirical research by Simion (2021) shows that concepts such as 'justice' and 'rule of law' in Myanmar are changing in response to the period of democratic government and the involvement of foreign donors in the pre-coup period, and that they remain contested.

This prompts the question of how to respond most effectively to different types of corruption in Myanmar as an (until recently) transitional state. In thinking about how to respond to corruption in Myanmar, this thesis draws on work by John Braithwaite (1985, 1992, 1998, 2000a, 2000b, 2006, 2010, 2017), a pioneering regulatory theorist trained originally in sociology and criminology.

On the particular challenges faced by transition economies such as Myanmar, Braithwaite argues that '[t]rust is undersupplied in contemporary societies, particularly in those that suffer from the deepest problems of poverty and corruption' (1998:343). He proposes two normative kinds of trust: trust as a moral obligation and trust as confidence. Social solidarity or friendship builds bare confidence (thin trust) in others, while breach of confidence undermines friendship (thick trust) (1998:345).

Both Braithwaite's trust as obligation and trust as confidence are lacking in Myanmar's banking institutions and public finance sector. The question is, then, how to overcome this.

One of Braithwaite's leading ideas is responsive regulatory theory, which introduces the concept of pyramids of persuasion and punishment. Ayres and Braithwaite argue:

> Actions of an enforcement pyramid occur at the base of the pyramid where attempts are initially made to coax compliance by persuasion. The next phase of enforcement escalation is a warning letter; if this fails to secure compliance, imposition of civil monetary penalties; if this fails, criminal prosecution; if this fails, plant shutdown or temporary suspension of a license to operate; if this fails, permanent revocation of license. (Ayres & Braithwaite 1992:35–36)

Furthermore, responsive regulatory theory, developed originally from criminology, has since been applied to business and commercial regulation and taken up within other disciplines, such as politics, public policy and peacebuilding. Braithwaite suggests that '[r]esponsive regulation is not something only governments do; civil society actors can also regulate responsively— indeed, they can even regulate governments responsively' (Gunningham et al. 1998; Braithwaite, 2017). Some of his arguments concern how to design regulatory institutions and regulatory events and processes within particular industries.

A common criticism of Braithwaite's regulatory theory is that draws on empirical evidence from post-industrial economies and that it is challenging to apply it to transitional economies. Braithwaite (2006) has acknowledged this and warns that 'developing economies mostly have less regulatory capacity than developed ones'; he therefore provides two strategies regarding responsive regulation: (a) pyramidal escalation of network branching, and (b) legislating for *qui tam* actions ('bounty hunting' by whistle-blowers). Whether and how responsive regulation can be utilised in banking and public finance in Myanmar is discussed in Chapters 5 and 6.

Networked regulation is a concept that takes account of the reality that individual institutions may be weak and so may need to be supported by other state and non-state, domestic and international institutions. As such, it may be a useful conceptual lens for thinking about Myanmar's banking and finance sectors. As Drahos suggests in his elaboration of Braithwaite's idea of responsive regulation,

> the principal effects of information networks are changes in power relationships, where traditional centres of power are bypassed by new networks of capital, production, trade and communication. (Drahos, 2004:404)

His networked regulation focuses on the role of nodes in governance and, in particular, the way that networks can be linked to create concentrations of power for the purposes of exercising governance (2004:404). The prospects for networked regulation of public finance and banking in Myanmar are discussed in Chapters 4, 5 and 6.

[1.4] Research contributions

This thesis makes contributions to a number of academic fields. In the areas of comparative public policy studies, it is one of the few empirical research projects on corruption in Myanmar's fiscal and economic institutions. The thesis highlights the importance of transparent budgeting practices and pinpoints the types of fiscal corruption and fiscal management in Myanmar during its transitional period that are most likely to corrode economic progress.

For financial regulatory studies, this thesis is also among the first to investigate corruption within Myanmar's fiscal agencies and banking sector and how this impacts the economic development of the nation. This research seeks to examine the quality, capacity and style of regulation and supervision of Myanmar's regulatory agencies – in particular their central banking activities and monetary management. It shows that stronger institutions, governance and policy are essential for Myanmar's economic prosperity and development – and that building public trust is essential for these.

Its findings are consistent with work undertaken over a similar time frame on the Securities and Exchange Commission of, which finds that that new economic institution faces challenges of 'problems with the agency's design details, internal processes, and staff capacity/capability that result in inadequate responsiveness, accountability, and transparency' (Myanmar (Soe, Lowatcharin, Crumpton, and Draper, 2020).

After combining qualitative and quantitative data, this thesis reviews the management and regulatory governance of the Central Bank of Myanmar (CBM) as a contribution to financial regulatory literature. This thesis shows that discriminatory regulations play a dominant role in Myanmar's banks and public policy institutions and that these domestic rules need to be integrated into the global standardised banking and financial regulations.

This thesis attempts to make an empirical contribution to the corruption literature, particularly to the sub-fields of grand corruption, public financial management, banking corruption, financial crimes, money laundering and central banking. It is the first significant analysis of Myanmar's economic regulations based on field research during the second period of market-oriented economic reforms.

[1.5] Methodology and methods

I approach this thesis as a former political activist, a political refugee and a policy trainer for the Members of Parliament in the second Parliament of Myanmar (2016–2021). My normative concern is with improving the quality of regulatory governance in Myanmar and installing a greater measure of political accountability among elites in that country. However, this project is not conceived as a study in advocacy. Instead, I am concerned with understanding how policymakers in (what was then) Myanmar's moment of political and economic transition understand the internal and external regulatory pressures to which Myanmar is exposed, and how they see their policy choices with regards to managing corruption. I limit my study to the banking industry and public finance sector because this part of the economy was, until the coup, exposed to external scrutiny and because neighbouring economies, such as Thailand and Malaysia, targeted banking and public finance corruption in the early part of their democratisation processes.

I approach this thesis using mixed-methods research. The quantitative part of the thesis relies on existing economic data sets for Myanmar from which we can estimate the net cost to the economy of corrupt activity: the quantitative data are mostly taken from the Central Statistics Office of Myanmar and the Public Account Committee of the Union Parliament, the World Bank, the International Monetary Fund (IMF) and the Asian Development Bank (ADB) for the period 2011–19. This thesis also uses parliamentary transcripts and documents of the budget committee and the monetary and financial committee of both Union and sub-national parliaments.

The quantitative part of the project is based on publicly available information about the banking and finance sector in Myanmar and engagement through qualitative interviews with political and policy elites concerned with corruption and regulation of the banking and finance sectors.

Those interviews probe attitudes to and knowledge and experience of corruption in the banking and financial sectors. These interviews track interviews and surveys done by other academics and multilateral organisations – the Asia Foundation (2014), Transparency International (2007–18) and the World Bank (2011–16). They were intended to elicit information about the system rather than about any individual or case.

The total number of participants in the elite interviews was 24. They included financial regulators, retired policymakers and decision-makers, members of the select committees of Parliament, members of the Myanmar-based diplomatic community, senior CBM members, financial analysts, bank owners, a journalist and members of Myanmar's Anti-Corruption Commission. Most are either Myanmar citizens or ex-Myanmar citizens (according to the 1982 citizenship law)[10]. The 1982 Citizenship Law is itself a source of regulatory discrimination and constitutional corruption, which can be traced to many chapters and sections of the 2008 Constitution – in particular, provision 59 [F], which targets Daw Aung San Suu Kyi and other citizens who are married to non-Burmese and who therefore cannot serve in state economic regulatory agencies.

I also interviewed international staff from organisations such as the IMF and the World Bank, and donor organisations engaged with capacity-building in the banking, finance or anti-corruption policy domains within Myanmar. In each case, the participant was identified by reference to their formal position or through a snowballing technique with initial interviewees, in order to determine who in an organisation was likely to have the greatest expertise on the banking sector, corruption and anti-corruption, and/or familiarity with and connection to regulating corruption. This is a study of elite perceptions and the intent is to connect with the kinds of people who are likely to be decision-makers in the immediate future as the Myanmar government responds to internal and external pressures to re-regulate the

[10] As Myanmar has not ratified the International Convent of Civil and Political Rights (ICCPR-1976), the 1982 citizenship law is discriminatorily enacted by General Ne Win's Burmese Socialist Program Party (BSPP). The political and legal concept of citizenship, duty and rights are constructed on the year of 1823. Those who settled in mainland Burma before the first Anglo-Burmese War (1824-1826) are defined as a full citizen of Burma/Myanmar.

banking sector and adopt stronger anti-corruption policies. A full table of the interviewees in found at Appendix 1.

Despite its population of nearly 54m people, the number of elites involved in high-level economic, financial and anti-corruption policymaking in Myanmar is quite small. This thesis focuses on elite respondents because there have already been numerous attitudinal surveys on corruption in Myanmar using samples from public opinion (e.g. Asia Foundation, 2014; World Bank, 201–16), while in-depth, qualitative discussion and analysis of policy-maker attitudes is less common.

I monitored participant willingness to continue in the project both directly with each participant and, where necessary, through their intermediary (e.g. staff assistant). I did this before the interview, at the conclusion of the interview, and at the point at which I was writing up responses by the participant for inclusion in the study.

I informed participants through the ANU Ethics Consent Form and Information Sheet that they could withdraw at any time from the study. Participants were provided with the researcher's full university contact details, supervisor's contact details and the Human Ethics Officer's contact details. I also provided this to any intermediaries (e.g. staff assistants) and ensured that both the participant and the intermediary were aware that they could contact any of these people with questions or concerns about the research.

Using qualitative research, the focus of this thesis is on the everyday experiences and practices of banking and financial sector regulators, and the perceptions and meaning attached to those experiences as expressed by the participants. The face-to-face interviews explored how elites perceive the degree, systemic sources and quantity of corruption in Myanmar, as well as their knowledge of, and attitudes toward, anti-corruption and anti-money laundering regulatory measures.

I spent a total of 100 weeks in Myanmar, conducting fieldwork interviews in 2016 and 2017. I visited Myanmar on extended stays from 2018, providing advice to the National League for Democracy leadership. Following the coup in 2021, I returned to New Zealand in 2023. Data collection was carried out in Yangon and Naypyidaw because these are the locations where most elites, policymakers and regulators work.

[1.6] Thesis structure

This thesis is structured as follows. Chapters 2 and 3 are literature reviews, which start with the question, What does corruption mean in the international literature and what does it mean in Myanmar? Both seek to investigate the causes, types and outcomes of corruption within Myanmar's banking industry and public finance sector, in order to consider what kinds of regulatory intervention to curb corruption are likely to be effective, and under what conditions. The chapters first consider how corruption is understood in international scholarly literature in economics, political science, law and regulatory theory, before considering how corruption is understood in contemporary discourse in Myanmar.

The chapters then stress the need to keep anti-corruption measures as part of policymaking in Myanmar's economic transition. The chapters also review the most pervasive forms of corruption in the economy today; which international policy interventions have been developed; and why global elites are concerned about Myanmar's corruption. They ask why the regulatory governance of public finance is important and how this relates to the banking sector of Myanmar. Finally, the chapters examine ways in which corruption is conceptualised and defined internationally in primary legal instruments such as the United Nations Convention Against Corruption (UNCAC) and the Foreign Corrupt Practices Act[11] (FCPA 1977), and in the secondary literature internationally in disciplines such as economics, politics, banking and finance.

Chapter 4 is organised around corruption in Myanmar's fiscal management and focusses on how to mitigate risk areas in Myanmar's budget-cycle. It highlights the limitation of regulations for the country's fiscal environment and suggests that Myanmar requires numerous credible policy responses to improve its budgeting system. The major argument of the chapter is that fiscal corruption in Myanmar is concerned with the state's regulatory discrimination, and that this has skyrocketed during the design, mobilisation, execution and reporting of Union funds over the fiscal years 2011–16.

[11] FCPA is the robust anti-bribery and corruption instrument of the USA, which is designed to prohibit the corrupt use of the American financial and economic systems by business entities to bribe foreign officials, foreign political parties and candidates.

This chapter reviews various analytical and restricted Parliamentary reports about Myanmar's public finance sector. How Myanmar has designed its budgetary system in the shadow of the 2008 Constitution is also identified. It details the root causes of fiscal corruption in the public finance sector and describes recent prominent cases of fiscal corruption. It suggests that it is important to regulate domestic banks in order to reduce fiscal corruption during the disbursement stage of public funds. The chapter concludes by recommending eight policy priorities for Myanmar's public financial management in order to reduce fiscal corruption.

Chapter 5 analyses how cronyism harms the financial institutions of Myanmar and contributes to the banking industry's underperformance. It argues that the nexus of military–crony connections is likely to continue due to the weakness of regulatory and supervisory institutions in the financial system. This chapter begins by examining how and why cronyism entered into the political discourse of Myanmar and offers a typology of the cronyism that creates a deficiency of trust and confidence in the economy.

Chapter 5 outlines the situation of the banking system up to 2021 and examines how rent-seeking activities carry negative externality to the economy and society. It describes how sanctioned-cronies-turned-lawmakers drafted laws and regulations for Myanmar's banking sector that restrict competition from international banking institutions and ring-fence a number of modern banking activities. This chapter provides a four-point strategy for managing cronyism in Myanmar: (1) the ownership, assets and liabilities of the largest crony-banks ought to be legally scrutinised; (2) the assets and liabilities of crony banks ought to be subject to corporate and income tax on their business, instead of nationalisation and demonetisation; (3) after legal scrutiny, fraudulent assets and liabilities should be subject to legal action; and (4) Myanmar' banking system needs to introduce a Basel regime capital regulation and actual foreign reserve requirement, in order to prevent external shocks and a run on the banks.

Chapter 6 examines the regulatory governance of Myanmar's banking sector and the CBM during the reform of its financial system. The regulatory governance of Myanmar's banking sector is assessed by utilising both the Bank of International Settlement's regulatory principles and the FATF's regulatory framework. This chapter shows the main regulatory challenges and opportunities for Myanmar's financial sector and its central banking activities. Based on Myanmar's existing regulatory framework, the chapter develops an analytical framework for assessing regulatory governance in the CBM that includes seven principles: (1) priority regulatory techniques; (2) the regulatory mandate; (3) the main regulatory instruments; (4) regulatory capacity and style; (5) regulatory and corruption issues in the banking industry; (6) ethics and corruption; and (7) regulatory governance in other economies' banking and financial sectors. Overall, the economy has made notable improvements in current economic and financial system reforms, however, the chapter suggests that Myanmar needs a regulatory paradigm shift to catch up with global economic and financial systems. Finally, this chapter pinpoints policy priorities for the leadership of Myanmar in order to innovate within its banking sector.

Chapter 7 analyses the governance of the CBM. The main purpose of this chapter is to explore the policy responses of the CBM and advise on market-based and policy-based approaches to improve the CBM. First, this chapter briefly summarises the global consensus on what a central bank is and looks at the present anatomy of Myanmar's central bank. It finds the CBM's regulatory governance deficient. Second, it discusses how to modernise the CBM by institutionalising its regulatory governance, upgrading its macroeconomic policy settings and enhancing its capacity to comply with international supervision and regulation standards through the efforts of the CBM leadership team. Besides conventional monetary policy, democratic concepts such as policy credibility, public accountability and regulatory transparency are proposed for the leadership team to improve the CBM's monetary management. Third, it looks at the regulatory governance of central banking in the regional context – in particular, how the central banks of Thailand and Malaysia regulated money laundering and economic crimes during their economic transitions. Finally, why and how the CBM needs regulatory support from global, regional and domestic policy institutions is described.

This thesis concludes with Chapter 8, a brief review of the research findings and policy recommendations.

Chapter 2: What does corruption mean in Myanmar?

[2.1] Introduction

Myanmar was one of the top-ten GDP per capita economies in Asia in 1948–60 and achieved double-digit economic growth in 1950s–60s (U Myint 2007). However, the World Bank's World Governance Index has ranked the quality of regulatory institutions and the government effectiveness index in Myanmar as among the lowest in the world for many years (202/210 in 2012). Myanmar also became one of the least developed countries in the World Bank's index in 1987 and remains so today. The country's Transparency International Corruption Perception Index[12] ranking fluctuated between 172 and 178 out of 180 in the years 2003–18. The 2013–14 World Economic Forum's Global Competitiveness Report [13] stated that the most problematic factors of doing business in Myanmar were policy instability and access to financing (equal first at 13.7%), with corruption in second place (13.5%) and an inadequately educated workforce third (12.9%). The United Nations' Human Development Index (HDI) for Myanmar [14] is the lowest in Asia, in 2012-13 placing the country at 149 out of 187 states and territories.

At the same time, multiple data sources suggest that underlying these corruption indicators are significant illicit financial transactions, many of them linked to Myanmar's extractive industries. The 2015 Global Witness report[15] estimates that 'the value of official jade production in 2014 alone was well over the USD 12 billion

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[12] Corruption in Myanmar was not studied until 2003 by Dr Johann Graf Lambsdorff and the TI team; the Corruption Perception Index, based on the perceptions of political and business elites in 43 countries in 1995, and the original TI methodology and methods are available at: https://www.transparency.org/files/content/tool/1995_CPI_EN.pdf
As of 2018, TI's Corruption Perception Index ranked 180 countries and territories by their perceived levels of public sector corruption according to experts and businesspeople, using scale of 0 to 100, where 0 is highly corrupt and 100 is very low corruption.
https://www.transparency.org/news/pressrelease/corruption_perceptions_index_2018

[13] http://www3.weforum.org/docs/gcr/2015-2016/MMR.pdf

[14] http://hdr.undp.org/en/countries/profiles/MMR

[15] https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/myanmarjade/

indicated by Chinese import data and appears likely to have been as much as USD31 billion' (2015:6). The Global Financial Integrity report for Myanmar calculates that

> [i]llicit trade inflows totalled US$77.7 billion over 1960–2013, while total inward capital flows amounted to US$82.8 billion. Similarly, illicit trade outflows totalled US$18.7 billion, while outward capital flight totalled US$35.9 billion over this period. A particular feature of capital flight and illicit trade flows to and from Myanmar is that inflows are much larger than outflows (Global Financial Integrity, 2015:iii)

The perception that corruption is one of the key problems of the world is now particularly strong. This also means that studies of corruption and anti-corruption and governance as forms of public policy are receiving considerable attention from policymakers and practitioners around the world. For pre-coup Myanmar, this means that the need to regulate corruption has been a live policy priority, since Myanmar aspired to economic integration with the global economic and trade order and there seemed to be prospects for political transition to more democratic governance. Myanmar has been under some international pressure to create domestic regulation aligned with global anticorruption regimes such as those governing Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT); the United Nations Convention Against Corruption (UNCAC); the Foreign Corrupt Practice Act (FCPA1977) and regimes governing illicit money flows and transitional crime prevention.

Transition periods are inherently unstable and often generate more, rather than less, corruption. Thus, illicit economic and financial activities threaten both the economic prospects for Myanmar and the political legitimacy of its future governance and governments. Understandings of 'transition' in Myanmar vary, because different scholars from a number of academic disciplines interpret transition in Myanmar differently (e.g. Fujita, Mieno & Okamoto,2009; Dapice 2012; Mieno 2013).

Bunte (2013) claims that '[T]oday, most military regimes have either given way to some form of democracy or been transformed into another form of authoritarianism (2013:1-29)'. As a shift from a military regime to elites-driven politics, Kingsbury (2014) argues that 'Myanmar's economic liberalization primarily benefits its entrenched and usually military-dominated or linked elites, while its political liberalization may be just enough to satisfy an appearance of democratization without the army giving up real power' (2014:351). In contrast to other Myanmar scholars, Dapice (2012, 2013) argues that a new governance system is needed for Myanmar to succeed in its transition and indicates that 'the true cost of the army is not just represented in line items in the national budget. There are huge swaths of land that have been taken over by the military' (2013:13–26). In short, 'transition', in this thesis assumes that pre-coup Myanmar was transforming or reforming or transitioning from being a military-dominated society to a hybrid or semi-authoritarian state in which the military and its cronies continue to exercise power politically, legally and economically.

At the same time, with the growth in scholarship on corruption, canonical explanations of corruption are contested: an example is the discussion between petty corruption, grand corruption and systemic corruption. Multilateral development agencies repeatedly note petty corruption in the state's regulatory agencies while ignoring all forms of grand corruption, including politically exposed persons (PEP)[16], kleptocratic corruption, banking corruption and money laundering issues.[17] Various forms of grand corruption and money laundering are widespread in Myanmar and other transitional economies in mainland Asia. Thus, Chapters 3, 4 and 5 of this thesis address grand corruption in Myanmar, a generally understudied topic in the literature despite it being visible at the highest levels of Myanmar's government and its economic regulatory agencies.

Moreover, there is a clear tendency to export global anti-corruption policies and procedures as readymade regulatory instruments in the form of anti-money laundering laws, anti-corruption agencies and anti-corruption strategies, for adoption by developing or transitional economies. During Myanmar's transition, a major issue was that policy-exporters repeatedly advocated such anti-corruption policy-packages to the elites of the country without considering the symptoms, causes, nature and characteristics of corruption in the country. There is a danger that focussing only on corruption indicators (such as the TI CPI) may reduce the understanding of corruption to simplistic portrayals of demand and supply, or an exchange between a principal

[16] Recommendations 10, 12 and 22 of the FATF's 40 recommendations address the concept of PEP and require countries to ensure that financial institutions and designated non-financial businesses and professions implement measures to prevent the misuse of the financial system and non-financial businesses and professions by PEPs, and to detect such potential abuse if and when it occurs (2013:3).

[17] *The Panama Paper* identified 16 persons and entities that related to Myanmar including U Myint Swe, U Khin Maung Aye, and Dr Ohmar Moe Myint. However the state's regulatory agencies have neither addressed nor tackled this issue. See https://offshoreleaks.icij.org/search?c=MMR

and agent, or a variable in poor governance, or a blame-game between poor countries and rich countries.

Thus, this study seeks to investigate empirically the causes and patterns of corruption within Myanmar's banking and public finance sectors, in order to consider what kinds of regulatory interventions to curb corruption are likely to be effective, and under what conditions. In order to ask those questions, this chapter first considers how corruption is understood in international scholarly literature in economics, political science and regulatory theory, before considering how corruption is understood in contemporary discourse in Myanmar.

[2.2] Corruption by lexicological meaning

The origin of the word 'corruption' is the Latin *corruptus* (spoiled) and *corrupmere* (to ruin; to break into pieces) (UNODC 2004:23).

The Oxford Dictionary of Economics definition of corruption is:

> The use of bribery to influence the actions of a public official. More generally, corruption refers to obtaining the private gain from public office through bribes, extortion, and embezzlement of public funds. (2013:86)

Black's Law Dictionary defines corruption as:

> A fiduciary's or official's use of a station or office to procure some benefit either personally or for someone else, contrary to the rights of others; an act carried out with the intent of giving some advantage inconsistent with official duty or the rights of others. (2014:424)

The Oxford Dictionary of Law (2003) definition of bribery and corruption is:

> Offences relating to the improper influencing of people in certain positions of trust. The offences commonly grouped under this expression are now statutory. Under the public body practice act 1889 (amended by the Prevention of Corruption Act 1916) it is an offense, if done corruptly (that is i.e. deliberately and with and improper motive), to give or offer to member, officer or servant of the public body any reward or advantage to do anything in relation to any matter with which that body is concerned; it is also an offense for a public servant or officer to corruptly receive or solicit such a reward. The Prevention of Corruption Act 1906 (amended by the 1916 Act18) is wider in scope. It relates to agents, which include not only those involved in the business of agency but also all employees, including anyone serving under the Crown or any public body. Under this Act it is an offense

[18] The Prevention of Corruption Act 1906 emerged as a legal doctrine of the anti-bribery and corruption law for regulatory bodies in Commonwealth countries, including Indian Burma and British Burma, due to legal transplantation.

> to corruptly give or offer any valuable consideration to an agent to do act or show any favour in relation to his principal's affairs; like the 1889 Act, it also creates in converse offense of receiving of soliciting by agents. (2003:56)

In contemporary policy literature in the global North, different forms of corruption are identified and classified according to different typologies. Those sub-sets of corruption are set out below in section 2.3. Many academic disciplines in Anglo-American scholarly literature address corruption based on their respective philosophical traditions and epistemology. Innovative and trans-disciplinary approaches appear to be less common. Social scientists accept or reject the factors constituting, and impact of, corruption according to their own disciplines' methods and methodology, such as inductive and deductive reasoning or positive and normative approaches. At the same time, new forms of corruption – such as embezzlement, fraud, forgery, illicit trade and financial activities, counterfeiting, artificial and stolen cheques, paper hanging, insider trading, cybercrime, hacking and money laundering – are made possible by the rapid advance of digital technology.

The result is that terms such as 'corruption', 'bribery', 'fraud', 'crime', 'rent-seeking', 'cronyism' and 'nepotism' are being utilised interchangeably in many disciplines, so that their precise meanings are somewhat blurred when they are picked up and used in international policy instruments such as the corruption indicators referred to above. However, each of these terms does have a heuristic meaning, which is important to acknowledge because they differ normatively.

[2.2.1] Disciplinary explanations of corruption

Although multiple types of corruption are visible in the commercial sectors of both developed and transitional economies, corruption literature focussing on developing or transition economies in the global South appears to exceed studies of corruption in the global North (e.g. Coase 1979; Wade 1985; Husted 1994; Doshi & Ranganathan 2018). Much of that corruption and anti-corruption literature starts from the premise that poor countries with undemocratic governance are more corrupt than wealthy countries with democratic governance.

An essential shared understanding in most scholarly literature is that corruption is dishonest, unethical, deceitful, evil, a source of decay, false or fraudulent. No culture or religion appears to encourage corruption or to approve unethical conduct in market transactions and in social relation.[19] Scholars frequently assert that defending corruption by using culture as an explanation is illegitimate. Larmour (1997, 2008, 2011, 2012, 2015) also affirms that '[i]deas about 'culture' have often been used to explain or excuse acts of corruption' (2012:155).

We can tabulate the definitions of corruption (its causes, types and methods for combatting it) by discipline, as shown below. The sections that follow then describe the leading proponents of each of these formulations of corruption within their respective disciplines, particularly political science (section 2.2.2), economics (section 2.2.3) and law and regulation (section 2.2.4).

[19] On the corruption as cultural and religion as a concept, see Alatas (1968) and Larmour (2008).

Table [2.1]
Academic theory explanations for corruption and their methodologies

Academic Doctrines/schools of thought	Causes of corruption by theory	Types of corruption	Methods/Methodologies
[2.2.2] Corruption and Political Science **Political studies** **Public policy** **Public Administration** **International Relations**	Market failure Agency-system problem Patron-client relationship Rational choice theory Cronyism Nepotism Paternalism Opportunity cost Imperfect competition Information Asymmetric	Grand corruption Petty corruption Political corruption Election corruption Individual corruption Institutional corruption Crony corruption Bureaucratic corruption Armed forces' corruption Policy corruption Diplomatic corruption	Qualitative and quantitative investigation Inductive and deductive reasoning Critical Reasoning National Interest Analysis Public Interest Analysis Institutional Analysis
[2.2.3] Corruption and economics **Applied economics** **Macroeconomics** **Institutional Economics** **Neo-institutional economics** **Microeconomics** **Behaviour economics** **Banking and financial economics** **Public Choices** **Political Economy** **Transactional cost economics**	Government failure Subjectivism Positivism Efficiency-enhancing behaviour Prisoner's dilemma Monopoly Nash's equilibrium Rational choice theory First-mover advantage Information asymmetry Transaction cost analysis Cost-benefit analysis Game Theory (two or four players game theory)	Rent-seeking Insider trading Kickbacks Bribery/speed money Procurement corruption Facilitation fees Artificial Demand Lending corruption Money laundering Asset misappropriation Under/over invoicing Shall bank account Shall company/ foundation Budgetary corruption Fiscal corruption Monetary corruption	Algebra and arithmetic modelling Ordinary linear regression Subjective questionnaires Positivism Cross-country analysis Qualitative research
[2.2.4] Corruption and anti-corruption by schools of thought **Law** **Philosophy** **Regulation** **Criminology** **Human Rights** **Sociology** **Geography** **Critical Development Studies** **Anthropology** **Political Sociology**	Institutional failure Objectivism Deterrence Ethics Norms Morality Integrity Legal philosophy Conflicts of interest Moral Hazard Opportunistic behaviour Justices Principles Impartiality Objectivity Neutralism Trust	Contract fraud Child-soldier business Child-sex industry Small arms-trade The military's corruption Smuggling of humans/rare animals Trafficking in stolen art Sex for position/ranking Human trafficking Organised crimes Corporate crimes Banking corruption Lending corruption Borrowing corruption NPL corruption Hidden bank accounts Illegal transaction Transnational crimes/corruption State crimes Money laundering Drug and narcotic related crimes Hacking and Cybercrimes E-waste smuggling Economic crimes Illicit economic misconducts Financial crimes Donor corruption Constitutional Corruption	Socio-legal reasoning Deductive reasoning Interpretative reasoning Single case studies Forensic research Investigative research Regulatory analysis Regulatory impact analysis Legal political analysis Legal economic analysis Cost-effectiveness reasoning Discourse analysis A critical geography analysis Legal security analysis Legal analysis Responsive regulatory analysis

[2.2.2] Corruption and political science

Political science has a particular interest in the integrity of the public domain or the public interest. Joseph Nye, an American political scientist, asserts that '[c]orruption is behaviour which deviates from the formal duties of a public role because of private regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private regarding influence' (1967:420). Using political economy approaches, Klitgaard (1988) provides a stylised equation: Corruption = Monopoly + Discretion – Accountability (C = M + D – A), although this has been criticised as overly formulaic (Stephenson, 2014).[20]

Concerns about corruption emerged strongly just before the collapse of economies in Eastern Europe in 1989. Corrupt payments at the time were seen as rational acts within systems that were dysfunctional during political and economic transactions. In this thesis, I propose to maintain that distinction between taking something illegally, which is negative corruption, and positive corruption such as speed-money.

Huntington, a leading political scientist, argues that 'in terms of economic growth, the only thing worse than a society with a rigid, over-centralised dishonest bureaucracy, is one with a rigid, overcentralised, honest bureaucracy' (1968:386). Heidenheimer and Scott provide metaphors such as political corruption, price corruption and market corruption; Heidenheimer describes corruption as 'a transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs' (1989:6). Scott argues that

> [t]he most frequently cited factors contributing to widespread corruption in the new states are the weak legitimacy of the formal political system compared to the persuasive ties of family or ethnicity, the relative importance of government as a source of employment and social mobility, the existence of wealthy elites denied access to direct, formal influence on policy and the lack of strong commitments to the rule of general laws by either the elite or populace (1969:1142)

Khan builds on these definitions to assert that patron–client relationships in Asia show 'corruption is likely to be widespread during the early stages of capitalist development when capitalists enjoy low legitimacy and states face excess demand for

[20] https://globalanticorruptionblog.com/2014/05/27/klitgaards-misleading-corruption-formula/

the rights and resources they allocate' (1998:15). Foundational scholarship in political science, political economy and public administration emphasises that all public and private officials, whether elected or appointed, need to be accountable and transparent in market transactions. Glaeser and Goldin (2004) explain that during the nineteenth century, the view of corruption changed to a definition specifically related to the bribery of public officials by private agents. Bribery was generally an illicit payment in exchange for some government-controlled resource, such as an overpayment for a service or public property or an exemption from government regulation.

Normative views of corruption examine dimensions such as morality, ethics, norms, integrity, institutions and democracy, and include work by Euben (1989), Moran (2001), Warren (2004), Hindess (2012) and Thompson (1995). Thompson defines corruption in two ways:

> Individual corruption occurs when an institution or its officials receive a benefit that does not serve the institution and provides a service through relationships external to the institution under conditions that reveal a quid pro quo motive. Institutional corruption occurs when an institution or its official receive a benefit that is directly useful to performing an institution purpose, and systematically provides a service to the benefactor under conditions that tend to undermine procedures that support the primary purposes of the institutions. (2013:3)

Warren argues that '[p]olitical corruption is the inappropriate use of common power and authority for purposes of individual or group gain at common expense', and he further argues that

> [v]irtually all meanings of political corruption, ancient and modern alike, share the following propositions: a, an individual or group of individuals in entrusted with collective decisions or actions, b. common norms exist regulating the ways individuals and groups use their power over collective decisions or actions, c. an individual or group breaks with the norms, and d. breaking with the norms normally benefits the individual or group and harms to the collectivity (2004:328–43)

Anti-corruption scholars claim that corruption is also caused by a deficit of democracy in the institutional and governance systems of developing or transitional economies. Rothstein (2011) asserts that the financial crises caused by 'bad governance' and corruption are not only a developing country problem, but also one observed in developed economies. One of the key lessons from the 2008 Global Financial Crisis (GFC) is that corruption, poor governance and greed are not exclusive to countries with high levels of poverty or income inequality. The culture of 'greed is good' permeates insider trading, lending corruption, banking corruption, facilitation fees, anonymous bank accounts, money laundering, shell companies, kickbacks and misappropriation within the banking and financial sectors of OECD countries. It is also worth noting that the majority of the ten most corrupt third-world dictators' assets and money have been invested and deposited in the banks and financial hubs of Western countries. With regards to money laundering, tax evasion and financial crimes enabled by bank secrecy laws and overseas financial hubs, Blum, Levi, Naylor and Williams (1998), who are classical money laundering scholars, suggest that,

> [b]oth bank secrecy jurisdictions and offshore financial centers attract deposits from citizens who want to avoid taxes through legitimate tax loopholes. They also attract those trying to evade taxes through concealing much of their wealth by secreting it in jurisdictions that place a premium on confidentiality and do not regard tax evasion in another country as a crime (1989:39)

In a similar vein, Shelley (2000) adds:

> The financial centres of Western Europe, the United States and many offshore locations which belong to major economic powers are benefiting from the significant deposits made by international drug traffickers and other criminal organizations and the corrupt officials of many countries in the developing world and transitional countries. (2000:35)

In 2015, Global Financial Integrity, an anti-money laundering watchdog, estimated that '[i]llicit financial flows from developing countries from 2004 to 2013 reached [USD] 1 trillion'.

The competitive political markets in modern Western democracies are also capital-abundant markets, where rules, laws, policies, lobbyists, regulators and procedures can be bought and sold. As I argued in 2015: 'During the transition in Myanmar, electoral corruption, vote rigging and changing, regulation manipulation, voter intimidation, ballot box stuffing, electoral malfeasance and electoral fraud were all present' (Naing Ko Ko, 2015).

Corruption by reference to a country's institutional and governance system is also considered. Johnston (2005, 2014) provides an international comparison of corruption at the national level after classifying nations and states into four corruption syndromes. In his assessment, countries can be defined by reference to whether they have: ‘a. influence markets (2005:60), b. elite cartels (2005:89), c. oligarchs and clans (2005:120), or d. official moguls (2005:155)’. His classification is drawn from analysis of statistical indicators and testing proposed categories of corruption through a number of case studies. These four syndromes of corruption within nations can be varied across types of institutions and political regimes. Official moguls in Johnston’s theory are explained as:

> powerful individuals and small groups, either dominating undemocratic regimes or enjoying the protection of those who do, who use state and personal power – at times, a distinction of little importance – to enrich themselves with impunity. The primary loyalties and sources of power are personal or political, rather than official in nature; anti-corruption forces, like opposition to the regime generally, are very weak. (2014:17-19)

Myanmar is classified as an ‘official moguls’-type economy by Johnston, and this is supported by the US Department of State’s international narcotics control strategy reports (INCSR 2007-16)[21] and Wyler’s analysis, which asserts that:

> Corruption is common among the bureaucracy and military in Burma. Burmese officials, especially army and police personnel in the border areas, are widely believed to be involved in the smuggling of goods and drugs, money laundering, and corruption (2008:2).

The bureaucracy and the military are not the only major social institutions in which corruption is a systemic issue: Buddhist institutions are also implicated in a range of corrupt practices. This is a complex topic that intersects with the role of some Buddhist institutions and their leaders in promoting Burmese nationalism and violence toward ethnic minorities, particularly the Muslim Rohingya (e.g. Foxeus, 2023). Although corruption within the Buddhist hierarchy is beyond the scope of this thesis, we should note that the Myanmar Ministry of Religious Affairs has a set of formal policies directed at tackling corruption within Buddhist institutions. [22]

Due to the linked financial interests of the Generals and their cronies, Jones argues that ‘[a]side from the military – including both military-owned firms and individual

[21] https://www.state.gov/international-narcotics-control-strategy-reports/
[22] https://mora.gov.mm

officers and their family members – the principal beneficiaries [of corruption] were entrepreneurs who secured the lion's share of lucrative deals via their close relations with leading generals' (2014:150). Johnston's 'official moguls' syndrome appears to be the closest match to the current systemic corruption problems in Myanmar, as the nexus of military–cronies encourages both institutional and individual corruption in the system.

[2.2.3] Corruption and economics

After the restructuring of the Eastern European economies in the 1990s, arithmetic approaches to examining corruption – in particular, ordinary linear regression analysis of the causes, impacts and externalities of corruption – mushroomed within the neoclassical economics and finance disciplines (e.g. Krueger 1974; Lui 1985; Shleifer & Vishny 1993; Mauro 1995; Bardhan 1997; Tanzi 1998; Olken 2006; Shah 2006). Many scholars developed analytical frameworks :for which the dependent variable was corruption or bribery and the explanatory variables included GDP growth, poverty, GDP per capita, human development and regulation.

Invoking the demand and supply of regulation, Stigler, one of the founders of Chicago School, argues that '[a]s a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit' (1971:3). Gupta, Davoodi and Terme (1998:4-8) illustrate their causality approach by arguing that '[h]igh and rising corruption increases income inequality and poverty by reducing economic growth, the progressivity of the tax system, the level of effectiveness and social spending, and the formation of human capital, and by perpetuating an unequal distribution of asset ownership and unequal access to education'. Neoclassical economists further argue that the problems of corruption in transitional economies such as Myanmar mainly stem from the deficit of competition (monopoly) and regulatory capture (the state's failed monitoring of the market mechanism). State involvement in any market mechanism through quotas, tariffs, quality and quantity can create opportunities for corruption and bribery. By increasing competition among institutions and reducing the role of the state in a market, it might be possible to reduce administrative and petty corruption and grand corruption. However, such economic research does not explain the cases of Nordic countries, which have robust bureaucracies, state involvement in the economy (including state-owned enterprises) and relatively low levels of corruption.

With respect to studies of corruption and financial crises, while relatively few economists have investigated corruption and financial crises in the North economists argue that the leading factors behind the Asian Financial Crisis (AFC) in 1997 were speculation, policy distortion, corruption, poor corporate governance, moral hazard, cronyism, patron–client relations and nepotism (Krugman 1998; Corsetti, Pesenti & Roubini 1998; Radelet & Sachs 1998, 1999; Rajan & Zingales 1998a, 1998b; Chang & Velasco 1998; Wade & Veneroso 1998; Johnson, Boone, Breach & Friedman 1999). One theoretical explanation offered for poor corporate governance in Asian financial and banking industries was that

> [S]tealing by managers increases when the expected rate of return-on-investment falls, then an adverse shock to investor confidence will lead to increased theft and to lower capital inflow and greater attempted capital outflow for a country. These, in turn, will translate into lower stock prices and a depreciated exchange rate. In the case of the Asian crisis, we find that corporate governance provides at least as convincing an explanation for the extent of exchange rate depreciation and stock market decline as any or all of the usual macroeconomic arguments (Johnson et al. 1999:2).

However, Radelet and Sachs point out that:

> [t]wo facts make it hard to argue that the crisis was primarily the result of corruption. First, corruption on at least a similar scale had existed in Asia for decades, and yet these economies had grown very rapidly without any sign of a crisis. Second, corruption is a generalized problem in almost all emerging markets (1999:9–10).

Many statistical studies have shown that developing economies have more onerous regulations than other economies. Some of those economists further argue that opaque regulation leads to corruption. The key analytical assumption about regulation and corruption here is based on the idea that individuals, households and firms might bribe state bureaucrats to avoid having to comply with the state’s rules and regulations. The equation of corruption with regulation per se is not a sufficient explanation, as the GFC clearly shows – financial regulators failed in their supervision, which allowed financial corruption, fraud, insider trading, dishonesty in the money market and economic crimes to occur in the USA and other advanced economies.

Behavioural economists address the problems of corruption from a very different perspective to that of neo-institutional economists. Lambsdorff (2005, 2006, 2007, 2012), who created Transparency International's Corruption Perception Index in 1993, argues that

> [H]umans are not only driven by own-regarding motives but also social motives. The preference function is more complex, including inequality aversion and reference points that invoke reciprocal action when being missed. They include ethical considerations and intrinsic motivations. Experiments on corruption show that this paradigmatic shift can be relevant for anticorruption (2012:282).

Behavioural economists Camerer et al (2003) and Della Vigna (2009) also view human beings as very diverse and are attentive to the fact that humans are not always rational and self-centred. On the other hand, Krueger asserts that,

> [R]ent-seeking is competitive due to quantitative restrictions upon international trade and people often compete for the rents. Sometime, such competition is perfectly legal. In other instances, rent seeking takes other forms, such as bribery, corruption, smuggling and the black markets (1974:291).

Tullock, a leader among public choice economists, suggests that '[t]he term rent seeking [is] for cases in which whatever is proposed has negative social impact' (1989:55).[23] Transaction cost economists have also contributed to our understanding of corruption, building on Williamson's definition of 'transaction cost analysis'. Transaction cost economists utilise two economic concepts here: rational choice theory and opportunistic behaviour. The first – rational choice theory – has a significant but limited role in transaction cost economics because economic agents are not always rational decision-makers. The second idea is that actors/agents engage in opportunistic behaviours.

Applying the principal–agent model and with respect to institutions and behaviour change of an agent/actor in a society, Douglass North suggests that 'it is quite clear

[23] Rent (Smith 1776: 39-40, 56, 60-62, 67-69, 366-369) and rent seeking (Tullock 1985:55) means spending time and money not on the production of real goods and services, but rather on trying to get the government to change the rules so as to make one's business more profitable (Black et al 2012: 349). Some impacts of rent seeking are calibrated income equality, the government inefficiency, reducing the government revenue and misuse or misallocation of economic resources. Examples are seeking subsidies on the output or the inputs of a business or monopolising or lobbying the government to change the rules so as to keep out competitors or make legally compulsory the use of professional services.

that our ability to make radical change depends on the way in which beliefs have evolved in society, and the degree to which sets of beliefs are amenable to the kinds of changes that we think are essential' (1999:21). Finally, Acemoglu and Robinson draw attention to the nexus between individual economic behaviour and the political regimes that shape the governance institutions that drive that behaviour: 'Economic institutions shape economic incentives, the incentive to become educated, to save and invest, to innovate and adopt new technologies, and so on. It is the political process that determines what economic institutions people live under, and it is the political institutions that determine how this process works' (2012:42).

In sum, insight from many types of economists, including those working on finance, banking, behavioural economics, transaction cost and neo-institutional economics, suggest three significant aspects of corruption: (a) corruption arises not only through the use of public goods for private interest, but also from the lack of trust and belief in various institutions; (b) bureaucrats and administrative actors are not the only actors who are corrupted: private and business sectors are also heavily implicated; and (c) corruption is not simply a monetary issue – rather, the lack of trust, social inequality, poor governance, prevalence of values such as greed, and the design of political institutions also encourage corruption in many transitional and developing economies. Therefore, linear economic analysis and regressions do not explain the extensive nature, cause and categories of corruption in transitional economies, or why the phenomenon of corruption is so widespread globally.

[2.2.4] Corruption and anti-corruption by schools of thought

Chronologically and methodologically, the inductive analysis of corruption was pioneered during the 1960s, while deductive techniques for thinking about anti-corruption measures and governance developed after the end of the Cold War.[24] In the contemporary literature, there are four schools of thought that represent ideological debates about corruption and anti-corruption measures. These are set out in Table 2.2 below, with theoretical arguments characterised by Johnston (1986) as moralist, institutionalist, revisionist (neoclassical economists) and universalist. The moralists

[24] After the World Bank declared that it combat corruption as cancer in September 1996, many global elites - in particular neo-classical economists jumped into the corruption, anti-corruption and governance discourse.

pioneered the study of corruption and were later followed by institutionalists, revisionists and universalists, respectively. Understandings of the term 'corruption' and approaches to anti-corruption have been debated ideologically by these schools of thought for nearly five decades.

Table [2.2]
Major Schools of thought on corruption and anti-corruption[25]

Issues and/or problems of Policy	Moralist	Institutionalist	Revisionist (economists)	Universalist
Corruption	Moral decay Deficit of trust and credibility Ethical behaviour and professional standard inferiors Integrity infrastructure Unaccountability Irresponsibility	Structure problem Institutional failure System designs are wrong State building is incorrect	Monopoly Rent-seeking State capture Regulatory capture Government failure Market failure	Democracy Governance Rule of law Liberalisation Globalisation
Anti-corruption	Direct approaches Establish anti-corruption agency Laws and regulations are to be overhauled Indirect approaches Persuasive/incentive-based approaches Individuals' ethics and trust	Institution/governance systems need to be improved. Property rights Law's Olympics Law and regulatory transformation Security Sector Reform	Privatisation Deregulation Devolution Decentralisation Devaluation Marketisation	ACA/ACC direct approaches Stolen Asset recovery
Doctrinal Approaches	Education Prevention	Innovation Persecution	Competition Privatisation	Participation Universalisation and/or Globalisation

[25] Developed following the doctrinal approaches based on Johnston (1986).

Among the four schools, moralists mostly argue that corruption is harmful to societies and governments, impeding development and eroding the legitimacy of even honest elites and well-run institutions (Johnston 1986). Moralists such as Johnston, Larmour, Wolanin (2001) and Graycar and Prenzler (2013) outline a pathological approach to corruption and anti-corruption. In general, moralists advance three categories of theory about corruption – behavioural (or individual/agent/actor); structural (or organisational/institutional/principal); and political (including political economy and economic governance) – and also offer subtypes of corruption and a range of disciplinary approaches, including criminology, public policy, environment and sociology, to combatting and researching corruption.

As an institutionalist, Johnston argues that, in contrast, 'revisionists point to possible benefits of corruption, suggesting that it can speed up cumbersome procedures, buy political access for the excluded, and perhaps even produce de facto policies more effective than those emerging from legitimate channels' (1986:459–477). Walton (2013) suggests that 'it is critical that anti-corruption organisations understand and respond to the constraints faced by poor and marginalised people when operating in weak states'.

Institutionalists suggest that the consequences of corruption depend in part upon the characteristics of political systems, such as the balance of political economic opportunities, enhancing institutions and governance.

Revisionist[26] arguments are grounded in algometric and arithmetic research on corruption and their key arguments are that restrictions on, and regulations of, markets create potential for corruption: the more restriction or regulation in a market, the more likely it is to be corrupted by economic agents in a society. Similarly to economists, much of revisionists' research relies theoretically on four economic ideas: (a) principal and agent relationships, (b) incentive mechanisms and payoffs, (c) game theory and, finally, (d) government failure and regulatory capture.

[26] Johnston seems to view mainstream economists as revisionists; however, they are significantly different from Marxist discourse about revisionists.

Universalists argue that corruption can be cured and controlled by the techniques of anti-corruption policies and strategies, such as enrolling organisations like Transparency International and multi-lateral institutions. Both moralists and revisionists assert that high-level, or grand, corruption involves large sums of money, with multinational corporations frequently making the payoffs to political or administrative actors (Rose-Ackerman 1996; Willebois et al. 2011; Wolf 2014).

In the three and a half decades since the fall of the Berlin Wall in 1989, the universalists have defined different types of corruption and designed a range of anti-corruption agencies, policies and strategies. The majority of these readymade agencies and policies are being exported to transitional and low-income countries where there are deficiencies in governance and abundant corruption. However, the results of widespread adoption of anti-corruption agencies and policies remain unproven.

So far, the regulatory discourse about corruption and anti-corruption within the global scholarly arena has largely been dominated by moralists and universalists, exemplified in significant regulatory instruments such as the US Foreign Corrupt Practices Act (FCPA 1977), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) and the United Nations Convention Against Corruption (UNCAC 2003).

Transparency International, one of the leading universalist voices, provided a definition of corruption in 1997 – 'abuse of public power for personal (private) gain' – and this definition was utilised by many universalists and revisionists associated with the World Bank up until 2009. Twelve years later, the TI definition of corruption was transformed to 'the abuse of entrusted power for private gain' (TI 2009).

TI's brainchild, the Corruption Perception Index (CPI), is widely utilised, although its definition and methodology are heavily challenged and contested. There is a continuing debate about whether corruption is measurable through the perception of elites in wealthy countries or not. Many leading moralists and institutionalists do not favour TI's corruption perception index due to its lack of robustness in method and methodology. Braithwaite (2014) argued that 'the real value of corruption cannot be accurately measured by perceptions of elites only' during the author's thesis proposal review seminar. Data reliability in a country might not be uniform. While many scholars have eschewed TI's corruption perception index, however, the media has embraced it vigorously, despite various problems with the indicators.

A criticism of these approaches to, and definitions of, corruption is that they are insufficiently attentive to sociological explanations about the social embeddedness of corruption – norms, practices and networks that foster exchanges that technocratic anti-corruption strategies label as corrupt (e.g. Kravtsova and Oshchepkov, 2023). This thesis concedes that limitation, while also noting that it is the globalized anti-corruption definitions of corruption that dominate international institutional rulemaking and donor interventions in developing economies.

In part this is because the economic incentives, payoffs and marginal social cost of grand corruption within developing economies exceed petty corruption by a factor of billions[27] (e.g. the 1 Malaysia Development Berhad scandal and Ferdinand Marcos' grand corruption) – much of this diverted from both the tax system and legitimate uses for public goods and social welfare. The United Nations Office on Drugs and Crime (UNODC) definitions of grand corruption and petty corruption are discussed in section 2.3.3 below.

A further limitation of the economic definitions of corruption that dominate the anticorruption discourse is that they also tend to ignore the form of constitutional corruption that we observe in Myanmar and that I address in Chapter 3.

As we have seen, the explanations and definitions of corruption vary with the writers' doctrines and ideology. Each doctrine provides its own ingredients and remedies for the diagnosis and treatment of the disease of corruption. Among the various doctrines, most anti-corruption analysis is constructed through principal–agent interactions and information asymmetry. The argument is that incomplete scenarios and information asymmetry encourage agents to profit from their superior knowledge and proximity to an issue or benefit (such as issuing a licence or a concession), while the state and its citizens (the principals) lose out. In a context such as Myanmar, an economic agent is unlikely to make all of their decisions after doing a cost-benefit analysis and rational

[27] Billions in corrupt assets, complex money trails, shell companies and other spurious legal structures can be available at https://star.worldbank.org/publication/puppet-masters

algometric calculation. Most economic agents make choices based on their utility and preferences under the very limited data available in Myanmar. The unpredictability and falsification of economic data in Myanmar are discussed further in Chapter 6.

[2.3] International regulatory discourse on corruption

Due to rapid advances in of digital technology since the Cold War, corruption has become a transnational phenomenon. Digital technology reshapes the various forms of corruption throughout the world's cyberspace and Internet. Moreover, regulatory corruption and policy corruption in the modern financial industry are more complicated than ever due to modern advances in forms of regulation and information technology.

With respect to global anti-corruption rules and regulation, the EU Criminal Law Convention on Corruption[28] (1999) defines transaction offences and bribery as active and passive corruption and segregates corruption into 'active bribery', which usually refers to the offering or paying of the bribe, and 'passive bribery', which refers to receiving of the bribe.

In classical bribery research, Noonan states: 'Bribery is an act distinguished from other reciprocities only if it is socially identified and socially condemned. The exchange of favours with powerholders is otherwise like other reciprocal transactions in the society' (1984:3). Likewise, there are many large-scale financial crimes that are committed in an organised manner which have only recently been treated as organised crime by different law enforcement bodies. Many of these crimes are more closely linked to high-level corruption than the offences most typically associated with organised crimes (Shelley 2000). In the provisions governing bribery of national public officials in Chapter 3, Article 15 of the United Nations Convention Against Corruption[29] (UNCAC 2003), bribery is:

> a. the promise, offering or giving, to a public official, directly, or indirectly, of an undue advantage, for the official himself of herself or another person or entity, in order that the official act or refrain from acting in the exercises of his or her official duties;
>
> b. the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or

[28] https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173
[29] https://www.unodc.org/unodc/en/treaties/CAC/

> entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Here, we should note that the UNCAC does not define the term ‘corruption’, apart from bribes and bribery. Many provisions of the international regulatory conventions mostly construct corruption as a criminal behaviour of the ‘principal and agent model’ rather than an institutional problem, as well as a transnational problem in the digitalised world. Conversely, as the word box below shows, the UNODC (2004:23–34) describes 13 categories of corruption; these represent a significant elaboration of Alatas’s earlier typology of seven kinds of corruption. Graycar and Prenzler overlay these definitional typologies with four strategic ways for investigating corruption – Types, Activities, Sectors and Places (TASP) – that can be seen in many political regimes, organisations of every type and institutions such as universities, hospitals, police forces and the courts (2013:10–11). They then provide eleven forms of corruption (Graycar and Prenzler 2013:2–9).

Corruption by type

UNODC 2004	**Alatas (1968)**	**Graycar and Prenzler (2013)**
1.Grand corruption	1. Transactive corruption	1. Bribery
2. Petty corruption	2. Extortive corruption	2. Extortion
3. Active corruption	3. Investive corruption	3. Misappropriation
4. Passive corruption	4. Defensive corruption	4. Self-dealing
5.Embezzlement	5. Nepotistic corruption	5. Conflict of interest
6. Theft	6. Autogenic corruption	6. Abuse of discretion
7. Fraud	7. Supportive corruption	7. Patronage
8.Extortion		8. Nepotism
9.Abuse of function		9. Cronyism
10. Favouritism		10. Trading in influence
11. Nepotism		11. Pay to play

12. Creating or exploiting conflicting interest 13. Improper political contribution		

Most exchange transactions in emerging market economies are based on personal relationships between a patron and a client, and so market entry and exit by other economic agents are intentionally restricted. Chow, writing about China, suggests:

> Besides changing the rules of the game (as specified in corporate governance), one may consider increasing regulation. Corruption is ‘precisely behaviour that regulators fail to regulate. Regulators try to set and enforce a set of rules for the behaviour of managers and staff of state enterprises, but corruption means that regulation or law-enforcement fails, as the Chinese central government has failed to control widespread corruption in China in generals. (2005:7–8)

By operating incentive-driven regulations, the Central Eastern European states of the European Union have initiated a number of anti-corruption methods in the past two decades, yet corruption remains widespread. Batory (2012) makes two important points regarding anti-corruption interventions in Central and Eastern Europe, arguing that ‘[r]ather than asking what is wrong with the letter of the law … both incentives and normative judgements are skewed towards non-compliance with anti-bribery laws’ (2012:1). Three decades after the end of Cold War, Myanmar still needs those anti-corruption interventions, because government officials can be routinely bribed to issue permits and licences, facilitate contracts, and allow entry of foreign firms to Myanmar’s market. Similarly, Estache and Lewis argue:

> The core problem was thought to be uncontrolled and unaccountable self-regulation or to the active use of the regulation of these industries by politicians or dictators to create politically motivated jobs which increase costs without improving service, to artificially inflate costs to generate easy to capture rents to finance political activities, or simply to feed their private accounts in some foreign western bank. (2010:1)

Thus, it is not surprising to find that most of those international descriptions of corruption are also targeted at public servants within the state’s regulatory agencies.

With regard to bank supervision and corporate finance, Beck et al. (2003) find that:

> Firms in countries with strong official supervisory agencies that directly monitor banks tend to face greater financing obstacles. Moreover, powerful

> official supervision tends to increase firm reliance on special connections and corruption in raising external finance, which is consistent with political/regulatory capture theories. Creating a supervisory agency that is independent of the government and banks mitigates the adverse consequences of powerful supervision. Finally, bank supervisory agencies that force accurate information disclosure by banks and enhance private monitoring tend to ease the financing obstacles faced by firms. (2003:1–47)

Thus, corruption is not simply an expression of bribes or 'tea money' collected by state bureaucrats in Myanmar; it can also be seen in illicit economic activities such as hidden bank accounts, borrowing and lending corruption, money laundering, banking supervision corruption, shell companies and economic institutions. An analytical report on transnational organized crimes in East Asia and the Pacific, where Myanmar (UNODC 2013) is outlined the mechanism of illicit economic activities and border trade, which comprise 12 illicit commerce activities grouped under four types: (1) Human trafficking and smuggling of migrants; (2) Illicit drugs (heroin and methamphetamine); (3) Resources (wildlife, wood products and pollution crime (e-waste, ozone-depleting substances); and, finally, (4) Products (counterfeit goods, fraudulent medicines). The UNODC (2013) reports that Myanmar has become one of the major source countries of these 12 illicit exchanges, particularly human smuggling, wildlife and wood products smuggling, labour and sexual exploitation. Myanmar urgently needs to adjust its regulation to control these 12 illicit economic activities as well as transnational corruption and organised crimes.

Because Myanmar is not a State Party to the United Nations Convention against Transnational Organized Crime (UNTOC),[30] the state's anti-corruption regulatory agencies – including the Myanmar Police Force and the Anti-Corruption Commission of Myanmar (ACCM) – have encountered rules and regulation challenges due to the flow of transitional corruption. Thein Sein's administration made a reservation to Article 16 of the United Nations Convention Against Transnational Organized Crimes (relating to extradition) and did not consider itself bound by the same. As a result, it is impossible to take legal action under international law against drug-related cronies, money launderers and Specially Designated Nationals (SDNs) and blacklisted persons

[30] The UNTOC is also known as *the Palermo Protocol*, was adopted by the UN with the General Assembly resolution 55/25 on 15 November 2000. This convention is compiled with four legal protocols: (1) UN conventions against transnational organized crime; (2) Protocol to prevent, suppress and punish trafficking in person, especially woman and children; (3) Protocol against the smuggling of migrants by land, see and air; and (4) Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

of Myanmar. In relation to contemporary Myanmar, Larkin (2015) identifies ‘corrupt patron–client relations’ as a key issue and adds:

> Ownership of much of the country’s modern business sector is concentrated among the country’s top tycoons who run family-owned conglomerates … [A]s a group, their rapid rise under the military rule is often attributed to ‘corrupt’ patron-client relationships. Seen to have benefited from ‘connection’, they are often referred to as ‘cronies’. (2015:1–14)

The institutional demarcation between the state, market and society in Myanmar remained very unclear during the transition period. Regulating corruption and financial crime is not simply about creating new regulatory conventions and laws, but also about changing mindsets and building trust among the citizens in relation to facilitating and participating in anti-corruption institutions.

Although many anti-corruption scholars focus on corruption, anti-corruption agencies largely ignore other significant phenomena such as transnational crimes, e-waste smuggling, electoral corruption, banking corruption, grand corruption, financial corruption of (and by) the lobby industry, corruption in campaign financing and corruption in military procurement. For this reason, there are critiques of anti-corruption agencies in the academic disciplines. Anthropologists strongly argue that the global anti-corruption movement is as an ‘industry’.

Sampson (2010:262) argues that

> anti-corruptionism now projects itself onto the global landscape as a series of policies, regulations, initiatives, conventions, training courses, monitoring activities and programmes to enhance integrity and improve public administration. In short, anti-corruption has become an industry.

In sum, the activities of corruption and anti-corruption are now a borderless phenomenon and can be observed in every economic, financial and trade activity in Myanmar as the economy attempts to re-integrate into the international trade and world order. An analysis of how domestic regulation and corruption intercept is presented in Chapters 4 and 5.

[2.3.1] Anti-corruption measures advocated by development institutions

Since the 1990s, corruption has been tackled in two ways by national agencies and trans-national agencies, indirectly and directly. Indirect approaches come from the global regulatory conventions; direct approaches through national legislation and through enforcement and institutional measures, such as installing anti-corruption agencies in corruption-prone countries.

Multilateral organisations' attempts to stimulate anti-corruption policies and strategies within developing countries increased after the 2003 UN Convention Against Corruption (UNCAC, also known as the Merida convention) came into force in 2005. The UNCAC is one of the most inclusive anti-corruption policy instruments. It has three significant policy tools – prevention, punitive measures and asset recovery – and invites global civil society and citizen participation in the universal anti-corruption movement. The State Parties are obliged to assist each other to prevent and fight corruption globally.

The UNCAC was adopted by the General Assembly of the United Nations in 2003 and signed by 140 countries and was ratified by 168 countries in 2013. The UNODC in Vienna acts as the UNCAC secretariat. Myanmar's Thein Sein administration ratified the UNCAC in 2012 and the country became a State Party in the UN anti-corruption legal and regulatory framework. This means that, pre-coup Myanmar had an opportunity to combat corruption through preventive measures, law enforcement, international cooperation and asset recovery.

It is important to note that the UNCAC does not define corruption,[31] apart from bribery. Thus, multilateral organisations and bilateral official development assistance (ODA) providers draw their definitions from a variety of other sources. The United States Agency for International Development (USAID) defines it as 'the abuse of entrusted authority for private gain' (USAID 2006). However, the United Nations Development Programme (UNDP), the OECD and the Council of Europe do not define corruption (OECD 2008). The UNODC (2004) also does not provide a general definition of corruption and cites the US Treasury's preferred formulation: 'the misuse of a public or private position for direct or indirect personal gain'.

Despite the UNCAC's comprehensiveness as an international anti-corruption treaty, Brunelle-Quraishi argues that 'although the UNCAC innovates in many aspects, it is

[31] This presents a major challenge for policymakers, who do not understand the real definition of corruption in Myanmar language. This contributed to the challenge for the (then) civilian leadership of Myanmar to formulate strategic and policy instruments for managing an army of constitutional corruption and illicit business activities (an example can be seen in sections 36, 37 and 436 of the 2008 Constitution).

argued that it also suffers from weakness that cannot be overlooked, preventing it from having a real impact on State's behaviour' (2011:101). Equally, Hechler et al. from the U-4 Corruption Center (2011, 2013) point out that

> [t]he convention fails to forcefully tackle political corruption, one of the major concerns of citizens around the world. The fact is that transparency in political and election financing is a just mere recommendation and is not enforced yet. The convention also refrains from referring to any specific political system and, by doing so, omits the important role that parliaments can play in holding governments to account (2013:2–8).

The UNCAC as a regulatory tool does not tackle political or leadership corruption and there are numerous examples of corrupt leaders maintaining power illegitimately and with the support of corrupt practices in Asia, Africa and Latin America. Against that backdrop, an individual non-governmental organisation, the Mo Ibrahim Foundation, set up the 'Ibrahim Prize for Achievement in African Leadership' to acknowledge efforts to limit the office timeframe of leaderships in Africa. This incentive-based approach aims to control corruption by recognising and rewarding democratically elected leaders who have stepped down in the past three years after serving their constitutionally mandated term and demonstrating 'excellence in office' in Africa.

Multilateral agencies have taken an active stance in targeting the capacity of transitional economies to control corruption within their borders, and the United States and the EU have been particularly active as bilateral donors providing support for anti-corruption regulation through official development assistance. Thus the most vigorous designers of anti-corruption regulation worldwide include the UNDP, the World Bank, the UNODC, the IMF and USAID, which have embedded anti-corruption regulation within many of their governance programmes. This is not surprising, given that these transnational agencies rely on data that indicate correlations between poor governance, centralisation, institutional and government failure, and widespread corruption within the public sectors of corruption-prone countries. All of them utilise Transparency International's definition of corruption, 'abuse of entrusted power for private gain', and successive interactions of its Corruption Perceptions Index. This TI tool, in turn, drew on an early expression of the link between corruption and governance developed by World Bank economists Kaufmann, Kraay and Zoido-Lobaton (1997, 1999a, 1999b, 2000, 2001, 2004, 2010), who created 'aggregate indicators of bureaucratic quality, rule of law, and graft, for a large sample of 160 countries' and from that, a world governance index based on a broad concepts of governance including (a) voice and accountability, (b) political instability and violence, (c) government effectiveness, (d) regulatory burden, (e) rule of law and (f) control of corruption.

Finally, the concept of corruption is an indicator of fragile governance. Passas, an anti-corruption writer (1997, 2010), notes that a new organisation was created in 2006 to assist in the effective implementation of the UNCAC and to bring representatives and activities of anti-corruption bodies together: the International Association of Anti-Corruption Authorities (IAAA). The creation of that body, in turn, has spurred the installation of anti-corruption commissions, authorities or agencies (sometimes termed ACAs/ACCs) in developing countries. At the technical assistance level, ODA providers and bilateral aid agencies including USAID, the UNDP, the Department for International Development (DFID), the (then) Australian Aid Agency for International Development (AusAid) (now Department of Foreign Affairs and Trade, DFAT) , the OECD, Transparency International (TI), the IMF and the World Bank have engineered anti-corruption commissions in developing countries in order to control corruption, to promote good governance and to monitor donors' resources and aid effectiveness. However, Kennedy (1999:458) warns that '[a]nti-corruption campaigns often mix moral opprobrium with both economic theory (corruption stunts development) and faith in a universalist and rational rule of law'.

[2.3.2] Anti-corruption measures under UNCAC

According to Article 6 of the UNCAC, a 'State Party' that ratifies the Merida convention is required to ensure the existence of an anti-corruption agency dedicated to the prevention of corruption and specialising in implementing anti-corruption policy, combating existing corruption, and researching and sharing knowledge on anti-corruption discourses. Bertrand de Speville (1997, 2008, 2010, 2012), an architect of Hong Kong's model, the Independent Commission against Corruption (ICAC), asserts that 'there are three things that need to be coordinated to fight corruption: first, it's political will, second, your values in the law, third, a strategy for fighting corruption which comprises three elements: repression, prevention and public education' (Tempo 2012:60; Quah cited de Speville, 2010:103).

The UNCAC encourage setting up not only anti-corruption commissions in the world, but also both regional and international conventions as a global regulatory norm to ensure that States Parties will combat corruption in their respective states. Regional intergovernmental institutions in Europe, Africa and Latin America have ratified similar anti-corruption treaties, although, surprisingly, this is not so for the Association of Southeast Asia Nations (ASEAN). The Council of Europe's Criminal Law Convention on Corruption was ratified in 1999. The Economic Community of West African States Protocol on the Fight Against Corruption was ratified in 2001 and the Southern African Development Community Protocol Against Corruption was created in 2005. However, ASEAN has neither an anti-corruption convention, nor an anti-corruption commission at the regional level. National agencies have been created in Malaysia (Anti-Corruption Commission) and Singapore (Corrupt Practices Investigation Bureau), the latter being one of the oldest anti-corruption agencies in the world. Quah (2017), an early scholar of such institutions, adds that there are

> two types of ACAs in Asia Pacific countries, depending on the scope of their functions. Type A ACAs are more effective because of their dedicated focus on anti-corruption functions. By contrast, Type B ACAs are less effective because of their performance of both anti-corruption and non-corruption-related functions. Among the 42 ACAs established in 27 Asia Pacific countries, 24 are Type A ACAs and 18 are Type B ACAs (2017:3).

Likewise, Heilbrunn (2004, 2006, 2013) identifies four types of anti-corruption agencies/commissions in the world, shown below in Table 2.3.

Table [2.3] Models of Anti-Corruption Agencies
Source: Heilbrunn (2006)

No.	Model	Major Onuses	Countries
1	The Universal Model	Investigative, Preventive Communicative	Hong Kong Indonesia
2	The Investigative Model	Centralised investigative commission	Singapore
3	The Parliamentary Model	Reporting to the parliamentary committees, Independent from the executive and judicial branches of the state	Australia- ICCA
4	The Multi-Agency Model	A number of agencies that are individually distinct, but together weave a web of agencies to fight corruption	The United States Office of Government Ethics.

Pope and Vogl (2000:1-7), the founders of Transparency International, suggest that '[a]ccountability is critical to the agency's success, as are checks on its power and the method used for selecting its leadership'. They also advise that 'anti-corruption agencies will fail if they can be subjected to political direction and used as weapon to attack critics of the government'.

At the regional level, Doig et al. (2007:251-259) investigate the role of donors and value of independent anti-corruption agencies in five African countries and find that '[g]overnments in that region may intentionally keep anti-corruption commissions weak'. Larmour (2007) argues that,

> [a]nti-corruption agencies are particularly vulnerable to corruption themselves. Installing a new layer of supervision above them creates new opportunities for corruption. Monarchies or military leaders sometimes see themselves as the ultimate guards of the national and public interest, but history tends to show there is no ultimate guard that does not need guarding (2007:1–16).

Alternatively, Luis de Sousa (2009) provides six guiding principles for preventing the failure of anti-corruption agencies: independence, inter-institutional cooperation and networking, recruitment and specialisation, wide competencies and special power, the role of research, and durability. Although many scholars examine whether anti-corruption agencies are effective or not in the global arena, Myanmar was advised to install an ACA/ACC during Thein Sein's administration in 2011–16 and, in fact, did establish one. Its effectiveness is discussed in Chapter 7.

[2.3.3] Anti-corruption efforts through the stolen asset recovery initiative

The UNODC (2004) defines elite corruption or 'grand corruption' as corruption that pervades the highest levels of government, engendering major abuses of power. Sometimes it is referred to as 'state capture or systemic corruption', which is where external interests illegally distort the highest levels of a political system to private ends. The importance of elite corruption is gaining attention, particular in the wake of the World Bank Group, in partnership with the UNODC, launching the Stolen Assets Recovery Initiative (StAR) in 2007.

Since the 1990s, Myanmar has been ranked the world's second largest producer of opium after Afghanistan (UNODC 2004, UNODC 2005; Kramer 2007, 2016; US Department of State 2016; Meehan 2015). The US Treasury's Specially Designated

National (SDN) list, which identifies those linked to sanctioned governments, politically exposed persons (PEP), terrorists and drug traffickers, includes hundreds of Myanmar citizens who acquired their wealth through rent-seeking, the drug trade, cronyism and corrupt collusion with the military leaders, and who are thus subject to US legal sanctions.

In sum, as Larkin (2015), Min and Kudo (2014) and others observe, Myanmar has numerous cronies and their capital accumulations under military rule have benefited from insider information and rent-seeking on many projects. As most of them appear on the SDN blacklist, and some are drug barons, they are seen as legally unacceptable for their corruption and financial crimes. Their corrupt practices and corrupt behaviours must be addressed.

[2.3.4] Anti-corruption through financial integrity and transparency

Myanmar has embraced fiscal and monetary policy concepts of financial integrity and fiscal transparency since 2012. Fiscal policy has been re-utilised for the first time in Myanmar after being ignored for 30 years. However, there are allegations and noticeable evidence of fiscal corruption in the country's revenue and expenditure accounts, discussed in Chapter 3.

The International Budget Partnership (2012, 2015), which promotes budget transparency concepts around the globe, gave Myanmar a score of 0 out of 100 in its Open Budget Index in 2012 and ranked it 2 out of 100 in 2015, as U Thein Sein's administration released its first-ever enacted budget document after four decades.

Jan Isaksen, an economist at U4, a Norway-based anti-corruption think tank, analyses corruption risk areas in various stages in the budget process and a country's fiscal management. Isaksen (2005) interprets corruption and budgetary process in this way:

> Corruption is one of the elements of fiduciary risk. Fiduciary risk problems may arise because of sloppiness, an inappropriate set of rules, or misunderstandings for which perpetrators will not be characterised as

> criminal or immoral. Corruption may be differentiated from other kinds of fiduciary risks by two criteria: There must be some sort of gain for the perpetrator(s), and the act leading to a gain for the perpetrator must be intentional. (2005:4)

Isaksen's budgetary corruption concept focusses on the expenditure side of public finances. He does not cover fiscal corruption related to taxation and the tax systems.

The World Bank reviewed Myanmar's public financial management (PFM) performance in 2013. Predictably, Myanmar's PFM is not stellar, with the state's tax-and-revenue-to-GDP ratio the fifth lowest of 188 countries (see Chapters 3 and 6). Myanmar's PFM outcomes were graded by the World Bank at D, D+ and C and C+ in the areas of credibility of the budget, comprehensive and transparent budget cycle, accounting, recording and reporting, external security and audit, and donor practices in 2012–13.

Corruption within the banking and public finance sector of a transitional economy is important. Myanmar recently re-enacted a Financial Institutions Law (2016) and allowed foreign banks to operate in the country from 2015. Myanmar's financial liberalisation – in particular, institutional and economic regulatory reforms – is also an opportunity to practise corrupt behaviours and money laundering, particularly by cronies. For this reason, financial transparency and financial integrity have become policy priorities for Myanmar's financial regulators. Levi and Reuter, leading scholars of money laundering and illicit economic conducts, suggest that

> [t]he array of institutions involved in anti-money laundering (AML) is impressive. The control regime in the United States has extended beyond banks, the original subjects, to a wide range of businesses such as car dealers, casinos, corner shop money transmission businesses, jewellers, pawnbrokers, and certain insurance companies. All these are now required to pay an active role in crime control through, inter alia, reporting on those customers whom they suspect of obtaining funds from crime or of using funds (whether from crime or legitimate sources) for terrorists activities (2006:290).

Fung et al. (2004:1) point out that

> [t]ransparency systems have emerged in recent years as a mainstream regulatory tool and transparency systems, as we define them, are government mandates that require corporations or other organizations to provide the public with factual information about their products and practices.

Lending corruption, forgery of bank statements, money laundering and insider trading can all be understood through classical principal and agent theory, where the agents (bank staffers) extract private benefits at the expense of the principals. Lending corruption and money laundering can both occur among top bank officials and lower-level staffers. For example, both top bank officials and lower-level loan managers can arrange to obtain kickbacks from customers and can interact with clients in several corrupt ways, including forging bank statements and facilitating insider trading. Examples of this in Myanmar are discussed in Chapters 4 and 5.

Through a game theory approach, Macrae (1982:678) suggests that corruption as an arrangement, which: '[a] private exchange between two parties (the demander and the supplier) which: (1) has an influence on the allocation of resources either immediately or in the future, and (2) involves the use or abuse of public or collective responsibility for private ends'.

In terms of capital flight and transnational money laundering, Baker (1999) analyses illicit financial flows in the international financial system and suggests some components of illegal capital flight, such as:

a. Corruption by foreign government officials, arising from misappropriation or embezzlement of public resources and bribes and kickbacks on government contracts paid into or accepted as deposits into foreign accounts;
b. Falsification of prices on import and export transitions in order to generate a percentage or even a multiple of the value of the trade that is then paid into a foreign bank accounts;
c. Real estate transaction and securities trades, often between related parties and improperly priced and paid for in order to shift money between countries, offer creative avenues for generating illegal flight capital; and
d. Wire fraud, particularly emanating from ostensibly respectable but criminally complaint banks, has become a major aspect of the problem, inundating western financial institutions with the proceeds of ill-gotten gains (1999:3–4).

[2.3.5] Anti-corruption by the FATF's AML/CTF

The Financial Action Task Force (FATF), established by the 1989 Group of 7 Summit in France, is the global standard managing body or regulatory agency for anti-money laundering and combating the financing of terrorism. In April 1990, the FATF introduced its set of 40 recommendations on money laundering, which was revised in 1996, 2003 and 2012 to keep pace with the criminal behaviours and activities of the intercontinental money laundering industry.

Levi and Reuter observe that ‘from small beginnings in 1995, by November 2005 the Egmont Group[32] contained 101 National Financial Units (FIUs) that meet internally developed criteria for receiving, analysing, and processing reports (including Suspicious Activity Reports (SARs) from the regulated institutions’ (2006:291).

After the 9/11 terrorist attacks in the USA, the FATF’s authority and mandate was expanded to include combating terrorist financing and it issued Eight Special Recommendations Against Terrorist Financing in 2001. After 2004, the FATF became one of the global financial regulators of anti-money laundering and counter terrorist financing after upgrading to Nine Special Recommendations Against Terrorist Financing. Among its various recommendations, FATF’s guidelines 12 and 22 (2013) identify key problems of financial crimes and money laundering, including customer due diligence (CDD[33]) and suspicious transactions reporting (STR[34]) within the banking and financial sectors, and define PEPs[35], individuals who hold or have been entrusted with a prominent public function.

Myanmar prior to the coup was under pressure from the FATF over its deficit of legal enforcement and financial regulation. After Myanmar was blacklisted by FATF as one of the ‘non-cooperative countries and territories’ (NCCT) in October 2001, Myanmar enacted the Control of Money Laundering Law (CMLL) in June 2002. The Central Control Board on money laundering and a Financial Intelligence Unit were created according to the CMLL and a legal framework for suspicious transactions reporting, customer identification and record keeping was introduced as a formal matter. Their practice is discussed in Chapter 5. Myanmar’s CMLL was modelled on

[32] https://egmontgroup.org/en/content/about
[33] Recommendation [from 5 to 12] addresses the concepts of Know Your Customer (KYC), Customer Due Diligence (CDD) and record keeping for banking and financial institutions.
[34] Recommendation [from 13 to 16] addresses Suspicious Transactions Reporting (STR) and compliance.
[35] No private firms or the state’s economic regulatory agencies have addressed PEP regulation in Myanmar.

the FATF Recommendations, United Nations Model Law and legislation in other ASEAN states (Joyce 2002; Sharman 2011; Hameiri & Jones 2014).

In 2006, Myanmar also joined the Asia Pacific Group (APG), a regional financial regulatory group, and invited the APG to evaluate its financial laws and regulatory policies (APG 2008). It was removed from the FATF's NCCT list in 2016. However, the Financial Crime Enforcement Network (FinCEN) of the US Treasury Department annually advises US financial institutions of their increased obligations under section 311 of the US Patriot Act, 31 USC 53189 (i), and has advised that

> Myanmar has taken steps towards improving its AML/CFT regime, including by clarifying the scope of the ML offence. Despite Myanmar's high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Myanmar has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain (FinCEN 2016).

Moreover, cronies in Myanmar are still sanctioned as SDNs by the United States. Section 5(c) of the Tom Lantos Act of 2008 authorises the Treasury Department to prohibit those SDN-listed individuals – and foreign banks if they hold cash or facilitate transactions for those SDN individuals – from accessing the US financial system. Currently, Myanmar addresses customer due diligence (CDD), politically exposed persons (PEP), suspect transaction reports (STR) and know-your-customer (KYC) requirements in legislation, but it has no regulatory requirements for compliance. Nor has it addressed those SDN-listed cronies and their corrupt behaviours in the system. These problems are discussed further in Chapters 5 and 6.

In this chapter, we have reviewed the ways in which corruption is conceptualised and defined internationally in primary legal instruments such as UNCAC, the FATF's 40 recommendations, and in the secondary literature internationally in disciplines such as economics, political science, and banking and finance. We have also seen how those definitions and concepts have been linked in anti-corruption discourse to evaluations of good governance and prospects for economic development in developing and transitional economies, notwithstanding a neo-institutional economics counter-narrative that suggests that corrupt practices are rational and perhaps efficient responses to transition. We also saw that corruption and anticorruption have been mobilised through bilateral and multilateral ODA providers and regional institutions to effect institutional change within developing and transitional economies. Prominent among those interventions are the establishment of anticorruption authorities (ACAs) and regional coordinating institutions.

[3] Corruption in Myanmar

Under global regulatory pressure, Thein Sein's administration enacted the 2013 Anti-Corruption Law of Myanmar on 7 August 2013. This law comprises 74 Articles and 11 Chapters. According to sections 3(a), (b) and (c) of Chapter 1, corruption is defined as:

> A. The misuse of his post by the competent authority for making to act something or to avoid the lawful act or to give the legal right to someone or to prohibit the legal right incorrectly, or giving, accepting, obtaining, attempt to obtain, proposal, promise or discussion by any means the corrupt from the relevant person for him, or other person, or organization directly or indirectly.
>
> B. Corrupt means accepting the consideration or appropriate value for the purpose of corruption without paying or given the currencies, properties, presents, services fees, entertainments and includes other illegal benefits.
>
> C. Enrichment by corruption means the enrichment due to the increasing of currencies and properties obtained from the corruption or reducing pay liabilities or wrongful gain the currencies and properties from exercising the official powers and duties.

In modern Burmese, corruption can be translated as *A-ga-ti-lai-sar-chin*, as noun and adjective. *A-ga-ti* comes from Pali. This is now generally translated as 'corruption'. There are four kinds of *A-ga-ti* in Pali literature, translated from the *Sigalovada Sutta* ('The Discourse to Sigala'), the layperson's code of discipline. The four forms of *A-ga-ti* as an evil act are:

(i) *sanda-ga-ti*, 'led by desire does one commit evil';
(ii) *daw-tha-ga-ti*, led by anger does one commit evil';
(iii) *ba-yar-ga-ti*, 'led by fear does one commit evil'; and
(iv) *mawha-ga-ti*, 'led by ignorance does one commit evil'.

These come from the collection of primary Pali language texts that form the doctrinal foundation of Theravada Buddhism. Theravada Burmese Buddhism is the dominant religious tradition in contemporary Myanmar, although Islam, Christianity and animist traditions are also widespread. Thus, *A-ga-ti* is widely translated as 'corruption' in modern Burmese. We should note, however, that Burma/Myanmar is a multi-ethnic state in which different ethnic nationalities speak different languages and dialects. Thus, their expression and understanding of a term such as 'corruption' may differ from that of the Burmese linguistic formulation and from those addressed in Burmese scholarly literature.

[3.1] How do international and local elites understand corruption in Myanmar?

Today, many types of corruption – in particular, speed-money or bribery – can be seen in the imperfect economic scenarios at many public financial institutions and within many economic sectors in Myanmar. So, for example, when political prisoners and prisoners of conscience in Myanmar pay a bribe for pencils and books to learn English in prison (where no prisoners of conscience are allowed to read or write), we might regard this as positive corruption. Nonetheless, differentiating between positive and negative corruption remains a heated debate between and among social scientists.

Definitions of corruption as behaviours that overcome market failure, institutional failure and government failure, particularly during periods of transition, resonate with the state of the Myanmar economy today. Deregulation, liberalisation and, especially, privatisation and fiscal decentralisation by Thein Sein's administration in Myanmar have generated more opportunities for grand corruption, cronyism, rent-seeking and economic crimes (discussed in Chapters 4 and 5). Public administrators in Myanmar request bribes (or 'tea money' in the local phrase) from domestic and international investors and encourage bribery and kickbacks as the price of entry to Myanmar's lucrative markets.

However, it is elite decision-makers, not provincial public servants, who are the architects of the significant policy problems that encourage such corruption – for example, large-scale military procurement, constitutional corruption, institutionalised cronyism and a dysfunctional banking and financial system. Contemporary Myanmar's political and economic transition is a contest of elites: the military cronies, the political opposition (which became the civilian government between 2016-2021) [36] and the multilateral policy-elites.

[36] Daw Aung San Suu Kyi's 'national reconciliation government' included only three former political prisoners or prisoners of conscience of the National Language for Democracy (NLD); the rest comprised military-cronies, who have hijacked and/or never participated in the Burmese democracy and human rights movements of the last three decades. Daw Suu, as the State Counsellor, negotiated with the hardline Generals and cronies to form her cabinet to succeed the elite-led transition of November 2015–March 2016.

During this elite-led transition, the terms ‘corruption’ and ‘anti-corruption’ were noisily articulated by many of Myanmar’s political elites, including State Counsellor Daw Aung San Suu Kyi, former President U Thein Sein and three former speakers of the Parliament, U Shwe Man, U Khin Aung Myint and U Win Myint. Initially, as a political prisoner, Daw Aung San Suu Kyi argued that

> it is not power that corrupts but fear. Fear of losing power corrupts those who wield it and fear of the scourge of power corrupt those who are subject to it (Aung San Suu Kyi , The Washington Post, October 15,1991).

Decades later, as the leader of the NLD opposition during its campaigns in 2012–15, she promised that anti-corruption would be one of the top policy-priorities of a new government.

On the other hand, in his inauguration speech on 30 March 2011, General (now ex-president) U Thein Sein also assured the country that ‘the government of Myanmar will fight corruption in cooperation with the people as it harms the image of not only the offenders, but also the nation and the people’ (New Light of Myanmar, 31 March 2011). In the same vein, the military’s psychological warfare strategist (now former Speaker), U Khin Aung Myint proclaimed: ‘Fighting rampant corruption is the most important issuing facing Burma today’. Likewise, a third General turned politician, U Shwe Man, declared that ‘no one should be above the law’ after ousting Prime Minister Khin Nyunt in 2004.[37] U Win Myint, the then-Secretary of the Committee for Rule of Law, Peace and Tranquillity of the Lower House (and now the President of Myanmar, 2018–), said that ‘the Committee is presenting its proposal for an anti-corruption commission to Parliament for consideration during their upcoming session’ (Mizzima 2013).

Due to the deficit of trust and meritocracy within contemporary society, Myanmar has multiple types of corruption. There was also a loss of trust between the military and the civilian population before the 1988 democracy uprisings, due to the military-led Burma Socialist Program Party (BSPP) government’s demonetisation of currencies in the years 1985–87, the military massacring unarmed civilians in 1988–89 and the BSPP’s failure to honour the result of the 1990 multiparty elections. Moreover, the 2008 Constitution allows the military to control key ministries such as Home Affairs,

[37] On the political history of rule of law as a concept in Myanmar, see Cheeseman (2015).

Border Affairs and Defence,[38] which may not be controlled by elected civilians. No civil, political or economic institution in Myanmar can regulate the military, including its corruption and misconduct. This remained true even after the election of the NLD government in 2016 and was demonstrated in the military coup of 2021. Presently, laws, rules, regulations and restrictions imposed by the state's institutions are conflated with the personal interests of military cronies. In contemporary Myanmar, 76% of the total population work in the agriculture sector, per capita GDP is below USD 1105 and life expectancy is less than 65 years. The government's revenues come from less than seven per cent of taxpayers, one of the lowest tax collection rates in the world (discussed in Chapter 6). This is the legacy of regulatory discrimination and kleptocratic governance by the nexus of military cronies.

Moreover, according to the SPDC Law No. 10/2011, 'no person or body may inquire into or audit spending under the Special Fund Relating to Necessary Expenditures for Perpetuation of the State Sovereign Law' (which is addressed further below). As no one can monitor and audit the state's expenditure and spending, it seems unreasonable to expect line-ministry bureaucrats to self-regulate in ways that would be consistent with the rule of law. This thesis suggests that rational-choice and principal–agent theorists should focus on constitutional corruption and the military's procurement corruption within Myanmar, instead of advocating for the adoption of strategies and policies that emphasise petty corruption.

Ironically, during Myanmar's transition, international and local policy elites targeted low-wage workers or salaried bureaucrats in the private and public sectors as sources of corruption, while ignoring the nexus of military cronies. Until recently, corruption was a taboo policy issue because there was no mechanism to monitor and report the elites' or the military's corrupt behaviours. History shows us that the generals manipulated corruption as a tool for eliminating rivals during their power struggles by: (1) ousting opponent generals; (2) cashiering disloyal junior officers; and (3) targeting civil servants at the state-owned enterprises (SOEs).

[38] The civilian leaders of Myanmar needed to modernize the Myanmar's military in order to reduce wasted taxpayers funds, the military's procurement corruption and to build a trusted professional institution, as it is a public good.

Former Prime Minister Khin Nyunt and hundreds of his military intelligence servicemen were prosecuted for corruption in 2004. A number of public servants of the Customs Department of the Ministry of Finance were targeted for prosecution for receiving kickbacks and bribery every year. Paradoxically, the same military and cronies who (temporarily) exchanged their uniforms for civilian garb parroted anti-corruption rhetoric while opening up Myanmar to foreign investment that is likely to benefit them.

Among Myanmar's public institutions and economic regulatory agencies, the majority of executive positions out of an estimated 1.8 million civil service posts can be sold to ex-military personnel. According to Chapters I (section 20), V (sections 200–204) and XII (sections 340 and 342) of the 2008 Constitution, the military Commander-in-Chief has more power than the President of Myanmar, who does not have the right to independently administer and adjudicate all affairs of the armed forces and is not the supreme commander of all armed forces in the country. Thus, Myanmar's estimated 500,000 armed forces personnel, 70,000 police and unconfirmed numbers within people's militia are not managed and governed by the elected President and (the ousted) civilian leaders of Myanmar. Are they public servants, serving Myanmar's people and the state? Can they -- and the 2008 Constitution -- be trusted while drafting laws with a gun rather than a pen?

As further evidence of the problem by 2020 86% of high-ranking decision-makers[39] (including diplomats and ambassadors) in the state's regulatory bodies were, in fact, ex-military officers and part of the military–cronies nexus. The result is that trust, meritocracy and willingness to serve for the public good at private and public institutions are weakened. As the state's policy institutions are regulated by the military's command and control style of regulation,[40] nepotism, rent-seeking, cronyism and bribery have become necessary to counteract regulatory discrimination and kleptocratic governance. Opportunistic corruption thus becomes a bread-and-butter job for every citizen in Myanmar. As there is no free and fair competition

[39] In accordance with section 443 of Chapter XIV of the 2008 Constitution, and Law No. (24/2010) of the State Peace and Development Council, the Union Civil Service Board Law and the Union Civil Service Board were established to bring the Constitution into operation. Available at http://www.ucsb.gov.mm/en/

[40] Swe Win (30 Jan 2019), How ex-military personnel trained civil servants including educators, doctors and engineers. *Myanmar Now*, https://www.myanmar-now.org/en/news/the-tatmadaw-is-the-mother-and-the-father-inside-the-militarised-schools-training-myanmars (accessed on 7 May 2019).

policy, property rights or anti-trust law in the business community, incentives for income and capital accumulation are linked to a mutually beneficial relationship with the elite generals and their cronies.

An early scholar of corruption in Myanmar, Peter Perry, offers two insights about the country's corruption problems:

> Burma may not have much actual rule of law, but it has rules and laws to excess. Proliferation, complexity, and uncertainty of operation are the environment in which corruption thrives and corruption itself certainly favours the third of these. The nature and extent of private gain-driven deviance from the letter of the law are certainly worth talking about. Second, even without real law, the concept of public interest as opposed to private gain is not meaningless. Nor is the idea of conflict implicit in the definition. (2005:187)

Following a similar analytical trajectory, B.K. Sen, an executive member of the Burma Lawyers' Council (BLC), asserts that '[c]orruption is organised crime. An insidious corruption influence has plagued the country's political, economic and social life for too long. The same basic principle applies in dealing with corruption in all levels, transparency and consistency in law enforcement without fear or favour' (2005:35). Sen further asserts:

> The cause of corruption action at the bureaucratic recruitment, retirement and transfer stages can be illegal payments; grant of licenses, permits, contracts depend on payout of money by the business sector; getting bail, getting acquitted or reduction of sentences depend on how much one can pay in the judicial sector; revenue-earning agencies like home, passports, customs can make revenue; admission to hospital, avoiding or delaying operations an administration of medicine in the public health sector; students are forced to take private tuition and the teachers are generally these who conduct the examinations at the education sector. (2005:35)

Echoing arguments from the mainstream anti-corruption rhetoric, U Myint asserts that

> Lack of transparency, accountability and consistency, as well as institutional weakness such as in the legislative and judicial systems, provide a fertile ground for growth of rent seeking activities in such a country. In addition, the rise of the underground economy and the high social costs associated with corruption, its adverse consequences on income distribution, consumption pattern, investment, government budget and on economic reforms are discussed. (2011:33)

In sum, all the above factors and types of corruption are present in contemporary Myanmar. The political elites of Myanmar were replicating the rhetoric of international concepts and discourse in the years 2011–16. These elites, comprising military cronies, do not really understand what corruption really means in society. The multilateral development workers and policy elites imported concepts of corruption and governance for their project purposes and employed the family members of the (previous and present) military elites at their project-oriented agencies. Anti-corruption campaigns were poorly defined in Myanmar's anti-corruption movements in the years 2011–16. My fieldwork data, introduced in the following chapters, suggest that re-building trust, reducing kleptocratic governance and discriminatory regulations, and enhancing the capacity of regulatory agencies matter in Myanmar. Finding ways to better regulate 'corruption' requires attention to creating high-quality, trusted regulatory institutions that matter to both domestic and international policymakers.

[3.2] What are the most pervasive forms of corruption in Myanmar today?

In a profound sense, the most pervasive form (or source) of corruption in Myanmar is the 2008 Constitution itself,[41] because it created two parallel institutions at every level of governance, regulation and control in the country. According to Article 20 of the Constitution, '[t]he Defence Services has the right to independently administer… all affairs of the armed forces'. This creates a hybrid society of two parallel power structures: the quasi-civilian administration and the military. There is a recognisable demarcation line between civil and military institutions. The 3700-plus laws and regulations in Myanmar are practised differently for the military and the civilian domains. As such, rules and regulations are differently applied to each group, meaning corruption and bribery can occur differently. Myanmar is not unique in having this kind of constitutional corruption – the normalization of military coups in Thailand and the 'dual function' involvement of the military in every part of the economy and politics in pre-democratic Indonesia are related examples.

[41] In this thesis I introduce the idea of constitutional corruption, which has remained largely unaddressed in the literature on corruption in Myanmar. Because the Constitution itself is corrupt, nothing can be repaired through legislation, as the Constitution is the mother of all laws in Myanmar. Militarized provisions in the 2008 Constitution include the following: 6(d, f), 14, 17(b), 20(b, c), 26(a), 39, 40(c) of Chapter1; 57, 59(c, d, f), 60(b;3), 63(c), 61(a, b, c), 62, 63, 64, 65, 66, 67, 68, 69, 71(a, b), 72, 73(a, d, f) of Chapter 3; 74(a, b), 100(b), 109(b), 115(b), 121, 124(a ,b).

The second most pervasive form of corruption is kleptocratic regulation, i.e. the special funds and expenditures for perpetuation of the State Sovereignty Law (SPDC Law No.10/2011, also called the Special Fund Law). Turnell suggests that,

> [t]he Special Fund Law gives the Commander-in-Chief of the armed forces in Myanmar the right, not just of absolute control and discretion over unlimited funds for the perpetuation of national sovereignty, but also freedom from any person or organization (including the parliament) questioning or seeking to audit their use. (2012:147).

I suggest that to reduce the military' procurement corruption, the expenditure and revenue of the armed forces ought to be regulated legally. The military has its own economic institutions, such as Union of Myanmar Economic Holdings (UMEH) and Myanmar Economic Cooperation (MEC), which have not been lawfully regulated and do not belong to the State Economic Enterprises (SEEs). The State Fund Law (2011) ought to be either re-regulated or abolished. Without re-regulating such a fund, no economic agency or agents in the economy will trust the state and its institutions, or willingly obey the law of the state, since the military and its commercial operations are effectively insulated from any financial regulatory oversight.

Corruption of many other kinds is currently endemic in Myanmar and there have been several studies on how this affects sectors such as extractive industries (EarthRight International 2009; Global Witness 2003, 2015; Wood & Canby 2011) and about petty corruption in state institutions (Irrawaddy 2012). There is also ample indirect evidence of grand corruption perpetrated by political and military elites (Parry 2005; Sen 2005; Steinberg 2005; Min 2009). However, the regulation of grand corruption and financial crime in Myanmar is understudied, even though it is visible at the highest levels of Myanmar's government and in many of its regulatory agencies.

Just one year after the inauguration of U Thein Sein's government in 2011, the 2009–11 Auditor-General's report – Myanmar's first-ever – for was handed in confidence to the Parliament's Public Accounts Committee. Some findings from the report were published as 'Auditor finds billions of kyat misappropriated by some ministries' by the *Voice Weekly* journal (in Burmese) and were covered by Democratic Voices of Burma (DVB) and the Irrawaddy News Agency Group (Irrawaddy), becoming an international headline in 2012 (DVB 2012; Irrawaddy 2012).

The six ministries alleged to have misappropriated funds in 2011 were the Ministry of Information, the Ministry of Co-operatives, the Ministry of Agriculture and Irrigation, the Ministry of Mining and the Ministries of Industry No. (1) and No. (2), who participated in the misuse or mismanagement of hundreds of millions of dollars of state funds. Those six ministers were also branded as military hardliners. Nobody knows who actually leaked this report, and no cabinet minister was arrested for corruption in the first year of U Thein Sein's administration, but it was reported that '[Auditor-General U Lun Maung] allegedly submitted an informal audit directly to lower House Speaker Shwe Mann, a report that is meant to be sent directly to the President' (Irawaddy, 2013). Consequently, U Lun Maung was permitted to resign by President Thein Sein on 28 August 2012 (Order No.24/2012).

A resignation order in Myanmar is interpreted as sacking or firing by the state. The Ministry of Mining filed suit against the editor of *Voice Weekly* for creating misunderstanding between the Ministry and the public, but the case was subsequently dismissed after global media pressure. Just after the Auditor-General's report was submitted to Parliament, the political elites of Myanmar – such as Speakers U Shwe Mann and U Khin Aung Myint – provided anti-corruption comments to the media. For example, 'U Shwe Mann agreed to discuss forming a parliamentary anti-corruption commission' (Irrawaddy 2012) and Upper House Speaker U Khin Aung Myin revealed that 'he has approved the Public Account Committee of Parliament to investigate how ministries spend their budgets, and the legislature will urge the government to take action where needed' (Irrawaddy 2012).

Additionally, three high-ranking military officials were allegedly reshuffled as a result of corruption charges during Thein Sein's 2011–16 administration. They were: (1) ex-Major General Kyaw Phyo, the Inspector and Auditor-General of Myanmar's armed forces, who was forced to resign following a corruption investigation in August 2011; (2) ex-Major General Thein Tun, a former telecommunication minister, who was expelled for corruption reasons in 2013; and (3) ex-Major General San Sint, a former Minister for Religious Affairs, sentenced on 17 October 2014 to 13 years' imprisonment on charges of criminal breach of trust and sedition.

Among these three high-ranking military officials, Kyaw Pyo's case was closed to the public due to the fact that he was a serving high-ranking military officer. Thein Tun was the first cabinet minister investigated by the Bureau of Special Investigation (BSI) over corruption allegations. Thein Tun's corruption emerged after a disagreement between the Minister for Posts and Telecommunications and President Thein Sein in 2013 over the price regulation of a new SIM card (Irrawaddy & AP 2013). As usual, it was not known whether Thein Tun faced legal action, as the legal reasoning of Thein Tun's corruption trial has not been disclosed. Surprisingly, two years later Thein Tun contested the 2015 elections, representing the military backed USDP after his alleged involvement in corruption had faded from the media and public memory. In a lawful jurisdiction, if there was a corruption allegation then he/she would have faced some kind of legal action, but law enforcement in Myanmar is ambiguous at best.

The only cabinet minister who has been sentenced for corruption to date is U San Sint, a former Minister for Religious Affairs, over a controversial monastery case. He was given a three-year sentence for criminal breach of trust under Article 409 of the Penal Code and 10 years plus a 100,000 kyat (MMK 100,000; USD 100) fine for sedition under Article 124A of the Penal Code (Radio Free Asia 2014). U San Sint had actually been outspoken against corruption within his constituency, and it was widely assumed that his prosecution was prompted by disloyalty to the President. These three cases cast considerable doubt on U Thein Sein's anti-corruption campaign of 2011–16.

[3.3] What kind of international policy interventions have been developed in response to Myanmar's corruption?

My fieldwork data suggest that two kinds of transnational policy interventions are favoured by global policy elites in response to the kinds of corruption challenges described above. The key policy tools of global policy elites are: (a) legal transplantation through rule-of-law training; and (b) Myanmar's Anti-Corruption Commission (ACCM), imported as a direct policy approach to combatting administrative corruption.

However, neither of these policy approaches addresses the military's procurement misconduct, the root of military-cronyism. Most policy interventions target public servants, while the armed forces of Myanmar (including at least 22 ethnic armed organisations and militias) are ignored. Of course, policy interventions for public institutions are appropriate since the regulatory capacity of the state is failing. However, Myanmar needs to catch up with modern policy instruments for regulating arms procurement corruption, political corruption, electoral corruption, grand corruption and campaign financing corruption. Myanmar desperately needs the ideas of trusted regulatory agencies, regulatory responsibility and democratic accountability. To date, however, there is an evident mismatch between the global policy tools recommended and the impunity enjoyed by the military and their cronies, such as those discussed above. This is explored further in Chapter 4.

[3.4] Why are international elites concerned about corruption in Myanmar?

The aggregated negative externalities, such as the marginal social cost and human loss, of corruption in Myanmar are yet to be calculated. Generally, the social, political and economic consequences of corruption in Myanmar are described by Findlay (2005:257), who indicates that 'the experience of Burma for most of the second half of the twentieth century has been one of the tragic failure, with political repression and economic stagnation mutually reinforcing each other in a vicious downward spiral'.

In 2018, Myanmar was ranked at 149 out of 187 countries on the United Nations' Human Development Index, lower than its neighbours Laos, Vietnam and Thailand, all of which fell into the 'medium' human development category. It is estimated that 2.2 million Burmese documented and undocumented migrant workers are struggling in dirty, dangerous and difficult jobs in Thailand, while a further approximately 5.5 million Burmese constitute a global diaspora; in aggregate their remittances amount to approximately USD 10 billion, which equates to ten per cent of Myanmar's total GDP.

Most of the aggregated quantitative global indicators have for decades placed Myanmar among the lowest-ranking countries. Life expectancy at birth of Myanmar is 65 years for males and 68 for females, the lowest figures in South East Asia. Although quantifying the cost of corruption in Myanmar – particularly grand corruption – is difficult, there is no difficulty drawing a line between the misappropriation of public funds and the lack of public expenditure on basic needs for citizens, including health and education and disaster relief.

[3.5] Why is the governance of public finance so important?

Myanmar's fiscal corruption created headlines in domestic and international media after censorship of the media was lifted in 2012. Expectations among the people of Myanmar were high, and the state's institutions were under pressure to provide more transparency, responsible governance and accountability. The governance of public finance is important because there is approximately USD 20 billion (one-third of Myanmar's total GDP) budgeted for the government's public institutions, while the service provision and economic wellbeing of the people of Myanmar have not improved. At least until the coup, multilateral institutions and non-state actors were increasing their pressure on Myanmar's political elites to enact more transparent and accountable budgeting processes.

After Lun Muang's resignation on 28 August 2012, Thein Htaik Oo became the Auditor-General of Myanmar. He revealed his findings on the misuse of funds and financial irregularities in state economic institutions and the ministries during the first Parliamentary sitting on 1 April 2013. According to his report, from 1 April 2011 to 30 September 2012, misuse, overspending and fraudulent handling of allocated budgets and revenues was uncovered in 15 ministries. The report outlines 47 cases of budgetary lapses, resulting in misappropriations worth tens of millions in US dollars.

Phyo Min Thein, the then-Secretary of the Banks and Monetary Affairs Development Committee (now the Chief Minister of Yangon Division) announced: 'The country sees various forms of corruption and briberies. I would like to highlight the state budget. The law says the use of state funds is to be accordance with laws, rules and regulations' (News Eleven, 2015). [42] The Finance Committee was chaired by ex-President Thein Sein, while two vice presidents served as vice chairmen. The Committee allotted budgets to the ministries, then the Auditor-General's office audited the expenditure of the allocated funds. The second biannual audit report for the 2013–14 fiscal year covers more than 400 pages and highlighted that government ministries failed to follow the rules and regulations in spending their budgets. (Eleven Myanmar, 2015).

[42] https://elevenmyanmar.com is one of the English news outlets of the Eleven Myanmar.

Thus, it is essential to increase the quality of regulation and governance of public finance because Myanmar's fiscal corruption underpins its poverty, inequality and failure of trust. Public officials must take legal responsibility and be accountable if they fail to deliver their public responsibilities. They must resign from the office, as is the practice in developed nations. These cases are discussed further in Chapter 4.

[3.6] How does this relate to the banking sector?

High-ranking public officials also benefit from illicit transactions in the banking sector, including earning interest income on public moneys deposited at private commercial banks. It is still unknown who has taken the interest on these deposits.

A number of both private and public banks in Myanmar are suspected of participation or involvement in illicit financial activities, such as the narcotics trade and money laundering activities as well as holding deposits for interest in the manner described above. My data suggests that Myanmar's private commercial banks are currently operating as correspondent banks via Singapore and Hong Kong (unlike the retail commercial banks, which can operate globally) due to section 311 of the US Patriot Act (discussed in section 2.3.5 above). Under that provision, for Myanmar to be integrated into the global financial and monetary system, its Specially Designed Nationals and identified cronies must undergo ten types of due diligence analysis[43] as well as a know-your-customer (KYC) processes including electronic KYC (known as 'e-KYC'). In other words, Myanmar needs to clean up its financial and banking system before it can integrate into the global framework.

[3.7] Conclusion

This chapter has reviewed the major forms of corruption prevalent in Myanmar today – particularly forms of grand corruption and regulatory discrimination. Some of the domestic narratives about corruption in Myanmar were surveyed, many of them drawing on international definitions of corruption. In doing so, a gap between political leaders' embrace of anti-corruption narratives and the almost-total absence of enforcement against genuinely corrupt elites has been identified. The next chapter

[43] A common typology of due diligence (DD) includes: (1) Administrative due diligence; (2) Financial due diligence; (3) Asset due diligence; (4) Human Resource due diligence; (5) Environmental due diligence; (6) Taxation due diligence; (7) Intellectual Property due diligence; (8) Legal due diligence; (9) Customer due diligence; and (10) Fit and Proper due diligence. See further in Chapter 7.

links these definitions to Myanmar’s fiscal corruption in the public financial management and budget sectors.

Ch.4 Fiscal corruption and Myanmar's public financial management

> 'The problems are that the ministries do not have their own public policy. The parliament has not debated about policy and policy priorities.' (P-15).

[4.1] Introduction

Despite Myanmar's public financial management system undergoing reform during U Thein Sein's administration (2011–16), a persistent policy issue is that public funds are not treated as public goods – they are continually targeted for private use through corrupt practices. Myanmar's public officials use their legal authority for individual benefit during the budget cycle. The process of budgeting is the most important part of resource mobilisation through which fiscal policy objectives[44] are realised for delivering public goods[45] and reducing corruption. Applying Isaksen's (2005) concept of fiscal or budgetary corruption, this chapter describes Myanmar's fiscal corruption as a feature of the design, execution, mobilisation and reporting of public finance and of procurement using public funds.

Although corruption among public officials in Myanmar is a by-product of poor governance, I argue that fiscal corruption in Myanmar is particularly concerned with the state's regulatory deficiency, and failures of trust and legal compliance. It has increased during the transition period due to laws and regulations changing, but also remaining opaque.

The main cases, patterns and origins of Myanmar's fiscal corruption are presented below after an examination of the official reports of the first Union Parliament (2012–

[44] In democracies such as the USA, Australia and New Zealand, fiscal policy prioritizes either fiscal expansion or fiscal contraction after calibrating inflation, taxation, government spending, deficit, debt, GDP growth and employment and money supply. See more on budgeting in Australia at https://www.budget.gov.au and more advanced discussion of fiscal policy at https://www.nber.org/papers/w2855.pdf

[45] Public goods are a good and services that are non-rivalry and non-excludability and which cannot be supplied by a private firm alone. Examples of public goods are the law enforcement agencies, armed forces, courts and natural endowments such as rivers, mountains, forests and parks that cannot be polluted or diluted. Externality affects not only public goods, but also climate and environment, as there are negative externality and positive externality effects on climate, environment and people.

16). The main issues of fiscal corruption analysed in this chapter are regulatory deficiency, trust, professionalism, ethics and integrity failure and poor legal enforcement. An in-depth investigation of specific cases of fraud and fiscal corruption is beyond the scope of this thesis, particularly given that Myanmar had 30 line ministries, 47 state economic institutions and 15 central agencies as well as 14 sub-national governments and six self-autonomous regions in the period 2011–16.

Public financial regulations are outdated in Myanmar, with the regulatory structure of Myanmar's fiscal system remaining unchanged since 1963 (PAC 1/2016:8). After reviewing Myanmar's public financial management in 2012, the World Bank provided coaching to set up a US-style Treasury, while the International Tax and Investment Centre (ITIC) initiated a project for collecting special commercial tax (SCT), goods and services tax (GST) and value-added tax (VAT). The World Bank provided USD 30 million in development assistance for reforming Myanmar's financial management project, an initiative that was also co-funded by a grant of USD 20 million from the United Kingdom's Department of Foreign Affairs and Development and by Australian Aid (San San Oo 2016:10). However, the lack of an accountable, credible and transparent budgeting process in Myanmar remains a problematic issue.

A contributing factor is that Myanmar has a technology and talent scarcity due to under-investment in public goods. After the initial election of the NLD in 2012, donors including UNDP, IMF, and USAID invested in good governance programs and training in Myanmar that included integrity training and ethics. Civil society organizations also worked with Members of Parliament on integrity and ethics. However, that relatively short program of training was arguably insufficient to combat the more deep-seated deficits in human resources in the public sector. For decades, less than two per cent of total GDP was spent on education. As a result, the state's regulatory agencies are unable to combat many types of corruption due to a lack of political will, education and technology. Their capacity and techniques for reducing corruption through fiscal management are weak. Myanmar needs strategic masterplans for controlling corruption and graduating from the list of least-developed countries.

A bright spot is that public policy concepts such as budget transparency, asset disclosure, freedom of information, fiscal federalism, gender responsive budgeting, the right to know, anti-corruption and the citizen's budget have been openly debated in the country in recent years. The Office of the Auditor-General[46] (OAG 2012–13) is a key monitor, formally auditing fiscal corruption in an attempt to achieve a credible budget. The OAG is mandated by the Auditor General of the Union Law (2010, 2013, 2014), which establishes its powers and accountabilities. It estimated that every MMK 1 (USD 0.001) investment in the OAG could generate MMK 25 (USD 0.025) in profit for the country (PAC 2/2014:8). Yet, the OAG has no legal and regulatory mandate to audit and monitor any revenue of or expenditure by the Ministry of Defence or the Special Fund.

This chapter is structured using both restricted reports and published records by public institutions in Myanmar, including the Public Accounts Committee, the Bill Committee, the Planning and Finance Committee, the Monetary and Customs Committee, the Ministry of Finance, the Ministry of National Planning and Development, the Research Department of the Parliament, and the OAG, together with other policy documents collected during fieldwork conducted from 2014 to 2017. The chapter focusses on corruption of public finance and uses the policy concept of fiscal corruption. Fiscal corruption encompasses the abuse and misuse of a government's revenue, expenditure and taxation by and within public policy institutions. The research data suggest that Myanmar's fiscal corruption can be seen annually in both its recurrent budget and capital budget. This fiscal corruption triggers fiscal risk for Myanmar and is a threat to future generations.

This chapter is divided into five sections. Section 1 discuss budgeting in Myanmar during its transition. Section 2 debates the root causes of fiscal corruption in the public financial sector, while Section 3 describes recent cases of fiscal corruption. Section 4 explores the role of banks in money-based corruption and suggests that it is important to regulate banks to reduce fiscal corruption in the public finance sector.

[46] According to Section 242; (a), (b), of the 2008 Constitution, the Auditor General and Deputy Auditor General of Myanmar are appointed with the approval of the Parliament and the President (who must be 45 years old and has been continuously living in the country for 10 years) to audit the state budget and report to the Parliament, not directly to the people.

Finally, Section five draws conclusions and presents nine policy priorities for Myanmar's public financial management, in particular for reducing fiscal corruption.

[4.2] Designing budgetary systems in Myanmar

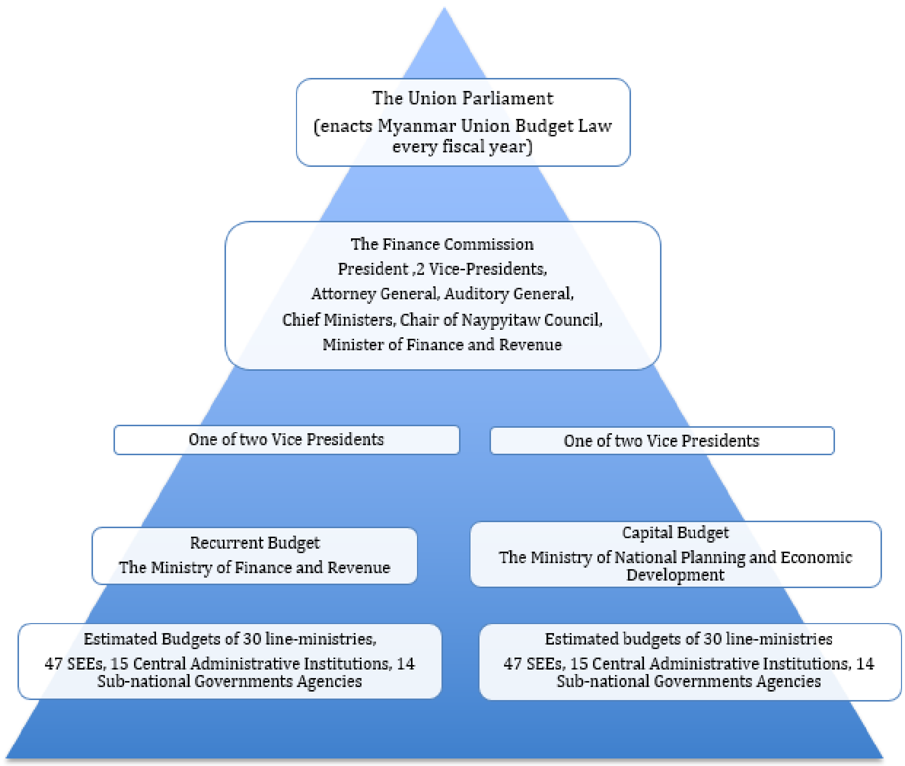
The governance of budget systems[47] in Myanmar is legislated annually through the Union Budget Law (e.g. 2012 Union Parliamentary Law No.6, 2013 Union Parliamentary Law No. 12). The budget department of the Ministry of Planning and Finance (MoPF) – formerly the Ministry of Finance and Revenue (MoFR) – designs the country's budget and drafts a proposed Union Budget Law for every fiscal year. The Finance Commission was formed under Article 229 of the Constitution on 30 March 2011. The Parliamentary debate of budgets has been publicised since 2012. As Figure 4.1 below shows, a budget law for each fiscal year is legislated for the expenditure and revenue of the spending ministries and central administrative agencies. The 2008 Constitution has provided for a fiscal decentralisation policy since the fiscal year 2011–12 (World Bank 2012; Kyaw 2015; Oo et al 2015; GIZ 2016). Thus, according to Sections 100(b), 103, 190(b), 193, 220, 221, 222, 229–230, 231 and 241–245 of the Constitution, the budget of Myanmar is made through a hybrid device of centralisation and decentralisation of fiscal management methods. A centralised budget is developed for state economic enterprises, 30 line ministries, and 15 central executive bodies. A decentralised budget is aimed at legislative and executive bodies of the 14 sub-national governments. As a result, there are operational obstacles and functional tensions (World Bank 2015:xv) between the centralised budgeting and decentralised budgeting and between recurrent and capital budgets.

The budget formulation process in Myanmar up until the coup was as follows. A National Budget Bill for the fiscal year is submitted in January to the Parliament and is regulated for revenues and expenditures by the President's Office, the Cabinet, the Union Parliament, the Attorney-General's Office, the Constitutional Court, the Union Election Commission, the Office of Auditor General, the Union Civil Services Board, line ministries and directories, state economic enterprises (SEEs), the Special Fund, the military's Municipality Development Organisations, Naypyidaw Development

[47] Myanmar's budget systems are managed as dual budgeting systems as recurrent budget and capital budget in different stages of the budget cycle. This author suggests that Myanmar needs to integrate its recurrent and capital budgets, including institutions and the management of budget preparation.

Council, Naypyidaw Municipality and the Central Bank of Myanmar (the Monetary and Customs Committee 2015:3). Daw Aung San Suu Kyi's administration promulgated the Myanmar Financial Management Regulations[48] (35/2017) after abolishing the former[49] Ministry of Planning and Finance's notifications (42/1986).

Diagram 4.1 The governance of the budgetary system in Myanmar, as of March 2018



Apart from the budget for the military and its economic agencies, the President of Myanmar acts as the 'fiscal sovereign' and has assigned to the two Vice Presidents the task of formulating and reporting the budget. Technically, the budget department

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[48] The transitional regimes of Myanmar are minimally imputing regulatory concepts such as transparency, accountability, responsibility and efficiency in different stages of budgeting systems. Available at: https://myanmar.gov.mm/documents/20143/9099620/Financial+Rules+and+Regulations_+English.pdf/4bc6f550-1328-0cd6-6eb1-298a427353a4

[49] After the Daw Aung San Suu Kyi-led 'national reconciliation government' was inaugurated on 30 March 2016, the MoFR and the Ministry of National Planning and Economic Development (MNPED) were merged as the Ministry of Planning and Finance (San San Oo 2016:23).

of the MoFR crafts the recurrent budget and the foreign exchange budget, while the MNPED plans the capital budget and reviews investment proposals to include in the budget (Kyaw 2015:3, Oo et al 2015).

After discussion by MoFR and MNPED on the proposals and estimates from the line ministries and SEEs, the projected budget is submitted to one of the two Vice Presidents. Similarly, the budgets of sub-national and territory governments are also prepared by submitting them to one of the Vice Presidents. The two Vice-Presidents then submit the estimated budgets to the Finance Commission of the Parliament. There is neither a budgetary committee nor an ethics committee of the Parliament at present due to the 2008 Constitution does not provide a legal mandate for formation of a budget committee. Thereafter, the 21 members of the Finance Commission submit these budgets to the Parliament with recommendations. Afterward, the Public Accounts Committee (PAC) re-examines the OAG’s reports and submits them with its analysis and recommendations to the Parliament. After getting approval from the Parliament, the President signs this as the Union Budget Law for executing the budget.

The structure of the budget in Myanmar officially has four elements: the Union budget, the Development Fund, the SEEs and a number of ‘other accounts or off-budget accounts’ that are not consolidated into the budget, including the budget for the military. The revenues of government come from taxes and duties, the SEEs and ODA from international governments and multilateral institutions (Thein 2011:5).

The budget cycle of Myanmar formerly ran from 1 April to 31 March; the NLD government[50] changed this to 1 October–30 September to promote budget transparency in line with international practice. The budget estimates of the line ministries must be submitted to the budget department of the MoPF (formerly of the MoFR) no later than October and the supplementary budget must be submitted no later than 30 September of each fiscal year. Hence, Myanmar’s budget formulation process for the next fiscal year begins in September. The estimated budget is submitted to the Parliament in January for scrutinising within two months. The budget

[50] The NLD government introduced a 12-point economic policy as the state economic policy; the NLD’s fiscal policy was designed with 5 points framed on revenue and taxation and 7 points constructed on investment and expenditure.

cycle in Myanmar has only four stages, (a) budget planning, (b) budget formulation, (c) budget execution and (d) budget reporting.

Since 2014, macroeconomic forecasts and fiscal policy targets have been utilised in the budgeting processes (Kyaw 2015). Since 2015–16, the Ministry of Finance has established a medium-term fiscal framework for the next fiscal year's budget, in line with fiscal policy input from the World Bank. However, modern fiscal policy concepts such as a policy-based budget, a participatory budget or a performance-based budget are lacking. Myanmar requires fiscal discipline, fiscal stimulus, fiscal policy debate and performance-based budgeting if it is to combat fiscal corruption and its fiscal deficit. The lack of credibility, transparency and accountability in Myanmar's budget process leads to a misalignment of policy priorities and fiscal spending, as the budget is significantly remade during the year (World Bank 2013:5). Public accountability and budget transparency is usually low, due to the fact that the public cannot access the fiscal and monetary data of the budget cycle. The citizens of Myanmar are not given legal options to participate in the processes of fiscal policy and fiscal transparency.

Unlike other countries, the outcome and performance of budgeting in Myanmar are not compared with, or comparable to, any budgeting system in the world. There is limited knowledge of the concepts of fiscal management and budgetary procedures. In contrast to global standards, formulation and execution of Myanmar's budget is prioritised on the basis of defence and security rather than beginning from a macroeconomic outlook, fiscal strategy and revenue forecast. The budget allocation of the Ministry of Defence, including the Military Municipality Development Committee and the military's economic institutions, is historically not published. Cost–benefit analysis and cost-effectiveness analysis (CBA/CEA) ought to be applied to the spending ministries and, in particular, the military's budget should be monitored and regulated by the President and the parliaments of Myanmar. Thein Sein's administration made the first-ever public announcement of the estimated defence budget for 2012–13, at MMK 1.3 trillion (approximately USD 1.4 billion), but no one knows exactly what the actual defence budget is.

As shown in the Table 4.1, Myanmar's government budget is estimated at around USD 18 billion with USD 69 billion of total GDP, but the country lacks a modern public financial management law, procurement law, public debt management law or an organic budget law. Due to its narrow revenue base (compared to other countries) and other factors (such as the military's defence and security expenditures), total government tax revenue has fluctuated between three and ten per cent of GDP and has a limited role in public service delivery. Total government expenditure has also fluctuated, ranging between 17.46% and 24.09% of GDP in FY from 2011 to 2016. During its transitional period, the government's revenue and expenditure has relied on overseas borrowing and grants that were not included in the design of budgets until 2014–15.

Myanmar has a chronic twin deficit: a current account deficit and a capital account deficit. Historically, the government addressed these fiscal problems by printing money and overseas borrowing. However, rather than borrowing from overseas and running deficit budgets, the leadership of Myanmar needs to tackle fiscal corruption and the military's procurement corruption. Unsurprisingly, Myanmar had USD 20 billion in debt (USD 9 billion from domestic borrowing and 11 billion from overseas borrowing) in 2016, while 76% of the population is employed in the primary sector and only 32% has electricity (PAC 2012–16).

Table [4.1]

Selected social and economic data of Myanmar, as of July 2017

Fiscal Years	Total* GDP (MMK bn)	GDP Growth	Defence$_\beta$	Education$_\beta$	Health$_\beta$	Tax* Revenue	Deficit* to GDP	Debt* to GDP
2010-11	na	10.2α	21	4	6	3.3	6.5	50
2011-12	46,307,887.7	5.6	23	3.84	1.07	3.65	3.50	34.9
2012-13	51,259,260.0	7.3	15	5.67	2.84	6.58	2.44	35.3
2013-14	58,012,084.7	8.4	14	5.96	3.25	7.69	1.19	36.4
2014-15	69,292,367.8	8.7	12	6.28	3.65	9.99	1.18	33.3
2015-16	74,294,367.8	7.6	13.85	6.78	3.65	8.78	4.99	38.4
2016-17	84,128,127.7	7.8	14.32	8.05	4.2	7.39	4.66	38.1 est.

Sources: PAC 2011-16 and the budget department, Ministry of National Planning and Economic Development (MNPED) and Ministry of Planning and Finance (MoPF)

α) **Central Statistical Office β)% of total public expenditure, *) actual %of GDP**

Myanmar is one of the lowest tax collection states in the world. Taxes on production and expenditure comprise four types: (a) commodities, services tax and commercial tax; (b) the state lottery; (c) stamp duties; and (d) income tax (Thein 2011). The government's revenue from taxes was just MMK 3.337 trillion in 2013–14 and MMK 4.411 trillion in 2014–15. The government's expenditures always exceed its revenue. The top three budget spending agencies are the Ministry of Defence, the Ministry of Construction and the Ministry of Communication.

Defence Expenditure

Traditionally, the Ministry of Defence (MoD) has consumed the biggest slice of the budget pie, with MMK 1.235 trillion in 2013–14, MMK 2.613 trillion in 2014–15, MMK 2.750 trillion in 2015–16 and MMK 2.9 trillion in 2016–17 (PAC 4/2014:30–31; PAC 8/2015; Union of Myanmar National Plans 2016–17 [Draft]). The military's budget and procurement has been given little public attention and is untouchable because no one in Myanmar dares to critically examine military procurement or corruption, including arms smuggling and 'ghost soldiers'.[51]

The budgeting of military spending not only requires transparency and accountability, but also needs a cost-benefit-analysis for its policy goals, outcomes and national security strategy. The strategic policy and design of the military's budget and acquisition of weapons has been separated from the elected civilian leadership for more than half a century in Myanmar.

For decades, the expenditure and revenue of Myanmar's defence forces and its businesses (currently approximately USD 2.3 billion) have invariably exceeded those of other line ministries and economic regulatory agencies. However, the capacity, strategy and firepower of Myanmar's military has declined due to procurement corruption and the lack of trust, unprofessional behaviour and unethical practices inside Myanmar's armed forces. An example is ex-Major General Kyaw Phyo, the inspector and Auditor-General of Myanmar's armed forces, who was forced to resign in August 2011.

The deficit of trust, credibility, transparency and accountability that underpins misconduct and procurement corruption in defence equipment and supplies means that Myanmar needs robust financial management for the military's budgeting – in

[51] Ghost-soldiers are men/women who are on the payroll of the Myanmar Tatmadaw (armed forces) without actually serving; their supposed salaries enrich the regional commanders and hollow out the state's security and defence sector.

particular, for arms, supplies and equipment purchasing. Another contributing factor is that the military's commercial subsidiaries – such as Union of Myanmar Economic Holdings (UMEH) and Myanmar Economic Corporation (MEC) – are not included in the Union budgeting processes, although they are bankrolled by public funds. There are unknown numbers of assets and properties belonging to the military and its related businesses, as well as off-budgetary funds, that are not legally reported to the Parliament.

Auditing, reporting and accounting of a budget at SEEs[52] also face chronic corruption issues. The working capital of the SEEs is subsidised by the state and they contributed 30% of their net profits as income tax and 70% to the state (PAC 3/2015:20).

Technically, auditing, accounting and reporting of the budget are formally conducted through the Myanmar Generally Accepted Accounting Principles (MGAAP). However, the actual budget process in Myanmar is still conducted by hand, on paper, instead of using a centralised computer application. The expenditure allocation agencies (the CBM, Myanmar Economic Bank etc.) and the spending agencies (line ministries, state-owned banks (SOBs), SEEs) manage thousands of pages of budget reports and financial statements manually. Computer-based budgeting is being introduced, but data entry is slow, as more than 5400 spending agencies' financial statements in printed format have to be digitised (World Bank 2012). The fact that large policy agencies responsible for spending and revenue are not included in the budgetary process is, of course, an institutional failure in Myanmar.

[4.3] The origins of fiscal corruption in Myanmar

Fiscal corruption in Myanmar stems in part from the principal–agent dilemma, or the structure–agency problem. As the leadership of the state (the principal) is corrupt, the public servants (the agents), not surprisingly, engage in several forms of corruption. The Select Committees of the first Parliament (2011–16) did not have sufficient information to scrutinise various types of corruption during the budget cycle, although the OAG contributed reports to the Parliament that classified forms of misuse of

[52] Myanmar had 1800 state economic enterprises (SEEs) during the 1990s; this was reduced to 47 in 2011–2016. Presently, there are 32 state economic enterprises; they include the News and Periodicals Enterprise; Myanmar Posts and Telecommunications; Myanmar Timber Enterprise; Myanmar National Airway; No. (1), (2) and (3) Mining Enterprises; Myanmar Gems Enterprise; Myanmar Pearl Enterprise; and Myanmar Oil and Gas Enterprise.

public funds and irregularities in public funds such as inefficient budget spending, fraud cases and abuse of budgets in the public finance sector (World Bank 2013:7).

The OAG is assigned to audit the general budget ledger compiled by the budget department of the Ministry of Finance. However, the OAG is not allowed to audit the actual monetary and financial data of the Ministry of Defence, the Military Municipalities or the SEEs (PAC 3/2015:38, World Bank 2012:21, Oo et al 2015:2, PAC 9/2014: 6). As no one is allowed to check the actual expenditure and real revenue of these public agencies in Myanmar, fiscal corruption and fiscal deficit problems cannot be solved. Furthermore, it is clear that there are many differences between actual data in the reports from the OAG and the MoFR (PAC 3/2015:38). State economic institutions received capital investment and loans, for example, without approval from the Parliament in 2011–12 (PAC 4/2012:3).

However, new policy concepts, in particular credibility, accountability, transparency and citizen budgeting, have appeared with the opening of the market system in the country, and public debate on budgeting has grown since the first Parliament. The networked civil society – in particular, the Renaissance Institute, the Open Myanmar Initiative, Statistics without Borders, and the Asia Foundation –promotes the concept of citizen’s budgets and budget transparency in Myanmar. Though there are multiple origins of fiscal corruption in Myanmar, the sections below present seven causes of fiscal corruption during the execution phase of the budget cycle in particular.

[4.3.1] Regulatory deficiency

The first driver of fiscal corruption in Myanmar is regulatory deficiency, including outdated or opaque regulations regarding auditing and executing the budget. An example of regulatory deficiency is that Myanmar’s public finance management is regulated by the Burma Budget Manual 1924, the Urban Financial Code 1951, the Burma Treasury Code 1960, and the Auditing Code 1958. To these were added the Budgeting and Financial Regulations of 1958 and directive 42/86 (42/1986), according to U Win Sein, ex-minister of the Ministry of Finance, in 2011–16, (9th sitting of the 1st Parliament:610-612, citing the research briefing of the 1st Parliament). Those budget manuals and calendars and the financial rules under the state directives are not effectively operative, however, due to regulatory tension between the outdated financial rules and modern fiscal concepts and technology. They need to be modernised, given that they were written in 1929 and 1946, and amended in 1963, 1986 and 2011 respectively. An example of regulatory discrimination is SPDC laws number 9/2011 and 10/2011 prohibit independent auditing of budget and thus outlaw oversight by the elected civilian government.

According to Article 103 of the 2008 Constitution, the Public Accounts Committee (PAC) of the Parliament is instituted for examining the Union Budget Bill and reports from the Office of Auditor General (OAG), while the Planning and Finance Committee (PFC) is charged with reviewing the national development plans and legislative matters of public funds. However, the Union's budget and sub-national government budgets are made without modern budgetary instruments, e.g. the pre-budget statements used in OECD countries, the Pre-election Economic and Fiscal Outlook (PEFO) in Australia and Pre-Election Economic and Fiscal Update (PREFU) in NZ, as well in the absence of any of the citizen participation or media commentary that evaluates the design of budgets in democracies.

Due to the lack of contemporary public finance regulations, such as a public finance act or an organic budget law, fiscal corruption can be perceived within every entity of the state. The key problem is that the budget is executed without standardised financial reporting regulation or financial auditing in place. Moreover, according to the OAG reports, some ministries have private funds that are not included in the state budget. They do not disclose their cash flow, revenue or quality of assets, while at the same time they continually request funds from the Union budget. There are many discrepancies between the reports of the OAG and the MoPF in every fiscal year. An example is that the Union budget was not audited accurately in 2013–14 by the OAG, the only fiscal regulatory body in the country. The PAC discovered that the OAG report did not indicate total revenue and total expenditure for the 2013–14 fiscal year (PAC 2015:5) due to the OAG being unable to check actual data for the Defence Ministry, the SEEs and other line ministries that put their revenue and expenditure under the heading of non-budget and off-budget funds. The PAC also discovered that the OAG did not audit the national and sub-national budgets and expenditures in detail in 2011–12 (PAC 3/2013:2) and did not disclose total revenue and total expenditure of the Union budget in 2013–14 (PAC 3/2015:5). Almost every OAG report from 2011–12 to 2015–16 identified inconsistences, misuse, abuses, irregularities and noncompliance with financial rules and regulations by central administrative organisations and line ministries, but there was no legal action taken against those who violated the fiscal regulations.

This lack of legal enforcement is a major problem for fiscal corruption. Because financial regulations are opaque,

> [t]he finance department in each spending body appears to play a key role in deciding which mix of rules is adopted within its organization. The arrangements are thus somewhat ad hoc, differing from ministry to ministry. Moreover, the financial regulations are open to interpretation by financial management officials and it is not clear the regulations are well understood throughout ministries and sub-national agencies (World Bank 2013:9).

Additionally, due to the lack of a Finance Act, 47 SEEs and 15 central administrative bodies do not provide their balance sheets in a timely way to the budget department. The PAC reported in 2016 that '[i]t is seen that the Central Bank of Myanmar has provided for the needs of government's budget and funds monthly. Although, according to article 91 of the CBM law, the CBM can issue loans to the government with the approval of the Parliament', nevertheless, the CBM did not get approval from the Parliament to lend to the government' (PAC 1/2016:19).

Due to public outcry and international pressure, the 2013–14 budget revealed data about foreign borrowing and overseas development aid received . During the fiscal years from 2010–11 and 2012–13, ODA and donations to Myanmar were not scrutinised, although a Foreign Aid Management Central Committee was chaired by U Thein Sein and a Foreign Aid Management Working Committee by a senior minister (Oo et al 2015:20). One example was that 'although the estimated budget of the Ministry of Education stated to the budget department was MMK 0.447 billion, the actual revenue of the Department of Educational Planning and Training in 2012–13 was MMK 3.287 billion (equivalent to JPY248.090 million) donated by the Japanese Grant Aid for Human Resource Development Scholarship (JDS) of Japan' (PAC 3/2014:3). Equally, the Japanese government's grants to 'the Public Construction Department for construction of four bridges in Hlaingbwe township in Karan State were not cited in the 2012–13 fiscal year and it would be stated in the 2014–15 fiscal year' (PAC 3/2014:3–4). This Japanese ODA spending on four bridges in Hlaingbwe township was not reported in the 2013–14 budget report either.

Such opaque regulation for ODA underpins fiscal corruption at the planning and execution stages of the budget cycle. The line ministries and administrative organisations borrowed overseas funds and grants without gaining the required Parliamentary approvals and there is no record in the Union budget until the 2013–14 budget. Overseas development aid to the line ministries and central organisations must be transparently recorded and reported (PAC 3/2015:30). Moreover, '[a]lthough some state's institutions actually received the overseas aid, it was learnt that there were no written records on actual budget, estimated budget or any written records' (PAC 3/2015:25).

[4.3.2] Executing the budget-cycle

The second issue centres on executing the budget cycle for Union funds held or delayed by public officials in the state agencies. During the budget execution periods, delayed or unspent funds have typically been managed by individual Ministries, e.g. by depositing surplus funds in private accounts to earn interest. That kind of disaggregated practice can cause misuse, waste, abuse and fraud, as well as contributing to incorrect data, artificial reporting and inaccurate statistics centrally. A better practice would be to return unspent funds of line ministries to the budget department of the Ministry of Planning and Finance within a specific timeframe. Without a definite timeframe for returning funds or reimbursing the budget, the trend has been to hold the funds or reinvest them for the agency's profit, which encourages fiscal corruption. There is zero regulation on cash management within specific timeframes and no external auditing of the spending agencies. An example of delaying transactions occurred in FY 2011–12, when unspent funds were returned to the budget department of MoFR over a period of months; five central administrative organisations returned at total of MMK 4247 millions on 28 March 2012 and 22 ministries returning MMK 71,257 millions on 7 September 2012, while a further six ministries and SEEs returned MMK 1717.6 only on 2 February 2013). It is hard to accept that returning unspent funds to the central budget took more than six months (half of the budget year) with the consequent loss of use and/or interest rate income and opportunity cost of capital investment.

[4.3.3] Designing/planning and formulation of budget-cycle

The third issue is design/planning and formulation of the budget cycle in Myanmar. As the revenue and expenditure of the military forms the highest proportion of the budget, the design of the Union budget ought to be readjusted. Because the military has its own commercial business entities, almost every SEE and administrative institution plans unrealistic budgets and over-estimates reserves when requesting public funds. The performance of budgeting by 30 line ministries and 15 administrative agencies is unimpressive, as more than 20 state economic institutions (half of the SEEs) routinely show budget deficits and have been losing human capital for decades. However, they continual seek a greater slice of the budget pie from the Union fund account. The policy priority of Myanmar's budgeting ought to be de-militarised and more budget priority should be given to areas such as law, economics and politics.

The planning of revenue and expenditures for the military's financial subsidiaries should be consolidated within the Union budget cycle. With regard to corruption cases and the military, according to U Min Thu (an MP from Naypyitaw from the first Parliament):

> The army must reduce its involvement in the business sector. Some military leaders and cronies who were once commanders are the main concerned. The government provides defence and security expenses for the military. They don't need to make profits from the business sector. The defence budget is already included in the state' budget. The Parliament provides higher budgets annually. But the army used to its authority to establish the UMEH. It is the biggest business in Myanmar. It is undeniable that corruption comes with authority. (Myanmar Eleven, 2 November 2015)

There is a high degree of extra-budget expenditure and the operation of two off-budget military holding companies (World Bank 2015:4) that are not included in fiscal reports.

> The Ministry of Defence holds the largest number of Other Accounts, followed by the Ministry of Health. The total number of Other Account (as June 2012) held by ministries at the Union level was 8417, and at the state/regional level was 176. The total number of other accounts (as of June 2012) held by SEEs at the Union level was 4319 and at the state/regional level was 517. The grand total is thus over 13,400 off-budget accounts. All of these other accounts held by the Myanmar Economic Bank (MEB) are in Kyat. Special accounts for ministry own-source revenue denominated in foreign exchange can be held in the Myanmar Foreign Trade Bank (MFTB) (World Bank 2012: 26). This 'Other Accounts' system weakens the strategic resource allocation function of the budgetary system through fragmentation

> of the resources into budgetary and off-budgetary categories, weakens external oversight, and gives rise to concern about accountability and transparency (World Bank 2012: 2). FY2011-12 data from Myanmar Economic Bank and the budget department show total 'Other Accounts' receipts of MMK 2.54 trillion, which is 44 percent of total budgeted revenue, and expenditures of 2.26 trillion, which represent 28 percent of total budget expenditure. (World Bank 2012: 26–27)

As long as there is little oversight of these accounts, design/planning and formulation of the budget in Myanmar will suffer from abuse of public funds and fiscal corruption. As long as those 13,400 off-budgetary accounts are operating, the formulation of the budget will not be consolidated. It is still not clear how the principal and interest of those accounts are distributed and monitored.

[4.3.4] Broken tax system

The fourth issue is that Myanmar's broken tax system[53] underpins fiscal corruption at the reporting and execution stages of budgeting, due to failures of trust – in particular, the lack of integrity infrastructure and of ethical and professional standards within government institutions. The concept of 'no tax, no effective government' well describes Myanmar's tax system. Historically, the military and non-state armed organisations (ethnocentric armed organisations and numerous militias) have collected taxes from the public. Frontier areas have suffered the burden of armed conflicts for decades. The public in the frontier areas must also pay taxes to almost all armed forces, including the militias, the military and the non-state armed organisations.

In the frontier areas, 22 non-state armed organisations collect tax and levies on timber logging, border trade, and jade and gold mining in their region of control. Similar to the idea of 'no taxation without representation' made famous by the Boston Tea Party in the United States, the people of Myanmar in the mainland areas do not pay tax because they do not trust the state, which does not legitimately represent them. The business leaders do not pay tax because the majority are cronies, and the military's business entities have not paid tax until very recently (from 2013–14).

[53] The economy of Myanmar is based on donation and resource extraction, rather than the government's revenue via taxation, saving and investment, the people of Myanmar have donated for constructing roads, streets and lightening streetlights, making hospitals, ambulances, funeral services due to the deficit of trust on the state's economic regulatory agencies.

Due to militarised control of public institutions and the economic regulatory agencies[54] and the status of low-paid civil servants, the tax department does not operate effectively because it staff do not have sufficient incentive to work for the state. The data on Myanmar's tax revenue and the Union tax reports in the fiscal years of 2012–16 are a textbook example of cronies' greed and an institutional failure of trust. The low level of tax revenue in Myanmar has been caused by the lack of income tax and corporate income tax collections despite the fiscal reform process, declining from 3.1% of GDP in 2013–14 to 2.5% of GDP in 2017–18 (World Bank 2018:48). Thus, a low rate of tax collection, more cronies and unpredictable growth in the economy contribute to create ineffective governance and government in the current transitional period.

The government in Myanmar may take the view that it does not need revenue from taxation because it can rely on natural resource extraction to finance the operating costs of the state institutions. The past patterns of financing from resource extraction have meant that the government does not need to deliver on its legal and moral obligations to provide services to the public. On the other hand, the tax system of Myanmar has been damaged due to government revenue not relying on its tax system. One result is that the state is running one of the lowest tax regimes in the world. Myanmar does not have contemporary tax mechanisms such as a goods and services tax, value-added tax, capital gains tax, vertical tax or horizontal tax systems. Similar to the principal and agent dilemma, corruption and rent-seeking within the tax system can be seen in the mutually beneficial relationship between the tax-collectors and the tax-payers due to the lack of a robust standardised tax system.

There have been a number of cases of tax collectors arrested for misusing tax fund (especially in the Customs Department) between 2011 and 2016, and hundreds of customs officers and tax staffers are sacked for corruption every year in Myanmar. It is worth remembering that tax officers do not have any leverage to collect tax from military cronies and the generals. Both tax payers and tax collectors can negotiate tax for their private gain, rather than contributing to the state's revenue. I have personal experience of this – I went to the Tax Office together with an employee of the U.S.

[54] Since 1988, the military has deployed a senior officer with forty infantry soldiers within the economic regulatory agencies; they are referred to colloquially by the civilian staff as 'Ali Baba and the Forty Thieves'.

Embassy, to report receiving a salary in USD. The Tax Office official's response was, "Are you crazy? Who reports receiving a salary in USD?" She proposed that she would give us a tax certificate (receipt) for a lower amount, if we paid some proportion of the taxable amount to her personally. We refused politely. Thus, this is a vicious circle: tax, governance, legal compliance, regulatory discrimination and failure of trust and integrity infrastructure within a conflict-ridden economy underpin fiscal corruption through its tax system.

[4.3.5] Procurement in budget execution

The fifth problem is public procurement and cash management systems. Myanmar is gradually developing public procurement systems- in particular- public procurement law/regulation and state assets disposal law/regulation. Many public projects in the ministries are executed without a transparent tender system or public consultation or competition. State procurement without an open tender system and competition can underpin fiscal corruption, cronyism, rent-seeking and nepotism in those line ministries (PAC 3/2015:22). The line ministries and the SEEs suffered budget deficits after overspending on unplanned expenditures or from unapproved budgets without any tender system. Although many of them have had track records of deficits for many decades, they continue to implement unapproved projects, especially construction projects. Procurement without tender or competition by state agents from private contractors can result in theft from the budget and allows parties to negotiate lower than market prices.

[4.3.6] Cash management in budget execution

As Myanmar practices predominantly cash-based transactions, fiscal corruption through cash management in the execution stages of budgets is predictable. According to the OAG and PAC, examples of fiscal corruption in cash management include, in the case of some private–public projects, five per cent in cash from business owners for tender projects being deposited into (line and regional ministers' accounts. State institutions have formed some business contracts with private sector without a timeframe (PAC 3/2015:23). Although a private contractor must pay its capital portion, in some cases the public officials contribute that portion of the contractor from state budget funds (PAC 3/2015:23). It was found that, after contracting with sub-contractors, line ministries do not check the standards and regulated criteria for the contracts (Monetary and Customs Committee 2015:53).

A specific concern with cash management and fiscal corruption is that the OAG suggests that the GDP of Myanmar is declining due to state institutions not actually declaring their income and revenue (PAC 3/2015:33). A form of corruption related to cash management is noted by an MP Sander Min, from the National League for Democracy, who says: ‘The worst is when the Ministers are visiting rural areas for development, they carry money bags along with them to give to their supporters. Public budgets are being misused by the ministries and action should be taken immediately’ (Myanmar Eleven, 4 Feb 2015).

[4.3.7] Reporting

The final issue is the reporting of the budget cycle. A few ministries report cash and projects in their budget execution systematically. However, more than a half the 30 line ministries transfer their surplus budget from the Union Special Fund to the ‘Other Account’ instead of surrendering it to the central budget. Financial reporting, vouchers and receipts are issued with inaccurate dates and under inconsistent names. Wages and salaries are withdrawn from the budget for non-existent teachers, staff or soldiers. Due to governmental and institutional failures, there is no effective compliance mechanism or legal action against such actors.

> When the OAG examined the line ministries’ funds that are needed to return the state, there were only four regulatory actions within the departments: a. oral warning to prevent next time, b. notice record to prevent furthermore, c. issued notice, and d. reduced rates of salary and suspension as compliance. It is shown that there is not effective regulatory mechanism within the departments as there is no effective compliance for financial irregularities. (PAC 8/2014:37)

In particular, the MoFR has not robustly managed its financial reporting and responsibility. Although the Ministry operates the Union budget, the Department of Budget has not responsively supervised budget reporting, such as by collecting receipts and vouchers, and has not taken legal action against budgetary corruption. In fiscal years from 2011–12 to 2015–16, many line ministries and SEEs did not return funds and loans to the state, but the Budget Department did not take any legal action against any state spending agency. Even though the OAG has identified many financial irregularities and mismanagement in its annual reports, there is limited compliance and legal action by the state. Moreover, the Chair of Myanmar's Anti-Corruption Commission, Mya Win – a former major-general in the army – testified before the first Parliament on 23 November 2015 that the Commission had no plans to tackle corruption in the public sector.

As there is no effective legal action, there is no incentive to comply within financial rules in the public finance sector. It is time for the leadership of Myanmar to establish a Parliamentary Budget Committee, modern fiscal regulations, a system of effective hearings and oversight of the planning, execution and reporting of the budget after it has been designed.

[4.4] Types of fiscal corruption in Myanmar

> '[An] anti-corruption campaign cannot be succussed during the transition because ownership and management has conflict of interest, related party lending, rent-seeking, corporate governance has not existed.' (P-17)

This section addresses in more detail the types and activities of fiscal corruption in the execution and reporting aspects of Myanmar's public financial management. These have been aggregated from the fiscal years 2011–12 to 2015–16 after examining reports by the OAG, the PAC, the Myanmar Anti-Corruption Commission, the Monetary and Customs Committee and the Public Financial Committee.

Table 4.2 below shows the existing types and activities of fiscal corruption included in the reports of the OAG and the PAC in the fiscal years 2012–16.

Table [4.2]
Types and activities of fiscal corruption in Myanmar, reported by OAG and PAC as of March 2016

No.	Types of Corruption	Budget Cycle	Related public sectors and line ministries	Frequency of fiscal corruption reported
1.	Back-dated receipts	Reporting	All	High
2.	Falsified vouchers	Reporting	All	High
3.	Shell companies	Execution	All	Low
4.	Rent-seeking	All	All	High
5.	Under-invoicing	All	All	Medium
6.	Over-invoicing	All	All	Medium
7.	Salary were withdrawing without staff	Design	All	High
8.	Assets were re-named to staffers' names	Design	All	High
9.	Holding funds in hands	Execution	All	Medium

10.	Gaining interesting rate by saving fund at banks	Execution	All	High
11.	The ownerships of land are renaming	Execution	All	High
12.	Kickbacks	Execution	All	Medium
13.	Embezzlements	Execution	All	Medium
14.	Lend public money as staff's investment	Execution	All	High
15.	Signature Fraud	Reporting	All	Low
16.	Bribery to get lender/licence	Execution	All	Medium

Among the hundreds of instances of corruption by spending agencies, a snapshot of financial discrepancies and inequalities are described below.

[4.4.1] Naypyidaw municipal committee

The first case, Naypyidaw Municipal Committee, had some financial oddities, e.g. Naypyidaw Municipal Committee was subsidised to the amount of MMK 6.646 billion (USD 7 million) for general expenses and MMK 12.049 billion (USD 13 million) for operation cost for municipalities under the budget; however, it did not state its revenue and expenditure of MMK 5.064 million (USD 5648) in FY 2012–13. Moreover, although it had a surplus budget of MMK 7.833 billion (USD 8 million) in FY 2012–13, it requested an additional MMK 6.646 billion in FY 2012–13 (PAC 3/2014:10–11). It was learned that surplus funds of the Naypyitaw municipal committee were not included in the municipal budget; instead the surplus funds were put in a 'special fund' and operated outside the public finance system (PAC 3/2014:20).

[4.4.2] The Ministry of Livestock, Fisheries and Rural Development

In the second case, according to a PAC report (1/2015), the clearest link between fiscal corruption and the banks was the Ministry of Livestock, Fisheries and Rural Development (MLFRD). The MLFRD had numerous instances of financial noncompliance, illegal transactions and financial irregularities in FY 2013–14. Types of budgetary misuse under the MLFRD included: spending inconsistent with financial regulations; funds spent after depositing them in private saving accounts; and funds spent after the end of the fiscal year. The Special Fund was transferred to the 'Other Account' although the moneys should have been returned to the state. Recovery of debts was not sought. There were financial imbalances between funding and projects.

There was no evidence of financial spending during the audit. There was no explanation for savings of MMK 381 million deposited at the Myanmar Economic Bank (Myintkyina branch) and MMK 217,066 at Yoma Bank (Myintkyina branch) and no operations were undertaken until 31 July 2014 (i.e. the public funds were saved in a bank rather than spent for their actual purpose). Holdings of cash in hand were detected. No insurance was deposited (PAC 1/2015:14–15). According to receipts, vouchers and investigation reports of the Livestock Breeding and Veterinary Department (Yangon) of the MLFRD, fake vouchers were made by the Office of the Livestock Breeding and Veterinary Department. Dates, ranks and names of staff on vouchers and receipts were deliberately changed (PAC 6/2015:26). The worst form of non-compliance was that the Ministry allotted tenders to expired companies that were not registered with state agencies.

[4.4.3] The Ministry of Sports

In another case, dozens of line ministries did not call for open tenders when they executed the budget. Among them was the Ministry of Sports, which spent half a billion US dollars without a tender system. At the time, there was no Public Procurement Law in effect in Myanmar. The Institute of Sports and Physical Education (Yangon) and the Department of Sports and Physical Education (main office) under the Ministry of Sports operated without any open-tender system when they procured many items and spent the funds in FY 2013–14 (PAC 8/2014:12–13). Moreover, although the Union Parliament approved about MMK 340 billion (USD 400 million) in spending for the 27th South East Asian Games – according to U Aye Mauk of Mahlaing, a Member of Parliament representing the Union Solidarity and Development Party (Myanmar Times, 2012) – the Ministry of Sports did not call any tenders for the Games (OAG 2013–14; PAC 8/2014:44–45). The PAC notes that the OAG's finding that '[t]he prices on the contract did not accord with the approved budget, there was no detailed implemented items and prices on the contract [on the Southeast Asian Games]' (PAC 8/2014:44–45). There was no actual finding of corruption in the OAG report, but there is a strong inference that the transactions were corrupt. No lawful and external auditing was ever conducted on the actual revenue and expenditures for the 27th Southeast Asian Games, although the state spent USD 400 million.

[4.4.4] Township/District Municipals

The fourth case is monetary-based corruption, bribery and cheating by municipal organisations in Myanmar. MMK 75.764 million (USD 75,000) was withdrawn with a forged signature from the bank at Ba Maw District Municipal in Kachin Division and MMK 11.834 million (USD 11,000) appropriated from the Rural Development Bank in the same township. Surprisingly, corrupt officers who misused public funds were not subject to legal action by the relevant department; an example is a public executive, U Khin Maung Oo, who embezzled MMK 192.692 million (USD 19,200), but the department did not explain or respond to this action (PAC 1/2015:30). This is a failure of anti-corruption action since legal provisions are already in place to cover this scenario under the 2013 Anti-Corruption Law.

[4.4.5] Moral corruption

The fifth case is classical moral hazard[55] and moral corruption, where publicly entrusted power is misused for private gain. In Myanmar, professors/teachers have high moral and social status. Professor Dr Ko Ko Kyaw Soe, a former Rector of Meiktila University, was charged at the Meiktila Police Station for allegedly taking bribes of MMK 10.9 million (USD 8410) from the MDC Construction Co. Ltd in 2014, after complaints from the company (Wa Lone: Myanmar Times 15 December 2015). An investigator, U Than Hutn Myint from Myanmar Anti-Corruption Commission, filed a lawsuit under Section 56 of the Myanmar Anti-Corruption Law (2013) on December 2015 after it was found that the professor abused his office by asking for bribes totalling MMK 10.9 million from a construction company while a three-storied classroom was built at the university during the 2014–15 fiscal year (Eleven Myanmar, 12 December 2015). After a legal case was filed against him, the ex-Rector reportedly absconded before the state prosecutor put him on trial, and then faced additional criminal charges of absconding (Wa Lone: Myanmar Times 16 January 2016). This corruption case is not only a bribery or abuse of office case, but also a classic case of moral and institutional failure at a knowledge institution, by someone who is supposed to be a role model for society in Myanmar.

[55] Moral hazard drives from information asymmetry and is a root cause of market failure and externalities that can also impact public goods.

After Myanmar became a party to the UNCAC in 2014, the Parliament's Judicial, Legal Affairs, Complaints and Pleas Scrutiny Committee received over 10,000 complaint letters about corruption (as of 10 January 2014). Moreover, Lt. Gen. Ko Ko[56] – who was also a member of the Anti-Corruption Committee (ACC) and the Minister for Home Affairs – testified to the ninth session of the Parliament that there were 382[57] recorded cases of public servants' corruption since the establishment of the Myanmar Anti-Corruption Commission (ACCM) in 2013–14. In 91 cases (41 corruption cases, five civil cases, 40 management cases and five criminal cases) those alleged were found guilty; 183 cases were found not guilty; and 44 were still being investigated in 2013–14.

U Thein Sein's administration further reviewed actions and policy under the Anti-Corruption Law and the UNCAC in 2015. The then-Minister for the President's Office, ex-Major General Tin Naing Thein, revealed that '[o]ne out of the 450 civil servants were punished for corruption, another 18 were forced to retire, 362 faced administrative penalties and 69 were transferred to another department on 24 February 2015' (Myanmar Times, 27 February 2015). Finally, according to material published on the ACCM[58] website:

> There were 2214 complains letter were received in from 10 March 2014 to 30 June 2016, only 3 public corruptors were sentenced by article 56, 57, 57/63 of the Anti-Corruption Law 2013. (ACCM 2016)

It was also claimed that 'nine government officials and civil servants – including police, members of the judicial, land surveyors and the rector – have been charged under the anti-corruption law in cases brought by Myanmar's ACC. Four of them remain in on the run, according to U Than Aung, an investigator of the ACCM'.

[4.5] What role do banks play in regulating corruption?

[56] See 'International human rights organizations call for Lt. Gen. Ko Ko, Myanmar's Minister for Home Affairs and Minister for Immigration and Population, to be held accountable for his involvement in human rights violations, war crimes, and crimes against humanity', available at http://hrp.law.harvard.edu/wp-content/uploads/2015/11/2015.11.05-Intl-NGO-Statement-on-Ko-Ko-Accountability-Final.pdf

[57] In total, 91 + 183 + 44 = 318, not 382 – the others would be recognised as disregarded cases.

[58] https://www.accm.gov.mm/

> 'There is no standard for ethics and corruption because there is an ethical problem in Myanmar. When banks set up football teams which are financed, what is the ethics for banking in this country?' (P-8)

As the cases discussed above show, many cash-driven instances of fiscal corruption by civil servants involve both private and state-owned banks. For decades state budget deficits were financed by the central bank printing money or lending money to the government without seeking approval from the Parliament. Nearly half of the line ministries and directorates keep state funds in hand and save these in private banks or state-owned banks as private money, in order to earn interest. Saving public funds in banks, illegal transactions and holding public cash in private hands are common in the public finance sector of Myanmar.

Both the OAG and the PAC discovered that public cash was saved as private money at the banks (public servants should not be able to bank their own agency's revenue) and were kept in the agencies' hands every fiscal year and were then re-lent to borrowers. But there has been no compliance with suspect transaction reports (STR) or politically exposed person (PEP) reports by the banks or the line ministries. Both the OAG and the PAC suggested systematic legal action is needed for transactions that involve public funds. Although the OAG found that some money should be (belatedly) returned to the state accounts, compliance could have been enforced while the money was deposited in the banks. Indeed, some bad behaviour is driven by good intentions, so not all irregularities are corrupt, even though they open up fiscal risk.

According to the PAC reports number (2/2014) and (8/2014), there were many financial contradictions and non-compliant elements in the budget: 248 cases in 2012–13, 289 cases in 2013–14 (first quarter) and 506 cases in 2013–14 in (second quarter). However, the OAG did not disclose any further cases in the fiscal years 2014–15 and 2015–16. There were 11 ministries that had financial irregularities and imbalances, but no legal action was taken by or against the ministry or department in question (PAC 8/2014:36–37) (see Table 4.3).

As a result of fiscal corruption, Myanmar is wasting public funds, diminishing public goods and causing deficit budgets every fiscal year. The fiscal data and figures from 'Other Accounts' of the SEEs in the banking sector ought to be disclosed and debated in the Parliament. Many fiscal corruption cases are directly connected to the institutional failure of the banking, taxation and real estate sectors, and this is linked to the 90% of state-owned banks (SOBs) that have shown a deficit-budget, apart from the military banks.

Among SOBs, the Myanmar Investment and Commercial Bank (MICB) has not supervised overdraft accounts and did not pay interest in a timely way (PAC1/2015:27). Myanmar Economic Bank (MEB) showed a deficit of 79.168 billion in FY 2011–12 (PAC 3/2013:22) and the MEB has not divided its profit of MMK 135.251 million and has not declared its non-performing loans (NPL) for decades (PAC 8/2015:56–57).

In short, the policy banks do not have capacity to make a profit although the majority of senior decision-makers among civil servants at the Ministry of Education, the Municipalities and the Fisheries are making profits by running savings accounts at the regulated banks. This is a classic example of private gain by using public funds (saving public funds in banks for private profit and gaining interest income). As shown above, some withdrew funds from ministry accounts in order to hold cash in hand or transferred funds to other accounts, but there were no STRs or anti-money laundering mechanisms applied in or by Myanmar's banking sector (discussed further in Chapter 5). Thus, it is time for Myanmar's public and private banks to regulate fiscal corruption through the banking sector, as public servants are using public funds for private gain by saving or manipulating the budgets and the Union funds.

[4.6] Conclusion

As both the OAG and the PAC advise, Myanmar needs a paradigm shift in budgeting and requires robust masterplans for improving public finance management, reducing fiscal corruption and increasing the credibility of the budget. Equally, the budgeting of Myanmar's public institutions requires auditing by qualified external technocrats to enhance transparency and accountability in the system. These policy prescriptions, of course, depend on building greater skills and capacity within the public service at both the individual and institutional levels that would enable sound public administration. The focus on corruption in this study does not diminish the importance of those broader needs for capacity and capability development.

The political leadership of Myanmar also needs to ensure that these external technocrats are not corrupt. In sum, there are numerous policy packages needed to modernise Myanmar's budgeting system. The nature of a transitional economy is that the quality of leadership and the willingness to conduct robust policy are key to control fiscal corruption.

In conclusion, I suggest nine policy priorities for Myanmar's fiscal management that could reduce fiscal corruption. The first is that the leadership of Myanmar must have the willingness to combat fiscal corruption and the Union budget should be formatted with this policy, strategy and performance as a priority. The second is that line ministers and senior bureaucrats need to be held to performance targets on corruption control, with dismissal, instead of maintaining the status quo, being the response to serious fiscal corruption.

The third is public participation and consultation: the public should be engaged during design, execution and reporting of the Union budget. The fourth is that external auditing should be accepted, rather than have the role limited to the OAG's reporting. The fifth is that an asset recovery law should be enacted and abuses or misuse of public funds should be subject to strong legal action. Stolen money or bribery money must be legally confiscated. The sixth recommendation is that, as many cases of fiscal corruption are connected to legal accountability and political legitimacy issues such as ethics, trust, morality and honesty rather than calculated corruption, strict punishment of malfeasance is required. The seventh is that Myanmar's tax system should be made trustworthy.

The eighth recommendation is that the defence budget should be organised under the civilian administration and its economic institutions must be returned to the state economic governance mechanism. Finally, fiscal institutions should seek policy responses and models from multilateral institutions for tackling fiscal corruption; adopt some aspects of new public management; and deploy a system of key performance indicators at the budgeting processes.

Without a regulatory paradigm shift within Myanmar's public finance sector, the people of Myanmar will remain living on less than USD 2 a day. It is, therefore, the right time for reducing fiscal corruption and increasing the credibility, accountability and transparency of budging in Myanmar after absorbing the new concepts and practices of budgeting from like-minded countries.

Chapter 5: Corruption and the Banking Sector in Myanmar

[5.1] Cronyism in Myanmar's banking system

This chapter argues that much of the corruption that we observe in Myanmar's banking system is deeply structural: it flows from the design of the banking system and foundational beliefs about the role of the banks during the decades of military rule. In particular, it is difficult to separate a discussion of Myanmar's banks from a consideration of who owns and control them. Currently, this continues to be either the military or – in the case of private banks – businesspeople who were issued banking licences as part of their relationship with the military: 'crony' businesspeople who operate 'crony banks'. I argue that the regulatory purpose of the banks has been essentially to amass, store and launder money to support this military–crony capitalism nexus.

In theoretical terms, this kind of designed institutional corruption contributes to the trust deficit identified by regulatory theorist John Braithwaite, who argues that '[t]rust is undersupplied in contemporary societies, particularly in those that suffer from the deepest problems of poverty and corruption' (1998:343).

[5.1.1] 'Crony banks' defined

The term 'crony' (ခရိုနီ in Burmese) has been typically used as a linking-word to the generals' rule for decades. Today, as noted in Chapter 1, the English term 'crony' is widely used as a synonym for corruption by Myanmar's business elites. The terms 'crony' and 'cronyism' are widely used in Myanmar for those who made their wealth by rent-seeking, monopoly and bribery in collusion with the military generals. In 2005, *The Irrawaddy* commented that the military leadership's

> [a]ppeals for business honesty and an adherence to legal practices have had no effect - cronyism, nepotism, corruption and bribery continue to rule in everyday business life in Burma.

Who are Myanmar's cronies today? The category I use in this study, 'crony-banks', follows Nehru (2014) and acknowledges that these are privately owned banks. Jones also claims that

> [t]he [Burmese] state has fostered a re-emergent business class and created a layer of 'crony capitalists' in an increasingly symbiotic relationship with the state', and 'selective prosecutions for corruption or money laundering were used to pick up certain individuals and keep other in line (2014:153).

In this chapter, I use the term 'crony' to identify a person or an entity that was (and, in many cases, continues to be) permitted by the government to operate without free and fair rule-based competition. Having accumulated their wealth from illicit activities such as natural resources extraction (mining, logging or jade), land grabbing, arms smuggling and drug-trading, they are then able to multiply it through ownership or use of under-regulated banking institutions. When cronies were permitted to enter the retail banking industry, Nehru (2014) termed these 'crony banks' – those that were hastily given a banking licence just before the military handed over power to civilian government in 2010. In this chapter, I also point to a 'second generation' of cronies, who have essentially plagiarised the cronyism and rent-seeking business model and applied it not only in the banking industry but also in non-bank financial institutions.

Because of this intergenerational cronyism, Myanmar is exposed to significant risks in the international banking market, including reputational risk, foreign exchange risk, operational risk and political risk. To the extent that the banking industry in Myanmar is dominated by crony practices, it suffers a failure of trust and credibility, driven in part by a banking culture that lacks ethical and professional standards and corporate governance, has cavalier attitudes to due diligence and routinely supports non-disclosure and tax evasion.

The picture is also complicated by the fact that some elite-cronies also became Members of Parliament and ministers during the U Thein Sein administration of 2011–16. For as long as cronies hold legislative power to craft laws and regulations and usurp executive power to managing the state's economic activities, there will be real constraints on the ways in which rent-seeking, cronyism and corruption can be curbed in Myanmar.

Not all wealthy people in Myanmar, of course, are cronies. However, whether they are tainted or untainted tycoons, Larkin affirms that

> [a]s a group, their rapid rise under the military rule is often attributed to 'corrupt' patron-client relationship[s] and seen to have benefited from 'connection' (2015:3).

There is also a sense among many in Myanmar that sorting out the real cronies from the less culpable ones is a futile task and that the focus should be on regulating crony business behaviour going forward. A few cronies in Myanmar had a reputation for trustworthiness and ethical business behaviour and integrity. Distinguishing between a 'good' crony and a 'bad' crony is difficult, but many business people now advocate judging cronies by their behaviour after 2014, rather than by how they initially acquired their privilege. As one interviewee comments, 'cronyism and corruption -- draw the line at 2014. Forget about this cronyism after that' (P-13)

The first part of this chapter describes the make-up of the banking sector in Myanmar and outlines the ownership of the public and private banks currently operating. Because the foundations and the leadership of Myanmar's banking sector are compromised, and because there is no guarantee of the political will necessary to undertake thoroughgoing reform, this chapter also argues that the greatest regulatory pressure on the banking sector at present comes from abroad. In particular, the global regulations of money laundering has already had an effect in Myanmar and holds some promise as a lever by which to shift banking practices and culture in Myanmar in the medium term. The second half of the chapter outlines the way in which global regulators such as the FATF and Asia/Pacific Group (APG) have extended their jurisdiction to Myanmar, and with what kind of effect. The impact of market entry by foreign banks as regulatory influence is considered in section 5.2.5.

[5.2] The anatomy of Myanmar's banking system

> '[Banking] licences were issued to the people, who are trusted by them [the military] and who are closely working with the governments.' (P-11)

The role of financial institutions in a peaceful rule-based economy is to ensure efficient transactions between financiers and borrowers. Presently, Myanmar's banking industry offers three major financial services: (1) savings accounts; (2) deposit accounts; and (3) short-term loans (World Bank 2016). Myanmar's financial system is made up of four state-owned banks, ten policy or development banks, 16 private banks (including a number of crony-banks and two military banks), thirteen foreign banks and 49 representative offices of foreign financial companies and a number of non-banking financial intermediaries. To date, there are 30 domestic banks operating, and in the decade between 2010 and 2020, the number of bank branches had increased to nearly 1513, from 900 in 2010. However, farmers and rural inhabitants (who make up approximately 65–70% of total population of 59 million) are largely ignored by the regulated banks and financiers in Myanmar; while the number of bank branches relative to the population and the level of credit/loans to the population remains low in comparison with neighbouring economies. The people of Myanmar still have difficulty accessing finance through the regulated banking sector.

The banking sector employs approximately 60,000[59] people, equivalent to 0.00185% of the total workforce in 2017–18. Despite rapid growth in recent years, the banking system remains small, with deposits equivalent to 32.5% of GDP. Credit to the private sector stood at 16% of GDP in FY 2014–15 (IMF 2015). The total value of assets held by Myanmar financial intermediaries, including those held as reserves by the Central Bank of Myanmar (CBM) were estimated to be roughly MMK 7.3 trillion in 2010–11 (GIZ 2013), increasing to 23 trillion in 2013 and reaching 30.15 trillion in 2014–15(GIZ 2015).

According to the CBM statistics for March 2017, four state-owned banks held 39.1% of total assets, amounting to MMK 17.3 trillion (USD 13.2 billion), while private and semi-private banks had 60.9% of total assets totalling MMK 26.9 trillion (USD 20.5 billion). The total assets of the thirteen foreign banks in March 2017 stood at MMK 4.6 trillion (USD 3.5 billion) or some 9.4% of the total MMK 48.8 trillion (USD 37.3 billion) of banking assets (CBM 2017; Oxford Business Group 2018:69). The credit market in Myanmar is developing moderately, and according to CBM data in June 2017 total loans stood at MMK 19.5 trillion (USD 14.9 billion), of which state-owned banks held MMK 2.8 trillion (USD 2.1 billion) and private banks held MMK 16.7 trillion (USD 12.8 billion).

[59] 'Fit and Proper' regulation has not been applied yet, although the 2016 Financial Institutions Law (the Pyidaungsu Hluttaw Law No. 20/2016) was enacted in 2016. The CBM announced four banking regulations in April 2019; see more discussion in Chapter 7.

Table 5.1 below shows the banks classified by form of ownership. After abolishing the state monopoly on foreign exchange markets in 2011, the state allowed eleven private banks to act as to authorised dealer licensed banks, and six private banks were permitted to conduct interbank foreign exchange trading. Though the latter use six foreign currencies, only US dollars can be traded with the Myanmar national currency, the kyat (CBM 2012). The payment and settlement infrastructure of the banking system is being reformed and a Myanmar Payment Union (MPU[60]) was initiated with the technical assistance of the China Union Pay (Union Pay) and Japan Credit Bureau (JCB) in 2011. As of early 2018, an MPU cardholder can withdraw MMK 1000–100,000 (USD 1–1000) daily at any ATM;[61] and 28 domestic banks now use these MPU cards.

Table [5.1]

The banking industry in Myanmar as of April 2019

State-Owned Banks (SOBs)	**Military Banks**	**Policy/development Banks**	**Private Banks**	**Foreign Banks**
(1) Myanmar Foreign Trade Bank (MFTB) (2) Myanmar Economic Bank (MEB) (3) Myanmar Investment and Commercial Bank (MICB) (4) Myanmar Agricultural Development Bank (MADB)	(1) Myawaddy Bank (2) Innwa Bank	(1) Small and Medium Industrial Development Bank (SMIDB) (2) Global Treasure Bank (formerly the Myanmar Fisheries and Livestock Development Bank (3) Rural Development Bank (formerly the Sibin Tharyar Bank) (4) Yangon City Bank (Yangon Sibitharyar Bank) (5) Myanmar Microfinance Bank (6) Myanmar Construction and Housing Development Bank	(1) Myanmar Citizens Bank (2) First Private Bank (3) Co-operative Bank (4) Kanbawza Bank (5) Asia Green Development Bank (6) Ayeyarwady Bank (7) Myanma Apex Bank (8) United Amara Bank (9) Yoma Bank (10) Tun Foundation Bank (11) Myanmar Oriental Bank (12) Asian Yangon International Bank (13) Shwe Rural and Urban Development Bank	(1) Australia and New Zealand Banking Group Limited (ANZ Bank) (2) The Bank of Tokyo-Mitsubishi UFJ, Ltd. (3) Overseas-Chinese Banking Corporation Ltd. (OCBC bank) (4) Sumitomo Mitsui Banking Corporation (5)United Overseas Bank Limited (UOB bank) (6) Bangkok Bank Public Company Limited (7) Industrial and Commercial Bank of China (ICBC bank) (8) Malayan Banking Herhad (Maybank)

[60] https://www.myanmarpaymentunion.com (accessed 29 April 2019).
[61] US (NYSE) and Germany (Frankfurt SE)-listed Diebold Nixdorf is a market leader with 70% of market share in Myanmar, according to Nikkei Asia Review on February 21, 2017. https://asia.nikkei.com/Economy/Myanmar-s-burgeoning-financial-sector-attracts-foreign-suppliers

		(7) Naypyidaw Sibin Bank (8) Construction and Housing Development Bank (9) Yadanabon Bank	(14) Ayeyarwaddy Farmers Development Bank Limited (A Bank) (15) Glory Farmer Development Bank Limited (G Bank)	(9) Mizuho Bank Limited (10) The Joint Stock Commercial Bank for Investment and Development of Vietnam (BIDV) (11)Shinhan Bank (12) E. Sun Commercial Bank Limited (13) State Bank of India

[5.2.1] State-Owned Banks

Myanmar Economic Bank (MEB), Myanmar Foreign Trade Bank (MFTB), Myanmar Investment and Commercial Bank (MICB) and Myanmar Agricultural Development Bank (MADB) were established in and have been owned by the state since the 1950s. The military governments that controlled the Myanmar economy from 1988 restructured policy banks or development banks to finance their ministries' policy priorities. The problem is that those policy banks' ownership assets and liability remain opaque in the current transitional period. None of the SOBs have disclosed non-performing loans or released financial reports, despite encountering regulatory and technology pressure from the markets. Although the accounts and assets of the SOBs exceed those of private and crony banks, the SOBs' share of total banking sector assets had declined to 52 per cent in 2015 from 67 per cent just two years earlier (IMF 2015).

The MFTB[62] is now arguably unnecessary because the country has adopted a floating foreign exchange policy. The purpose of the MFTB was operating foreign exchange and international currencies; however, as of 2019 it accepts only three currencies (the Singapore dollar, the US dollar and the Euro). Major customers of the MFTB include foreign service personnel and the UN missions. The MEB[63] requires integrity

[62] The MFTB was established for international banking and foreign commerce in 1954 by the U Nu's government and was nationalised in 1963 by the military. See more at https://www.mmftb.com/mftbhistory.php

[63] The MEB emerged from the State Commercial Bank (SCB), founded in 1954, and was used by the Burma Socialist Program Party (BSPP) in 1976 to subsidize the economic activities of government projects. It is widely assumed to be the second largest bank in terms of assets and was operated by the Ministry of Planning and Finance as of 2019.

infrastructure, innovative and corporate governance, accountability and transparency as it has shown a deficit budget for nearly decades (discussed in Chapter 4).

The MADB was established on 1 June 1953 as the state's agricultural bank. The MADB is recognised as the lowest interest rate bank in the banking industry. Given that its client base comprises rural farmers, the financial performance and profitability of the MADB has been poor for decades. The MADB staff are notoriously compromised by corruption and bribery in dealing with rural farmers and agriculturists.

A brief timeline of the MADB is as follows. In 1967, it was restructured as the Public Bank's agricultural loan department and rebranded as Myanmar Agricultural Bank in 1975. During the SLORC military government its title was changed to the Myanmar Agricultural and Rural Development Bank. On 14 August 1996, it was transferred to the Ministry of National Planning and Revenue from the Ministry of Agriculture, Livestock, Fishery and Irrigation. In 1997, it was rebranded as Myanmar Agricultural Development Bank. During the NLD's administration, the MADB was transferred to the Ministry of Planning and Finance, according to meeting decision number 8/2017-17 on 27 December 2016.

Due to competition from crony-banks, the SOBs have failed to deliver financial services and to capitalise. It is safe to say that all SOBs in Myanmar need digital technology, human capital, ethical infrastructure and corporate governance strategies. These four SOBs have been under the supervision and monitoring of the Ministry of Planning and Finance since the NLD came to power.

[5.2.2] Military Banks

Myawaddy Bank[64] and Innwa Bank[65] can be safely classified as two military banks among the private banking industry. No one in Myanmar dares to examine military economic institutions, including these two banks, the military's Myawaddy television stations, the Union of Myanmar Economic Holdings (UMEH) and Myanmar Economic Corporation (MEC[66]). Remarkably, Myawaddy Bank was one of the top

[64] https://mwdbank.com/about-mwd-en/history.html
[65] https://ablmm.com
[66] The sanctioned Myanmar Economic Cooperation (officially) operates six business lines: manufacturing; beverages; services (Innwa bank and Aung Myint Moh Min Insurance Ltd., Okkala

five income-tax payers in Myanmar for 2015–18 and is growing rapidly in terms of asset, capital and branches. According to the 2016 Financial Institutions Law (FIL), Myawaddy Bank is a private limited company formed under the Myanmar Companies Act (1914) that has operated since 1993. It was granted a licence under the Financial Institutions of Myanmar Law (2016) for investment, development and commercial banking. It is observed that Myawaddy Bank is the only bank in Myanmar that provides Internet security guidance[67] to customers. Innwa Bank, which is less transparent than Myawaddy Bank, was registered as private bank in 1997 via the Myanmar Economic Cooperation (MEC), one of the largest military holding companies in Myanmar. The 36 branches of Innwa Bank operate pensions for army personnel and MEC financial transactions. Both current and retired military generals are present on the board of directors, but details of shareholders, senior management and financial statements are not generally available.

[5.2.3] Policy/Development Banks

The governments of Myanmar established policy/development banks to subsidise certain business activities following independence in 1948. During the 'dark ages' of Myanmar (1988–2011), ten policy banks were notorious for their controversial shareholders, including cronies, line ministries and generals. It is unknown how they acquired their capital and most of them did not understand modern business plans and financial literacy. There is no clear differentiation between privately owned shares (private goods) and publicly owned shares (public goods and common goods) among these ten banks. They were introduced to facilitate certain military and strategic projects, including the building of a new capital city, Naypyitaw,[68] in the 1990s. Disclosure of the ownership and financial performance of these ten policy banks should be required for legal and regulatory reviews. In particular, it needs to address on changing ownerships and shareholders of Small & Medium Industrial

Golf Resort); telecommunication; and transportation, according to its website http://www.mecwebsite.com, although nobody knows exactly what are unofficial business lines are.

[67] https://www.mwdbank.com/e-banking-service/general-security-guidelines.html

[68] Naypyidaw, the capital of Myanmar, was rashly built during the Senior General Than Shwe' military administration in the 1990s at a cost of approximately USD12 billion, with cronies-turned-tycoons borrowing from public funds (including the foreign reserve and public saving). Now, they have to repay their private debt to the Naypyitaw Sibin Bank with both compound interest rates and principal. See http://www.nptsbankmm.com/theme/index.php (accessed on April 5, 2019).

Development Bank[69] and Global Treasury Bank from Myanmar Livestock and Fisheries Development Bank[70].

[5.2.4] Private Banks and Crony Banks

During the fieldwork period for this study (2018), there were 28 private banks operating in Myanmar, most of which did not have a clear register of shareholders, managers, assets or ownership. At the time (and today) KBZ Bank was the market leader with 46% of total market share. AYA Bank and CB Bank each had 10% of market share and the rest was distributed among the other 13 domestic banks (KBZ Bank had 465 branches, AYA Bank 225 branches and CB Bank 204 branches). In 2019, the Central Bank of Myanmar issued Directives Nos. 18–22 for reform of the private banks' corporate governance, including some regulation of 'fit and proper' persons and the qualifications of board of directors. Some domestic banks have now obtained Society for Worldwide Interbank Financial Telecommunication (SWIFT) certification. The significance of the SWIFT system is that it facilitates transfers from foreign exchange accounts to overseas banks, but also shows whether a bank is on an international sanctions list.

[5.2.5] Foreign Banks

The CBM initially permitted nine foreign banks to enter the market in Myanmar in 2015, and another four were granted licences in 2016 (see Table 5.1). These foreign banks contributed approximately USD 1 billion of capital to Myanmar's banking sector and created 500–700 jobs. Most foreign banks in Myanmar are from Asia and East Asia, while international banks from Europe and North American are expected to enter Myanmar's banking market in the near future.

According to section 34(a)(1)(2) of the 2016 Financial Institution Law, the CBM issues a banking licence that permits any foreign bank to open a branch with paid-up

[69] The SMIDB was established in 1996 under the military regime. Its shares and assets are mostly from the state's budget. It was privatized in 2015 without public consensus with 830 shareholders, drawn mostly from sanctioned cronies and ex-military personnel.

[70] Myanmar Livestock and Fisheries Development Bank was established in 1996 as a state policy bank. In 2013 it was re-branded by the Directorate of Investment & Company Administration (DICA), under the Ministry of National Planning and Economic Development, as Global Treasure Bank, a limited public company. See http://www.gtbmm.com/history.php

capital[71] of at least USD 75 million. However, although these foreign banks were permitted to enter Myanmar's banking market for wholesale banking, most are currently prevented from operating retail banking activities, including the operation of commercial banking and any form of lending activity to local peoples. According to CBM Directive No. 6/2018, they are only allowed to offer deposit and loan products for foreign corporations and domestic business, rather than retail banking for Myanmar citizens.[72] However, according to provision 1(c)(14) of the 2018 Myanmar Companies Law, foreign banks are able to directly or indirectly invest and merge 35% or more of the stake of the local banks. The leadership team at the CBM needs to consider expanding the scope of licences to other banking products and financial activities for these foreign banks. The market entry of foreign banks is an opportunity for Myanmar to acquire banking skills and access to finance through enhanced competition among the players in the banking industry.

[5.2.6] Non-bank financial institutions

Although we have considered here the profiles of the country's banks, most of the country's citizens remain unbanked. The main lenders of consumer credit are pawnshops, unregulated moneylenders, microfinance institutions and local lenders. One outcome is that Burmese communities overseas and migrant workers still use the unregulated *hundi* system for remittance transactions. Overseas remittances to Myanmar are estimated at between approximately USD 0.5 billion (GIZ 2015) to USD 10 billion per year (Economist 2013).

[5.2.7] Myanmar Stock Exchange

In accordance with the provisions of the Myanmar Foreign Exchange Management Law, ratified by U Thein Sein on 10 August 2012, the Yangon Stock Exchange (YSX) was established in 2015 with technical and financial assistance from the Daiwa Securities Group of Japan. The Daiwa Securities Group has played a major role in

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[71] An example of regulatory capital of an international bank is USD100m at the CBM, of which USD 60m is for operations and USD 40m for deposits, for which a foreign bank may not receive any interest.
[72] The citizens of Myanmar are excluded from financial opportunities to open personal saving accounts, money transfers, student loans, medical insurance and interest rate income from foreign banks, due to restrictions on the foreign banks' retail banking licences. This regulatory discrimination reduces citizens' access to finance, while the cronies and the military can borrow overseas funds.

Myanmar's financial system since 1996 as Japanese international resources helped develop the capital markets. In 1990 the Myanmar Securities Exchange Ltd. (MSEC) was also set up jointly with the Myanmar Economic Bank (MEB) and the Japanese think tank arm of Daiwa Securities (Kubo et al. 2009:130) acting as under-writers for bond market developments.

KBZ Bank, the largest private bank in Myanmar, was selected for operating settlement and clearing functions for the YSX in 2015 (Aye Thida Kyaw: Myanmar Times 29 February 2016). First Myanmar Investment was the first to list on the YSX in March 2016, followed by Myanmar Thilawa SEZ Holding and Myanmar Citizens Bank listed in August 2016, First Private Bank in January 2017 and TMH Telecom public company on 26 January 2016.

Like other stock exchanges in transitional economies such as Laos and Cambodia, the YSX has been established from a low base and struggles to meet public expectations. A contributing factor for slow growth is that 'only local individual and institution investors have been allowed to buy and sell on the YSX, closing it to foreign investors' participation' (Oxford Business Group 2018: 90). As of 22 May 2018 there were five companies listed on the YSX, with a total market capitalisation of MMK 860 billion (USD 860 million), according to the YSX.

[5.3] Rent-seeking and Myanmar's banking system

> 'Corruption: both borrowing corruption and lending corruption occur in my banks. A boy from card issuing department and a girl from loan issuing department conducted such kind of corruption after they became lovers.' (P-19)

As we have seen in previous chapters, Myanmar has suffered from a lack of regulatory techniques and independent regulatory agencies to monitor and enforce its public goods, private goods and property rights. Historically, Myanmar's banking industry, the Myanmar Banks Association (MAB) and the Myanmar Institute of Banking (MIB) were largely operated by the military-crony groups for generating wealth and protecting their power. A policy issue is that the rules governing price, market entry and exit, and tariffs were designed by the crony-lawmakers in the period 2010–16. Such regulatory discrimination can be observed in many business sectors in Myanmar. Cronies-turned-lawmakers drafted the laws and regulations for Myanmar's banking sector during the transition in order to restrict competition from international banks and to fence off Myanmar from a number of modern banking activities.

The primary example of rent-seeking was preferential granting of commercial banking licences to allow cronies to enter the regulated banking industry. The CBM did not permit retail and commercial banking licences until 2010. Just before the 2010 elections, the military junta (Gen. Thein Sein was then the Prime Minister) allowed its trusted cronies to set up a number of private banks without proper integrity and ethical examination. Six cronies – U Tay Za, U Zaw Zaw, U Nay Aung, U Chit Khine, Dr Sai Sam Htun and Mr Steven Law (alias U Tun Myint Naing) – submitted a commercial banking licence application to the CBM on 18 May 2010, but only four of the six application were approved following a closed-door meeting with the generals and the decision-makers of the CBM. The reasons for rejection of the other two cronies (Dr Sai Sam Htun and Mr Steven Law) are unknown. The allowed four banks are Asia Green Bank, Ayerwaddy Bank, United Amera Bank and Myanmar Apex Bank. Hence, U Khin Maung Aye,[73] who was an advisor to former president U Thein Sein and chairman of the Kaung Myanmar Aung (KMA) group of companies and the MAB, had five projects approved just before the government changed hands at the end of March 2010; these included the Co-operative Bank. Ownership of assets and liability of the state's Co-operative Bank by U Khin Maung Aye was arguably not lawful and was not subject to proper legal and ethical scrutiny.

It was unwise and unfair that only cronies who were close to the military were permitted licences despite there being ethical, professional business leaders in the economy who would have had the necessary capital to run a private retail bank. It arguably encouraged corruption, rent-seeking and money laundering in the Myanmar banking system and created a way to clean dirty money within the regulated banking industry.

A further example of rent-seeking behaviour in the banking sector is the regulation of non-performing loans. According to the CBM's micro-prudential provision (e) on non-performing loans (NPLs[74]), these are classified in three ways: sub-standard,

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[73] This person was one of the 16 Myanmar nationals and entities listed in the Panama Papers in 2015.
[74] Myanmar needs a modern credit market reform due to its credit market is not resilient with the high level of non-performance loans (NPLs) – in particular corporate loans and real estate loans. The CBM

doubtful or bad, when principal or interest is overdue by 1–12 months, 12–24 months, or more than 24 months, respectively (CBM 2012). The international definition of an NPL is 90 days. It is hard to understand how Myanmar, as a transitional economy, benefits from a standard regulation that is eight times weaker than its regulatory counterparts around the world (P-22).

This definition of NPLs as those unpaid at 730 days (two years) highlights the lack of understanding about regulatory efficiency and independent regulatory bodies in Myanmar's banking system. The declared NPL rates for private banks are about 2% (in 2018, the NPL ratio in Malaysia was 1.35% and in Thailand 2.94%) and Myanmar's state-owned and military banks have not disclosed their NPL rates. This regulation on NPLs encourages borrowing and lending corruption in the banking industry. This can be interpreted as rent-seeking, or the result of bribes to the banking industry to lend with impunity. This also creates an opportunity for lending and borrowing corruption through preferential treatment of some customers in the banking and financial business. However, fines are levied on operating banks that infringe on single-borrower limits and hide NPLs with impunity (P-21, P-22). This NPL regulation problem is emblematic of the wider issue of how the banking sector is regulated.

[5.3.1] The Central Bank of Myanmar as regulator

According to the latest CBM regulations (18 chapters and 121 provisions, promulgated on 11 July 2013), after being separated from the Ministry of Planning and Finance, the CBM is designed to play two roles: (a) as a regulator of the market and the economy and (b) as a supervisor for the banking industry. The CBM officially uses prudential regulatory tools for the banking industry and acts as the key regulator, reviewing existing regulations and revising instructions with technical assistance from multilateral financial institutions. So, for example, the CBM adopted a managed float exchange rate regulation based on the advice of the IMF, through the IMF's Article VIII and IV missions (CBM 2012; IMF 2013). The Foreign Exchange Regulation Act

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has not disclosed corporate loan, consumer loan and the quality of loan (which NPLs can be divided by the total loans of a bank) until writing this thesis in 2019.

1947 was amended so that the new law would be in line with the current situation, with IMF technical assistance (CBM 2012).

Although the CBM was (legally) created as an independent regulatory agency in 2013, in reality the military banks – such as the Myawaddy Bank, Innwa bank, Myanmar Agricultural Development Bank (MADB), and Myanmar Economic Bank (MEB) – are not regulated by the CBM. Theoretically, the Ministry of Planning and Finance supervises four state-owned banks including the MEB and the Myanmar Foreign Trade Bank (MFTB), and the Ministry of Agriculture and Irrigation supervises the MADB. Once those banks are taken out of the frame, the CBM's regulatory mandate only covers the remaining private banks, 13 foreign banks and 47 international representative offices. There is no legitimate reason for those policy and development banks to be treated differently from other banks. The result is that the CBM cannot create a standardised regulatory setting under which public and private banks can compete equally.

The CBM also lacks the legal authority to print local currency. Currently, the security-printing department of the military prints the local currency, the kyat. Problems that flow from the military having this regulatory authority include: (1) the CBM not actually understanding how money really circulates in the economy; (2) the military and cronies using more foreign hard currency (USD) while normal citizens are using local currency; (3) the economy moving to a dollarized economy as a result of elites hunting hard currency; (4) local currency always being treated as inferior; (5) the facilitation of the movement of cash to offshore financial hubs and overseas property markets; and (6) enabling the laundering of hard currency through real estate assets in local markets.

Dollarisation in Myanmar is a particular policy challenge for the leadership of the country. As cronies accumulated billions of dollars with the help of senior generals over the period 1988–2016, they converted that wealth to hard currency – in particular, the US dollar and other hard currencies. The result is that the urban elite store much of their wealth in US dollars or global hard currency. The rural poor have much less access to hard currency and this pushes all Burmese citizens to sell kyat for hard currency such as the US dollar or assets such as gold, real estate and land.

The production of the local currency, the kyat, is in the hands of the Printing Department of the Ministry of Defence. This means that the military can print money at will. To date this has resulted in the military printing too much money, which creates inflation and lowers the value of the kyat. The CBM has no effective control over how much currency is circulating in the economy. One solution would be for the CBM to take over responsibility for printing currency, as is the case in developed economies.

This risks further dollarisation in the financial system as the people lose faith in the kyat.

At the same time, electronic banking services and financial products have been developed as a result of the global digital economy: digital currency, e-money and mobile banking,[75] real-time banking and financial products such as cryptocurrency,[76] electronic-wallets,[77] Internet banking, telephone banking and mobile-money programs. Yet In Myanmar there has no specific regulation for digitalised banking and controlling digital financial fraud since the opening of the financial markets in 2015. The problem is that the regulators of the CBM do not have the digital knowledge and information technology-related skills to monitor and supervise financial corruption and economic crimes within the banking industry.

The Electronic Transactions Law (2004) was codified with 13 chapters and 51 provisions and promulgated by Senior General Than Shwe on 30 April 2004; the newest Telecommunications Law (19 chapters and 89 provisions) was enacted on 8 October 2013 by Thein Sein's government. Both statutes omit many types of modern electronic corruption, such as identity theft, ATM skimming scams, cyber-crimes, financial fraud, mortgage fraud, credit/debit card fraud, electronic transactions fraud and cheque fraud. With the opening of its money market, Myanmar's banking industry has encountered a number of Internet and computer related-crimes, ATM

[75] E-money is regulated by Mobile Banking Directive (MBD 2013) and the Mobile Financial Services Regulations (MFRS 2016), However, there are many types of banking and financial products are constantly developing in the digital economy that the CBM needs to address, monitor and supervise to prevent loss of public trust in the Myanmar's financial and banking markets.
[76] According to Provision 40(5) and Article 26 of the 2013 CBM Law, the CBM noted that it has not defined digital currency including Cryptocurrency, Bitcoin (BTC), Litecoin (LTC), Ethereum (ETH) and Perfect Money (PM) as legal currency and has not permitted them for trading as of 3 May 2019.
[77] Both banks and non-bank financial institutions (NBFIs), including telecommunications companies and mobile operators, have operated payment services and settlement businesses.

scams and signature fraud cases. These are likely to increase as the economy becomes digitalised. The numbers of total cyber-crimes and ATM scamming cases have not been disclosed.

[5.4] The impact of global sanctions on Myanmar's banking system

> 'Myanmar banking sector needs a competition on trust as people do not trust bank but they do trust private bank, not state-owned banks. The reason of losing trust is 2003 banking crisis and perception.' (P-18)

The fact that banks have been established in Myanmar by privileged elites who are close to government is not unusual – the historical pathway of many banks around the world follows this pattern. The issue in Myanmar remains a least developed economy in which the modernization of the economy – and the consequent regulation of those banks – lags so far behind neighbouring economies in ASEAN and beyond. Unlike cronies in other newly industrialised countries, the cronies of Myanmar have to date been able to operate without corporate governance, business plans and ethics or market competition. While they were enjoying rent-seeking from resource extraction, their counterparts in other emerging economies achieved double-digit growth and created global commercial brands. In contrast, between 1988 and 2016, almost every owner of a sizeable company in Myanmar had to associate with the military in order to operate their businesses. No normal citizens were permitted special economic privileges or business licences, other than those who had close relationships with the generals, maintained through a mix of familial blood connections or personal relationships that bolstered the military's rule and power.

Today's unproductive banking system is a product of that nexus. As Turnell (2002) notes: 'A number of Burma's private banks (indeed precisely half) are owned or controlled by members of the ruling military clique'. The power and interests of military-cronies in Myanmar are also vividly illustrated by the ways in which they accumulated their wealth by transferring state assets to benefit themselves through under-invoicing, over-invoicing, tax evasion, natural resources extraction and land-grabbing (Nehru 2014; Jones 2014; Global Witness 2015; Larkin 2015).

One regulatory tool that has had some bite in the Myanmar banking sector has been international sanctions of individuals. Currently, there are three types of crony in Myanmar who are subject to international sanctions. The first category of crony was blacklisted via visa bans and financial sanctions by the United States and other democracies. The second type of crony is those suspected of being involved in the drug trade, arms smuggling or money laundering; and the third category is those who may or may not be involved in drugs and/or illegal business activities. These three types are now subject to international regulation.

The following list is an example of the latest regulatory actions and Specially Designed Persons (SDNs) identified by the US Department of Treasury in 2013–14:

> The U.S. Department of the Treasury designated Lt. General Thein Htay, the head of Burma's Directorate of Defense Industries (DDI), pursuant to Executive Order (E.O) 13619, which targets those involved in arms trading between North Korea and Burma. This action specially targets Thein Htay, who is involved in the illicit trade of North Korean arms to Burma; it does not target the Government of Burma, which has continued to take positive steps in severing its military ties with North Korea. In November 2012, the Government of Burma publicly announced its intention to abide by United Nations Security Council Resolution 1874, which prohibits the procurement of military goods and assistance from North Korea. (US Treasury, 3 July 2013)
>
> The U.S. Department of the Treasury today designed Aung Thaung (Nay Aung of United Amera Bank's father), a senior official of the Burmese Government, pursuant to Executive Order (E.O.) 13448. This action specifically designates an individual, Aung Thaung, and does not designate any Burmese entity. As the United States continues to support and monitor Burma's reforms, including democratic reform and the national peace process, we remain concerned that certain individuals have been working to counter these efforts. (US Treasury, 31 October 2014)
>
> The U.S. Department of the Treasury designed Burmese companies Asia Metal Company Ltd., Soe Min Htike Co. Ltd., and Excellence Mineral Manufacturing Co. Ltd., pursuant to Executive Order (E.O) 13619, which targets those involved in arms trading between North Korea and Burma. Treasury also designated Lt. Colonel Kyaw Nyunt Oo, a Burmese military Staff Officer acting on behalf of the Burmese Directorate of Defense Industries (DDI), which was designed pursuant to E.O. 13619 in July 2012. These actions continue Treasury's efforts to target those linked to DDI, which has been involved in purchasing military equipment and related material from North Korea. (US Treasury, 11 December 2013)

Seven out of Myanmar's 28 private banks in 2018-19 (including the military banks), their owners and hundreds of Myanmar individuals have been blacklisted in the list of Specially Designated Persons and Blocked List (the SDN list) of the United States of America for many years. Former executives of the CBM and military personnel who work for the private banks have been protecting their profits and interests.

For example, the US-sanctioned cronies U Htay Myint of the Yuzana Company and U Khin Swe of the Zaykabar Company were selected to be Members of Parliament in the military-backed Union Solidarity and Development Party in 2010–16. The EU-sanctioned crony Win Myint, the former Chair of Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), was appointed as Minister for Commerce. U Aung Thaung (deceased), who was known as a military hardliner, was appointed as Chair of the Financial and Economic Committee of the first Union Parliament in 2011–16 – thus becoming a banking regulator notwithstanding the fact that he was the father of U Ne Aung of United Amera Bank. As discussed above, the US Department of Treasury designated U Aung Thaung on its blacklist on 31 October 2014 for ‘perpetuating violence, oppression, and corruption’. Aung Thaung’s committee drafted laws and regulations for the financial and banking activities of Myanmar from the 1st Parliament under the 2008 constitution.

Following the issuing of regulations and a general licence by the Office of Foreign Assets Control (OFAC) of the US Treasury Department in 2015, US citizens and financial companies were allowed to deal with the four previously blacklisted banks: the MEB, the Myanmar Investment and Commercial Bank (MICB), the Asia Green Development Bank (AGDB) and the Ayeyarwady Bank. The result of this relaxation of financial sanctions was that currency transactions could be undertaken through the global payment infrastructure, e.g. Visa and MasterCard. Currently, more than 24 banks have expanded their electronic payments networks. Credit and debit-card systems have been re-installed, and cardholders can withdraw cash from member banks through ATMs in major cities and towns (when electricity is available). However, as electronic and mobile banking were only introduced in 2015 they are still in their infancy.

Controlling the drafting of legal regulations and appointing referees personally has been a winning strategy for cronies, with others having to play by the rules they create. Military-cronies have been extremely active in the law-making business to protect their personal wealth and interests ahead of those of ordinary citizens. The new foreign exchange policy, for example, allows ‘foreign currency’[78] holders,

[78] According to the section 2(b) of the Foreign Exchange Management Law (2012), ‘foreign currency’ includes coins, currency notes, postal orders, cheques, letters of credit, money orders, travelers’ cheques, bills of exchange, and promissory notes.

cronies and unregulated *hundi* dealers, as well as new players, to enter the newly re-regulated foreign exchange and currency markets. This is a golden opportunity for the military and the cronies, who can lauder their illicit wealth and illegal business activities without any legal scrutiny during the transition.

Only a few domestic bankers in the economy are regarded as ethical business leaders; they include the owners and bankers of First Private Bank[79] (the most transparent bank in Myanmar, established in 1992 and listed on the YSX in 2017), Myanmar Oriental Bank[80] (established in 1993) and Myanmar Citizens bank[81] (established in 1991 and listed on the YSX in 2016). These banks are the most transparent banks in the industry due to their banking performance, credibility and accountability to their customers and the state.

It is telling that no bank in Myanmar has voluntarily employed/established a compliance officer, integrity officer, anti-money laundering unit or anti-corruption unit to control illegal actions and money laundering. Reforming Myanmar's financial and banking system thus creates more opportunities for cronies who have hard currency and capital accumulated through their connections with the present and past military generals.

As long as the military's economic institutions – in particular, military banks – and policy banks remain outside the CBM's regulatory and supervisory framework, no private or crony banks are likely to obey the rules and regulations of the CBM. It is, therefore, time for Myanmar's banking system to be re-regulated in accordance with the Basel Committee's core principles for effective banking supervision.

[5.5] Anti-money laundering and Myanmar's banking sector

> 'Drug-money should not be acceptable and crony activities should be punished. Tax evasion should be given penalty. Governance and regulation should be lectured and taught on the (banking) industry.' (P-4)

One area where banks have been forced to change their culture and practices in Myanmar is relation to money laundering, under direct pressure from global regulators. The FATF, OFAC and the Asia Pacific Group (APG) have been advising

[79] http://www.firstprivatebank.com.mm
[80] https://www.mobmyanmar.com
[81] http://www.mcb.com.mm

the country's leadership on money laundering and anti-money laundering since the 1990s, due to drug- and narcotic-related cronies entering the domestic banking industry. Myanmar's regulated banking sector has a love-hate relationship with these regulatory devices and narcotic-related money laundering issues.

Illicit economic crimes, drug dollars and drug-related money laundering have been major policy problems in Myanmar during its transition. The country has been identified as the world's second-worst drug- and narcotic-producing country (after Afghanistan) for many decades (UNODC 2004, 2005; Kramer 2007; Ko-lin Chin 2009; Meehan 2011, 2015).

Money laundering in Myanmar is an endogenous factor, originating with the government's policy choices and connected with drug-related armed groups. Altsean-Burma (2004), an ASEAN civil society focussing on Myanmar's political and economic issues, notes that '[c]itizens were to lodge money in legal bank account[s] with no accounting for its origins, at a cost. It was called a whitening tax.' Subject to a 25% government levy, this whitening policy permitted drug-related money to become 'white' or clean money in the regulated banking industry with no further legal inquiry.

Anti-money laundering is an exogenous factor. Myanmar does not have effective anti-money laundering regulatory institutions, although the CBM is in theory a principal regulator for money policy issues, which would include drug-related money laundering in the economy. Since 2004 the CBM has issued nearly three dozen AML regulatory instruments for Myanmar's banking and financial industry (CBM 2016). These are largely aimed at drug- and narcotic-related cronies who were permitted to establish commercial banks in the 2000s. Peter Gutter[82] argues that

> [c]riminal money laundering in Burma enjoys four distinct advantages over the legal banking system. First, because their transaction costs are much lower, criminal lenders do not carry backlogs of non-performing loans which burden the banks. Second, criminal landers can freely discriminate among borrowers, i.e. they may impose different lending rates in order to extract the maximum amount of interest from each borrower. Third, criminal landers can play borrowers off against each other in order to extract personal information on borrowers' creditworthiness. Fourth, criminal lenders can use violence to ensure repayments. (2001:10)

[82] http://www.ibiblio.org/obl/docs/LIOB10-pgutter.htm

Writing on the origins of drug-related money laundering, Lilley asserts that

> [t]he government has arranged a series of cease-fire agreements with rebel groups for decades; however, such agreements have simply meant that drug cartels have been able more easily to traffic their opium, heroin and morphine. (2003:52)

With regard to drug-related corruption and the economic activities of Myanmar, Kramer (2007, 2016) says that

> [t]here are strong connections between foreign business and those associated with armed groups and drug-trade in Myanmar. After the 'surrender' ceasefire of Khun Sa's Mong Tai Army in 1995, which had controlled the heroin trade along the Thai border, trade networks adapted to the new situation. (2016:6)

In the meantime, global anti-money laundering regulatory pressure has mounted. Myanmar signed the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drug and Psychotropic Substances (The Vienna Convention[83]) on 11 June 1991 but has not ratified the 1988 Vienna Convention and reserved article 6, relating to extradition, so does not consider itself bound by the same insofar as its Myanmar nationals are concerned (UN Treaties 2017).

In June 2001, the FATF initially designed Myanmar as a Non-Cooperative Counter or Territory (NCCT). The US Secretary of the Treasury later listed the country as a jurisdiction of primary money laundering concern under 31 USC 53181 A, as per section 311(a) of the US Patriot Act (Pub. L.107-57). The Financial Crimes Enforcement Network (Federal Register 2004) of the US Treasury Department's OFAC then announced the imposition of the fifth special measure against two narcotics-related banks, U Kyaw Win's May Flower Bank and U Aik Tun's Asia Wealth Bank.

Myanmar's regulatory response was that the first-ever anti-money laundering law (AMLL), declared on 17 June 2002 and signed by Senior General Than Shwe (Turnell 2009:297–318). The retail and commercial banking licences of the May Flower Bank and Asia Wealth Bank were subsequently revoked in 2003. However, U Kyaw Win and U Aik Tun were not arrested, after shifting their commercial activities from banking to the real estate industry and supermarket chains. U Tin Sein of the

[83] https://treaties.un.org/Pages/ViewDetails.aspx?chapter=6&clang=_en&mtdsg_no=VI-19&src=IND#EndDec

Myanmar Universal Bank was arrested in 2005 for unknown reasons. However, the SPDC alleged U Tin Sein's Myanmar Universal Bank was involved in money laundering, while other banks with greater or lesser involvement in the domestic money laundering were allowed to operate. This illustrates regulatory discrimination, even among drug-related cronies operating retail banking activities in the banking industry.

More than a decade later, on 14 March 2014, Thein Sein's administration revised the 2004 AMLL. This 2014 revision established the Anti-Money Laundering Central Body (AMLCB[84]), chaired by Lt. Gen. Kyaw Swe, the Minister for Home Affairs, who was selected by Senior General Min Aung Hlaing, the Commander-in-Chief of Myanmar's Defence Services. U Kyaw Kyaw Maung, the governor of the CBM, is one of the members of the AMLCB. This new 2014 AMLL is in line with the FATF's anti-terrorism regulations, e.g. Chapter XIV, fund for anti-money laundering and counter-terrorism financing (AML/CFT). The 2014 AMLL defines four types of money laundering activities in section 3, provision (n):

> [i] converting or transferring money or property, knowing or having reason to know that the money and property are obtained by illegal means, for the purpose of converting or concealing the origin, or whether before or after the commission thereof, for the purpose of assisting a person involved in the commission of offence to evade the legal action under this Law;
>
> [ii] changing the original nature, source, location and characteristics, or concealing or disguising the ownership or rights of money or property, knowing or having reason to know that the money and property are obtained by illegal means;
>
> [iii] acquiring, possessing or using money or property, knowing or having reason to know at the time of receipt that money and property are obtained by illegal means;
>
> [iv] committing, attempting to commit, or conspires with intention to commit, or by commission or omission, assisting, supporting, providing, managing, advising, being any member, and by any other means involving any offence mentioned in clause (1) to (3).

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[84] According to provisions 340 and 343(b) of the 2008 Constitution, the Commander-in-Chief of the Defence Services adjudicates military justice, and also selects the Minister for Home Affairs (MOH), who, in turn, oversees the Anti-Money Laundering Central Body (AMLCB), Myanmar Police Force (MPF), Myanmar Financial Intelligence Unit (MFIU), Anti-Financial Crime Division (AFCD), Bureau of Special Investigation (BSI) and the Fire Services and Prison Department. I suggest that the AMLCB, MPF, MFIU, Fire Services and Prison Department need to be independently operated, while the MOH and BSI should be managed under the President's Office.

The 2014 AMLL adds more legal devices for combating illicit financial flows by domestic and foreign PEPs within the banking industry. Apart from lawyers and other professions, the banks, moneychangers and financial institutions are urged to monitor those whose monthly income exceeds MMK 100 million (about USD 100,000). A MMK 10 million (about USD 10,000) physical currency regulation is established and (in theory) implemented at the international airports of Myanmar.

Obviously, the 2014 AMLL cannot combat money laundering without robust compliance and enforcement institutions in Myanmar. The country has suffered the absence of effective regulatory institutions, despite the passing of this law. With respect to compliance and supervision within the banking sector, the CBM has two separate banking regulation and banking supervisory units (CBM 2012). However, the key managerial institution for anti-money laundering arena is the Financial Intelligence Unit (FIU) of the Myanmar Police Force and the 15 members of the AMLCB. According to Police Colonel Kyaw Win Thein from the FIU,

> [t]here were 21 money-laundering cases and 3 were arrested and kyat 23166.28 million were confiscated during the periods of 2006 and 2015. He estimates that there are about 1,000 people above that threshold, but stresses that they have no evidence that these funds are being laundered through banks. (Eleven Myanmar 2014)

Myanmar's FIU has not disclosed annual statistical data on money laundering and related arrests. Nonetheless, on 24 June 2016 the FATF removed Myanmar from its annual list of 'jurisdictions with strategic weaknesses' in anti-money laundering and countering terrorism financing.

One problem is that the majority of banks and moneychangers in major cities accept only hard currency, especially USD, for currency transactions. This has the effect of supporting money laundering, as we have been. Compliance with the CBM regulations varies from bank to bank and from person to person. A well-known case of alleged money laundering appeared in the media in 2014. In this case Aye Ne Win, one of the grandsons of Myanmar's notorious former dictator Ne Win, claimed that his family's firm, which is backed by a Chinese state-owned company, had agreed to buy a majority stake in U Tay Za's Asia Green Development (AGD) Bank. Aye Ne Wai claimed in the media that this was an opportunity to invest USD 4.9 billion (equal to 10% of total foreign direct investment in 2014–15) from the China National

Corporation for Overseas Economic Cooperation in various sectors in the economy (The Irrawaddy 2014; Eleven Myanmar 2014). Myanmar's FIU investigated the case but did not disclose the results of the investigation (i.e. whether that money is legal or 'dirty').

The opening of Myanmar's foreign exchange market, its prolific drug production, the increasing use of credit/debit cards connected to global financial agencies, and lack of transparency have made the country more attractive for domestic, and possibly global, money laundering. Money from illicit activities – including the drug and narcotics trade and illegal logging or jade mining – is recycled to buy land, which is then resold to launder black money through the real estate market. This process is quite visible and an open secret. The practices and processes of domestic money laundering have moved into four economic activities: (1); a booming real estate industry; (2) trading in gold and jewellery; (3) converting local kyat into foreign hard currency; and (4) currency trading as money speculation, which seems to be a Myanmar national sport. Among these four activities, a booming real estate market is being created to wash dirty money, as the prices of land and many skyscrapers have increased since transition.

According to provision 37(a) of the 2008 Constitution, the government owns and has controlled land ownership rights for centuries. There are more than 70 laws and regulations relating to land (Displacement Solutions 2015). The demand for real estate and land has been increasing since 2011 and the average prime rent in Yangon is at USD 87 per square metre (Colliers International 2014), although by international standards this remains low. Lending from banks for real estate transactions is actually restricted to landholders and landowners. Landless customers are unable to borrow money from the banks as they lack collateral. In order to borrow money from the bank, borrowers create artificial documents and forge ownership of land as collateral. The total extent of forgery cases in lending/borrowing cases in the banking industry has yet to be disclosed.

In short, the key problems of anti-money laundering in Myanmar are: (1) laws and regulations are ill-observed; (2) there is no effective legal compliance; (3) regulatory enforcement is discriminatory; and (4) the state's legal system and regulatory agencies remain utterly corrupt. Financial corruption, drug-related corruption and economic crimes are pervasive, in part due to lack of a proper job-creation policy. All sorts of money can also be laundered via property or land, gold or luxury cars, as there is no systemic taxation; as discussed in Chapter 3, Myanmar is the lowest tax collector in the world. Shell companies, foundations and hidden bank accounts can be set up for individuals and business entities that do not exist or exist simply to legitimise capital earned from illicit business and drug-related corruption. Leaders of armed groups and politicians benefit from this system as well. The political leadership of Myanmar considers regulating these unlawful but lucrative activities as a second-best policy response, because they function partly to protect their personal security and wealth.

[5.6] Conclusion

Banking and non-banking institutions and financial intermediaries are significant financial institutions for financial development and income generation in a peaceful rule-based economy. In Myanmar they are directed to fill this role under existing law, but many do not. However, to date Myanmar has not established a robust and credible banking system. As a transitional economy, Myanmar needs to transform its outdated laws and regulations to create a functioning banking system.

This chapter has argued that the nexus of military-crony corruption is likely to continue in the short term due to the weakness of regulatory and supervisory institutional design in the existing financial system. Reforming Myanmar's banking system from within requires, first, legal scrutiny of the biggest crony-banks, including their ownership, assets and liabilities. Second, the assets and liabilities of crony banks should be subject to corporate and income taxes on their business, instead of nationalisation. Third, after such legal scrutiny forged assets and liabilities should be subject to legal action. Fourth, the ownership, assets and cash flow of all private banking should be transparently published for the public to reduce information asymmetry.

In order to achieve this regulatory transformation, at a minimum Myanmar's banking industry should institute banking regulations that are equivalent to these elsewhere in Southeast Asia. Market entry to the banking industry in Myanmar should be standardised with international regulatory frameworks to increase rules-based competition. All banks and financial intermediaries in Myanmar's banking industry need to establish anti-corruption and anti-money laundering units to prevent and combat transnational corruption, financial crimes and money laundering. Therefore, Myanmar urgently requires a comprehensive banking and financial regulatory paradigm shift to reduce rent-seeking, corruption, cronyism and money laundering in the country's financial and banking system.

These kinds of reforms assume that there is a competent and clean regulator. In Myanmar, that should be the Central Bank of Myanmar, in combination with other institutions. The next chapter analyses the current regulatory framework for the banking sector in Myanmar; Chapter 7 then sets out recommendations for strengthening the capacities of the CBM to help address consumer confidence and trust, prevent moral hazard and better combat corruption (including money laundering), rent-seeking and cronyism.

Chapter 6. Regulatory Governance and Myanmar's Banking Industry

> 'Myanmar has regulatory discrimination because regulation has to be nodded to by the top-leadership.' (P-2)

[6.1] Introduction

As addressed in previous chapters, Myanmar is the latest of the transitional economies where a change in political power opened up the opportunity – and the need – to properly regulate the economy, at least until the 2021 coup. The banking sector is pivotal to that economic development because it shapes perceptions of Myanmar's governance capacity as a state (and its credit rating and ability to borrow); it provides infrastructure for foreign investment and for domestic business growth; and it gives consumers the ability to manage their household consumption, saving and risk. At present, as we saw in Chapter 5, Myanmar has a small banking industry and its financial technologies are still under development.

Myanmar's banking sector is also under pressure from global regulatory agencies on multiple fronts. The future leadership of Myanmar has an opportunity to select an institutional design for its financial system. Whatever model is selected, the regulatory framework of Myanmar's banking sector needs to be upgraded to mitigate illicit activities such as corruption and money laundering. Reforming Myanmar's banking regulations will have many flow-on effects for economic decision-making in the system, e.g. lending and borrowing policy; many type of financial products of Non-Bank Financial Institutions (NBFIs);[85] securities policy;[86] pricing policy; branch requirements; and information for market-entry and exit.

Despite reform of the banking sector under Thein Sein's government (2011–16) and Daw Aung San Suu Kyi's administration (2016–2021), there remain a number of

[85] Non-Bank Financial Institution (NBFI) is registered under section 20 of the Financial Institution Law for operating: (i); finance company; (ii); leasing; (iii); factoring; (iv) credit token; (v) money services;(vi) any other credit services as the CBM prescribed.
[86] Securities policy is defined and regulated in the Securities and Exchange Law of Myanmar.

policy issues to be addressed. Can the effects of corruption within the banking sector be mitigated? Corruption and money laundering in Myanmar's banking sector are currently systematic and pervasive, due to political and economic settings stemming from 50 years of authoritarian rule. Those stem in part from deeper structural and societal issues, including general levels of education, national poverty, and inadequate capability and capacity in public administration. Addressing these social issues and building mature democratic institutions is an intergenerational process. Those deeper underlying issues are beyond the scope of this study, but what we observe within the banking sector are policy gaps that facilitate illicit business practices in Myanmar, such as regulatory deficiency, imperfect information, moral hazard, lack of accountability between the central bankers and the bank-operators (structure and agency problems) and the lack of competitive banking products and price competition (monopolistic behaviour and lack of an anti-trust or competition law).

This chapter analyses the current challenges and obstacles for the Myanmar's banking sector and its regulations, and how it might strengthen the integrity infrastructure and ethical safeguards for its domestic banking. Of course, a solution is required on two fronts: (a) Myanmar can mitigate corruption of customers by enhancing the regulatory principles of transparency and democratic accountability, including asset declaration/financial disclosure,[87] beneficial ownership of a legal entity,[88] customer due diligence,[89] ethical infrastructure, and integrity, and so boost consumer and investor confidence; and (b) Myanmar can only mitigate grand corruption if the military-crony control of its banking and financial industry is addressed and if the underlying issues of economic modernization are addressed. Whether the current junta-controlled state has the willingness to make those changes is an open question.

This chapter, therefore, tries to provide an overview of the regulatory status of Myanmar's banking sector in four sections. First, it examines the regulatory priorities

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[87] According to Article 8, paragraph 5, of the United Nations Convention against Corruption (UNCAC), Myanmar as a state party, to imply this regulatory action at bank, non-bank financial institution and the PEPs for preventing conflict of interest.
[88] Myanmar has not defined a constitutional definition of 'legal person', 'natural person', 'legal entity' and 'beneficial ownership' yet.
[89] The Directive No. (21/2015, Directive for the CDD Measures) of the CBM, CDD means Customer Due Diligence as defined in section 3(u) of the 2014 AML Law and as described in Article 9 to 32 of the directive 21/2015, is including the Enhanced Due Diligence (EDD) and Simplified Customer Due Diligence (SCDD) and the PEPs.

and reforms of Thein Sein's administration during the transition. Second, it analyses how the Central Bank of Myanmar, as a regulator, regulates private banks, and realises its regulatory capacity and regulatory mandate. Third, it explains the current key regulatory approaches and capacity of Myanmar. Fourth, it suggests how regulation is done in other banking industries and what risk regulation offers as an idea and a practice in Myanmar in an era of financial globalisation and technology advancement. It concludes by considering the implications of risk-based regulatory policies for Myanmar's banking sector.

[6.2] Prioritising regulatory techniques for Myanmar's banking sector

> 'There are no well-thought-out plans in our country. The changing of regulation is very rapid in the industry. There are also capacity and skill problems at every level/sector in the economy. There is no critical thinking skill on "Know Your Customer-KYC" and no-one even asks "why".' (P-6)

Table 6.1 below shows U Thein Sein's government reforms using a number of economic regulatory tools for Myanmar's banking and financial system. All of these are sound, conventional policies that we would see in any developed system. The issue for Myanmar is that they require time, maturation, and capacity and capability-building to be realised. Among his many policy agendas, the banking sector was prioritised, primarily in 2011. A top priority of his reform agenda was changing from a multiple exchange regime to a managed exchange rate system with the technical assistance of the IMF in 2011. Since that time, the IMF has had a team advising on financial liberalisation, in particular interest rate deregulation and the design and implementation of a foreign currency auction by the CBM. They have also supported strengthening monetary policy[90] and the development of the banking sector and financial markets (IMF 2017:3–6). The Asian Development Bank (ADB) is also providing technical assistance to the CBM, through Japan, to create modern financial computing capacity; China is assisting with national payment systems for ATM and point-of-sale systems and setting up the Myanmar Payment Union (MPU); the World Bank's International Financial Corporation (IFC) provides technical and financial

[90] Conventional Monetary policy is calibrated on interest rate, inflation, liquidity, output, employment, price, consumption, growth, bond, managing foreign exchange rates and money supply of an economy. See more on Australian Monetary Policy Statements and its policy instruments. https://www.rba.gov.au/publications/smp/2019/feb/

assistances to the CBM to develop a credit reporting system and is crafting a new regulatory framework for a credit rating agency.

Table [6.1]

Snapshot of Economic Regulatory Reforms During Myanmar's Transitional Periods

(As of September 2019)

Year	Economic Regulatory Reforms and Policy Agendas	Comment
2010	98% of state-owned entities, lands and properties were transferred or privatised by the State Peace and Development Council	No legal and public scrutiny. Multiple types and acts of corruption occurred. A quasi-civilian regime is installed
2011	Modernising payment and settlement systems by Myanmar Payment Union Myanmar Microfinance Business Law enacted Permitted foreign exchange licences to authorised dealers Allowed entry by private banks for overseas remittances services	Licensed private and public investors to run microfinance institutions
2012	Foreign Exchange Management Law enacted Foreign Investment Law introduced	Exchange rate unification Daily foreign exchange auction A managed float exchange rate system is utilised
2013	The Central Bank of Myanmar Law enacted Mobile Banking Services allowed Myanmar Securities and Exchange Law installed	An autonomous central banking system is being introduced
2014	Anti-money Laundering Law re-amended Counterterrorism Law introduced Foreign Exchange Management Regulations introduced Securities and Exchange Commission of Myanmar (SECM) is established	40 Recommendations are enacted and the CBM adopted regulatory tools like Customer Due Diligence, Cash Transaction Report, Suspicious Transaction Report, Politically Exposed Persons et al. The Securities Exchange Commission of Myanmar is a new regulatory agency for securities and money market
2015	Yangon Stock Exchange opened Foreign Banks re-allowed to enter markets	Only 3 companies and 2 banks are listed 13 foreign banks entered the market and contributed nearly USD 1 billion of regulatory capital to the CBM
2016	Financial Institutions Law introduced Regulation on Mobile Financial Services (FIL/R/01/03-2016) released	Daw Aung San Suu Kyi' administration (2016-2021) The FIL 2016 is the most advanced legislation to date for Myanmar's banking and financial sector.

2017	Four regulations of the FIL 2016 released on July 7, 2017 Myanmar Companies Law is promulgated (29/2017)	
2019	Directive No. (8) - (12) of the CBM issued for fit & proper regulation and corporate governance reform in the banking and financial industry.	

For private retail banking, the IFC provided a USD 5 million convertible loan to Yoma Bank; USD 4 million in loans to Myanmar Oriental Bank for trade financing; and a USD 2 million loan for 'ACLEDA MFI Myanmar'. The World Bank, the UNDP and the United National Capital Development Fund (UNCDF) are jointly implementing a project called Making Access to Finance Possible via the Financial Regulatory Department of the Ministry of Finance, which drafted the 'Financial Inclusion Roadmap (2014–2020)'. The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ, German Corporation for International Cooperation) is providing banking technical assistance, particularly retail-banking capacity to private banks.

Myanmar has a leapfrog opportunity in banking and payment infrastructure using financial technology. U Thein Sein's administration aimed to increase financial inclusion in the country from 30% in 2014 to 40% in 2020 with aid from the UNCDF and the UNDP (UNCDF-UNDP 2014:1). The issue of financial inclusion in Myanmar, where most households remain unbanked, is important for both social equality and economic reasons. According to the 2013 MAP report[91], an estimated 9.2 million adults have loans from unregulated financial services providers, with the estimated total outstanding debts as high as MMK 5.4 trillion (USD 5.7 billion), or 10% of total GDP.

The total outstanding debt provided by unregulated moneylenders is estimated to be as high as MMK 3.7 trillion (USD 3.9 billion). This compares with the outstanding loan books of the commercial banking sector of MMK 5 trillion (USD 4 billion) and 60,000 credit clients (UNCDF-MAP 2013:7-8). Consumers view unregulated institutions positively and there is pervasive use of cash in Myanmar. The majority of

[91] The initial Making Access Possible (MAP) Diagnostic was developed in Myanmar in 2014 based on the 2013 FinScope demand survey. Afterward, a Financial Inclusion Roadmap was subsequently developed and it has been partially implemented over the past three years (2016–2018).

people who are unable to approach the regulated banking industry are resorting to more expensive services from unregulated NBFIs. However, this research focuses on domestic banking; NBFIs, unregulated banking and trade financing are beyond the scope of this research.

[6.3] The regulatory mandate of the Central Bank of Myanmar

> ‘The fact is that the Military Generals do not read regulations properly. In particular they changed Bill/Act/Regulation by notification.’ (P-7)

After the lifting of US sanctions, the CBM became the first regulatory agency in Myanmar to reform its operational and regulatory mandate. As we saw in Chapter 5, in accordance with provisions 40–41 of the 2013 CBM Law and sections 34, 39 and 184 of FIL 2016, the CBM is mandated to license, inspect, supervise and regulate banks and financial institutions in Myanmar. As shown in Figure 6.1 below, the CBM is designed to play two regulatory roles: as a regulator and as a supervisor for the financial and banking industry.

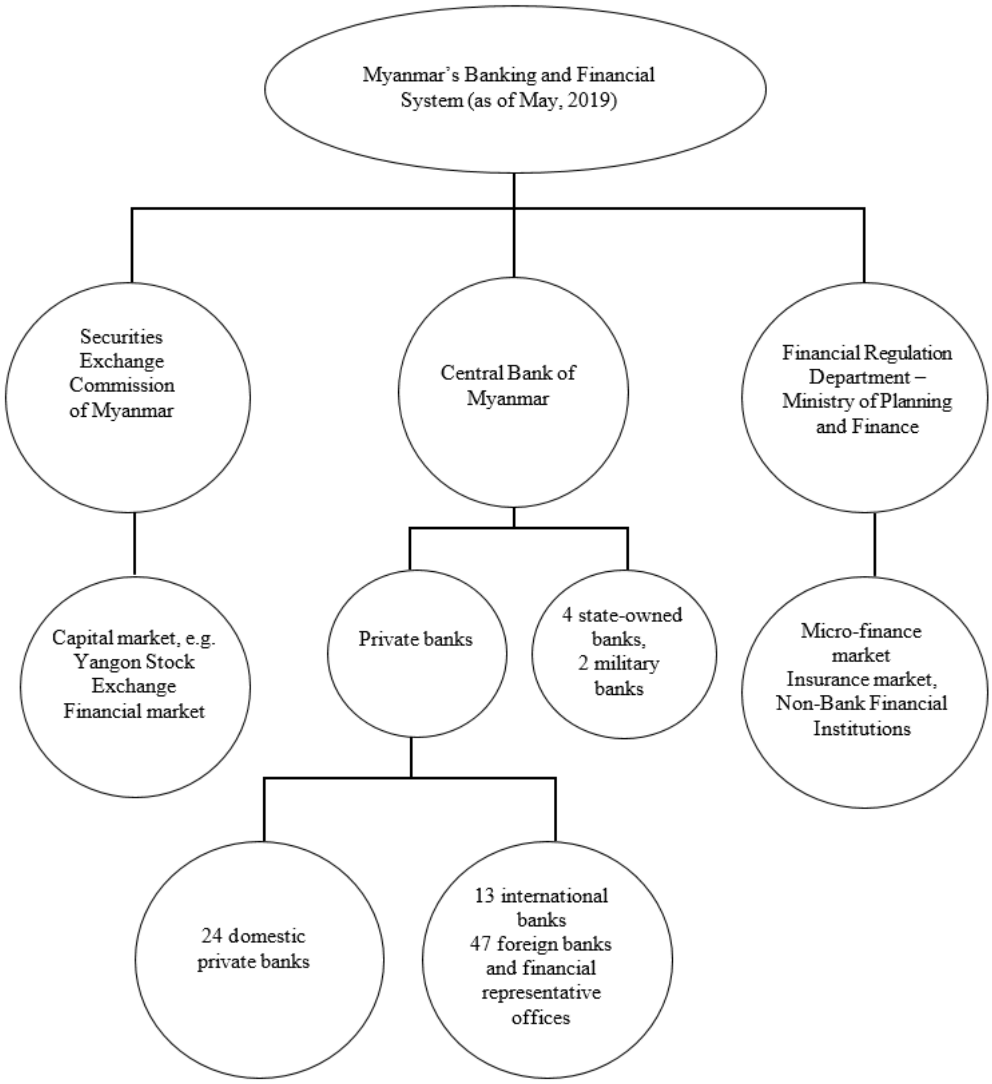

Diagram 6.1 The institutional structure of banking industry in Myanmar (at time of fieldwork in 2019'; largely unchanged in 2023)

At present, the CBM is reforming a number of banking regulations in line with the Basel I[92] principles and also uses prudential regulatory tools for the private banking industry. It reviews existing regulations and revises many instructions. But, as discussed below, its regulatory mandate of financial supervision is less visible: price

[92] The Basel Committee – also known as the Committee of Banking Regulations and Supervisory Practices – was established by the central bank governors of the Group of Ten countries at the end of 1974 in the aftermath of serious disturbances in international currency and banking markets (notably the failure of Bankhaus Herstatt in West Germany).It has producing Basel I: the Basel Capital Accord, Basel II, the new capital framework, and Basel III, responding to the 2007–09 financial crisis. A number of financial and banking regulations are outlined at https://www.bis.org (accessed 8 May 2018).

instability such as a 20%; decrease in the value of the kyat, a 30–50% increase in market interest rates and 7–11% inflation in Myanmar were seen in 2011–16.

The CBM hosted its first-ever meeting of the Committee for the Coordination of Financial Sector Technical Assistance to Myanmar (COFTAM) on 25 April 2014. The COFTAM (IMF 2014, 2015) comprises the ADB, the Consultative Group to Assist the Poor, the International Financial Corporation (IFC), the IMF, the Livelihood and Food Security Trust Fund, the UNCDF, the Toronto Centre: Global Leadership in Financial Supervision, and the World Bank, as well as bilateral development partners such as the Bank of Negara Malaysia, Bank of Thailand, Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ), the Embassy of Japan, the Financial Service Agency of Japan (JFSA), the UK Department of International Development, the International Growth Centre (IGC), Japan International Cooperation (JICA), and the Monetary Authority of Singapore (MAS), as well as representatives of the Ministry of Finance and the Ministry of National Planning and Development. The COFTAM meets every six months and at its fourth conference, in 2016, the US Treasury Office for Technical Assistance (OTA) and USAID also joined.

As stated in Chapter 5, the formal licensed banking sector comprises 28 domestic banks in 2019 (16 private and 10 policy banks, two military banks), four state-owned banks, 13 foreign banks and 47 foreign bank and financial institution representative offices in Myanmar. After foreign banks were permitted to enter Myanmar's banking market, local businesses and banks enjoyed many new opportunities to access global and regional financial and capital markets. New opportunities for the domestic banking industry include accessing knowledge about modern banking-management, monetary policy, credit rating and risk management, digital payment systems and technical know-how. Not surprisingly, between four and six subnational development banks are teaming with both private and public policy banks to queue for a retail banking licence in order to enter the traditional banking market. The CBM is examining whether their working capital is 'clean' and applying other regulatory procedures.

The actual shape of the banking sector, then, is made up by adding Myanmar's microfinance institutions, unregulated financial entities and NBFIs. Unregulated financial services include the remittance (*hundi*) system; door-to-door remittance services; and other cross-border financial and banking activities such as foreign banks servicing the market through foreign joint-venture companies (because they are excluded from lending directly to Myanmar-owned entities). This unregulated banking and financial sector is a barrier to financial inclusion and to the reach of the state's regulatory agencies and policy because the economy is flooded with capital and narco-dollars, much of which is from illegal economic activities and financial fraud.

Three official regulators in Myanmar currently regulate, monitor and supervise banking and financial products (see Figure 6.1, above). They are the Central Bank of Myanmar (CBM), the Financial Regulatory Department[93] (FRD) of the Ministry of Finance and the Securities and Exchange Commission of Myanmar (SECM). According to its regulatory mandate, the CBM regulates and supervises both domestic and international private banks, while the FRD regulates microfinance institutions, the four state-owned banks, private insurance companies and state lottery enterprises. The SECM (established in 2015) regulates the capital and securities market. Moreover, some line ministries, such as the Ministry of Agriculture and the Ministry of Livestock and Fisheries, supervise policy banks including the Myanmar Agricultural Development Bank (MADB) and Global Treasure Bank. Currently, the Ministry of Planning and Finance is designing a merger of the state's policy banks, with the technical and financial assistance of the World Bank and the IFC.

By comparison, in advanced economy such as Australia regulators concerned with banking regulation would include the Australian Securities and Investments Commission (ASIC), the Reserve Bank of Australia (RBA), Financial Ombudsman Service (Australia), Australian Securities Exchange, the Australian Competition and Consumer Commission (ACCC), the Australian Prudential Regulatory Authority (APRA), the Council of Financial Regulators and the Treasury.

Currently, the CBM is the focus of blame from all international and domestic policy and decision-makers. The fact is that the CBM also suffers from a lack of regulatory techniques, human capacity and the know-how and management skills appropriate for a central bank. A key element of Myanmar's economic regulatory reforms was

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[93] http://www.frd.gov.mm

introducing an independent central bank, a policy originally developed by David Ricardo in 1824.[94] During the transitional period, various supernational agencies have been providing significant technical and financial assistance to the CBM. The CBM needs to take advantage of these regulatory skills and supervision methods and utilise them for the benefit of the people. To date, however, the regulatory capacity and performance of the CBM leadership team has not improved. One examples is the CBM's failure to legally enforce the real-time gross settlement (RTGS) system among the banks. The CBM's four regulations (see Table 6.2) prohibited related party lending in relation to banks and financial institutions; however, the banks are still being operated by the second generation of cronies who have succeeded their parents, the first generation of cronies.

The CBM is particularly hampered in its role as regulator of the domestic banking industry because the government has not promulgated regulations for the banking industry for 25 years – that is, since the 1992 Financial Regulations. In the meantime, the CBM has been expected to issue – and has issued – directives to the industry. When the new CBM Law was promulgated in 2013, it set out its instructional mission and underscored the independence of the central bank. The 2013 law regarding the CBM was issued in Burmese; to date there is neither an official translation nor a reliable English version of, the CBM law, even as the economy seeks international capital and foreign direct investment.

Moreover, the CBM has only two regulatory tools: regulating capital and regulating banks' banking activities. The CBM, in theory, plays a both a regulatory and a supervisory role for the regulated banking industry, but its supervisory role has not shown many tangible results to date.

Like most central banks, the CBM is conservative. This takes the form of what are arguably over-restrictive regulations on what banks in Myanmar may do, which is essentially take deposits and provide short-term loans against collateral (generally land). However, financial technology has overtaken banking regulation. The result is that unregulated or informal banking is the norm in the market, and that market is gradually filling with new, unlicensed financial products such as mobile banking, e-

[94] On the political and economic history of an independent central bank as concept in the central baking literature, see Ricardo (1824)

banking and border-trade financing. A Myanmar mobile money regulation was issued in April 2016 by the CBM in response to the influx of financial technology and mobile communication devices. As financial technology (Fin Tech) and financial globalisation entered the emerging economies, Myanmar liberalised it telecommunication market in 2011. There are four telecom service providers – Myanmar Posts and Telecommunications[95] (a JV with Japan's KDDI Corp), Norway's Telenor Myanmar[96], Qatar's Ooredoo Myanmar[97], and Mytel[98], a joint-venture with Vietnam's Viettel and the military's Myanmar Economic Corporation – and approximately 39 million mobile telephone/smartphone users in the domestic market. As the smartphone penetration rate is rapidly increasing, the banking and financial sector must pay attention to digital money and mobile money services. Consequently, the CBM issued a mobile banking directive in 2013 and set up a bank-led model for the regulation and provision of mobile banking services. In 2014, the CBM also released a draft of the Dedicated E-money Issuer (DEMI) directive, which permits NBFIs to issue electronic money (e-money) and utilise agents to conduct electronic transactions. In fact, the lack of contemporary regulation from government and regulatory capacity by the CBM is an opportunity for financial and digital businesses.

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[95] https://www.mpt.com.mm/en/
[96] https://www.telenor.com.mm
[97] https://ooredoo.com.mm/portal/en/index
[98] https://mytel.com.mm

[6.3.1] The main regulatory instruments of the CBM

The most active regulatory instruments of the CBM in relation to the banking industry are shown in Table 6.2 below.

Table [6.2]

Types of banking regulations by the CBM (As of September 2019)

No.	Regulatory Goals	Regulatory Mandate	Remarks and Penalty
1.	Statutory Reserve Requirement	A reserve requirement of 10 % of total deposits is required to be maintained by each bank, including foreign currency denominated deposits. At least 75% of reserves must be deposited at the CBM and the rest in cash. Holdings of Treasury bonds (T-Bond) can be counted as reserve.	A penalty of 0.2% per day is levied on any shortfall in the prescribed reserves
2.	Liquidity Ratio Requirement	A bank is required a minimum liquidity ratio of 20% at all times.	
3.	Capital Adequacy Ratio – (CAR)	An 8% of regulatory capital adequacy ratio is required. A 4% of the minimum Tier I capital adequacy ratio is required. Tier 2 or supplementary capital may be included subject to approval of the CBM up to a maximum of 100% of Tier 1 or core capital	
4.	Classification of Non-Performing Loans	A general provision of 2% of outstanding loans, and loan loss provision of 50% and 100% of the stock of doubtful and bad loans. NPLs are classified as either 'substandard', 'doubtful' or 'bad' when principal or interest are overdue 6 to 12 months, 12 to 24 months or above 24 months.	See more on this in Chapter 7; this regulation was nullified on 7th July 2017 after the author and other scholars commented on it.
5.	Large Exposures Regulation	A bank shall not take on financial exposure in respect of a person or a single counterparty or group of connected counterparties which constitutes in the aggregate a liability amounting to more than 20% of the core capital of the bank.	A 20% of the core capital of the bank shall not take and the aggregate of all large exposure of a bank shall not exceed 8 times of its core capital.
6.	Asset Classification and Provisioning Regulations	Loans and advances are classified as standard, watch, substandard, doubtful and loss when principle or interest rate are overdue 30 days, 31 to 60 days, 61 to 90 days, 91 to 180 days and over 180 days.	The NPL regulatory days reduced from 2 years to 180 days, but still has not reached to regional target of 90 days.

Source: CBM

In 2019, the CBM has installed the key principles of Basel I, including capital requirements, leverage ratios and liquidity requirements. However, a number of the CBM's regulatory devices cannot comply with the needs of modern financial and banking markets, e.g. Basel II and Basel III, IFRS 9 and IFRS 12. For example, the CBM's regulation on foreign exchange reserve requirements, liquidity regulation and interest rates for both deposits and loans and the ongoing restriction on retail banking by foreign banking institutions are incompatible with the needs of a modernising economy. This relates to institutional capability, rather than corruption.

A number of regulations have favoured the state-owned policy banks and the military banks. For example, private banks submit their Capital Adequacy Ratio (CAR) reporting and financial statements to the Banking Supervision Department of the CBM, while the state-owned and military banks are not required to do so. There is no specific regulation for public and private banks to make their financial products and services comparable. As noted throughout this study, the fact that the military banks and the policy banks are not controlled by the CBM severely limits the ability of the CBM to control the flow of money into and out of those banks and the purposes for which it is used.

The newest version of the Financial Institutions Law (the FIL 2016) was enacted on 25 January 2016. The FIL 2016 was authorised by Thein Sein as President of Myanmar. The NLD government[99] executed this FIL 2016, and it is Myanmar's most advanced legal device for integrating into the international financial system. The law ratified a number of public disclosure obligations for banks as they seek public trust and deposits (see e.g. Chapter X, s 73 to 83 and Chapter XI sections 84 and 86). Further, sections 142–144, Chapter XX of FIL 2016 assign the CBM a regulatory leadership role in improving Myanmar's credit system and grant it a legal mandate under which it established a credit bureau[100] in 2015 and issued a licence to Myanmar Credit Bureau Limited[101] in 2018, projected to operate to the end of 2019.

[99] The National League for Democracy (NLD) declared its election manifesto in 2015: the NLD government's 12 economic policy aims for sound macroeconomic management and banking sector reforms.

[100] The CBM hired Citigroup and Standard Chartered Bank as its sovereign credit ratings advisor in July 2015.

[101] Myanmar Credit Bureau is a joint venture between Myanmar Banks Association (40%) and Singapore's Asian Credit Bureau Holdings (60%), which will collect information on individual, households and firms; that hired Equifax New Zealand Information Services and Solutions Limited for

The CBM was improving after appointing two reformers, U Soe Thein and U Bo Bo Nge, in 2016; both were imprisoned by the military junta in 2021. The CBM's regulations under the 2016 FIL were issued by Kyaw Kyaw Maung, the (then) CBM governor, on 7 July 2017 and Directives Nos. 8–12/2019 were released by the CBM on 25 March 2019. According to these regulations, private banks are given six months (180 days) to reach the minimum capital adequacy ratios and each bank must report its capital and capital adequacy ratios at the end of each month to the Banking Supervision Department of the CBM.

If a bank fails to improve its capital position within three months of the shortfall in its capital, the CBM may impose administrative action under Section 154 of the FIL 2016. All banking regulations of 2017 assert that failure to comply with these regulations constitutes a violation and is subject to corrective actions or sanctions imposed under sections 94 and 96 of the FIL 2016 and administrative penalties under section 154 of the same law. The regulators should take care to ensure those legal obligations are achieved within a planned timeframe. After trialling the framework for a specified time, the regulators should enforce strong penalties and revoke the licences of the banks that do not provide financial reports or do not comply with those legal requirements. It is the right time for the regulators to enhance their capacity and style and act as a robust regulator of the banks.

The crafting of legal provisions and articles of the FIL 2016 are in line with the Basel principles. Moreover, the FIL 2016 does not apply to scheduled institutions.[102] Hence, the CBM, as the key banking regulator of the three, needs regulatory institutions to increase its capacity, mandate style, and performance for getting consumer confidence and trust in the banking system.

Customers suffer lack of data and information about banks' credibility and performance. Not surprisingly, there are also few regulatory tools for consumer protection and customer satisfaction, even although the 2013 CBM law was drafted

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software and consultancy businesses in 2018 (the Eleven Myanmar 2008). https://elevenmyanmar.com/news/credit-bureau-service-available-next-year

[102] According to the 2016 Financial Institution Law], *Scheduled Institution* means institutions established by the separate law, not applicable under this law, that provide financial services for a specific group and a community that include: (1) Rural Development Bank; (2) Agricultural Bank; (3) Micro Finance Institutions licensed under the Microfinance Business Law; (4) Credit Societies; and (5) the Postal Savings Bank.

by the leading multilateral agency. The result is that the customer does not trust the Myanmar' private banks; many customers in Myanmar open bank accounts in neighbouring economies and the *hundi* system is continually used as their preferred platform for financial transactions.

Regulations on accounting and auditing standards do not match the International Financial Reporting Systems[103] (IFRS). The Myanmar accounting and auditing sector is protected through 'national treatment', barring international competitors,[104] and uses a national accounting standard. In practice the accounting standards are theoretical, since 'most businesses keep two – or three, or four [sets of] books' (P-9, P-11, P-21). Banks' balance sheets and real-time transactions are never reported publicly. Table 5.3 below shows the most active banking and financial regulations of Myanmar.

Table [6.3]

The most relevant laws for Myanmar's banking sector (As of September 2019)

No.	Law	Targeted banking and financial industry	Year	Remark
1.	Myanmar Companies Law	all business and commercial industries	2017	Daw Aung San Suu Kyi's administration
2.	The Special Companies Act	all business and commercial industries	1950	U Nu's administration
3.	The Saving Bank Law	Banking Industry	1993	The military administration
4.	The Myanma Insurance Law	Insurance Industry	1993	The military administration
5.	The Anti-Money Laundering Law	Banking, financial and insurance industry	2004 2014	The military administration, revised 2014
6.	The Foreign Investment Law	For international investors	1988 2012	The military' govt., Myanmar citizen investment law is aimed for the citizens.
7.	The Central Bank of Myanmar Law	Central Banking Industry	1990 2013	The military junta and U Thein Sein's administration enacted it in Burmese on 11th July 2013

103 https://www.ifrs.org/issued-standards/list-of-standards/

104 A result is that the leading international accounting firms opened their regional offices in Yangon and Naypyitaw for subcontracting from the local accounting firms to audit the banking and financial reports. Unregistered international auditing/accounting firms do not pay corporate tax and income tax, while they have operated in Myanmar, apart from the registered firms. An unregistered auditing firm charged between USD 100,000 for a small client and USD12 million for mega-projects in Myanmar.

8.	The Financial Institutions Law	Banking and financial industry	2016	U Thein Sein's govt.
9.	The Myanmar Agriculture and Rural Development Law	Agriculture and Banking Industry	1990	The military administration
10.	The Microfinance Notification and Directives	Non-banking and financial industry	2011	U Thein Sein's govt.
11.	The Microfinance Business Law	Non-banking and financial industry	2011	Thein Sein's govt.
12.	Cooperative Society Law	Commercial and Business Industry	1992	The military administration
13.	The Foreign Exchange Management Law	Monetary and financial industry	2012	Thein Sein's govt.
14.	The Securities Exchange Law	Monetary and Financial Industry	2013	Thein Sein's administration
15.	Auditor General of Union Law	All business and commercial industries	2010	Thein Sein's administration
16.	Myanmar Accountancy Law	All business and commercial industries	2013	Thein Sein's administration
17.	The Electronic Transaction Law	Digital economy and digital industries	2004	The military administration
18.	The Banker's Books Evidence Act[105]	Bank and bankers	1891	India Act XVIII and

[6.3.2] The regulatory capacity and style of CBM

ck of modern regulatory capacity, style and technology seems to be the biggest regulatory problem of the CBM in its supervision and monitoring of the banking sector. For example, the CBM uses both on-site and off-site regulatory and supervision policies. On-site monitoring uses the CAMEL framework – 'C' capital adequacy, 'A' asset quality, 'M' Management quality, 'E' earning and 'L' liquidity – and off-site monitoring operations are based on the weekly, monthly, quarterly and annual reports submitted by the banks (ADB 2014:13; CBM 2016:5–6). However, compliance, unexpected examination, enforcement, penalties and professional

[105] It is also necessary for the leadership of Myanmar to amend the Banker's Books Evidence Act (1891), because it is not compatible with modern technology and central banking management or 21st century public policy and politics.

business practices have not been robustly realised under either the 2016 FIL or the earlier 1992 financial regulations.

Myanmar bankers use an 'infant industry' argument in favour of keeping the market closed to foreign banks, while taking the benefit of the licensed opportunity from the state and the current opportunities of economic liberalisation where the regulatory framework and enforcement capacity is lagging. It is not quite clear whether Myanmar bankers are reluctant to change their traditional retail business model, unwilling to catch up with the modern banking and financial technology, or are simply unable to do so. The leadership of the CBM needs clarity of policy, strategy and action – something that is facilitated by the statute. As one interviewee explained,

> [s]ince July 2013, the leadership team of CBM has not been as cohesive or proactive in pursuing the changes that are required to form a contemporary central bank. Elements of the leadership team have attempted to proceed with necessary changes but struggled to gain traction with other members of the team or struggled to implement due to the lack of co-operation and co-ordination from other areas of the CBM. Indeed, some members of the leadership team have actively blocked the changes. Somewhat disappointing has been an attitude of some in the leadership team that they don't need advice from anyone and are unwilling to take or seek advice. (Correspondent-1)

To better deliver its monetary policy objectives, both the CBM and the Ministry of Finance need to fully embrace market-oriented regulatory and supervisory practices and appropriately budget to pay market rates for the CBM's monetary operations and to fund the government's deficit. The fact is that the CBM cannot deliver its objectives without this. To truly transform an institution like the CBM requires a significant change at the apex of the CBM and consistent buy-in at all levels of the bank. The leadership team needs to demonstrate by example the policy, strategy, action and can-do mind-set changes needed for the CBM to become a knowledge-driven institution.

Although both the CBM and the Basel Accords set capital adequacy standards for banks, these are largely unenforced (and in practice unenforceable) in Myanmar. Among the 28 domestic banks, the majority are under-capitalised, excluding the 'big 5' – namely, KBZ, Aya Bank, Co-operative Bank, Myawaddy Bank and Myanmar Apex Bank. As noted in previous chapters, in the past the transfer of state assets to the military-crony networks without any legal scrutiny was common. The domestic banks have not issued financial reports publicly, apart from two or three, e.g. Myanmar Oriental Bank, Myanmar Citizen Bank and Yoma Bank. State-owned banks pose a different problem because these were re-structured by the military government as a way of making transfers and delivering subsidies to select parts of the economy, e.g. loans to farmers. As a consequence, they do not function as professional banks. Non-performing loans are not being registered and disclosed (as discussed in Chapter 5), particularly those of the state-owned banks.

Neither the state-owned nor the private banks have a modern corporate governance structure and integrity infrastructure. In particular, bank executives have not separated ownership from management: ‘owners’, whether a ministry, the military or a tycoon, have regarded the banks’ funds as their own. Thus, it is a challenge to suggest that significant decision-making power on lending and borrowing should be shared and kept at arm’s length.

Some of the more successful private banks are moving toward more rigorous self-regulation (recent examples include AYA Bank[106] and UAB Bank[107]), largely because global regulatory pressure from, e.g. the APG, the FATF and the OFAC, and as a result of social media pressure. They have upgraded their anti-corruption and corporate social responsibility policies. At the same time, however, a number of Myanmar tycoons opened up a number of personal foreign exchange accounts in overseas banks, even while owning banks in their own country.

Myanmar suffered a banking system crisis in 2003, when the three banks had their licences revoked and a bank-owner was arrested. All political and business elites remember that period well, and so the CBM posture has been to tightly restrict banks, for example by:

- setting capital adequacy requirements that actually exceed international standards;
- limiting their ability to lend and to create financial products other than loans;
- fixing interest rates for deposits and loans; and
- fixing the foreign exchange rate.

[106] https://www.ayabank.com/en_US/substainblity/ungc/
[107] http://www.unitedamarabank.com/corporate-governance

However, that highly restrictive posture was undercut by the legacy of the military governments in power until 2015 (and then again from 2021), which routinely issued banking licences to ‘crony banks’ that now represent a major systemic risk to the country’s economy due to their harmful anti-market, anti-social behaviours and illegal business activities with the military regime.

Regulating corruption and money laundering within the banking industry is a globally challenging policy issue. It is also a rapidly changing field of modern regulatory studies. Neither the Ministry of Planning and Finance nor the CBM understand or practise an anti-money laundering regime and risk-based regulation, even though financial systematic risk and security risk are major factors for both the banking sector and the country’s economy.

It is difficult for the regulators, and the banks themselves, to calculate transactional risks because there are at present no independent valuations of the collateral that underpins loans, no credit-rating agency and no transparency in business data that could be used to provide credit assessments. The result is that illegal economic activities, such as insider information and white-collar criminal behaviours, have not yet been defined as unlawful economic activities. An anti-trust law and a bankruptcy law have not yet been enacted in Myanmar. Therefore, introducing risk-based regulation seems to be a priority need.

[6.4] Regulatory and corruption issues in Myanmar’s banking system

> ‘Why is the CBM so determined and corrupted. Why are they [the military personnel] in the CBM? Since 2003, the minister is generally from the military. They took the position of governors. It was real mistake; even in Korea, they took the power, but not central bank and economic affairs.’ (P-9)

The current overall regulatory framework in Myanmar does not require (or permit) banks to operate as banks – that is, qualified risk-taking businesses that aim to respond to customer demand and create profitable business lines. Because domestic and foreign banking licences were, in many cases, ‘rewards’ for entrepreneurs close to the government, those private ‘banks’ function as a cash repository for tycoons’ business groups. More than half their lending is estimated to be to entities within the business group, or to related parties (family members and business associates). This may, in turn, take entrepreneurial focus away from the comparative advantage of their original business lines. The banking sector suffers a lack of consumer confidence and trust due in part to the banks being seen as a kind of toy or a special privilege of the tycoon class.

[6.4.1] Ethics and corruption

'Paying bribes to get loan and credit access at the banks.' (P-12)

Bankers handle money and credit for depositors and borrowers within a framework of trust, credibility and ethics. How, then, can Myanmar's banks perform their responsibilities and roles when there is a lack of trust, ethics and credibility in their industry? [108]

Both private and state banks suffer the effects of systematic corruption, the fact that Myanmar is a cash-based economy, and particular instances of opportunistic corruption. In this study, I define corruption as abuse and misuse of trust – of obligation and responsibility – because trust, credibility and ethical business practices are essential elements in the banking and financial industry.

As we saw in Chapter 5, although the national currency is the Myanmar kyat, the military regimes encouraged the use of the US dollar as the de facto currency, in part because the kyat has a fixed or managed exchange rate and is not an internationally convertible currency. Chinese yuan renminbi and Thai baht are utilised for trade financing and settlement in the border areas, whereas the Myanmar kyat is mainly used by poor people. Surprisingly, due to inflationary pressure and the kyat's fall in value on international currency markets, the US dollar has become a key element for paying bribes and corruption in the domestic markets. There is also the risk of carrying large sums of local currency, the largest bank note of MMK 10,000 being equivalent to only USD 8.

Nobody knows exactly what volume of kyat circulates as cash in the economy because the authority to print the national currency sits with the Ministry of Defence, rather than the CBM, as discussed in Chapter 5. The kyat exists in small-

[108] Myanmar does not have ethics education/training due to the absence of an academic curriculum from the Ministry of Education or universities since 1962. The author suggests that financiers and bankers must adopt three ethical banking standards in Myanmar to build trust among the economic players: (1) ethics and code of conduct for senior management and shareholders; (2) ethical standards for senior managements and branch staff; and (3) ethics for customers on financial accountability.

denomination notes and soiled notes are not taken out of circulation and replaced, as they would be in advanced banking systems. Since 90% of the population is unbanked and many rural people keep their cash in bamboo money tubes under their pillow, no one know how much currency there is in circulation. The CBM does not have the human resources to count soiled notes and/or replace them.

The CBM’s AML/CFT regulations cover compliance with customer due diligence (CDD), know your customer (KYC), record keeping and suspicious transaction reports (STR) and currency transaction reports (CTR) requirements. However, to date, as addressed in Chapter 5, no bank in Myanmar has instituted an anti-money laundering or anti-corruption unit or legal and compliance unit or has practised an STR system, although the CBM issued the AML/CFT risk-based management guidance note in 2002. Information sharing on STRs, CTRs or money laundering cases among the banking regulatory agencies is very limited. Anti-corruption and anti-money laundering policy coordination and evaluation among the government regulatory agencies is not effectively established yet.

State-owned banks (SOBs) have a notorious reputation for banking corruption, particularly through agricultural loans and non-performing loans (NPLs). NPLs are rolled over annually and financed by printing money or using subsidies from the Union’s annual budget. No banks in Myanmar asked about the sources of deposits (including taxation and legality of sources of capital and savings); they are afraid of losing customers and deposits.

Within the private banking sector, there are 10,000 customers who have transacted more than USD 100,000 on a daily basis in the Myanmar domestic banking industry. These transactions are legal in Myanmar but not by international standards, due to the USA Patriot Act 2001[109] and the FATF 40 recommendations, which aim to stem large-scale cash transactions as a way of combatting the narcotics trade and terrorist financing. On top of this, the majority of domestic banks’ compliance officers do not want to comply with the CBM’s regulations on STRs, Threshold Transaction Reports (TTRs) and KYC requirements. They do not want to report to anyone (including the CBM) due to the potential impact on the business reputation of their banks (P-3).

[109] https://www.sec.gov/about/offices/ocie/aml/patriotact2001.pdf

In fact, the FATF 40 recommendations is a talking point among the elite in Myanmar, albeit without any substantive regulatory action being taken by agencies such as the Myanmar Financial Intelligence Unit[110], the Ministry of Home Affairs or the CBM. The state regulatory bodies issue directive orders to the domestic banking industry, and the branch managers of domestic banks[111] re-direct these to the front-desk officers a requests to comply with the FATF 40 recommendations. The front-desk officers, of course, do not know those talking points and do not fully understand the definition of dirty/clean money or illegal/legal activities and politically exposed persons (PEPs). 'White' and 'black' money in Myanmar is determined, in practice, by a taxation mechanism; as we saw in Chapter 5, the state effectively launders illicit funds by imposing on 25% tax on those deposits – meaning the banks must know who those depositors are.

There are also many other reasons that the branch managers/officers at retail banks do not want to report STR/CTR/CDD/PEPs to the CBM, even if they are able to identify them. Seven reasons were identified by interviewees in this study: (1) the branch officers do not to the deposits from the customers and fear the risk to the bank's reputation; (2) if the banks do report to the CBM, the CBM does not take any regulatory action; (3) the retail operators at the front desks at the banks do not know anything about the OFAC, FATF or Specially Designed National (SDN) lists; (4) many domestic banks operate with a traditional banking model instead of a centralised core banking system (some are upgrading their digital banking system), so, they do not know how to trace or check SDN-listed subjects and entities listed by the FATF or the OFAC; (5) all reports – CDDs, STRs, CTRs – are piling up on the desks of CBM due to the CBM lacking modern banking infrastructure and talented human resources; and (6) local bank staff do not fully understand the FATF's 40 recommendations, or the definitions of dirty money, illegal activities and ill-gotten money and financial activities, because they do not get proper legal and investigative training. Thus, the global regulatory regimes, particularly AML/CFT regimes, are developed at the top level by policymakers, while the majority of front-desk officers in local banks have no knowledge of or interest in those issues. Finally, Myanmar's

[110] http://www.mfiu.gov.mm

[111] There was neither a legal compliance officer nor a legal compliance unit at the 28 private banks of Myanmar as of May 2019, apart from Kanbawza Bank.

FIU and CBM do not have the human resources or technical capacity to regulate the money laundering regimes urged by the FATF and APG.

With regards to borrowing and lending corruption, however, bank staff do check on their business customers: banks report that their business loans are largely relational, secured not only by collateral but by knowing that the borrower is known to them or to their circles. Because borrowing is overlaid with the need for a ‘connection’, an obvious (and common) type of lending corruption is for loan officers to charge a premium for making the loan, collecting 3–5% above the banks’ own interest rate as their personal margin. In one recent case, a bank officer asked customers to wire some funds to the officer’s personal bank accounts, ahead of approving the loans to the customer. Such types of corruption happen routinely at present. According to section [1- 5] of the 2016 FIL law, banking corruption is obviously happening among senior bankers as well, e.g. Myanmar Economic Bank (MEB) lends to the private sector banks. Banking boards of directors are not allowed to lend, but they make loans on behalf of their banks. This is banking corruption in the form of violating the rules and regulations within the industry.

The NPL renewal process is another type of banking corruption. After holding an NPL loan or normal loan: (1) borrowers have to bribe the loan officers for the roll-over of the loan; (2) after that, borrowers’ money is shown without actual reserved money in the bank, then the loan officers of a bank lend to the customers again; (3) then, the loan officers input the data without an actual reserved requirement to the bank’s records; (4) borrowers do not need to bring back that money to a bank. Corporate loan directors (those at director general or managing director level) have also been involved in loan corruption. NPL corruption in the Myanmar banking industry is common due to the CBM’s unwillingness to enforce regulatory and compliance mechanisms.

There are no standards for ethics, codes of conduct or integrity infrastructure for Myanmar’s domestic banks, although fit-and-proper clauses were enacted in the 2016 FIL law. It is interesting to note, however, that some of the more successful banks have established charitable foundations and are prominent in sponsoring public causes such as the national football team and their own corporate teams.

[6.5] How is regulation done in other banking industries?

> 'There would be under/over valuation on assets at the lending of the banks. It is hindering the banking industry.' (P-20)

As shown in Table 6.4 below, global regulations for the banking and financial industry have been crafted by states and multilateral agencies since the Great Depression of the 1930s. There are proliferating types of banking regulatory devices, accelerated by the creation of financial engineering and information technology. Due to the impact of digital technology on the banking industry, many commercial activities are intertwining banking, financial and digital telecommunications worldwide. Thus, the regulatory boundaries and mandates of industries such as finance, banking, insurance, money markets, derivatives markets, securities markets, foreign exchange markets and digital money markets are blurred. The result is that many state-based regulatory actors, with technical assistance from global regulators such as the Bank for International Settlements (BIS), are modifying regulations for business activities in developing economies.

The Group of Thirty (G30)[112] and the BIS are crafting key macroeconomic models and financial policy instruments for the banking industry. In particular, the BIS has developed numerous regulatory devices since 1930 and has been continually playing a significant role in designing regulatory institutions for the banking industry. After repeated banking turmoil or failures, those regulators are accused by victims of the regulatory problems. So, the regulatory elites research the weakness and problems of banking regulation and supervision and propose new regulatory techniques and devices for the banking industries, such as the Basel Principles for banking supervision, the G30's macroeconomic and central banking activities, and the International Organization of Securities Commission[113] (IOSCO) securities regulations.

The thematic regulatory techniques of the global banking industry are prudential regulation (minimum capital requirements), financial risk regulation, liquidity

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[112] The G30 was established in 1978 as a private, non-profit international body composed of very senior representatives of the private and public sectors and academia; more information is available at https://group30.org/about

[113] The International Organization of Securities Commissions (IOSCO) is the international regulatory body that operates together the world's securities regulators and is recognized as the global standard setter for the securities industry. IOSCO develops, formulates and advocates adherence to internationally recognized standards for securities regulation. It works intensively with the G20 and the Financial Stability Board (FSB) on the global regulatory reform agenda. more information is available at: https://www.iosco.org

regulation, regulation of interest rates, credit regulation, anti-money laundering regulation, self-regulation, market risk regulation, credit risk regulation, liquidity regulation, macro-prudential regulation, micro-prudential regulation and so on. Initially, after utilising the floating exchange rate regime and ending the Bretton Woods' international monetary order in 1970, the regulatory devices for the banking industry were drafted by the leadership of G7, and they became 'the regulatory leaders' (Braithwaite & Drahos 2000:89–142).

The Basel Committee on banking supervision (BCBS) was founded by the governors of the central banks of the G10 in 1974 in Basel, Switzerland, following the banking turmoil afflicting Bankhaus Herstatt of Germany and the Franklin National Bank of New York in 1974. The central bank governors of Belgium, Canada, France, Germany, Italy, Japan, Luxemburg, the Netherlands, Spain, Sweden, Switzerland, the UK and the USA agreed to set up a non-binding transnational banking supervisory institution (BIS 2015:1–11). The first regulatory standard was issued in 1988 as 'the Basel I Capital Accord' for regulating capital requirements that the majority of Myanmar's banks have yet to reach.

Table 6.4 shows the prominent regulation and standard-setting agencies for the global finance and banking industry. The prominent global regulatory agencies for banking and financial markets are the Financial Stability Board[114] (FSB), the Committee on Payments and Market Infrastructure[115] (CPMI), the Financial Action Task Force[116] (FATF), the International Monetary Fund, the World Bank Group, the Basel Committee,[117] the International Organization of Securities Commissions[118] (IOSCO), the International Association of Deposit Insurers[119] (IADI), the International Association of Insurance Supervisors[120] (IAIS), the International Financial Reporting Standards Foundation[121] (IFRS Foundation) and the International Federation of

[114] http://www.fsb.org Accessed on 22 April 2019
[115] https://www.bis.org/cpmi/ Accessed on 22 April 2019
[116] https://www.fatf-gafi.org Accessed on 22 April 2019
[117] https://www.bis.org Accessed on 22 April 2019
[118] https://www.iosco.org/about/?subsection=about_iosco Accessed on 22 April 2019
[119] https://www.iadi.org/en/ Accessed on 22 April 2019
[120] https://www.iaisweb.org/home Accessed on 22 April 2019
[121] https://www.ifrs.org Accessed on 22 April 2019

Accountants[122] (IFAC). All of them work intensively with the G7, the G10 and the G20.[123]

The World Bank advises Myanmar's policymakers to learn from regional experience and lessons from Thailand and Malaysia, as both economies offer lessons of banking turmoil and financial challenges after recovering from the Asian financial crisis in 1997 (World Bank 2015:7–8). Although Myanmar's banking system is not in crisis at present, the leadership of Myanmar, in particular the CBM, introduced (at least in theory) risk-based regulation and supervision according to the Basel Core Principles and the FATF's 40 recommendations in 2015-16.

Table [6.4]

Prominent regulatory institutions and agents in the global financial and banking industry (As of September, 2019)

No.	Year of Enactment	The Regulatory Standards	Targeted Policy and Issues	Agency
1	1988	Basel I	Credit risk, risk-weighting of assets	BCBS
	2004	Basel II	Minimum capital requirement, supervisory review process, disclosure requirements	
	2008	Basel III	Capital adequacy ratio, stress test testing, liquidity regulation	
	2012	Core principles for effective banking supervision		
2	2003	Securities market	Objectives and Principles of Securities Regulation	IOSCO
3	1994	Insurance market	Insurance Core Principles and standards focus on particular issues.	IAIS
4		Insolvency market	Insolvency and creditor rights	The World Bank
5	1990,1996, 2003,	Financial Transparency	The 40+ Recommendations	The FATF
6		Accounting	International Financial Reporting System	IFRS

In 2015, the CBM issued a four-page AML/CFT Risk Based Management Guidance Note for all banks to develop effective framework and practices to manage money laundering/terrorist financing risks. The CBM's risk regulation particularly focuses on

122 https://www.ifac.org Accessed on 22 April 2019
123 http://www.japan.go.jp/g20japan/ Accessed on 22 April 2019.

the Basel Core Principles 15 and 29; the FATF 40 risk-management process is cited as comprising: (a) Identification; (b) Measurement; (c) Control; (d) Monitoring; and (e) Mitigation. Finally, all laws – the FIL 2016 and the CBM 2013 and the CBM's AML/CFT risk-based regulations – are in line with the core principles of the Basel Accord and the FATF 40. But Myanmar's banks are still far from achieving the Basel I standards, in term of capital and risk, due to the lack of enforcement described in this chapter and the growth of the informal financial sector.

[6.6] Conclusion

Myanmar's banking and financial industry has suffered from a shortage of regulatory knowledge regarding risk-based regulation, macro-prudential regulation, micro-prudential regulation, responsive regulation and incentive-based regulation as opposed to the former command-and-control style of regulation. The industry also needs a shared knowledge base and the ability to discuss and debate the optimal form of regulation for Myanmar at present. Some global standards are desirable at this stage in order to build external confidence in Myanmar's banking and financial sector. It is the right time to install ethical standards and to rebuilding the trust and integrity infrastructure within the banking and financial sector of Myanmar.

In order to integrate into the global financial market, the banks in Myanmar need to enforce and comply in practice with the FATF's 40 recommendation, in particular, the PEP, CDD, DTR and TTR regulatory regimes. At present, the 'law on the books' does not work and the practice is far from perfect. The Myanmar banking sector needs a regulatory paradigm shift. In order to create a knowledge-driven institution, can-do mind-set regulators are needed for the Central Bank of Myanmar.

Penalties should be robustly applied, and non-compliant banks should be fined and/or have their licences revoked. Myanmar also needs a robust policy and procedure for unregulated banking players to operate within the regulatory framework. Both the private and public bankers need to abide by the FIL 2016 and its risk-based regulation of money laundering and terrorist financing. Solutions to and suggestions for these banking and financial problems are presented in Chapters 7 and 8. The next chapter, Chapter 7, examines in more detail the needs and the opportunity for strengthening and reform of the Central Bank of Myanmar.

Chapter 7: Modernising the Central Bank of Myanmar

> ‘A good system of currency will benefit the country, and a bad system will hurt it. Indirectly, bankers will be benefited or injured with the country in which they live; but practically, and for the purposes of their daily life, they have no need to think, and never do think, on theories of currency.’
>
> Walter Bagehot (1873:11)

[7.1] Introduction

In a modern economic system, a central bank is a pivotal public policy institution. As a legal norm, the 1930 Statute of the Bank of International Settlements (BIS), article 56, (a) defines a central bank as ‘the bank or banking system in any country to which has been entrusted the duty of regulating the volume of currency and credit in that country; or, in a cross-border central banking system, the national central banks and the common central banking institution which are entrusted with such duty’ (BIS 1930:29).

While statutory obligations and regulatory responses of central banks have differed from one country to another, many major central banks are independent and have two legal responsibilities: (a) regulating and supervising the authorised deposit institutions or banks and various forms of financial intermediaries, and (b) participating in payment and settlement systems (BIS 2009: iii-185, cited in Issues in the Governance of Central Banks).

Initially, central banks were crafted by the European countries during the 17th century, as in Sweden, where central banking activities were privately conducted by Riksbank or Sveriges Riksbank in 1668 (Goodhart 1994). Subsequently, central banks including the Bank of England (1694), the Banque de France (1800), Finland (1811), the Netherlands (1814), Austria (1816), Norway (1816), Denmark (1818), Portugal (1846), Belgium (1850), Spain (1874) and Germany (1876) were established (Debelle and Fisher 1994:262–308; Goodhart 1994:1–112, 1995, 1988; Marcussen 2005:903–923; Fisher 2015; Singleton 2010; King 2017:159).

The literature on modern central banks and central banking activities is extensive. The majority of modern central banks determine the value of money and creation of credit, and are assigned to tackle inflation and unemployment, becoming policy institutions to tackle economic instability, price instability and financial instability within a country's financial system. (Blinder & Baumol 1979, Goodhart 1994, 1995, 1988; Minsky 1992; Blinder 2000; BIS 2009; Minshkin 2012; King 2017). After a wave of 20th century financial crises and turmoil around the globe, the credibility and accountability of central banks has declined. Boosting the accountability, credibility and transparency of central banks is a practical necessity in many economies. Myanmar will benefit in an important way if its central bank is accountable, credible and transparent.

The regulatory capacity and responses of the Central Bank of Myanmar (CBM) influence the policy, economy and society of Myanmar during its transition. Modernising the CBM is a key task for the leadership of Myanmar in order to increase the central bank's public accountability, policy credibility and regulatory transparency. Indeed, the regulatory quality of the CBM is likely to be a key factor determining the failure and success of Myanmar's financial and banking systems. Myanmar is trying to change from a command-and-control economy to a new market-driven system – so, as we saw in Chapter 6, the CBM needs a paradigm shift to increase the quality of its governance and performance.

In a small transitional economy, such as Myanmar's, the CBM does not need stylish macroeconomic tools in the short-term, e.g. dynamic stochastic general equilibrium models (DSGEs[124]), derivative markets and market-making or market-creation techniques. However, the Monetary Affairs Committee of the CBM and an economic research unit need to engage in DSGE modelling and business cycle analysis and use software for dealing with macroeconomic and microeconomic agendas.

To reduce risk, Myanmar needs to craft a CBM that can function as a responsible institution together with other economic regulatory institutions, such as a financial intelligence unit, an independent anti-corruption agency, a monetary affairs department and a fiscal affairs department under the President's Office and the Parliamentary Budget Office. In this chapter, the focus is the modernization of the CBM; reforms to other regulatory or policy institutions are beyond the scope of this

[124] DSGE and RBC models were designed with macroeconomic theory with the microeconomic foundations by Finn E. Kydland & Edward C. Prescott (1982), available on https://www.fep.up.pt/docentes/pcosme/s-e-1/kp-econ.pdf

thesis. Re-framing the CBM ought to be a top policy priority for Myanmar, as a way of supporting the banking and financial sector and controlling money laundering and illicit economic activities.

This chapter is structured in four sections. The first discusses the current anatomy of the CBM and suggests some policy design issues for modernizing the CBM. Second, the chapter presents a snapshot of policy responses that could be adopted from the Bank of Thailand[125] (BoT) and the Bank of Negara Malaysia[126] (BNM) and affirms the role of central banks in transforming financial activities and regulating economic crimes after the 1997 Asian Financial Crisis (AFC). Third, it discusses how global and local regulatory agencies can support the CBM and how those bodies can be springboards for the CBM for reducing banking corruption and money laundering. The chapter concludes by arguing that modernizing the CBM is essential, and the onus lies with the leadership of Myanmar.

[7.2] The present anatomy of the Central Bank of Myanmar

> 'Regulators are not totally independent, [we] lack financial products and knowledge. Bankers [are]concerned about bank-collapse, lack of consumer protection; financial advisory capacity is lacking.' (P-10)

Myanmar did not have the legal objective of an independent central bank until 2012. Although there were advocates for creating Myanmar's own central bank, it was not realized prior to the current transition period because Burma's economy was considered too small and the country suffered a deficit of suitable human capital (Tun Wai 1962; Turnell 2009; Kikuchi & Masutomo 2016). Historically, the idea of crafting a central bank in Burma was planted by the central bankers of the Reserve Bank of India (RBI) and the Bank of England (BoE). The central banking activities were piloted by a Burma Currency Board (BCB) from 31 March1947 to 30 June 1952, which was advocated by an Australian Rhodes Scholar, Raymond Newton Kershaw. The Union Bank of Burma (UBB), which was established on 3 April 1948 by the Union Bank of Burma Act 1947, had limited resources (Tun Wai 1962; Turnell 2009; Diehl 2017) and did not have the full powers of a central bank until 1952.

[125] https://www.bot.or.th/English/Pages/default.aspx
[126] https://www.bnm.gov.my

Following passage of the Union Bank of Burma Act 1952, the Currency and Coinage Act (1946) and the Union Bank of Burma Act (1947) were repealed and the Union Bank of Burma (UBB) was established on 1 July 1952. After the first military junta seized power, the UBB was registered as the People's Bank of the Union of Burma in 1969 through the People's Bank of the Union of Burma Act 1967. On 30 April 30, during the Burmese Socialist Program Party regime, the name was changed back to the Union of Burma Bank (Turnell 2009:232). The second military junta took power in 1988, and the UBB was re-branded as the Central Bank of Myanmar (CBM) on 2 July 1989, accompanied by the passage of the 1990 Central Bank of Myanmar Law.

Through to Article 7, Chapter II of the 2013 CBM Law, Thein Sein's administration adopted an independent central bank system and the CBM became an autonomous regulatory institution. According to Articles 8–23, Chapter III of the 2013 CBM Law, the CBM is managed by the board of directors. The nine-member board comprises the governor as chairman, three deputy-governors and five other professional members. The governor and the board of directors are appointed by the President with the consent of the Parliament and have been serving since 2013.

After criticism from the public and international policymakers, Than Nyein, an ex-army official and a governor of the CBM from 2007 to 2013, was moved to deputy-governor by the Thein Sein government in 2013. The present governor, Kyaw Kyaw Maung, who also chaired the CBM from 1997 to 2007 (and is a brother-in-law of Gen. Tin Aye, an ex-chairperson of the Union Election Commission) was appointed by U Thein Sein's government. The NLD government that took power on 30 April 2016 re-appointed him as the governor of the CBM in 2016 and his term was extended on 1 August 2018 to 2023.

The performance of the leadership team of the CBM and its monetary policy management has been largely aspirational to date, due to the 53-year legacy of dictatorial political and economic systems. A former governor of the CBM, Maung Maung Hla, asserts that '[t]here had been no disciplined monetary and fiscal policy between 1962–1989' (GIZ 2016:92–95). Equally, U Myint, an former economic advisor to U Thein Sein's administration, states: 'After years of inaction and neglect, the capacity of CBM, like in other institutions in the country, has fallen much below regional and international standards. The CBM governor and his staff will need support' (GIZ 2016:53–59).

Table 7.1 shows the laws and regulations governing the CBM from 1886 to 2017.

Table [7.1]
The regulatory anatomy of the Central Bank of Burma/Myanmar 1886 –2019

No.	**Year**	**Law and regulation**	**Central bank**	**Monetary system and exchange rate regime**
1.	1886 - 1935	The Government of Burma Act	The Reserve Bank of India	The sterling era
2.	1935 - 1952	Burma Currency Board Act	The Burma Currency Board	The sterling era
3.	1948 - 1967	The Act of Union Bank of Burma	The Union Bank of Burma	The gold standard and pegged exchange rate system.
4.	1967 - 1975	The People's Bank of the Union of Burma Act	The People's Bank of the Union of Burma	The 1st generation of military generals applied fixed exchange rate system and pulled out from gold standard and sterling pound.
5.	1975-1990	The Union Bank of Burma Law	The Union of Burma Bank	A socialist planned economy and a fixed exchange rate system.
6.	1990	The Central Bank of Myanmar Law (the 1990 banking and financial institutions regulation was issued.)	The Central Bank of Myanmar	The 2nd generation of military initiated laissez-faire policy with cronyism and a multiple exchange rate system.
7.	2013	The Central Bank of Myanmar Law	The Central Bank of Myanmar	An independent central bank system was utilized with a managed exchange rate system.
8.	2017	Capital Adequacy Regulation (16/2017)	The Central Bank of Myanmar	Sections 34 and 184 of the 2016 FIL. The Central Bank of Myanmar Instruction No.1 dated August 4, 1992; (b) The Central Bank of Myanmar Instruction No.5 dated January 12, 1995; (c) The Central Bank of Myanmar Instruction No.19 dated April 30, 2003; (d) The Central Bank of Myanmar Memorandum No. MaBaBa- BS-49 dated December 3, 2007; The Central Bank of Myanmar Instruction No. 8/2011 dated December 14, 2011; (f) The Central Bank of Myanmar Memorandum No. 1590/982-kaka (1)/ 2012-2013 dated March 5, 2013, are hereby repealed.
9.	2017	Asset Classification and Provisioning Regulations. (17/2017)	The Central Bank of Myanmar	The CBM Instruction No.6 dated August 31, 1995; and (b) Memorandum Letter Number MaBaBa-1/111(FIS)/(1903/2016) dated December 21, 2016 are hereby repealed.

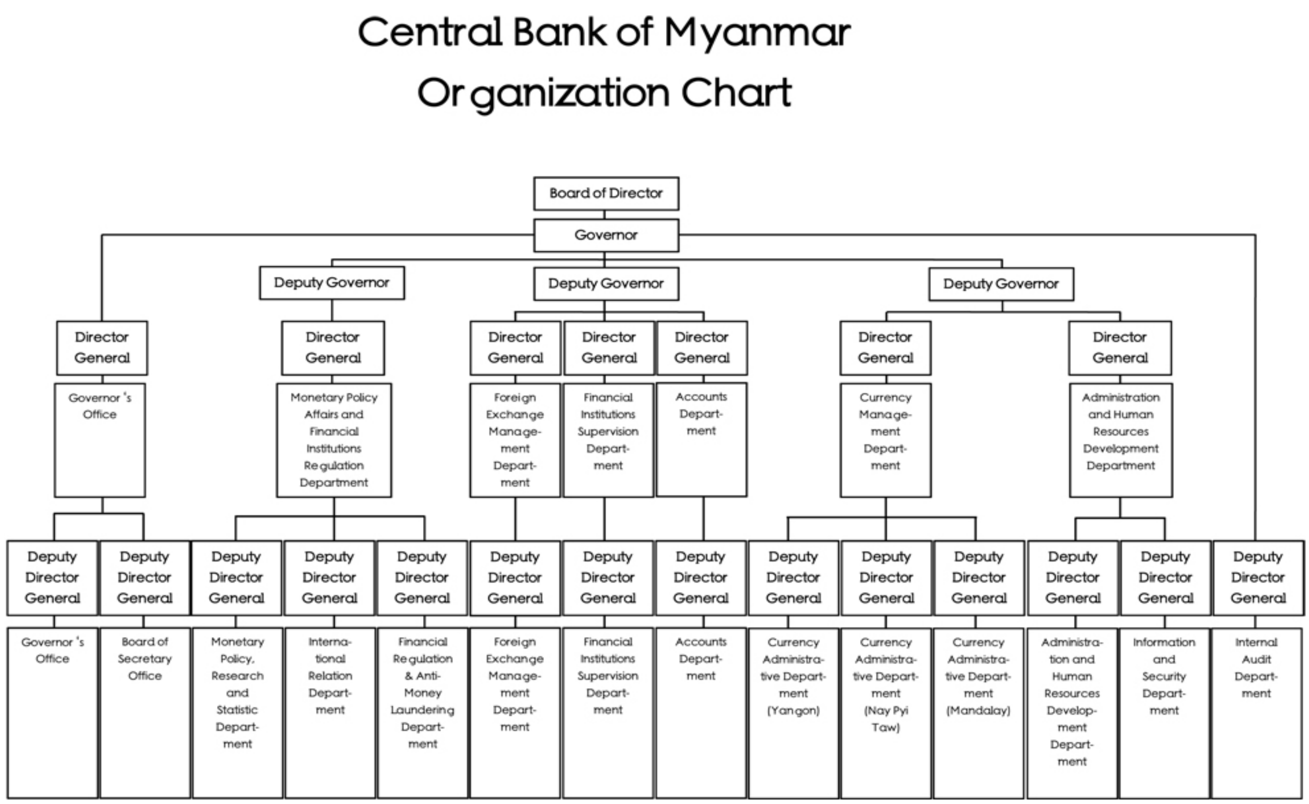
10.	2017	Large Exposures Regulation (18/2017)	The Central Bank of Myanmar	Section 59 and Section 184 of the 2016 IL. The Memorandum Letter Number 1489/380-KaKa(1)/1/2016-2017 dated December 17, 2016 is hereby repealed.
11.	2017	Liquidity Ratio Requirement Regulation (19/2017)	The Central Bank of Myanmar	Section 36 and Section 184 of the 2016 FIL, and Sections 49 and 50 of the CBM Law
12.	2019	The Directive on Fit and Proper Criteria (8/2019)	The Central Bank of Myanmar	Section 76 on Fit and Proper Criteria and Section 184 of the 2016 FIL.
13.	2019	The Directive on Directors of Bank (9/2019)	The Central Bank of Myanmar	Sections 73,74,75,76, 80 relating to Directors of Banks and Section 184 of the 2016 FIL.
14.	2019	The Directive on External Auditors of Banks (10/2019)	The Central Bank of Myanmar	Sections 88, 89, 90 on External Auditors of Banks and Section 184 of the 2016 FIL
15.	2019	The Related Parties Directive (11/2019)	The Central Bank of Myanmar	
16.	2019	The Directive on Acquisition of Substantial Interest (12/2019)	The Central Bank of Myanmar	Sections 42, 43, 44, 45, 46 and 47 relating to Acquisition of Substantial Interest and Section 184 of the 2016 FIL

After the 1988 democracy uprisings, the SLORC/SPDC regime adopted a financial liberalization policy and permitted private banking under the 1990 CBM Law and regulations. Private banks were permitted to operate retail banking and a number of tycoons set up banks, some with proceeds from the narcotics trade. Some banks were subject to money laundering allegations from the US in 2003 (discussed in Chapter 5). But, in practice, the CBM was not permitted to regulate these or any other banks. Today, the CBM is the target of all blame in the country as the CBM has just promulgated the Basel I and II regulatory framework (Regulations of the CBM in 2017-19 are included in the Basel framework as stated in Table 7.1). A credit rating system has been in development since 2016.

As shown in Figure 7.1 below, the CBM[127] is organized into 15 active departments with 1127 staff (CBM 2012:40), increasing to 1428 staff (207 officials and 1221 staff) in 2015 (CBM 2015–16). The legal duties and operative functions of its 15 departments are arguably overlapping and outdated.

1. The governor's office
2. The administrative and IT department
3. The financial institutions regulation & anti-money laundering department
4. The financial institutions supervision department
5. The financial market department
6. The policy research
7. The international relations & training department
8. The financial, information, inspection & survey department
9. The currency management department
10. The foreign exchange management department
11. The payment and settlement system department
12. The international and external audit department
13. The monetary policy affairs department
14. The Yangon and Mandalay branches
15. The board of directors

Diagram 7.1 Organizational chart of CBM
as of September 2019



[127] In 2012 it had only144 computers and 33 printers (JICA 2012:27–28).

Source: CBM

An ADB working paper notes: 'The central bank continues to suffer from inadequate tools to manage liquidity and control inflation. While an over-the-counter market exists for government treasuries, all interest rates are administratively set' (Nijathaworn et al. 2015:5). Hence, three major regulatory issues need to be considered in transforming the CBM. The first is that, as we saw in Chapter 5, the CBM needs a reformed legal and regulatory mandate because unregulated banking and economic activities dwarf the regulated sector in the Myanmar's economic system. The second is that capacity and ability to manage monetary tools by the CBM need to be upgraded. The third, outlined in Chapter 6, is the need for transparency in supervision and legal enforcement mechanisms in accounting, supervision and financial reporting systems for banking and non-bank financial institution.

The governance and regulation of the CBM is not widely trusted, because neither legal tools nor monetary economic data indicate that it delivers outcomes as a regulatory and policy institution (see Table 7.2).

Table [7.2]

Myanmar: selected economic indicators and monetary survey, July 2017

Year	Net foreign assets-	Net domestic assets	Reserve Money	Total external debt	Domestic credit	Private sector	In months of total input	CBM' foreign exchange reserve
2010-11	26.0	7,162.1	7,001.2	14.4	34.4	65.4	0.9	850
2011-12	-1.4	7,552	7,551	15.3	25.1	60.1	0.8	922
2012-13	1,731	8,725	10,456	13.7	5.1	50.5	2.4	3,156
2013-14	3,127	9,026	12,163	10.2	24.6	52.5	2.8	4,419
2014-15	4,530	8,195	12,725	8.8	22.9	36.5	3.0	4,803
2015-16	4,961	10,267	15,215	9.6	32.3	34.3	2.6	4,511
2016-17	4,149	14,146	17,416	9.9	27.7	28.5	2.3	4,436

Sources: IMF Country Report No.12/104,13/250,13/13,15/267,15/268,17/30,
Net foreign assets-NFA, Net domestic assets-NDA and Reserve Money-RM are based in billions of kyat at end-periods.
Total external debt, domestic credit, private sector credit are based in percentage and per cent change.
CBM's foreign exchange reserve is based on the USD million, total external debt is based on the USD billion.

According to Article 5 and 6 of Chapter (II) of the 2013 CBM Law, the CBM is responsible for achieving domestic price stability and for four policy objectives; (a) to promote monetary stability; (b) to enhance financial system stability; (c) to develop efficient payments and settlement system; and (d) to support the general economic policy of the government conducive to the sustained economic development.

However, the key problem is that since July 2013, the leadership team at the CBM has not been as cohesive or proactive in pursuing the changes required to form a modern institution supported by technocrats and professionals.

[7.3] Modernising the CBM

Modernising the CBM involves institutionalizing regulatory governance, upgrading macroeconomic policy settings and enhancing its institutional capability to comply with international supervision and regulatory standards through the efforts of the CBM leadership team. Thus, democratic concepts such as policy credibility, public accountability and regulatory transparency need to be communicated by the leaders of the CBM across all of its policy and institutional mechanisms. This of course is predicated on wider systemic changes such as eliminating military/crony capitalist influences, increasing institutional and public administration capacity and capability and making Myanmar a stable and peaceful place. At the institutional level, however, the leadership team needs to advance economic ideas and design a new regulatory framework. The leadership of Myanmar, meanwhile, needs to ensure the institution has the necessary resources (budget and staff) to do this.

Globally, central banks are being re-designed to operate more efficiently after confronting destructive financial crises (Goodhart 2010; Blinder 2010; Minshkin 2012; El- Erian 2016; Eichengreen et al. 2011; Tarullo 2011, 2014, 2016; King 2017). The economic and social costs of those financial crises around the world are financed by the central banks because they are lenders of last resort. Consequently, the transparency, credibility and accountability of central banks are being challenged across the world. Various banking and financial crises highlight the important of central bank governance and performance in tackling price instability, financial instability and monetary instability. Thus, modernizing the CBM should be the first policy priority for the leadership of Myanmar as it liberalizes its money and financial markets. The key statutes, payment and settlement infrastructure and monetary policy instruments must be compliant with good central banking practices and also brought closer to contemporary central banking principles. In particular, the payment and settlement infrastructure needs to be reformed with advanced financial technology. Reforming the leadership team of the CBM is also essential to modernizing the CBM. To aid the reform of its governance role, the CBM must rapidly address accountability, credibility and regulatory transparency as new policy mechanisms for its institution, and must have its own budget to be able to do so. I discuss each of these elements below.

Public Accountability: Myanmar deserves an accountable central bank and the CBM must be accountable to the public. Although central bankers are non-elected policy technocrats, they have a moral responsibility and legal obligation to be accountable to the public instead of to their past stakeholders – the military, cronies and the government. The Parliament should amend the CBM Law of 2013 to ensure that it prioritizes achievable economic objectives and protects consumers' rights; it must also make sure that the CBM has the budget needed to meet these objectives. Although U Thein Sein's administration enacted the 2013 CBM Law, as noted in Chapter 6 no official English translation has been prepared to date and its regulatory mechanisms have not been updated. This law codified a number of standard central banking provisions and allows the CBM board of Directors to independently manage money markets and foreign exchange markets. Yet, it contains no single word about consumer protection or the security of deposits, even though accountability and transparency are plainly cited in Articles 37–39 of Chapter V of the statute, and accountability is codified as a requirement to publish quarterly reports on monetary and financial. By comparison, the central banks of Thailand and Malaysia issue annual financial and operational reports. The CBM's monetary policy statements have never been released to the public, despite the functions and powers of the CBM outlined in Articles 40–44 of Chapter VI, including the responsibility(s) of central bankers

> [t]o act as an issuer of domestic currency; as a banker to the state; to act as an advisor to the state; to inspect and supervise the financial institutions; to act as a banker for the banks (lender of last resort); to manage the foreign reserve of the state; to perform the transactions resulting from the participation of the state in diplomatic organization; and to undertake all the tasks in the name of the government in dealing with the aforesaid establishments on behalf of the state.

The reality of Myanmar's financial system is totally different. The CBM has no clear strategic masterplan for the country's financial sector. Thus, we could argue that the CBM's supervision is not functioning at all and the systems of payment, accounting and auditing are lagging behind Southeast Asian regional standards.

The CBM's accountability and transparent behaviour in operational setting are also lacking, as no minutes of board meetings on policymaking are taken. No monetary policy statements or written records of decisions of the CBM's governors have been produced, of the kind that are readily available from the websites of central banks around the world. No public access or research studies are permitted at the CBM.

One option would be for the CBM to reform its leadership structure to include external appointees. A capable CBM should comprise the governor, three deputy governors and six boards of directors, and these should be the highest decision-making body of the CBM. The governor is appointed by the President; the three deputy-governors ought to be appointed by the Ministry of Finance, with three directors possibly selected by independent academic institutions and three nominated by the CBM. Moreover, a seven-committee system should be established, comprising: (1) the monetary affairs committee; (2) the regulation and supervision committee; (3) the financial affairs committee; (4) the consumer protection committee; (5) the payment and settlement affairs committee; (6) the currency and banknote management committee; and (7) the CBM audit committee.

The CBM is required to establish a committee system – e.g. a monetary policy committee – to drive macroeconomic tools. One policy option would be for the CBM set up an impartial research centre inside the CBM to generate macroeconomic policy options and financial masterplans using talented human resources who have returned from abroad. This research unit could be based on a team-based decision-making model with the committee members of the CBM. The selected monetary policy choices must be recorded and published biannually. The monetary and financial policy reports should be submitted to the President, the Parliament and to the public annually and the monetary policy statement should be released to the public whenever it is changed. Needless to say, none of this has occurred to date.

Policy Credibility: The CBM's credibility depends on its monetary management of the country's economic outcomes. A well-developed monetary policy and money market has not yet developed in Myanmar. Under Articles 3–7 of Chapter II of the 2013 statute, the CBM is permitted to operate independently in promoting price stability, monetary stability, financial system stability, and efficient payment and settlement systems, to support the state's economic policy. This was the first time that the CBM's monetary policymaking was independently assigned and has slightly improved the monetary policy-making mechanism, at least on paper. However, the goals straddle many policy objectives and the CBM leadership team clearly cannot accomplish them at present. Clear objectives are important as it is best that there be a single, clear target for policy. If there are too many targets it is very hard to determine a clear policy.

The CBM adopted a reserve requirement as its only monetary policy instrument, while policy instruments such as open market operations and discount rates have been ignored. As Table 7.2 above shows, a snapshot of the CBM's monetary management reveals that the CBM's foreign reserves are estimated at USD 4511 million, which is equal to 2.3 months of total imports in 2015–16. GDP was said to be MMK 72.78 trillion (USD 69 billion) in 2014–15. The CBM adopted a managed floating exchange rate system on 1 April 2012, abandoning its 35-year-old policy of pegging the official rate at MMK 8.50847 per Special Drawing Rate[128] (SDR) (CBM 2012). This was the starting point for the CBM to modernize its monetary policy-making mechanism after consulting with the IMF in 2013.

An official exchange rate of 1USD to MMK 820 was established in 2012. San Thein asserts that '[s]ince 2012 the CBM has tried to manage the exchange rate by holding daily foreign exchange auctions with domestic private banks holding authorised dealer licenses' (GIZ 2016:62). The CBM conducted an exchange rate auction because it wanted a reference rate (which reflects the real price of an exchange rate) between buying and selling rates in the market. The private banks submit their daily proposals to buy/sell foreign exchange to the CBM between 9:30 and 10:30 every weekday. The majority of domestic bankers do not want to trade through the daily auction, however, as they prefer to hold foreign currency.

Econometric data remain contested in Myanmar and both monetary and fiscal data need to be treated with great caution in projecting macroeconomic data. The CBM still limits interest rates, such as deposit rates (to 8%) and lending rates (to 13%) – 10% is the CBM reference rate from which the interest rate floor and ceiling are

[128] The SDR is a type of global foreign exchange reserve and an international reserve asset, which was created by the IMF in 1969 to add its member countries' official foreign reserve and more information available at: https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/14/51/Special-Drawing-Right-SDR

calculated. The real market rate for credit is more expensive, at 36–59% interest per annum. The informal market rates fluctuated between 120% and 240% in 2014–15 and 240% and 360% in 2015–16 on an annual basis. The CBM should gradually liberalize interest rates instead of subsidizing the rates. The CBM cannot deploy market-based monetary policy or countercyclical interest rate policy, or manage money supply, credit management policy and open market operations at present due to its lack of technology, human capital and secondary money markets. The treasury-bill auction began only recently, and was in its initial stages in 2017–18. The exchange rate fluctuates while the kyat depreciates, as dollarization is amplified. According to the World Bank's Myanmar Economic Monitor (2018), real GDP growth was claimed to be 8.4% in 2014–15, 8.0% in 2015–16, dropped to 5.9% in 2016–17 and slightly increased to 6.4% in 2017–18. Inflation is also claimed to be between 6% in 2014 and 8% in 2015, reducing moderately to 7% in 2016–17 and 5.5% in 2017–18 (World Bank 2018:1–5). However, market interest rates stood between 11% and 13% during the author's fieldwork period in 2016–18. The state's fiscal deficit fluctuates, ranging (officially) between 4% of GDP in 2014–15 and 5.8% of GDP in 2017–18. In short, the CBM has a limited capacity to manage the country's monetary policy, particularly foreign exchange and capital inflows.

The CBM is required to maintain the use of kyat in its financial system by preventing dollarization, as well as by controlling money laundering. Monetary policy tools such as the exchange rate, inflation targeting and interest rates should be standardized in the same manner as in neighbouring Thailand and Malaysia. To increase the policy credibility of the CBM, the central bankers must work to achieve between 2% and 4% flexible policy targets for inflation, unemployment and national output while liberalizing interest rates.

If the governors or board of directors of the CBM cannot achieve these policy goals, they should be replaced with overseas-educated technocrats and a performance system ought to be instituted across the CBM, after amending the existing CBM law. Experienced foreign experts ought to be employed to govern the CBM, as the Bank of England and the Singapore Monetary Authority have done.

In short, the CBM needs to create a flexible foreign exchange market to attract know-how and inflows of foreign capital. These delegated monetary tools underpin the credibility of the CBM's performance and its policy governance. The goals and outcomes of macroeconomic settings must be the credibility of the CBM's leadership team's policy responses.

Regulatory Transparency: Regulatory transparency and financial transparency are also essential elements for the CBM's balance sheet and in supervising the banking and financial market activities. The CBM needs to deliver new regulations to implement the 2013 CBM law and the 2016 Financial Institutions Law, with no regulations issued to date. The CBM has a legal obligation to not only issue the regulations but also enforce them to ensure private banks' compliance with banking supervision. Currently, domestic bankers ignore to the CBM's regulatory framework due to the CBM's lack of legal enforcement mechanisms. The CBM needs power to implement firm sanctions. The CBM's regulation and supervision committee should be assigned to enforce the Basel I and II frameworks through a strict anti-money laundering law to combat illegal activities and economic crimes within a five-year timeframe. The CBM, therefore, must utilise micro-prudential regulation, macro-prudential regulation and risk regulation within a modern regulatory and supervision department.

There are five aspects to improving the CBM's regulatory and supervision capacity. The first is human capital, which is vital for Myanmar. The CBM engages in a number of modern central banking and market activities without robust regulatory capacity and faces talent shortages because the selection process at the bank is opaque and not merit based. Integrity infrastructure, ethics, a market-rate salary system, professionalism, fit and proper system and meritocracy should be clearly instilled into the employees and the board of directors of the CBM. The CBM has received approximately USD 100 million of technical and financial assistance from the ADB, the World Bank and the IMF and the government of Japan, and CBM employees have been dispatched to emerging economies for workshops, training and capacity-building, but performance and governance have not improved. The fact is that the CBM cannot deliver its policy objectives without modernizing its leadership team and their professional mindset and quality of governance, as well as its operational behaviour, policy formulation, implementation and decision-making processes. Thus, the regulatory capacity and transparency of the CBM leadership team underpins the failure or success of the CBM.

Dispatching employees to attend short-term workshops and exchange programs on running a central bank are not effective means for analysing macro/microeconomic data nor for regulating and supervising the commercial banks and financial intermediaries. Human capital for running a central bank needs to be an investment by the state, and the salary of the employees should be market-based. The CBM needs a strong separate budget and strong legal independence. Within five years, it should focus on human capacity-building and financial inclusiveness. It also needs anti-money laundering capacity, professional ethics, integrity coaching and safety regulation across all levels.

The second issue is supervision. According to Article 85, Chapter XIII of the 2013 statute, in order to avert and reduce any shock or risk to Myanmar's financial stability, the CBM is required to act as the lender of last resort. The CBM should be a robust supervisor and so the CBM's skill in supervising banks and financial institutions needs to be upgraded. Strategy and action for supervision of financial intermediaries is equally important as the leadership of Myanmar is implementing an access-to-finance policy to grow business activity in the economy. CBM supervision needs to adjust to modern financial regulation as the currency market is liberalized. For example, without establishing a strong supervision mechanism for mobile money, the CBM nevertheless permitted a mobile money market and payments system as part of the 2016 mobile financial services regulation. The result is that financial technology and artificial intelligence are rapidly penetrating the system in ways that the CBM cannot monitor or supervise.

The third issue is crisis planning and a contingency strategy. A crisis management regulation should be written by the CBM for preventing a boom-and-bust problem or cycles. Equipping the CBM with a modern crisis management policy process and skills for preventing bank runs and unforeseen risk and shock are important policy goals. A stronger supervision mechanism is required for preventing unanticipated financial crises as Myanmar pursues foreign capital and international investment. The CBM should have solvency, resolution and bankruptcy regimes that facilitate protecting the country from a bank run and sorting out unqualified banks and financial intermediaries.

The fourth element is an independent Financial Intelligence Unit (FIU). The CBM needs to cooperate with an independent FIU. The leadership of Myanmar needs to institute the FATF-style FIU inside the Myanmar Anti-Corruption Commission (MCCC), to operating in cooperation with the CBM in a similar fashion to other elite regulatory agencies for banking regulation and supervising illegal economic activities, e.g. Thailand's Anti-Money Laundering Office (AMLO), the Australian Prudential Regulation Authority[129] (APRA) or the Financial Conduct Authority[130] (FCA) in the United Kingdom.

The fifth issue is currency management. The currency management of the CBM is poor: dirty soiled bank notes are unsuitable for use as a medium of exchange or a store of value, but they are circulated in the economy instead of being replaced. There are known cases of currency fraud, but the CBM has yet to disclose relevant data.

[7.4] How does the CBM compare with its regional peers?

Modernising the CBM requires cooperation, coordination and commitment with its global and local peers, because regulatory responses are both localized and globalized. Table 7.3 below compares Myanmar with the regulatory frameworks of two Southeast Asian economies (Malaysia and Thailand), where the central banks regulate money laundering and illicit economic activities under the pressure of the global regulatory agencies. A number of policy priorities are similar across those banks, e.g. Know Your Customers (KYC), Customer Due Diligence (CDD), Suspicious Transactions Reports (STR) and Politically Exposed Persons (PEP), but the regulatory capacity and performance of these banks is completely different to that of the CBM.

Table [7.3]
The anti-money laundering and economic-crimes regulations of Malaysia, Thailand and Myanmar, 2010-2019

Legal and regulatory instruments	The Bank Negara Malaysia – BNM	The Bank of Thailand – BoT	The Central Bank of Myanmar-CBM
BIS regulatory regimes	Basel III	Basel III	Not even Basel I

[129] https://www.apra.gov.au
[130] https://www.fca.org.uk

Corporate Governance	Yes	Yes	No
IFRS	Yes	Yes	No
An Independent FIU	Yes	Yes	No
The FATF 40 recommendations	Yes	Yes	Yes
CDD on banking and financial Sector	Yes	Yes	Yes
Suspicious Transaction Report - STR	Yes	Yes	Yes
CDD on Non-Financial Business and Professions- NFBP	Yes	No	No
Cash Transaction Report - CTR	Yes	No	-
Politically Exposed Persons - PEP	-	-	-
Asset Disclosure	Yes	Yes	No
e-KYC and cross-border wire transfer	No	No	No
Stolen Asset Recovery	-	-	No
Counter Terrorist Financing	Yes	Yes	-
UNCAC and UNDOC	Yes	Yes	Yes
Mutual legal assistance and extradition	Yes	Yes	No
UNSC 1267 and 1373	Yes	Yes	Yes

The Bank of Thailand (BoT) was created as a central bank under King Ananda Mahidol by Prime Minister Pridi Banomyoung through the Bank of Thailand Act in 1942 (BoTA B.E. 2485). The BoT has an extensive history of regulating economic and financial activities in Thailand. Modern banking and financial liberalization reforms began with the Bangkok International Banking Facilities (BIBF) in 1993 to promote Bangkok as a centre of global finance, competing with Hong Kong and Singapore. It aimed to be a key channel for foreign capital flows into Thailand's financial system, but this ambition ended with the Asian financial crisis in 1997 (Jongsureyapart et al. 2012). After the 1997 financial crisis, the BoT re-designed its current and capital account liberalization reforms with the Financial Sector Master Plan (FSMP Phase I 2004–08) for enhancing efficiency and financial access by promoting competition in the market (Trairatvorakul 2014); the second phase (FSMP II 2010–14) for increasing efficiency and competitiveness of the financial institutions in 2010; and FSMP III (2016–20), aimed at increasing efficiency, digitalizing and regionalization (BoT 2016).

The BoT became an independent regulatory agency under an amended Bank of Thailand Act in 2008. The most recent Financial Institution Business Act was introduced in 2013, repealing 15 previous laws. It defines financial institutions regulated by the BoT as: (1) commercial banks; (2) finance companies; and (3) credit finance companies (FIBA 2013, section 4).

Chuan Leekpai's administration enacted an Anti-money Laundering Law in 1999 and installed the elite Anti-Money Laundering Office (AMLO) after the 1997 Asian financial crisis (AML1999). The key regulatory device of the Thai AML Act is described in section 3 as a 'suspicious transaction' at the financial institution under the country's financial system. Netipoom Maysakun affirms that '[u]nder the Anti-money Laundering Act of 1999, financial institutions such as the Bank of Thailand, commercial banks, financial business and creditors, life insurance companies and casualty insurance companies (including the land offices) are legally obliged to report all cash transactions worth B 2,000,000 (approximately US$ 50,000) or more to the Anti-Money Laundering Office, an independent body created by the Anti-Money Laundering Act of 1999' (Maysakun 2007:88).

Responsibility for regulating illegal economic activities and anti-money laundering rests not only with the AMLO but also with the BoT, the Securities and Exchange Commission and the Office of the Insurance Commission. At the same time, the quality of corporate governance has been upgraded with the introduction of external independent directors and a renovated Thai financial reporting system.

Many professional organisations play a leading role in Thai financial sector modernization projects. As Jongsureyapart et al (2012). comment: 'Better corporate governance has resulted from improved internal corporate governance mechanisms and enhanced accounting standards, information disclosure and auditing standards' (2012:1-12). In sum, the major elements of Thai's economic systems have improved the BoT's transparent regulatory reforms, anti-money laundering capacity and corporate governance after the 1997 Asian financial crisis.

The Bank Negara Malaysia (BNM) was established in 1959 under the Central Bank of Malaya Act 1958, which was amended to the Central Bank of Malaysia Act in 2009 (CBMA 2009). Apart from recent scandals and allegations arising from the 1 Malaysia Development Berhad (1MDB) transactions in 2016, the BNM has efficiently delivered a number of economic and financial regulatory reforms during the inflows of capital and foreign investment over the last three decades.

After the 1997 Asian financial crisis, the BNM launched a ten-year financial sector masterplan between 2001 and 2010. It installed an FIU inside the central bank to combat money laundering and terrorism financing. Presently, 'Malaysia has a higher market capitalization relative to GDP than Korea and Japan but a much lower GDP per capita' (Kikuchi & Masutomo 2016:9). According to the Malaysian Ministry of Finance (MoF),

> [t]here are two major policy goals of the BNM's Financial Sector Masterplan; (a) domestic capacity building of financial institutions for integrating international financial markets, and (b) the gradual deregulation of the domestic financial market, with the objectives of bringing about greater competition among financial institutions' (MoF 2001:149). The result is that the BNM has a significant record of mergers, acquisitions and financial sector reforms as its banking sector has completely consolidated with 52 out of 54 banking institutions, now grouped into 10 banking groups. (MoF 2001:148)

An IMF study affirms the achievements of the Malaysian regulators as

> [a] Ten-year Financial Sector Masterplan covering 2001-10, led by the BNM, and a parallel Capital Market Masterplan 1 (CMP1) led by the Securities Commission supported a restructuring of the financial sector, underpinned by a strong regulatory and supervisory framework. (IMF 2013: 5)

Simultaneously, the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFA-2001) was enacted in 2001. This law criminalizes money laundering and significantly weakened bank secrecy provisions for illegal economic and financial investigations. This 2001 AMLAFTA law is known as 'The Act-613' in Malaysia and codified six legal means for combatting money laundering in the markets: suspicious transaction reporting; record-keeping; the functions of a FIU that could co-operate with domestic as well as foreign enforcement agencies; investigation into money laundering activities; law enforcement agencies to freeze, seize and forfeit terrorist property and property involved in; or derived from, money laundering and terrorism financing offences as well as prosecution of money launderers and prohibition of falsification; concealment and destruction of documents (AMLAFTA 2001).

At the same time, the BNM has played an important role in framing economic activities and financial markets during the last three decades. Presently, the BNM is supporting Malaysia's goal to be a higher-income economy by 2020 by implementing Phase III of a financial sector blueprint and capital market masterplan. Malaysia has achieved one of the highest levels of financial inclusion in the world (at 92%), and has taken advantage of mobile phones and online banking to expand access (World Bank 2015:7).

Thus, both the BoT and the BNM are integrated into the global banking and financial systems after adopting a macroprudential regulatory framework, i.e. Basel III. In Myanmar, on the other hand, the CBM cannot enforce the Basel I and FATF 40 recommendations yet. The central banks of Malaysia and Thailand sought policy, strategy and action advice from global regulatory agencies when they restructured their economic activities. The leadership team of the CBM does not need to be shy about seeking such advice.

The record of regulating banking and financial activities in Thailand and Malaysia has been impressive, as both institutions are ‘steering and rowing’ through key events of the country’s economic and financial system. As outlined in Chapter 2, the literature indicates that the driving factors of the Asian financial crisis in 1997 included corruption, unethical corporate governance and poor macroeconomic management. After pursuing expertise from global regulatory agencies, both the BoT and the BNM improved their policy credibility, public accountability and regulatory transparency. Both also designed financial market master plans with the assistance of local and global regulatory agencies.

[7.5] The CBM needs regulatory support from other institutions – international and domestic

Almost every data point suggests that the CBM needs technical and regulatory support from global and local regulatory agencies for modernizing the CBM. To truly renovate the institution requires a paradigm shift at the very pinnacle of the CBM and buy-in for the necessary changes at every level of the central bank. Installing contemporary macroeconomic tools and Basel regulations in the CBM does not mean copying all the monetary policies and regulatory devices from advanced and emerging economies. It should also not make mistakes by duplicating legal devices or financial engineering from advanced economies without consultation with the public and domestic bankers or without absorbing lessons from its regional peers.

The top priority is that the leadership team of CBM needs to abide by the 2013 CBM Law and be accountable to the public while executing its policy responses. Currently, the government of Japan is leading support to CBM activities and financial sector reforms in Myanmar, in part because the SLORC/SPDC government sought financial and technical assistance from Japan's Daiwa Securities in the 1990s. In a similar fashion, the Korean Stock Exchange (KSE) installed the Cambodia Stock Exchange (CSX) in 2008–09, and the Tokyo Stock Exchange (TSE) and the Daiwa Institute of Research jointly sponsored establishment of the Yangon Stock Exchange (YSX) in 2015. The Policy Research Institute of Japan's Ministry of Finance drafted the Securities Exchange Law in Myanmar after modifying the Japanese Financial Instruments and Exchange Act, (Kikuchi & Masutomo, 2016:18–19). A public statement by Fujitsu on 29 June 2016 announced that 'Fujitsu was granted a restructuring of the CBM's accounting system that complies with International Financial Reporting System (IFRS) via a contract with the Japanese International Cooperation Agency (JICA)' (Fujitsu 2016), and this cloud platform is using Oracle E-Business Suite, an integrated ERP package from US-based Oracle Corporation, with the goal of effectively using the existing assets of the CBM (Fujitsu 2016). The leadership of the CBM needs to consider Harmonising such mismatches, rather than accepting all grants from donors. Hence, I provide a snapshot of these supporting regulatory agencies that are relevant for the CBM.

[7.5.1] The BIS. The BIS was established by The Hague Agreement in 1930 in Basel, Switzerland. The ten founding central banks enacted the statues of the BIS on 20 January 1930; the text was amended on 7 November 2016. It has a global reputation for producing regulatory and supervisory techniques for central banks around the world. The CBM could seek legal and regulatory assistance from the BIS, drawing on its more than eight decades of experience in producing regulatory packages.

The CBM distributed a risk-based management guidance note in January 2015, which is a requirement of the Basel Core Principles for effective banking and supervision.

> The CBM utilized two provisions of the Basel Core Principles, e.g. Principle 15: 'Banks have a comprehensive risk management process (including effective board and senior management oversight) to identify, measure, evaluate, monitor, report and control and mitigate all material risk on a timely basis' and Principle 29, 'Banks have adequate policies and processes, including customer due diligence (CDD) rules to promote high ethical and professional standards in the financial sector and prevent the banks from being used, intentionally or unintentionally, for criminal activities. (CBM 2015)

As a transitional economy, supervision and regulation methods of the banks and non-bank financial institutions for Myanmar should be based on Basel II. The CBM leadership team needs to digest the BIS's banking resolution and solvency laws. The employees of CBM should be trained at the BIS' banking committee and financial stability institute. The governors and board of directors should become observers at the central bank governance forum for bank supervision and regulatory processes in Basel.

[7.5.2] Myanmar Anti-Corruption Commission. The Anti-Corruption Commission of Myanmar (ACCM[131]) was founded on 25 February 2014 with the enactment of the 2013 Anti-Corruption Law. Fighting against money laundering and illegal economic activities requires a multi-stakeholder approach, because financial technology, artificial intelligence and cross-border wire transfers are rapidly advancing, but the ACCM will also need a strong staff and budget to do a good job. Although the ACCM suffers similar performance issues to the CBM, the CBM leadership should cooperate and collaborate with the ACCM on investigating financial corruption and economic crimes. For combatting illegal economic and financial activities, such as money laundering, drug trade and tax evasion, an elite FIU should be assigned inside the ACCM or the CBM. The CBM should refer all local and cross-border electronic money transactions to the MFIU for tracking dirty money and illicit economic crimes. Technical and investigative assistance should be sought from the regulatory agencies. ACCM investigators should be trained and new human talent recruited instead of assigning former agents of the Myanmar Police Force and the Military Intelligence. During the author's data collection for this thesis, it was observed that former spymasters of the military intelligence are employed as chief security officers by the banks and crony businesses, undermining money laundering and anti-corruption investigation by the ACCM and the CBM. Nevertheless, in order to integrate into the worldwide money and financial markets, Myanmar as a global citizen is required to comply with the UNCAC and the FATF's 40 recommendations.

[7.5.3] The FATF. Myanmar has had a limited relationship with the FATF for decades, as described in Chapter 2. The country was listed among 'non-cooperative

[131] U Win Myint, the current President of Myanmar assigned the present 12 members of Myanmar's Anti-Corruption Commission under the President's Office Order (No.30/2017) dated on November 23, 2017.

countries and territories' (NCCT) for decades and was defined as a 'high risk jurisdiction' for a number of years by the FATF. Since the 2000s, the FATF has been advising the leadership of Myanmar on how to improve its anti-money laundering policy, strategy and action. Of the ten Southeast Asian nations, only Myanmar and Laos remain on the FATF list as of 2019. In October 2015, the CBM issued a directive on Customer Due Diligence (CDD) according to section 69[c] of the Anti-Money Laundering Law 2014, to the banks and financial institutions licensed and supervised by the central bank. A result is that Myanmar was removed from the FATF's list of 'jurisdictions with strategic weaknesses' in 2016. This was reflected in the annual public statement of the FATF in February 2016:

> Since February 2010, when Myanmar made a high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Myanmar has substantially addressed its action plan at a technical level, including by: (1) adequately criminalizing money laundering and terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) strengthening the extradition framework in relation to terrorist financing; (4) ensuring a fully operational and effectively functioning Financial Intelligence Unit; (5) enhancing financial transparency; and (6) strengthening customer due diligence measures. (FATF 2016)

However, Myanmar has not conformed to all points of the FATF's statement as of 2018–19, due to the lack of a legal compliance mechanism and a systematic regulatory institution.

Myanmar once again appeared on the FATF's 'grey-list' in 2018–19 due to the poor quality of its AML/CFT framework, with a score of 8.6 based on data from the FATF (8.2) and US International Narcotics Control Strategy Reports INSCR (10)[132]. The fact is that the issuing of regulations by the CBM is not enough; the leadership of Myanmar needs to design and enforce a national strategic plan on combatting money laundering and illegal economic activities. The CBM also needs an independent budget for training and for fulfilling its regulatory mandates. Nothing happens without a strong budget and adequate costing. Myanmar needs to establish a national strategic plan and an independent FIU inside the CBM or the AMCC to control money laundering and illicit activities in the financial system.

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[132] https://www.baselgovernance.org/basel-aml-index/basel-aml-index-analysis#2

[7.5.4] The Asian Development Bank. Myanmar jointed the Asian Development Bank in 1973 (ADB 2016:1). From 1973 to 1988, the ADB approved 32 loans totaling USD 531 million and 38 technical assistance grants worth USD 11 million to Myanmar. Similarly to other multilateral institutions, the ADB did not provide direct assistance to Myanmar after 1988 but re-engaged with Myanmar in early 2012. Myanmar cleared its arrears to the ADB in January 2013. So far, the ADB has provided 13 loans totaling USD 933 million (ADB 2017) since 2012. Among these projects, aggregated technical assistance of USD 67 million was provided for 97 projects, and USD 20 million for two financial sector reform projects (IMF 2017:12–13). The ADB lending pipeline (including regional projects) for Myanmar totals USD 1.63 billion for 2019–21 (ADB 2019:2).

[7.5.5] The IMF. Myanmar became a member of the IMF on 3 January 1952 after ratifying Article XIV of the IMF's Articles of Agreement (IMF 1944:1). No domestic regulatory agency in Myanmar has gained more from the IMF's consultation and supervision than the CBM. Since 2011, Myanmar has frequently received IMF Article IV consultation, Article VIII consultation and the Staff Monitor Program (SMP). The IMF recommended the CBM eliminate foreign exchange restrictions and unify the multiple exchange system, and also assisted with applying a managed float exchange system to comply with sections 2(a), 3 and 4 of Article III in 2013 (IMF 2012, 2013). The CBM and the IMF jointly drafted the 2016 Financial Institution Law and the Foreign Investment Law for Myanmar (IMF 2017: 5–6). Both are leading technical assistance on Myanmar's financial sector reforms and the CBM reforms because they have the economies of scale and comparative advantage.

Supported by JICA-funded technical aid, a resident IMF advisor has helped design and implement a foreign currency auction for the CBM, and interbank forex trading was allowed between authorised dealers. Ultimately, a regulatory framework governing the operation of the interbank FX market was developed (IMF 2017:4). At the moment, the IMF has assigned a resident representative and is providing technical assistance in the areas of central banking, financial sector supervision, revenue reform, public financial management, statistics and macroeconomic analysis. (IMF 2016:3–4).

[7.5.6] The World Bank. Myanmar became a member of the Bank in 1952, the International Finance Corporation (IFC) in 1956 and the International Development Association (IDA) in 1962 (IMF 2013:11). The Bank opened its first country office in Myanmar on 1 August 2012. After clearing of arrears to the IDA in 2013, the Bank resumed normal lending relations with Myanmar and the IFC commenced investment and advisory activities. Presently, the Bank is a leader in aiding five areas of Myanmar's financial system through a USD100 million grant project for the 2016–20 financial years. The five components of this project are: (1) reforming state-owned banks; (2) upgrading the financial sector legal, regulatory and supervisory framework; (3). modernizing the CBM and financial infrastructure; (4) project coordination and monitoring; and (5) contingent emergency responses (World Bank 2016:10).

Additionally, credit bureau regulation and corporate governance are being upgraded by the IFC, a corporate finance arm of the Bank, mainly supporting Myanmar's infrastructure and banking sectors. The IFC is working with the CBM to establish a national credit bureau and a credit reporting system. Installing a credit rating system will help bankers and creditors obtain clients' credit reports in Myanmar's banking and financial markets. However, currently Myanmar has neither investment dispute mechanisms nor alternative dispute resolution channels. It is necessary for Myanmar to sign the Convention of the International Center for Settlement of Investment Disputes (ICSID) for managing international and local investment disputes.

[7.6] Conclusion

While Myanmar's post-coup political status is uncertain, its economic system should be accountable, with a free and fair market-oriented economy. If the money and financial markets of the country are again liberalized, the CBM needs to perform and govern in line with the changing nature of domestic and international markets.

The quality of the CBM's performance and governance needs to be comparable to its regional peers. The CBM needs proper resources (staff and budget) to operate as a strong central bank. The 2013 CBM law needs to be amended to protect customers and safeguard investors. Without protecting customer rights and property rights, the CBM and domestic banks cannot build consumer trust and investor confidence. Monetary and foreign exchange policies can be freely selected by the CBM to boost the central bank's strong balance sheet. Myanmar is better off if the CBM is strong, smart and wealthy. The value of the Myanmar kyat will increase if the CBM skillfully applies macroeconomic instruments, such as a targeted foreign reserves and inflation targeting. In terms of regulatory assistance, as shown in Table 6.4 both inter-governmental and non-governmental institutions are needed to support a re-framing of the CBM.

Both local and global regulatory agencies are willing to help the government of Myanmar; the CBM leadership team needs to seize those opportunities to be able to stand as a delegated public policy institution.

A new CBM statute and proper resources, including the roles and responsibilities of a monetary affairs committee; a financial affairs committee; a financial intelligence unit; an advisory unit; and an impartial research institution are necessary for achieving credible capital markets and a transparent balance-sheet for the CBM. The CBM leadership team needs to catch up with its regional peers and digest macroeconomic tools and regulatory instruments offered by global regulatory agencies. Modernising CBM is not rocket science, but it requires cooperation and collaboration with the global regulatory agencies as the policy responses needed are both globalized and localized.

Chapter 8: Conclusion

As U Thein Sein's administration re-introduced market-oriented policies and regulations during the second round of economic regulatory reforms from 2011 to 2016. My fieldwork, conducted mainly in Yangon and Naypyitaw in 2016 and 2017 coincided with the latter part of those reforms and so I was able to observe both corruption and the state of regulation in Myanmar's public finance sector and its banking industry directly during that period.

This thesis has examined a major question – how can Myanmar effectively regulate corruption in its banking and public finance sectors? That question intersects with broader issues about the nature of Myanmar society and the control of the state by the military, but this study holds those issues to one side in order to evaluate how the banking and public finance sectors in Myanmar compare to their ASEAN peers and what the technical and institutional pathways to combatting corruption in these sectors might be. By answering the main question together with a set of subsidiary questions relating to corruption and illicit business activities in Myanmar, the evidence from my research shows that the deficit of trust in, and the discriminatory regulations used by, Myanmar's public policy agencies have been key factors in institutional corruption up to 2021 and are likely to remain so. One response to this needs to be Myanmar's integration into the global standardised banking and financial regulatory system, but that process is now significantly delayed by the 2021 coup.

As I explained in Chapters 2 and 3, the academic literature that analyses Myanmar's corruption in formulating policy mainly takes the form of importing policy products from advanced economies' experience and strategy. This thesis fills an important gap in empirical studies on Myanmar by looking at fiscal agencies and domestic banks in Myanmar from the inside out, and asking key local stakeholders what they see as the key factors behind the weak banking sector and corrupt public finance procedures. The data from the fieldwork for this thesis suggests a number of policy strategies and priorities for managing corrupt practices and illegal commercial behaviours in the economic system of Myanmar. It provides evidence from Chapters 3, 4, 5, 6 and 7 that suggests that regulatory institutions could be springboards for managing corruption, rebuilding trust, tackling discrimination, enhancing integrity and combating illicit economic practices in Myanmar if they could be re-formed as impartial and efficient regulators.

The prospects for reform of the banking and finance sectors have been made more complicated by the military coup of 2021. One direct result of that is that the Central Bank of Myanmar (CBM) is now largely staffed by ex-military personnel. For effective banking supervision, is it necessary for the CBM to have professionally trained banking regulators, as is the case even in other authoritarian regimes, such as the PRC or Lao PDR, or military dominated economies, such as Thailand.

Although the prospects for return to civilian government at this point seem remote, the military coup leaders will have to contend at some point with the underlying conditions of the Myanmar economy. That includes the educational challenges that are currently impediments to building an effective public administration system, as well as an effective way to build trust and credibility with sub-national governments and their institutions. This chapter does not offer solutions to these problems, but an analysis of the pre-coup banking and public finance sector that could inform that policy development.

This concluding chapter is divided into three brief sections. I first summarise major arguments based on the research questions and the data from the fieldwork for this study. Then, I present the implications of policy and practice for the central bankers, bankers and decision-makers in Myanmar's public finance sector -- those who (until the coup in 2021) shaped economic regulatory reforms in Myanmar. I conclude by highlighting this thesis's limitations and potential for further research to advance scholarly inquiry into the fields of corruption, regulation and anti-money laundering.

[8.1] Summary of major arguments and findings

In Chapter 1, I argued that Myanmar has been tested by regulation, deregulation and re-regulation for a quarter of century, including the U Thein Sein's government's second wave of economic regulatory reforms (2011–16), observing that Myanmar still needs (and will continually need) a regulatory paradigm shift in its budget-spending agencies and banking sector in order to manage corruption. The data from my extended fieldwork during 2016–17 highlight that the leadership of Myanmar needs to craft a comprehensive regulatory plan for reducing regulatory discrimination and mistrust, particularly when public policy institutions treat private banks in Myanmar differently from their public counterparts.

In Chapter 2, I pointed out that there is a major issue in the way in which policy-exporters are repeatedly providing anti-corruption policy-packages to the elites of the country without considering the symptoms, causes, nature and characteristics of corruption in Myanmar. I argued that, because no-one can monitor and audit the state's expenditure and spending, it seems unreasonable to expect line-ministry bureaucrats to self-regulate in ways that would be consistent with contemporary governance and the rule of law. One implication of this is that a rational-choice or principal–agent theory-informed focus should shift to grand corruption, banking corruption, financial crimes and the military's procurement corruption within Myanmar, instead of advocating for the adoption of strategies and policies of anti-corruption that emphasise only bureaucratic corruption.

In Chapter 3, I advanced current theory in the scholarly field of the corruption by introducing constitutional corruption (in the context of the 2008 Constitution) as the most pervasive form of corruption in Myanmar, creating parallel institutions at every level of governance, regulation and control in the society. The argument about constitutional corruption is not fully developed in this study – it is presented as a framing feature of the Myanmar system. However, it is ripe for further analysis as we observe current political developments in Thailand, where a popularly elected civilian government and its leader has been thwarted by military manipulation of both law and unwritten constitutional norms. This resonates with the way in which the Myanmar constitution was designed to sideline Aung San Suu Kyi and more broadly, the way in which the constitution frames the way in which the state's legal institutions operate. I also provided more in-depth accounts of the contemporary forms of corruption by Myanmar's military.

In Chapter 4, I argued that fiscal corruption in Myanmar is a by-product of poor governance and is particularly linked to the state's regulatory deficiency, and failure of trust and legal compliance. I also outlined recent cases of fiscal corruption and presented the role that banks play in money-based corruption, suggesting that it is important to regulate banks to reduce fiscal corruption in public finance and providing nine policy priorities for Myanmar's public financial management.

In Chapter 5, I pointed out that it is difficult to separate a discussion of Myanmar's banks from a consideration of who owns and controls them and argued that the regulatory design of the banks is essentially to amass, store and launder money to support the military–crony capitalism nexus. Although the 2021 coup means that this nexus is unlikely to change in the short to medium term, I provided a four-point policy strategy for reforming Myanmar's banking system on the basis that it will, at some point, be necessary for the system to modernize.

Then, in Chapter 6, I argued that the biggest policy gaps that facilitate illicit business practices in Myanmar are regulatory deficiency, imperfect information, moral hazard, lack of accountability between the central bankers and the bank operators (structure and agency problems) and the lack of competitive banking products and price competition (monopolistic behaviour and lack of an anti-trust law). I also provided suggestions to strengthen the Central Bank of Myanmar's regulatory principles of transparency and democratic accountability, including customer due diligence, asset declaration and ethical infrastructure.

In Chapter 7, I argued that the Central Bank of Myanmar is not a modern robust regulatory agency. In order to 'steer and row' as a robust regulatory institution, the CBM needs to sharpen its policy instruments, capacity and mandate. Designing the CBM as a trustworthy policy agency and rebuilding trust is vital to the economic development and macroeconomic stability of Myanmar. Based on my interview data, I suggest that the willingness to adopt ideas or policy by the leadership (actor/agency) is vital for improving Myanmar's economic regulatory institutions (the structure/institution).

Throughout this thesis, I argue that without a reliable regulatory masterplan or a holistic regulatory roadmap, Myanmar's second economic regulatory reform is unlikely to succeed any time soon. As I recommended at the start of the thesis, the policy designs to strengthen trust, a regulatory action plan, a financial sector masterplan and a professional code of conduct should be adopted within a 3–5 year horizon, because most economic regulatory reforms in transitional economies are time-bound and have significant shifting costs. That recommendation, of course, has been overtaken by the military coup in 2021.

The evidence from my research strongly suggests that some of the solutions for Myanmar's banking system in future can be found in corporate governance, building trustworthy institutions, the banking industry's ethics, codes of conduct, risk regulation, networked regulation and macro/microprudential regulations. Contrary to popular opinion in Myanmar at present, my research suggests that a comparatively level playing field must be introduced, not only in the banking industry, but also in other economic sectors of the country.

[8.2] Implications for Policy and Practice

The CBM: In Chapters 3, 4, 5, 6 and 7, I suggested that there is a valid policy and strategy for managing corruption in Myanmar. Based on my empirical data, the assumption that the leadership of the CBM needs to improve the resilience and efficiency of Myanmar's banking industry appears to be justified. I then suggested that the leadership of Myanmar has an opportunity to design a market-based model, bank-based model or both for building a resilient economy. In doing so, the CBM leadership needs to understand the importance of market mechanisms for the economy and its own role in re-regulating banking and financial activities. This analysis is elite, in the sense that it focusses on a peak institution and suggests prescriptions that are drawn from globalized banking and anticorruption norms. But it benefits the average citizen (and small business owner) by helping to create accountable, transparent and credible regulatory institutions.

Currently, the CBM's credit creation and poor governance of public funds create cronyism, rent-seeking and corruption. As one participant suggested,

> some members of the leadership team have actively blocked changes. Somewhat disappointing has been an attitude of some in the leadership team that they don't need advice from anyone and are unwilling to take or seek advice (P-21).

Thus, the standards of supervision and regulation of CBM should be adjusted to align with Basel principles – in particular, Basel I, II and III – to rebuild trust and credibility among market participants and the public. In addition, resources and remuneration of the CBM's leadership team and the bank's operating cost should be increased to a market-based level and meritocracy ought to be introduced as a fundamental principle in recruitment and advancement.

As a major regulator, the CBM needs to be an independent policy agency that encourages the banks to produce more financial products and to protect depositors and consumers. As another participant in this study highlighted, currency speculation is a 'national sport' in Myanmar, given the chronic instability of the currency and its ongoing mismanagement (P-22). The CBM should regulate dollarisation in the economy in order to realise trust and confidence in local currency (kyat) and its monetary system. By regulating rent-seeking practices and cronyism, trust, integrity and ethical business practices can together be incentives for increasing the numbers of customers, depositors and lenders in Myanmar.

My research shows that the leadership of the CBM needs to address not only macroeconomic issues and monetary stability, but also trustworthiness, corporate governance, business ethics, and the industry's code of conduct and professionalism. Last but not least, the CBM must establish new laws and regulations for banks' books, bankruptcy laws, fit-and-proper systems and a banking dispute process for Myanmar's financial system. Therefore, the banking supervision and regulatory department of the CBM needs to upgrade its capital regulation, reserve requirements regulation, non-performing loans regulation, credit-risk regulation, on-site and off-site supervision, and money laundering regulation.

Bankers: Myanmar's bankers (both central bankers and retail bankers) need monetary policy issues resolved and macroeconomic stability, but they also need clear alternatives to the current business ethics and professional standards. A fit-and-proper system, ethical business practices and professional standards should be introduced via the Myanmar Bankers' Association. As one interviewee noted:

> There is no ethics and disciplines at the Myanmar's banking sector because: (a) there is not time planning for public asset and private assets; (b) no compliance and risk management is applied; and (c) there is no international banking practices such as core banking/ financial technology as they are expensive investments (P-1).

In addition, Myanmar's commercial bankers need to increase their financial products and ethical and professional banking standards. As an interviewee noted, Myanmar's banking sectors has:

> (1) limited products with more or less the same prices; (2) limited customer information systems; (3) lack of consumer protection; (4) poor customer service in banks; (5) demand for facilitation fees for providing the banking services at the state-owned banks; (6) very low AML/CFT awareness of bankers, customers and weak application of CBM's instructions on AML/CFT; (7) high interest rates charged on hire-purchase facilities; (8) limited technology and infrastructure; (9) fragile public trust; (10) limited human development and resources; (11) lower integrity; and (12) potential competition from foreign banks. (P-3)

Thus, this study provides insights for the retail banks in Myanmar, which need the right policy, strategy and action to become truly modern banks. This requires enhanced corporate governance, business ethics and professional standards and a compliance culture. Enhancing trust, integrity and consumer confidence is a key task for bankers and regulators of Myanmar's banking sector. All domestic banks and private financial institutions in Myanmar should be required to adopt the international financial reporting system (IFRS) within three years to catch up with regional accounting, auditing and reporting standards.

Findings from this study showed that as digital technology rapidly advances and penetrates banks and financial institutions in Myanmar, including the CBM, they are not able to protect themselves or the country from operational risks, exchange rate risk and internet-related corruption including identity fraud, hacking and cyber-attacks.

As Myanmar' banking industry has reputational risk arising from its cronyism, rent-seeking, and banking corruption, these areas must be managed. Liquidity risk and credit risk must be studied and controlled. Myanmar needs enforcement of professionalism, ethical standards and integrity in its banking sector to reduce banking corruption and reputational risk. Therefore, all banks in Myanmar, inducing state-owned banks and the CBM, need corporate governance reforms and to re-build trust and upgrade their financial technology.

Decision-makers: Myanmar needs a strategic national masterplan for tackling illicit financial activities and money laundering in Myanmar. While this is unlikely under the current military junta, it will remain an issue for government and international partners into the future. Myanmar's banking industry definitely needs to increase anti-money laundering responsibilities and awareness, as both bankers and customers fail to comply with the FATF and IMF guidelines. The leadership of Myanmar explicitly needs to enhance its anti-money laundering national strategy within both the domestic banking and real estate sectors, where drug-dollars have been recycled. As one participant recommends,

> '[d]rug-money should not be acceptable and crony activities should be punished. Tax evasion should be given a penalty. Governance and regulation should be lectured and taught to the industry' (P-4).

This influx of drug-dollars to Myanmar's economy is a by-product of cronyism, rent-seeking and corruption in the country. It is the time for Myanmar to stop the influx of drug-dollars, narcotics and illicit activities in the economy. Myanmar's anti-drug-policy and anti-money laundering objectives need be in line with the policy settings of the UNODC and the USA. In particular, the future leadership of Myanmar needs to ratify Article 6 of the UN Vienna Convention and harmonise its laws with Article 311 of the USA Patriot Act. Without collaborating and coordinating with these global regulatory bodies, including the BIS, FATF and UNODC, Myanmar's bankers and financiers cannot be successful in entering the global financial and money markets regulated by the USA, FATF and BIS's financial and banking regulations. Thus, tacking illicit economic activities and anti-money laundering are in Myanmar's national interest for future generations.

Myanmar's public financial management: My findings suggest that we find the root causes of fiscal corruption and moral corruption at each regulatory and policy agency. This thesis suggests that the leadership of Myanmar needs to sharpen its understanding of what is corruption and what is not. Throughout this study, the type, activity and sectors of corruption within Myanmar's fiscal agencies and commercial banks were analysed (Chapters 2, 3 and 4). In particular, as shown in Chapter 3, Myanmar's public financial management is not in good shape due to fiscal corruption and outmoded budgetary regulations and has been showing chronic fiscal deficits for decades, while the military's spending typically gets the largest slice of the pie.

The thesis has outlined new concepts of fiscal corruption and identified the military's procurement corruption as something that threatens Myanmar's national interest, security and economic development. My work suggests that such risky fiscal corruption needs to be managed through impartial regulatory policy tools and agencies. I recommended that the military's procurement corruption should be legally investigated and needs to be corrected – although the current junta leaders will not do this. In the longer term, trust, fiscal transparency and responsive regulatory agencies are essential for improving Myanmar's fiscal deficit and integrity infrastructure. To enhance public trust, investor confidence and economic wellbeing, future democratic leadership in Myanmar must prioritise the need for public goods at the different levels of the polity, the society and the economy.

[8.3] Limitations and further areas of research

Although my research has contributed to understanding how and why corrupt practices weaken Myanmar's banking sector and public finance processes, my project contains some limitations. In this section, I focus on some of them and provide suggestions for future research.

One limitation of my study is that is focussed on elite institutions and elite actors and their interaction (or lack of it) with globalized economic, banking and anticorruption norms and regulations. The thesis does not fully examine the underlying social make-up of Myanmar, including sub-national governance, or the multiplicity of norms and practices that make up everyday exchanges or petty corruption. Most significantly, the study does not purport to provide a response to or a solution to the dominance of the military within the Myanmar state – particularly following the 2021 coup.

Methodologically, even before the coup, central bankers in Myanmar were unwilling to answer questions or give candid views on anti-corruption and anti-money laundering regulation. Another limitation was that I did not have opportunity to interview central bankers in Malaysia and Thailand. A further limitation of my fieldwork was the inability to interview representatives from law enforcement agencies, including the Anti-Money Laundering Central Body, Myanmar's Financial Intelligence Unit and the Ministry of Home Affairs, largely due to unforeseen risks to my personal security during the political transition period in 2016-17.

A further limitation of the study is the major political rupture of the military coup in 2021, which has stalled or erased much of the policy settings of the civilian NLD government that it ousted. It is currently unclear when military rule will end in Myanmar. If Myanmar reopens, the scope for future research on the country's specific theory, policy and issues is broad. Further academic studies should focus on the interaction and relationship between business and government, where there are opportunities to chart new empirical work and test theory. Important areas of inquiry are the relationship between the armed forces' procurement corruption and the country's non-state armed groups; and Myanmar's leadership cohort and politically exposed persons. Corporate governance reforms and firm capitalisation in Myanmar's banking and financial markets, compliance culture and legal enforcement practices of the economic regulatory institutions in Myanmar could also be beneficial areas to study. Finally, modernising the Myanmar's military, democratising the 2008 Constitution and investigating Myanmar's justice sector reform would be interesting areas for future research. This project suggests that Myanmar has much to learn from domestic and international researchers, drawing from both empirical and theoretical research on how the law, the state and the market shape the political landscape not only of Myanmar, but in Asia more broadly.

Bibliography

Abed., G. T., and Gupta, S. (2002) The Economics of Corruption: An Overview. In: G.T. Abed and S. Gupta (eds), *Governance, Corruption & Economic Performance.* Washington, DC: IMF, available at: https://www.imf.org/external/pubs/nft/2002/govern/#chp1

Acemoglu, D., and Robinson, A. J. (2012) *Why Nations Fail.* New York, NY: Crown Business.

ADB. (2013) *Republic of the Union of Myanmar: Financial Sector Reforms*. *Technical Assistance Report.* Manila: ADB.

ADB. (2014) *Myanmar: Unlocking The Potential. Country Diagnostic Study*. Manila: ADB, available at: https://www.adb.org/sites/default/files/publication/42870/myanmar-unlocking-potential.pdf

ADB. (2016) *Myanmar: Asian Development Bank Member Fact Sheet.* Manila: ADB.

ADB. (2017) *Myanmar: 2017–2021, Building the Foundations for Inclusive Growth.* Manila: ADB.

ADB. (2019) *Asian Development Bank and Myanmar: Fact Sheet*, Manila: ADB, available at: https://www.adb.org/sites/default/files/publication/27782/mya-2019.pdf

Alatas., S. H. (1968) *The Sciology of Corrutpion: The Nature, Function, Causes and Prevention of Corruption*, Singapore: Donald Moore Press Ltd.

Alford., R. P. (2012) A Broken Windows Theory of International Corruption, 73 *Ohio State Law Journal* 1253, available at: https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1578&context=law_faculty_scholarship

Alston., J. L. (2008) The 'Case' for Case Studies in New Institutional Economics. In: E. Brousseau and J-M. Glachant (eds), *New Institutional Economics: A Guide Book.* New York, NY: Cambridge University Press, 103-21.

Altsean-Burma. (2004) *A Failing Grade. Burma's Drug Eradication Efforts*. Bangkok: Altsean-Burma.

Altsean-Burma. (2011) *Burma's Economy: Mismanagement as Usual*. Bangkok: Altsean-Burma.

Anti-Corruption Commission-Myanmar. (2016) *ACC Sues U Maung Maung Nyut (Col. Ret.) with Section 57 of MACL*. Naypyidaw: ACCM.

APG. (2008) *APG Mutual Evaluation Report on Myanmar, Against the FATF 40 Recommendations (2003) and 9 Special Recommendations*. Sydney: APG, available at: http://www.apgml.org/includes/handlers/get-document.ashx?d=6ff3594d-f621-4f87-a60e-393e75775333d

APG. (2018) *Anti-Money Laundering and Counter-Terrorist Financing Measures – Myanmar, Third Round Mutual Evaluation Report*. Sydney: APG

Armstrong, R., and Shen, R. (2014) Update 2 - Military-linked Myanmar group wins Brewery Spat with Singapore's F&N. *Reuters*, available at: https://www.reuters.com/article/mehl-fn-myanmarbrewery/update-2-military-

linked-myanmar-group-wins-brewery-spat-with-singapores-fn-idUSL4N0SQ5XZ20141031
Aung, Noe Noe. (2013) CB Bank Boss Sues Farmers over Dispute. *Myanmar Times*, September 1, 2013.
Aung, San Suu Kyi. (1991) Corrupted by Fear. *The Washington Post*, October 15,1991.
available at: https://www.imf.org/external/pubs/ft/wp/wp9876.pdf
Aye, T. Kyaw. (2014) Hundi Remittance Lives On. *Myanmar Times*, July 15, 2014.
Aye, T. Kyaw. (2015) Black Market for Currency Exchange in the Crosshairs. *Myanmar Times*, September 08, 2015.
Aye, T. Kyaw. (2016) KBZ Launches Yangon Stock Exchange Settlement System. *Myanmar Times*, February 29, 2016.
Bagehot, W. (1873) *Lombard Street: A Description of the Money Market.*, Westport, CT: Hyperion Press.
Baker, A. (2010) Restraining Regulatory Capture? Anglo-America, Crisis Politics and Trajectories of Change in Global Financial Governance. *International Affairs* 86: 647-663.
Baker, R. (1999) *Criminal Money Laundering and Illegal Flight Capital. Testimony to the U.S House of Representatives Committee on Banking and Financial Services* Washington, D.C: Center for International Policy, available at: https://www.brookings.edu/testimonies/money-laundering-and-flight-capital-the-impact-on-private-banking/
Bank for International Settlements. (1930) *Statutes of the Bank for International Settlements*. Basel: BIS. available at: https://www.bis.org/about/statutes-en.pdf
Bank for International Settlements. (2006) *Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework-Comprehensive Version*. Basel: BIS.
Bank for International Settlements. (2009) *Issues in the Governance of Central Banks, A Report from The Central Bank Governance Group*. Basel: BIS.
Bank for International Settlements. (2010) *Basel III: A Global Regulatory Framework for More Resilient Banks and Banking System*. Basel: BIS.
Bank for International Settlements. (2011) *Core Principles for Effective Banking Supervision*. Basel: BIS.
Bank for International Settlements. (2013) *Report to G20 Leaders on Monitoring Implementation of Basel III Regulatory Reforms*. Basel:BIS.
Bank for International Settlements. (2014a) *Impact and Implementation Challenges of the Basel Framework for Emerging Market, Developing and Small Economies*. *Working Paper No 27.* Basel: BIS.
Bank for International Settlements. (2014b) *Sound Managment of Risks Related to Money Laundering and Financing of Terrorism*. Basel: BIS 1-29.
Bank for International Settlements. (2015a) *A Brief History of the Basel Committee*. Basel: BIS.
Bank for International Settlements. (2015b) *Corporate Governance Principles for Banks*. Basel: BIS, 36.
Bank of Thailand. (2009) *The Financial Sector Master Plan Phase II*. Bangkok: Bank of Thailand.
Bank of Thailand. (2016a) *The Financial Sector Master Plan Phase III (2016-2020)*. Bangkok: Bank of Thailand, available at: https://www.bot.or.th/English/FinancialInstitutions/Highlights/FSMP3/FinancialSectorMasterPlanIII.pdf

Bank of Thailand. (2016b) *History of Bank of Thailand*. Bangkok: Bank of Thailand.
Bardhan, P. (1997) Corruption and Development : A Review of Issues. *Journal of Economic Literature* 35: 1320-1346.
Barron, L. (2016) Panama Paper Lists Myanmar Names. *Myanmar Times*, May 17, 2016.
Batory, A. (2012) Why Do Anti-Corruption Laws Fail in Central Eastern Europe? A Target Compliance Perspective. *Regulation & Governance* 6: 66-82.
Beck, T., Demirguc-Kunt, A., and Levine, R.(2003) *Bank Supervision and Corporate Finance. NBER Working Paper 9620.* Cambridge: NBER.
Beck, T., Demirguc-Kunt. A, and Levine R. (2005) *Bank Supervision and Corruption in Lending. NBER Working Paper Series 11498.* Cambridge: NBER.
Bernanke, B. S. (2013) A Century of US Central Banking: Goals, Frameworks, Accountability. *The Journal of Economic Perspectives* 27: 3-16.
Bertelsmann Stiftung's Transformation Index. (2020) *Myanmar Country Report*, available at: https://www.bti-project.org/en/reports/country-dashboard-MMR.html (accessed on January 5, 2021).
Bissinger, J. (2015) *Economic Institutions and the Development of Burma/Myanmar's Private Sector*. PhD thesis: Macquarie University, Sydney.
Black, J. (ed). (2013) *Oxford Dictionary of Economics*. Oxford: Oxford University Press.
Blinder, A. S. (1999) *Central Banking in Theory and Practice*. Cambridge, MA:The MIT Press.
Blinder, A. S. (2010a) How Central Should the Central Bank Be? *Journal of Economic Literature* 48(1): 123-133.
Blinder, A. S. (2010b) It's Broke, Let's Fix It: Rethinking Financial Regulation. *International Journal of Central Banking* 4: 277-330.
Blinder, A. S. (2012) *Central Bank Independence and Credibility During and After a Crisis*. Working Paper No 1401, Princeton University, Center for Economic Policy Studies, available at: https://EconPapers.repec.org/RePEc:pri:cepsud:229blinder.pdf.
Blinder, A. S., and Baumol, W. J. (1979) *Economics: Principles and Policy*. New York, NY: Harcourt Brace Jovanovich.
Bloom, B. (2014) Criminalizing Kleptocracy? The ICC as a Viable Tool in the Fight Against Grand Corruption. *American University International Law Review* 29: 627-671.
Blum, J. A., Levi, E. M., Naylor, T., and Williams, P. (1998) *Financial Havens, Banking Secrecy and Money Laundering*. New York, NY: UNODC.
Borio, C. (2003) *Towards a Macroprudential Framework for Financial Supervision and Regulation? BIS Working Papers* 128. Basel: BIS, available at: https://www.bis.org/publ/work128.pdf.
Braithwaite, J. (1998) Institutionalizing Distrust, Enculturating Trust. In: V. Braithwaite and M. Levi (eds), *Trust and Governance.* New York, NY: Sage.
Braithwaite, J. (2000a) The New Regulatory State and the Transformation of Criminology. *British Journal of Criminology* 40: 222-238.
Braithwaite, J. (2000b) The Regulatory State? In: R. E. Goodin (ed), *The Oxford Handbook of Political Science.* Oxford: Oxford University Press, 217-238.
Braithwaite, J. (2006) Responsive Regulation and Developing Economies. *World Development* 34: 884-898.
Braithwaite, J. (2010) The Essence of Responsive Regulation. *Fasken Lecture.* Vancouver: The University of British Columbia.

Braithwaite, J. (2017) 7 Types of responsive regulations in Drahos, P (ed). Regulatory Theory: Foundation and Application, Canberra: ANU E Press. pp.117-132
Braithwaite, J., and Ayre, I. (1992) *Responsive Regulation: Transcending the Deregulation Debate*. Oxford: Oxford University Press.
Braithwaite, J., and Drahos, P. (2000) *Global Buiness Regulation*. Cambridge: Cambridge University Press.
Braithwaite, V. (2006) *Ten Things You Need to Know about Regulation and Never Wanted to Ask*. Regulatory Institutions Network Occasional Paper No.10. Canberra: Australian National University.
Braithwaite, V., and Levi, M. (1998) *Trust and Governance*. New York, NY: Russell Sage Foundation.
Brunelle-Quraishi, O. (2011) Assessing the Relevancy and Efficacy of the United Nations Convention Against Corruption: A Comparative Analysis. *Notre Dame Journal of International & Comparative Law* 2: 101-166.
Bunte, M. (2013) Burma's Transition to Quasi-Military Rule: From Rulers to Guardians? *Armed Forces and Society* 40(4): 1-23.
Camerer, C.. Issacharoff, S.. Loewenstein, G.. O'Donoghue, T., and Rabin, M. (2003) Regulation for Conservatives: Behavioral Economics and the Case for Asymmetric Paternalism. *University of Pennsylvania Law Review* 151: 1211-1254.
Central Bank of Myanmar. (1992) *Regulations for Financial Institutions*. Yangon: Government of Myanmar
Central Bank of Myanmar. (2012) *Central Bank of Myanmar Annual Report 2011-2012*. Yangon: Central Bank of Myanmar.
Central Bank of Myanmar. (2013) *Central Bank of Myanmar Annual Report 2012-2013*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2015a) *AML/CFT Risk Based Management Guidance Note*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2015b) *Central Securities Depository (CBM-NET CSD)*. Naypytaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2015c) *Directive No. 21/ 2015 for the CDD Measures*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2016a) *Regulation on Mobile Financial Services. FIL/R/01/03-2016*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2016b) *The Report on Financial Stability (2014-2015)*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017a) *Notification No. (17/2017), Asset Classification and Provisioning Regulations*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017b) *Notification No. (16/2017). Capital Adequacy Regulation (CAR)*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017c) *Financial Stability Report (2015-2016)* (in Burmese). Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017d) *The History of Central Bank of Myanmar*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017e) *Notification No. (18/2017). Large Exposures Regulation*. Naypyitaw: Central Bank of Myanmar.
Central Bank of Myanmar. (2017f) *Monetary Policy Performance Report (2015-2016)* (in Burmese). Naypyitaw: Central Bank of Myanmar.
Central Statistical Organization. (2017) *2017 Myanmar Statistical Yearbook*. Naypyitaw: Ministry of Planning and Finance.

Certo, B. D. (2013) Enforcement Could trip up Anti-Corruption Law. *Myanmar Times*, December 9.
Champ, B., and Freeman, S. (2001) *Modeling Monetary Economies* (2nd edn). Cambridge: Cambridge University Press.
Chang., R., and Velasco, A. (1998) Financial Crisis in Emerging Markets: A Canonical Model. *Federal Reserve Bank of Atlanta Working Paper*. Atlanta, GA: Federal Reserve Bank of Atlanta.
Charles., K., and Tina. S. (2008) *Grand Corruption in Utilities. Policy Research Working Paper*. Washington, DC: World Bank.
Chassat, P., and Foerster, F. (2016) *Myanmar Banking Sector 2025: The Way Forward*. Munich: Roland Berger.
Cheesman, N. (2015) *Opposing the Rule of Law, How Myanmar's Courts Make Law and Order*. Cambridge: Cambridge University Press.
Cheesman, N., Skidmore, M., and Wilson, T. (2012) *Myanmar's Transition: Openings, Obstacles and Opportunities*. Singapore: ISAS.
Chêne, M. (2012) *Overview of Corruption in Burma (Myanmar)*. Bergen: U4 Anti-Corruption Resource Centre.
Chin, K-l. (2009) *The Golden Triangle: Inside Southeast Asia's Drug Trade*. Ithaca, NY: Cornell University Press.
Cho, K. C. (2009) The Supervisory Impact of Technology on SEACEN Financial Institutions: Issues and Challenges in Myanmar. In: C. A. Harun (ed), *The Supervisory Impact of Technology on SEACEN Financial Institutions: Issues and Challenges*. Kuala Lumpur: South East Asia Centra Banks (SEACEN) Research and Training Center, 123-144.
Chow, G. C. (2005) *Corruption and China's Economic Reform in the Early 21st Century. CEPS Working Paper No. 116*. Place: CEPS.
Coase, R. H. (1974) The Market for Goods and the Market for Ideas: The Economics of the First Amendment. *American Economic Review* 64: 384-391.
Coase, R. H. (1979) Payola in Radio and Television Broadcasting. *Journal of Law and Economics* 22: 269-328.
Colliers International. (2014) *Yangon Office Market. Research & Forecast.*Yangon: Colliers International.
Collins, D. P. (2012) Introduction to the Special Issue: The Global Anti-Corruption Discourse – Towards Integrity Management? *Public Administration and Development* 32: 10.
Committee of Finance and Planning. (2016) *Activities Report of Finance and Planning Committee during 1st Parliamentary Periods*. Naypyitaw: The Union Parliament.
Committee of Monetary and Customs. (2015a) *Report on 2015 Union Budget Bill and Budget of 2015-16 Fiscal Year*. Naypyitaw: The Union Parliament.
Corsetti, G., Pesenti, P., and Roubini, N. (1998) *Paper Tigers? A Model of the Asian Crisis. NBER Working Paper*, Cambridge: NBER, availabal at : https://www.nber.org/system/files/working_papers/w6783/w6783.pdf
Corsetti, G., Presenti, P., & Nouriel, R. (1999) What Caused the Asian Currency and Financial Crisis? *Japan and the World Economy* 11(3): 305-373.
Dapice, D. (2012) *Myanmar: Negotiating Nation Building, A Path to Unity and Prograss. Occational Research Paper*. Cambridge, MA: Ash Center for Demoratic Governance and Innovation available at: https://ash.harvard.edu/files/nationbuilding.pdf

Dapice, D., and Nguyen, X. T. (2013) *Creating a Future: Using Natural Resources for New Federalism and Unity. Occational Research Paper*. Cambridge, MA: Ash Center for Democratic Governance and Innovation, available at: https://ash.harvard.edu/files/creating.pdf

Dapice, D., and Vallely, T. (2013) *Against The Odds: Building a Coalition Using a New Federalism for Unity and Prograss in Myanmar*. *Occasional Research Paper*. Cambridge, MA: Ash Center for Demoratic Governance and Innovation, available at: https://proximitydesigns.org/wp-content/uploads/against.pdf

Davis, K. (2011) *Regulatory Reform Post the Global Financial Crisis: An Overview*. Melbourne: Australian Centre for Financial Studies, University of Melbourne.

De Sousa, L. (2009) *Anti-Corruption Agencies: Between Empowerment and Irrelevance.* EUI Working Papers. Florence: European University Institute.

de Sousa, L. (2009) Anti-Corruption Agencies: Between Empowerment and Irrelevance, *Crime, Law and Social Change*: 53:5-22

de Speville, B. (1997) Reversing the Onus of Proof: Is it Compatible with Respect for Human Rights Norms? Paper presented at 8th International Anticorruption Conference, Lima, Peru.

de Speville, B. (1997) *Reversing the Onus of Proof: Is It Compatible with Respect for Human Rights Norms?* Paper presented at the 8th International Anti-Corruption Conference, Lima, Peru.

de Speville, B. (2008) Failing Anticorruption Agencies – Causes and Cures. Paper presented at ISCTE, Lisbon, 14-16 May 2008.

de Speville, B. (2010) Anticorruption Commissions: The 'Hong Kong Model' Revisited. *Asia-Pacific Review* 17: 47-71.

de Willebois, E., Halter, E. M., Harrison, R. A., Park, J. W., and Sharman, J. C. (2011) *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to do About It*. Washington, DC: World Bank.

de Willebois, E., Sharman, J. C., Harrison, Robert A., Park, J. W., and Halter, E. (2011) *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It.* Stolen Asset Recovery Initiative (StAR). Washington, DC: World Bank and UNODC, 288.

Debelle, G., and Fischer, S., (1994) *How Independent Should a Central Bank Be?* Paper presented at Goals, Guidelines, and Constraints Facing Monetary Policymakers, Conference Series No.38, Boston, MA, available at: https://www.bostonfed.org/news-and-events/events/economic-research-conference-series/goals-guidelines-and-constraints-facing-monetary-policymakers.aspx

Della Vigna, S. (2009) Psychology and Economics: Evidence from the Field. *Journal of Economic Literature* 47: 315-372.

Democratic Voice of Burma (DVB). (2012) Auditor General's Report Details Misappropriation By 15 Ministries. *Democratic Voice of Burma*, 16 November, available at: http://english.dvb.no/news/auditor-general's-report-details-misappropriation-by-15-ministries/24813

Democratic Voice of Burma (DVB). (2013) The Obstacles That Stand in the Way of the Next Generation. *Democratic Voice of Burma*.

Department of Budget. (2016) *FY 2016-2017 Citizen Budget*. Naypyitaw: The Ministry of Planning and Finance.

Dickenson-Jones, G., Joelene, C., De Kanay, S., and Mai, B. (2016) *Intergovernmental Fiscal Relations in Myanmar: Current Processes and*

Future Priorities in Public Financial Management Reform. Yangon: CESD-JICA.

Diehl, A. (2017) *The Burma Currency Board. The Studies in Applied Economics Series*. Baltimore, MD: Johns Hopkins Institute for Applied Economics, Global Health, and Study of Business Enterprise.

Displacement Solutions (2015) *Land Acquisition Law and Practice in Myanmar: Overview, Gap Analysis with IFC PS1 & PS5 and Scope of Due Diligence Recommendations*. Displacement Solutions, available at: http://displacementsolutions.org/wp-content/uploads/2015/05/LAND-ACQUISITION-LAW-AND-PRACTICE-IN-MYANMAR.pdf

Doig, A., Watt, D., and Williams, R. (2007) Why Do Developing Country Anti-Corruption Commissions Fail to Deal With Corruption? Understanding the Three Dilemmas of Organizational Development, Performance Expectation, and Donor and Government Cycles. *Public Administration and Development* 27: 251-259.

Doshi, S., and Ranganathan, M. (2018) Towards a Critical Geography of Corruption and Power in Late Capitalism. *Progess in Human Geography* 43(3): 1-22.

Drahos, P. (2004) Securing the Future of Intellectural Property: Intellectual Property Owners and Their Nodally Coordinated Enforcement Pyramid, *Case Western Reserve Journal of International Law*, 36: 1.

Drahos, P. (2004) The Regulation of Public Goods, *Journal of International Economic Law*, 7(2): 321-339.

Drahos, P., and Braithwaite, J. (2000) *Global Business Regulation* Cambridge: Cambridge University Press.

Dress-Gross, A., Annamalai, N., Wong, S. N., Htay N.H., De Luna Martinez, J., Tanaka, K., Natarajan, H., Mahadevan, B., and Mortimer-Schutts, I. (2015) *Financing the Future: Building an Open, Modern and Inclusive Financial System*. Washington, DC: World Bank.

EarthRight International. (2009) *Total Impact: The Human Rigths, Environmental, and Financial Impacts of Total and Chevron's Yadana Gas Project in Military-Ruled Burma (Myanmar)*, available at: https://earthrights.org/wp-content/uploads/publications/total-impact.pdf

Economist, The. (2008) Crony Charity: Myanmar after the Cyclone, Big Business to the Rescue? *The Economist*, 19 June.

Egmont Group. (2012) *The Role of Financial Intelligence Units in Fighting Corruption and Recovering Stolen Assets: An Egmont Group White Paper*, Toronto: Egmont Group

Eichengreen, B., et al. (2011) *Rethinking Central Banking: Committee on International Economic Policy and Reform*. Washington, DC: Brookings Insititute, available at: https://www.brookings.edu/research/rethinking-central-banking/

El- Erian, M. (2016) The End of of the New Normal? *Project Syndicate*, 2 February, available at: https://www.project-syndicate.org/commentary/the-end-of-the-new-normal-by-mohamed-a--el-erian-2016-02

Eleven Myanmar. (2014) Police Probing AGD Bank for Financial Crimes, Yangon: Eleven Myanmar.

Eleven Myanmar. (2015a) Corruption Stunts Myanmar's Economic Potential. Yangon: Eleven Myanmar.

Eleven Myanmar. (2015b) Head of Meiktila University Sued for Taking a Bribe of More than 10 Million Kyats. Yangon: Eleven Myanmar.

English, W. (2014) Economic and Ideological Corruption of the Regulatory State. *Society* 51: 262-267.

Estache, A. and Wren-Lewis, L. (2010). *What anti-corruption policy can learn from theories of sector regulation*. ECARES working paper, available at: http://regulationbodyofknowledge.org/wp-content/uploads/2016/08/2010-033-ESTACHE_WRENLEWIS-anticorruption.pdf

Euben, J. (1989) Corruption. In: T. Ball and R. L. Hansen (eds), *Political Innovation and Conceptual Change.* Cambridge: Cambridge University Press, 220-246.

European Union. (1999) *Criminal Law Convention on Corruption*. European Treaty Series- No. 173. Strasbourg: European Union.

Fan, S, Lin, C., and Treisman, D. (2008) Political Decentralization And Corruption: Evidence from Around the World. *Journal of Public Economics* 93: 14-34.

FATF. (2003) *FATF 40 Recommendations*. Paris: FATF.

FATF. (2004) *Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations*. Paris: FATF.

FATF. (2008) *RBA Guidance for Legal Professionals*. Paris: FATF/OECD.

FATF. (2009) *AML/CFT Evaluations and Assessments: Handbook for Countries and Assessors*. Paris: FATF.

FATF. (2010a) *Corruption: A Reference Guide and Information Note on the Use of the FATF Recommendations in the Fight Against Corruption*. Paris: FATF.

FATF. (2010b) *Money Laundering Using Trust and Company Service Providers*. Paris: FATF.

FATF. (2012) *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*. Paris FATF.

FATF. (2013a) *National Money Laundering and Terrorist Financing Risk Assessment*. Paris: FATF.

FATF. (2013b) *Politically Exposed Persons (Recommendations 12 and 22). FATF Guidance.* Paris: FATF.

FATF. (2014) *Guidance for A Risk-Based Approach for the Banking Sector*. Paris: FATF.

FATF. (2015) *Anti-Money Laundering and Counter-Terrorist Financing Measures - Malaysia. Fourth Round Mutual Evaluation Report.* Paris: FATF.

FATF. (2016) *Improving Global AML/CFT Compliance: Ongoing Process – 19 February 2016*, available at: https://www.fatf-gafi.org/countries/a-c/afghanistan/documents/fatf-compliance-february-2016.html#myanmar

Findlay, R. (2005) Burma: The Pathology of Economic Decline and Political Repression. In: M. L. Wyzan and M. Lundahl (eds), *The Political Economy of Reform Failure.* London: Routledge, 257-271.

Fisher, S. (2015) *Central Bank Independence*. Basel: BIS, available at: https://www.bis.org/review/r151109c.pdf

Foxeus, N. (2023). Monastic Authority and Legitimizing Religio-Political Activism: Buddhist Nationalist Monks in Myanmar. *Numen*, *70*(5-6), 542-574. https://doi.org/10.1163/15685276-20231705

Fratzscher, O. (2002) *Thailand Financial Sector Strategy: Current Status and Future Priorities*. Washington, DC: World Bank.

Frye, T., and Shleifer, A. (1996) *The Invisible Hand and the Grabbing Hand.* NBER Working Paper Series. Cambridge: NBER.

Koichi Fujita, Fumiharu Mieno, and Ikuko Okamoto (2009) The Economic Transition in Myanmar after 1988: Market Economy versus State

Control edited by , Singapore , NUS Press in association with the Kyoto University Press
Fujitsu. (2016) *Fujitsu Builds IFRS-Compliant Accounting System for the Central Bank of Myanmar*. Tokyo: Fujitsu.
Fujitsu. (2016) *Promoting Smooth Bank Operations to Modernize the Myanmar Economy - Central Bank of Myanmar*. Tokyo: Fujitsu.
Fuller, T. (2015) Profits of Drug Trade Drive Economic Boom in Myanmar. *The New York Times*, 6 June, available at: https://www.nytimes.com/2015/06/06/world/asia/profits-from-illicit-drug-trade-at-root-of-myanmars-boom.html
Fung, A.. Weil. D., Graham, M., and Fagotto, E. (2004) *The Political Economy of Transparency: What Makes Disclosure Policies Effective?* Cambridge, MA: Ash Institute for Democratic Governance and Innovation.
Garner, A. B., and Black, H. C. (2014) *Black's Law Dictionary*, St. Paul, MN: West.
Gilmore, S. (2016) Myanmar Moved Off Money Laundering Watchlist. *Myanmar Times*, June 27.
Giudice, L. (2011) Regulating Corruption: Analyzing Uncertainty in Current Foreign Corrupt Practices Act Enforcement. *Boston University Law Review* 91: 348-377.
GIZ. (2013) *Myanmar's Financil Sector: A Challenging Environment for Banks*. Yangon: GIZ.
GIZ. (2015a) *Country Strategy and Action Plan: Improving Financial Reporting in Myanmar's Banking Sector*. Yangon: GIZ.
GIZ. (2015b) *Myanmar's Financial Sector: A Challenging Environment for Banks. Yangon*: GIZ.
GIZ. (2016) *Collection of Papers on Myanmar's Financial Sector*. Yangon: GIZ.
GIZ. (2018) *Myanmar's Banking Sector in Transition: Current Status and Challenges Ahead*. Yangon: GIZ.
Glaeser, E. L., and Goldin, C. (2004) *Corruption and Reform: An Introduction.* NBER working paper series. Cambridge, MA: NBER.
Global Financial Integrity. (2015) *Flight Capital and Illicit Financial Flows to and from Myanmar: 1960-2013*. Washington, DC: Global Financial Integrity.
Global Witness (2003) *A Conflict of Interests: The Uncertain Future of Burma's Forests*. London: Global Witness, avaibale at: https://www.globalwitness.org/en/archive/conflict-interest-english/
Global Witness (2014) *Who Are the Real Winners of Myanmar's Latest Oil and Gas Block Sales?* London: Global Witness, available at: file:///C:/Users/msl404/Downloads/mbriefingupdated.pdf.
Global Witness (2015) Jade: Myanmar's Big State Secret. *Global Witness*, 23 October, available at: https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/myanmarjade/
Goodhart, C. (1988) *The Evolution of Central Banks.* Cambridge, MA: The MIT Press.
Goodhart, C. (1995) *The Central Bank and the Financial System*, Cambridge, MA: The MIT Press.
Goodhart, C. (2008) *The Regulatory Responses to the Financial Crisis.* CESifo Working Paper No .2257. Munich: CESifo, available at: https://www.econstor.eu/bitstream/10419/26302/1/560533586.PDF
Goodhart, C. (2010) *The Changing Role of Central Banks.* LSE Financial Markets Group Special Paper Series. London: London School of Economics.

Goodhart, C. A. E. (1994) What Should Central Banks Do? What Should be Their Macroeconomic Objectives and Operations? *The Economic Jounral,* 104: 427.

Goodhart, C., and Schoenmaker, D. (1995) Should the Functions of Monetary Policy and Banking Supervision Be Separated? *Oxford Economic Papers,* 47(4): 539-560

Government of Malaysia. (1989) *Banking and Financial Institutions Act 1989 (Act 372).* Kuala Lumpur: Government of Malaysia.

Government of Malaysia. (2001) *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001*. Kuala Lumpur: Government of Malaysia.

Government of Malaysia. (2002) *Economic Report 8. Developments in the Financial System*. Kuala Lumpur: The Ministry of Finance.

Government of Malaysia. (2009a) C*entral Bank of Malaysia Act-2009 (Act 701).* Kuala Lumpur: Government of Malaysia.

Government of Malaysia. (2009b) *Malaysia Anti-Corruption Commission Act 2009* (*Act 694)*, Kuala Lumpur: Government of Malaysia.

Government of Malaysia. (2011) *Financial Sector Blueprint: 2011–2020*. Kuala Lumpur: Bank of Negara Malaysia.

Government of Myanmar. (1991) *Banks and Financial Institutions Law of Myanmar*. Yangon: The Government of Myanmar.

Government of Myanmar. (2012) *The Foreign Exchange Management Law*. Naypyitaw: Pyidaungsu Hluttaw.

Government of Myanmar. (2013a) *Nay Pyi Taw Accord for Effective Development Cooperation*. Naypyitaw: Government of Myanmar

Government of Myanmar. (2013b) *Central Bank of Myanmar. Pyidaungsu Hluttaw Law No. 16/ 2013.* Naypyitaw: Pyidaungsu Hluttaw.

Government of Myanmar. (2013c) Press Release on the Promulgating of Anti-Corrupion Law. Yangon: New Light of Myanmar

Government of Myanmar. (2013d) *The Telecommunications Law*. Naypyitaw: The Government of Myanmar.

Government of Myanmar. (2014a). *Notification No. 49/2014. Classification of Types of Economic Activities*. Naypyitaw: Te Government of Myanmar.

Government of Myanmar. (2014b) *Anti Money Laundering Law/ Pyidaungsu Hluttaw Law No.11/2014.* Naypyitaw: Pyidaungsu Hluttaw.

Government of Myanmar. (2016) *Financial Institutions Law/Pyidaungsu Hluttaw Law No. 20/2016.* Naypyitaw: Pyidaungsu Hluttaw.

Government of Thailand. (1942*) Bank of Thailand Act, B.E 2485*. Bangkok: The Government of Thailand.

Government of Thailand. (1999) *Anti-Money Laundering Act, B.E. 2542*. Bangkok: Government of Thailand.

Grabosky, P. (2001) The Prevention and Control of Economic Crime. In: P. Larmour and N. Wolanin (eds), *Corruption & Anti-Corruption.* Canberra: Asia Pacific Press and the Australian Institute of Criminology.

Grabosky, P. (2004) The Global Dimension of Cybercrime. *Global Crime* 6: 146-157.

Grabosky, P. (2015) *Cybercrime.* Oxford: Oxford University Press.

Graycar, A. and Prenzleer, T. (2013) *Understanding and Preventing Corruption.* London: Palgrave MacMillan

Gunningham, N., Grabosky, P., and Sinclair, D. (1998) *Smart Regulation: Designing Environmental Policy.* Oxford: Clarendon Press.

Gupta, S., Davoodi, H., Alonso-Terme, R. (1998) *Does Corruption Affect Income Inequality and Poverty?* Working Paper of the International Monetary Fund,

Gupta, S., Davoodi, H., and Alonso-Terme, R. (1998) *Does Corruption Affect Income Inequality and Poverty?* IMF Working Papers. Washington, DC: IMF.

Gupta, S., de mello, L. R., and Sharan, R. (2000) *Corruption and Military Spending*. IMF Working Papers. Washington, DC: IMF.

Gutter, P. (2001) Law and Money Laundering in Burma. *Legal Issues on Burma Journal* 10:1-13.

Halliday, T., Levi, M., and Reuter, P. (2014) *Global Surveillance of Dirty Money: Assessing Assessments of Regimes to Control Money Laundering and Combat the Financing of Terrorism*. Irvine, CA: Center on Law and Globalization.

Hameiri, S,. and Jones, L. (2014) Regulatory Regionalism and Anti-Money Laundering Governance in Asia. *Australian Journal of International Affairs* 1: 20.

Hechler, H. (2013) *UNCAC in a Nutshell*. Bergen: U4 Anticorruption Resource Centre.

Hechler, H., Koechlin, L., Zinkernagel, G. F., and Morris, D. (2011) *Can UNCAC Address Grand Corruption?* Bergen: U4 Anti-Corruption Resource Centre.

Heidenheimer, J. A., Johnston, M., and Le Vine, V. T. (1989) *Political Corruption: A Handbook,* New Brunswick: Transaction Publishers.

Heilbrunn, J. R. (2004) *Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?* Washingon, DC: World Bank.

Heilbrunn, J. R. (2006) Anti-Corruption Commission. In: R. Stapenhurst, N. Jonston and R. Pelizzo (eds), *The Role of Parliaments in Curbing Corruption.* Washington, DC: World Bank Institute, 135-148.

Heilbrunn, J. R. (2013) The Fight Against Corruption: The World Bank Debarment Policy. In: S. Manacorda, F. Centonze and G. Forti (eds), *Preventing Corporate Corruption: The Anti-Bribery Compliance Model.* Cham: Springer, 315-329.

Hindess, B. (2012) How Should We Think About Corruption? In: M. Barcham, B. Hindess and P. Larmour (eds), *Corruption: Expanding the Focus.* Canberra: ANU ePress, 1-24.

Holcombe, R., and Boudreaux, C. (2015). Regulation and Corruption. *Public Choice* 164(1): 75-85.

Hough, D. (2013) *Corruption, Anti-Corruption & Governance*. Basingstoke: Palgrave Macmillan.
https://www.nber.org/system/files/working_papers/w6680/w6680.pdf

Htwe, CM. (2015) Ayeyar Hinthar Opens Ayeyarwady Farmers Development Bank. *Myanmar Times.*

Huisman, W., and Walle GV. (2010) The Criminology of Corruption. In: G. de Graaf, P. von Maravić and P, Wagenaar (eds), *The Good Cause: Theoretical Perspectives on Corruption.* Opladen: B. Budrich.

Huntington, S. P. (1968) *Political Order in Changing Societies*. New Haven, CT: Yale University Press.

Husmann, K., Hechler, H., and Penailillo, M. (2009) *Institutional Arrangements for Corruption Prevention: Considerations for the Implementation of the United Nations Convention Against Corruption Article 6*. U4 Research Report. Bergen: U4 Anti-Corruption Resource Centre.

Husted, B. W. (1994) Honor Among Thieves: A Transaction-Cost Interpretation of Corruption in Third World Countries. *Business Ethics Quarterly* 4: 17-27.

Huther, J., and Shah, A. (1998) *Applying a Simple Measure of Good Governance to the Debate on Fiscal Decentralization.* World Bank Policy Research Paper. Washington, DC: World Bank.
Huther, J., and Shah, A. (2000) *Anti-Corruption Policies and Programs.* Policy Research Working Paper. Washington, DC: World Bank.
IMF and World Bank (2013) *Malaysia IOSCO Objectives and Principles of Security Regulation, Detailed Assessment of Implementation*. Washington, DC: IMF/World Bank.
IMF. (1944) *Articles of Agreement*. Washington, DC: IMF.
IMF. (2002) *The IMF's approach to Promoting Good Governance and Combating Corruption*. Washington, DC: IMF.
IMF. (2005) *The IMF's Approach to Promoting Good Governance and Combatting Corruption – A Guide*. Washington, DC: IMF
IMF. (2012) *Myanmar: 2011 Article IV Consultation. IMF Country Report No.12/104.* Washington, DC: IMF.
IMF. (2013a) *Malaysia: Financial Sector Stability Assessment. Country Report No. 13/52.* Washington, DC: IMF.
IMF. (2013b) *Myanmar 2013 Article IV Consulatation and First Review Under the Staff-Monitored Program. Country Report No.13/250.* Washington, DC: IMF.
IMF. (2013c) *Myanmar: Staff-Monitored Program. IMF Country Report No. 13/13.* Washington, DC: IMF.
IMF. (2014a) *2014 Article IV Consultation – Staff Report. Country Report No. 14/307.* Washington, DC: IMF.
IMF. (2014b) *Myanmar: Second Review Under the Staff-Monitored Program. Country Report No 14/91.* Washington, DC: IMF.
IMF. (2015) *Myanmar: Selected Issues. Country Report No.15/268.* Washington, DC: IMF.
IMF. (2017a) *2016 Article IV Consultation – Press Release, Staff Report and Statement by the Executive Director for Myanmar. IMF Country Report No.17/30.* Washington, DC: IMF.
IMF. (2017b) Myanm*ar: Selected Issues. IMF Country Report No.17/31.* Washington, DC: IMF.
International Budget Partnership. (2012) *Myanmar's Open Budget Index*. Washington, DC: International Budget Partnership.
International Budget Partnership. (2015) *Myanmar's Open Budget Index*. Washington, DC: International Budget Partnership.
Irrawaddy & Associated Press. (2013) Burmese Ex-Telecoms Minister Faces Graft Probe. *Irrawaddy*, January 25.
Irrawaddy. (2000) Tycoon Turf. *Irrawaddy*, available at: https://www2.irrawaddy.com/article.php?art_id=5010
Irrawaddy. (2012) 'Third Phase of Reform' Tackles Govt Corruption, President Says. *Irrawaddy*, a vailable at: https://www.irrawaddy.com/news/burma/third-phase-of-reform-tackles-govt-corruption-president-says.html
Irrawaddy. (2012) Corruption is Burma's Biggest Problem: Upper House Speaker. *Irrawaddy*, a vailable at: https://www2.irrawaddy.com/article.php?art_id=23286
Irrawaddy. (2012) Six Burmese Ministires Accused of Corruption. *Irrawaddy*, a vailable at: https://www2.irrawaddy.com/article.php?art_id=23196
Isaksen, J. (2005) *The Budget Process and Corruption*. Bergen: U4 Anti-Corruption Resource Centre.

JICA. (2012) *Republic of the Union of Myanmar Data Collection Survey on Modernization of the Financial System*. Yangon: JICA.

Johnson, S., Boone, P., Breach, A., and Friedman, E. (1999) Corporate Governance in the Asian Financial Crisis. *Journal of Financial Economics* 58:141-186

Johnston, M. (1986) The Political Consequences of Corruption: A Reassessment. *Comparative Politics* 18: 456-477.

Johnston, M. (1999) A Brief History of Anticorruption Agencies. In: Andreas Schedler LD, and M. F. Plattner (eds), *The Self-Restraining State: Power and Accountability in New Democracies.* Boulder: Lynne Rienner, 217-226.

Johnston, M. (2005a) *Civil Society and Corruption.* Boulder, NY: University Press of America.

Johnston, M. (2005b) *Syndromes of Corruption.* Cambridge: Cambridge University Press.

Johnston, M. (2014) *Corruption Contention and Reform: The Power of Deep Democratization.* Cambridge: Cambridge University Press.

Jones, L. (2014) The Political Economy of Myanmar's Transition. *Journal of Contemporary Asia* 44: 144-170.

Jongsureyapart, C., Wise, V., and Yaftian, A. (2012) Post-Crisis Corporate Governance in Thailand: Banking Sector. *Banks and Bank Systems* 7: 40-49.

Joyce, B. P. (2002) Dynamics and Deficiencies of Anti-Money Laundering Efforts in Myanmar. *Journal of Money Laundering Control* 6: 80-84.

Kaufmann, D. (1997) Corruption: The Facts. *Foreign Policy* 1: 114-131.

Kaufmann, D. Kraay, Aart., and Zoido-Labaton, Pablo. (1999a) *Governance Matters: From Measurement to Action.* World Bank Policy Research Working Paper. Washington, DC: World Bank.

Kaufmann, D., and Hellman, J. (2001) Confronting the Challenge of State Capture in Transition Economies. *Finance & Development* 38(3), available at: https://www.imf.org/external/pubs/ft/fandd/2001/09/hellman.htm

Kaufmann, D., Kraay, A., and Mastruzzi, M. (2010) *The Worldwide Governance Indicators: Methodology and Analytical Issues. Global Economy and Development.* Washington, DC: Brookings Institute.

Kaufmann, D., Kraay, A., and Zoido-Lobaton, Pablo. (1999b) *Aggregating Governance Indicators*. Policy Research Working Paper. Washington, DC: World Bank.

Kaufmann, D., Kraay, A., and Zoido-Lobaton, Pablo. (2000) *Governance Matters From Measurement to Action*. Washington, DC: IMF.

Kaufmann, D.. Kraay, A., and Mastruzzi, M. (2004) *Governance Matters VIII: Aggregate and Individual Governance Indicators 1996-2008*. Policy Research Working Paper 4978. Washington, DC: World Bank Institute.

Kawanami, H (2020) *The Culture of Giving in Maynmar: Buddhist Offerings, Reciprocity and Interdependence*, Bloomsbury

Kennedy, D. (1999) The International Anti-Corruption Campaign: Political Corruption in Market Democracies. *Connecticut Law Journal of International Law* 14: 455-465.

Khan, M. (1996) A Typology of Corruption Transactions in Developing Countries. *IDS Bulletin* 8: 12.

Khan, M. (1998) Patron-Client Networks and the Economic Effects of Corruption in Asia. *European Journal of Development Research* 10: 15-59.

Khan, M. H., and Kwame, S. J. (2000) *Rents, Rent-Seeking and Economic Development: Theory and Evidence in Asia*. Cambridge: Cambridge University Press.

Khan, M. M. (2004) Corruption, Governance and Economic Development. In: J. K. Sundaram and B. Fine (eds), *The New Development Economics: After the Washington Conference*. London: Zed Press.

Kikuchi, T., and Masutomo, T. (2016) *Financial Reforms in Myanmar and Japan's Engagement*. Dicsussion Paper Series 29. ERIA, available at: https://www.eria.org/ERIA-DP-2016-27.pdf

Kinetz, E. (2013) How a Burmese Tycoons is Profiting From Change. *The Irrawaddy*, 3 June, available at: https://www.irrawaddy.com/opinion/how-a-burma-tycoon-is-profiting-from-change.html

King, M. (2017) *The End of Alchemy: Money, Banking and The Future of The Global Economy*, London: Abacus.

Kingsbury, D. (2014) Political Transition in Myanmar: Prospects and Problems. *Asian Politics & Policy* 6: 351-373.

Klitgaard, R. (1998a) *Controlling Corruption*, Berkeley, CA: University of California Press.

Klitgaard, R. (1998b) International Cooperation Against Corruption. *Finance & Development*. Washington, DC: IMF.

Kramer, T. (2007) *The United Wa State Party: Narco-Army or Ethnic Nationalist Party?* Washington, DC: East-West Center.

Kramer, T. (2016) *The Current State of Counternarcotics Policy and Drug Reform Debates in Myanmar*. New York, NY: Brookings Institute.

Kravtsova, M., Oshchepkov, A. Market and network corruption: Theory and evidence. *Crime Law Soc Change* (2023). https://doi.org/10.1007/s10611-023-10103-z

Krueger, A. O. (1974) The Political Economy of the Rent-Seeking Society. *The American Economic Review* 64: 291-303.

Krugman, P. (1998) What Happened to Asia? Available at: http://web.mit.edu/krugman/www/DISINTER.html

Krugman, P. (1999) Balance Sheets, the Transfer Problem, and Financial Crises. *International Tax and Public Finance* 6: 459-472.

Kubo, K. (2010) *Natural Gas Export Revenue, Fiscal Balance and Inflation in Myanmar*. IDE Discussion Papers. Chiba: Institute of Developing Economies/ Japan External Trade Organization.

Kubo, K. (2014) Foreign Exchange Market Reform in Myanmar: Achievement and Challenges. *Journal of Southeast Asian Economics* 31: 210-224.

Kubo, K. (2015) *Impacts of Foreign Exchange Auctions on the Informal Market Rate in Myanmar.* IDE Discussion Paper No.532. Chiba: IDE-JETRO.

Kubo, K., Fukui R., and Mieno, F. (2009) Financial Sector During the Transition to a Market Economy in Myanmar. In: K. Fujita, F. Mieno and I. Okamoto (eds), *The Economic Transition in Myanmar After 1988.* Singapore: National University of Singapore.

Kyaw, A. and Mullins, J. (2015) Central Bank to Limit Payments to Only the Kyat. *Myanmar Times*, June 10, available at: https://www.mmtimes.com/business/14960-central-bank-to-limit-payments-to-only-the-kyat.html

Kyaw, A. M. (2015) *Myanmar's Budget System Reform (Considering Japanese Experience)*. Tokyo: Policy Research Institute, Ministry of Finance

Lambsdorff, J. G. (2006) Causes and Consequences of Corruption: What Do We Know from a Cross-Section of Countries. In: Rose-Ackerman S (ed.), *International Handbook of the Economics of Corruption.* Cheltenham: Edward Elgar.
Lambsdorff, J. G. (2007) *The Institutional Economics of Corruption and Reform: Theory, Evidence and Policy*, Cambridge: Cambridge University Press.
Lambsdorff, J. G. (2012) Behavioral and Experimental Economics as a Guidance to Anticorruption. In: L. Wantchekon, D. Serra, Isaac, R. M., and D. A. Norton (eds), *New Advances in Experimental Research on Corruption Research in Experimental Economics.* Bingley: Emerald Books, 279-299.
Lambsdorff, J. G., and Teksoz, U. (2005) *Between Two Evils, Investors Prefer Grand Corruption!* Passauer Diskussionspapiere, Volkswirtschaftliche Reihe V-31-05, University of Passau, Faculty of Business and Economics.
Lambsdorff, J. G., Taube, M., and Schramm, M. (2005) *The New Institutional Economics of Corruption.* London: Routledge.
Larkin, S. (2015) *Myanmar's Tycoons: Vested Interests Resisting Reform or Agent of Change?* Singapore: ISEAS Perspective: 14.
Larmour, P. (1997) Corruption and Governance in the South Pacific. *Pacific Studies* 20: 1-17
Larmour, P. (2007) *A Short Introduction to Corruption and Anti-Corruption.* CIES e-Working Paper. Lisbon: Centre for Research and Studies in Sociology.
Larmour, P. (2008) Corruption and the Concept of 'Culture': Evidence from the Pacific Islands. *Crime, Law and Social Change* 49(3): 225-239.
Larmour, P. (2011) Corruption in REDD+ Schemes: A Framework for Analysis. In: A. Graycar and R. G. Smith (eds), *Handbook of Global Research and Practice in Corruption.* Cheltenham: Edward Elgar, 163-176.
Larmour, P. (2012) *Corruption and the Concept of Culture: Evidence from the Pacific Islands*, Honoulu, HI: University of Hawaii Press
Larmour, P. (2015) Corruption and the Concept of Culture: Evidence from the Pacific Islands. In: M. Barcham, B. Hindess and P. Larmour (eds), *Corruption: Expanding the Focus.* Canberra: ANU E Press 155-177
Latt, N. L. (2010) Six Burmese Businessmen Seek Private Banking Licenses. *The Irrawaddy*, May 19, available at: https://www2.irrawaddy.com/article.php?art_id=18501
Leff, N. H. (1964) Economic Development through Bureaucratic Corruption. *American Behavioral Scientist* 8: 8-14.
Levi, M. (2002) Money Laundering and Its Regulation. *The Annals of the American Academy of Political and Social Science* 582: 181-194.
Levi, M., and Reuter, P. (2006) Money Laundering. *Crime and Justice*: 34 (1): 289-375
Levi, M., Reuter, P., and Halliday, T. (2017) Can the AML System Be Evaluated Without Better Data? *Crime, Law & Social Change* (Forthcoming).
Levine, R., and Demirguc-Kunt. A. (1999) *Bank-Based And Market-Based Financial Systems: Cross-Country Comparisons*. Washington, DC: World Bank.
Levinson, M. (2010) Faulty Basel: Why More Diplomacy Won't Keep the Financial System Safe. *Foreign Affairs* 89: 76-88.
Lilley, P. (2003) The Asian Money Laundering Explosion. In: J. Kidd and F-J. Richter (eds), *Fighting Corruption in Asia: Causes, Effects, and Remedies.* Hackensack NJ: World Scientific, 47-89.
Lintner, B. (1996) Narcopolitics in Burma. *Current History* 95: 432-437.

Lucas Robert E. 'Methods and Problems in Business Cycle Theory. *'Journal of Money, Credit and Banking*, vol. 12, no. 4, 1980, pp. 696–715

Lui, F. T. (1985) An Equilibrium Queuing Model of Bribery. *Journal of Political Economy* 93: 760-781.

Lwin, C. C. (2013) Basel III Implication: Challenges and Opportunity in Myanmar. In: J. P. R. Karunaratne (ed.), *Basel III Implication: Challenges and Opportunity.* Kuala Lumpur SEACEN, 135-169.

Macrae, J. (1982) Underdevelopment and the Economics of Corruption: A Game Theory Approach. *World Development* 10: 677-687.

Mann, Z. (2013) Burma's SEA Games Opener Extolled, Critiqued. *The Irrawaddy*, 12 December, available at: https://www.irrawaddy.com/news/burma/burmas-sea-games-opener-extolled-critiqued.html

Manninen, J. (2006) Anders Chydenius and the Origins of World's First Freedom of Information Act. In: A. Chydenius (ed.) *Anders Chydenius Foundation's Publication 2.* Kokkola: Anders Chydenius Foundation, 103.

Marcussen, M. (2005) Central Banks on the Move. *Journal of European Public Policy* 12: 903-923.

Martin, E. A. (2003) *Oxford Dictionary of Law* (5th edn). Oxford: Oxford University Press.

Maung, M. (1992). *Totalitarianism in Burma: Prospects for Economic Development*. New York, NY: Paragon House.

Maung, M. (1998) *The Burma Road to Capitalism: Economic Growth Versus democracy*. Westport, CT: Praeger

Mauro, P. (1995) Corruption and Growth. *The Quarterly Journal of Economics* 110: 481-712.

Maw, K. T. (2012) Developments of Payment and Settlement System. In: Y. Yamada and H. Lim (eds), *Economic Reforms in Myanmar: Pathways and Prospects.* Bangkok: IDE-JETRO.

Maysakun, N. (2007) *Money Laundering in Thailand*. Resource Material Series No.73. Tokyo: United Nations Asia and Far East Institute for the Prevention of Crimes and the Treatment of Offenders (UNAFEI).

Mclaughlin, T., and Shin, A. (2014) Graft Scandal Sinks Without Trace. *Myanmar Times*, 9 June.

Mclaughlin, T., and Slodkowski, A. (2016) Barrier to Reform? Suu Kyi Sticks With Myanmar Central Bank Chief. *Reuters*.

Meagher, P. (2002) *Anti-Corruption Agencies: A Review of Experience*. Washington, DC: World Bank.

Meagher, P. (2005) Anti-Corruption Agencies: Rhetoric Versus Reality. *The Journal of Policy Reform* 8: 69-103.

Mearshsheimer, J. (2011) *Why Leaders Lie: The Truth About Lying in International Politics*, London: Gerald Duckworth & Co.

Meehan, P. (2011) Drugs, Insurgency and State-Building in Burma: Why the Drug Trade is Central to Burma's Changing Political Order. *Journal of Southeast Asian Studies* 42: 376-404.

Meehan, P. (2015) Fortifying or Fragmenting the State? The Political Economy of the Opium/Heroin Trade in Shan State, Myanmar, 1988-2013. *Critical Asian Studies* 47: 253-282.

Mieno, F. (2013) Toward Myanmar's New Stage of Development: Transition from Military Rule to the Mark. *Asian Economic Policy Review*: 94-117.

Miller, J. E., and William, E. (2014) Corruption. In: H. ten Have and B. Gordijn (eds), *Handbook of Global Bioethics.* New York, NY: Springer, 599-618
Min, A. K. (2015) Supreme Court Agrees to Hear U San Sint Appeal. *Myanmar Times*, 8 April, available at: https://www.mmtimes.com/national-news/13980-supreme-court-agrees-to-hear-u-san-sint-appeal.html
Min, A., and Kudo, T. (2014) Business Conglomerates in the Context of Myanmar's Economic Reform, In: H. Lim and Y. Yamada (eds), *Myanmar's Integration with the Global Economy: Outlook and Opportunities.* Bangkok: IDE-JETRO, 138-173.
Min, M. T. (2014) Mortgage Finance and Consumer Credit: Implications on Financial Stability. In: F. C. Q. Cacnio (ed.), *Mortgage Finance And Consumer Credit: Implications On Financial Stability In SEACEN Economies.* Kuala Lumpur: SEACEN Center, 197-220.
Min, W. (2009) Burmese Military Government: Crony Capitalists in Uniform. In: D. A. Metraux and O. Khin (eds), *Burma's Modern Tragedy*. Lewiston NY: Edwin Mellen Press, Chapter 3.
Min, W. H., (2011) International and Cross Border Bank Lending Implication in SEACEN: Balance Sheet Perspective in Myanmar. In: V. Pontines and R. Y. Siregar (eds), *International and Cross Border Bank Lending Implication in SEACEN: Balance Sheet Perspective.* Kuala Lumpur: SEACEN, 135-244.
Ministry of National Planning and Economic Development. (2013) *FY 2013-2014 National Planning 1st Quarterly Report*. Naypyitaw: The Republic of the Union of Myanmar.
Ministry of National Planning and Economic Development. (2016) *Union of Myanmar National Plans- 2016-2017*. Naypyitaw: Ministry of National Planning and Economic Development.
Minshkin, FS. (2012) *Central Banking After the Crisis*. Paper presented at the 16th Annual Conference of the Central Bank of Chile. Santiago, Chile.
Minsky, P. H. (1992) *The Financial Instability Hypothesis*. Working Paper No.74. The Jerome Levy Economics Institute of Bard College.
Mizzima. (2012) Burma's President Calls for Clean, More Efficient Government. *Mizzima*.
Mizzima. (2013) Anti-Corruption Commission to be Proposed to Parliament. *Mizzima*.
Mon, K. H. (2014) Ne Win Scions Plan Takeover of Tay Za's Bank. *The Irrawaddy*, 22 July.
Monetary and Customs Committee. (2015). Annual Report 2015, Naypyitaw: Pyidaungsu Hluttaw.
Mongid, A., and Tahir, I. M. (2011) Impact of Corruption on Banking Profitability in ASEAN Countries: An Empirical Analysis. *Banks and Bank Systems* 6: 41-48.
Moran, J. 2001. Democratic Transitions and Forms of Corruption. *Crime, Law & Social Change* 36: 379-93
Morgan, B., and Yeung, K. (2007) *An Introduction to Law and Regulation: Text and Materials*. Cambridge: Cambridge University Press.
Mullins, J. (2015) Diawa Underwriter Bid Raises Finance Industry's Eyebrows. *The Myanmar Times*, 10 March, available at: https://www.mmtimes.com/business/13440-daiwa-underwriter-bid-raises-finance-industry-s-eyebrows.html .

Myint, U. (2007) Myanmar's GDP Growth and Investment: Lessons From a Historical Perspective. In: M. Skidmore and T. Wilson (eds), *Dictatorship, Disorder and Decline in Myanmar*. Canberra: ANU E Press, 1-240.

Myint, U. (2010) *Myanmar Economy: A Comparative View*. The Asia Paper Series. Stockholm: The Institute for Security and Development Policy.

Myint, U. (2011) Corruption: Causes, Consequences and Curses. *National Workshop on Reforms for Economic Development of Myanmar*, Myanmar International Convention Center, Naypyitaw.

Myo, K. S. (2014) Anti-corruption Efforts in Myanmar. *Unafei' Resource Material Series.* Tokyo: Unafei 252-260.

Naing, K. K. (2012) Why Burma Needs Transparency, *East Asia Forum*, availabel at: https://thediplomat.com/2012/01/why-burma-needs-transparency/

Naing, K. K. (2013) Burma must declare war against corruption. *East Asia Forum.* available at: https://www.eastasiaforum.org/2013/08/13/burma-must-declare-war-against-corruption/

Naing, K. K. (2015) *Myanmar's elections need a fraud-free makeover*. East Asia Forum, available at: http://www.eastasiaforum.org/2015/09/04/myanmars-elections-need-a-fraud-free-makeover/.

Naing Ko Ko (2019) 'Democratisation in Myanmar: Glue or Gloss?' *Panorama: Insights into Asian and European Affairs* (Singapore: Konrad - Adenauer Stiftung 2019)

Nehru, V. (2014) Banking on Myanmar: A Strategy for Financial Sector Reform. 25/07/2014 ed. Washington, D.C: Carnegie Endowment for International Peace, 31.

Nehru, V. (2015) Developing Myanmar's Finance Sector to Support Rapid, Inclusive, and Sustainable Economic Growth. *ADB Economics Working Paper Series*: 45, Manila: ADB

Nehru., V. (2012) Myanmar's Economic Policy Priorities. *The Carnegie Papers.* Wasington, D.C: Carnegie Endowment for International Peace.

New Light of Myanmar. (2011) President U Thein Sein Delivers inaugural address to Pyidaungsu Hluttaw, 31 March, 2011, Yangon: Ministry of Information.

New Light of Myanmar. (2012) Permission granted to resign from the post of Union Auditor-General, *Order No. 24/2012.* Yangon: Ministry of Information.

Noonan, J. T. (1984) *Bribes*, New York-London Macmillan Publishing Company.

North, D. C. (1990) *Institutions*, *Institutional Change and Economic Performance* Cambridge: Cambridge University Press.

North, D. C. (1999) Understanding the Process of Economic Change. United Kingdom: The Institute of Economics Affairs.

Nye, J. S. (1967) Corruption and Political Development: A Cost-Benefit Analysis. *American Political Science Review* 61: 417-427.

Nye, J. S. (1969) Corruption and Political Development. *American Political Science Review* 61: 412-427.

OECD. (2007) Specialized Anticorruption Institutions: Review of Models. Paris: OECD.

OECD. (2008) Strategies for Business, Government and Civil Society to Fight Corruption in Asia and the Pacific. *The 6th Regional Anti-Corruption Conference for Asia and the Pacific.* Singapore: ADB - OECD, 217.

OECD. (2009) Donor Approaches to Governance Assessments, Source Book. Paris: OECD.

OECD. (2011) Convention Combatting Bribery of Foreign Public Official in International Business Transaction and related documents. Paris: OECD.
OECD. (2014a) Developing Myanmar's financial sector. *Investment Policy Reviews.* Paris: OECD, 177-199.
OECD. (2014b) OECD Investment Policy Reviews: Myanmar 2014. Paris: OECD, 1-372.
OECD. (2014c) Structure Policy Country Notes Myanmar. *The Economic Outlook for Southeast Asia, China and India 2014: Beyond the Middle-Income Trap.* Paris: OECD 2-17.
Ogus, A. (1994) *Regulation: Legal Form and Economic Theory*, Oxford: Clarendon Press
Ogus, A. (2004) W(h)ither the economic theory of regulation? What economic theory of regulation? In: Jordana, J., and Levi-Faur, D. (eds), *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance* Cheltenham: Edward Elgar.
Okazaki, K. (2017) Banking System Reform in China: The Challenges to Improving its Efficiency in Serving the Real Economy. *Asian Economic Policy Review* 12: 303-320.
Oldenburg, P. (1987) Middlemen in Third-World Corruption: Implications of an Indian case. *World Politics* 39: 508-535.
Oliver, J. (2000) Regulation Inside Government: Public Interest Justifications and Regulatory Failures. *Public Administration* 78: 327-343.
Olken, B. A. (2006) Corruption and the costs of redistribution: micro evidence from Indonesia. *Journal of Public Economics* 90: 853-870.
Olson, M. (1982) *The Rise and Decline of Nations: Economic Growth, Stagflation and Social Rigidities*, New Haven and London: Yale University Press.
Oo, S. S. (2016) Fiscal Management Reform in Myanmar. Tokyo: Policy Research Institute, Ministry of Finance, Japan, 61, available at: https://www.mof.go.jp/pri/international_exchange/visiting_scholar_program/fy2016/sansan2.pdf
Oxford Business Group. (2018) *The Myanmar Report 2018*. Yangon: Oxford Business Group.
Paing, M. S. (2015) Anti-Corruption Commission Says 'No Plans' to Examine Assets of Govt Employees. *The Irrawaddy*, 24 November.
Passas, N. (1997) *Causes and Consequences of Corruption*. Paper presented at the 8th International Anti-Corruption Conference, Lima, Peru.
Passas, N. (2010) Anticorruption Agencies and the Need for Strategic Approaches: A Preface to this Special Issue. *Crime, Law and Social Change* 53: 1-3.
Perry, P. (2005) Corruption in Burma and the corruption of Burma. In: N. Tarling (ed.), *Corruptoin and Good Governance in Asia.* New York, NY: Routledge.
Philp, M. (1997) Defining Political Corruption. *Political Studies* 45: 436-462.
Phyo, P. T. (2015) Corrupt Civil Servants Dodge Prison Terms. *The Myanmar Times*, 27 February, available at: https://www.mmtimes.com/national-news/13266-slap-on-the-wrist-corruption-goes-unpunished.html
Pieth, M. (2013) Collective Action and Corruption. In: S. Manacorda, F. Centonze and G. Forti (eds), *Preventing Corporate Corruption: The Anti-Bribery Compliance Model.* Cham: Springer, 93-108.
Pope, J. (1999) *The Need for, the Role of, an Independent Anti-Corruption Agency*. TI Working Paper Series. Berlin: Transparency International.

Public Accounts Committee, (2016) *Report No. 1*. Naypyitaw: Pyidaungsu Hluttaw. 19.
Public Accounts Committee. (2012) *Report No. 4/2012*. Naypyitaw: Pyidaungsu Hluttaw, 3-11.
Public Accounts Committee. (2013) *Report No. 3/2013*. Naypyitaw: Pyidaungsu Hluttaw, 25.
Public Accounts Committee. (2014a) *Report No. 3/2014: Analytical Report on the OAG Examination Report for the Budget in FY 2012-13*. Naypyitaw: Pyidaungsu Hlttaw.
Public Accounts Committee. (2014b) *Report No. 8/2014*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2014c) *Report No. 9/2014*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2014d) *Report No.4/2014*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2014e) *Report No.8/2014: Report on the OAG's observed, objections, implemented actions on FY2013-14 of the1st bi-annual statistics*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2014f) *Report No.9/2014*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee.(2014g) *Report No. 2/2014: Analytical Report on the OAG Examination Report for the Budget in FY 2012-13*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015a) *First Bi-annual Analytical Report on Implementation of National Planning for 2014-15*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015b) *Report No. 1/2015: Analytica Report on the OAG's Examiniation, Objections and Implementation of the State's Statistics for the Second Bi-Annual Period in 2013-14*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015c) *Report No. 3/2015: Report on the OAG's Examination of the State Budget in 2013-14*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015d) *Report No. 5/2015: Reporting on Actual Audited Data for 2013-14 Fiscal Years*. Naypyidaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015e) *Report No. 6/2015*. Naypyitaw: Pyidaungsu Hluttaw, 26.
Public Accounts Committee. (2015f) *Report No. 7/2015: Report on the Seond Bi-annual Report of the Ministry of Finance for 2014-15 Fiscal Year*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2015g) *Report No.8/2015*. Naypyitaw: Pyidaungsu Hluttaw.
Public Accounts Committee. (2016) *Second Bi-annual Analytical Report on Implementation of National Planning for 2014-15*. Naypyitaw: Pyidaungsu Hluttaw.
Quah, J. S. T. (2017) *Anti-Corruption Agencies in Asia Pacific Countries: An Evaluation of their Performance and Challenges*. Berlin: Transparency International
Radelet, S., and Sachs, J. (1999) *What Have We Learned, So Far, From the Asian Financial Crisis*, available at: https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.474.3810&rep=rep1&type=pdf

Radelet., S., and Sachs, J. (1998) *The Onset of the East Asian Financial Crisis*.
Radio Free Asia. (2013) Ex-Minister Under House Arrest. *Radio Free Asia*, 23 January, available at: http://www.rfa.org/english/news/burma/phone-01232013152301.html/
Radio Free Asia. (2014) Myanmar to Try Former Religion Minister on National Security Charges, *Radio Free Asia*, 22 July, available at: https://www.rfa.org/english/news/myanmar/minister-07222014182157.html
Radio Free Asia. (in Burmese) (2014) Myanmar Charges Religious Affairs Minister with Misuse of Funds. *Radio Free Asia*, 19 June, available at: https://www.rfa.org/english/news/myanmar/minister-06192014183955.html
Radio Free Asia. (in Burmese) (2014) Myanmar's Ex-Religion Minister Gets 13 Years on Graft, Sedition Charges, *Radio Free Asia*, 17 October, available at: https://www.rfa.org/english/news/myanmar/hsan-sint-10172014175219.html
Rajan, R. G., and Zingales, L. (1998a) Financial Dependence and Growth. *American Economic Review* 88: 559-96.
Rajan, R. G., and Zingales, L. (1998b) Which Capitalism? Lessons from the East Asian Crisis. *Journal of Applied Corporate Finance* 11: 1-18.
Reuter, P, and Levi, M. (2006) Money Laundering. *Crime and Justice* 34: 289-375.
Reyes, N. G., and Lim, S. H. (2014) Financial Monitoring in the New ASEAN-5 Countries. *ADB Working Paper Series on Regional Economic Integration.* Manila: ADB.
Ricardo David (1824), Plan for the Establishment of a National Bank, John Murray: London
Robin, P. (2012) *Combating Grand Corruption in Africa: should it be an international crime?* . Available at: http://www.osisa.org/openspace/global/combating-grand-corruption-africa-robin-palmer
Rose-Ackerman, S. (1975) The Economics of Corruption. *Journal of Public Economics* 4: 187-203.
Rose-Ackerman, S. (1978) *Corruption: A Study in Political Economy*, New York, NY: Academic Press.
Rose-Ackerman, S. (1996) *Democracy and 'Grand' Corruption*. London: Blackwell Publishers.
Rose-Ackerman, S. (1999) *Corruption and Government: Causes, Consequences, and Reform*. Cambridge: Cambridge University Press.
Rose-Ackerman, S. (2002) Grand Corruption and the Ethics of Global Business. *Journal of Banking and Finance* 26: 1889-1918.
Rose-Ackerman, S. (2006) *International Handbook on The Economics of Corruption*. Cheltenham: Edward Elgar.
Rose-Ackerman, S. (2008) *Corruption and Post-Conflict Peace-Building.* Faculty Scholarship Series. New Haven, CT: Yale Law School.
Rotberg, R. I. (2009) *Corruption, Global Security and World Order*. Cambridge: World Peace Foundation and American Academy of Arts & Sciences.
Rothestein, B., and Stolle, D. (2002) *How Political Institutions Create and Destroy Social Capital: An Institutional Theory of Generalized Trust*. Paper prepared for delivery at the Annual Meeting of the American Political Science Association, 25 August–1 September 2002.
Rothstein, B. (2011) *The Quality of Government: Corruption, Social Trust, and Inequality in International Perspective*. Chicago, IL: University of Chicago Press.

Sampson, S. (2010) The Anti-Corruption Industry: From Movement to Institution. *Global Crime* 1: 261-278.

Sander, T. M. and Todd, R. K. (2013) *Background Paper No.3: Rural Finance in Myanmar*. Yangon: MDRI, available at: https://mdricesd.files.wordpress.com/2015/04/bp-rural-finance.pdf

Santiprabhob, V. (2016) The Bank of Thailand's Financial and Monetary Policies: The Way Forward. *Thailand Focus 2016.* Bangkok: BIS-Central Bankers' speeches.

Santos, J. (2000) *Bank Capital Regulation in Contemporary Banking Theory: A Review of the Literature.* BIS working Papers. Basel: BIS.

Scott, C. (2008) Privatization and Regulatory Regimes. In: R. E. Goodin, M. Moran and M. Rein (eds), *Oxford Handbook of Public Policy.* Oxford: Oxford University Press

Scott, J. C. (1969) Corruption, Machine Politics, and Political Change. *The American Political Science Review* 63: 1142-1158.

Sen, B. K. (2005) Burma's Junta Combating Corruption? *Legal Issues on Burma Journal* 20: 32-59.

Sevensson, T. (2005) Eight Questions about Corruption. *The Journal of Economic Perspectives* 19: 19-42.

Shah, A. (2006) *Corruption and Decentralized Public Governance*. World Bank Policy Research Working Paper. Washington, DC: World Bank.

Sharma, R. (2016) *The Rise and Fall of Nations: Ten Rules of Change in the Post-Crisis World.* London: Penguin Books.

Sharman, J. C. (2011) *The Money Laundry: Regulating Criminal Finance in the Global Economy.* Ithaca, NY: Cornell University Press.

Shelley, L. I. (2000) Transnational Organized Crime and Seized Assets: Moral Dilemmas Concerning the Disposition of the Fruits of Crime. *Maastricht Journal of European and Comparative Law* 7: 35-50.

Shleifer, A., and Vishny, W. R. (1993) Corruption. *Quarterly Journal of Economics*,108: 599-617.

Simon, J., Boone, P., Breach, A., and Friedman, E., (2000) Corporate Governance in the Asian Financial Crisis. *Journal of Finanical Economics, 58*: 141-186

Simion, K (2021) *Rule of Law Intermediaries: Brokering Influence in Myanmar*, Cambridge University Press

Singleton, J. (2010) *Implications of the Current Economic Crisis for Central Bank Independence*. Paper presented at the Asia Pacific Economic and Business History Conference, Wellington, 17-19 February.

Singleton, J. (2011) *Central Banking in the Twentieth Century*. New York, NY: Cambridge University Press.

Siregar, R. (2011) *Macro-Prudential Approaches to Banking Regulation: Perspectives of Selected Asian Central Banks*. ADBI Working Paper Series. Tokyo: Asian Development Bank Institute.

SLORC. (1990) *The Financial Institutions of Myanmar Law: The State Law and Order Restoration Council Law No. 16/1990.* Yangon: The State Law and Order Restoration Council.

Smith, A. (1776) *The Wealth of Nations.* Chicago, IL: The University of Chicago Press (2008 edition)

Soe, P, Lowatcharin, G, Crumpton, C D and Draper, J, (2020) Searching for 'pockets of effectiveness' in weak governance states: Preliminary investigation of Securities

and Exchange Commission of Myanmar, Australian Journal of Public Administration 79(2): 225-241
SPDC. (1989) *The State Owned Economic Enterprises Law*. Yangon: Government of Myanmar.
SPDC. (2002) *The Control of Money Laundering Law: State Peace and Development Council Law No.6/2002.* Yangon: Government of Myanmar.
SPDC. (2004) *The Electronic Transactions Law: State Peace and Development Council Law No. 5/2004.* Yangon: Government of Myanmar.
SPDC. (2011) *The Special Fund Relating to Necessary Expenditures for Perpetuation of the State Sovereignty Law: State Peace and Development Council Law No. 10 / 2011.* Naypyitaw: Government of Myanamr.
SPDC. (2016) *The Constitution of the Republic of the Union of Myanmar (2008)*. Yangon: Ministry of Information.
Steinberg, I. D. (2005) *Burma/Myanmar: The Role of The Minitary in the Economy*. Sydney: Burma Economic Watch, available at: https://www.burmalibrary.org/docs09/Steinberg-Military-role-in-the-economy.pdf
Stephenson, M. (2014) Klitgaards' Misleading 'Corruption Formula'. *Global Anticorruption Blog*, 27 May, available at: https://globalanticorruptionblog.com/2014/05/27/klitgaards-misleading-corruption-formula/
Stigler, G. J. (1971) The Theory of Economic Regulation. *The Bell Journal of Economics and Management Science* 2: 3-21.
Stiglitiz, J. E., and Greenwald, B. C. (1986) Externalities in Economies with Imperfect Information and Incomplete Markets. *The Quarterly Journal of Economics* 101: 229-264.
Stiglitz, J. E. (2009) *Towards a More Productive Agrarian Economy for Myanmar*. Paper presented at the National Workshop on Reforms for Economic Development of Myanmar. Naypyitaw: Myanmar International Convention Center.
Szep, J., and Marshall, A. R.C. (2012) Special Report: An Image Makeover for Myanmar Inc. *Reuters*, 13 April, available at: https://www.reuters.com/article/us-myanmar-cronies-image-idUSBRE83B0YU20120412
T.J. (2013) Myanmar's Remittances – Too Many Chits for Kyat. *The Economist*, 30 May.
Tanzi, V. (1998) *Corruption Around the World: Causes, Consequences, Scope and Cures*. IMF Working Paper. Washington, DC: IMF.
Tarullo, D. K. (2011) *Regulating Systemic Risk*. Paper presented at the 2011 Credit Markets Symposium, Charlotte, N.C, available at: https://www.federalreserve.gov/newsevents/speech/tarullo20110331a.pdf
Tarullo, D. K. (2014a) International Cooperation in Central Banking. *Cornell International Law Journal*, 47: 14.
Tarullo, D. K. (2014b) *Liquidity Regulation*. Paper presented at The Clearing House 2014 Annual Conference, New York.
Tarullo, D. K. (2014c) Macroprudential Regulation. *Yale Journal on Regulation* 31: 505-521.
Tarullo, D. K. (2016a) *Financial Regulations Since the Crisis*. Paper presented at the 2016 Financial Stability Conference, Washington, DC.

Tarullo, D. K. (2016b) *Next Steps in the Evolution of Stress Testing*. Paper presented at Yale University School of Management Leaders Forum, New Haven, USA.

Taylor, V. (2002) Anti-Corruption and Asian Legal Professions. In: T. Lindsey and H. Dick (eds). *Corruption in Asia: Rethinking the Governance Paradigm.* Sydney: The Federation Press, 37-49

Taylor, V. (2007) The Law Reform Olympics: Measuring the Effects of Law Reform in Transition Economies. In: Lindsey T (ed.), *Law Reform in Developing and Transitional States.* London: Routledge, 83-105.

Teorell, J. (2007) *Corruption as an Institution: Rethinking the Nature and Origins of the Grabbing Hand*. Quality of Government Working Paper Series 2007:5. Goteborg: Goteborg University.

Tha, P. K., and Moe, K. Z. (2018) General Turned Restaurateur No Longer Has Time for Golf. *The Irrawaddy*, 25 May.

Than, M., and Thein., M. (2000) *Financial Resources for Development in Myanmar: Lessons from Asia.* Singapore: Institute of Southeast Asian Studies.

Thant, H. (2015) Myanmar's Foreign Debt Totals $9 Billion: Finance Minister. *Myanmar Times*, 1 December.

Thein, M. (2004) *Economic Development of Myanmar.* Singapore: Institute of Southeast Asian Studies.

Thein, S. (2011) *A Study on Myanmar's Fiscal Performance*. Paper presented at the National Workshop on Reforms for Economic Development of Myanmar, Naypyitaw, Myanmar.

Thompson, D. F. (1995) *Ethics in Congress: From Individual to Institutional Corruption*. Washington, DC: The Brookings Institute.

Thompson, D. F. (2013) *Two Concepts of Corruption*. *Edmond J. Safra Working Papers, No. 16.* Cambridge, MA: Harvard University.

Trairatvorakul, P. (2014) *The Role of the Central Bank in Driving Thailand's Sustainable Growth*. BIS Central Bankers' Speeches. New York: BIS.

Transparency International. (2009) *The Anti-Corruption Plain Language Guide*. Berlin: Transparency International.

Transparency International. (2011a) *Corruption Perceptions Index 2011*. Berlin: Transparency International

Transparency International. (2011b) *National Integrity System: Background, Rationale and Methodology*. Berlin: Transparency International

Transparency International. (2012a) *Report on the Transparency International Global Corruption Barometer*. Berlin: Transparency International.

Transparency International. (2012b) *Report on the Transparency International Global Corruption Perception Index*. Berlin: Transparency International

Transparency International. (2015a) *Corruption Perceptions Index.* Berlin: Transparency International.

Transparency International. (2015b) Myanmar:Country Recommendations. In: Tansparency International, *Myanmar – Government Defence Anti-Corruption Index 2015.* Berlin: Transparency International, 1-130.

Transparency International. (2016) *Corruption Perceptions Index*. Berlin: Transparency International.

Treisman, D. (2000) The Causes of Corruption: A Cross-National Study. *Journal of Public Economics* 76: 433-435.

Tullock, G. (1989) *The Economics of Special Privilege and Rent Seeking.* Dordrecht: Kluwer Academic Publishing.

Tun, W. (1962) *Burma's Currency and Credit,* Calcutta: Orient Longmans Limited.

Turnell, S. (2002) *Reforming the Banking System in Burma: A Survey of the Problems and Possibilities*. Paper presnted at the 1st Collaborative International Conference of the Burma Studies Group, Gothenburg, Sweden.
Turnell, S. (2006) Profiles of Burma Banks. *Burma Economic Watch* 1: 33.
Turnell, S. (2008) Myanmar's Banking Crisis. *ASEAN Economic Bulletin* 20: 272-282.
Turnell, S. (2009) *Fiery Dragon: Banks, Moneylenders and Microfinance in Burma*, Copenhagen: Nordic Institute of Asian Studies Press.
Turnell, S. (2010) Dissecting the Data: Burma's Macroeconomy at the Cusp of the 2010 'Elections'. *Burma Economic Watch*, June 2010: 1-19.
Turnell, S. (2011) Fundamentals of Myanmar's Macroeconomy: A Political Economy Perspective. *Asian Economic Policy Review* 6: 136-153.
Turnell, S. (2012) Reforms and Its Limits in Myanmar's Fiscal State. In: N. Cheesman, M. Skidmore and T. Wilson (eds), *Myanmar's Transition: Openings, Obstacles and Opportunities.* Singapore: Institute of Southeast Asian Studies, 137-155
Turnell, S. (2014a) Banking and Financial Regulation and Reform in Myanmar. *Journal of Southeast Asian Economies* 31: 225-240.
Turnell, S. (2014b) *Myanmar's Central Bank Law Reveals Reform Challenge*. Singapore: ISEAS.
U4. (2014) *Glossary*. Bergen: U4 Anti-Corruption Resource Centre.
UNCDF. (2013) *Survey Highlights, FinScope Myanmar 2013*. Yangon: UNCDF-FinMark Trust.
UNCDF. (2014) *Making Access Possible (MAP): Myanmar: Financial Inclusion Roadmap 2014-2020*. Naypyitaw: UNCDF.
UNDP. (2005) *Institutional Arrangements to Combat Corruption: A Comparative Study*. Bangkok: UNDP Asia Pacific Regional Centre.
UNDP. (2010) *Methodology for Assessing the Capacities of Anti-Corruption Agencies to Perform Preventive Functions*. Bratislava: UNDP Bratislava Regional Centre.
UNDP. (2012) *South-South Exchange on Effective Anti-Corruption Agencies: Bhutan, Maldives, Timor-Leste*. Bangkok: UNDP Asia Pacific Regional Centre.
UNDP. (2014) *Bridges to Justice: Rule of Law Centres for Myanmar*. Yangon: UNDP-Myanmar.
UNDP. (2016) *Human Development Report 2016*. *Briefing Note for Countries on the 2016 Human Development Report – Myanmar.* Washington, DC: UNDP.
UNODC. (2000) *United Nations Convention Against Transnational Organized Crimes and the Protocols Thereto*. Vienna: UNODC.
UNODC. (2003a) *United Nations Convention Against Corruption. General Assembly Resolution 58/4.* Vienna: UNODC.
UNODC. (2003b) *The United Nations Convention Against Corruption (UNCAC)*. Vienna: UNODC.
UNODC. (2004) *United Nations Handbook on Practical Anti-Corruption Measurement for Prosecutors and Investigator*. Vienna: UNODC.
UNODC. (2004) *World Drug Report*. Vienna: UNODC
UNODC. (2005) *Myanmar Country Profile*. Vienna: UNODC.
UNODC. (2011) *Estimating Illicit Financial Flows Resulting From Drug Trafficking and Other Transnational Organized Crimes*. Vienna: UNODC.

UNODC. (2013a) *Transnational Organized Crimes in East Asia and the Pacific: A Threat Assessment*. Vienna: UNODC, available at: https://www.unodc.org/toc/en/reports/TOCTA-EA-Pacific.html

UNODC. (2013b) *Southeast Asia Opium Survey 2013, Lao PDR, Myanmar*. Vienna: UNODC, available at: https://www.unodc.org/documents/crop-monitoring/sea/SEA_Opium_Survey_2013_web.pdf

UNODC–World Bank. (1997) *The Stolen Asset Recovery Initiative (StAR): Challenges, Opportunities, and Action Plan*. Washington, DC: World Bank/UNODC.

US Congress. (1977) The Foreign Corrupt Practices Act of 1977. Public Law 95-213—Dec. 19, 1977. Washington, DC: 95th Congress of the USA.

US Congress. (2001) The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (US Patriot Act) of 2001. Public Law 107-56-Oct.26,2001. Washington, DC: 107th Congress of the USA.

US Congress. (2008) The Tom Lantos Block Burmese Jade (Junta's Anti-Democratic Efforts) Act of 2008. Public Law 110-286. Washington, DC: US Government Information Service.

US Department of Commerce. (2013) *Doing Business in Burma. The Country Commericial Guide for U.S Companies.* Washington, DC: The Department of Commerce.

US Department of Commerce. (2014*) Doing Business in Burma: 2014 Country Commercial Guide for U.S Companies*. Washington, DC: The Department of Commerce

US Department of State. (2015) Money Laundering and Financial Crimes Country Database. Washington, DC: State Department.

US Department of State. (2016) *International Narcotics Control Strategy Report: Burma*. Washington, DC: Bureau of International Narcotics and Law Enforcement Affairs.

US Department of the Treasury. (2002) *Transactions Involving Burma (Myanmar). FinCEN Advisory 28.* Washington, DC: The Financial Crimes Enforcement Network.

US Department of the Treasury. (2003) *Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank as Financial Institutions of Primary Money Laundering Concern. 31 CFR Part 103.* Washington, DC: Department of Treasury.

US Department of the Treasury. (2004) *Imposition of Special Measures Against Burma*. Washington, DC: Department of Treasury.

US Department of the Treasury. (2008) *Treasury Action Targets Financial Network of Burmese Tycoon and Regime Henchman Tay* Za. Washington, DC: Department of Treasury.

US Department of the Treasury. (2013) *Treasury Designates Burmese LT. General Thein Htay, Chief of Directorate of Defense Industries*. Washington, DC: Department of Treasury.

US Department of the Treasury. (2014) *Announcement of Treasury Sanctions Against Aung Thaung*. Washington, DC: Department of Treasury.

US Department of the Treasury. (2016) *Advisory on the FATF – Identified Jurisdictions with AML/CFT Deficiencies*. Washington, DC: Department of Treasury.

US Department of the Treasury. (2016) *Exception to Prohibition Imposed by Section 311 Action against Burma*. Washington, DC: Department of Treasury.
USAID. (2006) *Anticorruption Agencies (ACAs)*. Washington, DC: USAID/Office of Democracy and Governance.
Uslaner, E. M. (2000) *Trust, Democracy, and Governance*. Copenhagen: The European Consortium for Political Research.
Uslaner, E. M. (2004) Trust and Corruption. In: J. G. Lambsdorf, M. Taube and M. Schramm (eds), *Corruption and the New Institutional Economics.* London: Routledge, 76-92
Uslaner, E. M. (2006) The Civil State: Trust, Polarization, and the Quality of State Government. In: Cohen JE (ed.), *Public Opinion in State Politics.* Stanford, CT: Stanford University Press.
Uslaner, E. M. (2008) *Corruption: Inequality, and the Rule of Law: The Bulging Pocket Makes the Easy Life.* Cambridge: Cambridge University Press.
Uslaner, E. M. (2009) Corruption. In: G. Svendsen and G. Svendsen (eds.), *The Handbook of Social Capital: The Troika of Sociology, Political Science and Economics.* Cheltenham: Edward Elgar, 127-142
Uslaner, E. M. and Badescu, G.. (2002) *Honesty, Trust, and Legal Norms in the Transition to Democra*cy: Why Bo Rothstein Is Better Able to Explain Sweden than Romania. Paper presented at Workshop on Formal and Informal Cooperation. Romania.
Vogl, F., and Pope, J. (2000) Making Anti-Corruption Agencies More Effective, *Finance & Development* (June): 6-9, available at: https://www.imf.org/external/pubs/ft/fandd/2000/06/pdf/pope.pdf
Voice Weekly. (2012) Auditor Finds Billions of Kyat Misappropriated by Some Ministries. *Voice Weekly* (in Burmese), March 2012, available at: http://thevoicemyanmar.com See English language commentary, Mizzima, 'The Voice to be sued after alleging Ministries' errors', Wednesday, March 14, 2012, Available at: https://www.bnionline.net/en/mizzima-news/item/12804-the-voice-to-be-sued-after-alleging-ministries-errors-.html
Wa Lone. (2015) Uni Rector Suspended Amid Bribe Accusations. *The Myanmar Times*, 15 December, available at: https://www.mmtimes.com/national-news/mandalay-upper-myanmar/18134-uni-rector-suspended-amid-bribe-accusations.html
Wa Lone. (2016) Rector On the Run Amid Bribery Allegations. *The Myanmar Times*,14 January, available at: https://www.mmtimes.com/national-news/mandalay-upper-myanmar/18465-rector-on-the-run-amid-bribery-allegations.html
Wade, R. (1985) The Market of Public Office: Why the Indian State is Not Better at Development. *World Development* 13-4: 467-97
Wade, R., and Veneroso, F. (1999) The Asian Crisis: The High Debt Model Versus the Wall Street–Treasury–IMF Complex. *New Left Review* 228: 3-20.
Walton, G. (2013) Is All Corruption Dysfunctional? Perceptions of Corruption and Its Consequences in Papua New Guinea. *Public Administration and Development* 33: 3, available at: https://www.researchgate.net/publication/264658763_Is_All_Corruption_Dysfunctional_Perceptions_of_Corruption_and_Its_Consequences_in_Papua_New_Guinea

Warden, S., and Schellhase, J. (2017) *Framing the Issues: Financial-Sector Development and Expanding Access to Credit in Myanmar*. Santa Monica, CA: The Milken Institute.
Warren, M. (2004) What Does Corruption Mean in a Democracy? *American Journal of Political Science*, 48: 328-343.
Webb, P. (2005) The United Nations Convention Against Corruption: Global Achievement or Missed Opportunity? *Journal of International Economic Law* 8: 191-229.
Wei, S-J. (2001) *Corruption in Economic Transition and Development: Grease or Sand?* The UNECE Seminar in Geneva, available at: https://www.unece.org/fileadmin/DAM/ead/sem/sem2001/papers/Wei.pdf
Williamson, O. E. (1971) The Vertical Integration of Production: Market Failure Considerations. *The American Economic Review* 61: 112-123.
Win, M. T. (2010) Liquidity Measurement and Management in Myanmar. In: T. Subhanij (ed), *Liquidity Measurement and Management in the SEACEN Countries*. Kuala Lumpur: SEACEN Center, 147-172
Wolanin, P. L. N. (2001) *Corruption & Anti-Corruption*, Canberra: Asia Pacific Press and the Australian Institute of Criminoloy.
Wolf, M. L. (2014) The Case for an International Anti-Corruption Court. *Governance Studies*. New York, NY: Brookings Institute.
Wolfsberg Group. (2011) *Wolfsberg Anti-Corruption Guidance*. New York, NY: The Wolfsberg Group.
Wood, K., and Canby., K. (2011) *Baseline Study 4, Myanmar: Overview of Forest Law Enforcement, Governance and Trade*. Washington, DC: Forest Trends, available at: https://www.euflegt.efi.int/documents/10180/23308/Baseline+Study+4,+Myanmar+-+Overview+of+Forest+Governance,+Markets+and+Trade/961a59b7-27d5-4883-abcf-9b03d97a1a22?version=1.0
Woods, K. (2011) Ceasefire Capitalism: Military-Private Partnerships, Resource Concessions and Military-State Building in Burma–China Borderlands. *The Journal of Peasant Studies* 38: 747-770.
World Bank(2015) *Doing Business 2015 Econmic Profile: Myanmar*. Washington, DC: World Bank.
World Bank. (1997) *Helping Countries Combat Corruption: The Role of the World Bank*. Washington, DC: World Bank, available at: http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corrptn.pdf
World Bank. (1999) *Curbing Corruption: Toward a Model for Building National Integrity*. World Bank Development Studies. Washington, DC: Wrold Bank
World Bank. (2012) *Republic of the Union of Myanmar: Public Financial Management Performance Report*. Washington, DC: World Bank, available at: http://documents.worldbank.org/curated/en/544031468059720456/Full-report
World Bank. (2013a) *Myanmar Economic Monitor (MEM)*. Yangon: World Bank Group.
World Bank. (2013b) *Public Financial Management Performance Report*. Yangon: World Bank.
World Bank. (2014) *Doing Business 2014 Economic Profile: Myanmar*. Washington, DC: World Bank.
World Bank. (2014) *Republic of the Union of Myanmar: Modernization of Public Financial Management Project*. Washington, DC: World Bank.

World Bank. (2015a) *Myanmar Economic Monitor*. Washington, DC: World Bank Group: Macroeconomics & Fiscal Management.
World Bank. (2015b) *Myanmar Investment Climate Assessment: Sustaining Reforms in a Time of Transition*. Washington, DC: World Bank.
World Bank. (2015c) *Myanmar: Public Expenditure Review*. Washington, DC: World Bank.
World Bank. (2015d) *Worldwide Governance Indicators (WGI) Project*. Washington, DC: World Bank.
World Bank. (2016a) *Financing the Future. Policies for Shared Prosperity in Myanmar.* Yangon: World Bank.
World Bank. (2016b) *Myanmar Economic Monitor*. Washington, DC: World Bank.
World Bank. (2018) *Myanmar Economic Monitor - Navigating Risks*. Yangon: World Bank Group.
World Economic Forum. (2013) *The Global Competitiveness Report. Full Data Edition.* Davos: World Economic Forum.
World Economic Fourm. (2015) *The Global Competitiveness Report 2015–2016*. Davos: World Economic Forum.
Wyler, LS. (2008) *Burma and Transnational Crime. CRS Report for Congress.* Washington, DC: Congressional Research Service.
Xiaolan, Zheng SEG, Omrane Guedhami and Chuk Kwok. (2012) Collectivism and Corruption in Bank Lending. *Journal of International Business Studies* 44: 363-390.
You, J-S and Sanjeev Khagram. (2005) A Comparative Study on Inequality and Corruption. *American Sociological Review* 70: 136-157.
You, J-S. (2005) *Embedded Autonomy of Crony Capitalism? Explaining Corruption in South Korea, Relative to Taiwan and the Philippines, Focusing on the Role of Land Reform and Industrial Policy*. Paper presented at the Annual Meeting of the American Political Science Association, Washington DC.
Zaw, O., Joelene, C., Minoletti, P., Phyu, P. P., Saw, K. P. C., Win, N. W., Porter, I., Oye, M., and Smurra, A. (2015) *Fiscal Management in Myanmar*. ADB Economics Working Paper Series. Manila: ADB.

Appendix 1: List of Participants

No.	ID	Gender	Age-Group	Occupation	Country of Origin	Date of Interview	Name of Institutions
1.	P-1	Male	65-70	Managing Director	Myanmar	10/01/17	Asia Green Development Bank Ltd.
2.	P-2	Male	70-75	Chairman	Myanmar	10/01/17	Kanbawza Bank
3.	P-3	Male	65-70	Consultant	Myanmar	10/01/17	GIZ
4.	P-4	Male	45-50	CEO	Myanmar-Swiss	11/01/17	Thura Swiss Ltd.
5.	P-5	Female	45-50	Representa tive	Myanmar	11/01/17	IFC
6.	P-6	Female	45-50	Managing Director	Myanmar-NZ	12/01/17	Independent Consultant
7.	P-7	Male	75-80	Partner	Myanmar	12/01/17	Deloitte Touche Myanmar Vigour Advisory Ltd.
8.	P-8	Female	60-65	Technical Advisor	USA	13/01/17	IMF
9.	P-9	Male	75-80	Senior Consultant	Myanmar	16/01/17	Kanbawza Bank
10.	P-10	Female	40-45	Financial Advisor	Myanmar-Singapore	16/01/17	Catalysts Advisory Group
11.	P-11	Male	45-50	Financial Advisor	Myanmar-American	16/01/17	Catalysts Advisory Group
12.	P-12	Male	45-50	Editor	Australian	17/01/17	Frontier Myanmar Weekly Magazine
13.	P-13	Female	50-55	Member of Parliament	Myanmar	18/01/17	Banks and Monetary Affairs Development Committee - House of Representatives
14.	P-14	Female	25-30	Owner	Myanmar	27/01/17	Kanbawza bank
15.	P-15	Male	70-75	Chairman	Myanmar	31/01/17	Myanmar Apex Bank
16.	P-16	Male	45-50	CEO	Myanmar	31/01/17	Grand National Capital
17.	P-17	Male	50-55	COO	Myanmar	01/02/17	Myanmar Apex Bank
18.	P-18	Male	65-70	Ambassad or	New Zealander	01/02/17	New Zealand Embassy
19.	P-19	Male	50-55	Chairman	Myanmar	02/02/17	Ayeyarwady Bank
20.	P-20	Male	55-60	Chairman	Myanmar	16/01/17	Myanmar Thilawa SEZ Holdings Public Limited.
21.	P-21	Male	45-50	CEO	Canada	03/2017	Yoma Bank
22.	P-22	Male	45-50	Technical Advisor	New Zealand	03/2017	IMF

Appendix 2: Legislation referred to in the thesis.

Legislations referred to in the thesis			
Domestic Laws and regulations			
No.	Year	The Name of law and regulation	Remarks
1.	2002	The Control of Money Laundering Act	SLORC
2.	2004	The Electronic Transactions Law	SPDC
3	2011	The State Fund Law No.10/2011	SPDC
4.	2011	The SPDC Law No. 9/2011	
5.	2016	The Financial Institution Law	
6.	1914	The Companies Act	Amended in 2016
7.	2013	The Anti-Corruption Law	
8.	Yearly	The Union's Budget Law	
9.	2008	The Constitution of Myanmar	
10.	1924	The Burma Budget Manual	
11.	1951	The Urban Financial Code	
12.	1960	The Burma Treasury Code	
13.	1958	The Auditing Code	
14.	1958	The Budgeting and Financial Regulations of	
15.	1986	The Directives 42/86	
16.	1935	The Government of Burma Act	
17.	1952	The Burma Currency Act	
18.	2013	The Telecommunications Law	
19.	2014	The Anti-Money Laundering Law	
20.	2016	The Auditor General of Union Law	
21.	2013	Myanmar Accountancy Law	
22.	2013	The Securities Exchange Law	
23.	2011	The Microfinance Business Law	
24.	1952	The Union Bank of Burma Act	
25.	1967	The People's Bank of the Union of Burma Act	
26.	1975	The Union Bank of Burma Law	
27.	1990	The Central Bank of Myanmar Law	
28.	2012	The Myanmar Foreign Exchange Management Law	
29.	2013	The Central Bank of Myanmar Law	
30.	1993	Myanmar Insurance Law	Amended in 2013
31.	1891	The Bankers Books Evidence Act	
Thailand			
1.	1942	The Bank of Thailand Act	Amended in 2008
2.	1999	The Anti-Money Laundering Law	
3.	2013	The Financial Institutions Business Act	

Malaysia			
1.	1959	The Central Bank of Malaya Act	Amended in 2009
2.	2001	The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act	Act-613
International Laws and Regulations			
1.	1977	The U.S Foreign Corrupt Practices Act	US Congress
2.	1997	The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions	OECD
3.	2003	The United Nations Convention Against Corruption	UN
4.	1999	The EU Criminal Law Convention on Corruption	EU
5.	2012	The Executive Order (E.O.) 13619	White House
6.	2012	The Executive Order (E.O.) 13448	White House
7.	2009	The UNSC Resolution 1874	UNSC
8.	1999	The UNSC Resolution 1267	UNSC (Recalling 1189)
9.	2001	The UNSC Resolution 1373	UNSC (Recalling 1189, 1269 and 1368) To adjust national laws
10.	1988	The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (The Vienna Convention)	
11.	2001	The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, (The USA Patriot Act), Public Law Pub. L 107-56,	The 107th Congress,