

Norm socialization from policies to practices:
Practices of Freedom of Association and Responsible Business Conduct in Myanmar
during the first phase of transition (2011-2016)

Khin Thidar Aye

February 2019

Department of International Relations
Coral Bell School of Asia Pacific Affairs
College of Asia and the Pacific
The Australian National University

A thesis submitted for the degree of Doctor of Philosophy of
The Australian National University

© Copyright by Khin Thidar Aye 2019

All Rights Reserved

Statement of Originality

I declare that the present thesis is a product of my own work which was carried out under the supervision of Dr. Nicholas Farrelly, Associate Dean, ANU College of Asia and the Pacific, Dr. Matthew Davies, Head of the Department of International Relations, and Dr. Cecilia Jacob, Fellow, Department of International Relations.

Sources of information used in this work are indicated and acknowledged.

This thesis, in whole or in part, has never been published or submitted to another University for other types of recognition.

Sign

A handwritten signature in black ink, appearing to read 'Khin Thidar Aye', with a horizontal line underneath.

Name Khin Thidar Aye

Date 14 February 2019

Acknowledgement

I am privileged to have taken this academic journey in the Department of International Relations, Coral Bell School of Asia Pacific Affairs, at the Australian National University (ANU) which delivers on its promise reflected in its motto 'Naturam Primum Cognoscere Rerum', 'First to Learn the Nature of Things'. My journey of pursuing knowledge at the ANU would not have been possible without generous support from the people and government of Australia delivered through the Australia Award Programme and I am deeply appreciative to all involved in delivering this programme. I am also thankful to my senior, contemporary and junior colleagues at the Ministry of Foreign Affairs of Myanmar for allowing me to take the leave of absence and for taking care of my workload while I was away on this academic undertaking.

I owe so much to so many people who have enabled me, in different ways, to carry out such a tough but a worthwhile task in search of knowledge and to make a contribution to the knowledge which human society always needs. I would like to acknowledge the support and contributions received from many individuals. I first wish to express my sincere appreciation to interview participants, scholars and practitioners in the field of labour rights promotion and private sector governance. Although I cannot mention all their names, I wish to record my sincere appreciation to each and every one of them for generously sparing time with me, and for sharing their experiences, insights and information, which greatly contributed to my research.

Completing such a tough PhD journey would be unthinkable without the mentorship, intellectual guidance and consistent moral support from my supervisors: Dr. Nicholas Farrelly, Associate Dean, College of Asia and the Pacific, ANU; Dr. Matthew Davies, Head of Department, Department of International Relations, Coral Bell School of Asia Pacific Affairs; and Dr. Cecilia Jacob, Fellow, Senior Lecturer and Convenor Peace and Conflict Studies Program, Department of International Relations, Coral Bell School of Asia Pacific Affairs. Their logical thinking and pragmatic reasoning in their academic work, and their dedication in their respective academic fields, has always inspired me. I am indebted to their unwavering support and guidance throughout my PhD journey.

I am thankful to Dr. Thuy Do of the Academic Studies and Learning Centre for her tireless efforts in reviewing chapter drafts and giving critical thoughts for improvement. I am

also thankful to Dr. Nick Cheesman for reading my TPR paper and giving me valuable advice. My thanks also go to Ms Candida Spence from the ANU library for helping me in formatting the thesis and Ms Maxine McArthur from the Department of Political and Social Change, Coral Bell School, for providing editorial services for my thesis. Discussions with Ambassador Trevor Wilson, Professor Helen James, Dr. Jurgen Haask, Dr. Aung Htun Thet and U Aung Min, Director Myanmar Market Research and Development, and Professor Dr. Daw Yin Myo Thu of the International Relations Department, University of Yangon, were also illuminating and helpful to my research.

My appreciation also goes to my PhD cohort in the Department of International Relations: Wan-Ti, Su, Lana, Ruji, Carly, Kelly and Tereza, who have supported me during the process of Thesis Proposal Review. I have memories of fun times in the circle nick-named 'ASEAN Curry Forum Plus' along with Borey, Giri, Fang, Yusuke, Ryosuke and Trang, as well as with my batch mates from the Australia Award Programme, Miranda, Mita, Leo, Wang Wang, Yah Yah and Thanh, will last forever.

I was able to survive the turbulent PhD journey mainly due to the stamina built up by my grandma, my parents and my teachers from primary and high schools and from those at the Mandalay University International Relations Department. I am particularly grateful to retired Professor U Maung Maung Lay from the IR department, Mandalay University, Professor Soo Bok Lee from the Ajou University, Republic of Korea, and my all-time mentor U Win Myat for their support and mentorship.

Warm support from Ambassador U Tha Aung Nyun and Madam Daw Mar Mar Kyaw, Minister Counsellor U Aung Kyaw Moe and members of the Myanmar Embassy in Canberra, warm care from Elaine Ee, Rozana Muir and Imelda from the sponsored student office in ANU, from Professor Peter Kanowski, Robert Freeth, Kaori and Fung, who have made my life easier in Canberra. I am also thankful to Ko Chit Win for introducing me to important individuals at the ANU, to Ko Naing Ko Ko, Ma Lwin Lwin Aung and Ko Khin Maung Yin for introducing to many important interview participants. I cannot miss mentioning Ko Htein Lynn and Ma Yi Yi Soe, Khine and Phil who helped me settle in smoothly and drive safely in Canberra. While thanking them all for their care, support, guidance and contributions to the completion of this work, I wish to acknowledge that all the responsibility for any mistakes, misinterpretations, misreflections and analytical errors that might appear in this thesis, rests with me and me alone.

Abstract

Rich insights from norm research in International Relations mainly address the impacts of international norms on policy behaviours while assuming norm-favoured state policies would generate societal practices in line with the norms. Such assumptions need to be examined as many instances of norm practices in states lag behind state policies. In order to address this loophole in norm research, this study examines the way norm socialization animates domestic sites by investigating the practices of two norms: Freedom of Association (FOA) and Responsible Business Conduct (RBC) in Myanmar. The investigations focus on the interactive dynamic of international, transnational and domestic actors within the confines of domestic structural factors.

These two cases demonstrate that norm practices within a state are the function of the interactive dynamics of multiple actors as conditioned by the contents of norms and domestic structural factors. Conflictual dynamics of key stakeholders in the practices of FOA has led to the incomplete application of the FOA norm in Myanmar while the synergetic dynamics of key players in RBC practices keep the RBC norm on a trajectory towards the moral and functional purposes of the norm. Such findings go beyond the expectations of norm studies on the role socialization plays at domestic sites where external norm agents engage in ‘the leverage politics’ of empowering domestic pro-norm coalitions to pressure the state (Keck and Sikkink, 1998: 23-24), in addressing capacity issues (Risse et al., 2013: 185-186) and in joint translation of norms with domestic actors (Zimmermann, 2017: 199-200).

Based on empirical findings, this thesis argues that domestic norm practices can better be explained by analyzing socializations at domestic sites, which provide a vantage point to appreciate the dynamic nature of multi-actor (global-local) or agential dynamics which shape and are being shaped by domestic structures and norms contents. An analytical focus on agential dynamic captures three important aspects of norm socialization: 1) the impact of norm content (or issue areas) on domestic norm practices, 2) the influence of domestic structures on norm practices and 3) external actor interests and investments in norm promotion. Therefore, this research proposes an ‘agential dynamic’ as a new analytical tool to explain the varied ‘domestic chapters of norm socialization’ affecting norm practices rather than studying the impact of norms and socialization on state policies.

Glossary and Abbreviations

ADB	Asian Development Bank
ASEAN	Association of South East Asia Nations
AMCHAM-Myanmar	American Chamber of Commerce Myanmar
AUSCHAM-Myanmar	Australia-Myanmar Chamber of Commerce
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe (BGR) (Federal Institute for Geosciences and Natural Resources), an entity providing advice to the German Federal Government in all geo-relevant questions
Brit Cham-Myanmar	British Chamber of Commerce of Myanmar
BSR	Businesses' Social Responsibility
BWC	the Biological Weapons Convention
BSPP	Burma Socialist Programme Party
CCI France-Myanmar	French Myanmar Chamber of Commerce and Industry
CSO	Civil Society Organization
CWC	the Chemical Weapon Convention
DIHR	the Danish Institute for Human Rights (DIHR)
EITI	Extractive Industry Transparency Initiative
EIA	Environment Impact Assessment
ESIA	Environment and Social Impact Assessment

EU	European Union
EuroCham-Myanmar	European Chamber of Commerce Myanmar
FDI	Foreign Direct Investment
FESR	Framework for Economic and Social Reforms
FOA	Freedom of Association
HRC	Human Rights Council
IAEA	International Atomic Energy Agency
ICRC	International Committee of the Red Cross
IHRB	Institute for Human Rights and Business
IR	International Relations
IL	International Law
ILO	International Labour Organization
JICA	Japanese International Cooperation Agency
JMA	Japan-Myanmar Association
LNGO	Local Non-Governmental Organization
MCBA	Myanmar Centre on Business and Aid
MCRB	Myanmar Centre for Responsible Businesses
MEITI	Myanmar Extractive Industry Transparency Initiative
NCDP	National Comprehensive Development Plan
NGO	Non-Governmental Organizations
NLD	National League for Democracy

NPT	the Non-Proliferation Treaty
ODA	Official Development Assistance
PATROL	Partnership Against Transnational crimes through Regional Organized Law-enforcement
SDN List	Specially Designated Nationals and Blocked Persons List
SIA	Social Impact Assessment
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council
UNCAC	United Nations Convention Against Corruption
UNCHR	United Nations Commission on Human Rights
UNGA	United Nations General Assembly
UNGC	United Nations Global Compact
SWEDCHAM-Myanmar	Swedish Chamber of Commerce in Myanmar

Table of Contents

Statement of Originality	ii
Acknowledgement	iii
Abstract	v
Glossary and Abbreviations	vi
Table of Contents	ix
List of Tables	xiv
List of Figures	xv
Chapter One: Introduction	1
1.1 Introduction.....	1
1.2 Turning norm-related policies to practices: practical challenges in a transitioning democracy.....	5
1.3 Conceptual voids in norm research	10
1.4 Research questions, findings and contributions to norm research	14
1.4.1 Questions	14
1.4.2 Objective, key terms and assumptions.....	14
1.4.3 Findings and arguments.....	16
1.4.4 Conceptual contribution.....	17
1.4.5 Methodological contribution.....	19
1.4.6 Empirical contributions	21
1.4.7 Practical contributions to better governance	22
1.5 Principles, process and parameters of the research	22
1.5.1 Sampling.....	23
1.5.2 Data collection and analysis.....	24
1.6 Organization of the thesis.....	24
Chapter Two: Literature on Socialization	26
2.1 Introduction.....	26
2.2 Socialization defined.....	30
2.3 Socialization: systemic perspective.....	31
2.4 Socialization: domestic perspectives within target states	39

2.4.1	Socialization as domestic processes	39
2.4.2	Domestic factors as scoping conditions in explaining impact variation	42
2.5	Socialization: global-local interactive perspectives.....	47
2.6	Conclusions.....	51
Chapter Three: Conceptualizing Norm Socialization within States		53
3.1	Introduction.....	53
3.2	Key terms.....	54
3.3	Analytical steps and conceptual map	57
3.4	Conceptual value addition to norm research	63
3.4.1	From state-centric analysis to analysis on multiple agents within state.....	63
3.4.2	From general theory of socialization to context-specific studies	64
3.4.3	Analysis on norm contents and its impact on implementation.....	64
3.4.4	Measuring the compliance/implementation	65
3.4.5	An integrative model of state structures and agents.....	65
Chapter Four: Methodology		67
4.1	Introduction	67
4.2	Ethical research.....	70
4.3	General approach to the study.....	71
4.4	Method of empirical enquiry	72
4.4.1	Sampling context, thematic cases and interview participants	73
4.4.2	Sample size.....	76
4.4.3	Data collection and generation.....	77
4.4.4	Data analysis.....	80
4.4.5	Transparency and verification method	82
4.4.6	Limitations of research method	85
Chapter Five: Practices of Freedom of Association in Myanmar		87
5.1	Introduction	87
5.2	Historical contexts of the trade union practice in Myanmar.....	89
5.2.1	Workers' rights in pre-colonial Myanmar	89
5.2.2	Organized labour practices in colonial Myanmar [1885-1948].....	91
5.2.3	Progress of labour movements in parliamentary Myanmar [1948-1962] ..	94

5.2.4	Trade union practice under socialist Myanmar [1962-1988]	101
5.2.5	Defunct FOA under the SLORC and SPDC [1988-2010].....	105
5.3	Precarious industrial relations in transitioning Myanmar (2010-2016)	107
5.4	FOA practices, shifting structures and emerging agents.....	107
5.4.1	Favorable policies: the role of individual leadership.....	108
5.4.2	Evolving structure for FOA practices.....	109
5.4.3	Emerging domestic actors and FOA practices	112
5.4.4	Role of international actors for FOA practice	122
5.5	What explains FOA implementation challenges	124
5.5.1	Divergent conception of FOA by multiple actors	125
5.5.2	Defective legal and institutional structures.....	130
5.5.3	Inadequate agency by socializing actors	133
5.6	Conclusion.....	136
Chapter Six: Responsible Business Conduct in Myanmar		139
6.1	Introduction.....	139
6.2	Historical perspectives on business behavior in Myanmar	141
6.2.1	Business behavior in pre-colonial Myanmar	141
6.2.2	Business behavior in colonial Myanmar [1885-1948].....	143
6.2.3	Businesses' behaviour in parliamentary Myanmar [1948-1962].....	146
6.2.4	Business behavior in socialist Myanmar [1962-1988]	147
6.2.5	Business behavior under SLOC and SPDC [1988-2010].....	149
6.3	Transition, favorable institutions and RBC practices (2010-2016).....	151
6.3.1	The government initiatives on private sector governance	152
6.3.2	Civil society	155
6.3.3	Freer media and affordable telecommunication services.....	161
6.4	Transition, multiple actors and RBC practices	164
6.4.1	The MCRB as a dedicated lead actor for RBC practices	164
6.4.2	Emerging RBC Consultancy Service Providers.....	165
6.4.3	International Chambers of Commerce.....	166
6.4.4	IFC conditionality for funded enterprises.....	166

6.5	Institutions, actors and RBC practices	167
6.5.1	New legal framework as enabler of RBC norm.....	167
6.5.2	RBC dedicated actors as incubators of RBC	175
6.5.3	International actors as RBC promoters	179
6.5.4	Government initiatives, CSO, media accelerates RBC	185
6.6	Practice changes of businesses in Myanmar	188
6.6.1	MAX Myanmar Holding Co. Ltd.	188
6.6.2	Telenor Myanmar.....	192
6.7	Drivers keeping RBC on-track.....	197
6.7.1	Strength and synergy of multiple actors	198
6.7.2	Institutional enablers for RBC in Myanmar	198
6.8	Conclusion.....	199
Chapter Seven: Conclusions		201
7.1	Introduction	201
7.2	Summary of empirical findings	203
7.2.1	States' domestic arena as the site of norm socialization	203
7.2.2	Multiple actors dynamics at domestic social site	205
7.2.3	Distinct strategies at domestic social sites	207
7.2.4	Socialization as mutual learning at a domestic social site	208
7.2.5	Multi-actor dynamics and domestic structures	209
7.3	Discussions on comparative analysis	211
7.3.1	Actor constellations and norms' contents	212
7.3.2	Awareness, appreciation and application of norms.....	214
7.3.3	Agential dynamics: conflictual or synergetic	215
7.3.4	Limits of states in norm implementation.....	216
7.3.5	Influence of norm contents on agential dynamics.....	217
7.4	Refined conceptual model for norm socialization within states	219
7.5	Transferability of the model.....	224
7.6	Addressing counter-arguments.....	224
7.7	Limitations of the study and future research	226

Bibliography..... 228
Annex I. Text of ILO Convention 87 240
Annex II Text of the Ten Principles of the UN Global Compact..... 247
Annex III List of interview participants 248
Annex IV Sample Interview Questions 255
Annex V List of events attended for personal observations 256
Annex VI List of Myanmar Alumni at GDS, AIT..... 257

List of Tables

Table 1. Conceptual Map for Norm Socialization inside Target States.....	62
Table 2 Participant Sample Matrix	77
Table 3 Employers and Workers Organizations, Unionized Labour	114
Table 4 Strength of Confederation and Federations.....	116
Table 5 Top Development Partners and Spending on CSO (2011-2016)	159
Table 6 Legislation on Environment, Social and Governance issues (2011-2016).....	174

List of Figures

Figure 1 Model for norm socialization at domestic sites.....	19
Figure 2 Research Procedures.....	69
Figure 3 Data Sources Triangulation	84
Figure 4 Perspectives Triangulation	84
Figure 5 Implementation of FOA norm in transitioning democracy	221
Figure 6 Implementation of RBC norm in transitioning democracy.....	221

Chapter One: Introduction

1.1 Introduction

We are aiming for nothing less than a transition from half a century of military rule and authoritarianism to democracy. I believe you understand well that this is no easy thing. We see elsewhere the dangers of any sudden political shift, where institutions are unable to cope, and where the habits of democracy are not yet engrained, the dangers of violence and anarchy. We must manage this transition in a way that moves fast but prudently, grounded in our own realities.

U Thein Sein (Extract from his remarks at Chatham House on 15 July 2013 during his visit to the United Kingdom)

The year 2011 marked an historic moment for Myanmar, a nation in mainland South East Asia with a half century-long history of military domination from 1962 to 2010. The country took a dramatic turn to democracy following the 2010 general elections. The first phase of democratic transition took place during the period 2011–2016 under an elected semi-civilian government led by President U Thein Sein. At that juncture when multiple reforms were gaining momentum, *The Economist's* Richard Cockett commented on Myanmar's transition as 'the most significant event to have taken place in South-East Asia' (Cockett, 2013). Democratic transition itself is not so notable as many countries across the globe have been making the transition to democracy over the past 100 years. However, the case of Myanmar's transition received widespread attention as the speed and scope of reforms occurred in multiple dimensions: political, socio-economic and governance. Skeptical views on the transition processes were also numerous considering the country's authoritarian history,¹ and

¹ The country's post-independence history of political and governance system can be understood as: parliamentary democracy (1948-1958), Revolutionary Council led by the military (1958-60), Burma Socialist Programme Party's (BSPP) single party system (1962-1988), and then military rule by the State Law and Order Restoration Council (SLORC) from 1988-1997 and military rule by the State Peace and Development Council (SPDC) from 1997-2010.

the controversial constitutional framework² under which transition took place. However, the significance of the transition processes was recognized over time, especially when the country achieved another milestone in 2016 with a smooth transfer of power to the National League for Democracy (NLD)³ -led government.

During the first phase of transition (2011–2016), U Thein Sein’s government made conscious efforts to embrace international norms while carrying out reforms, specifically in building peace and bridging development and governance gaps. During that period, the country’s engagement with international norms was reflected in significant policy changes in different issue areas ranging from press freedom, freedom of association to anti-corruption and gender equality. These policy changes required new initiatives and institutional arrangements. However, progress was uneven across different issue areas. Some norm-related policy initiatives made progress in meeting the moral and functional purposes of certain norms while others did not necessarily lead to norm practices in line with the purpose and prescriptions of the norms. This variation sparked my interest to examine the varying practice of two different norms in a state by interrogating how norm socialization animates domestically within a state.

To seek explanation on the cases of interest, this research draws on socialization studies in International Relations (IR). Socialization is an influential concept in norm research which explains the emergence and spread of norms. Norm research identifies the processes and mechanisms through which international norms are acquired by states.⁴ By taking different vantage points, three strands of socialization studies explain how and under what conditions international norms become state policies. The first strand depicts socialization as an ‘outside-in’ process, emphasizing the role of ‘Transnational Advocacy networks’ (TAN) and ‘pressure

² The 2008 Constitution includes controversial provisions including Chapter I, Basic Principles of the Union, section 6.(f) that provides one of the consistent objectives of the Union in ‘enabling the Defence Services to be able to participate in the National political leadership role of the State.’ as section 17.(b) provides ‘In the executive of the Union, Regions, States, Union Territory, Self-Administered Areas and districts, Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services to undertake responsibilities of the defence, security, border administration, so forth, shall be included. And section 109 and section 141 provides inclusion of representatives from the Defence Services in one-fourth of the total seats in the bicameral legislature. 110 out of 440 seats in the Pyithu Hluttaw (People’s Assembly) and 56 out of 168 seats in the Amyotha Hluttaw (National Assembly).

³ The National League for Democracy (NLD) was founded on 27 September 1988 and it has remained the most influential and active party in the pro-democracy movement in Myanmar. The NLD won the majority in the disputed 1990 general elections, which the military government claimed were held for constitution drafting. Although the NLD refused to participate in the 2010 general elections, it contested and won an overwhelming majority both in the 2012 by-elections and 2015 general elections.

⁴ Kai Alderson defines socialization both as processes and outcome of such processes. ALDERSON, K. 2001. Making sense of state socialization. *Review of international studies*, 27, 415-433.

from above and below' as the main mechanisms of social influence (Finnemore and Sikkink, 1998, Keck and Sikkink, 1998, Risse-Kappen et al., 1999). The second strand explains norm practices mainly as the product of purposive local actors who 'localize' international norms by adapting or building congruence with pre-existing local cultures and norms (Acharya, 2004), translated and reinterpreted in domestic contexts (Levitt and Merry, 2009: 446-447: 446-447). The most recent strand of socialization studies proposes socialization as an interactive processes of external and domestic actors in the joint translation of international norms (Zimmermann, 2017) and in the implementation of norms during the domestic parallel processes to systemic processes of norm development and institutionalization at international level (Orchard and Betts, 2014). Even the norm implementation theory, the most revealing of domestic processes of international norm mobilization, finds itself limited in explaining state policies as it defines norm implementation as 'the steps necessary to introduce the new international norm's precepts into formal legal and policy mechanisms within a state or organization in order to routinize compliance' (Orchard and Betts, 2014: 2, 105).

Given these studies' overwhelming focus on states as target actors,⁵ their main concerns are state policy changes as the outcomes of socialization processes. However, they explain less about how socialization is involved in turning norm-favoured state policies into norm practice outcomes in a given domestic context. Thomas Risse states, 'We still know little about processes of international norm diffusion and their transformation in domestic practices' (Risse, 2016: 13: 13). Likewise, Alexander Betts and Phil Orchard recognize that implementation is 'far from a unitary state's action or inaction defining what norms do in practice, a range of non-state actors- whether INGOs, transnational civil society, UN peace keepers, rebel groups or elites within a disaggregated state-matter for the negotiation and (re)contestation of norms at the domestic level' (Orchard and Betts, 2014: 279). Despite such recognition of multiple actor roles in norm practices, state norm adoption and reflection in their policies and institutions has been observed as the analytical end points in most socialization studies.

My analytical starting point is therefore where most studies of socialization end their analytical processes. Instead of viewing the state's adoption of a policy as the end of the

⁵ With the exception of Thomas Risse and colleagues' works on the 'Persistent Power of Human Rights' where some contributors' analytical focus is on non-state, business and armed groups as target actors.

socialization process, I view it as the start. Adopting a policy opens a new realm of potential contestation as norms go from government policy to actual implementation in practice by individuals, civil society and various agencies, both public and private.

Therefore, this thesis examines ‘how does norm socialization animate within states?’ This question is addressed by focusing on the activities of four groups of actors: states, external socializing agents, businesses and workers in Myanmar, in practicing two norms exhibiting different outcomes. The two cases in points are the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (herein after FOA) (**Annex I**) and Responsible Business Conduct⁶ governed by United Nations Global Compact (UNGC) (herein referred to as RBC) (**Annex II**). After the government’s introduction of the Labour Organization Law in 2011, the practices of the FOA norm deviate from the desired path of the norm, i.e. peaceful industrial relations. However, the practices of the RBC norm show a growing awareness and embrace by businesses since the government’s introduction of the UNGC in the country in 2012.

This comparative study of FOA and RBC practices helps reveal contributing factors and conditioning factors for the two norms being socialized in Myanmar. In addressing these questions, this research embeds the works of Thomas Risse and colleagues, and draws largely on the works of Alexander Betts and Phil Orchard. In particular, the theory of norm implementation provides a useful lens for examining the agency of norms without losing sight of domestic structures. This study is important for norm research because the literature currently dominated by an emphasis on the international dimensions of socialization requires a coherent conceptualization for the domestic dimensions of international norm socialization. What makes the contribution in this thesis unique is that it examines norm socialization in a state undergoing significant political and economic transition. As such, this study does not assume a stable structure in which socialization is occurring. This is an important departure from most of the literature on socialization.

⁶ Current research uses the term ‘Responsible Business Conduct’ (RBC) from the Organization of Economic Co-operation and Development (OECD) which understands RBC as a broad concept that focuses on two aspects of the business-society relationship: 1) the positive contribution businesses can make to sustainable development and inclusive growth, and 2) avoiding negative impacts and addressing them when they do occur. Risk-based due diligence and value creation are at the heart of this process. The term RBC is used as its applicability is not limited to corporations alone whereas the Corporate Social Responsibility (CSR) can be narrowly interpreted as a term applicable to corporations and big businesses.

1.2 Turning norm-related policies to practices: practical challenges in a transitioning democracy

Myanmar had a dire record for violating international human rights and democratic norms throughout the periods of military domination from 1962 to 2010. The country was the target of country-specific resolutions of the United Nations General Assembly and international human rights bodies, and actions of the International Labour Organization on labour rights issues from the early 1990s.⁷ However, since 2011, democratic transition in Myanmar supported the government's rapid liberalization efforts and new policy initiatives to promote peace, progress and good governance. U Thein Sein's government paid greater attention to promoting civil liberty, basic rights and freedom in the country. On the country's liberalization of press freedom, Robert Taylor assessed that freedom of speech in Myanmar has become acknowledged as 'a human right in practice and principle' (Taylor, 2013: 192). On political, civil and human rights fronts, the government entered ceasefire agreements with fourteen out of sixteen ethnic armed groups. It granted amnesty to 29,820 prisoners including more than 1000 political prisoners (Lwin, 2013). It removed 2000 people, including 350 exiled political activists, from its black list (Lone, 2013). Legislative measures were also taken to ensure greater freedom of expression, freedom of the press, and freedom of association and assembly.⁸

These reforms prompted recognition from the international community on the transformative potential of elite-driven transition. One scholar concludes, 'Its [the country's] moves to implement forms of more transparent, and potentially democratic, government are also exemplary' (Farrelly, 2013: 324). Some anticipated a gradual process of change would result in improved governance in the short term, enhanced civil-military relations and greater confidence in the liberalization process in the medium term, with a longer-term prospects of fuller liberalization and respect for human rights and ethnic rights (Pedersen, 2011: 64-65).

These bold reforms were recognized along with the important role of the leading individual, President U Thein Sein, a former senior military officer. Scholars noted that 'significant political and civil liberty reforms have been instituted since the start of the new presidency' (Jacob, 2014: 396). David Faehnle, Commander, United States Navy, reflected his personal views on Myanmar's transition stating:

⁷ The country has been the target of resolutions by the United Nations General Assembly every year since 1991 and that of the Commission on Human Rights (replaced by Human Rights Council in 2006) every year after 1992.

⁸ For examples: The Labour Organization Law (11-10-2011), The Labour Organization Rules (29-2-2012), The Right to Peaceful Assembly and Peaceful Procession Act (2.12-2011). A Regulation relating to the Right to Peaceful Assembly and Peaceful Procession was issued on (5-7-2011). Other changes included: The Printer and Publishers' Enterprise Law (14-3-2014) and The News Media Law (14-3-2014).

Thein Sein has set an example of open government with like-minded cabinet ministers, creating a reformist environment with dedication to establishing peaceful negotiation of conflict that accepts public opinion. In initiating this process, Sein can be compared to other transformative leaders such as F.W. de Klerk, Mikhail Gorbachev, and B.J. Habibie, providing a historical analogy of the changes taking place now in Burma. While the other leaders were reform-minded, they were not originally committed to full democratic upheaval. In each case, however, the process gained momentum and became unstoppable once those leaders cracked open the door to reform. Thein Sein has nudged that door open, which will lead to a similar unstoppable change in Burma. (Faehnle, 2014)

In this context, Myanmar's positive trajectory during the first phase of transition had led to a phenomenal surge of external interest and increased engagement with countries across the world. Jurgen Haacke argued that the pursuit of domestic political reforms since 2011 had proved very successful for Nay Pyi Taw in foreign policy terms (Haacke, 2016: 4-5). Such a reflection was proved to be true as the country saw the tripling of the Official Development Assistance (ODA) flows,⁹ quadrupling of Foreign Direct Investment (FDI)¹⁰ and a huge surge of tourist arrivals¹¹ during the first phase of transition (2011-2016).

The government's active turn towards international norms was also notable during the period under consideration (2011-2016). A series of international treaties were ratified during the first phase of democratic transition from 2011. The country signed the additional protocol for the Non-Proliferation Treaty (NPT) in 2013, ratified the Biological Weapons Convention (BWC) in 2014 and the Chemical Weapon Convention (CWC) in 2015, and cooperated with the International Atomic Energy Agency (IAEA) on low-level nuclear non-proliferation programs in 2013. According to recent research, conformity with international arms control

⁹ ODA increased from 355 million USD in 2010 to 1.16 billion USD in 2015. <https://data.worldbank.org/indicator/DT.ODA.ODAT.CD?end=2015&locations=MM&start=1960&view=chart>

¹⁰ FDI increased from 900 million USD in 2010 to 4.084 billion USD in 2015. <https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?locations=MM&view=chart>

¹¹ Tourist arrivals increased from 860,000 in 2010 to 3.18 million in 2015. Record of policies and process of reforms by the Union Government 2011-2015 p. 63

agreements leaves the international agency with no outstanding requests of Myanmar at this point in time (Wilson, 2016: 68). The government also took action on several human rights treaties.¹² Myanmar became a state party to the United Nations Convention Against Corruption (UNCAC) in December 2012. It also entered into the agreement on Partnership Against Transnational crime through Regional Organized Law enforcement (PATROL) in 2013. Despite such a rapid move towards international norms, ensuring successful implementation of these commitments has been a major challenge for the government. Scholars note a mixed record with regard to norm practices in Myanmar, stating that norms against transnational criminal activities such as anti-trafficking of drugs and people and money laundering were reasonably satisfactory as opposed to limited progress in the country's cooperation on international humanitarian law, and with the International Committee of the Red Cross and similar bodies (Wilson, 2016: 68-69).

The country's moves in embracing international norms reflected its efforts to take on a new democratic identity. To reintegrate with the world's democratic society of states, the country's interests and the importance it attached to several liberal norms also changed. Different norms had functional utility for the socio-economic development of the country also factored in to the country's embrace of more liberal norms. For instance, the hope was that introducing the norm of Freedom of Association for workers and employers (FOA) would help ensure good industrial relations and activating the norm of Responsible Business Conduct (RBC) would improve private sector governance while facilitating the socio-economic wellbeing of the society as a whole. Gary Goertz and Paul F. Diehl have rightly assessed that 'whereas rationality is about the efficient means of achieving ends, norms are frequently concerned about means' (Goertz and Diehl, 1992: 638). In this context, international norms with their moral and functional purposes provided transitioning Myanmar with a means to achieve the socio-economic development of the country, a key area from which domestic legitimacy can be secured.

¹² Accession to the Convention on the Rights of Persons with Disabilities in December 2011; accession to the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography in January 2012; signing of the International Covenant on Economic, Social and Cultural Rights in July 2015; signing of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 28 September 2015; and signed the International Covenant on Economic, Social and Cultural Rights on 16 July 2015 and then ratified on 6 October 2017.

Many studies also emphasized the need to decipher the drivers for democratic transitioning in Myanmar. This research considers the diverse motivations for human action (March and Olsen, 2004: 17)¹³ and recognized the interrelationship between strategic and normative aspects of state behaviour (Goertz and Diehl, 1992: 661). My study avoids the crowded area of analysis on drivers for transition in Myanmar or elsewhere. Instead, this study is focused on revealing how norm socialization plays out in transitioning state norm practices.

As economic progress has been a major concern in the country's turn to democracy, the transitional government attached great importance to ensuring peaceful industrial relations and improving private sector governance. Since the beginning of democratic reforms, U Thein Sein's government prioritized peace and socio-economic development (Sein, 2013: 186, Thane, 2018). Several concrete measures taken by the ruling elite reflected their seriousness in delivering social progress and economic opportunity and prosperity more widely.¹⁴ Even in the time leading up to the general elections in 2010, the State Peace and Development Council (SPDC) government formed a task force to implement a key goal of the ASEAN Economic Community Blueprint by removing all foreign exchange restrictions on current account transactions by the end of 2011 (Rieffel, 2010: 4). The newly elected government's 20 years National Comprehensive Development Plan (NCDP 2011–2031) was explicit about its vision for '*Myanmar as a prosperous nation, integrated in the global community*'. Political, social and economic reforms placed development-related and private sector-related matters high on the government's agenda.

The government's policy priority for the improvement of private sector governance were reflected in the government's measures to revive a defunct FOA norm by introducing the Labour Organization Law¹⁵ in 2011 and to introduce the RBC by launching a Myanmar chapter of the United Nations Global Compact in 2012. Both FOA and RBC received a similar level of

¹³James G. March and Johan P. Olsen states that there is a great diversity in human motivation and modes of action and they may be driven by habit, emotion, coercion, and calculated expected utility, as well as by the interpretation of internalized rules and principles.

¹⁴ Interview with former President U Thein Sein on 28 February 2017, Interview with former Foreign Ministers, U Wunna Maung Lwin on 3 February 2017, with U Nyan Win on 25 March 2017, with former Deputy Minister for Defence, General Aung Thaw on 7 February 2017, with U Htin Lynn the then Director General of Department of International Organization, Ministry of Foreign Affairs on 8 September 2016.

¹⁵ The Labour Organization Law was one of the earliest legislations promulgated by the Union Legislature (Pyidaungsu Hluttaw) as the Pyidaungsu Hluttaw Law No. 7/2011 on 11th October 2011 and The Labour Organization Rules was issued on 29th February 2012.

legal and institutional support from the government.¹⁶ And yet, the FOA found the path into the country more difficult as opposed to the relatively smooth entry of the RBC.

Since the introduction of the Labour Organization Law in 2011, the number of workers' organizations increased from 18 in 2012 to over 2367 in 2016. However, issues of union busting, inter-union tensions and violent labour strikes also increased and proved a challenge to democratic principles. Side-tracking of FOA practices has been a policy challenge not only for the semi-civilian government during the first phase of transition (2011–2016), but also such challenge continued under the civilian-led government in the second phase of transition after 2016.

The transition period also saw the introduction of the relatively new norm of Responsible Business Conduct through the launching of the United Nations Global Compact (UNGC) in May 2012. The ten guiding principles of UNGC encourage business signatories to incorporate them in their business strategies and operations (please refer to Annex I). These principles encompass four key areas of human rights, labour, environment and anticorruption. Principle 3 requires businesses 'to uphold the freedom of association and the effective recognition of the right to collective bargaining'. Since the launch of UNGC in Myanmar in 2012, business signatories have expanded from 15 to 177 as of 2018 and the awareness of enterprises and incorporation of the guiding principles in their business operations are increasing. And therefore, RBC implementation is 'on track' although we cannot claim it is 'perfect' as some businesses struggle with several issues such as FOA, one of the elements of RBC. These practical challenges of a transitioning Myanmar in implementing FOA by itself or as part of RBC warrant the current scholarly examination.

In addition, deviation from the norms' moral and functional purposes has broader implications for the success of transition and consolidation of democracy in a country like Myanmar. Considering the significant number of states in transition in the world,¹⁷ and their vulnerability to external shocks and internal challenges, it is important to address the issues

¹⁶ Detailed discussion on the legal and institutional measures related to these respective norms can be found in Chapters IV and V of this thesis.

¹⁷ Data of World Democracy Index of the Economic Intelligent Unit in 2016 reveals that 58 percent of 167 countries or 72.8 percent of the world's population are living either in flawed democracy or hybrid regimes.

facing this particular group of countries. The following section will briefly outline how this work enriches existing norm research. Detailed discussions of the socialization literature, its significance and limitations, will be presented in Chapter Two.

1.3 Conceptual voids in norm research

Constructivists and sociological institutionalist scholars in International Relations attach great importance to the role of norms in states and international politics. They have contributed much to norm research with their knowledge on the emergence, spread, and impacts of international norms. These scholars consider the ways that ideational factors shape interactions among states as their interests and identities are constructed by shared values and norms (Finnemore and Sikkink, 2001: 392-393). Constructivists take the premise that state actions (or those of state agents) result from a collective understanding of appropriate behaviour derived from norm-governed international society. In this interpretation, changes in state identity and interests are endogenous to socialization or social actions. Sociological institutionalists, on the other hand, consider state understanding of appropriateness results from participation in international institutions which create a sense of community and belonging. In the words of Friedrich Kratochwil and John Gerard Ruggie, international regimes create 'shared understandings of desirable and acceptable forms of social behavior' (Kratochwil and Ruggie, 1986: 764). The views of constructivists and sociological institutionalists are distinctive from mainstream International Relations scholars, who consider that social interaction can change state behaviour only through the imposition of exogenous constraints created by interaction rather than believing in independent effects of social interactions and that of institutional participation (Johnston, 2008: 1).

Towards the end of the 20th century, socialization studies gained prominence in the field of International Relations as it could shed light on fundamental changes in world politics while addressing such major topics as state preference and identity formation and the changes, creation and diffusion of international norms, and the effects of international laws and international institutions (Johnston, 2008:1). Across the social sciences, 'socialization' is understood as 'a process by which social interaction leads novices to endorse expected ways of thinking, feeling and acting' and such processes expect internalization outcomes in target actors (Johnston, 2008: 20-21).

The concept of ‘socialization’ has its foundation in sociology and is applied across the disciplines of sociology, political science and international law.¹⁸ Scholars pay great attention to social mechanisms and social actors in explaining states’ identity formation and role enactment¹⁹ (Trondal, 2001: 17-18, Finnemore and Sikkink, 1998, Keck and Sikkink, 1998). Transnational Advocacy Networks or TAN, which are understood to be global-regional-local networks including domestic norm advocates, international non-governmental organizations (INGOs), intergovernmental organizations (IOs) and the epistemic community, play an important role in the construction and spread of international norms among states (Keck and Sikkink, 1998). Sociological institutionalists emphasize international institutions and regional organizations as the sites of socialization.

For the purpose of this study’s review on socialization literature, socialization studies in International Relations are grouped into three strands. The first strand takes a systemic perspective on socialization. These studies established that ‘norms matter’ in international politics by signifying transnational forces and mechanisms which influence target actors (usually states or state agents) (Finnemore and Sikkink, 1998, Keck and Sikkink, 1998, Risse-Kappen et al., 1999, Alderson, 2001, Kelley, 2004, Checkel, 2005a, Schimmelfennig et al., 2006). These studies are important to give an understanding of state policy changes favourable to international norms and such changes result from influences of TANs. The presence, strength and sustainability of TANs provide leverage on the international community and domestic pro-norm groups in pressuring for target states’ policy change. TANs’ main mechanism of influence are usually described as ‘pressure from above and from below’ (Risse-Kappen et al., 1999: 24). Variation in their effectiveness and outcomes are explained by domestic factors, mainly political structures, state-society relations (Checkel, 1999a: 83,88) or ‘willingness and capacity of target actors’ (Risse et al., 2013: 292-293).

These studies, with an exclusive empirical focus on states (decision makers and political elites) only explain the changes in state policies and their insights are inadequate to explain changes in practices at societal level. Although scholars noted that ‘international norms matter only when they are used domestically’ (Gurowitz, 1999: 416), exclusive empirical accounts on

¹⁸ Alastair Iain Johnston provides a synthesis of how scholars, from different discipline with different paradigmatic backgrounds, use the concept of socialization in their theories in ‘Social states. *China in International Institutions, 1980-2000*’.

¹⁹ Jarle Trondal argued that the only difference being identified between International Relations constructivists and sociological institutionalists is that the latter adequately operationalise the concept of institutional structure.

TAN versus states and broad depiction of socialization as ‘outside-in’ perspective limit norm studies’ explanatory power on domestic norm practices.

Studies in the first strand recognize that the move from norm commitments to compliance is a ‘multifactor interactive process’ where multiple actors are involved with different motivations (Risse et al., 2013: 276, 294). Despite such recognition, studies do not go any further to examine how such processes take place and how they can be conceptually understood. From my perspective it would be more useful to theorize the multiple actor dynamics and their influence on outcomes, capturing the interactive dynamic of global (transnational) and local actors (domestic actors in recipient states) involved in norm processes. Ciaran O’Faircheallaigh made similar points by arguing for ‘the need to achieve an explicit and systematic focus on domestic political actors as well as on the structures within which they operate’ (O’Faircheallaigh, 2014: 161). However, this line of research remains underdeveloped.

The second strand of studies scrutinizes socialization from *domestic perspectives* (Acharya, 2004: 188, Checkel, 1999b: 97, Cortell and Davis Jr, 1996, Risse-Kappen, 1994). Localization studies ‘privilege domestic over the international’ (Risse, 2016: 14) while missing the global-local dynamics as they focus on the agency of local actors and domestic culture and norms. These studies consider domestic structural factors as filters conditioning the access of transnational actors, their ability to build winning coalitions in target states and influence target states’ policy (Risse-Kappen, 1995). They take static views on domestic structures which are usually considered as scoping conditions. In fact, domestic structures are versatile in many instances, such as those in transitioning states where political, legal and /institutional changes are common. Therefore, to be able to understand the path from norm-focussed policies to practices in states, it is important to examine how socialization takes place in the contexts of dynamic structures and actors.

The third strand of socialization theory gives a *global-local interactive perspective*. These studies take a critical view on the major assumptions of studies under the first and second strands by targeting the supposedly stable contents of norms and socialization as a linear process. Through their empirical findings, this group of scholars reveals the dynamic and contested nature of international norms while arguing for non-linear processes of norm socialization (Wiener, 2008, Wiener and Puetter, 2009, Orchard and Betts, 2014, Zimmermann, 2017).

Among these studies, Alexander Betts and Phil Orchard's theory of 'norm implementation' provides insight about domestic practices of norms, as they conceptualize norm implementation within states or organizations as parallel processes to the systemic processes of institutionalization of norms being negotiated and adopted at the international level. Such a norm implementation theory is a starting point for this research as it provides a useful lens for identifying factors and actors that influence norm practices within states.

However, in their efforts to explain domestic norm practices, three aspects need greater clarity. First, the role of external actors in implementation processes. Although Alexander Betts and Phil Orchard recognize external actors' roles in the domestic sphere as 'transnational in domestic', their roles and their interactions with domestic actors are less conclusive in their empirical findings. Second, their attempts to examine the nexus of norm types (treaty, principles, and policy norms) and practice outcomes do not produce clear insights. Although Alexander Betts and Phil Orchard indicate that norm contents might have impact on practice outcomes, they left this aspect unexamined. Third, although Alexander Betts and Phil Orchard emphasize the influences of structures and agency, they did not offer specific guidance in how the relations between structural influences and agency can be conceptually understood. Given these three limitations in what is a significant advance in our theorization, implementation theory left some gaps in fully explaining the role of domestic practices in the socialization of international norms, particularly not fully explaining the process involved in turning state policies into practices.

To sum up, each of the three strands of socialization studies has contributed much to the literature, each strand has their own limitations in fully explaining how socialization is animated in state move from norm-favoured policies to practices. My research argues that there is a need for a better conceptual framework to take account of the socialization process in domestic sites while explaining norm practices variations across issue areas within states. This research therefore proposes to pay greater attention to the interactive nature of multiple actors who operate within states and their activities influencing and being influenced by domestic structural factors.

1.4 Research questions, findings and contributions to norm research

1.4.1 Questions

To address the above-stated conceptual limits of socialization studies to explain variegated norm practices in a recipient state, this research poses the following questions:

Question How does international norm socialization animate within norm recipient sites?

Sub-questions What makes domestic sites of socialization distinctive from regional and international sites of norm socialization?

How do norm contents shape the interactions among global and domestic actors within domestic social sites?

How do domestic structures influence the dynamic of multiple actors in states?

These questions are addressed by examining two cases of norms: FOA and RBC norms and their practices in Myanmar. The cases are analyzed individually over time and comparatively. Empirical studies, analysis and theoretical proposals are embedded in ‘socialization’ literature in International Relations and they also are informed by the insights and experiences of research participants. The country case Myanmar, with its transition context, allows this research to better comprehend existing and emerging key actors and their interplay with evolving legal and institutional structures. It also allows temporal comparison by contrasting norm practices under successive periods of authoritarianism with those that emerged during the first phase of transition (2011–2016).

1.4.2 Objective, key terms and assumptions

This research aims to contribute to norm research by taking better account of socialization within domestic sites of norm recipient states, as this particular aspect is understudied and under-theorized for socialization studies.

Before moving further, I wish to clarify this study’s understanding on the key terms involved in the study. This study understands ‘international norms’ or ‘norms’ as defined by ‘a

set of intersubjective understandings readily apparent to actors that makes behavioral claims on those actors' (Finnemore, 1994: 2). Socialization is the process by which international norms reach to states and influence their policies, institutions and practices in new contexts. Different scholars' definitions on socialization are presented in literature discussions under Chapter Two on pages 43-44.

In this respect, the present study embeds itself in Thomas Risse and his colleagues' works on the 'Persistent Power of Human Rights', and Alexander Betts and Phil Orchard's norm implementation theory which considers the significance of domestic structures and actors (Orchard and Betts, 2014: 271-272). Building on their explanatory work and those of other scholars, this study takes the premises that 1) multiple actors act on given norms in multiple ways within the confines of ideational, legal, institutional and political structures, 2) international norms possess both moral and functional attributes at their core, and 3) norm socialization in recipient states is a dynamic process which involves multiple actors and entails practices in line with or deviating from norms' moral and functional purposes. When considering a norm, its creators and subscribers have in mind that such a norm and its practices are to serve not only to the end of producing appropriate outcomes (the so-called moral component). That moral component is perceived, at least by the society of the time, as morally and ethically correct in fulfilling a particular need or in solving a particular problem (which is the functional component).

To observe such a variety of norm practices, this study pays attention to domestic sites of the norm recipient state as important sites of socialization, extending from a research focus on international, regional and transnational organizations as major sites of socialization. In fact, socialization in domestic sites provides a better vantage point from which we can discern the interactive dynamic of actors, both international and domestic, and domestic structures and global-local agents with greater clarity and thus socialization outcomes can be better appreciated.

Two norm cases, Freedom of Association (FOA) and Responsible Business Conduct (RBC) are described in my study, as complex norms involving more than one element. Implementing the FOA norm requires the government to allow workers and employers the freedom to organize, the workers and employers to engage in collective bargaining and government and employers to recognize workers' right to strike. RBC implementation involves the elements of business responsibilities for anti-corruption, a wide range of social and

environmental matters. For the implementation of each set of complex norms, diverse stakeholders play differing roles. Identification of diverse actors for FOA and RBC and their roles assigned for each actor are discussed in detailed in Chapter 3, section 3.2 in page 57. By considering the complexity of Myanmar's and the world's interlocking normative terrains, this study offers a considered explanation of the multifaceted character of norms in domestic and foreign affairs.

1.4.3 Findings and arguments

Based on the premise that norm practices and socialization can be understood better in domestic sites by examining the interactions of multiple actors and domestic structures, two norm cases—FOA and RBC norm practices in Myanmar—are examined from historical perspectives and from the perspective of practices observed during the first phase of democratic transition from 2011–2016.

The two cases demonstrate that study of socialization at domestic sites reveals important insights distinctive from existing knowledge derived from the studies at familiar sites of socialization; international institutions, regional organization and transnational sites. There are specific insights drawn solely from domestic site of socialization. First, 'socializing actors' face greater challenges as they have to interact with more diverse counterparts and operate within the confines of domestic structures. At the same time, they also have an advantage at domestic sites in developing more effective policy advocacy and in showcasing and demonstrating new practices. It is found that global-local interaction at the domestic sites is a two-way track phenomenon. Learning how to pass the message across to their counterparts is found to play an important part in the work of socializing actors. That is the reason, fundamentally, that most of the external players invest a great deal in research and assessment of domestic situations.

Second, socializing at domestic sites is found to go beyond advocacy works and the familiar social mechanisms of persuasion and social influence, which are dominant themes in socialization at international and regional sites. Unlike in international and regional sites where the business of 'socializing actors' is to convince and influence the conceptions and policies of 'socializees', who usually happen to be leaders, diplomats and decision makers or state agents, socializing actors in domestic sites are found to engage in a variety of activities other than advocacy. Policy change can be advocated. However, practice changes need to be demonstrated. That logic might be at work, as this study found that socializing through stakeholders' participatory activities is more effective compared to those actors that employ

merely conventional strategies such as the empowerment of rights holders and the building of enforcement capacity for governments.

Third, leading players' roles and strategies are also found to be a significant factor for practice outcomes. It is not a new insight that the attributes of socializing actors matter for norm impact. Attributes such as authority, legitimacy, financial resources, academic esteem, and professional connections are important (Hafner-Burton, 2013, Herro, 2015). What is new about the current study's finding is the fact that socializing agents derive trust not solely from local knowledge but from their dedication and sincerity to the values they promote and their ability to deliver what they promise by allowing stakeholders to participate in activities and experience the benefits of practicing the relevant norms.

Fourth, this study found that the content of norms, rather than the type of norm, matters in generating the interest of external actors and their investment which, in turn, affects the multi-actor dynamic in norm practices. Such multi-actor dynamics can be enhanced or eased by the attributes and strategies of socializing lead actors. Finally, it is found that domestic political, legal and institutional structures need to provide a permissive environment for norms to be able to take root. However, the actual practices associated with these norms can only be explained by the dynamic of norm agents operating in domestic sites.

Guided by these findings, this research argues that socialization at the domestic sites of states can be conceptualized as multi-actor, global-local dynamics taking place within the confines of domestic structures. Norm practices can be appreciated from the vantage point of such agential dynamics rather than seeing norm practices as the product of domestic actors alone or external-internal socialization, as depicted by the first and second strands of socialization studies. This focus on agential dynamics better explains domestic norm practices, taking into consideration the influences from domestic structures, norm content, and external actors' interest and investment—the key aspects which existing strands of socialization studies have yet to capture in an integrated model.

1.4.4 Conceptual contribution

Before discussing the research's conceptual contribution to socialization literature, I wish to highlight that this research employs the theoretical lens provided by Alexander Betts and Phil Orchard on 'domestic structures' and their roles in norm implementation. These scholars offer analytical distinctions on domestic structures that fit ideational, institutional and material structures and interpret and understand agents' behaviours within the confines of these structures. In analysing the two cases through the lens of structure and agency, the study takes on the premise of Giddens' theory of structuration, which views mutual enforceability of the

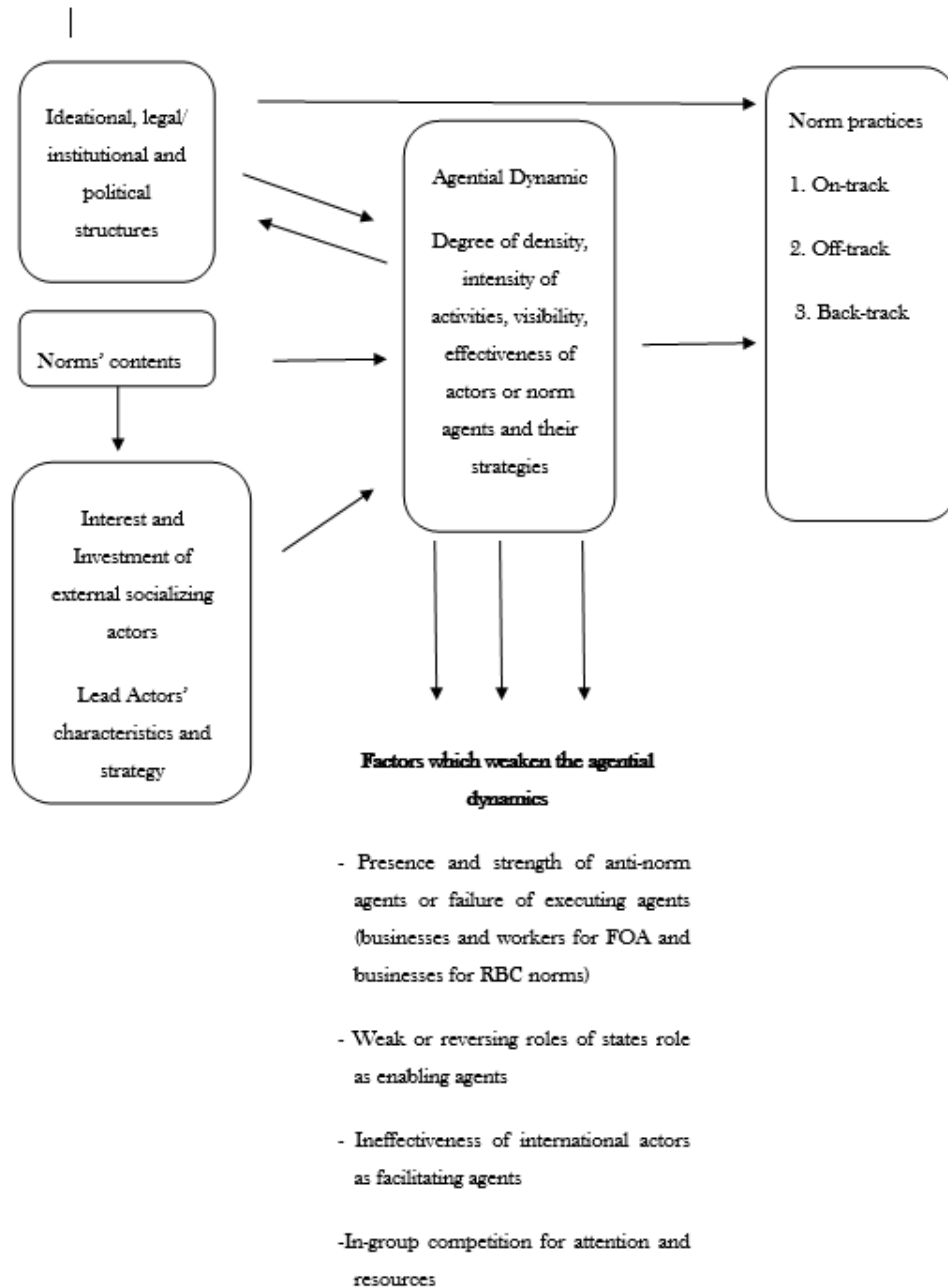
structures and agency (Whittington, 2010), and dualist social ontology as discussed by O'Neill et al. (2004: 152-159), whose review of international cooperation theories assumes a mutually constitutive relationship between 'agents' and 'structures' which are analytically autonomous.

This study proposes the concept of 'agential dynamic' as a new conceptual lens for understanding the variety of norm practices after a state's adoption, legalization and domestic institutionalization of the two norms. The *agential dynamic* is a variable reflected by the density of norm agents, the intensity of their interactions, and the visibility of their activities and the effectiveness of agent strategies relating to norm implementation. This concept is important addition to socialization literature, which lacks an applicable model to explain the domestic dimensions of socialization despite it being rich in hosting influential models to explain the systemic dimensions of norm socialization.

Along with the concept of 'agential dynamic', this research proposes a conceptual map linking actors, structures and norm processes. A simplified version of this research's proposed theoretical model is presented in Figure 1. The model provides conceptual linkage of 'agential dynamics' with varying track records of norm implementation. Norm contents, external actor interests and investments, and the domestic context of democratic transition influence norm implementation processes through their mediation of this 'agential dynamic'. The current study's theoretical model benefits greatly from existing norm socialization and implementation theories of International Relations. Detailed discussion of a more finely elaborated model will be discussed in Chapter Three.

The proposed model has some distinctive features: 1) the model presents the domestic dimensions of socialization at a domestic socialization site; 2) it expands the existing conceptual boundaries of state-centric models by introducing the dynamics of disaggregated norm agents within the domestic site; 3) the model is an integrated framework as it captures the influence of global-local actors and reflects the structural-agency interactions.

Figure 1 Model for norm socialization at domestic sites



Source: Researchers' Formulation

1.4.5 Methodological contribution

As this research places its empirical focus on structural factors and actors, it starts by identifying significant actors and factors involved in norm practices over time. This study found that the state can either be an enabling or inhibiting agent of specific norms depending on the

political context. Historical data, discussed detailed in Chapter Five, indicates that FOA did not get a chance to be a practice under successive governments in Myanmar until 2012 mainly due to the state's inhibiting agency role.²⁰ However, the state's role then shifted to become enabling since the country embraced a limited democratic identity from 2011 onwards. Identifying states as either enabling or inhibiting agents of norms helps the study's analytical processes.

In addition to identifying states as 'Enabling/Inhibiting Agents of norms', this study has to devise categories of actors based on the observed functions of different groups in norm practices. International and transnational actors are identified as 'Facilitating/Impeding Agents of norms'. The group of domestic right holders and stakeholders is identified as 'Monitoring Agents of Norms'. Business enterprises and workers are identified as 'Executing Agents of the FOA norm' because their actions or inactions determine whether and how the norms in question are put into practices. For RBC norms, business enterprises are identified as 'Executing Agents of Norms'. However, businesses might not play this agency role by absolutely neglecting such roles or they may execute norms in other ways. Such distinctions help the study to analyze the limits and contributions of each group or actors to norm practices.

In estimating the norm processes of FOA and RBC, this study employs the indicators of on-track, off-track and back-track towards the moral and functional purposes of each norm. (defining and clarification of what is moral and functional purposes)The research would consider the norm on-track if and when observed activities and practices contribute in fulfilling the purposes of norms even though the scale and extent of those activities and practices are yet to be overwhelming. The research considers the norm off-track if observed activities and practices deviate either from the functional or moral purposes of the respective norms. The

²⁰ Under the administration of the Burma Socialist Programme Party (BSPP) government, workers organizations (Workers Asee Ayone) were organized under single union system. Although such organizations served a functional purpose of norms for peaceful industrial relations, they also effectively deviated from the moral purpose of the norms which aimed to allow workers to join the organization of their choice with their own free will. Under the rule of the State Law and Order Restoration Council (SLORC) and State Peace and Development Council (SPDC) governments, FOA was totally inhibited and the presence of employees' welfare associations in public enterprises were also not to the standard of labour organizations which allows workers to communicate with employers, express grievances and negotiate for their own betterment. Since the political transition in 2011, the government's role shifted from a norm inhibiting agent to norm enabling agent along with its changing identity and interests. Its policy on FOA changed to reflect the legalization of workers organizations and setting up of institutional mechanisms.

norm would be considered back-tracked if observed activities and practices negate or deny the purposes of the norm. Employing such indicators allows this research to overcome norm research's struggle in measuring outcome in terms of the norm compliance: the norm violation dichotomy. It also overcome the vagueness of 'incomplete internalization', 'decoupling' (or compliance decoupled from commitment) and 'adaptation' (Zimmermann, 2017: 4). Taking these benchmarks of the moral and functional purposes of norms provides greater conceptual clarity. These indicators also serve as the most relevant measures to capture an emerging consensus in norm studies on domestic norm practices as ongoing processes rather than as a fixed end stage or outcome.

There are three specific measures taken by this research, that is, 1) distinguishing agents of norms for analytical purpose based on their observed function, 2) measuring norm processes with new indicators 'on-track' and 'off-track' towards the benchmarks of moral and functional purposes of norms, and 3) temporal and cross-case analyses employed in empirical case studies are the modest methodological contribution of this study to norm research.

1.4.6 Empirical contributions

Existing norm socialization research studies have offered rich empirical accounts on the socialization of countries in Eastern Europe, Latin America and Africa. The country case of Myanmar hardly appears in existing analyses. Indeed, this country case was previously seen as an outlier in socialization models given its historical record. The current study describes how domestic structures constrained the two norms in the past and how such constraints were eased during the transition to democracy, and how socializing agents factored in such an environment and make impact on norm practices. These descriptions are new empirical ballast for future contributions to the socialization literature. This study is also the first detailed analyses of FOA and RBC practices from the perspective of the socialization lens. Rich historical data dating back to the immediate post-colonial period and a significant amount of primary data from extensive contemporary field research are also important contributions in empirical terms.

For Myanmar studies, this research provides a new perspective as it is distinctive from the most common country-specific analyses, which take comparative politics or foreign policy analysis angles on issues ranging from foreign relations, politics of transition, development and governance. This research focuses on socialization and norm practices by identifying key players in norm practices and explains how a transitioning society is exposed to diversity and

how its responses can be better understood by focusing on the disaggregated functions of multiple actors within the state.

1.4.7 Practical contributions to better governance

The main concern of this research is to understand the process of norms from policies to practices; this study pays great attention to being practically relevant to get insights on chokepoints and facilitative factors for better governance. The cases illuminate the enabling and limiting aspects of political transition on different actors within states and identify the channels through which norms make impact. Such information would be helpful for policy diagnostics, planning, prioritizing and adjusting to make greater norm impact within transitioning states. At a time when democracy is in crisis and liberal norms are challenged by populist and nationalist elements even in mature democracies,²¹ the challenges for fragile democracies in practicing international norms are extensive. This research demonstrates that an innovative approach to shape the ideational structure is required to achieve desired norm impacts by fostering awareness and appreciation of new norms. Application of the norm will follow societal awareness and appreciation of the norm's moral and functional purposes. Socializing actors' innovative programmes and activities allow the participation of executing agents (businesses in the case of the RBC norm), enabling them to experience new ways of behaving in line with norms, are found to be a more effective tool in shaping ideas. In contrast, socializing agents of FOA merely focus on empowering workers (executing agents) with organizing and bargaining skills and on strengthening the enforcement capacity of relevant laws and institutions, and overlook the aspect on ideational development of FOA among executing agents—both businesses and workers.

1.5 Principles, process and parameters of the research

This research takes a *relativist* ontological stand, considering that knowledge about the social world is gathered by the researcher through examining and relating the experiences, perceptions and actions of the objects of the study (in this case, the research participants). In my study, state, businesses, society and international actors and their perceptions and actions are examined in order to understand the way international norms were implemented before

²¹ Freedom House (2018) reports a slow decline in political rights and civil liberties in the United States for the past seven years.

and during Myanmar's transition. The possibility of multiple truths and alternatives to the current study's findings is recognized and expected. Such ontological underpinning leads the research to take a *constructivist* epistemological position by reasoning the knowledge this research generates is constructed by the observed experiences, perceptions and actions of the objects of the study, the researcher's observations and analysis on the historical and evolving ideational and legal/institutional structures of the country case and norm cases.

Andrew P. Cortell and James W. Davis Jr. have rightly mentioned that 'the routes to domestic salience (of international norms) may be many and because knowledge of the mechanisms is limited, initial analysis should be flexible and process oriented' (Cortell and Davis Jr, 2000: 84-85). Therefore, this study takes a case study method considering historical perspectives as well as scrutinizing their contemporary practices during the first phase of democratic transition (2011-2016). Analyses of the two cases focus on structural factors, i.e. ideational, legal/institutional and political structures while paying attention to the multiple stakeholders involved in the practices of respective norms.

Guided by these ontological and epistemological stands as basic principles in generating knowledge, this research offers a case study research method. The processes of data collection and analysis is elaborated in the following section and detailed further in Chapter Four.

1.5.1 Sampling

The study works on the definition of case study as proposed by John Gerring, 'an intensive study of single unit for the purpose of understanding a larger of (similar) units' (Gerring, 2004: 342). Three levels of sampling is undertaken: one country sample (context sampling), two norm samples (case samples) and participant samples. The country case of Myanmar is selected as it provides varying political contexts under different administrations. Such a country case is helpful for this study in estimating the influence of structures and actors in explaining variegated practices of the norms. The Myanmar case also allows temporal analysis, using historical records of norm-resistance against varying degrees of norm implementation in the democratic transition phase.

The cases of FOA and RBC norms are selected as they exemplify two important dimensions of research interest: practice variation at given levels of policy support, and the same target actors. The third level of sampling is research participant or interview participant

selection. For that purpose, key stakeholders are identified through secondary document reviews and from the participants' references to other participants. Interview participants include individuals from four groups of sub-state actors: state, businesses, society, and international actors.

1.5.2 Data collection and analysis

Primary data are collected through in-depth interviews. Interview questions are formulated in order to capture the conceptions and activities of specified agents/actors. Fifty-nine participants contributed to the interviews for this research. In order to estimate the absence/presence/evolution of the legal/institutional and material structures relating to the FOA and RBC norms, current research sourced data from policy documents, reports and legal texts of government, United Nations, International Labour Organization, United Nations Global Compact's archived Communication of Progress (COPs) of Myanmar participants and historical records, academic works and newspaper articles on businesses and labour organizations in Myanmar.

The two cases provide empirical context for both temporal and cross-case analyses. Such comparative analysis helps minimize inferential risks within a single case study and within the case country (George and Bennett, 2005, Alderson, 2001: 431-432).

This research operates within a specified parameter. It engages with norm socialization literature in International Relations while recognizing that studies on domestic norm practices cut across several disciplines ranging from the democratization literature in comparative politics, to peace and conflicts studies, to the broader field of sociology. My current research only considers the practices of two selected norms in Myanmar. The study covers two periods: the pre-transition period and then the transition period from 2011–2016.

1.6 Organization of the thesis

The remainder of this thesis is presented in six chapters. Chapter Two details the existing state of knowledge in socialization studies and its limits in explaining this study's interest in the role of socialization from state policy to societal practices. Chapter Three proposes a conceptual framework to explain norm socialization within recipient states. Based on the guidance from this literature, particularly drawing on the theory of norm

implementation and theory of structuration, this chapter proposes a concept of ‘agential dynamic’ as a new tool to investigate norm practices in a state, capturing the interactive dynamic of external and internal agents of norms and structural influences. This chapter argues that ‘agential dynamic’ is a useful tool to analyze norm practice variation in a given domestic context as it is the manifestation of the many important dimensions involved in norm practices; particularly norm contents, external agents’ interest, and domestic structures. Chapter Four details the method employed for data collection and analysis.

Chapter Five demonstrates how domestic structural constraints have inhibited the FOA practice until recent years and how permissive legal/institutional structures were not able to ensure practices in line with the moral and functional purposes of FOA. This study argues that FOA is side-tracked as the practices of executing agents, employers and workers fail to serve the moral and functional purpose of norms. Such side-tracking results from an under-developed conception about the ‘FOA’ among executing agents (government, businesses and labourers). Executing agents conceive FOA differently based on different interests and misappropriate its practice while both sides, I argue, lose sight of FOA’s potential to be a nexus for their common goal for peaceful industrial relations. Diverging conceptions of FOA lead to a conflictual dynamic of multiple actors and the agency role of government, businesses and workers are largely constrained. The agency role of external socializing agents’ sole focus on empowerment of right holders and strengthening law enforcement alone is inadequate to generate their agency role as norm facilitating agents as they miss addressing the issue of diverging conceptions of FOA by executing agents.

Chapter Six illustrates the significant roles played by lead socializing agents of RBC in raising awareness, appreciation of its value and application of the RBC in business enterprises. The chapter describes the way democratic transition attracts and enables RBC agents whose active involvement and innovative strategies help shape domestic structures favourable to RBC practices. Diverse actors and their innovative activities were able to give executing agents good experiences with RBC and thus keeping it on-track in its implementation. Chapter Seven summarizes the research findings, and offers a comparative analysis of the practices of FOA and RBC norms. This chapter concludes by highlighting the main contribution of the research to socialization literature in International Relations and in terms of international law, and suggests the way forward for future research on the domestic impacts of international norms within varying contexts.

Chapter Two: Literature on Socialization

2.1 Introduction

Socialization is too important to ignore in world politics. It is what actors in world politics often try to do to each other.

Alastair Ian Johnston, 2008²²

State Socialization is the process by which states internalize norms arising elsewhere in the international system... Attitude change on the part of judges, business leaders, politicians, students and members of the public is part of what we mean when we say that a state 'internalizes' norms.

Kai Alderson 2001

‘Socialization’ has been an important area of research, cutting across the disciplines of sociology, political science, international relations and international law.²³ Towards the end of the 20th century, socialization studies gained more vigor among constructivist and sociological institutionalist scholars. The end of the Cold War called into question mainstream International Relations theorists’ notions of international politics as the manifestation of power politics among states that function within the confines of material structure. Realist and liberal takes on ‘the contents and source of states interests and social fabric of world politics’ (Checkel, 1998: 324) were challenged by structural constructivists who demonstrated equally powerful effects of embedded ideas and social practices on international outcomes (Finnemore, 1996a, Wendt, 1992, Wendt, 1999: 1, Meyer et al., 1997: 173-174). The emergence of the new norm of ‘individual accountability’ and the establishment of the Rome Statute of International Criminal Court in 1998, without much blessings from powerful states and departing from embedded ideational structures, has led another group of scholars, ‘agentic constructivists’, to demonstrate the role of human consciousness in world politics and ‘how agents—real peoples

²² In his 2018 work on ‘Social States’ Alastair Iain Johnston emphasizes the importance of ‘socialization’ in international politics. JOHNSTON, A. I. 2008. Social states. *China in International Institutions, 1980-2000*.

²³ Alastair Iain Johnston provides a synthesis of how scholars, from different disciplines with different paradigmatic backgrounds, use the concept of socialization in their theories. *Ibid*.

and organizations—promote new ideas and practices’ (Onuf 1989, Keck and Sikkink, 1998: 211-212, Finnemore and Sikkink, 1998, Sikkink, 2011a: 230-237).²⁴ In this respect, ‘socialization’ becomes an important areas of research in International Relations in shedding light on the social impacts of state policy behaviours and thus on international politics.

Three strands of socialization studies, 1) systemic perspectives, 2) domestic perspectives and 3) global-local interactive perspectives, share three major themes: 1) the importance of norms and ideas, 2) the significance of social environments and social agents, and 3) the social processes and mechanism for norm and idea change. They all attach great importance to norms and ideas as the main drivers of international politics and institutions (Schimmelfennig, 2003:68).

These studies take the social environment seriously. International institutions, international organizations and regional organizations are considered as the sites and agents of socialization (Checkel, 2005a: 806, Alderson, 2001: 494, Kelley, 2004, Schimmelfennig et al., 2006, Davies, 2014), and transnational sites (Zimmermann, 2017: 211). Rich empirical studies have supported ideas about the crucial role of international institutions and intergovernmental organizations (IOs) in norm setting, spreading and shaping state policy behaviour and international politics (Finnemore, 1993, Finnemore, 1996b, Legro, 1997). Several scholars have discussed evidence of state behaviour change as a result of socialization in international organizations (Kent, 2007, Acharya and Johnston, 2007).

The roles of social agents are also emphasized by scholars. These studies identify transnational NGO networks and non-state actors such as epistemic communities, individual norm entrepreneurs and transnational advocacy networks of NGOs, IOs and other issue-specific entities as the main agents of socialization in influencing states and international politics (Finnemore and Sikkink, 1998).

Many scholars have identified a range of social mechanisms through which socialization occurs. Alastair Ian Johnston categorizes 1) ‘mimicking’, 2) ‘social pressure’ and 3) ‘normative suasion’ as key mechanisms while recognizing several other social processes (mechanisms)

²⁴ Formations of the International Committee of Red Cross in 1863 transforming the rule of warfare, the International Women’s Suffrage Association in 1901 etc.

offered by other scholars²⁵ (Johnston, 2008: 23-26). Thomas Risse and colleagues found 1) ‘coercion’, 2) ‘incentives (sanctions and rewards)’, 3) persuasions and discourse, 4) ‘capacity building’ as social mechanisms (Risse and Sikkink, 2013: 276). Jeffery Checkle distinguished three types of socialization mechanisms. Type 0 socialization occurs when behaviour changes are driven by rational calculation and norm-conforming behaviour but which may not last once the incentive and disincentive structure changes. Type I socialization occurs when targets conform to norms by learning their role in a group; group norms do not replace but are superimposed on their beliefs. Type II socialization occurs when targets internalize group norms and instrumental calculation and role play are replaced by the taken-for-grantedness of the norm (Checkel, 2017: 597-598, Checkel, 2005a: 804). Outcomes of social processes, involving any one or combination of identified social mechanisms, expect internalization outcomes in target actors (Johnston, 2008: 20-21). The targets of these social mechanisms usually happen to be state leaders, political elites, policy makers and state agents such as diplomats and bureaucrats.²⁶

Socialization scholars anticipate that internalization occurs when norm-prescribed behaviours are habitualized by target actors through iteration and routinization and when target actors internalize norms when they take norm-following as ‘normal’ and ‘the right thing to do’ (Finnemore and Sikkink, 1998: 905, Koh, 1996, Checkel, 2005a: 804). Lisbeth Zimmermann questions the assumptions of studies that argue that ‘once the norm is internalized by political elites, general dissemination follows, in a kind of trickle-down effect, to the rest of society’ (Zimmermann, 2017: 26). Many scholars also are skeptical of such assumptions on the trickle-down effects of state policies to practices. Mathew Davies argued that ‘governments can be conditioned into changing their behaviour in pursuit of a goal and societies are much more unwieldy affairs. Just because a government is held accountable does not automatically alter the decisions and opinions of the judicial system, of sub-national actors such as political parties and members of civil society’ (Davies, 2009: 280-281). And thus, the effectiveness of these mechanisms is usually measured by observing state policy changes rather than practice changes.

²⁵ He discussed how there are several other reasons targets might take pro-norm behaviour in the absence of exogenous incentives or disincentive. He noted Axelrod’s list of reasons for targets to behave in conformity with norms, 1) identification (actor identifies with group) 2) authority and legitimacy of norm promoter 3) social proof, and 4) voluntary membership as defection can incur cost. Ikenberry and Kupchan’s list of social mechanisms includes 1) external shock, 2) exogenous material inducement, and 3) normative persuasions or transnational learning through inter-elite contacts.

²⁶ One exception, in this respect, is that Thomas Risse and colleagues studied businesses and armed groups as the target actors in their work on the ‘Persistent Power of Human Rights’.

Although scholars recognize the possibility for decoupling²⁷ of societal practices from state policies (Goodman and Jinks, 2013: 43), how the process from policy to practice changes can be understood and how socialization factors in (or fails to factor in) such processes is less examined. Methodological constraints of measuring societal level outcomes and the need for the deep contextual knowledge required might have kept scholars focusing only on policy and legal adoptions. Some scholars suggest that short-term socialization efforts show little effect, but longer-term joint participation in formal intergovernmental organizations does lead to interest convergence among members (Bearce and Bondanella, 2007: 703). However, such long-term processes of socialization need to be questioned (Zimmermann, 2017: 26-27).

Therefore, a conceptual blind spot exists in norm research, as questions remain around how state policy changes in favour of international norms are turned into societal practices. All the existing studies have argued that domestic actors and factors are important for socialization outcomes. However, domestic processes of norms have not been systematically examined and explained by analyzing the global-local interactive dynamics of multiple actors within the confines of domestic structures. Only such an examination can address the questions of whether, how and under what conditions target states' norm-related policy and institutional changes lead to practice changes in a target society.

In this respect, my study argues that such a conceptual void is caused by prevailing oversights on target state domestic arenas as an important site for socialization. Although different studies recognize the importance of domestic structures and actors, they don't explore and examine how socialization processes are similar and distinctive at the site of target states' domestic arena. Existing studies, with few exceptions (Orchard and Betts, 2014), tend to limit the role of target states (governments) as norm resisting or as an adaptation for strategic reasons while overlooking their potential agency in socializing norms and ideas to societal practices. These oversights are compounded by the methodological limits to investigating multiple actors within target states' domestic grounds. Prevailing studies conceptualize domestic actors in a dichotomy of state (government) vs. society (or domestic constituency) (Dai and Mattiacci, 2011, Dai, 2014). Such conceptualization could not well capture multiple actors and their

²⁷ Norm scholars use the term 'decoupling' to refer to the socialization outcomes that go beyond rejection or full adoption, and to reflect policy-practice discrepancies. Jetschke and Ruland, 2009, p.179-180.

interactive dynamics. And thus, the ability of socialization literature is inadequate to norm-related practice change in target states rather than states' policy changes.

The remainder of this chapter discusses the insights in existing studies of socialization. It also discusses how each strand of studies explains or fails to explain target state domestic practice changes. The chapter concludes by identifying the areas where empirical expansion and conceptual deepening are needed for socialization studies.

2.2 Socialization defined

Socialization is defined by International Relations theorists in terms of process.²⁸ G. John Ikenberry and Charles A. Kupchan conceptualize socialization as 'a process of learning in which norms and ideals are transmitted from one party to another'. They consider that in such a process, 'national leaders internalize the norms and value orientations' of the community formed by the hegemon (Ikenberry and Kupchan, 1990: 289-290). Thomas Risse defines 'socialization' as 'processes by which international norms are internalized and implemented domestically' (Risse-Kappen et al., 1999: 5). Frank Schimmelfennig defines 'International Socialization' as the process that is directed toward a state's internalization of the constitutive beliefs and practices institutionalized in its international environment. For him, internalization is a matter of degree of 'the adoption of social beliefs and practices into the actors' own repertoire of cognitions and behaviours'. A fully socialized actor takes those beliefs and practices as its own and follows autonomously; deviant preferences can be present, but internal sanctioning mechanism are sufficiently effective to prevent such deviation from becoming norm-violating actions (Schimmelfennig, 2000).

Kai Alderson defines 'state socialization' as 'the process by which states internalize norms arising elsewhere in the international system' (Alderson, 2001: 416). Jeffery Checkel follows a similar definition of socialization as 'a process of inducting actors into the norms and

²⁸ Kai Alderson define 'state socialization' as 'the process by which states internalize norms arising elsewhere in the international system' and which is interchangeably described as 'normative diffusion' and see socialization as manifestation of internalized norm outcome (2001, 415-433). Jeffery T. Checkel adheres to the classical definition of 'socialization' as 'a process of inducting actors into the norms and rules of a given community' (2005a, 801-826). While the former definition gives agency to target states and the latter give more attention to socializing agents. Mathew Davies's definition captures the interactive dynamic of target actors and socializing agents, in his case regional organization and its members. He defines 'socialization' as 'the process of changing a third party towards different standards, a change which otherwise would not have occurred in the absence of that interaction'(2009)

rules of a given community' (Checkel, 2005a: 804). These definitions share an understanding of the main tenet of 'socialization' that state interests, preferences and behaviours are influenced by the social environment of the international society and their interaction 'shapes the foreign policy repertoire available to decision makers' (Alderson, 2001: 417).

Therefore, definitional emphasis rests on 'norms', 'social sites', 'social agents' and 'internalization' as outcomes of socialization. Empirical studies look at norms developed by international organizations and focus on international institutions, either in intergovernmental settings or regional settings such as the EU and ASEAN, as the sites of socialization. International and regional institutions are also considered as norm agents along with 'norm entrepreneurs' (Finnemore, 1996a) who teach states how to remain in line with international norms. With regard to the target of socialization, Kai Alderson recognizes that 'attitude change on the part of judges, business leaders, politicians, students and members of the public is part of what we mean when we say that a state 'internalizes' norms' (Alderson, 2001: 418).

Such studies focus their attention on state, state leaders, political elites, individual policy makers and state agents as target of socialization and whose internalization of norms they are interested (Ikenberry and Kupchan, 1990: 289-290, Checkel, 2005a: 804). Therefore, aspirations placed on the internalization of multiple actors (Alderson, 2001: 418) are not thoroughly examined in existing empirical studies.

2.3 Socialization: systemic perspective

Socialization studies have made significant contributions to norm research by providing conceptual maps linking the emergence of norms with state adoption and internalization. These studies identified norm entrepreneurs, who play an important role in the emergence of international norms, and their spread to state actors in the international system. The studies investigated the processes and mechanisms employed by norm entrepreneurs in socializing states with respect to international norms, especially human rights norms. Many other scholars have discussed socialization at regional institutions such as the EU and ASEAN in promotion of democracy and the rule of law among their member and candidate states (Kelley, 2004, Schimmelfennig et al., 2006, Davies, 2009). These studies have identified a variety of social mechanisms at work during the process of socialization.

Renowned scholars provide insightful models to explain state socialization processes. Martha Finnemore and Kathryn Sikkink's *three-stage life cycle of norms* is a pioneer theory which explains "norm-emergence", "norm-cascade" or broad acceptance of norm and "internalization". Each stage is characterized with different actors, motives and mechanisms. At the first stage of the norm life cycle, the role of norm entrepreneurs, and the platform they used to promote the norm are critical for the emergence of the norm (Finnemore and Sikkink, 1998). Various norms evolve at the initiative of different norm entrepreneurs; powerful state actors, elite, the epistemic community (Adler and Haas, 1992), bureaucratic society from international organizations (Finnemore, 1993,(Finnemore, 1996a, Finnemore, 1996b, Kelley, 2004) as well as transnational activist groups, NGOs (Sikkink and Smith, 2002), transnational and trans-governmental networks (Sikkink, 2011b: 253), multinational corporations (MNCs), domestic interest groups (Potential Beneficiary Groups-PBGs)²⁹ and material and ideational resources play important role in support of (or against) the norm (O'Faircheallaigh, 2014: 168-170).

When the norm gets to the stage of a norm-cascade when many states adopt new norms, it amounts to peer pressures on other states which are ultimately socialized into new norms as they are motivated by their concerns over legitimacy (legitimation effect), conformity to social pressure and esteem (self-esteem effects). The third stage of the norm life cycle, described as internationalization, explains how states move from norm subscription to norm compliance. At this stage, the main mechanisms of institutionalization play out, that is the integration of norms in state constitutions, the translation of norms into domestic laws and putting in place of domestic sanctioning mechanisms (Schimmelfennig, 2000: 119, Finnemore and Sikkink, 1998) which would require 'iterated behaviour and habit'. Such reasoning assumes that institutionalized norms would lead to new political processes and procedural changes, thus leading to gradual normative, ideational and political changes in conformity with the norms. Such an assumption is not always reflected in empirical cases.

In the 'norm life cycle', internalization narrowly considers the influence of target actors such as the law profession and bureaucratic actors in the institutionalization process

²⁹ Ciaran O'Faircheallaigh defines PBGs as 'those groups that stands to benefit directly from norm adoption' O' Faircheallaigh, 2014 p.161.

(Finnemore and Sikkink, 1998: 905). The model is also vague on the role of identified socializing agents in institutionalization stage although their roles are clear for the stages of norm emergence and norm cascade. Therefore, three issues rest with the concept of ‘internalization’ as the third stage of the norm life cycle: 1) its conceptualization as a stage rather than as a domestic process of acting on the norm does not reflect dominant thinking of ‘internationalization’ as a process; 2) the model’s narrow focus on the role of the law profession and bureaucrats as key players in institutionalization also contradicts many other scholarly findings on multiple domestic actors’ roles in norm processes;³⁰ 3) and the model’s assumption that the iterated behaviour of target actors, as required by institutionalized norms, would turn into habits in conformity with norms is unexamined. Such an assumption is often questioned. For instance, Johnston observed that ‘once actors are interacting inside institutions, the diffusion and homogenization of values in the “world polity” seems virtually automatic, even and predictable’ and thus the cross-state variations of socialization impact are left unexplained (Johnston, 2008: 16). Because of these issues, the model could not explain domestic norm processes where practice deviations persist after states’ adoption and legislation of norms.

Another renowned model of socialization is Margaret E. Keck and Kathryn Sikkink’s ‘boomerang pattern’ (Keck and Sikkink, 1998). The model identified ‘Transnational Advocacy Networks (TAN)’ as a network of multiple actors capable of changing norm practices in violating states. They conceptualize TAN not only as enactors of liberal norms but also as sites of cultural and political negotiations where TAN activities may transform the ways norms are articulated in target states. The model understands that TAN employs four strategies; ‘information politics’, ‘symbolic politics’, ‘leverage politics’ and ‘accountability politics’. TAN derive material and moral leverage from strategic uses of information about states’ norm commitment and compliance gaps (information politics), framing and amplifying such issues in symbolic events (symbolic politics), networking with international organizations and states with shared values and discourses (leverage politics) to putting on pressure and holding norm violating states accountable (accountability politics). As the actors in TAN try to seek every opportunity available to influence events and discourses in target states, the boomerang aims in every direction.

³⁰ Robert Keohane stressed that norms alter incentives not only of states as units but also the interests of groups, organizations, members of professional associations and individual policy makers within governments (1997, 487). Alexander Betts and Phil Orchard pointed out the role of multiple actors in norm implementation processes (2014).

This model explains the effectiveness of TAN as the functions of a target state's sensitivity to network pressure and vulnerability to material and reputational costs incurred from TAN pressure. TAN's strength, activities and interactive voices also are important for its effectiveness. And thus TAN as structure as well as agents make impacts on target states (Keck and Sikkink, 1998: 200-211). These scholars also discuss the issue areas where TAN's influence can be more pronounced starting with issues on which states have few incentives to cooperate, such as human rights and the rights of the marginalized. On such issues, TAN activities are more instrumental in changing states' cost-benefit calculus and states' understanding of national interests. There are also the issues which fit with 'existing ideas and ideologies in a particular setting' such as the issues of 'legal equal opportunity' and 'bodily harm to the vulnerable'. TAN's works were more successful in countries which internalized liberal values.

Although the 'boomerang pattern' can explain norm's (and socialization's) impact variation across states by referring to variables of target sensitivity to and vulnerability of material and reputational costs, it explains less well the TAN impact variation across issue areas within a state. Such limitation is caused by inadequate theorization of TAN's attributes as socializing actors. It is important to conceptualize the characteristics of socializing agents in different issue areas within particular states. In addition, the model with its four types of politics, information, symbolic leverage and accountability, gives the picture where TAN derives its influence from different sources, information from domestic sources, and symbolic power from international and regional forums. All politics of the boomerang pattern boil down to 'pressuring state (government)' as the main mechanism of norm diffusion. Such theorization misses those cases where several other social mechanisms such as social learning and persuasion are at work within domestic sites. Given these limitations, the 'boomerang pattern' is less helpful for this research in examining practice variation across two norm cases where a wider variety of social actions are observed, other than the social process of leverage to pro-norm constituents to pressure states.

The explanatory limits of the 'boomerang pattern' model are addressed by the most influential models of socialization developed by Thomas Risse and colleagues in their work on the 'Power of Human Rights' (PoHR) (Risse-Kappen et al., 1999). The 'Spiral Model of Human Rights Change' remains influential to the present day as its updates are presented in the form of the 'Persisting Power of Human Rights' (PPoHR) (Risse and Sikkink, 2013). These

scholars' original five-stage spiral illuminates the processes, mechanisms, causal logics and agency of norms which lead norm-violating states to norm conformity (Risse-Kappen et al., 1999). These scholars identified socializing agents, their tools and portrayed their interaction at four different levels: norm-proponents and government, proponent and transnational networks, international and transnational, and agencies within government. Quite similar to the four strategies identified in the 'boomerang pattern', the spiral model found that 'issue framing' and 'shaming' are important tools socializing agents employ against non-opponents. They argue that the spiral turn starts with norm proponents linking their interests with those of transnational networks and utilizing international pressure, leading the repressive government or norm-violating state to make tactical concessions.

However, as the regime is hooked or entrapped itself into the global discourse of human rights, it has to gradually turn itself into an actor guided by the international human rights norm. The spiral model highlights the significance of three different mechanisms at work in five stages of human rights changes in states. The spiral turn starts at norm-violating states' denial of the validity of human rights norms and their violation. Transnational pressures lead them to the second stage of tactical concession by engaging in human rights discourse. At this stage the states' move is driven by instrumental adaptation, leading them to the third stage requiring them to engage in international human rights discourses. At the third stage of the spiral, argumentation or reasoned arguments lead them to another stage where norm-violating states adopt human rights norms, getting prescriptive status. Once the states subscribe to human rights treaties, they have to follow the procedures of the treaty mechanisms such as reporting and self-evaluation. Performing these procedures under human rights regimes requires states to practice in conformity with norms and thus the spiral predicts that habitualization of pro-norm behaviours will lead to the final stage of rule-consistent behaviours.

Thomas Risse and colleagues recognize their original spiral's under-theorization of habitualization mechanism or the move from fourth to final stage of the spiral, commitment (prescriptive status) to compliance (rule-consistent behaviours). Several conceptual updates are introduced in their follow-up works on the **Persistent Power of Human Rights (PPoHR)**: from commitment to compliance. Most important updates in PPoHR include the introduction of 'capacity building' as one of the social mechanisms to their original list of mechanisms: namely 'coercion', 'incentives (sanctions and rewards)' and 'persuasions'. Another important update they provide is five scoping conditions under which effectiveness of identified mechanisms may

vary (Risse and Sikkink, 2013: 287-292). Two of the conditions, state capacity (consolidated and limited statehood) and rule implementation (centralized and decentralized decision making) relates to the capability of the state. The other three conditions, regime type, material and social vulnerability to pressures, relate to the willingness of the state to comply with human rights norms. With these additional insights, PPOHR tries to explain how socialization moves states from commitment to compliance. The earlier model's assumptions on identified mechanism's continued effects leading target states from the prescriptive stage to the final stage of compliance is examined in PPOHR (Risse and Sikkink, 2013: 11), which have described the variety of outcomes with scoping conditions of 'will' and 'capability'.

Xinyuan Dai, one of the contributors to the PPOHR, provides a conceptual pathway from state human right commitments (adoption or prescriptive status) to actual human rights practices. She characterizes the pathway with two channels: direct and indirect channels of influence from human rights institutions. Human rights institutions require states' self-evaluation and reports (direct channel) and empowering domestic constituencies to pressure the governments (indirect channel). Indirect channels of empowerment may take place in different ways: provision of political leverage, giving greater authority, legitimacy and visibility of domestic mobilizations, improving the information status of domestic pro-compliance constituencies, and provision of forums for mobilization. To realize the actual effects on state policy and practice through enabling pro-compliance domestic constituencies, Xinyuan Dai stresses two conditions: strength of domestic pro-compliance constituencies and domestic political institutions. She considers how the presence of domestic constituencies and their characteristics, their activities and the contexts under which they operate may condition the domestic effects of the human rights norms (Dai, 2014: 575). These domestic constituencies' ability to identify the commitment-compliance gap, their ability to use such gap to frame the issue and use such issues strategically in their interaction with governments, are important factors in norms making impact. Therefore, the strength of pro-compliance domestic agents in norm contestation is important for human rights institutions ability to affect states' policy and practice. Xinyuan Dai states, 'Treaties are instruments. They are consequential only if those who can benefit from them use them effectively' (Dai, 2014: 577). Her theorizations of domestic actors align with several other scholars' views, such as Beth A. Simmons's emphasis on the important role of domestic actors for creating real changes in domestic conditions (Simmons, 2009: 126).

Another scoping aspect that Xiyuan Dai discusses is domestic political institutions. For international norms to generate impact, governments need to be ‘somewhat accountable to, and thus able to be influenced by, domestic constituents’ (Dai, 2014: 574). She reminds us that domestic political institutions alone do not account for a norm’s domestic impact, but it is ‘political institutions jointly with domestic constituencies’ which can make a difference to domestic human rights practice. Domestic constituencies in repressive states have greater incentive to make use of the leverage given by human rights institutions. However, she warns that the norms’ actual impact on states is neither uniform across states nor unidirectional within a country (Dai, 2014: 589).

Many aspects of Xinyuan Dai’s analysis on domestic impacts of international institutions shed light on the importance of domestic players’ role in norm compliance. Some aspects in her analysis also lead to further important questions. Three aspects in her discussions open up a series of questions. First, she considers that international human rights institutions have indirect and conditional effect on states, as they empower domestic norm agents, and direct and unconditional effects on states as they oversee states’ self-evaluation and reports of human rights policies and practices (Dai, 2014: 572-575). As she recognizes the mutually empowering roles of human rights institutions and domestic constituencies (Risse and Sikink, 2013: 97-101), she implicitly indicates the complementary nature of direct and indirect processes of norm enforcement by international institutions. As such, in this explanation, international institutions as external agents of norms and domestic constituencies as domestic agents of norms work hand in hand affecting states’ human rights policy and practices. Though useful for human rights issues, such a theory may find it difficult to take account of the cases where there are divisions in a domestic constituency and which are more complex than the theory’s assumption of pro-norm domestic constituencies versus a state. For instance, the FOA norm relates to what are often deeply divided domestic constituencies, employers against workers. These groups ordinarily contest the idea of FOA. To explicate such cases, questions need to be asked about how socialization engages in turning norm-favoured policies to practices in states.

The second aspect of Xiyuan Dai’s analysis that opens questions is her presentation of domestic political institutions as a scoping condition for the indirect impact of international institutions. Her implicit consideration is that the greater accountability domestic political institutions hold, the better effects domestic constituencies can generate with the leverage of

international human rights institutions. On the other hand, Kathryn Sikkink demonstrates the case of the United State on the practice of torture and claims that democracy is an insufficient condition for compliance with international norms. She states that transition from an authoritarian to a democratic government is often necessary but is not a sufficient condition for sustained behavioural change (Sikkink, 2013: 160, Risse and Sikkink, 2013). Yet other scholars find a 'transitioning context' is one of the conducive factors for socialization. Beth A. Simmons found that international human right law works best in transitional democracies where domestic stakeholders have both the motive and means to mobilize (Simmons, 2009: 34-35, 108-110, Simmons, 2013: 45). Considering such inconclusive findings on domestic political institutions and their impact on compliance outcomes, it is worth examining the extent to which structural context affects socializing actors, their strategies and impacts.

The third aspect of Xiyuan Dai's discussions on international institutions' differing levels of strength guides this study to think about this aspect and its impact on practices. In her contribution to the PPOHRs, she argues that beneficiaries of compliance relate to states' interests in investing resources and in delegating authority to international institutions. She states that at the stronger ends of the spectrum are security institutions where states have stronger incentives to enforce compliance individually or delegate resources to an international regime for collective enforcement. International human rights institutions lie in the weaker ends of the spectrum as the targets of regulations are governments and the beneficiaries of compliance are domestic actors. And thus, states have less incentive to delegate adequate authority and sufficient resources to human rights institutions (Risse and Sikkink, 2013: 95). Such observations illuminate that different issue areas or contents of norms can have impacts on norm custodians or international institutions in socializing member states and mediate their impact on domestic compliance. Better light can be thrown on the relations between norm contents, institutional strength and domestic impacts by examining the issue-impact nexus. The impact of rights-generating institutions such as international labour organizations can be different from a responsibility-generating institution such as United Nations Global Compact.

The major assumption of the scholars in the first strand of socialization studies is that international norms offer 'stable and agreed meaning to the rule' (Howse and Teitel, 2010: 127). Such an assumption is challenged by critical constructivists in recent studies on contestation. Studies on contestation take account of factors influencing varied interpretations of norms at the international level. Some scholars argue that 'misuses of norms can advance

norms through contestation and conceptual clarification. Because contestation prompts debates, denial, and tactical concessions on the norm in question' (Badescu and Weiss, 2010: 354). Scholars who sees the dynamic nature of international norms argue that contestation around norms may emerge from overlap with other norms as well as from different interpretation of those norms (Krook and True, 2012: 2). They argue that disagreement on the norm and its application are normal, stating that 'the inevitable gap between general rules and specific actions ceaselessly casts up disputes, which in turn generate arguments, which then reshape both rules and conduct' (Stiles and Sandholtz, 2009: 3). Antje Wiener, who has introduced the theory of contestation, argues that the process of negotiation of norms at international level is challenging as each individual brings along their own 'normative baggage' (Wiener, 2008: 57). She argues that even though negotiations in international settings agree on international norms, reinterpretation and contestation will occur in every new context. These studies have yet to explain how such disagreement on international norms play out in domestic sites.

To sum up, the first strand of socialization studies has generated significant knowledge on norms, social actors, social sites and social mechanisms which influence state policy behaviour. However, they have left unexplained the impact of norms and social mechanisms on the societal practices of target states.

2.4 Socialization: domestic perspectives within target states

The second strand of socialization studies analyzes the domestic dimensions of target states (domestic perspectives of socialization). These studies highlight the roles of local actors and influence of domestic cultural and political structural factors on socialization processes and outcomes (Acharya, 2004: 188, Checkel, 1999b: 97, Cortell and Davis Jr, 1996, Risse-Kappen, 1994). Scholars in this strand study domestic processes of norms within states. Some scholars focus on domestic structures and factors as scoping conditions for their studies.

2.4.1 Socialization as domestic processes

The first group of studies includes 'localization' (Acharya, 2004) and 'vernacularization' (Merry, 2006, Levitt and Merry, 2009). Amitav Acharya (Acharya, 2004) brings attention to the importance of the norm recipients' side of compliance stories. He conceptualizes the roles of local actors, local culture and the processes of receiving international norms. His empirical

study of ASEAN in internalizing two transnational norms, common security and constructive intervention, reveals the process by which the two norms are internalized into regional organization. He conceptualizes domestic process or 'localization' in the norm recipient's community as 'congruence building'. Through the process of congruence building, contents of the two norms are reshaped to fit to the ASEAN Member States' cognitive priors, members' identity and their prior local norms. The two norms are adapted into ASEAN as 'cooperative security' and 'constructive engagement'. In his theory of norm localization, he stresses individual-level socialization of the norms (Acharya, 2009, Acharya, 2011) and the importance of local cultures, local identities, local needs and capacities in the norm diffusion process which influences domestic actors in interpreting the norms and adapting them to find a fit with local norms. An important and distinctive insight he does disclose is the fact that domestic actors are strategic players and adaptation is driven by their needs for domestic legitimacy (Acharya, 2004: 247-248). He considers how successful localization does not extinguish local beliefs and practices which are rather amplified and universalized (Acharya, 2009: 5).

Acharya reminds us that norm diffusion is a two-way process involving diverse processes of domestic and international dimensions. Despite such recognition of the global-local process, the local bias of his explanation is reflected in the factors he proposes for successful localization: 1) the capacity of external norms to strengthen the legitimacy and authority of local actors, 2) the existence of strong local orders, 3) the presence of powerful local actors to safeguard existing order, and 4) a strong sense of identity underlying the local order (Acharya, 2004: 248-250). Such local bias in explaining localization leaves the impression that localization is the product of local actors alone. However, his reminder about the two-way processes of norm localization indicates the need to examine and explain such processes, so that 'social interaction', the main theme of socialization, can be fully accounted for.

In sum, the theory of 'localization' in explaining norm practices sheds light on important aspects of domestic norm processes, ideational structures and local actors. However, it falls short of representing a more comprehensive domestic chapter of norm socialization as it lacks the accounts of external actors in the domestic ground and the relevant legal/institutional structures, which are important aspects in norm socialization.

Sally Merry and colleagues offer a similar line of explanations relying on local actors' role in local engagement with global norms. Taking an anthropological approach, their analysis of women's rights in China, India, Peru and the United States points to the significance of local

intermediaries, community leaders, NGOs and norm advocates in ‘translating ideas from the global arena down and from local arenas’. The main insight these scholars bring to norm research is that global norms can find a fit with diverse social settings on condition that those norms are translated into the terms familiar and acceptable to local society through intermediaries and mechanisms which can facilitate the process (Merry, 2006: 38, 44, 48, 49, Levitt and Merry, 2009: 453-457). These local intermediaries are the ‘people who understand both the worlds of transnational human rights and local cultural practices and who can look both ways’, who play an important role in the process of ‘vernacularization’, i.e. the process by which international ideas and norms are localized or adapted to local contexts. Vernacularization involves the framing of global norms to be resonant with local contexts and local ideas about justice without compromising their essence and their potential to transform existing social relations and circumstances that are unequal and/or unjust (Levitt and Merry, 2009: 446-447). Another important insight from these scholars relates to the characteristic of channel of communications from global norm to local practice. They found that the processes of vernacularization are closely connected to the interests of states and funders as well as those of local communities. As the process of vernacularization is underpinned by power and funding, the structure of communication channels and the permeability of the boundaries of the process influence the dissemination and appropriation of norms (Levitt and Merry, 2009: 453).

According to these scholars, the outcomes of vernacularization would range from ‘replication’, where the content of global norms remains intact, to ‘hybridization’, where contents of global norms are merged with local norms. In between these two points, norms may be totally rejected or the local may make reference to norms in which the contents are dramatically changed. Varied outcomes are the function of intermediaries’ positions, loyalties and commitments and their knowledge of both sides. When translators are more committed to the targets, hybrid outcomes are more likely, where they are closer to the source, replication is more likely. Sally Merry recognizes the duality of culture, which can both inhibit and facilitate international norms. She takes culture as both ‘porous’ and ‘hybrid’; local culture (the most embedded ideational structure in society) can be a barrier to human rights mobilization in some context, but it can also play a central role for change (Merry, 2006: 9).

Similar to ‘localization’ scholars, scholars of ‘vernacularization’ say little about the relations between external norms agents, intermediaries and target socializees. Given their

anthropological approach, global-local actors' dynamic was not captured in their theory. Their emphasis on local intermediaries overlooks several instances of norm promotion where external socializing actors themselves are active in engaging their targets rather than relying only on local intermediaries to do the work of socialization. For instance, studies of 'norm translation' demonstrate the important role played by external rule of law promoters in domestic norm translation processes (Zimmermann, 2017: 198-200) and the leading role of transnational non-state actors in translation of norms in different local contexts (Brake and Katzenstein, 2013: 750). Therefore, domestic norm practices cannot be fully explained only relying on domestic actors alone. Domestic structural factors and external norm agents' role need to be examined and included in any analysis aiming to provide a holistic account of domestic practices of international norms.

2.4.2 Domestic factors as scoping conditions in explaining impact variation

Variation in socialization outcomes across target units (states) has been a common phenomenon. Scholars have recognized that general forces behind state demands for new norms can be as diverse as systemic factors of crisis and depressions, interest shown by powerful states, or domestic political changes, and international and regional demonstration effects (Acharya, 2014: 188: 188). It is pertinent to norm studies to get a better understanding of the factors affecting what can be called the demand side of norms.

State receptivity to international norms varies from rejection, adaptation, reinterpretation and appropriation, all the way through to full adoption. Various scholars term such varied outcomes in different ways: 'incomplete internalization' (Goodman and Jinks, 2008), 'partial compliance' (Noutcheva, 2009) and 'decoupling' (Jetschke and Rüländ, 2009). In taking account of such variation and to make sense of respective socializing mechanisms on the domestic grounds, studies examine four broad domestic structural factors in target units (states). These are: 1) socio-cultural factors such as the openness of society to the international community; 2) political factors; 3) institutional and bureaucratic capacity; and 4) individual (policy makers, veto players) characteristics. Their consideration of each factor is discussed as follows.

Socio-cultural influences on socialization

Empirical studies show that the impact of norms depends on the social and cultural characteristics of recipient states, groups and individuals in the society (Klotz, 1995: 451-478). Scholars argue that deeply rooted domestic norms and discourses limit norms' impact (Sikkink, 1991). Systemic norms can be more rapidly socialized to local practices when a cultural match exists between a systemic norm and a target country, in other words, where the norms resonate with historically constructed domestic norms manifested in domestic discourse, legal system and bureaucratic practices (Checkel, 1999a:87, 91-87, 91, Heinze, 2011: 20, Checkel, 2001: 580, Risse and Sikkink, 1999b: 271). States promote international norms that reinforce domestic principles or standards of legitimacy (Ikenberry, 1998: 162-164). In contrast, the embeddedness of prior norms in a state's political culture (Johnston, 2001:498-499, Risse-Kappen, 1994:187, Checkel, 2001:581) may limit internalization of international norms. Other scholars have argued that although two countries may face the same international norms, their propensity to follow the norms may be different depending on their varying national experiences (Goertz and Diehl, 1992:653). Norm recipient states' socio-cultural ties with international society and societal openness also shape domestic implementation of international norms (Goodman and Jinks, 2008:736, Gilpin, 1988: 146).

For compliance with international norms, scholars have argued that domestic salience is crucial. The concept of domestic salience is defined as the varying degree of strength of international norms (or prescriptions for actions in situations of choice within the domestic political context) or the degree of norm resonance with domestic debate. Salient norms entail the feelings of obligation by social actors and, when violated, engender regret or a feeling that the deviation or violation requires justification. Andrew P. Cortell and James W. Davis Jr. have identified how international norms gained domestic salience through four pathways: 'national political rhetoric', 'the material interests of domestic actors', 'domestic political institutions', and 'socializing forces'. And salient norms are reflected in domestic discourse, institutions and policies (Cortell and Davis Jr, 2000: 68-80).

Domestic political structural influences on socialization

Domestic political structures are considered as the reflection of varying types of state-society relations. Depending on this type of 'state-societal relations', the ability of transnational actors varies in promoting norms, principled ideas and in influencing state policy (Risse-

Kappen, 1994: 7, Risse-Kappen, 1995). And thus, the effects of international norms are found to be conditioned by domestic structures and the norms (Checkel, 1999a). Jeffrey T. Checkel argued that ‘the mechanisms of norm diffusion vary as a function of domestic structure’. He identified four categories of such structures: liberal, corporatist, statist, and state-above-society³¹ (Checkel, 1997: 477-479, Checkel, 1999a: 88). Pressure may not be as effective in liberal states as in statist and ‘state above societies’ where social vulnerability is higher than in liberal states. Along the same line, Thomas Risse and colleagues have considered four scope conditions: regime type, degrees of statehood, centralization of rule implementation, and material and social vulnerability (Risse and Sikkink, 2013: 286), which shape the ‘will’ and ‘capacity’ of ‘rule targets’. Impacts of socialization will vary depending on liberal regime vs. autocratic, limited statehood vs. consolidated statehood, centralized decision making vs. decentralized decision making, and between those vulnerable vs. less vulnerable to social and material pressures.

Scholars have similarly identified the channel of domestic mobilization through which domestic actors and domestic constituencies derive leverage from international norms and transnational networks to pressure decision makers for compliance with international norms (Klotz, 1995, Cortell and Davis Jr, 1996: 451, Koh et al., 1997, Keck and Sikkink, 1998, Gurowitz, 1999, Simmons, 2009, Dancy and Sikkink, 2011: 77-78, Dai, 2005: 569, Risse and Sikkink, 2013: 27, 98). Krasner argued that domestic structures of states not only influence the venue for transnational networks to operate within states, they determine the nature of transnational networks (Krasner, 1995). These discussions consider domestic structures as given and their impact on ‘socializing actors’ as unidirectional. Such discussions overlook the instances where domestic structures are emerging and taking shape in response to social actors’ agency, as in the case of transitioning states.

Influence of domestic institutions and administrative capacity on norm socialization

The organizational culture of domestic institutions and their capacity are increasingly considered as important mediating factors for norms and for understanding the domestic impacts of socialization (Tallberg, 2002: 609-643, Milio, 2014: 164-166). Jeffrey W. Legro demonstrated that the organizational culture of state institutions or ‘the way the pattern of

³¹Checkel codes the state where there is lack of reforms and social actors are passive as ‘State above society’ (Ukraine), where the state is less centralized and autonomous but state apparatus remains weak and chaotically organized intermediate associations such as political parties and trade unions as ‘statist’ (Russia) and coded Germany as ‘corporatist’.

assumptions, ideas, and beliefs that prescribes how a group should adapt to its external environment and manage its internal affairs' mediates international norms and state policy preferences (Legro, 1997: 35-36). The domestic institutional structures of states mediate norm impacts as they determine normative and transnational access to the political system and the capacity of those actors to link up with domestic pro-norm constituents (Risse-Kappen, 1995).

Institutionalists propose the managerial thesis, which considers a state's non-compliance as isolated administrative breakdowns rather than as a deliberate defiance of the norm (Chayes and Chayes, 1991: 303, Downs et al., 1996). For them, it is important to address three causes of non-compliance: ambiguity and indeterminacy of treaties, capacity limitations of states, and uncontrollable social or economic changes (Chayes and Chayes, 1993: 118). In specific terms, George W. Downs and colleagues identified three causes of non-compliance: 1) The ambiguity and indeterminacy of treaties, 2) the capacity limitations of states and 3) uncontrollable social or economic changes (Downs et al., 1996: 381-382). Sociological institutionalists also maintain that national preconditions such as wealth and 'capacity to function' (Zwingel, 2012, Jakobi, 2012) are as important, as external factors, as international networks in making impacts. Capacity building is considered as part of socializing mechanisms or mode of social actions available to norm socializing agents (Risse and Sikkink, 2013: 278-286). Capacity building as a mode of social action is less clearly understood in the literature as it is mainly assumed to be activities to strengthen institutions and law enforcement by states and non-state actors alike. In the PPOHRs, Thomas Risse and colleagues understand capacity building as a 'highly institutionalized process of social interaction aiming toward education, training and the building up of administrative capacities to implement and enforce human rights laws' (Risse and Sikkink, 2013: 15, 285-286). Other scholars also argued that 'the activities engaged by the promoters are not necessarily different in kind' (Zimmermann, 2017: 60). Such observations on capacity building as social mechanism overlook a variety of ways capacity building activities can be observed and the varying degree of impact on different practice outcomes. For instance, this thesis on FOA and RBC norms in Myanmar found that the two norms generate different norm agents with varying strategies and activities, producing varied norm practice outcomes. Thus it is necessary to deepen our understanding on norm agents' strategies in engaging capacity building activities within states.

Some scholars also consider the role of institutions and enforcement/implementation mechanisms such as the domestic judiciary in norm-making domestic effects (Moore and

Welch, 2015). Legal scholar Dinah Shelton argues that authoritative interpretation by such institutions and mechanisms can ‘harden the norm through judicial or quasi-judicial rulings’ and thus may foster compliance (Shelton, 2003: 15). Similar argument also comes from Emily Hafner Burton in her award-winning work on ‘Making human rights a reality’ where she finds that the triage of international human rights system, domestic institutions, and effective and accountable legal systems and cultural reforms will make a difference for implementation of human rights norms (Hafner-Burton, 2013).

Influence of individuals on norm socialization

In general, scholars consider that socialization and norm impacts can be influenced by individual actors within domestic sites. They have pointed out that role of leaders, political elites and decision makers are as important as domestic constituencies. Receptivity of policy makers (Kelley, 2004, Davies, 2009: 259). Presence and ability of political actors in domestic constituency to take up the international norms in a serious way and pushing them in the national political process are also important factors (Dai, 2005, Simmons, 2009, Risse and Sikkink, 2013: 27)

Moreover, agent-related factors influence state receptivity to international norms. A state’s receptivity to international norms is considered one of the determining factors in socializing studies (Checkel, 2005a). Matthew Davies expanded on this by highlighting how the varying degree of receptivity among different actors within a state shapes the socialization outcomes (Davies, 2014:36). Scholars identified several factors affecting states’ receptivity of international norms, such as: inter-subjective understanding of good/bad behaviour and shared interpretation of the meaning of behaviour (Johnston, 2001:494); the presence or absence of cognitive prior, noviceness or inexperience of domestic agents and their repeated exposition or lack of exposition with which to counter information (Checkel, 2001:581, Johnston, 2001); the opportunities for localization given by norm diffusers (Acharya, 2004:241); domestic agents’ credibility and prestige (Acharya, 2014:189); and domestic agents’ ability to buy into the message of norm diffusers (Alldén, 2009).

In summary, the literature considering domestic factors and actors is comprehensive and rich. This has been reflected in Thomas Risse’s definition of the term ‘domestic structure’ as ‘the organizational apparatus of political and societal institutions, their routines, the decision-making rules and procedures as incorporated in law and custom, as well as the values and

norms prescribing appropriate behavior embedded in the political culture’ and the term ‘political culture’ as ‘those worldviews and principled ideas—values and norms—that are stable over long periods of time and are taken for granted by the vast majority of the population’ (Risse-Kappen, 1994: 212-213). As any single state’s context would be different from other states in terms of domestic structures and factors, these rich discussions highlight the importance and relevance of context-specific understanding of norm practices in states, which is precisely what this research is trying to do.

2.5 Socialization: global-local interactive perspectives

The third strand of the socialization literature provides an interactive dynamic of global and local actors involved in the socialization process while revealing the dynamic nature of international norms (Global-local perspectives of socialization) (Wiener, 2004, Wiener, 2008, Wiener, 2007, Wiener, 2014, Zimmermann, 2017, Orchard and Betts, 2014).

Socialization studies have recognized that such global interaction can be traced back to the late 1990s when Martha Finnemore explained how international organizations teach values engendering norm-consistent domestic institutions and procedures in target states. She provided the empirics of state adherence to the norms and practices promoted by UNESCO, the Red Cross and the World Bank, even in the absence of material interests (Finnemore, 1996b, Finnemore, 1996a). However, her explanation suggested a unidirectional flow of social actions from agents of IOs delivering to domestic norm recipients. And thus, her account can be considered ‘inter’ as it involves global-local encounters, but the portion of ‘active’ is missing as her research failed to include the reactions from the sides of domestic actors, which can be diverse with pro-norm and anti-norm elements. Alastair Iain Johnston also pointed out such oversights (Johnston, 2008: 17).

Legal scholar Harold Hongju Koh discusses transnational legal processes as ‘the best strategies for internationalization’ of norms. He distinguishes three dimensions of internalization: social, political and legal internationalization as the outcome of transnational legal processes. He recognizes the complexity of interaction among the three dimensions. For him, ‘social internalization’ occurs when the norm acquires strong public legitimacy and widespread public obedience. ‘Political internalization’ occurs when political elites adopt the norms in government policies and legal internalization occurs when norms are incorporated in domestic legal systems through executive, legislative and judiciary processes (Koh, 1997: 2656-

2657). But his studies discuss less how political and legal internalization leads to social internalization.

Lisbeth Zimmermann's studies of norm translation, in post-conflict contexts in Guatemala, also reveals the interactions of the global rule of law promotion and domestic norm translation, theorizing the outcomes of global-local joint translations of international norms. She provides categories of norm translation in norm target states: 'translation into discourse', 'translation into law' and 'translation into implementation'. She considers three scenarios in the process of translation into implementation. All three scenarios focus on government actions; i.e., complete rejection of the norm set with no effort to put it into practice, reshaping of norm sets involving the government or responsible agencies partially implementing, and full adoption involving intensive activity by the government and responsible agencies (Zimmermann, 2017: 59). Such narrow focus on government action will explain government policy changes relating to international norms but their study is not adequate to explain norm practice variation across issue areas.

Alexander Betts and Phil Orchard introduced a distinctive theory of 'implementation', bringing to light gaps between well-institutionalized norms at international level and domestic practices that deviate from norms' prescriptions. Given the existence of such institutionalization-implementation gaps, they argue for analytical distinction between institutionalization and implementation. These scholars define 'implementation' as 'the steps necessary to introduce the new international norm's precepts into formal legal and policy mechanisms within the state or organization in order to routinize compliance' (Orchard and Betts, 2014: 2, Orchard, 2014: 105). 'Implementation' is conceptualized as 'a distinct but parallel process of institutionalization'.

Despite its definitional focus on 'state and organization's legal and policy mechanisms', their empirical studies look into norm practices within the state and organizations and their works capture the interactive dynamic of global and local actors in norm implementation. They use the term 'international in domestic' in examining the role of external norm agents in domestic ground. These scholars identify important factors influencing norm implementation in a comprehensive manner. They consider the influences of domestic structures, external and domestic agencies of norms, typology of norms and contingencies over norm practices. Their analytical disaggregation of domestic structures into ideational (legal and cultural influences), material (actors' interests and capacity) and institutional is useful for my research in observing

the respective actors' activities (and lack of activities). Implementation studies overcome the limitation of earlier norm studies' state-centric analysis as implementation theory recognizes the significance of non-state actors (Orchard and Betts, 2014: 274). Whether the norms face contestation, adaption or adoption may be shaped domestic ideational, material and institutional structures (Betts and Orchard, 2014: 12-24, 278-282).

Analyzing state's norm implementation through the lens of domestic structures is in line with many scholars' concepts on the importance of domestic cultural and structural factors; cultural match and receptivity of norm recipients (Acharya, 2004, Checkel, 2001, Checkel, 2005b). Frank Schimmelfennig considers the states' habitualization of norm-conforming behaviour as 'the outcome of a stable and structurally determined equilibrium in which actors simply have no incentive to deviate from the institutionalized norm' (Schimmelfennig, 2000:119).

Notwithstanding the rich empirical insights and useful conceptual lens these scholars offer, implementation studies have three issues. First, their empirical findings on the role of external actors in implementation processes are far from being conclusive as they do not reveal much of external actors' interaction with domestic actors. Second, their empirical studies on the relations between norm typologies (treaty, principles and policy norms) do not provide a clear conclusion. Third, implementation theory under-theorizes the relationship between the influence of structures and agency. Given these three shortcomings, implementation theory finds it difficult to explain instances of norm practice variation across issue areas in a given context.

Empirical studies contributing to the work on implementation theory tend to agree on the role of domestic actors (local agents) in norm implementation processes. For instance, Alexander Betts demonstrates, through studies of South Africa's and Botswana's implementation of refugee norms, that domestic political contestations explain the variation between the two countries' policies and responses to the refugee crisis. Likewise, Urvashi Aneja's study on the implementation of need-based humanitarian assistance in Sri Lanka recognizes the important roles of domestic actors and their interests.

With regard to the role of external actors, these scholars' empirical works findings vary. In the studies of refugee norms in South Africa and Botswana, Alexander Betts found that United Nations High Commissioner for Refugee (UNHCR) followed the host state's position

rather than making independent causal impact in the implementation of refugee norms. Similarly, Urvashi Aneja examines the implementation of the norm governed by the Geneva Convention for need-based humanitarian assistance in conflict situations in Sri Lanka and found that some international humanitarian NGOs' translation of need-based norm into the rights-based approach was counterproductive to implementation (Orchard and Betts, 2014: 22-23).

Contrary to these findings on the less encouraging role of international actors in norm implementation in states, Phil Orchard's studies on implementation of the Internally Displaced Persons (IDPs) norm in Uganda and Nepal found that 'at concerted international pressure' through capturing 'the state's positive rhetorical stance' help the implementation process in Uganda (Orchard and Betts, 2014: 23). Similar conclusions on the role of external actors are reached by Michael Bluman Schroeder and Alana Tiemessen, Brian L. Job and Anastasia Shesterinina and Jennifer M. Welsh. Michael Schroeder and Alana Tiemessen suggests that in many instances implementation is realized through 'international actions' of international pressures and incentives (Orchard and Betts, 2014: 272). These scholars' empirical findings suggest a familiar channel of external actors' influence on states, pressure (in the cases of Phil Orchard's studies), and also persuasion and capacity support to local agents (in the cases of Michael Schroeder and Alana Tiemessen).

Given such variation in the findings on external actors' role in norm implementation, it is important to deepen norm research's understanding on external actors' role in implementation of international norms in the domestic arena. In other words, the study of socialization in domestic sites of states needs to be broadened empirically and deepened conceptually.

Another aspect Alexander Betts and Phil Orchard's task for the benefit of students of norms is to study the relations between norm contents and implementation outcomes. As their studies to find the linkage between types of norms (treaty, principles and policy) and their impact on implementation produce less clear guidance, study of norm contents and impact nexus is warranted. Considering these spaces left by 'norm implementation' studies for future

studies, this research employs their conceptual framework to learn how socialization animates in domestic sites, or in other words how norms are put into practice at national level.³²

In summary, the global-local interactive strand of socialization studies provides better conceptual insights on the ways norms can be implemented, adapted or contested in domestic sites. As this research is interested in the socialization process in states from state policies of norms to societal practices, it embeds itself in ‘norm implementation’ studies and extends this line of studies by deepening empirical insights and conceptual extensions.

2.6 Conclusions

The chapter discussed the literature on norm socialization by presenting the definitions of socialization, and the insights provided by three strands of socialization studies across the disciplines of international relations and international law. The literature indicates that state responses to international norms are a ‘multifactor interactive process’ (Risse et al., 2013: 294) and thus the understanding of norm practices has to go beyond ‘purely state-centric terms’ (Orchard and Betts, 2014: 274-275). Such findings form the basis for my thesis to deepen the empirical scrutiny on socialization at domestic sites and to develop a theoretical lens which can capture the multifactor dynamic involved in the process of norm socialization from states’ policies to societal practices.

The chapter also identified important gaps in the norm socialization literature. When examining the impact of socialization, existing norm studies end their empirical scrutiny at the government policies and institutions of norm-recipient states. Norm socialization at domestic sites of states is largely assumed and the path from state policy to societal practices of norm is less examined and under-conceptualized. In the presence of such a research gap, norm

³²The concept of ‘domestic structure’ goes in line with several earlier concepts which highlight domestic cultural and structural factors; ‘cultural match’ and ‘receptivity of norm recipients’ on socialization of norm for institutionalization (Checkel, 2005), emphasis on the varying degrees of receptivity among different actors within a state and their impact on socialization outcomes (Davies, 2014), stable and legitimate social, political and judicial institutions, domestic political structures and state-society relations in norm internalization (Koh, 1998), (Schimmelfinnig, 2000), (Checkel, 2001), (Powell and Staton, 2009), (Checkel, 1999b), Katzenstein, Keohane and Krasner, 1998), (Cortell and Davis 2000), (Alkoby 2008), (Risse et al. 1999).

socialization literature is incomplete and its explanations of norms' impact on state practices are inadequate.

This chapter argued that the presence of the research gap in socialization literature is a result of the tradition of state-centric empirical studies, and the human-rights norms bias of norm research. A major implication of the observed research gap is its limitations in accounting for the cases of norms for which states' policies, laws and institutions are not easily turned into societal practices. In addition, the domestic factors of any individual state are unique, so context-specific understanding of norm recipient states is important in the analysis of their practices of international norms.

In order to address the research gap identified in this chapter, this research proposes a conceptual map from states' norm-related policies to societal norm practices linked by socialization. The following chapter discusses that conceptual map that explains norm socialization at the domestic social sites, taking into account multiple actors and domestic factors.

Chapter Three: Conceptualizing Norm Socialization within States

3.1 Introduction

*It is ... through the world of the imagination which takes us beyond the restrictions
of provable fact, that we touch the hem of truth.*

Madeleine L'Engle, 1984

Considering the gaps in the socialization literature as identified in the preceding chapter, the current chapter argues that socialization studies can benefit by stretching their analytical endpoint from observing norms and socialization's influence on states' policies and institutions to analyzing the impact of norms and socialization on societal practices in target states. This argument is discussed along with a proposed analytical framework to take account of norm socialization within target states. The main objective of this chapter is to explain the conceptual framework of this research by mapping and capturing the complexity involved in diverse norm socialization outcomes within norm target states. Discussions in this chapter serve three purposes: 1) to justify and test the theoretical lens employed in the research, 2) to advance the research's main arguments and a conceptual model, and 3) to discuss the model's value additions to norm socialization literature.

The conceptual model aims to answer the main research question of 'how does socialization animate within a state in transition' by paying simultaneous attention to actors/agents, domestic structural factors and interaction among them. The proposed model aims to give three perspectives of norm socialization within a state: 1) the dynamic of actors/agents involved in domestic norm practices, 2) the drivers behind such dynamics, and 3) the impacts of such dynamics. After going through the exploratory examination of a number of international norms in transitional context and drawing on the insights from other studies, this model demonstrates that domestic norm practices and variations across issue areas can be explained by analyzing the nature and strength of the interactive dynamic among multiple actors and their activities inside norm target states. This research terms such dynamic as 'agential dynamics', which can be thought of in four possible scenarios: 1) strong-synergetic, 2)

weak-synergetic, 3) strong-conflictual, and 4) weak-conflictual. The agential dynamic under each scenario is influenced by domestic structural factors, norms' contents and external actors' interests and investments. Norm practice outcomes are expected to vary along with each scenario. To advance the research's arguments and theoretical models, key terms and analytical steps taken are discussed in the following sections.

3.2 Key terms

Defining and clarifying key terms employed in the research and explanation of analytical steps are fundamental to the conceptual proposal for a study. Therefore, this section defines and clarifies key terms employed in the theoretical model. As this research explains the norm practice outcomes of two selected international norms, norm practice outcomes can be considered as the explained variable. The main explanatory variables include key stakeholders (actors or agents) involved in the practice of respective norms, domestic structural factors (ideational, material and institutional), and the contents of respective norms.

Agents and agency

In employing the term agents, this research follows sociologist Anthony Giddens' conceptualization of agents and agency. According to him, agents possess the attributes of 'reflexive monitoring of actions', 'rationalization of actions' and 'motivation of actions'. Agency 'refers not to the intentions people have in doing things but to their capability of doing those things in the first place which is why agency implies power. ... [w]hat ever happened would not have happened if that individual had not intervened' (Giddens, 1984: 9). For the purpose of this research in examining domestic practices of FOA and RBC norms in Myanmar, varied roles of multiple actors are anticipated. Key agents identified for the study of FOA and RBC norms socialization in Myanmar include government agencies, societal actors (firms and businesses, trade unions, NGOs, CBOs) and international actors (individual states, development actors, international organizations, international business associations, and consultancy firms). Thomas Risse and colleagues argued that 'until more work can be done to disaggregate the nature of the political actors with important influence over human rights outcomes, we will be missing a significant part of the dynamics that explain or impede the move from accepting principles to changing actual rights practices' (Risse and Sikkink, 2013: 59). Guided by the points made by these scholars, this research seeks to identify and make

analytical distinctions on the differing agential roles of multiple actors within a state in implementation of international norms.

The research categorizes the state as enabling/inhibiting agents of FOA and RBC, businesses as executing/evading agents of both norms, and workers as executing/evading agents for FOA norms, interest groups and civil society as monitoring agents, and international actors including intergovernmental organizations (IOs), INGOs, and development actors as facilitating/impeding agents of the two norms. In considering the state's role, this research recognizes that fact that state (or government) is far from being monolithic entity and rather is an embodiment of multiple agencies, law enforcement agencies, polices and judges whose varied agency can be diverse and conflict of interests can exist among these agents. Actions or inactions of the identified agents can go in the directions of fulfilling a norm's moral and functional purpose, advancing the normative purpose, or often a deviation from such purpose. Such analytical disaggregation of norm agents in target states helps to overcome the norm literature's struggle over analyzing multiple actors in norm target states. This research's analytical disaggregation of target state actors help reveal mechanisms of norm socialization within target actors in greater clarity than prevailing studies can provide. Such analytical distinction of agents allows this research to engage in a new method in examining the conceptions and actions of multiple agents within a state in a clearer way. Therefore, analytical distinctions of norm agents and methodology innovation taken by this study better explain the practices of norms (norm compliance as an act or implementation as processes) at the intersections of norms' effects, dynamics of actors and domestic structures, thereby adding modest value to norm research.

Agential dynamics

When observing the conceptions and activities of identified norm agents in response to the respective norm under question, the nature of their activities and characteristics of the interactions among them is understood by this research as emerging and dynamic. This research considers that such processes of interactions among those actors themselves are the manifestation of norm practices. As discussed in Chapter One, the drivers for such dynamics may include domestic structures, norms' contents and external actors' interests. These agential dynamics can also be constrained by a number of factors relating to agents, the state's norm-inhibiting agency, the presence of anti-norm agents, ineffective agency by international actors, and failure of executing agency. The research considers that the agential dynamic possesses two

attributes: strength/weakness and synergetic/conflicting. The degree of strength/weakness and synergy/conflicts can be observed through examining the conceptions and actions of different agents of norms, their visibility and density, intensity of their interaction and activities relating to norm practices. The agential dynamics can be thought of in four possible scenarios: strong-synergetic dynamic, weak-synergetic dynamics, strong-conflicting dynamics and weak-conflicting dynamics.

Domestic structures

This research is guided by Alexander Betts and Phil Orchard's synthesis of three sets of broad domestic structures which influence actors' conceptions of and their activities relating to international norms and these domestic structures may be 'exacerbated or mitigated' by the agency of the actors (Orchard and Betts, 2014: 13). According to these scholars, the cultural context of domestic politics and legal systems may constitute and constrain the 'Ideational Structure' whereas 'Material Structure' represents the interests and capacity of actors to enforce the norms. 'Institutional Structure' is understood as the organizational structure of administrations and bureaucratic mechanisms that engage in policy making and implementation (Orchard and Betts, 2014: 14-17).

Norm practices

When the research discusses norm practices within a state, the terms 'compliance' and 'implementation' are used interchangeably although different scholars have their own definition of each term. This research employs both the definition of Alexander Betts and Phil Orchard on implementation as *domestic process of norm diffusion that leads to the domestic changes on the ground* and the definition of Thomas Risse on compliance as *sustained behaviour and domestic practices that conform to the international human rights norms or rule consistent behaviour* (Risse and Sikkink, 2013: 10).

Measuring norm practice outcomes

Measuring the explained variable is an important task for any empirical research as well as for any theory building. As the cases under this study are examined historically over the periods prior to democratic transition in Myanmar as well as during the first phase of democratic transition (2011-2016), traditional measures of norm research in absolute terms of 'compliance' or 'violation' does not fit.

In particular, as the period under transition exhibits the emerging nature of legal/institutional structures and the dynamic nature of actors, measurement of norm practice outcomes needs to be in relative and flow terms instead of in absolute terms, such as compliance and violation. And thus, this research tries to capture norm compliance or implementation outcomes or practices of norms in track records; on-track, off-track and back-track towards the purposes of the respective norms. As discussed in Chapter One, the indicators of on-track, off-track and back-track are measured against observed practices analyzing whether the conceptions and actions of executing agents (businesses and workers) are leading towards realization of the moral and functional purposes of the two norms.

If norm practices are found to fulfill both functional and moral purposes the norm will be considered on-track. When practices of the norm are found to be going against either its moral or function purposes, the norm will be considered off-track, and when practices do not serve either moral or functional purposes, they will be considered back-tracking.

This research's measurement on norm practice outcomes in target states is also in line with norm research's emerging arguments on norm as processes. Mona Lena Krook and Jacqui True observe that norms are 'processes', as works-in-progress, rather than as finished products. Norms' potential for contestation is ongoing and co-optation, drift, accretion and reversal of a norm or disputes over norms are possibilities (Krook and True, 2012: 104-105).

3.3 Analytical steps and conceptual map

How can norm socialization within states be better conceptualized? In order to capture norm practices within states, on the path from being reflected in states' policies and institutions towards actual practices of key stakeholders and the role of socialization involved in such processes, this research needs to take three analytical steps: 1) identifying norm agents and imagining their actions and conceptions, 2) anticipating structural influences on agents and agents' impacts on domestic structures, and 3) linking structural and agential factors to anticipated outcomes of norm compliance or implementation.

The first step is to identify the key stakeholders involved in domestic norm implementation processes. Exploratory examination of several international norms in transitioning state context as well as the literature guides external socializing agents within states. Transnational Advocacy Networks (TAN) (Keck and Sikkink, 1998) and 'transnational in

domestic’ (Orchard and Betts, 2014) ranging from international organizations, international non-governmental organizations to international businesses to foreign diplomatic missions operating within the state under study are identified as external socializing agents of respective norms. As the literature suggests, neither external norm agents nor domestic actors and their role can be understood from ‘their pre-established roles’³³ (Orchard and Betts, 2014: 48, 279). Therefore, this research anticipates the actors exerting agency can go either for or against the norms: enabling/inhibiting, facilitating/hampering, monitoring/failing to monitor and executing/failing to execute. Depending on the position in which respective groups find themselves in the domestic arena and depending on their engagement in political processes of negotiations, their agency role can be positive or negative towards norms’ objectives. The interactive dynamic of multiple agents or agential dynamics will also vary with the agency of identified groups.

This research anticipates the potential roles of key stakeholders either in positive or negative directions when it comes to the practice of the relevant norms. Agency is assigned to states as ‘Enabling/Inhibiting Agents’, international and transnational actors as ‘Facilitating/Impeding Agents of Norms’, civil society actors as ‘Monitoring Agents of Norms’ and business enterprises as ‘Executing Agents of FOA and RBC norms’ and workers as ‘Executing Agents of Norms’. Such distinctions help to analyze the limits and contributions of actors from identified categories to norm practices. Such conceptualization of identified agents will help the process of empirical scrutiny on the conceptions and actions of different agents, their direct influence on agential dynamics and indirect impact on norm practice outcomes through domestic structural formation during transitional processes.

The second analytical step relates to the consideration of the influence of domestic structures over the conceptions and actions of different norm agents categorized as above. In this respect, Alexander Betts and Phil Orchard’s analytical distinction of domestic structures into ideational, material and institutional structures helps anticipate their role and influence on identified norm agents as well as their emergence and the changes led by norm agents.

³³ Studies by Betts and Schmidt on implementation of refugee norms in South Africa and Botswana reveals that international organizations have been epiphenomenal in the process of implementing refugee norms of non-recoupment and the international organizations—including UNHCR—did not show any independent causal effects on implementation of the norm and UNHCR was found to have largely followed the position of the host state. Schmidt argued that the UNHCR did not always support broader recognition or access for refugees, and government interests were not always towards more restrictions or fewer refugees.

Discussions in the empirical chapters, Chapters Five and Six, will demonstrate how the state's introduction of legislation relating to FOA norms and different aspects of RBC such as anti-corruption laws, and laws and institutions for environmental conservation reshape institutional structures as well as ideational structures in the country under study. New legislation and new policies during the transitioning period brought in new institutional mechanisms to implement these laws and policies. Reform measures also allow the emergence of civil society actors, growing access to and activities by international actors in raising awareness of FOA and RBC norms, and thus contribute to the development of ideational structures on respective norms. The mutual constitutive nature of agents and domestic structures would become apparent as the country case under study is in the context of transition towards democracy.

The third analytical step requires the study to anticipate the possible ways under which norm agents interact among themselves and with domestic structures entailing varying degrees of agential dynamics. The research anticipates four scenarios for analytical purposes. These scenarios can shift in different ways over time.

In the first scenario, strong-synergetic agential dynamics may be exhibited when states play an enabling agency role, executing agents play their expected roles and external agents play facilitating agent roles, and societal actors exert agency of monitoring the executing agents and exposing any deviation in the activities of executing agents that they find. These agents' activities and interactions are likely to be found in a dense and diverse manner in promoting norms, in socializing and incentivizing executing agents, in exposing deviated practices to norms and in co-opting challengers. The strength and synergy among norm agents may derive from the nature of norms or from domestic structural factors or from agent-related factors such as lead actors' role and initiatives and agents ability to network and influence key stakeholders to act on the norms.

The second scenario relates to weak-synergetic dynamics where actors involved in socialization may not be dense and diverse but their activities are coordinated and targeted to executing agents. Such synergy may be facilitated by the norm's contents, structural or agent-related factors. Over the long run such dynamics may lead to strong-synergetic dynamics as synergy exhibited by these actors can attract more diverse groups of actors and agents in their activities and executing agents are likely to be activated over the course of different agents' activities.

The third scenario is strong-conflicting dynamics where actors involved in socialization can be dense and diverse but their activities are constrained by conflicts within or among agents in the process of socializing norm executing agents. Such a dynamic, in the long run, will be weakened as it is likely to be constrained by conflicts among actors driven by interests-based calculations (material structures constraints), conflicting conception about the norms (ideational structural constraints) or actors' exploitation of the loopholes in laws and institutions (institutional structure weakness). Contestation over new norms is well expected in the literature as any new norm generates new actors in new contexts, and new channels of communications appear over time. The contestation is inherent to any communications and thus socialization takes time (Risse-Kappen et al., 1999: 31).

The fourth scenario is weak-conflicting dynamics where actors involved in norm socialization are few involving less activities and initiatives. And yet conflicts exist among these actors. Conflicts may be driven by ideas or be material in nature, such as conflict caused by the competition over resources or recognitions.

The final step of analytical prediction is the estimation of practice outcomes based on four possible scenarios of agential dynamics: strong-synergetic, weak-synergetic, strong-conflictual and weak-conflictual. The research anticipates that norm practices are most likely to be on-track if agential dynamics are either in strong-synergetic and weak-synergetic. Such dynamics have potential to entail norm practices which would lead to realization of all or certain aspects of the moral or functional purposes of the norms as agreed by states at international level and of which the norm recipient state also is supportive. Such a scenario is likely to be found empirically if the communications between the agents are less contested and conflicting, either due to the effectiveness and efficiency of socializing agents or the norm's resonance with the domestic normative order.

For the scenarios of weak-conflictual and strong-conflictual dynamics of agents, norm practices are less likely to be on-track as the contentions among agents can constrain their ability to socialize and lead executing agents to act in line with norms' moral and functional purposes. Such dynamics may entail off-tracking norm practices which can be salvaged by the agency of the state, external actors and societal actors guiding executing agents back on track towards the norm's purposes. If conflictual dynamics of agents are severe and the extent of contentions among agents caused instability, it is expected to find states exercising inhibiting

agency by limiting access of external agents and closing space for domestic agents to practice norms, thus putting norms back on track.

Having discussed the analytical steps to conceptualize norm socialization in domestic sites of states, the following table will provide a conceptual map linking target states' domestic structures, norm contents, external agents' interests and investments, agential dynamics and norm practice outcomes.

Table 1. Conceptual Map for Norm Socialization inside Target States

Drivers	Agential Dynamics	Impact on Practice Outcomes	Remarks
<ul style="list-style-type: none"> - Enabling domestic Structures (Ideational/Material/Institutional) - Strong Interest and investment from external Actors 	Strong-Synergetic	On-track towards both moral and functional purposes of norms	
<ul style="list-style-type: none"> - Existence of some structural barriers (either in Ideational/Material/Institutional) - Inadequate investment from international actors (either due to restricted access to domestic grounds or their inability to activate domestic norm agents) 	Weak-Synergetic	On-track towards either moral or functional purpose of norms	Initial stages of weak agents activities are expected to be strengthened overtime as the synergy and coordination among the agents would correct structural restraints and activities of domestic norm agents
<ul style="list-style-type: none"> - Existence of structural constraints (conflicts over Idea/ interest-based interpretation of norms/ institutional loopholes) - Strong interest and investment from external actors and domestic agents are also well stimulated to act on the norms 	Strong-Conflictual	Off-track or Back-track from norms' moral and functional purposes	Practices can be off-track if and when the nature of the conflicts is not severe and can be addressed by states, external agents and societal actors guiding the executing agents back on track over time.
<ul style="list-style-type: none"> - Existence of structural constraints (conflicts over Idea/ interest-based interpretation of norms/ institutional loopholes) - Weak interest and investment from external actors and domestic agents are not motivated to act on the norms 	Weak-Conflictual	Back-track	Norm practices can be back-track if the contestation creates instability giving states(governments) reasons to exercise norm inhibiting role such as closing off access by external agents and elimination of space for domestic norm agents such as civil society actors and media institutions

Source: Researcher's own formulation

3.4 Conceptual value addition to norm research

This research's main contribution to norm socialization studies is stretching the analytical goal point of norm research from studies of norms and norm socialization impacts on target states' policies and institutions towards analysis of their impact on societal practices. While moving forward the analytical endpoints, the research adds values to the following aspects of relevance to socialization literature.

3.4.1 From state-centric analysis to analysis on multiple agents within state

As norm practices within states are not limited to the domain of states' policies or decision makers' choices, studies aiming to understand norms' impact on societal practices need to pay greater attention to multiple stakeholders and their behaviors within states. Traditional emphasis given by the discipline of International Relations on states as basic units and unitary actors in complying/implementing international norms could not fully unpack how responses from multiple actors within states influence norm compliance/implementation processes. This research reveals the complexity of actors in domestic processes of norm implementation. Although norm studies provides rich conceptual models involving the agential roles of international norms, i.e. institutions, intergovernmental organizations, transnational movements and domestic movements, the domestic dynamics of agents is under-conceptualized in these models. IR/IL's traditional emphasis on states as unitary actor is largely responsible for the under-theorization of the domestic agential dynamic. In most studies, state actors are always assumed to be norm-violating actors (Risse and Sikkink, 2013: 63). Such treatments do not always reflect some empirics of the domestic implementation of international norms. Domestic recipients of norms involve a great complex dynamic of state, sub-state and non-state actors as well as transnational and international actors. Scholars recognize that explaining norm implementation within a state at the grassroots remains problematic (Checkel, 2001: 557). However, it is not impossible to systematically disaggregate the state for analytical purposes. Ryan Goodman and Derek Jinks also emphasized the importance of precision in mapping the causal pathway by identifying more explicitly the identity of influence agents, influence targets and influence strategy (Risse and Sikkink, 2013: 120).

Although recent studies extend the analysis from the state's compliance to that of non-state actors, such as businesses and armed groups (Risse and Sikkink, 2013: 203-258), these lines of studies need to be developed further. Current research addresses this gap in norm

studies by analytically disaggregating states and actors within the state. As discussed above, the proposed conceptual model as introduced in Chapter One and the conceptual map reflecting that model provides a useful tool to understand norm socialization within target states. The proposed conceptual tool will help unpack the drivers for and impacts made by the dynamics of multiple agents within the state.

3.4.2 From general theory of socialization to context-specific studies

Norm socialization scholars recognized that transition from an authoritarian to a democratic government is often a necessary but not a sufficient condition for sustained behavior change towards international norms (Sikkink, 2013: 160). Some other scholars, through their comprehensive empirical studies, found that even the most politically sensitive human rights treaties have positive effects in states with less stable political institutions or transitioning states where domestic stakeholders have both motive and means to mobilize (Simmons, 2009: 16-17, 34-35, 108-109). Despite these views on the conditioning effects of states' political contexts on states' norm practice, less has been analyzed on how such a specific context of political transition factors in norm agents' activities towards the purposes of norms aside from mobilization of domestic constituencies and domestic norm agents. The current study provides a context-specific understanding on norm compliance or norm practices by examining the specific context of elite-driven transition in Myanmar (2011–2016) and its conditioning effects on actors and domestic structures, agents' conceptions and activities other than mobilizing against states (government).

3.4.3 Analysis on norm contents and its impact on implementation

Another aspect of value this research contributes to norm studies is revealing the linkage between norm contents and their implementation track records. Alexander Betts and Phil Orchard made a useful categorization of norms based on varying natures: policy, principle and treaty norms (Orchard and Betts, 2014). They hinted at the possibility of relations between the norm contents and their effects in domestic implementation as a task for further exploration. The current study looks at two norms with different characteristics: the right-based FOA norm vs. responsibility-generating RBC norm. Case studies of FOA and RBC can also be thought of as analysis of obligatory norms with specificity versus complex norms with voluntary nature.

Drawing on some important insights from scholars with views on the relationship between weak states' interests and weak international human rights institutions (Simmons, 2009, Dai and Mattiacci, 2011), this research argues that the degree of international interest can vary and such variation can be traced in the amount of investment in their activities, and the number of channels of communication to key stakeholders in two areas. External actors' interests can also be influenced by the contents of norms. Therefore, better understanding on the relations between norms' contents, external actors' interests and their impacts on norm practices is an important value addition for norm studies.

3.4.4 Measuring the compliance/implementation

Another value of this research relates to measuring norm practices. Measuring norm compliance remains less clear in norm research as most scholars consider norms' domestic effects in a dichotomy of compliance or violation. Although scholars used to consider norm implementation as a process (Simmons, 2009), many scholars now measure norm implementation as a static indicator of outcome or end stage (compliance vs. violation or progress vs. regress). Although Elise Rousseau's proposal for 'partial compliance' as an intermediate stage of norm implementation (Rousseau, 2018: 6-8) is helpful, it still misses the point about measurement indicators for process. A more appropriate indicator for the process needs to capture the moving nature of actions and thus, the current study proposes the indicators of *on-track*, *off-track* or *side track* to evaluate the implementation process. Such indicators are reflective of the implementation processes in states in a transitioning context. Current research would estimate the process on-track if it finds that most executing agents of the norms, i.e. businesses and workers for the FOA norm and businesses for the RBC norm, conceive of the norms in the right sense and that their activities are in conformity with norms' prescriptions and proscriptions. It would evaluate the process as off-track if most key stakeholders' conceptions and actions are not in line with expected behaviours. It would use the back-track indicator if key stakeholders' conception and actions are contrary to the norms' prescribed behaviors.

3.4.5 An integrative model of state structures and agents

The current study goes beyond the tradition of norm research which takes domestic structures (particularly cultural, political and material, and institutional) as rather stable factors compared to ideational structures. Norm socialization studies tend to give greater emphasis to

continuity and change in ideational structure as an outcome of socialization mechanisms and thus those studies hold other structural factors rather stable. In addition, domestic structural conditions are usually considered as scoping conditions for operationalization of their theories. Although norm scholars' discussions on scoping conditions are helpful for analyzing norm implementation in states with respective characteristics, there also can be cases of state which do not fit those conditions. For example, the specific context of Myanmar in political transition does not fall under the scoping conditions of consolidated (where the state's willingness to conform is not questionable while its capacity might be a question) or limited statehood (where the state is lacking both 'willingness' and 'capacity') (Risse and Sikink, 2013: 65-68).

The domestic political transitioning context largely involves the emerging nature of political and institutional structures as opposed to the prevailing literature's assumption of the static nature of domestic structures. Assumption of static domestic cultural, political (material) and institutional structures does not allow analysis of the transitioning country case of Myanmar where the shift in political structures is accompanied by evolving legal and institutional factors. Although scholars consider states' compliance to human rights norms as part of liberalization (Simmons, 2009), a clearer theoretical proposal advanced by this research explains what types of norms are better complied with at which stage of liberalization and why.

Chapter Four: Methodology

4.1 Introduction

One of the hallmarks of ‘implementation research’ is likely to be that it goes beyond ‘armchair international relations’ and engage in in-depth fieldwork in order to examine the micro-mechanisms through which international norms adapt at national and local levels.

Alexander Betts and Phil Orchard (Orchard and Betts, 2014: 19-20)

In order to keep pace with norm studies’ empirical deepening and theoretical advancement, students of international norms have to seek an approach which would allow them to see the domestic practices of international norms from the eyes of multiple actors within the state. Analyzing states’ and decision makers’ policy behaviours alone is no longer adequate in taking account of states’ overall behaviours related to international norms because the influence of diverse actors (domestic and international) on norm practices has become increasingly apparent. Traditional approaches explicate states’ norm practices from the perspective of the international system or at the interface of international and domestic factors. Norm research has advanced from the systemic analyses of the late 1990s in explaining the emergence and spread of international norms, the regional-level studies of the early 2000s in revealing causal factors and causal processes of norm socialization, and the internalization and studies of localization is the most recent and emerging trend of studies to explain varying effects of international norms on states’ domestic norm practices.

As this research aims to contribute to the emerging norm research in taking account of the micro-processes of international norms’ functions within states, it follows methodological advice from Alexander Betts and Phil Orchard. These scholars employ the methodologies of international relations and comparative politics in examining the processes of implementing norms while considering multiple actors who operate within the state. They claim that in-depth fieldwork is ‘one of the hallmarks of implementation research’ in revealing micro-mechanisms of norm implementation at national and local levels. Alexander Betts and Phil Orchard propose a two-stage approach in deriving generalizable theoretical claims for ‘implementation

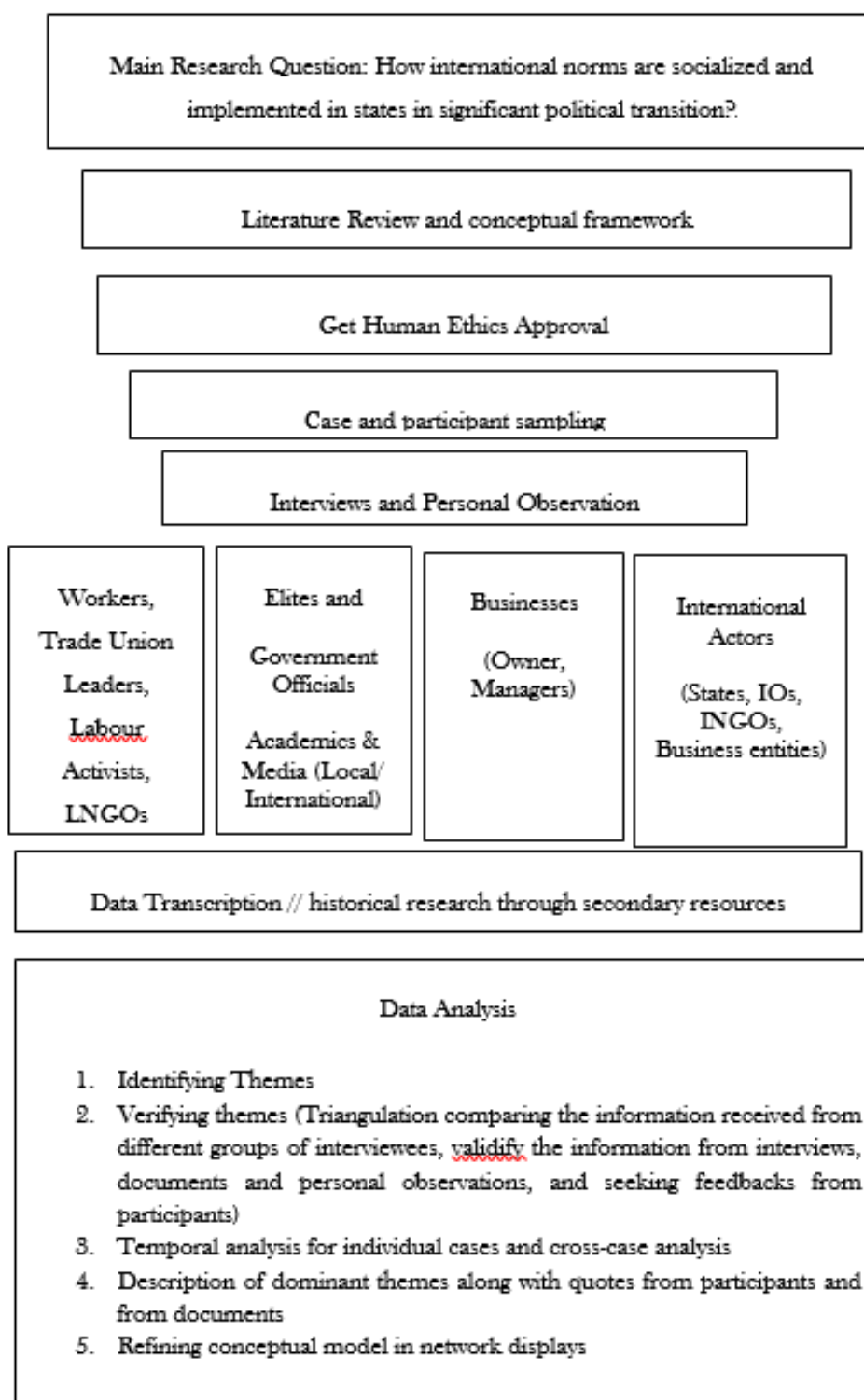
research'. The first stage analyzes the norm of specified issue areas and the second stage makes comparative analysis across issue areas (or) norms (Orchard and Betts, 2014: 19-21).

The approach suggested by Alexander Betts and Phil Orchard is highly relevant to the current study as this research seeks to explain 'how international norms are implemented in a transitioning state' or in other words, 'how norm socialization animates in transitioning states'. Their approach to norm implementation helps this research to investigate the way international norms are implemented within the state under study.

In taking a qualitative case study approach employing the methods of historical and field research, this research adopts the 'structuration theory' as an analytical lens. In applying interpretivist methodology, this study follows Anthony Giddens's 'structuration theory' and assumes the mutual constitutive nature of actors/agents and structures (political, social, cultural, historical contexts). According to Anthony Giddens's 'structuration theory', structures not only serve as medium of social actions but also shape social actions and their outcomes. Assumption on the 'duality of structure' helps this study to analyze both structures and agency in their emerging and mutually constituting nature. The most recent social theories also assert the complementary nature of structures and agency (Jary and Jary, 1991).

The approach taken, the method employed and analytical lens adopted by this study helps this research to address research question in a more comprehensive manner. These approaches, methods and analytical lens allow seeing the linkages among 'democratic structures', 'types of norms' and 'conceptions and actions' of multiple actors. In addition, the case study approach helps acquire data about the state of play of selected norms before and during the transitioning period. Such data are collected and generated in two processes. First, information on the practice (or lack of which) on respective norms under successive administrations are gathered by historical research. And second, data about contemporary practices of two selected cases are observed through case studies. Case studies involve stakeholder interviews, document studies and personal observations of relevant events to evaluate the legal/institutional changes (or lack of changes), to identify agents of respective norms and assess their interaction. Details of procedures taken during the processes of empirical enquiries and analyses are displayed in the following diagram and elaborated under subsequent headings: 'Ethical research', 'General approach to the study', 'Selection of cases and recruitment of interview participants', 'Method of data collection and generation', 'Method of data analysis', 'Transparency and validity' and 'Limitations and future research'.

Figure 2 Research Procedures



Source: the researcher formulated display

4.2 Ethical research

This study attaches great importance to research ethics, particularly to the protection of the welfare and rights of participants in the study and to respect their convenience. Therefore, this research sought clearance from the Human Research Ethics Committee (HREC) of the Australian National University by submitting research-related information including aims and objectives of the research, research approach and planned procedures, interview participants, and interview questions, in the Protocol number: 2016/020. One of the important ethical challenges that this research raised is my status as an official on leave from the Ministry of Foreign Affairs in Myanmar. In order to avoid any conflict of interest for myself or my participants that would interfere with the integrity of the data collected, I took the following steps. First, I have clarified the HREC that my department has no direct mandate over the areas of activities of interview participants, especially businesses, workers and members of trade unions and LNGO participants. Second, fieldwork is carried out with the approval of the HREC. Third, throughout the process of field research, the researcher strictly adheres to the procedures prescribed by the National Statement on Ethical Conduct in Human Research 2007 and its updates in 2015. In particular, I follow the suggestions of the committee in disclosing my full official identity in the research information sheet used when seeking interview opportunities.

Through secondary materials key stakeholders involved in FOA and RBC practices in Myanmar were identified and they were recruited to participate in my interviews. Recruitments took place on a voluntary basis. I communicated with them through email or via referral contacts introducing my research and the type of information required from them. Their formal consent was received first in the signed forms for their participation. I also acquired consent for taking records of interviews in digital forms, for usage of data in research and for disclosure or otherwise of individual identity. I follow the relevant domestic laws for privacy and security of private individuals, information and data in the country under research. The research is carried out in a most transparent manner and some participants' feedback on the researchers' summaries of their inputs are obtained where relevant.

4.3 General approach to the study

Current research follows the interpretivists' ontological position that social reality is a social formation or construct of the mind's inner feeling (Aliyu et al., 2014: 84) and it is a collective construction through the processes of interaction and communication (Stahl, 2007: 5-6). This ontology is closely linked with constructivist epistemology, which holds that 'knowledge is a compilation of human-made constructions' (Raskin, 2002: 4). Therefore, this study's take on interpretivist methodology is guided by interpretivist ontology and constructivist epistemology. Anol Bhattacharjee states 'interpretive research attempts to interpret social reality through the subjective viewpoints of the embedded participants within the context where the reality is situated' (Bhattacharjee, 2012: 105).

As this research needs data which relates to actors as well as the socio-historical context in which these actors operate, it takes a case study method in conjunction with a broader interpretivist methodology. Such an approach allows this research to observe norm practices within a state both from the perspectives of actors/agents without losing sight of the structures. This approach also helps disclose different stakeholders' subjective interpretations of respective norms and their varied actions in real world contexts. This approach also gives in-depth understanding of the stakeholder perceptions and actions relating to the implementation of the respective norms from historical and contemporary perspectives. Therefore, the study can be considered to have taken place at the conjunction of interpretive paradigm and qualitative case study method.

While taking the decision for interpretive research with qualitative case study method, the researcher has considered the disadvantages of the approach. The specific challenge of reconciling the diverse perspectives of participants is dealt with by taking account of the diverging views in the empirical chapters. Observed diversities are reflected in the conceptual inferences. In the analytical process, principles of interpretive research are followed as much as possible. Anol Bhattacharjee suggests,

Observations must be interpreted through the eyes of the participants embedded in the social context. Interpretation must occur at two levels. The first level involves viewing or experiencing the phenomenon from the subjective perspectives of the social participants. The second level is to understand the meaning of the participants' experiences in order to provide a

‘thick description’ or a rich narrative story of the phenomenon of interest that can communicate why participants acted the way they did. (Bhattacharjee, 2012: 106)

To avoid bias and errors in drawing inferences, the researcher follows another important principle of interpretive research, i.e., ‘hermeneutic circle’, by undertaking the iterative process of matching of data and context and establishing the conceptual model which is consistent with diverse viewpoints of different stakeholders.

Another challenge this research has to deal with is to handle rich text qualitative data and the possibility of bias caused by purposeful or inadvertent influence of the investigator on the findings. As ‘qualitative research permits and in some ways encourages multiple midstream adjustments throughout the study process’ (Yin, 2015: 77), this research treads carefully to avoid such bias. Scholars also pointed out the analytic challenge of qualitative research in ‘finding coherent description and explanation that still includes all of the gaps, inconsistencies and contradictions inherent in personal and social life’ and in ‘impression management’ of how people want the researcher to see them (Miles et al., 2013: 10-11). And thus, the researcher made conscious efforts to follow the advice from Matthew B. Miles and colleagues for taking ‘plenty of care and self-awareness’ in dealing with the complexity involved in qualitative research, particularly to manage the influence of the researcher’s personal values and attitudes (Miles et al., 2013: 11).

4.4 Method of empirical enquiry

Case study is the main method employed for collection and generation of empirical data. In a broad sense, this research understands ‘case study’, as defined by Alexander L. George and Andrew Bennett, as ‘an intensive study of a single unit for the purpose of understanding a larger class (or) similar units’ (Gerring, 2004: 342). Their takes on case study methods includes both within-case analysis of single cases and comparisons of a small number of cases, as the use of a combination of within-case analysis and cross-case comparisons within a single study or research program provides the strongest means of drawing inferences from case studies (George and Bennett, 2005: 18). Sarah B. Merriam distinguishes case study from other qualitative methods by indicating that ‘qualitative case studies, while interpretive, endeavour to present a holistic in-depth description of the total system or case’ (Merriam, 2002: 38).

Case study is the most appropriate method for this research as case studies of FOA and RBC norms in Myanmar in historical and transitioning contexts provides opportunities to expose domestic socio-economic and political contextual influences over time and to reveal the roles and activities of actors/agents involved in the implementation processes of the respective norms. Studies of the two norm cases provide contextualized information about thoughts and actions of multiple stakeholders in the country case under study. In addition, case studies on FOA and RBC help capture diverse perspectives from multiple actors, as it is rightly suggested by scholars that case studies allow the researcher to capture the ‘multiplicity of perspectives which are rooted in a specific context’ (Ritchie et al., 2013: 52-76) and help study ‘the phenomenon of interest from the perspectives of multiple participants and using multiple levels of analysis’ (Bhattacharjee, 2012: 93).

This study is also not unaware of the inherent weakness of the case study method. Specifically, possible weakness in the internal validity of inferences due to lack of experimental control (Bhattacharjee, 2012: 93). Having in mind the weakness involved in case studies, this research addresses such weakness by two means: first, by data collection and generation from diverse sources using triangulation as natural control to reduce the risk of inferential bias and errors and second, by undertaking cross-case analysis of two norm cases in the given context. Another concern with the case study method is external validity of inferences from empirical findings, as cases used to be highly contextualized and difficult to generalize to other contexts. Such concern is reasonable as the country case under this research has its own unique character, such as a long history of denial of international norms and a managed transition to democracy. However, the current study, with its focus on a broad political transition, allows a large degree of generalizability to similar contexts as many countries across the world, at some stage or another, are in some form of political, economic and social transition.

4.4.1 Sampling context, thematic cases and interview participants

Sampling is another important step in the process of the research after making decisions about methodology and methods of data collection, generation and analysis. For any research, sampling of the unit of analysis is a key not only to finding correct empirical data which addresses the research problem, but also for to ensure the generalizability of research findings. This study involves three stages of sampling: sampling of country case, thematic cases and sampling of interview participants. The ‘case’ is understood as ‘a phenomenon of some sort occurring in a bounded context’ (Miles et al., 2013: 28). For this research, the

phenomenon of interest is ‘socialization involved in the process of norm implementation in a transitioning state’. This phenomenon involves three aspects: ‘external actors’ role’, ‘domestic contexts of ideational, institutional and material aspects’, the ‘norm’ and the human aspect of ‘implementation’. Therefore, sampling takes place at three levels: ‘country case selection’, selection of ‘norms’ and selection of ‘interview participants’ who are involved in implementation of the respective norms.

Alan Bryman states, ‘When contexts are being sampled, ...[i]t is common for some form of generic purposive sampling to be employed’ (Bryman, 2012: 422). According to him, generic purposive sampling method is a type of purposive sampling method but distinctive from theoretical sampling method in three aspects. Generic purposively sampling does not necessarily take samples in consideration of theoretical categories. In the generic purposive sampling method, sampling can be in sequential or fixed manner, and criteria for selection of a sample may be formed a priori or be contingent or a mixture of both, in contrast to theoretical sampling which necessarily is sequential contingent on their theoretical categories. For the purpose of the current research, context sampling and sampling of norms cases are done by generic purposive sampling in line with the theoretical orientation of the research.

At the level of context sampling, two criteria for sampling are a ‘country case where the role of external factors can be observed’ and a ‘country context where norm implementations are in variegated processes’. The country case of Myanmar is selected as it falls within the two criteria set in relevance to addressing the research question. The second criterion allows the research to see the relations between the selected contexts of political transition with varied processes of norm practices. The country case can be considered as a hard case for norm implementation owing to its historical record of norm evasion, and the first phase of democratic transition was also seen by many as managed transition. This selection of a hard case for the research helps enhance the generalizability of the research findings to many similar cases with norm implementation issues.

At a narrower level for the sampling of two norm cases, the study employs three main criteria. First, at least one case is to allow temporal analysis, i.e. the implementation processes before and during the transition period show differences. Second, the two cases are to show diverse processes of implementation. Third, each case must be an effective subject for seeing different outcomes. Two cases of international norms, Freedom of Association (FOA) and Responsible Business Conduct (RBC) are selected considering their representativeness to the

norms taking different tracks in Myanmar despite their comparability in terms of similar policy attention from government and business actors being the main targets in both norms. This allows the researcher to examine the similarities and differences of the two cases and their relations to implementation processes in the context of transition, the main area of research interest. Both cases are effective cases in explicating the links of transition, norm types and implementation track records. Such selection allows the research to understand multiple factors including states' role in influencing domestic norm practices, a major issue of interest which the research seeks to examine. Selection of FOA and RBC, the two norms possessing different characteristics—the former being obligatory whereas the latter is voluntary—allow the research to make a comparative analysis and understand the implementation impact of different types of norms and the channels of such impacts. This case sampling approach also allows the transferability of findings to similar contexts.

The third level of sampling is done for interview participants. The purposive sampling method applies to sampling at the initial stage of field work and the snowball sampling method applies in the later stage of the field work. This research defines four main criteria for interview participants sampling which includes voluntary participation, ability to provide information relevant to the subject matter of the study, being knowledgeable about political transition or FOA or RBC practices in the country, and their intellectual or personal involvement in the activities related to democratic transition, FOA and RBC practices. The study identifies four specific groups of individuals and organizations from whom to acquire the information relevant to research questions. Four groups of individuals are specified: state (government), businesses, and societal (LNGOs, Trade Unions, CSOs), international actors. They are considered as key stakeholders who are involved in democratic transition and implementation of the respective norms in Myanmar.

To identify participants for each group, secondary resources relating to the labour issues and private sector governance issues as well as networking opportunities at stakeholders meetings serves as a 'sample frame' i.e. 'the information source from which the sample is selected' (Ritchie et al., 2013: 10). The sample frame is expanded at the later stage of field work as interview participants' referrals are included in the existing lists of participants. In specifying the groups of interview participants and in identifying the individuals from each group, the researcher follows two suggestions by Jane Ritchie and colleagues to include 'all the key constituencies of relevance to the subject matter' and to ensure 'diversity' to optimise the

chances of identifying the full range of factors associated with a phenomenon of interest (Ritchie et al., 2013: 79).

4.4.2 Sample size

Though the size of the two case samples selected for this study can be considered small, emphasizing the two cases allows the study to reveal deeper issues behind each norm practice. Although the sample cases are used to test the theory proposed by the research, a broader exploratory examination of cases such as gender equality norm and other international norms in transitioning context helped with the initial development of the conceptual model. Besides, the small sample size does not compromise the ability for comparative analysis as both norm cases possess diverse attributes and are typical in their own way. Most importantly, the study's choice of the two cases is adequate to address the research question, which is to find out the reasons for varying practices, rather than to make the statement of prevalence or incidence of norm practices among a large array of norms in transitioning states.

With regard to the participant samples, a total of sixty-two participants were interviewed during the field work. Ritchie and colleagues state, 'As a very general rule of thumb, qualitative samples for a single study involving individual interviews only often lies under 50. If they become much larger than 50 they start to become difficult to manage in terms of quality of data collection and analysis that can be achieved' (Ritchie et al., 2013: 84).

Table 2 Participant Sample Matrix

	Interview Participants						
	Trade Unions and Union Leaders	CSOs/ NGOs	Academics and elites from political parties	Govt. Decision Makers	Govt. Work-ing Level	Business	International Actors (States, IOs, INGOs, Business Associations)
Yangon	9	7	7	4	5	7	14
Nay Pyi Taw			5	8	3		1
Total	9	7	12	12	8	7	15

Source: Researcher’s own formulation

4.4.3 Data collection and generation

The current research involves activities of collecting naturally occurring data and generating data. Jane Ritchie and Jane Lewis distinguish between the naturally occurring data and generated data. Naturally occurring data rely on ‘the researcher’s interpretation of what is observed or read’ whereas ‘the participant’s own interpretation is seen as critically important’ in the generated data which may be further interpreted by the researcher (Ritchie et al., 2013: 34-35).

Historical data are collected through secondary resources and Myanmar-related literature. Contemporary data are generated through in-depth interviews with selected participants and the researcher's personal observation at the stakeholder meetings, labour demonstrations and visits to trade union members and leaders, as well as union skill trading sessions and 'Success Skill Training' by multi-donor assistance programmes for development of soft and technical skills of workers in industrial zones.

Secondary data are collected for two purposes. First, secondary data are sourced to obtain historical information about the practice (or lack of practice) of FOA and RBC norms under successive administrations in Myanmar, thus allowing the research to make a temporal analysis of each norm case. Second, secondary sources help the researcher to identify the reliable sources for primary data collection and to supplement the primary data.

To obtain historical information, the researcher sourced from Myanmar language materials as well as English language materials. The researcher gathered relevant data from Myanmar-related books in the Menzies Library in the Australia National University and books and the historical documents on Myanmar from the National Library of Australia. Another important source of historical data was derived from 'online Burma Library' which archived historical data chronologically and by subject.

Contemporary data on practices of FOA and RBC are sourced from policy documents, reports and legal texts of the government, United Nations, international labour organizations, United Nations Global Compact's archived Communication of Progress (COPs) of Myanmar participants and historical records, academic works and newspaper articles on businesses and labour organizations in Myanmar. Some of the documents are obtained from interview participants and many from online websites of relevant departments including government departments, ILO, UN Global Compact and NGOs.

Participant interviews serve as the main tool for generating data on the conception and actions of identified stakeholders in practicing FOA and RBC norms. In-depth interviews help the study in obtaining the 'understanding motivations and decisions, or exploring impacts and outcomes, generally requires the detailed personal focus' (Ritchie et al., 2013: 58-9). The interviews took place in Yangon and Nay Pyi Taw between April 2016 and March 2017 and during April 2018. Most of the interviews with participants from businesses and workers groups as well as LNGOs and international actors took place in Yangon. Interviews with elites and government officials took place in Nay Pyi Taw. All interviews with political and business elites,

government officials and LNGOs were conducted in the Myanmar language and all interviews with officers and representatives from IOs, INGOs and development partners were conducted in English. The sample matrix in Table 1 presents the overview of the research participants and the full list of participants appears in **Annex III**.

Most of the interviews were conducted in a semi-structured format and each lasted between 45 to 90 minutes. The interview questions were formulated mainly to capture the conceptions and activities of specified interview participants. As the interview participants were a diverse group, different sets of questions are communicated in advance to different participants along with information about the researcher, the purpose of the research, the estimated amount of time required for the interview and the usage of information with the consent of the interviewees with or without their attribution. As the researcher is fully aware of the importance of ‘trust’ for smooth access to identified participants and for getting reliable information for the study, she made the field work process as transparent as possible in the information sheets. The sample question is attached as **Annex IV**.

Although the interview questions served to inform the participants of the nature of the information sought from them in advance, most interviews actually took place in a more open and facilitative manner. During the interviews, participants were facilitated to share their views on the status of implementation of FOA and RBC, and their experiences in the practice of the norms. They were encouraged to mention the issues they think are important for the practice of the respective norms in the country, and to express their views on the activities of others with respect to the two norms. Some of the interviewees provided information about their activities in the forms of annual reports, handouts and other materials. As in most qualitative interviews, the researcher investigated the subjective interpretations of participants on the FOA and RBC practices to get better understanding of how and why norm practices vary by following the principles of letting the field and the cases telling the story (Yin, 2011: 124).

Throughout the process, the researcher made sure that the questions and prompts did not guide interviewees to a certain direction in line with the interviewer’s opinions. The researcher’s prior familiarization with the secondary resources, newspaper reports, LNGO and INGO reports about general issues of human rights, labour rights and environmental issues in the country helped her to assess the reliability of information generated during the interviews.

Most of the interviews were electronically recorded with the consent of the interviewees. After each interview, the essence of the information generated during each interview was recorded as ad interim records before full transcription took place. This approach allowed the researcher to be aware of the emerging concepts and ideas. Information about diverse participants' thoughts on the respective norms served as proxies for estimating the evolving ideational structure on FOA and RBC norms in Myanmar. Interviewees' diverse perspectives on government authorities' role, existing laws, mechanisms and their actions for law reforms and for improvement of the way relevant mechanism functions helped the researcher to estimate the legal/institutional and material structures relating to the FOA and RBC norms.

Some data about the contemporary practices of FOA and RBC are generated through personal observation. Nicholas Mays and Catherine Pope note an important advantage of observation as 'it [observation] can help to overcome the discrepancy between what people say and what they actually do. It circumvents the biases inherent in the accounts people give of their actions caused by factors such as the wish to present themselves in a good light, differences in recall, selectivity, and the influences of the roles they occupy' (Mays and Pope, 1995: 183). Therefore, during the period of field work, the researcher took the opportunities to attend several events of research relevance as a neutral and passive external observer. The list of events is attached in **Annex V**. Such opportunities help the researcher to get firsthand account of diverse actors' stands on issues relating to FOA and RBC norms and obtained networking opportunity with the stakeholders, expanding the list of interview participants.

4.4.4 Data analysis

For this study, theories of 'structuration' (Giddens, 1979) and 'norm implementation' (Orchard and Betts, 2014) serve as the analytic lens in engaging with the generated and collected data. As this research seeks to explain variegated norm practices in a transitioning state, the premise of Anthony Giddens' theory of structuration which suggests mutual enforceability of the structures and agency (Whittington, 2010) allows the study to examine domestic structure and actors without bracketing either of them. In addition, Alexander Betts and Phil Orchards' distinction of domestic structures into ideational, institutional and material structures provides a better focus in examining the data and identifying themes from structural and agential perspectives. The analysis process takes place in two steps: temporal analysis within case by comparing and contrasting the practices of each norm across the time periods and cross-case analysis comparing and contrasting the practices of two norms.

For temporal analysis of individual cases of FOA and RBC practices in Myanmar, historical data are consulted by identifying structural or agential enabler and constraints for each norm. Contemporary practices of the respective norms are also examined from the field data. Field data analysis commenced upon completion of the first interview during the fieldworks. Before full records of the interviews were transcribed, key points from individual interview were recorded in the table format. The table includes, among other information, the main contents of each interview in the ‘contents’ column, and the ‘analysis’ column records the researcher’s brief assessment on information generated during the interview. The researcher assesses the dominant issues emphasized by the interview participants, his/her take on the respective norms, and norm-related activities of participants as individuals or as part of an organization. Information recorded in the ‘analysis’ columns was helpful for mapping the emerging themes and verifying them in succeeding interviews. According to Castleberry Ashley and colleagues, the importance of the theme or an essence of the phenomenon of research interest is ‘not dependent upon how often it appears or how much data is contained within the theme. Rather, the importance is related to whether it captures something important in relation to the overall research questions’(Castleberry and Nolen, 2018: 812).

Along with identifying the dominant themes and drawing meaning on the convergence and divergence of participants’ views and actions indicated by the field data and historical data, this study presents empirical description taking account of the historical and contemporary practices of each norms. Empirical chapters of individual norm cases are organized in a way that the emerging themes, structural and agential similarities and differences of norm practices over time are discernible by the readers.

Parallel to the process of data analysis and empirical description, the emerging themes for individual cases are mapped into individual network displays which are adjusted and revised throughout the data analysis process and empirical description. The network displays not only serve as tools in analyzing the data but also help demonstrates the outcomes of such analysis by linking identified themes as disclosed by the data and being informed by the theories of ‘structuration’ and ‘norm implementation’.

The network displays of individual cases serve as a foundation for the second step of analysis. The cross-case analysis occurs when the researcher examines similarity and differences of the processes of implementation of each norm in the country. Comparative studies of two cases help validate three aspects of the research: first, the facilitative or restrictive roles of the

legal/institutional structures on norm agents; second, the roles of norm contents on actors' responses to respective norms; and third, impact of actors' dynamics on implementation processes. Comparison of structural factors, including historical factors and agential factors across the two cases allows the study to get deeper understanding on the processes. The 'Analysis Chapter' of this research considers two norm cases individually as well as cross-case comparison. The 'Analysis Chapter' discusses the network displays explaining dominant factors responsible for different processes of the two norms

4.4.5 Transparency and verification method

This study pays attention to some specific concerns usually raised on qualitative interpretive research. Transparency of research procedures and validity of inferences and conceptual claims are two major questions raised for qualitative case studies. Both aspects are relevant and important for the purpose of this research. The preceding sections' detailed descriptions of data collection and analysis processes aims to ensure the transparency of research procedures.

'Validity' is another important aspect which this study wishes to ascertain. Although there is no one definition to date on the concept of 'validity' in qualitative research (Onwuegbuzie and Leech, 2007: 233), this study follows Joseph A. Maxwell's takes on the 'issues of validity' while referring to 'the correctness or credibility of a description, conclusion, explanation, interpretation, or other sort of account' (as cited in Yin, 2010: 79). According to Joseph A. Maxwell, validity pertains to the kind of understanding embodied in the accounts and he categorizes 'validity' into 'descriptive validity', 'interpretive validity', 'theoretical validity', generalizability and evaluative validity (Huberman and Miles, 2002: 43). This research considers these categories in strengthening the validity of empirical accounts and conceptual propositions of this study.

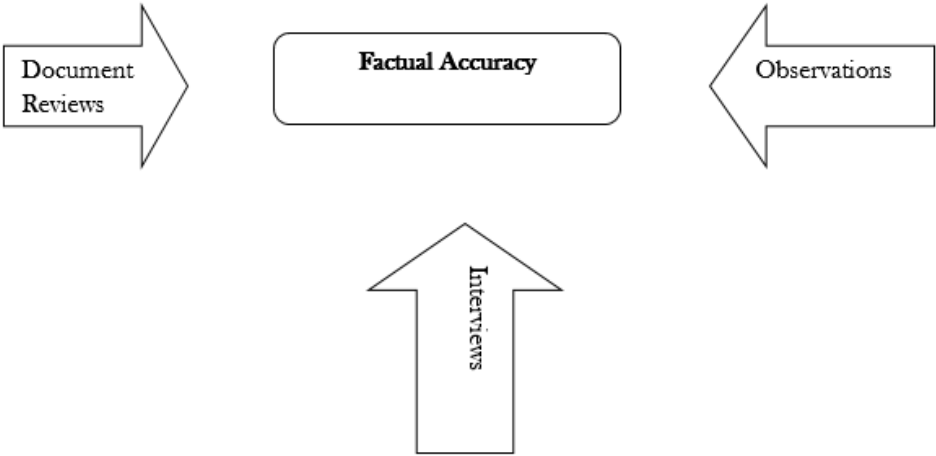
Joseph A. Maxwell considers factual accuracy as a primary aspect of validity and refers to it as 'descriptive validity', as description is fundamental to qualitative research (Huberman and Miles, 2002: 45). Thick descriptions in the empirical chapters of the current study, with verbatim quotations where relevant, are intended to provide the empirical accounts with greater accuracy. Such description is made possible by the eleven months of field work which allowed the researcher to obtain in-depth understanding on the way multiple actors engage in implementation of FOA and RBC norms. Detailed description of empirical accounts also

serves another important aspect of validity, i.e. generalizability. Although the concept of generalization is less employed in qualitative research, scholars recognize the possibility of ‘transferability’ of hypotheses from situation to situation depending on the degree of temporal and contextual similarity (as cited in Huberman and Miles, 2002: 178). Janet Ward Schofield states that clear and detailed description descriptions about the entity of study and its setting are crucial for transferability of hypothesis in qualitative researches (Huberman and Miles, 2002: 178-179, 198-199).

In addition to factual accuracy of empirics, ‘interpretive validity’ is relevant to this research as the main purpose of this study is to comprehend the norm practices in Myanmar through the eyes of the participants and to capture the meaning participants place on the information they provide. ‘Interpretive validity’ is understood as ‘a matter of inference from the words and actions of participants in the situation studied’ (Huberman and Miles, 2002: 49). This researcher has an advantage in capturing meanings with greater accuracy, being a native speaker in the site of the research with most of the participants being native participants. This study’s interpretive inferences are described in such a way that the readers can validate independently.

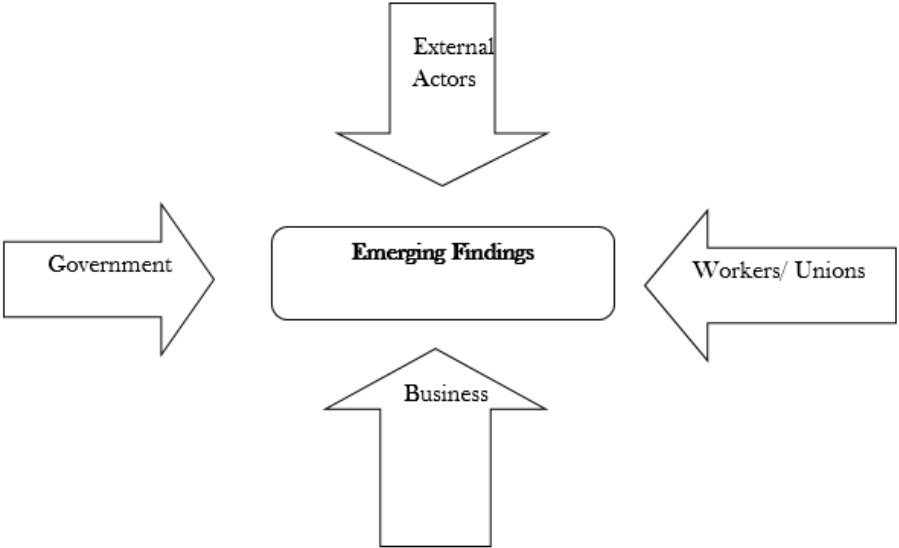
To strengthen ‘interpretive validity’, the technique of ‘triangulation’ is employed to verify the information and to draw on converging information. Among four types of triangulation suggested by Robert K. Yin to strengthen the validity of case studies—‘data source triangulation’, ‘analyst triangulation’, ‘theory/perspective triangulation’ and ‘method triangulation’ (Yin, 2013: 323-324)—data source triangulation and perspective triangulation apply to this research’s data collection and analysis processes. Figures 2 and 3 display a diagram on data source and perspective triangulations. Information for this research is sourced in multiple ways: personal observation, interviews and relevant secondary documents. During the process of data analysis, the study searches the converging findings from three different kinds of sources; field data, observed data and documents. In addition, interviews data, generated from diverse groups of stakeholders in the implementation of FOA and RBC norms in the country, make possible for perspective triangulation in drawing inferences which are reflective of the diverse perspectives. Research participants from responsible government officials, business owners, civil society organizations and international actors allows the study to understand the variegated norm implementation processes of two international norms from diverse perspectives.

Figure 3 Data Sources Triangulation



Source: Designed by the researcher

Figure 4 Perspectives Triangulation



Source: Designed by the researcher

Potential interpretation biases and researchers' observation biases are carefully addressed by employing 'participant validation' or 'respondent feedback', a technique usually recommended by several scholars (Creswell and Miller, 2000: 124, Whitemore et al., 2001: 533, Onwuegbuzie and Leech, 2007: 239, Yin, 2010: 79). Before finalizing the report, the researcher sought feedback on the information provided by the participants, and the researcher's interpretation and conclusion is based on the information they provided during the interviews, document reviews and observations.

This research agrees with S. B. Greene's reminder that 'interpretive inquiry is not the sole creation of the investigator, as is the case with the artist and created art; rather, research involves the "joint creation of inquirer and inquired about in a given context at a given time"' (as cited in Whitemore et al., 2001: 526). Therefore, valid voices of participants are carefully taken into account. During iterated reading of interview transcripts, the researcher interpreted the information seeing through the lens of the participants and tried to understand what political transition, legal reforms and new mechanisms mean to the participants and how these things shape their views on the respective norms, and how do transitioning generated structural changes facilitate or restrict participants' capacity to act on the respective norm. Such an approach of seeing through the eyes of participants without compromising the neutrality of the researcher's position aims to mitigate the case studies' incipient weaknesses of potential bias and subjective interpretation by researchers influencing research outcomes (Denzin and Lincoln, 2011: 308-311).

4.4.6 Limitations of research method

In addressing the question of how norm socialization is animated in the process from norm-favoured policies to societal practices, different approaches may produce differing knowledge depending on the focus of analysis. Although this study's method of a single country case study reveals in-depth knowledge of mechanisms influencing the practices of the respective norms, the study was not able to deal with some issues which can be more effectively addressed by cross-state comparative studies. For instance, the different nature of transitioning processes and their relation to the norm implementation process can be better be addressed by cross-state comparative analysis.

There also are some limitations on the data on RBC norms in addressing the historical perspectives of RBC. Until recently, published information on businesses in Myanmar was very

limited both in terms of Myanmar language and English language materials. Therefore, the empirical descriptions of the historical perspectives on RBC are limited.

Another limitation relates to ‘theoretical validity’. According to Joseph A. Maxwell, ‘theoretical validity’ is validity of the concepts applied to the research phenomena and postulated relationship among the concepts and ‘theoretical validity’ depends on ‘whether there is consensus within the community concerned with the research about the terms used to characterize the phenomenon’ (Huberman and Miles, 2002: 51-52). Although consensus on the terms this research employs in analysis such as ‘on-track’ or ‘off-track’ of the RBC and FOA norms and ‘agential dynamics’ are less likely in the community concerned with the research due to the diverging perspectives held by different stakeholders, the terms are less likely to generate objections in the community as they reflect the factual reality on the ground without disadvantaging any group of stakeholders.

Chapter Five: Practices of Freedom of Association in Myanmar

5.1 Introduction

‘The anarchy currently characterizing industrial action was not in accordance with national law and not conducive to positive labour relations. Illegal industrial action was detrimental to current and potential foreign investment and could negatively affect job creation.....for a young democracy like Myanmar, the journey was long, and it would undoubtedly take time to get where all stakeholders wanted to be. The social partners needed to work together constructively.’

Extract from the statement of Daw Khine Khine Nwe, Joint Secretary General of UMFCCI at ILO Committee on Application of Standard, June 2018

This chapter discusses the challenges in implementing the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) of the International Labour Organization (herein after FOA) in Myanmar. It analyses why the FOA norm never had a chance to become a practice in the country throughout the country’s history and why it remains challenging even in the period when the political, legal and institutional environment has become more favourable. Legacy effects on contemporary conceptions of FOA and actions of key stakeholders during the country’s first phase of democratic transition (2011-2016) are considered. Despite the elite-driven nature of the transition to democracy, legal and institutional structure favourable to FOA practice has been emerging, which is manifested in the increased numbers of labour organizations and greater freedom for workers to undertake industrial actions following 2011. However, these developments conceal the underlying challenges of FOA implementation and question the role of norm socialization involved in FOA practice. Violence involved in labour strikes, growing inter-union tensions, continuing practices of anti-union discrimination and union busting become the main challenges for FOA implementation. The country’s experiences in implementing FOA are contrary to the expectation of ILO Convention 87 which states ‘[T]he principle of freedom of association to be

a means of improving conditions of labour and of establishing peace'.³⁴ These challenges reveal the limits of state (government) and international actors in norm implementation and they signify the important roles of key stakeholders, businesses and workers who are the actual executors of the FOA norm in a transitioning democracy.

The FOA case in Myanmar exemplifies an international norm which finds decades of commitment-compliance gaps under the military-led administration of the Burma Socialist Programme Party (BSPP, 1962–1988), under the State Law and Order Restoration Council (SLORC, 1988–1997) and under the State Peace and Development Council (SPDC, 1997–2010). Such commitment-compliance gaps existed largely owing to the state's forbidding role and the implementation of the norm remains challenging despite the government switching its role to an enabling agent of FOA since 2011. The analysis of the FOA case in Myanmar serves the current research in identifying the role of socialization at a domestic site. Study of the FOA case also help verify and refine some counterintuitive findings in the literature about the greater impact of international human rights treaties in *states in transition to and from democracy* (Simmons, 2009: 360).³⁵ The FOA case also allows the current research's to analyse the compliance impact of the norm's contents in response to the calls made by Alexander Betts and Phil Orchard (Orchard and Betts, 2014: 276-277).

The chapter is organized in three sections. The first section situates the issue of FOA implementation in the historical context of organized labour practice under successive Myanmar administrations prior to democratic transition in 2011. Secondary sources are analyzed and the section presents the structural and agency aspects which are responsible for FOA practice (or lack of practice). Implications of historical factors on contemporary challenges in the implementation of FOA are considered. The second section presents primary data on the conceptions and activities of three groups of stakeholders³⁶ following and in response to a new power configuration and transition-generated legal/institutional structures. Observed activities are analysed through the lens of socialization.

³⁴ Paragraph four of the preamble to the ILO Convention No.87.

³⁵ Bath A. Simmons's studies on domestic impacts of international human rights treaties, such as the ICCPR, CAT, and CEDAW, find that positive effects of ratified treaties are found to be larger in transitioning countries which 'includes countries that have transitioned to democracy, away from democracy, and have fluctuated somewhere in the middle'.

³⁶ Government and employers (primary duty bearers), workers, workers right advocates and workers' organizations (right holders) and international actors (moral duty bearers)

Final discussions draw inferences from the empirical data and advance three main arguments. First, domestic implementation of international norms can better be explained by taking account of the conceptions and actions of multiple actors within a state. Although transitional contexts offer improved legal and institutional provision by the state, there are limits to the state (government) as enabling agent of FOA due to its capacity constraints. Second, off-tracking in implementation of FOA is primarily explained by diverging conceptions about FOA by key stakeholders due to the influence of historical factors, owing to the defects in evolving legal and institutional structures and insufficient intervention by domestic and international norm advocacy. These ideational, institutional developments (or underdevelopment) are found to be influenced by socialization mechanisms employed by international and domestic socializing agents. Third, diverged conceptions of FOA along with tensions among and within key stakeholders (workers and employers), and inadequate agency of domestic and international actors in promoting FOA represent a weak agential dynamic. A weak dynamic of agents of the FOA norm could not effectively address the *deficient ideational structure* and *defective legal and institutional structure* and thus undermined the practice of FOA during the first phase of transition towards democracy.

5.2 Historical contexts of the trade union practice in Myanmar

5.2.1 *Workers' rights in pre-colonial Myanmar*

The notion of appropriate behaviour towards workers and some nascent form of institutional structure to treat workers in humane ways was present in the country since the 16th century Burmese Kingdom. Prior to the country's colonial history in 1826, a redistributive economy and traditional economic life in the country revolved around agriculture. Centrally organized taxation and tributes was the main form of transaction for agricultural and handicraft products. Although Rangoon and Bassein served as the principal ports, little official foreign trade took place as rice, gold, rubies, and other commodities were officially prohibited from export, and few manufactured goods were allowed to enter (Saueressig-Schreuder, 1986). Successive kings exercised exclusive economic power over the kingdom's 3.6 million people and despite a limited presence of factories at the time of the last Myanmar king (Lwin, 1968:

20),³⁷ industrial relations in a modern sense was non-existent in those days. Despite their exclusive power, the kings were checked by royal ethics which required them to consider the rights and welfare of the workers. Calls for fair treatment of workers and their welfare were reflected in the royal orders of successive Burmese kings. Privileges, protection and facilities for the workers serving to extract amber, gems, gold, gums and iron was mentioned in the royal orders proclaimed since 1598.³⁸ Kings' exclusive power to call on labour was restricted by royal orders which explicitly command standard wages for workers and strictly call against suppression and unpaid labour.³⁹

Those royal orders indicate the presence of ideas about fair treatment and welfare for labourers as appropriate ways to deal with workers. The royal orders also served as laws and institutionalized mechanisms for putting these ideas into practice have existed since the 16th century. Although it is difficult to verify whether such institutional arrangements were really put into practice in those days through available historical records, royal orders are solid evidence that the notion of appropriate treatment of workers had already started taking shape in Myanmar centuries before the introduction of contemporary norms for the rights of the workers by the International Labour Organization. By adopting the first few labour conventions in October 1919, Myanmar recognized the existence of an institutional structure for labour rights and the importance of the agency of ruling elites in institutionalising labour norms. Therefore, the embryonic form of an ideational and institutional structure for labour rights can be traced back to the 16th century Burmese Kingdom. This research was not able to identify the external socialization involved in such development in those days.

³⁷ According to the recorded data of foreign trade in 1878-79, 45.5 percent of foreign trade with Europe, 36.39 percent with India and 18.11 percent with other countries.

³⁸ Royal Order proclaimed at the Hluttaw by the Chief of Heralds on 24 September 1598. Order 1 (1) Declare as Royal Monopolies the works of extracting, amber, gems, gold, gums and iron. (2) Workers employed in producing the above five material should not be asked to contribute labour to do any other public work because they are already in the Service of the King. (3) These workers should not be harassed by money lenders in order to recover their loans to them should they happen to incur some debts. (4) Their Chiefs should be given all accommodations should they visit the Capital to pay their Annual Tributes to the King. TUN, T. 1986. *The Royal orders of Burma, AD 1598-1885*, Center for Southeast Asian Studies, Kyoto University.

³⁹ Ibid. Royal Order passed on 1 January 1760 by King Alaungmintaya to give priority to constructions of the moat though workers shall never be pressed to work too hard. Royal Order passed on 16 November 1782 and proclaimed by Liaison Officer-Chief of Black Beret Guards prescribe standard rates and wages for making each portion of the wall or moat. Royal Order passed on 29 November 1810 and proclaimed by Baya Kyaw Htin, Liaison Officer - cum - Chief of Caduceus Bearers constructing fifty-seven rest houses in Rho Daung quarry; Athon Sayay- Clerks of Public Works, shall distribute this money among the workers employed in the rest house constructions.

5.2.2 Organized labour practices in colonial Myanmar [1885-1948]

The practice of organized labour in the country emerged under British colonial rule which lasted from 1824 to 1948 with a few years' disruption under Japanese control from 1942 to 1945. The socio-economic life of the country had significantly changed under British rule. Labourers and workers emerged as a distinct new social class with the introduction of colonial administration, commercialization of traditional agriculture, oil extraction and expansion of rice exports in the late 19th century (Hall, 1950: 156).⁴⁰ Rapid European settlement and inflow of migrant Indian labourers also changed the social fabric of the country from 1852.⁴¹ However, colonial businesses did not necessarily lead to industrialization. Apart from very few industrial companies such as Burma Oil Co., Ltd. (B.O.C.), many other industries were mainly on a small scale and employed few labourers (Lwin, 1968: 180).⁴² Commercialization of the country's economy did not bring due benefits to its people. Instead, labourers and farmers faced greater socio-economic difficulties as many farmers were dislocated from their land and faced growing indebtedness (Stanton, 2014: 4, Lynn and Lynn, 1961: 19).

Although the socio-economic wellbeing of the governed got less attention from colonial powers, their approaches to solving the issues of workers shifted to a legalistic one. Several laws were introduced to deal with labour issues such as the 1850 Apprentices Act, 1911 Factory Acts, 1923 Child Labour Acts, 1926 Trade Union Acts and 1929 Trade dispute Act. A significant characteristic of the legal / institutional structure of those days was the co-existence of the above-mentioned right-enabling laws with right-constraining laws such as the 1860 Master and Servants Act, Workmen's Breach of Contract Act, and 1932 Emergency Powers Act. Thomas H. Stanton discussed the negative impacts of the British legal system in colonial Myanmar, stating,

Thus, the law permitted rapid economic expansion of the commercial community in Burma and helped to project economic forces in the country

⁴⁰ D.G.E. Hall recorded the increase of total acreage of paddy land from 2 million acres to 13 million acres and rice export from below 400,000 tons to 3.5 million tons. Thomas H. STANTON cited, from Furnivall (1957), a similar account of expansion of rice cultivation from 7 million acres in 1900 to about 13 million acres in 1940.

⁴¹ D.G.E. Hall stated the Indian's arrival rate of 250,000 a year reaching the figure of 480,000 in 1927 and swamping the labour market, monopolizing the profession of the law, medicine, accountancy and engineering and with big businesses preferring Indian clerks to Burmese.

⁴² 150 factories registered in 1900, 300 factories in 1910, 617 factories in 1920, 980 factories registered in 1930.

and—although the Great Depression cannot be blamed on the colonial legal system—their disruptive consequences when the monetized economy collapsed. The law no longer reflected the culture of Burmese society or met its needs. The colonial legal system in Burma was an imposed hybrid that led to instability unknown to either the British or Burmese legal systems in their traditional forms (Stanton, 2014: 5).

At the time of dire socio-economic situations during the colonial era and in the presence of right-enabling laws, the struggles of labourers and farmers were able to take the form of organized labour activities. Those struggles gained strength along with anti-colonial movements (Lwin, 1968: 89-90). The first Labour Union led by Burmese was organized by GCBA leader U Myo Nyunt among the oil fields workers in Yenangyaung in 1921 and reached its height in the late 1930s when oilfield workers carried out strikes at almost all oilfields: Chauk, Yenangyuang, Lanywa, Yenangyat and Singu on January 8th 1938 (Lynn and Lynn, 1961: 19-23). In 1932, a central organ ‘All-Burma Federation of “We Burma” Trade Union’ was established by a national-level labour conference organized by ‘We Burma Association’. The oilfield workers’ strikes in 1938 gave impetus to nationalists’ aspiration among all strata of people in the country and led to a nation-wide anti-colonial movement in 1939 which is known as the ‘1300 Revolution’.⁴³ Five thousand workers across the country who gathered for the ‘1300 Revolution’ organized the very first labour conference on 9 January 1939. The conference adopted a resolution calling for the establishment of a national level confederation of trade unions named ‘All Burma Trade Union Congress’ (ABTUC), for building a socialist state, for nationalization of businesses, for securing democratic rights by peaceful means or resorting organized labour.

In late 1941, the British harshly suppressed organized activities by invoking Articles 107, 108 and 124 (A) of the criminal codes as well as Articles 26 and 38 of the Defence Act of Burma issued on discretion of the Governor General in 1940. Unionization and movement in colonial Myanmar was constrained mainly by the government’s attitude towards the union activities and the political interests-driven nature of those activities. The government saw union activities as elements causing instability despite the right to association being accorded to labourers by the Act of 1926. The country’s scattered industries and predominance of

⁴³ The revolution is named after the Burmese calendar year 1300.

agricultural economic structure, lack of organizational skills and unity and lack of long-term vision among labourers also limited the advancement of unionism in colonial Myanmar (Lynn and Lynn, 1961: 27,74).

Unionism revived after the Second World War due to the colonial rulers' policy to restore the war-torn economy (ILO, 1962: 12).⁴⁴ The number of trade unions were increased from 55 to 77 unions (Lynn and Lynn, 1961: 28). The political impacts of the union movements in colonial Myanmar become more apparent when a strike of 30,000 public service personnel took place in September 1946, disrupting the functions of the colonial bureaucratic machinery. The strike was supported by 25,000 All Burma Trade Union Congress (ABTUC) and Trade Union Congress Burma (TUCB). On 26th January 1947, a general labour strike took place with the participation of over 50,000 workers in Yangon demanding twenty four requests including wage, welfare, housing, freedom of association, and employer-workers' joint dispute settlement arrangements. The general strike led to strikes on a smaller scale in other small cities across the country. In response to these strikes, the British had to recognize the Anti-Fascist Peoples' Freedom League (AFPFL) as a legitimate political force comprising different political parties, including Burma Communist Party, and had to accept its leader General Aung San into a position in the Governor's executive council on 27th September 1946.

The Sorrento Villa Conference held in Yangon under the leadership of General Aung San laid down a programme of social and economic development for Independent Myanmar in 1947 (Maung, 1964: 1182) (ILO, 1984). A Labour Legislation Committee was formed in July 1947 to examine existing labour laws for peaceful industrial relations and to advise on creation of a labour dispute settlement mechanism (Lynn and Lynn, 1961: 75). Disputes were settled by tripartite conference and many settlements were in favour to the workers. However, cracks started to appear among the trade union federations as they were led by politicians with rival ideologies and revolutionary and evolutionary approaches towards state building. The Burma Communist Party (BCP) reorganized as the 'All Burma Trade Union Congress' (ABTUC) and the Burma Socialist Party (BSP) also formed a rival Trade Union Congress (Burma) (TUCB). Internal conflict of AFPFL led to the dismissal of BCP on 3rd November 1946. Although ABTUC, which was affiliated with international trade unions, had functioned

⁴⁴ Before the war there were 1,027 factories employing 83,383 workers; by the end of 1946 only 355 factories were in operation, employing 31,521 workers.

on the ground from 1945 to 1948, it went underground on 28 March 1948 along with BCP (Lwin, 1968: 220).

These historical records of organized labour practice in Myanmar indicate that the evolution, strength and weaknesses of union practices during the colonial era were less influenced by external socializing agents in those days. Historical cases suggest that the practice of FOA was employed as a tool for contention among political forces. Labour unionism, evolved during colonial Myanmar, was not able to create full appreciation of the practice among Burmese workers as most union activities were driven by political interests rather than the pure interests of the workers to address their issues at their workplaces. The conceptions and activities of the organized labour was largely shaped by individuals with political orientation, and thus their activities did not nurture a sense for organized labour as a means for compromise, negotiation and a vehicle for better industrial relations. The colonial government's policies and businesses' handling of labour disputes and managing strikes seldom aimed for or produced negotiated solutions. Burmese labourers in colonial days practiced the organized labour with a limited notion of the present-day international norms for workers' right to freedom of association. Therefore, evolution of an ideational structure about 'freedom of association' was very limited and the role of socialization was non-existent.

In addition, colonial governments and their introduction of legal/institutional arrangements to the country, by extending the 1926 Trade Union Act of India, did not contribute much to enable the practice of 'freedom of association'. Workers rarely had opportunity to invoke the law as they lacked confidence in the British legal system. The Trade Union Act of 1926 also had significant defects such as failure to bind employers to recognize the organization and existence of labour unions. The existence of right-constraining laws and constant police monitoring of union activities also further constrained workers' ability to exercise 'freedom of association' in meaningful ways. Therefore, the presence of the Trade Union Act did not promote legal and institutional structures enabling organized labour practice.

5.2.3 Progress of labour movements in parliamentary Myanmar [1948-1962]

The progress of labour movements in independent Myanmar was recorded from 1948. Advancement was made in terms of government policies, practices of businesses and trade unions. A total of 656 unions were registered under Trade Union Acts 1926 over 15 years

from 1946 to 1960 with the membership of 128,251 workers. The Labour department's surveys in 252 towns reported that 600,000 or more than 50 per cent of one million workers were unionized in 1953 (Lwin, 1968: 176). In 1963 the Central Statistical Office reported considerable reduction in labour disputes from 178 in 1951 to 99 in 1961 (Lwin, 1968: 388). U Myo Htun Lynn stated:

A significant progress has been made in the Burmese labour movement since the Independence towards, a better appreciation and understanding of the spirit, functions and the purpose of a free democratic trade unionism.....[These] developments may indicate that the present day Burmese trade unions are on the way towards a genuine democratic trade union movement (Lynn and Lynn, 1961: 25).

The government's labour policy improvement started taking shape in the post-war period. As only one-third of the industries remained after the war and employment was also significantly reduced to one-third of pre-war conditions, the post-war government prioritized addressing labour issues by setting up a Labour Legislation committee. Those initiatives laid the ground for better labour policy and labour law reforms in independent Myanmar. The labour policy of the very first government of independent Myanmar was favourable to the workers as it aimed to fulfil the welfare of the masses through an evolutionary approach to socialist economy. With regard to the government's political ideology and its objectives, U Ba Swe, a Deputy Prime Minister of the Government of Burma said:

Our political ideology is not static, and neither are we, Socialists, dogmatic. Nor are we political extremists. It must be understood, that as realists who are going to build a country, Marxism will be applied creatively. Its practical application will be in accordance with circumstances, environment and adaptability to Burma. With this policy as the basis, we will build a Socialist Society in Burma in which our people will be free from exploitation, getting prosperous, nationally, and enjoying rights as a progressive and independent nation (Lockwood, 1957: 392).

The government's policy was also manifested in its economic plan, 'Pyidawtha' or 'Welfare' Plan' (Than, 2013: 646-648).⁴⁵ Constitutional and legal measures accompanied social welfare-oriented government policies and plans of independent Myanmar. Among nine Articles related to the welfare of the working class covered in the Constitution of 1947, the right to Freedom of Association gained greater prominence. Article 17 under the citizens' rights specifically prescribes for liberty for the citizens to form associations and unions subject to law, public order and morality without undermining the Constitution. Freedom of Association was specifically defined with respect to workers in Chapter III where the relations of the state with farmers and workers are provided and Article 31 stipulated:

the State may assist workers, by economic and other measures, to associate and organise themselves for protection against economic exploitation and that the State shall protect workers by legislation' intended to secure to them the right of association, to limit their hours of work, to ensure to them the right to annual holidays and to improve working conditions, and as soon as circumstances permit by promoting schemes for housing and social insurance.

Parliament enacted seven new labour laws and amended twelve labour laws in the first few years after independence, bringing practical benefits to the workers.⁴⁶ The Constitution and economic blueprints were put into effect only by 1952 due to insurgency and political strife between 1948 to 1952 (Maung, 1964: 1183). Growing factional politics and insurgency following independence had extensively disrupted the industries, transportation services, and practically the overall domestic economy. Instabilities led to a dramatic increase in unemployment and grievances among workers in newly independent Myanmar. The conflicts within the communists and socialists of AFPFL, which had built up and intensified in post-war

⁴⁵ Welfare Plan was based on the government-commissioned comprehensive study on Economic and Engineering Development of Burma undertaken by New York-based Knappen Tippetts Abnett Engineering Co., (KTA) and introduced at Pyidawtha Conference held from 7 to 17 August 1952.

⁴⁶ The seven new labour laws enacted are; 1. The Employment Statistics Act 1948, 2. The Minimum Wages Act 1949, 3. The Employment and Training Act 1950, 4. The Oilfield (Labour Welfare) Act 1951, 5. The Leave and Holiday Act 1951, 6. The Factories Act 1951, 7. The Shop and Establishment Act 1951. The twelve labour laws amended are ; 1. The Factory Act 1948, 2. The Trade Dispute Act 1948, 3. The Mine Act 1949, 4. The Trade Union Act 1949, 5. The Payment of Wages Act 1949, 6. The Mines Act 1949, 7. The Factories Act 1950, 8. The Trade Dispute Act 1950, 9. The Payment of Wages Act 1950, 10. The Oilfields (Labour and Welfare) Act 1951, 11. The Workmen's Compensation Act 1951 LYNN, M. H. & LYNN, U. M. H. 1961. *Labour and labour movement in Burma*, Department of Economics, University of Rangoon.

Myanmar, had finally led communists to go underground on 28th March 1948, months after the country's independence on 4th January 1948.

Trade union activities of the All Burma Trade Union Congress (ABTUC) under leadership of BCP also disappeared after March 1948. Just before their disappearance, ABTUC led workers from seven businesses including timber industries, port workers and B.O.C movements in several requests including wage increase, recognition of trade unions by government and employers, reinstatement of workers who were dismissed for various reasons, relaxation of strict immigration rules against Indian migrant workers, permission for regular remittance by Indian workers to their family in India, housing schemes for labourers and nationalization of colonial businesses. The BSP-led government crushed the strike, considering it as manipulation of BCP to challenge the government. A series of labour strikes took place during the first year of independence when many industries retrenched labour and cut wages.⁴⁷ The Namtu Mine workers' strike of May 1948, and the strike of All Burma Ministerial Service Union (ABMSU) in February 1949 objecting the government's planned retrenchment of 25 per cent of public service clerical staff and cutting of living allowances were two among eleven organized labour movements in 1948. In 1949, workers' demonstration against BOC's planned retrenchments also mobilized a large number of workers across the country: 50,000 in Yangon, 5,000 in Syriam, and a total of 300,000 in many other small cities (Lwin, 1968: 365-389).

Notwithstanding the outbreak of labour strikes, one significant improvement in organized labour practice was increased successes in conciliation of industrial disputes. Several strikes were called off after conciliation (Lynn and Lynn, 1961: 87).⁴⁸ Practical improvements in socio-economic life were also experienced by workers. Standardized working hours, paid overtime, increased welfare, and paid holidays are legislated by the Parliament of Democratic Myanmar. U Myo Htun Lynn's discussion on 'the state and labour' suggests four important factors which made important contribution to the betterment of organized labour practice and socio-economic life of workers. The government's labour policy, legislative reforms, reorganization of government bureaucracy and improvement of education for labour officers and workers largely explained the progress of labour movements in the country.

⁴⁷ Eleven strikes were recorded in 1948, five, nine and nineteen strikes respectively recorded in 1949, 1950 and 1951.

⁴⁸ Of 115 disputes in 1948, 87 were conciliated, and 8 of 15 disputes in 1949, 24 of 54 disputes in 1950, 59 of 114 disputes in 1951 were conciliated.

Institutional improvements were also made by government to enforce constitutional and legal measures on workers' rights. The Department of Labour which ran under the Ministry of Industry and Commerce under the colonial government was upgraded into the Ministry of Housing and Labour in March 1952 with a broader mandate for the administration of labour affairs and enforcement of labour laws. Trade Union Development sections were set up in four major cities under the Directorate of Labour from June 1954 for enforcement of Trade Union Act as well as for healthy and responsible union movements. Besides the Directorate of Labour, the Court of Industrial Arbitration and the Labour Welfare Centres were also among sixteen departments of the Ministry. Among those departments, the Labour Advisory Board and the Labour Legislation committee were formed with the inclusion of representatives from employers and employees.

An important institutional development was the introduction of a training scheme to enable union leaders and labour officers to effectively administrate and enforce labour laws. The government training scheme was complemented by the education programme of the TUCB.⁴⁹ Over one hundred trainees participated in the first labour course organized by the Directorate of Labour in January 1953 (Lynn and Lynn, 1961: 73-87). Labour officers and trade union leaders were also sent abroad for foreign missions, International Labour Organization(ILO) fellowship and training programmes (ILO, Geneva 1954: 83).

Active external cooperation programmes were initiated by the government. A technical assistance mission led by expert Mr.P. Markandeyulu undertook a study for sound industrial relations in Myanmar from May 1952 to April 1953. During his visit, he delivered lectures on the principles and practice of conciliation and arbitration of industrial disputes in labour training. His mission came up with advice on legislative and institutional measures for the operation of mediation, conciliation and arbitration machineries. The mission also pointed out the necessity of supplementary measures for creating harmony and understanding over the long run, stating:

The importance of such supplementary measures cannot be over-emphasised. An adequate legal framework is essential for the development of

⁴⁹ While government training emphasized the skills and knowledge development on the evolvement of trade unionism, study of labour law and labour administration and settlement of industrial disputes, the TUCB programme stressed the political and economic role of the unions.

sound industrial relations but a strictly legalistic approach to this problem would be inadequate and also unrealistic. Hence, it is of great importance that legislation should be supplemented by other measures which do not depend for their effectiveness upon legal compulsion and which are intended to apply in the vital area of human attitudes and human understanding (ILO, 1953: 27).

A similar ILO mission was in the country from November 1953 to March 1954 to give advice on the improvement of the labour administration and inspections system. The mission's report stressed the importance of implementation of the existing legislation which was sufficient for peaceful industrial relations. The report reads;

12 labour Statutes are comprehensive, and on the whole as advanced as anything in the world. They should not be extended for some time to come. The task before those responsible for labour administration and inspection in Burma in the foreseeable future is to see that the existing legislation is complied with and the existing powers used (ILO, Geneva 1954: 6-7).

A factual survey on the situation of freedom of association was undertaken by ILO in the country in 1961.⁵⁰ The survey outcome indicated the implications of competitive unionism due to the intertwined nature of unionism and politics.⁵¹ Competing representation of workers caused difficulties for employers in giving recognition to competing unions and in handling of workers' grievances. The close ties of the trade unions with political parties also created occasions when unions bypassed the conciliation procedures as provided by the Trade Disputes Act and thus undermined the legal and institutional credibility (ILO, 1962: 48-49).

⁵⁰ The FOA survey taken in Myanmar during 1961 was the sixth in the series of ILO surveys which served as one of the machineries of ILO to guarantee the freedom of association in the member countries. Previous surveys were undertaken in the United States and U.S.S.R in 1959, in the United Kingdom and Sweden in 1960 and in the Federation of Malaya in 1961.

⁵¹ Factional conflicts of political forces had great impact on trade union organizations. The divisions within the ruling Burma Socialist Party (BSP) caused repercussion on the split within trade union confederation. When a splinter of the ruling socialist party, a more leftist Burma Workers and Peasants Party (BWPP) was formed in 1950, many trade unions affiliated to TUCB shifted under BWPP's leadership. By then, BSP had also organized rival confederation which is known as Burma Trade Union Congress (BTUC) in 1951. BTUC organized unions through forceful persuasion. It affiliated itself with the World Federation of Trade Unions (WFTU). Politician's involvement in unionism in Burma had prohibited the evolution of strong, united and organized union practice.

The report also noted employers' weak understanding on the role of unions in industrial relations:

There was also substantial agreement as to the need for more education for employers in labour-management relations, since many employers, it was considered, lacked knowledge and experience in this field..... [T]hey preferred to settle their affairs with their employees without union intervention, believing that they could do more on their own for their workers than the latter could obtain through their unions. Thus it is evident that there is far from a full understanding or appreciation by employers in Burma of the place and functions of trade unions in employer-employee relations..... [T]here is no association of employers in Burma which can enunciate an agreed policy towards unions (ILO, 1962: 46,48,49).

Employers' lack of a united stand to consult unions and workers' competing representation in independent Myanmar had prevented any meaningful practice of freedom of association after the country's subscription to the International Labour Organizations (ILO) Convention on Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) (Herein after Convention 87) in 1955. The essence of freedom of association for consultations and collective bargaining was not properly localized during democratic Myanmar. As a result, the practice of freedom of association, though developed relative to the periods prior to independence, failed to reach the larger segment of workers. Agriculture sectors which form 70 per cent of the country's labour force were not unionized in 1961. ILO pointed out the unfavourable economic climate and deficiencies in union practice as major hindrances to achieving the improvements in labour standards and working conditions established by national legislation (ILO, 1962: 65).

As discussed in this section, it can be concluded that the implementation of freedom of association in democratic Myanmar (from 1948-58, 1960-62) had relatively improved in comparison to the practices in the colonial era. Such improvements were made possible by the government's socialist policy orientation or enabling agency of the state, its concrete planning and implementation through legal reforms, bureaucratic reorganization for labour administration, and labour education. The role of the state as enabling agent of the norm was significant in creating favourable legal/institutional structures in the implementation of FOA. Here the role of the ILO in the implementation of cooperative initiatives with the government

can be seen as facilitating agents of FOA norms during the period under examination. ILO's role in socializing FOA and building capacity for workers' unions and sharing technical expertise has to be recognized.

However, unionism was not able to take root in Myanmar during the period under consideration as trade unions were more the agents of the state than that of the workers themselves (Taylor, 1990: 70). Weakness consciousness of unionism among key stakeholders, workers and businesses (or norm executing agents) and political influence over unions had caused difficulties in internalizing the practice of organized labour in Myanmar's industrial relations. Such weak consciousness was manifested in weak union leadership and lack of unity among unions. Labour mobilizations were based on short-term interests of wage and individual grievances at the work place, instead of strategic and united efforts for collective bargaining with broader objectives of industrial development and greater influence in labour market. Therefore, the presence of enabling legal, institutional structures during the period from 1948 to 1962 was not able to lead to the evolution of a rounder concept of the FOA norm among workers as their activities were largely guided by narrow vision as well as heavily fragmented and overshadowed by political parties. The faults lies in the executing agents which drained the agential dynamic despite the synergetic efforts made by government and the ILO. These findings go along with this research's theoretical prediction on the weak-synergetic agential dynamic driving practices off-track.

5.2.4 Trade union practice under socialist Myanmar [1962-1988]

This period represents the transition from democracy to military administration and eventually to a single party socialist system. Organized labour practice was transformed⁵² after the military took over in 1962 in the midst of chaos among civilian politicians (Taylor, 1990: 63).⁵³ As social order was the priority of the day, all political parties and civil society organizations including all student unions, trade unions, and women's organizations were targeted and criticism, political dissent, opposition and advocacy were suppressed (Callahan,

⁵² In March 1964, the revolutionary government introduced 'The Law Protecting National Unity' and all political parties and trade unions were abolished. In May 1964, it introduced the law on 'Fundamental Rights and Responsibilities of Workers'. From that time, labour organization practice of Burma took a different form and the number of labour disputes surged from 2,289 in 1961-62 to 11,238 in 1964-65.

⁵³ Robert Taylor interprets the failure of post-colonial democracy as a consequence of the widespread belief in heroism of selected individuals and the absence of other strong institutions.

2012: 121, Chandler and Steinberg, 1987: 400-401).⁵⁴ Associations of workers and peasants became instruments to mobilize mass support for the implementation of the revolutionary council's programmes under the Burmese Way to Socialism in July 1962.⁵⁵ The economic life of the country was restructured and the private sector was nationalized.⁵⁶ As those reforms did not produce any socio-economic improvements (Chandler and Steinberg, 1987: 403-404),⁵⁷ state control of the economy was relaxed and greater space was given for private initiatives, foreign aid and investment in the early 1970s.

After adoption of the 1974 Constitution, a single party system was legitimized and the Burma Socialist Programme Party (BSPP) took sole leadership role while prohibiting all other alternative sources of power. Although Article 158 of the 1974 Constitution formally ensured individual rights, including freedom of association,⁵⁸ it was apparently negated by Article 11 of the Constitution which only allowed for a single-party system while all associations and assemblies that did not conform with the party were prohibited. Therefore, freedom of association was practically limited only to attending party-sponsored mass rallies in support of the party (Thirgood, 2002: 14-16).

As part of development strategy, the Revolutionary Council and BSPP government made major efforts towards the socialization of the industrial working class and peasantry to improve organization, production and national defence. Peasants and workers were taken as the primary vanguard and custodian of the socialist democratic state. Through legislation, peasants' and workers' rights to participate in economic planning and implementation were

⁵⁴ The 1964 Law on protection of National Unity and Articles 3 and 4 prohibit all political parties and all associations, with the exception of BSPP, which can obstruct the government's socialist policies and programmes.

⁵⁵ Socialist policy was announced on 30th April 1962 by the Revolutionary Council and the Enterprise Nationalization law was promulgated in 1963, small farmers, and national small businesses and retail traders excepted.

⁵⁶ About 15,000 business enterprises and factories were nationalized under BSPP government, cited in Kyaw Yin Hlaing(2003) from David Steinberg(1982).

⁵⁷ In the terms of Laurence Stifel, 'the first decade[of Revolutionary Council] has been one of the extreme economic deprivation as socialization paralyzed the old economic system': STIFEL, L. D. 1972. Burmese socialism: economic problems of the first decade. *Pacific Affairs*, 45, 60-74.

⁵⁸ Article 158 of the 1974 Constitution states: 'Every citizen shall have the right freely to take part in political, social, class and mass organizations permitted by law and to enjoy freedom of association, assembly and procession. The State shall provide necessary assistance to the people to enable them to enjoy fully these rights and freedoms'.

strengthened.⁵⁹ A centralized form of workers' organizations was authorized by Article 9 of the 1964 Law Defining the Fundamental Rights and Responsibilities of the People's Workers; which provides:

Government shall make rules for the formation of Peoples' Workers' Councils as the People's Workers' own organization in which all the Peoples' Workers may join freely without discrimination as to race, colour or creed.
(Burma, 1964: 408)

Peasants' views were solicited at peasant seminars (Stifel, 1972: 65). The Central Peoples Workers Council (CPWC) and Central Peoples Peasant Council (CPPC) were established in 1968 and in 1969 respectively in order to mobilize mass participation in decision making (Fenichel and Khan, 1981: 816-819). Along with those empowering legislations for workers and peasants, PWCs and PPCs were formed at different levels: basics, township to states, and division levels. By 1985, BSPP had recruited 26.46 per cent of PWC's members and 11.16 percent of the Peasant Association respectively (Silverstein, 1986: 62-64).⁶⁰ By 1987, almost two million people were organized under workers' councils through 274 township-level workers associations, 66,595 basic branches and 11,613 basic associations ('Discussions', 1987).

However, the organization and activities of workers' associations were not in line with the FOA norm embodied in Convention 87 of the International Labour Organization (ILO), as BSPP controlled all mass and professional organizations, thus preventing the development of any civil society advocacy groups beyond those associated with religion, especially Buddhism (Steinberg, 2013: 67, Park, 2014: 2, ILO, 1989). The situation worsened when the State Protection Law was promulgated in 1975 to crush a series of strikes, negating the civil rights given by the Constitution promulgated a year earlier in January 1974 (Gutter and Sen, 2001: 9-

⁵⁹ The Law to Protect the Rights of Farmers was introduced in 1963 and the Law Defining the Fundamental Rights and Responsibilities of the People's Workers in 1964.

⁶⁰ BSPP was created by the army and remain dominated by it throughout the period even after it was turned into a mass party in 1971. In August 1985, 113,540 or 94 percent of the armed forces, an estimate of 180,500, were full members of BSPP. Party membership fell into three categories; friends of the party, candidates and full members.

10).⁶¹ Therefore, the government was consistently questioned at ILO throughout the period under BSPP on the grounds of failing to meet its international obligation.

The single trade union system under RC and BSPP neither served for the betterment of workers' and peasants' lives nor helped implement socialist programmes. As the promises of socialist policies did not become reality, public disenchantment of the BSPP's rule further intensified (Venkateswaran, 1996: 9).⁶² By 1987, the country's terms of trade was deteriorated, its trade deficit increased and its reserves had dwindled (UN Committee for Development Planning, 1987: 20)⁶³ and thus the BSPP government had to apply for Least Developed Country (LDC) status in 1987 (Lintner, 1990: 66).⁶⁴ When the government announced demonetization of currency in 1988, public disappointment reached its culmination and the

⁶¹ In January 1974, the Revolutionary Council adopted 1974 Constitution which provides for one party only (the BSPP) and set forth the rights and duties of the people. Rights included freedom of speech, association and assembly, but these were drastically limited by the duty 'to abstain from undermining (a) the sovereignty of the state, (b) the essence of the socialist system, (c) unity and solidarity of the national races, (d) peace and tranquility, and (e) public morality'. The Constitution empowered the military government to declare a state of emergency or martial law.

⁶² Throughout the period under Revolutionary Council and BSPP government, workers' strikes and demonstrations occurred. Incidents of workers' demonstrations took place as early as in August 1967 due to shortages of rice and other essential commodities and they were violently crushed by the government STEINBERG, D. I. 1982a. *Burma, a socialist nation of Southeast Asia*, Westview Pr. A series of labour strikes took place in 1974 over the economic grievances of inflation and food shortages among workers and the general public. Dozens of peoples were killed by the state's suppression of strikes MARTIN, E. W. 1975. *The Socialist Republic of the Union of Burma: How Much Change?* Asian Survey, 15, 129-135, LINTNER, B. 1990. *Outrage: Burma's struggle for democracy*, White lotus London. 62

⁶³ The country's debt service ratio rose from 15.9 percent in 1970 to 50 percent in 1987.

⁶⁴ Frank N. Trager and William L. Scully characterized the economic situation in the early 1980s as a 'decade long pattern of stagflation' TRAGER, F. N. & SCULLY, W. L. 1978. *Burma in 1977: cautious changes and a careful watch*. Asian Survey, 18, 142-152. Some scholars mentioned that Burma's economy had reached 'a rock bottom after 25 years of neglect and mismanagement' and that the situation was worsened by mounting foreign debts and rising debt servicing ratio of more than 50 per cent of official exports. And the country's worsening economy also faced negative repercussions from the global recession of 1973-1975 STIFEL, L. D. 1972. *Burmese socialism: economic problems of the first decade*. Pacific Affairs, 45, 60-74. Post-Mortem assessments on the failure of Burmese Way to Socialism indicate varying factors. Some scholars points to the failure as the consequence of drastic economic restructuring without accompanying social, political and cultural changes, particularly inefficiency of management and ineffective reforms in the procurement and distribution of goods MAUNG, M. 1964. *Socialism and economic development of Burma*. Asian Survey, 1182-1190, MAUNG, M. 1989. *The Burma road to poverty: A socio-political analysis*. Fletcher F. World Aff., 13, 271. Others finds issues with ineffective implementation of socialist economic structures introduced by the BSPP government, limitation of human, technical and financial resources and rampant corruptions FENICHEL, A. & KHAN, A. 1981. *The Burmese way to 'socialism'*. World Development, 9, 813-824, HLAING, K. Y. 2012. *Understanding recent political changes in Myanmar*. Contemporary Southeast Asia: A Journal of International and Strategic Affairs, 34, 197-216. The drain of government resources due to insurgency also exacerbated economic stagnation. The most appealing explanation on the failure of socialist Burma was inability of the BSPP to take root in the society, nurture socialist ethics and create appreciation of the doctrines and its leadership despite its socialist rhetoric and efforts to expand the statistical counts of its membership among peasants and workers who joined with the hope of material advantages such as jobs, good and personal advancement SILVERSTEIN, J. 1986. *Burma in 1985: A Nation 'On Hold'*. Southeast Asian Affairs, 55-67.

country's history took a drastic turn following nationwide strikes.⁶⁵ The State Law and Order Restoration Council (SLORC), led by General Saw Maung, took over the country on 18 September 1988.

The above history shows how the FOA norm made an unintended domestic impact in a disguised form during the country's transition from democracy to a single party system. The socialist government shaped the way FOA was implemented in the country. The FOA norm was utilized as a means to rally political support by workers and farmers to BSPP as well as a tool to engineer the socialist economy by organizing workers and farmers under a single union structure. FOA practices during this period demonstrate off-tracking mainly due to the socialist government's reinterpretation of FOA by introducing a single union system and its ability to effectively prevent external pressures on practice deviation from the FOA norm. The absence of domestic agents of FOA also is responsible for failing to activate the agential dynamics in socializing the FOA norm in socialist Myanmar.

5.2.5 Defunct FOA under the SLORC and SPDC [1988-2010]

Freedom of Association was defunct under SLORC and SPDC (1988-2010). SLORC introduced the Law relating to Formation of Organization on 30 September 1988. The law narrowly defined lawful associations, practically forbidding FOA. Such laws are in violation of the country's obligation under ILO Convention 87 since the country's ratification in 1955. As a result, the United Nations, ILO and International Trade Unions called on SLORC and SPDC to fulfil their obligations under ILO Convention 87 (Program, 2000: 51-54). The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) made observations on Myanmar's failure to comply with the principles of freedom of association over the past decades. The government unsuccessfully argued for its role in ensuring workers' welfare through the Social Welfare Organizations.⁶⁶ As this question persisted, the case appeared in a special paragraph in the report of the Committee on the Application of Standard to the International Labour Conference (ILC) from 1996. Since 2001,

⁶⁵ The government announced two measures: greatest economic liberalization allowing farmers to sell their products in market freely on 1 September 1987 and demonetization of currency notes with no rights to redeem on 5 September 1987 had triggered nation-wide demonstrations in March 1988.

⁶⁶ Interview with Daw San San, President of the Yangon Division Arbitrary Council for labour dispute, Member of Dispute Settlement Arbitration Council, alternate Chairperson of Arbitration Body or Tribunal at Ministry of Labour and Employment, Ex-Member/Commissioner, Myanmar National Human Rights Commission, YGN, Director (Retired) at Ministry of Labour Employment and Social Security on 17 February 2017

the Myanmar government has been successively deplored at the ILC for lack of cooperation to correct the discrepancies between the ILO Convention 87 and domestic laws and practice. The ILC calls for urgency for immediate measures to put in place the mechanisms to entitle all workers and employers freedom to join the organization of their own choice, and the right to affiliate with federation, confederation and international organizations in compliance with Articles 2, 5 and 6 of the Convention.

During these periods, trade unions operated in exile, drawing assistance from international trade unions. Organizations such as the Federation of Trade Unions of Burma (FTUB) led by U Maung Maung and Yaung Chi Oo Workers' Association revealed the cases of labour rights abuses by gathering information through their networks in the country. In 2011, the Conference Committee started considering formation of a Commission of Inquiry (COI) on Myanmar's failure to comply with C087. Considering the reforms being undertaken in Myanmar, government members of the ILO, particularly the EU and US, suggested to defer the decision on formation of a COI on C087 in Myanmar. Although the priority of the ILO in Myanmar in those days was on elimination of forced labour through effective implementation of C.029, the issue of implementing FOA was also pushed forward by the ILO on every possible occasion, but it did not make much progress.⁶⁷

The FOA practices under SLORC/SPDC reflect the lack of an agential dynamic as the role of the state during that period comprehensively inhibited the FOA norm. During that period, the government was less sensitive to the pressures from external actors at ILO and other international and regional fora. During that period, external actors, including transnational players such as FTUB, were banned and domestic agents were also effectively suppressed from mobilizing and linking up with transnational players. In the absence of 'access' for external norm agents into the norm target state and 'space' for domestic norm agents within that state, the FOA norm was defunct in practice. And thus, defunct FOA practices during the SLORC and SPDC period can be explained by lack of agential dynamics deactivated by external norm agents' lack of access, lack of space for domestic norm agents and the lack of socialization within domestic sites.

⁶⁷ Interview with Mr. Steve Marshall, the New Zealand Ambassador to Myanmar dated 7 February 2017.

5.3 Precarious industrial relations in transitioning Myanmar (2010–2016)

Myanmar's democratic transitions involve visible policy shifts towards guaranteeing better civil liberty. The shift is also accompanied by uncertainty about the success of implementation the transitioning government's policies. Transition is characterized by several measures in building new legal foundations and institutions, improving civil liberty in line with international norms and practices. Chapter VIII, Article 354 of the State Constitution 2008 provides the rights of the citizens including freedom of expression, peaceful assembly, and freedom of association. Freedom of association for the workers was one of several aspects where policy shift was observed. The Labour Organization Law was one of the first laws promulgated by the first Union Parliament elected in the 2010 general elections.⁶⁸ Based on this legal foundation provided by the transitioning government, a new institutional structure of industrial relations has been evolving. New domestic and external players also came into the industrial landscape. Under such circumstances of evolving legal/institutional structures and emerging dynamics of multiple actors, challenges in implementation of the FOA norm also appeared in the country.

And thus, this section addresses three main issues by examining domestic structures and multiple actors operating within the country. First, it reveals the role of the state in norm implementation by explaining how and why the government's FOA policies and legal and institutional measures were successful to a limited extent in enabling practices of workers and employers to fulfil the moral and functional purposes of the FOA norm. Second, it discloses the limits of international actors in domestic processes of the FOA norm in a transitioning country by explaining how and why international actors' engagements are limited in promoting FOA as compared to norms in other issue areas such as RBC. Third, it discloses the nature and attributes of the dynamic of multiple actors as a major determinant for domestic practice of an international norm such as FOA.

5.4 FOA practices, shifting structures and emerging agents

Democratic transition in Myanmar is characterised by three key elements: 1) leadership's clear policy direction, initiatives and commitment, 2) evolving institutions and

⁶⁸ 1) The Labour Organization Law (Law No. 7/2011); 2) The Settlement of Labour Dispute Law (Law No. 5/2012), and; 3) The Law on the Right of Peaceful Assembly and Peaceful Procession, Dec/2011

dynamic domestic actors, and 3) increased engagement with international actors. The shift in government policy and introduction of legislation and institutional mechanisms facilitates some procedural and formal matters relating to practice of the FOA norm entailing quantitative growth of labour organizations. However, the state's policy and legal/institutional structure shift do not guarantee the quality of FOA practices in the country.

5.4.1 Favorable policies: the role of individual leadership

The policy direction of keeping workers' issues high on the government's agenda is reflected in President U Thein Sein's inaugural address to the Union Parliament delivered on 30 March 2011. He emphasized the new administration's determination to improve the living conditions of farmers and workers, to upgrade legislation to safeguard their rights and to promote their welfare by creating better employment opportunities and guaranteeing their benefits which would be commensurate with an individual's contribution to the economy (President U Thein Sein, 2011). Such a policy statement is substantive, as it is accompanied by concrete legislative measures to promote labour rights. Domestic and international observers recognize the important role played by leadership in improving greater rights to workers through such measures as introducing the Labour Organization Law. Ambassador Mr. Steve Marshall, former ILO Liaison Officer to Myanmar for the period 2007-2015 and currently representing the government of New Zealand in Myanmar, stated:

[T]he elections came along; the new government made quite dramatic moves. I don't think many people actually give Thein Sein government credit for the moves they did make. They were considerably serious. And it[the drafting the Labour Organization Law] was fascinating because they clearly taken the issue seriously, and they have some very high level committee chaired by Ministry of Labour, Chamber of Commerce and Industries, Supreme Court, Home affairs, Ministry of Foreign Affairs and a whole range of government departments at high level.⁶⁹

U Htay, a long-time labour advocate, a lawyer and current member of Yangon Division Arbitrary Council, comments on the semi-civilian government's efforts in seeking cooperation with them to address pressing labour issues:

⁶⁹ Interview with Ambassador Mr. Steve Marshall representing the New Zealand to Myanmar dated 7 February 2017.

Along with U Ko Ko Gyi from 88 Generation Peace Open Society, we were invited to Chatrium Hall meeting. Government willingly offer for cooperation [to solve labour issues]. We also cooperated willingly. Labour law reforms takes place while labour strikes are managed. Several issues were solved systematically. For example, Sunday being marked as workmen's holiday, limiting maximum overtime of 20 hours per week only with the consent of the workers. Several measures to improve workers' rights gained momentum under U Thein Sein Government.⁷⁰

Elite interviews confirm a long-planned process in introducing legislations which are in line with international standards and norms driven by a motive to create a business-friendly environment to attract more diverse business partners from around the world. Drafting of the labour organization law had been initiated since 2006 as groundwork for the market economy, which was anticipated to come along with the planned democratic transition in 2010.⁷¹

5.4.2 Evolving structure for FOA practices

Emergence of new institutions and new actors is another important manifestation of transition. Actors in policy circles, civil society circles and circles of 'international in domestic'⁷² all play a greater role in acting on new laws and institutions.

A liberalized media emerges as a most significant institution which forms part of the evolving institutional structure shaping the way FOA is practiced in the country. The media is expected to perform three important functions in promoting human rights in general and specifically in implementing FOA norms. The media raises awareness about the rights of workers, monitors and reports abuses and provides venues for stakeholders to engage in

⁷⁰ Interview with labour advocate, lawyer U Htay, member of the Arbitrary Council, Yangon Division on 8 January 2017.

⁷¹ Interview with U Maung Myint, MP Pyithu Hluttaw (House of Representatives), retired Minister for Labour from 2012 - 2013, retired Minister for Industry from 2013 - 2016 on 16 February 2017 and interview with Daw San San, President of the Yangon Division Arbitrary Council for labour dispute, Member of Dispute Settlement Arbitration Council, alternate Chairperson of Arbitration Body or Tribunal at Ministry of Labour and Employment, Ex-Member/Commissioner, Myanmar National Human Rights Commission, YGN, Director (Retired) at Ministry of Labour Employment and Social Security on 17 February 2017.

⁷² Alexander Betts and Phil Orchard use the term '*international in domestic*' to designate international actors playing their roles in domestic implementation of international norms.

dialogues and debates on issues around labour rights in general and the exercise of FOA in particular.

A government department, Factory and General Labour Laws Inspection Department, is another important mechanism for the monitoring and reporting on the compliance with labour laws in general. However, the Directorate of Labour is in charge of matters relating to the implementation of the Labour Organization Law as the directorate and township offices hold the registers of workers' organizations. Despite its role as a focal department for matters relating to labour organizations, the Directorate of Labour hardly plays any role in defining and promoting the FOA concept as it is bogged down by registration processes. Such limitation of the government department is also explained by its weak institutional strength. Out of 330 townships across the country, the Directorate of Labour has offices only in 78 townships. Weak institutional capacity is one of the reasons for the government's limited role in raising awareness about labour organization law and regulations. The impact of such limitations on the FOA implementation will be elaborated further when we discuss the causes and consequences of side-tracking of the FOA norm in Myanmar.

For the enforcement of the Labour Organization Law and regulations, labour dispute settlement mechanisms are introduced by the Labour Dispute Settlement Law 2012. The law set up a multi-level mechanism for the exclusive handling of labour disputes. Disputes unresolved within five days of consultation in the Workplace Coordination Committee (WCC) are to be referred to the Township Conciliation Body (TCB). When TCB fail to solve it in three days, the case is to be heard at regional or State-level Arbitration Body (AB). If the AB is unable to solve the dispute within seven days, national-level Arbitration Council (AC) is to consider the case within seven days. Final appeals can be submitted to the Supreme Court.⁷³ While recognizing some flaws in the way such mechanism operates, the usefulness of the labour dispute resolution mechanism has been reported by BSR, an INGO working with businesses for sustainability. According to the report, 1,200 cases accepted by TCBs in 2016 alone, and around 85 percent of TCBs cases are resolved through conciliation at that level while 150 cases went on to the relevant ABs, with nearly two-thirds of these cases later appealed to the AC. A small number of disputes are diverted to the judicial system for appeal or enforcement.(Ediger and Fletcher, 2017).

⁷³ The Settlement of Labour Dispute Law (SLDL) was promulgated on 28 March 2012.

Aside from such mechanisms exclusive to labour matters, complaints about labour rights abuses can be made to another national mechanism, the Myanmar National Human Rights Commission (MNHRC) formed in 2011. Although MNHRC was not exclusively designed for handling labour rights abuses, it receives complaints related to labour issues (MNHRC, 2017: 1,7).⁷⁴ Although the Commission is often questioned about its autonomy due to its composition of appointed members, its activities are relatively autonomous. Within its limited mandate of receiving, verifying and referring complaints to government bodies, MNHRC handled a total of 7,208 complaints from 2011 to 2014.⁷⁵

Another important institution, which played an important role during the first Union Parliament [Pyidaungsu Hluttaw] (2011-2016), was the Hluttaw Committee on Peasants, Workers, and Youth Affairs.⁷⁶ In a similar way, the Rule of Law and Stability Committee of the Parliament, which was established in 2012, allowed the general public to lodge complaints against government bodies. The presence of such institutions opened opportunities for rights holders to raise their grievances via their Members of Parliament and to seek resolutions outside the courts as relevant committees made field and site visits. They tend to inform the relevant ministerial departments and government organisations of issues that needed to be addressed to satisfy right holders.

All these legislations and institutional mechanisms for the implementation of the FOA norm through enforcement of workers organization laws aim to create a peaceful industrial landscape. They are meant to fulfil the states' economic objectives by performing dual

⁷⁴ MNHRC was founded on 5 September 2011 and Complaint Mechanism was introduced on 6 October 2011.

⁷⁵ Interview with U Nyunt Swe, member of the MNHRC and head of the International Relations Division.

⁷⁶ Union Parliament is a bi-cameral legislature which is composed of 440 seats in the House of Representatives [Pyithu Hluttaw] and 224 seats in the House of Nationalities [Amyotha Hluttaw]. Twenty four thematic committees and commissions were formed during the first Union Parliament. In the second Union Parliament, 4 permanent committees; (1) Bill Committee, (2) Public Account Committee, (3) Hluttaw Rights Committee, (4) Governments' Guarantees, Pledges and Undertaking Vetting Committee and 19 thematic committees are formed. Thematic committees includes Citizens Right, Democracy and Human Rights Committee, National Races Affairs, Rural Development Affairs and Internal Peace Implementation Committee, Banks and Monetary Affairs Development Committee, National Planning, Union Budgets and Taxation Vetting Committee, Peasants, Workers and Youth Affairs Committee, International Relations Committee, Economic and Trade Development Committee, Transportation, communication and Construction Committee, Sports, Culture and Public Relations Development Committee, Agriculture, Livestock and Fishery Development Committee, Investment and Industrial Development Committee, Natural Resources and Environmental Conservation Committee, Health Enhancement Committee, Education Enhancement Committee, Committee for Rule of Law and Peace and Stability, Judicial and Legal Affairs, Complaints and Appeals Committee, Public Affairs Management Committee, Population and Social Development Committee, Reformation and Modernization Vetting Committee,

functions: to guide and to enable the workers' organizations in collective bargaining through workplace coordination and to solve conflicts of interests through legal-institutional means. However, the legislation and institutions are not without defects.

The characteristics, strength and weaknesses of laws and institutional mechanisms have great conditioning effects on the way the FOA norm is implemented in Myanmar. Institutional strength and constraints are discussed in detail in the upcoming section which considers the cause and consequences of deviated FOA practice in Myanmar.

5.4.3 Emerging domestic actors and FOA practices

Key actors that emerged for FOA practice in Myanmar included workers' and employers' organizations which were formed and started exercising their rights in 2012 (Lwin, 2014: 142-143).⁷⁷ A few domestic labour rights defenders and promoters groups also emerged in the industrial landscape. Diverse approaches of those advocacy groups were observed working for greater rights for workers. Some groups aimed to strengthen the enforcement mechanism through advocacy for labour law reforms while others prioritized empowering rights holders through education and awareness-raising programmes. And some groups took a mixed approach toward enforcement and empowering.

Although workers' organizations, labour right defenders and their activities gradually got institutionalized in the country, it is noticeable that very few domestic workers' rights' advocacy groups⁷⁸ are present and active in the country aside from trade union federation and confederation. These advocacy groups have tight finances and thus they have to prioritize their activities in helping workers' organizations.⁷⁹ Despite their limited presence, these rights holders' advocacy groups are important actors in facilitating and assisting workers to have access to grievance mechanisms and help workers to understand their rights given by the new labour laws.

⁷⁷The Labour Organization Law (Pyidaungsu Hluttaw Law No. 7/2011) and the Labour Organization Rules are promulgated on 11 October 2011 and on 29 February 2012 respectively. The choice of word, 'labour organization' instead of 'labour union' in the laws was indicative of elites' sensitivities to the memory of trade unions and their roles in fragmented civilian politics. According to government data, a total of 56,551 workers from 90 factories participated in labour protests during the period from 1 May to 30 June 2012 (Lwin, 2014: 143).

⁷⁸ Action Labour Rights (ALR), Labour Rights Defenders and Promoters (LRDP), We Generation Network, 88 Generation.

⁷⁹ Interview with Daw Mar Mar Oo, independent workers' rights advocate on 11 January 2017.

The reason for the limited presence of civil society groups in promoting workers' rights can be thought of in two ways: resource constraints or limited need for their services due to potential redundancy of the services with services offered by workers' organizations or trade unions. There exists vacuum for services for labour law awareness raising, labour rights advocacy and skill development for collective bargaining and negotiation, as provision of those services by the government agency and trade unions remains inadequate. Therefore, resource constraints very much explain the limited presence of civil society groups advocating workers' rights. Few interview participants were found to be independent labour rights defenders who are lending their hands to help workers in different kind of issues, ranging from hosting entrenched trade union members, advising workers on cost and benefits of carrying out strikes, and helping to lodge complaints to dispute resolution mechanisms. Interestingly, of those individual labour right promoters, two of them are former political activists,⁸⁰ and are working on their own from their passion without any financial or material assistance from either domestic or international sources. Access to external financial assistance is the main issue for those individual labour rights advocates as they are not familiar with writing project proposals and reports on their activities.

On the other hand, labour organizations were mushrooming in the country, reaching 2,337 in October 2016 from a total absence in 2011. According to Article II, paragraph 4. a. (i), 'the Basic Labour Organizations may be formed by a minimum number of 30 workers working in the relevant trade or activity according to the category of trade or activity. If it is a trade or activity having less than 30 workers, it may form so jointly with any other trade of the same nature'; The following table summarizes the status of employers and workers organizations, members and unionized workforce strength.

⁸⁰ Daw Mar Mar Oo, Ko Ye Naing Win.

Table 3 Employers and Workers Organizations, Unionized Labour

Total Numbers of Workers Organizations and Employers Organizations			
Level	Employers' Organizations	Workers Organizations	Total
Basic(Enterprise Level)	28	2190	2218
Township Level	1	123	124
States and Divisions Level		15	15
Federations		8	8
Confederations(National Level	1	1	2
Total	30	2337	2367
Total membership(est.)		200,000**	
Workforce(est.)		21,959,797*	
Working age population		33,934,662*	

Source: Data on organizations as of 14 October 2016, Directorate of Labour, Ministry of Labour, Immigration and Population (MOLIP)

*Data on working age population and workforce, Labour Force Survey 2015 of the MOLIP, Central Statistical Office and ILO 2015 page 11

** Data estimates on members of workers' organization, Myanmar Labour Market Profile 2016(ILO/FTF Council's Analytical Unit, 2017 page 2

Democratic space allows the return of the unions in exile; the Federation of Trade Union in Burma (FTUB) returned in September 2012 and took a new name Federation of Trade Union in Myanmar (FTUM). FTUM was able to organize workers' organizations within a short span of time. It became a federation with 130 affiliated unions with 18,000 members within six months of its return. By the time of its registration as the sole national-level body of Confederation of Trade Unions Myanmar (CTUM) in 2015, it had 650 affiliated unions with an estimate of 49,000 members. CTUM is the sole confederation which is affiliated with the International Trade Union Confederation (ITUC). During the interview with U Maung Maung, chairman of the CTUM at the end of a demonstration involving 5,000 workers in March 2017 in Yangon for increased minimum wage, he comments on the situation of FOA practice in the country:

We have to look at in comparative way. Compare to 5 years ago nobody would think that we could be doing this today. Comparatively 10 years ago we can't think of doing such demonstrations that we did today. We have

gone through a lot of way. At the same time, there are some difficulties in the details.⁸¹

Such a reflection on the implementation of FOA norm in Myanmar suggests an inherent strain in measuring the implementation outcome in a dichotomy of progress or regress. As such, this study won't attempt to measure the implementation outcome on progress or regress, rather this research chooses to assess whether the norm is on track or off-track in implementation. Such assessment is more realistic for the current study with its scope of transitional nature.

Democratic transition brought about the policy shifts and law/institutional reforms which made the evolution of institutions and emergence of new actors possible. Along with CTUM as the sole confederation, another eight federations and sectoral union federations came into existence: Agriculture and Farmer Federation of Myanmar (AFFM) and Farmer Federation of Myanmar affiliates of International Unions of Farmers (AFFM-IUF), and Myanmar Industry Commerce and Services Federation (MICS). Based on limited data available, the strength of Confederation and Federations is estimated in the table below.

⁸¹ Interview with U Maung Maung, Chairman of the CTUM on 26 March 2017.

Table 4 Strength of Confederation and Federations

Federations and Confederation	Strength
Confederation of Trade Union Myanmar (CTUM)	61,385*
Federation of Trade Unions Myanmar (FTUM)	43,367
Seafarer's Union of Burma (SUB)	25,000
Myanmar Trade Union Federation (MTUF)	16617
Building and Wood Worker's Federation of Myanmar (BWFM)	1,444
Agriculture and Farmer Federation of Myanmar (AFFM)	60,000
Agriculture and Farmer Federation of Myanmar IUF affiliate (AFFM-IUF)	42,000**
Mining Worker's Federation of Myanmar (MWFM)	-
Industrial Worker's Federation of Myanmar (IWMF)	9604*
Myanmar Transport & Logistic Trade Unions Federation (MLTUF)	-
Myanmar Industries Craft & Services Trade - Union Federation- MICS-TUF	10,150*

Source : Data estimates on members of workers' organizations, Myanmar Labour Market Profile 2016(LO/FTF Council's Analytical Unit, 2017: 2: 2).

* Data sourced from FairWear Foundation country report 2016(The Centre for Research on Multinational Corporations (SOMO), 2016: 21: 21),

**Data for AFFM IUF members sourced from Annual Activity Report of AFFM IUF 2014*

A challenging issue with FOA implementation is an emerging trade union monopoly by a single powerful confederation, in term of power, resources and international exposure. What

has been left out of all this international good will and cooperation are small enterprise-level workers organizations who have to rely on their own meagre finance.⁸² The implications of such development of a trade union monopoly are significant. Most significant of the implications of such development is a growing tension between the Trade Union Confederation and unions and federations outside of the Confederation, which find themselves in competition for the pursuit of power, attention and scarce resources for practical activities. The tensions between traditional labour organizations and CSOs working on labour rights such as Action Labour Rights (ALR) and Labour Rights Defenders and Promoters (LRDP) is also noted by international observers.⁸³ Ambassador Steve Marshall commented:

Unfortunately, I was disappointed as the process of industrial relations was politicized too quickly. I was hoping actually it was going to be manageable ... But, too quickly it became competition between workers groups and also workers organizations from employers' perspectives the addition of the additional layer for the management responsibilities that they were not ready for.⁸⁴

Notes of concern on growing tensions among workers organizations, Confederation and Labour Rights NGOs are confirmed during discussions with the interview participants from workers unions and labour rights advocacy CSOs. Participants particularly echo the unfair and un-free form of organizing unions into the arms of confederation. U Htay, member of Yangon Division Arbitrary Council and labour rights advocate, comments on the way the Confederation increases the number of its members in an unfair and un-free manner in order to expand its opportunity and authority in the labour market;

I myself was offered 20 lakhs to join their Confederation. Many of other unions which I have helped organized fall into their [the Confederations'] arms as workers' can hardly escape from the temptation of financial incentives. Of 2,000 affiliated unions of [the Confederations], 1,200 are farmers' unions, which can form an organization with a minimum

⁸² Interview with Daw Hla Hla, We generation Trade Union Network on 21 December 2016.

⁸³ Interview with Mr. Rory Murgoven, Liaison Officer, ILO Office Yangon on 22 November 2016.

⁸⁴ Interview with Mr. Steve Marshall, Ambassador of the New Zealand to Myanmar on 7 February 2017.

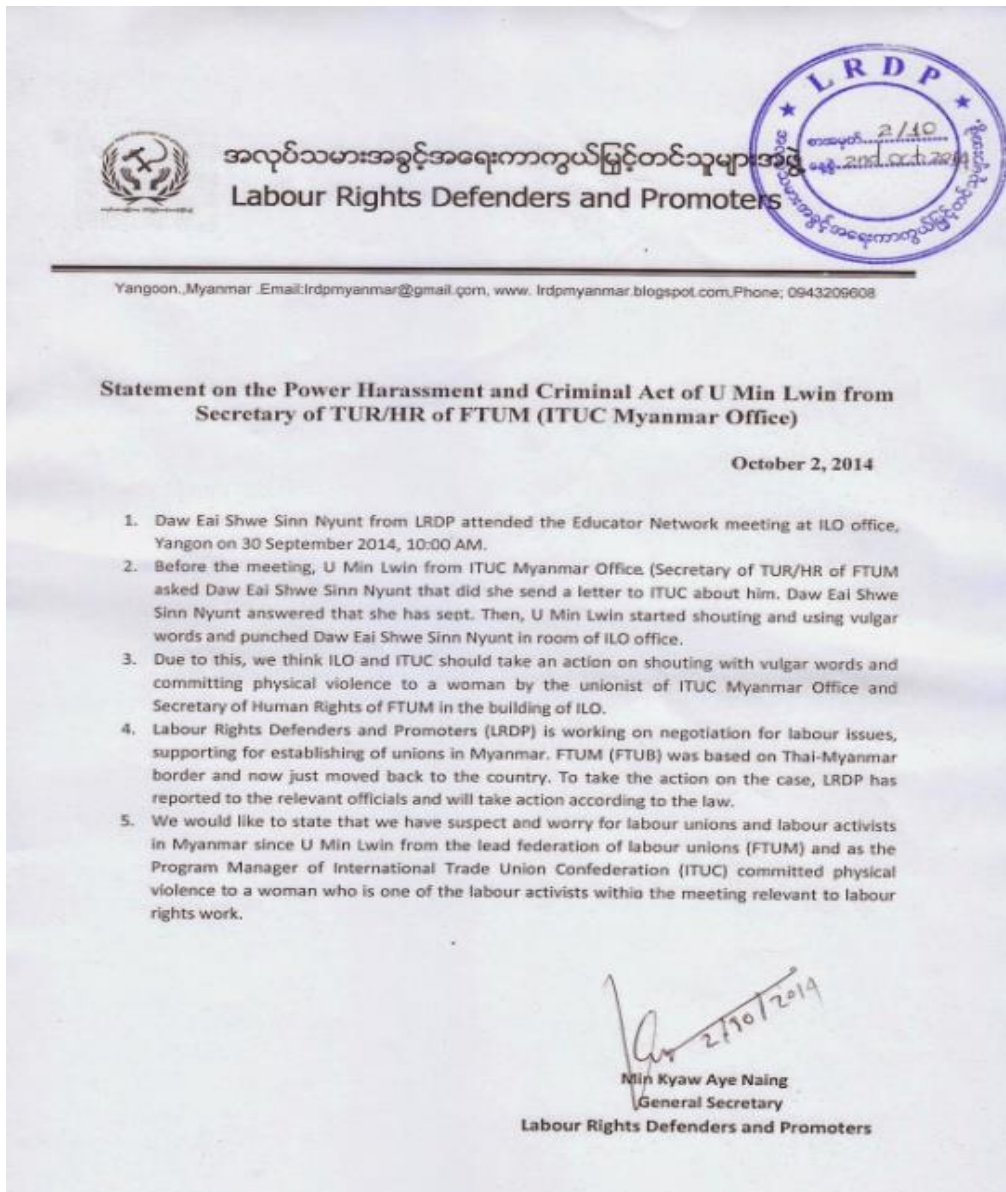
membership of two who work on 10 acres of land. Therefore, inflated membership does not necessarily represent the workers..... And the voices of non-affiliated enterprise level unions are not heard.⁸⁵

Dennis Arnold and Stephen Campbell note the controversial nature of the country's sole Confederation and its leader:

CTUM, and U Maung Muang in particular, have long been controversial among Myanmar pro-democracy and labour organizations. In 2010, CTUM's (then FTUB) former Secretary of Finance and Development, U Zaw Tun, issued an open letter charging U Maung Muang with undemocratic appointment of union leaders (starting with U Maung Muang's self-appointment as FTUB General Secretary in 1991 – a position he has held ever since), arbitrary suspension and termination of members, and misuse of organizational funds. Other ex-CTUM members have argued that the organization 'does not follow a true democratic system and their strict hierarchy has led to unbalanced internal decision making'. Myanmar labour activists outside CTUM have criticized the organization for having a 'monopolistic approach and lack of transparency'. having used its financial clout to bring in people who were not from established workers' organizations in order to secure the election of an FTUM member to the upcoming Geneva conference (Arnold and Campbell, 2017: 809).

The intensity of such tensions among workers organizations and labour rights advocacy NGOs is reflected in the incident that occurred in 2014 during an ILO-organized labour rights Educator Network Meeting in the premises of the ILO office where the LRDP secretary Daw Eai Shwe Sinn Nyunt was physically attacked by the CTUM representative. LRDP called for the attention and action of the ILO and ITUC by issuing the following statement.

⁸⁵ Interview with U Htay, Labor Right Advocate and Member of Yangon Division Arbitrary Council on 8 January 2017.



Source: LRDP social page

In addition to the tensions between trade unions and the Confederation, labour strikes and labour disputes, an important issue in the practice of the FOA norm in Myanmar is continued offences which negate the fundamental rights granted by the FOA norms: freedom to organize, collective bargaining and the right to strike. Many report incidents of anti-union discrimination, union busting, dismissal and blacklisting of union leaders on the grounds of disciplining workers.⁸⁶ Several of such deviating practices of FOA exist without effective

⁸⁶ Interview with Daw Hla Hla, former trade union leader from Gallant Ocean factory on 15 January 2017, with Ko Aung Soe Min, former union leader from San Kaung Penang Bag Factory on 15 January 2017.

investigation and legal actions. The reasons for and implications of the persisting challenges in the implementation of the FOA norm during the country's democratic transitioning are analyzed in the following sections.

The exacerbation of conflictual tendencies within workers' groups and between employers and workers during democratic transition in Myanmar demonstrates that implementation of the FOA norm was going off-track. The concept of FOA is yet to be embraced by key stakeholders despite democratic space that allows evolution of institutions and emergence of agents for the FOA norm during the period of transition. Businesses and workers have yet to consider the utility of the FOA norm and organized labour activities in serving their long-term common interests of industry development through the practices of social dialogue and collective bargaining. Lack of rights concepts regarding organized labour activities is responsible for the violent labour strikes, forceful crush by authorities and employers' continued neglect of their obligations to allow formation of workers' organizations and taking labour as partner for advancing productivity.

Labour rights NGOs pointed out the underdeveloped conceptual understanding of the FOA norm as the consequence of the un-inclusive process by which the Labour Organization Law was conceived, formulated and adopted, as workers were not consulted while drafting the labour organization law and rules. Thet Thet Aung states,

Employers see workers' organizations as challengers while workers also see participation in the unions and their activities as a risky activity which can lead to discrimination and dismissal at the workplace.⁸⁷

Weak legal frameworks further complicate the conceptual development on the FOA norm and thus its practice in transitioning Myanmar. The Labour Organization Law and regulations guarantee the workers' right to form and join unions. Although the law enables workers to form unions, it was not able to protect them from discrimination for the exercise of the rights.

Several weaknesses lie in the legal frameworks. The very first weakness of the labour organization law starts with the title, 'labour organization law', which gives emphasis only on the

⁸⁷ Interview with Daw Thet Thet Aung, 88 Generation Open Society, Labour affairs officer, 19 October 2016.

workers' organization, and the relevance to other stakeholders in industrial relations becomes questionable. The mention of rights of employers to form parallel organizations in a one-sentence provision demonstrates lack of thought about employers in formulating the law despite the involvement of employers' organizations (UMFCCI) in the drafting process.

Second, the law does not emphasize or offer guidance as to the means through which labour organizations and organized labour activities are to be carried out to achieve the purpose of peaceful industrial relations. The Labour Organizations Law needs to be a guide and a reference on how labour organizations are to undertake social dialogue and collective bargaining.

The third and most significant flaw of the labour organization law is its light penalties for the offenders. Under the labour dispute settlement law, an employer who fails to abide by arbitration awards can only be punished for a maximum fine of K1 million (US\$372). Several incidents of law violations, particularly Article 44.d. prohibition to employers from dismissing workers for union membership, were consciously violated by employers. If the case is settled in either Workplace Coordination Committee (WCC) or Township Conciliation Body (TCB) or through Arbitrary Council, the agreement reached at WCC or TCB or the decisions of AC are hardly given any heed. For example, an AC decision for reinstatement of dismissed workers will never be followed by employers as most employers chose to pay fines of 10 lakhs while getting rid of union leaders. As a result, workers have not been able to obtain effective remedy for their rights being violated. Therefore, U Naw Aung, Chair of MICS, uses an analogy to describe the failure of the labour organization law to bring benefits to the workers: 'We are given the right to cook the meal (right to organize) which we are not allowed to eat (not being protected from discrimination)'. He stressed the importance of enforcing prescribed laws, the agreements reached after conciliation and the decisions of the AC.⁸⁸ Ma Phyo Sandar Soe points out that such weakness of legal frameworks lies in the non-inclusive process of its formulation and drafting, where workers were not represented.⁸⁹

Fourth, the absence of an effective government monitoring mechanism allows employers to move around the law and continue practicing discrimination against union leaders

⁸⁸ Interview with U Naw Aung, Chair of MICS and member of minimum wage committee on 7 March 2017

⁸⁹ Interview with Daw Phyo Sandar Soe, CTUM on 10 November 2016

and members. Monitoring of the implementation of the labour organization law falls outside the mandate of the Factory and General Labour Law Inspection Department, which makes regular inspection trips even on weekends. Issues relating to labour organization laws are under the care of the Directorate of Labour. Among 330 townships in the country, there are only 78 township labour offices. This limitation on the strength of government enforcement mechanisms limit the government's role in giving protection to union members and leaders from being discriminated against by employers contributing to the off-tracking of FOA

5.4.4 Role of international actors for FOA practice

Involvement of international actors or external agents of the FOA norm in the evolving industrial landscape is also an important manifestation of democratic change which shapes the FOA practice in the country. International engagements in Myanmar's industrial landscape become discernible when the country is opened up. Access to Myanmar is facilitated by democratic transition. International actors are involved in Myanmar's industrial landscape through three major channels: intergovernmental, government to government, and international trade union networks. These three channels are not mutually exclusive and sometime become interwoven. Intergovernmental and bilateral and multi-donor initiatives are carried out across programmes in support of the country's labour law reforms and labour rights promotion. Despite the multi-channel engagement of external actors, their involvement in FOA promotion is limited compared to external involvement in other issues areas such as gender, health, child and environmental issues.

The country's increased re-engagement with international development partners and International Financial Institutions (IFIs) started from 2012 after several decades of severed relations during 1986-1987 (ADB, 2017, The World Bank, 2017).⁹⁰ Traditional cooperation with ILO was further reinforced. The ILO Freedom of Association Programme, with the support of the Norwegian government, was conducted in 2012-2013 for the skill development of union leaders. A total of 1,379 workers, 277 employers and 263 government officials participated during its 81 days of training. Such training provided by a neutral body is welcomed by most of the unions. However, there also are questions from some labour activists on the reach of such programmes to the broader workforce. They point out the inadequacy of

⁹⁰ ADB discontinue its loans in 1986 and put the operations on hold from 1988. The World Bank stopped its loans in 1987.

such programmes for the country, with the active workforce over 21 million, and they suggest sustaining such activities and broadening their reach to the larger workforce.⁹¹

Denmark, the European Union (EU) and Japan invest in the activities to strengthen the country's legal and institutional capacity in implementation of labour norms. The U.S. has been undertaking labour market collaboration with the government since August 2014. An innovative Initiative to Promote Fundamental Labour Rights and Practices was launched in 2014. Such initiative brings together development partners in promoting labour rights in Myanmar. Denmark, Japan, the United States of America, the European Union and the International Labour Organization (ILO) in cooperation with the Government of Myanmar organize an annual stakeholders' forum where government, employers, investors, workers, social partners and development partners engage in dialogue on labour reforms and strengthening institutional capacities. ILO with the support and participation of the Swedish International Development Agency (SIDA) and H&M Garment and 20 industries from the garments sector in Myanmar are also planning to undertake a cooperative project on labour rights promotion.⁹²

Some international actors come through global trade union networks. They form a large net of triangular and sometimes rectangular cooperative activities linking global unions, unions from development partners, Union Federations and local unions in addressing labour issues. Federation of Trade Union Burma (FTUB), a trade union in exile since 1991, had strong networks with global trade unions. FTUB returned to the country in 2012 and has registered itself as Confederation of Trade Union Myanmar (CTUM) since 2015. CTUM is the sole affiliate of the International Trade Union Confederation (ITUC) and IndustriALL, of which the CTUM or its affiliates are members.

Other global unions such as the Building and Woodworkers International (BWI) partner with a local union, the Building and Wood Workers' Federation of Myanmar (BWFM), CTUM affiliate participates in the project of Trade Union Solidarity Centre of Finland (SASK), 'Human rights and decent work in the forestry and sawnwood industry', funded by the government of Finland. Solidarity Centre, an allied group of the American

⁹¹Interview with Daw Ei Shwe Cin Nyunt, Officer for International Affairs, Labour Rights Defenders and Promoters(LRDP), labour affairs Advisor to NLD labour affairs dated 14 October 2016.

⁹² Interview with Mr. Rory Murgoven, Liaison Officer, ILO Office Yangon on 22 November 2016.

Federation of Labour and Congress of Industrial Organizations (AFL-CIO), has also had historically long relations with FTUB since the 1990s. Solidarity Centre is implementing the bilateral consultative dialogue in Myanmar with the grant of the U.S. Bureau of Democracy, Human Rights and Labour (DRL).⁹³ The Friedrich-Ebert-Stiftung (FES), Japanese Trade Union Confederation (RENGO), Aid Abroad APHEDA (Australia), the Netherlands Trade Union Confederation (FNV) partner with the Building and Wood Workers' International (BWI) organized a two-year project, 'Organizing and Networking Migrant and Cross Border Workers in Asia' (2011-2012).⁹⁴ The Danish Trade Union Council of the International Development Cooperation LO/FTF council produced the country's labour market profile in 2016.

All these global-local union activities, some being supported by multiple donors and some by single donors, facilitate the improvement of the industrial landscape in Myanmar. Activities organized with the support and cooperation of international actors range from basic union skill trainings, labour reporter projects, exchange programmes, joint research on labour issues in Myanmar to sponsorship to participants to international trade union activities. Despite a broad range of activities aiming for help implementing FOA, the limited presence of local groups for effective delivery has been a barrier. As discussed in an earlier section, the limited presence of domestic labour rights advocacy groups is somehow related to resource constraints and their inability to access available resources and assistance from international actors. Therefore, there is a need for a better link between international agents of FOA and local actors for better delivery in areas of FOA awareness and skill development for collective bargaining.

5.5 What explains FOA implementation challenges

Political space created by democratic transition, emerging legal, institutional frameworks and domestic and international agents of FOA norms have made a certain degree of success in implementing FOA in Myanmar. Considering the increased number of labour and employers' organizations from 18 in 2012 to over 2,367 in 2016, quantitative progress is notable. However, if we evaluate the way labour organizations have grown and their impact in creating peaceful

⁹³ Interview with Mr. Jamie Davis, Director, Solidarity Centre(Myanmar), on 26 October 2016

⁹⁴ Interview with U Thurein Aung, Action Labour Rights (ALR), on 6 December 2016

industrial relations, much remains to be done. Stakeholders' appreciation of the whole concept of FOA and fostering the culture of engagement, social dialogue, and collective bargaining for the enhancement of productivity and workers' wellbeing are largely lagging behind the quantitative growth of labour organizations and their activities and activities with the support of international partners. Such challenges are particularly manifested in important and interrelated aspects: the emerging trend of conflict-based industrial relations, low unionization, growing tensions and competition among unions and labour right CSOs for resources, attention and power. These FOA implementation challenges are explained by three factor: divergent conception of FOA among multiple actors, defective legal and institutional frameworks, and misguided actions of key stakeholders.

5.5.1 Divergent conception of FOA by multiple actors

Prevailing societal culture, historical memories, legal and institutional defects and inadequate intervention by domestic labour rights advocacy are responsible for diverging conceptions about the rights conferred by the Labour Organization Law for freedom to organize, to collective bargaining and the right to strike. Employers' and workers' lack of instinct for argument or negotiation through dialogue lies in the authoritarian legacy of Myanmar society where everyone becomes either dictator or dictatee.⁹⁵ In such a social setting, concepts of social dialogue, bargaining, negotiation and argumentation based on equal standing have been new to all. This is echoed by international observers that Sayargyi (Bossy) syndrome is alive in the country with a traditionally order-based environment, in which orders are given, obeyed and not questioned and that has applied at all levels of society.⁹⁶ In addition, there are cultural beliefs such as 'Eternal thanks due to one to whom as small as a meal is owed' 'တလုပ်စားဖူး သူ့ကျေးဇူး', a teaching handed down from generations, that also create a stereotype of employers as eternal benefactors who are not to be complained against. Such cultural beliefs become more profound as job opportunities get fewer and the unemployment rate rises. Employers hardly see workers as partners for negotiation, bargaining and compromise, which are major themes of the FOA norm.

⁹⁵ Interview with Dr. Ma Thida (San Chaung), Chair of PEN Myanmar, Yangon, former Board Member of PEN International on 9 December 2016.

⁹⁶ Interview with Mr. Steve Marshall, Ambassador of New Zealand to Myanmar on 7 February 2017.

Present-day implementation of the FOA norm since 2011 has also been affected by the historical legacy of FOA practices in the country. As discussed in earlier sections of this chapter, FOA had never been conceived in its true sense as a communication channel and a grievance mechanism for peaceful industrial relations. During the colonial era, FOA has been utilized as an effective tool in mobilizing anti-colonial movements. It has been an important tool for politicians in post-independent Myanmar and in socialist Myanmar in rallying political support. Despite several decades' absence of FOA practice in the country, memory of past practices of FOA remain alive for some people and they interpret FOA as a venue for expressing the revolutionary spirits of trade unions. Lack of FOA practices under SLORC/SPDC also created conditions where workers grievances were suppressed, and long-held grievances tend to explode when FOA is reintroduced in the country. Therefore, the essence of FOA norms is not well understood among domestic actors, government, employers and workers.⁹⁷ In the words of Mr. Steve Marshall, on stakeholders' lack of understanding on the concept of FOA even during the drafting of the labour organization law:

In fact the concept was a new concept for many people in the country.....including the peoples who are sitting in the table to negotiate [draft law]. And so, attempting to have legislation, which includes processes of registration, and management of trade unions leading towards the issues of collective bargaining, is natural. When the actual concept was not fully understood, very very difficult.⁹⁸

Myanmar workers' lack of awareness about their rights to form and join workers' organizations, and of the roles and functions of workers organizations is reported by the Centre for Research on Multinational Corporations, Action Labour Rights, Labour Rights Defenders & Promoters. It states more than two-thirds of the interviewed workers or 310 out of 403 interviewed workers do not know what a trade union is (Theuws and Overeem, 2017: 90-92).

Similarly on the employers' side, some conceived FOA and trade unions as a channel of communication but many employers are suspicious of the unions and their behaviour. Such

⁹⁷ Interview with Mr. Jaimie Davis, Director, Solidarity Centre, Yangon on 26 October 2016.

⁹⁸ Interview with Mr. Steve Marshall, Ambassador of New Zealand to Myanmar on 7 February 2017.

conceptual underdevelopment on the employers' side led to incidents of anti-union discrimination which even appeared in employment contracts in the early days after introduction of labour organization laws and regulations, depriving union members of opportunities for promotion and bonuses. And there is evidence of the employers' purposive formation of unions to maintain formal compliance with regulations and for practical control over activities. So both employers and workers need a kind of training to see each other as dialogue partners.⁹⁹

In the absence of right conceptual development among stakeholders, introduction of legal and institutional measures does not necessarily lead to the implementation of FOA practices in its fullest sense. A survey findings states:

Labour representatives and employer representatives often view each other as opponents rather than as partners in the struggles to achieve common objectives (Bernhardt et al., 2017: 41).

At one extreme, management and enterprise owners views workers' organizations as challengers and thus take every measure to prevent formation of workers' organizations. Bribing union leaders, intimidating and sacking union members and leaders are common stories that come up during the interviews with sacked union leaders.¹⁰⁰ On the other end of the spectrum, the employers and managements sponsor the workers' organizations merely to demonstrate their formal compliance to the FOA norms and thus such organizations are neither free nor independent in carrying out collective bargaining. Even business owners, who fall outside of these two extremes, see workers' organizations as additional layers of institution to deal with without much relevance to the productivity of their operations and profitability. The enterprise survey undertaken in 2014 indicates that 70 percent of the employers find their workers do not have good job attitudes (World Bank, 2014: 9). In the same way, workers' views on the exercise of union rights is usually based on venting long-held grievances of the low wages, long hours and bad working conditions they experienced over time. And as such, seeking solutions by ways of social dialogue and collective bargaining at the workplace has not been the preference of workers. Workers tend to view 'collective bargaining without strikes is

⁹⁹ Interview with Ms. Vicky Bowman, Director, Myanmar Centre for Responsible Business, on 2 February 2017.

¹⁰⁰ Interview with Ma Hla Hla, former union leader from Tai Yi Company, on 15 January 2017

collective bagging' and thus strikes become weapons of first resort, quite contrary to the intent of the FOA norm where strikes are meant to be the last resort. Some strikes tend to become violent in the face of employers' resistance against pay rises and good working conditions. Such sour sentiments from both sides are found to be hindering the implementation of FOA norms in a correct and appropriate way.

Deficient ideational structure for the FOA norm is also reflected in the growing tendency towards conflict-prone industrial relations. Strikes were increasingly used by workers as a weapon of first resort, which is not the FOA norm's intent. Several strikes involved violent demands going beyond the FOA norm's contents or the rights accorded to workers under Article 22 of the Labour Organization Law.¹⁰¹ The concept of FOA, workers' right to organize in free will, to seek and raise a collective voice and engage in collective bargaining with an ultimate aim of peaceful industrial relations, is not properly embraced by organized workers. Evidence of such misconception of the FOA norm can be found in some slogans of workers' organizations. The slogan of Agricultural Farmers' Federation of Myanmar (AFFM-IUF), for instance, is built in with conflictual tones: '*organize, fight and win*' (AFFM-IUF congress report, 2014). Daw Khing Khaing Nwe, Joint Secretary of Union of Myanmar Federation of Chamber of Commerce and Industry (UMFCCI), shared her views on the role of labour activists in improving industrial relations in the country, stating that although there are some lenient actors, most are not. She emphasized the need for stakeholders' education on FOA norms as key for compliance.¹⁰² Lack of conceptual development about the FOA norm implicates the implementation in transitioning Myanmar.

Ideally, a strike is to be the last resort for workers' organizations in the collective bargaining process. However, strikes often have been workers' preferred mode to get their voice heard. Therefore, the basic concept of the FOA norm is ill-defined and misconceived among workers. Throughout the history, the concept is not appreciated in its rounded form, and thus the FOA concept did not take root in Myanmar. Dennis Arnold and Stephen Campbell note those incidents as the effects of sudden grants of labour rights after 50 years of repression:

¹⁰¹ Article 22 of the Labour Organization Law provides that 'the labour organizations shall carry out peacefully in carrying out holding of meetings, going on strikes and carrying out other collective activities in accord with their procedures, regulations, bylaws, and any directives prescribed by the relevant labour federation'.

¹⁰² Interview with Daw Khaing Khaing Nwe, Joint Secretary, UMFCCI and garment factory owner on 19 January 2017.

Wildcat strikes are now widely pursued in advance of negotiating with employers, rather than, as the Settlement of Labour Disputes Law would have it, only once government-regulated negotiations have failed to produce a settlement (Arnold and Campbell, 2017: 813).

A total of 447 strikes were recorded in the garment sector alone between 2012 and 2014 (McGregor, 2015). In one incident, the Korean factory owner, a diplomat from the Korean Embassy in Yangon, the Labour Minister of Yangon division, Directors General of the Department of Factory and General Labour Law inspection and the Directorate of Labour, who were at the Korean-owned wig factory to help solve the labour dispute, were locked in the factory by the workers from 8 pm to 5 am the next day (Shein, 2015). Such violent nature of organized labour practice is frequently reported and became more concerning as it can negatively impact the business climate, investors' interest and the democratic transition process in general. This concern is shared not only by policy makers but also by businesses and international observers.¹⁰³ As Mr. Steve Marshall put it:

For labour market relationship, there are two options, one, you have a labour market based on cooperation and second, based on conflict. Let's be honest on about it, it [labour market relations] is based on dispute of interests, but mental attitudes towards that dispute and how you are going to address that dispute, the relationship is either going to be cooperative or can be conflictual. And we were very concerned it [labour market relations in Myanmar] looked quite rapidly moving to the conflictual.¹⁰⁴

During the waves of strikes in 2012, 2013 and 2015, some incidents are even termed as 'riot times', reflecting the violent nature of the activities. Those incidents of organized labour following the country's liberalization challenge a widespread belief that increased liberty would de-escalate labour strikes as in the cases of China and Vietnam (Aung, 2017). The opposite of such belief was the case in Myanmar. A survey among 198 enterprises in the food and textile industries showed that,

¹⁰³ Interview with U Chit Shein, Director General, Factory and General Labour Law inspection Department on 31 January 2017 and Interview with Daw Khaing Khaing Nwe, Joint Secretary of the Union of Myanmar Chamber of Commerce and Industry(UMFCCI) 19 January 2017

¹⁰⁴ Interview with Ambassador Mr. Steve Marshall representing the New Zealand to Myanmar on 7 February 2017

Industrial relations have not been very peaceful during the last three years, particularly in the garment sector. almost a fifth of the enterprises in the sample reported that their workers went on at least one strike during the last three years [2014–2016] (Bernhardt et al., 2017: 25).

The practice of forming workers' organizations and carrying out industrial action has yet to be in line with the expected behaviour for the FOA norm. Domestic practices of FOA go against the intention of the government to create peaceful industrial relations in the country. Actually FOA practice in Myanmar is even found to be contradicting the aim and purpose of the ILO and that of the Convention 87, which states in the preambles of the ILO Constitution and Convention 87,

Recognition of the principle of freedom of association [is] to be a means of improving conditions of labour and of establishing peace;¹⁰⁵

Therefore, diverging conception of FOA among key stakeholders, confrontational and challenging attitudes and actions of some trade unions hardly give good experiences to employers to fulfil their obligation to encourage trade union activities as a useful communication channel and effective grievance mechanism. These challenges of diverging interpretation and practices of FOA away from the original intents of FOA norm is also explained by the evolving nature of the country's legal and institutional structure and their defects, which will be discussed in the following section.

5.5.2 Defective legal and institutional structures

Defects in labour laws are one of the reasons for the side-tracking of FOA practice in Myanmar, implicating key stakeholders' conceptions and actions relating to FOA practices. The very first weakness of the Labour Organization Law is its lack of emphasis on the purpose for workers' organizations. Instead of a general mention about the aim of the law in its preamble about protection of labour rights, better relations between employers and employees, the law needs to emphasize what are the objectives of these workers' organizations. The law's lack of emphasis on the role of workers' organizations in promotion of good industrial

¹⁰⁵ Preamble of the ILO C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

relations, in improving the working conditions and social status of workers and to enhance the productivity which will benefit workers, employers and the whole economy of the country, allows diverging interpretation among key stakeholders. Relating to this point, this research supports the points made by ITUC and SOMO on the loopholes in the Labour Organization Law which states the rights of labour organizations to engage in collective bargaining, in that the law fails to prescribe the responsibility of employers to engage in the collective bargaining, the laws' omission of specific provisions on the duty to bargain in good faith, period for bargaining, first contract arbitration, levels of negotiation, extension of collective agreements, registration of collective agreements, or enforcement of collective agreements (Theuws and Overeem, 2017: 52).

Another defect of the Labour Organization Law is that provisions about penalties are not sufficient to discourage workers and employers from engaging in prohibited actions. Article 51 provides that any employer upon conviction for violating any prohibited actions—such as lockout during a pending trade dispute settlement, dismissal of workers for exercise of organizational activities and participating in strikes—is to be punished with a fine not exceeding one hundred thousand kyats (an estimate of 100 USD) or with imprisonment for a term not exceeding one year or with both. Article 52 requires workers who engage in strikes without acquiring consent by the majority of workers, without informing the employer and authorities in advance, to be punished with a fine not exceeding thirty thousand kyats (an estimate of 30 USD).

Another flaw lies in inconsistency in the provisions of the law. With regards to industrial actions of employers and workers, the provisions in Article 37 require workers to inform employers of planned strikes. However, Article 39 does not require employers to inform workers of their planned lockout. Such provisions do not nurture a positive attitude towards social partnership between workers and employers.

Administrative and institutional weakness relates to weak intervention by government agencies to monitor FOA application and to promote awareness about the labour organization law. FOA monitoring weakness relates to the issue of the government labour ministry's departmental structuring. Although the Factory and Labour Laws Inspection Department (FLLID) is responsible for monitoring most of the labour laws, implementation of the Labour Organization Law is not under its purview. As the township officer of the Directorate of Labour (DOL) acts as a register of labour organizations, DOL is responsible for matters relating to the

implementation of the Labour Organization Law. Although FLLID is not well resourced in terms of staff, equipment and facilities,¹⁰⁶ they have a regular access to factories and work places to monitor all labour laws practices including FOA implementation.

DOL, after several years' experiences of enforcement challenges for the Labour Organization Law, recognizes the need to address conceptual underdevelopment about the FOA norm. Accordingly, to take on its role in defining the FOA norm in particular and in promoting labour law awareness among stakeholders, DOL instituted monthly activities of 'Labour Law awareness raising seminars' starting from 2016.¹⁰⁷ Despite the introduction of such FOA norm-defining activities, many weaknesses still lie in the way such programmes are delivered. Output-oriented delivery rather than outcome-oriented engagement limit the instilling of the FOA concepts to workers and employers. Besides, the government agency's lack of monitoring on stakeholder participation and evaluating the impacts of their programme are to be addressed. Timing on organization of seminars was less sensitive to the workers' availability. More innovative and proactive FOA defining projects, such as onsite talks, could be initiated by the government agency to make greater impact on stakeholders' conception changes.

Another enforcement challenge is perception of dispute settlement mechanisms which is one dimensional, simply to protect workers, rather than as a neutral body sensitive to the rights and obligations of all stakeholders (Ediger and Fletcher, 2017: 20). Most of the AB and AC decisions favour workers. However, as stated above, the weak penalty for the violating party usually finds the decisions of dispute settlement mechanisms being discarded by payment of the penalty fees. A law with an ineffective penalty encourages recurring violations.

Increased occasions of disputes registered at Township Conciliation Bodies (TCBs) can be thought of as a sign of growing awareness of rights and increased labour organizations and labour rights NGOs (Ediger and Fletcher, 2017: 15). Current research expands this reasoning by arguing that growing incidents of disputes at the TCB are indication of limited development of the culture of social dialogue and inadequate role of the workers' organization to settle the disputes at the level of the workplace. Disputes could be reduced if worker's organizations play

¹⁰⁶ Interview with U Chit Paw, Hlaing Thar Yar Township

¹⁰⁷ Interview with Daw Htay Htay Soe, Directorate of Labour, Yangon Division on 25 January 2017

an effective role in representing the workers and engage in social dialogue and collective bargaining at the workplace. Workers' organizations ideally are to be the tool for negotiation with managers or employers for peaceful industrial relations. However, such instrumental role of the organization is not well appreciated and applied by workers and employers. In most of the cases, the role of organized labour activities is misunderstood and they are misused as a means to express grievances through a show of force and organized activities to challenge the employers. Therefore, 20 labour strikes occurred in 2014 and 14 in 2015. And several strikes, including those in factories—High Art, Golden Day, Master Sport Ford Glory, Red Stone, E land—used forces going against the law.¹⁰⁸

Defective legal and institutional structures have implications for the conceptions and actions of key stakeholders. The growth of workers' organizations neither represents progress of FOA norm implementation nor evolution of a culture for social dialogue on the ground. As legal, institutional and administrative weaknesses do not foster the practices of social dialogue, collective bargaining, the presence of registered workers' organizations means little for FOA practice.

5.5.3 Inadequate agency by socializing actors

Norm advocacy plays an important role in encouraging domestic practice of a new norm. Although the FOA norm is not a new norm for Myanmar, it has been implemented in a way that highly deviates from the contents and intents of the FOA norm under successive administrations. Upon its reintroduction in 2011, ILO, with the financial support of the Norwegian government, had conducted the ILO Freedom of Association Programme to provide basic skills for workers, employers and government representatives for the exercise of the FOA norm, including union formation, organizing activities, exercise of collective bargaining, dispute resolution and occupational safety and health.¹⁰⁹ These activities are very important for instilling the knowledge about union practice and equipping key stakeholders with the skills required for social dialogue. While such programmes are important, their provision is insufficient and their reach to the broader membership of stakeholders is very limited as most of trainees were not able to further disseminate the acquired knowledge and

¹⁰⁸ Interview with U Chit Shein, Director General, Factory and General Labour Law inspection Department on 31 January 2017

¹⁰⁹ A total of 1379 workers, 277 employers and 263 government officials participated during its 81 days of training sessions.

skills among their fellow workers and employers. In the meantime, advocacy for the FOA norm has been undertaken by workers' rights advocacy groups with their limited resources supported by limited international actors.¹¹⁰

The role of development partners is significant in labour law reform processes. As discussed before, Denmark, Japan, the United States of America, the European Union and the International Labour Organization in cooperation with the government initiated the labour law reform process and operationalized stakeholder consultation mechanisms, including tripartite, bipartite and multi-stakeholder forums. Annual stakeholders' forums bring together government, workers, employers, civil society actors and international partners. Such initiatives are important and have great potential in rendering medium and long-term benefits as they address structural defects, improving legal and institutional structures. However, for the short-term issue of low awareness of FOA, development partners' role in FOA advocacy is limited, reflected in the presence of a handful of labour rights advocates who run on the support of international labour unions such as the Japanese Trade Union Confederation (RENGO), Aid Abroad APHEDA (Australia), Oxfam, and the Netherlands Trade Union Confederation (FNV). Their activities include labour issue mapping and needs assessment exercises, research and training, sponsoring workers for ILC conference participation, exchange programmes and basic union skill development programmes.

Although labour rights issues in general receive attention from domestic and international actors, not enough efforts have been devoted to the FOA implementation issue. Recent studies reveal FOA implementation as one of the most pressing labour issues in Myanmar. The joint study by Centre for Research on Multinational Corporations (SOMO), Action Labour Rights and Labour Rights Promoters and Defenders (LRPD) on 12 factories in the garment sector reports that 'independent union is found to be active in just one factory. Many workers have no idea about freedom of association and the right to collective bargaining.' The study recommends constant investment and attention from government, employers, workers and international organizations including the ILO and internationally funded programmes with a clear focus on these enabling rights of FOA and collective bargaining (Theuws and Overeem, 2017: 118).

¹¹⁰ Interviews with Daw Ei Shwe Cin Nyunt (LRPD) on 14th October 2016 and with Daw Thet Thet Aung, 88 Generation Open Society, Labour affairs officer, on 19 October 2016 indicates that their activities are supported by the Open Society Foundations.

There also are limits to the role of international actors in playing their supportive role in domestic norm implementation. Notwithstanding their good intentions, technical expertise and resources that they bring for FOA implementation in Myanmar, their orientation for output rather than outcome has side-lined grass-root workers' organizations from the benefits they render. Concentration of their investments in projects and programmes with the main Trade Union Confederation has become a source of tension between Confederation and non-Confederation unions. Such concentration of support to a single Confederation has major implications as it consciously or unconsciously encourages a particular organization to build power, as opposed to the FOA norm's main purpose of equalization of power in society. The low base of many workers' organizations is one factor limiting their capacity to engage with international actors. Therefore, facilitating or supporting the agency of international actors reaches only to some selective actors who can play their role in a more professional manner. Real workers' organizations and union leaders who work for passion were knocked out by those who work for FOA implementation as a profession.

International actors learn through their interventions in the labour market. Initial interventions by international actors in the industrial landscape tend to empower workers without introducing adequate educating programmes. The deliverer of Success Training Programme, run by the collaborative initiative of government and multi-donors, shared her experiences that they have to adjust their training design, which was rights-focused initially. New training programmes introduce basic soft skills such as behaviour, hygiene, nutrition, financial management (1/6 of the programme), while another 1/6 is devoted to labour laws awareness and 2/3 of the programme to technical skills for the workers. She found soft skills training more productive, as industry feedback on those batches of workers are positive.¹¹¹ Success Training is a pilot project run by multi-donor funding. Many more such programmes are needed to put FOA norms on track in the country.

This research finds that several initiatives by the government, local and international actors are useful for FOA practice to a certain extent. Current activities are not sufficient to give key stakeholders, employers and workers a good experience of FOA practice. Continued sour and challenging sentiments of workers towards employers do not give a good experience for employers. Employers' continued failure to see workers as social partners gives workers a bad

¹¹¹ Interview with Daw Phyu Phyu Aye at Success Skill Training Centre on 25 April 2018.

experience as well. Domestic and international actors need to find ways to introduce programmes which can give good experiences of FOA practice to key stakeholders, as in the case of RBC where several business solution programmes introduced to industries give good experiences of practicing RBC to employers. Greater resources and international attention can contribute in assisting government and domestic actors to think about better programmes to show employers that FOA is an effective communication and grievance programme, and to demonstrate to workers that FOA practices are good bargaining and negotiation tools for better wage, working conditions and better lives.

5.6 Conclusion

The objective of the current chapter is to contribute to norm implementation literature by explaining FOA implementation challenges in Myanmar in a political context where legal and institutional structures are shifting. As such, this chapter examined the way the FOA norm is being implemented (or not implemented) under successive administrations. Extending from historical perspectives, it further investigated why FAO implementation off-tracked despite its successful institutionalization as reflected in the growth of workers' organizations during the transitioning period. The research analyzed, interpreted and described the historical data and primary data on the conception, action and motivations of state, employers, workers and international actors.

Current research on norm implementation in contexts of structural fluidity gives novel accounts on transitioning contexts, and the emerging nature of legal and institutional structures allows multiple actors to conceive of the FOA norm in diverging ways and to act in a way contradictory to the FOA norm's intents and contents. The state advanced its interests of legitimation and pacification (peaceful industrial relations) unsuccessfully as it failed to define the FOA concepts for key stakeholders: employers and workers. Neither was the state able to earn the trust of workers, who sometimes ridicule the 'Ministry of Labour' to change its name to 'Ministry of Employers'. Workers' long-held views on government as one who always sides with businesses did not help FOA to cement the trust deficit between employers and workers. If the government made efforts to sufficiently invest in defining the FOA concepts among key stakeholders, it might need to spend less on costly enforcement measures. The limits of the state's enabling role become apparent as its inability to adequately define the FOA norm. Defective legal frameworks, weak monitoring and enforcement mechanisms, and lack of

incentive mechanisms also make states' role questionable. Most norm studies hold states accountable for norm implementation or lack thereof. This study reaffirms the limits of the state's enabling role in domestic norm implementation. Norm compliance is more than the function of state and transnational actors; it actually is a function of three types of agency—state as enabling/inhibiting agent, international actors as facilitating(supporting)/impeding agents, and workers and employers as executing agents of norms.

The major limits of executing agents, or workers organizations and labour activists, are their unfamiliarity with the concept of representation, negotiation, compromise and social dialogue. Their prevailing concepts of 'organize, fight and win' need to be replaced by 'organize, represent, negotiate and compromise for win-win'. Underdeveloped conception lies in both camps, employers and workers. One side has to move first to eliminate distrust between them. In the absence of conceptual development among major stakeholders, the presence of workers' organizations and other communication and grievance and conflict resolutions mechanisms such as the Workplace Coordination Committee (WCC) cannot make any impact on improving industrial relations.

Another important aspect revealed by the study is that states endeavour to introduce policies, laws and mechanisms for the implementation of the FOA norm entails quantitative growth of workers' organizations. However, such growth in workers' organizations does not necessarily mean norm implementation success. In this regard, the findings of this research align with Thomas Risse and colleagues' arguments that incorporating norms into domestic institutions and law is insufficient for shifting practices (Risse-Kappen et al., 1999: 250).

The prevailing literature tends to measure domestic institutionalization of norms as a sign of implementation success and the end stage of contestation. The case of Myanmar reveals the opposite to such conclusions, as the incorporation of the FOA norm in domestic laws, policies and enforcement institutions did not guarantee fulfilling the purpose of the norm.

Such study on norm implementation in transitional context by focusing on multiple actors and domestic structures gives the advantage of being able to appreciate the mutual constitution of agency and structures and it allows revealing the significant role of executing agents and the importance of incentive mechanisms in norm implementation. These understandings might be difficult, if not impossible, to draw from studies in a static structural context.

Elaborated discussions on empirical findings in this chapter support this research's theoretical expectation that weak-conflictual agential dynamic entails off-tracking norm practices. In the case of FOA, weak-conflictual agential dynamic is found to be driven by conflicting ideational structure and defective legal/institutional structure as well as inadequate international interests and investment in socializing FOA in Myanmar. Empirical accounts of FOA implementation highlights three important drivers to weak-conflictual agential dynamic. First, domestic implementation of international norms can better be explained by taking account of the conception and actions of multiple actors within state. Although transitional contexts offer improved legal and institutional provision by the state, there are limits to the state (government) as enabling agent of FOA due to its capacity constraints.

Second, off-tracking of FOA practices in the country is primarily explained by *diverging conceptions* about FOA by key stakeholders due to the influence of historical factors, owing to the defects in evolving legal, institutional structure and insufficient intervention of domestic and international norm advocacy.

Third, *diverging conceptions* on FOA along with tensions among and within key stakeholders (workers and employers), and *inadequate agency* of domestic and international actors in promoting FOA represent *a weak agential dynamic*. A weak dynamic of agents around the FOA norm could not effectively address the deficient ideational structure and defective legal and institutional structure, and thus serve to undermine the practice of FOA during the first phase of transition towards democracy in Myanmar.

Chapter Six: Responsible Business Conduct in Myanmar

6.1 Introduction

‘Since the quasi-civilian government under Thein Sein came into existence some six years ago, things have begun to change....Much progress has also been made to have private companies local and foreign embrace responsible business conduct’

(Jagan, 2017).

This chapter examines the responses of local and foreign businesses to an emerging norm of ‘Responsible Business Conduct’ (RBC) during the first phase of democratic transition in Myanmar (2011–2016) while giving brief historical perspectives on behaviors of business in the country. The RBC norm is selected as a case for the current comparative analysis on norm compliance variation within a state, given a paradoxical finding on increasing engagement of many businesses to RBC as a voluntary norm while some other businesses are not able to fulfil their legal obligations to allow freedom of association (FOA) for their employees. Despite a similar degree of the government’s legal and institutional support to FOA and RBC implementation, varied implementation outcomes suggests a need for comparative scrutiny of RBC and FOA.

RBC case represents a ‘principle norm’ as it is termed by Alexander Betts and Phil Orchard.¹¹² Referring to their studies on the Responsibility to Protect (R2P) norm, Brian L. Job and Anastasia Shesterinina characterized ‘principle norms’ as composite norms, as they are composed of more than one element. These scholars considered ‘principle norms’ as ‘the critical norms at issue in the international system today’ considering little prospect of such a norm as R2P for definitive institutionalization at the international level and the lack of direct relationship between institutionalization and implementation (at both systemic and domestic levels)(Orchard and Betts, 2014: 158-159). This study argues that categorizing norms into treaty norm, principle and policy norms is not always helpful in understanding implementation

¹¹² According to Betts and Orchard, ‘principle norm’ is distinguished from the treaty norms in terms of the less formal and codified nature of the norm. Principle norm may be in the process of institutionalization in international fora. Orchard, P. & Betts, A. 2014. *Implementation and World Politics: How International Norms Change Practice*, Oxford, Oxford University Press.

outcomes based on these categories. Study on implementation of RBC, a principle norm with its composite nature, demonstrates a different path in implementation as opposed to such principle and composite norm as R2P. Selection of RBC case allows this study to substantiate the linkage between the type of norm and the domestic implementation process, which is less clearly theorized in extant literature. For instance, Brian L. Job and Anastasia Shesterinina considered the constraints of contradicting elements in the R2P on its institutionalization and implementation. But the channel of such constraints is not fully explained. Therefore, the current study's selection of the RBC norm as a composite principle norm with its less formal and less codified nature composing multiple components allows the current study to verify the linkage between contents of norm and domestic implementation while identifying the channel of influence.

This chapter is organized in three sections. First, it describes historical perspectives on the behaviour of businesses to discern the distinctive nature and characteristics of specified actors, their actions and conceptions and structural changes generated by democratic transition since 2011. The second section presents primary data identifying actors, detailing the conceptions and actions of stakeholders—state, businesses, non-state interest groups and international actors—in engaging RBC in Myanmar during the first phase of democratic transition (2011–2016). The third section analyzes the linkages of norms' contents, transition-generated structural changes and the nature and attributes of the multi-actor dynamic generated during the process of socialization of RBC in Myanmar.

Information generated during field research in Myanmar leads the current chapter to make three arguments. First, introduction of RBC with its four distinct elements leads to the emergence of multiple actors who act as agents of RBC. These actors create a strong and synergetic dynamic in carrying out activities for four different themes. Those thematic activities not only enhance 'awareness, appreciation' among stakeholders, but also create opportunity for businesses (key stakeholders and executing agent of RBC) to 'experience and apply RBC'. Greater societal awareness serves as natural monitoring mechanisms. Greater opportunity for key stakeholders (businesses) to experience RBC, the benefits and cost associated with its application, serves as an effective and sustainable compliance mechanism. Second, a strong, synergetic, multi-actor dynamic for RBC implementation is made possible by financial, technical and human resource support and assistance from international actors and the state's (government's) provision of legal and institutional arrangements. Third, diverse and distinctive

tools employed by multiple actors or agents of RBC determine RBC implementation outcomes through provision of good experiences for businesses (executing agent of RBC), supporting theoretical predictions of this research as discussed in Chapter Three. Although behaviour changes in businesses in general can be explained by the logic of consequences or anticipated cost and benefits—business sustainability, competitiveness, branding and marketing benefits etc.—the logic of experiences explains indigenous businesses’ increasing embrace of RBC.

6.2 Historical perspectives on business behavior in Myanmar

This section provides historical perspectives on businesses’ behaviour in Myanmar, emphasizing how businesses operated during successive periods and how their operation affected social, environmental and governance aspects of the country.

6.2.1 *Business behavior in pre-colonial Myanmar*

Prior to the country being annexed by the British in three phases of conflicts in 1824, 1852 and 1885, the socio-economic fabric of the country was feudal and customary in nature where all societal matters, administrative, socio-economic and religious institutions, revolved around monarchs who sourced their absolute and arbitrary powers from traditions and customs. Feudal society in Myanmar was distinct from the European feudal system where there were connections between land and the serf (Wai, 1961: 1-2). Relations between the rulers and the ruled in feudal Myanmar were personal. The monarch reached his subjects through provincial governors (Myowuns), hereditary township chiefs (Myothugis) and village headmen who exercised the police, the judicial and the taxation authority (Walinsky, 1962: 11-12).

Economic activities in pre-colonial Myanmar were largely facilitated by informal institutions and social networks (Bissinger, 2015: 223). Traditionally, monarchs were the biggest landowners in the country and were engaged in money-lending and trading (Hla, 1989: 21-24). The monarch’s monopolies over mining and trade of precious minerals and forest resources also highlighted their business roles. Royal orders dated the 13th century towards the end of the Kong Boun Dynasty indicate that monarchs gave social, environmental and governance

consideration in executing their political and economic roles.¹¹³ However, it is impossible to examine actual implementation of those orders as no records can be traced on the manner in which these royal orders were executed (Tun, 1986: 7-21).

Royal exercise of power over their subjects, who owed services to monarchs, were largely arbitrary. Such extraction of services and revenues were a huge burden to the subjects as the governors usually collected more than the normal levies and forwarded 60 to 80 percent of their authorized collections to the royal treasury (Walinsky, 1962: 14). The repressive nature of those taxes, partly due to the absence of a salary system for crown servicemen, is recorded by Crawford, Sangermano and Harvey (as cited in Wai, 1961: 26). Myanmar kings' exploitative practices and their socio-economic impacts in pre-colonial society was reflected upon by U Toe Hla:

Although royal service men '*athis*' or poor folks were called for military service and cash contributions were exacted from them and some poor '*athis*' took bondage loans pledging either themselves or their family members in order to meet the demands. So, the indebtedness of the people was not only because of their poor economy but also because of the frequent demands of contributions and corvee labour by the crown (Hla, 1989:42).

¹¹³ Royal Orders requires personnel of all the armed forces to be loyal and courageous but they are discouraged from being exceedingly ruthless and cruel (Order dated 6 May 1249) and called for secretarial staff of the palace to be prompt in their work but they are to be civil in all their public dealings (Order dated 19 June 1368), and to respect the life and property of all people and help the Athi (Common Folks) in the province so that they would thrive (Order dated March 1788). Upon request of Kun Bon Forest Recluse Monk, an area around his place was designated as bird sanctuary (Order dated 30 March 1807). Order dated prohibited cutting Te Bin- Diospyros burmanica River Ebony (Black Wood), on the western ranges and required to preserve black woods. TUN, T. 1986. *The Royal orders of Burma, AD 1598-1885*, Center for Southeast Asian Studies, Kyoto University.

Indebted common folks were enslaved. However, slavery in the country was somewhat different from the common understanding in other parts of the world. The memoir of the reverend Farther Sangermano during his residence as missionary in Ava, the last throne of the Myanmar kings, noted:

Slaves are treated as children and as forming part of the family of their masters indeed it is not a rare thing for them to become the son in laws of their masters. And slavery is not for life, a slave is freed upon repayment of his debt (Sangermano, 1833: 122).

Towards the end of the Kong Baung Dynasty, some benevolent kings made significant departure from their predecessors in terms of governance, administration and social welfare and economic development. King Mindon (1852-1878) placed all high officials on salary in place of the former system of Myothugyi or revenue fiefs, and attempted to replace the previous service system with a universal household tax based on ability to pay (Walinsky, 1962: 21). King Mindon consulted learned monks to take actions in alleviating tax burdens on ordinary citizens and tradesmen in Taungoo and Ye Me Thin townships in Myanmar (Kyi, 1977: 70).

Reconciling the records of historical exploitative taxation practice with official accounts of the ethical, social and environmental consideration of monarchs as they appeared in the royal orders, this study concludes that the monarchs as business actors did not fail to consider social, environmental and governance aspects of their behaviours. However, administrative systems of the day and the tradition of personal-based relations between the rulers and the ruled created loopholes which were exploited by the middlemen, town and village headmen, for their personal benefits and thus common folk were extorted in pre-colonial society in Myanmar.

6.2.2 Business behavior in colonial Myanmar [1885-1948]

Businesses in colonial Myanmar are usually characterized as monopolistic and oligopolistic in nature (Steinberg, 1982b: 126, Than, 2007: 10). The colonial power's introduction of the system of law, sanctity of contracts, cash-based economy, modern industries, and transportation and communication facilities presented economic opportunities. In theory, the laissez faire policy of the colonial era encouraged competition and freedom of

economic activities. However, in practice, close relations between the colonial government and foreign businesses did not provide a level playing field in the colonial economy. Ian Brown states that the European businesses influenced the direction and character of the colonial administration not only through the channels of informal, social and commercial means, but also through formal mechanisms of seat allocation on the Legislative Council to the Rangoon Chamber of Commerce, to represent European business interests (Brown, 2009: 17-18, Kyi, 1977: 94, Bissinger, 2015: 76-80).¹¹⁴ The regulatory role of the colonial government over businesses was largely compromised as the main concern of the colonial authorities was producing enough revenue to pay for the cost of administration (Charney, 2009: 10).

The socio-economic implications of oligarchic businesses and the concentration of British capital and entrepreneurship in key industries were significant. Economic alienation of indigenous businesses was the most apparent impact of monopolistic businesses. Only a few indigenous industrial establishments existed in colonial Myanmar as European businesses controlled the major industries of the country, especially mining (including oil), the teak industry, and rice milling.¹¹⁵ As the gap between foreign businesses and local consumers was filled by Chinese and Indian immigrants, indigenous businesses did not get an opportunity to participate even in the trading activities in which European businesses had less interest (Kyi, 1977: 111, 118). Despite the critical role of Indian money lenders (Chettiars) in agricultural financing serving as a bridge between 'Western' finance and the Burmese cultivator (Turnell, 2005: 35), Chettiars' usurious money-lending practices and foreclosures of lands became a widespread phenomenon in the country. A quarter of agricultural land in the thirteen principal rice-growing districts of lower Myanmar fell into Chettiar hands in the mid-1930s as compared to 6 percent of agricultural lands under Chettiars in 1930 (Brown, 2011: 728).

Oligarchic practices and tactics of European businesses in Myanmar also affected local society by depressing commodity prices and the living conditions of farmers. A paddy ring

¹¹⁴ Khin Maung Kyi referred to the Report of the Administration of Burma 1880 - 81 p. 34 to record that Ayeyarwaddy Flotilla Company received financial supports of pound sterling 12,000 or 15 percent of the company's revenue from the British government in 1880.

¹¹⁵ Four principal European rice milling and exporting firms: Steel Brothers, the Anglo-Burma Rice Company, Ellerman's Arakan Rice and Trading Company, and Bulloch Brothers, three firms in the oil industry; the Indo-Burma Petroleum Company (subsidiary of Steel Brothers), the British Burmah Petroleum Company, and the Burmah Oil Company and five firms in the teak industry: the Bombay Burmah Trading Corporation, MacGregor and Company, T. D. Findlay and Son, Foucar and Company and Steel Brothers BROWN, I. 2009. British firms and the end of empire in Burma. *Asian Affairs*, 40, 15-33.

founded by four European rice millers decided and limited the purchase prices. Despite the price rise in foreign markets, the paddy ring did not raise the price for growers (Kyi, 1993:102). Ludu U Hla recorded the way the Steel Brother Company¹¹⁶ operated in colonial Myanmar and how they affected the lives of cotton brokers and cotton factory workers. Experiences of U Ant Chi, a broker at Steel Brother cotton mills and Daw Ant, a worker from Myinmu Steel Cotton Factory were recounted by Ludu U Hla. The Steel Company employed some specific tactics to depress the commodity prices by arranging the timing of their borrowing from banks in London at harvest time. So that the banks in London called for loan repayment from Chettiars who in turn forced loan repayment from cotton and paddy farmers, requiring them to sell their newly harvested commodities at a low price.

Even in those days when exploitative business practices prevailed, some outstanding businessmen stood out in the country's history. Those businesses include foreign businesses as well as a well-known indigenous businessman who were recognized as benevolent businesses. U Nar Auk, a well-known ethnic Mon, even appears in the country's elementary history textbooks for social services rendered by his businesses. He started a timber business and later expanded to the paddy trade, the steamship industry and money lending. In his efforts to liberate poor people from the exploitation of foreign businesses, he offered low interest rates to farmers and bought paddy fields for higher prices. His Burmese Steam Navigation and Trading Company allowed monks, nuns, the elderly and children to ride for free, challenging the Irrawaddy Flotilla which cut its fare by half in a bid to win back passengers. Despite the competition between U Nar Auk and Arrawaddy Flotilla Company ending in favour of the latter, the benevolent spirit of an indigenous business signifies the inspiration of some businessmen to contribute to society during colonial days. A similar manner of consciousness by businesses for societal welfare was noted during the period under Japanese rule (1942-1945). In their efforts to form a traders association, Myanmar traders advocated for doing away with extracting excessive profits from the consumers (Hla, 1950: 209).

Some individuals from leading foreign businesses were also recorded for their public services while running their businesses. For instance, Mr. David Francis and his son John L. Francis, agents of Bombay Burmah Trading Company and the Irrawaddy Flotilla Company in

¹¹⁶ Steel Brother Company operated in many business lines including in oil, teak, rice, cotton, and cement and trading businesses.

Myanaung town were noted for their keen interest in the corporate life of the town and for their devotion of their time to the public service (Wright, 2015: 393-395). Some prominent Chinese and Indian businessmen were also known for their charity and generosity. Mr. Lim Chin Tsong and Mr. Chan Ma Phee were known for their generous support to public institutions such as Dufferin women's hospitals, temples, and water wells (Wright, 2015: 309-312). Similarly, Haji Mohamad Yusuf Ismail, director of Sooratee Bara Bazaar Ltd. and Bootahtaung Company, earned the Kaiser-i-Hind, a medal awarded by the British monarch, in recognition of his services in the advancement of public interest. His contributions included the establishment of a rest house for all nationalities and an eye hospital in Mandalay (Wright, 2015: 333). Some businesses' patronage was motivated by their quest to build local connections for their business success (Charney, 2009: 23-24). Regardless of the motives behind those businesses, their behaviour had positive social ramifications even during the period when opportunities existed for exploitation.

Therefore, we can conclude that practices of businesses in general in Myanmar during colonial administration are not far from the idea of responsible business conduct. Even in the time when the ideational structure for RBC was absent, instances of RBC practices are not totally absent. Rare cases of individual businesses and their long-term views on making societal impacts through their business activities were found by this research. Such findings highlight the importance of executing actors, their initiatives and their leadership potential in inspiring broader groups of actors in the society.

6.2.3 Businesses' behaviour in parliamentary Myanmar [1948-1962]

This study tries to understand the state of businesses behaviour in newly independent Myanmar through comprehending the country's economy, which is largely characterized by Burmanization, nationalization, and state-led industrialization. Despite the new government's efforts to secure key economic assets of the country from the hands of foreign monopolies to state ownership and reviving indigenous business entrepreneurship,¹¹⁷ indigenous

¹¹⁷ In June 1948, businesses of foreign interests, the Irrawaddy Flotilla Company and the forest concessions, sawmills, and timber yards of the foreign teak firms - the Bombay Burmah Trading Corporation, MacGregor, T. D. Findlay, Foucar, and Steel Brothers were taken under the state's control. In October 1948, the land nationalization act was promulgated to reclaim lands which were passed from indigenous cultivators into the hands of major landlords, notably the Indian Chettiers during colonial periods. Internal trade and export of rice were also under the State Agricultural Marketing Board which had excluded foreign merchants, traders, and dealers in the sector since the 1950s. And in the 1954, the government made

entrepreneurship 'lagged far behind that of the Indians and Chinese' (Steinberg, 1982b: 761). The government's private business support programmes were less meaningful due to the increasing role of government in industry, the challenges of inadequate industrial infrastructure, and instability caused by communist and ethnic insurrections (Brown, 2011: 744, Brown, 2013:111-112). Clientelistic networks between state and businesses are noted in newly independent Myanmar as political parties had to rely on financial support from business for political campaigns while businesses sought government patrons for easier access to government-controlled resources, to get protection from illegal activities, and for privileges in tax matters (Hlaing, 2002: 82). Such networks implicitly indicate the less ethical and responsible businesses of those days.

A dearth of data about behaviours of businesses makes it impossible to make a generalizable claim about business behaviour in post-colonial Myanmar. However, there are some entrepreneurs who are conscious of their duty to public welfare. A confectioner named Daw Ohn Tin received recognition from the Deputy Director of Industry U Saw Tun in his broadcast talk for keeping up her percentage of glucose pretty high in spite of the difficulty she met in importing the ingredient. Such public-spirited manufacturers are encouraged by the government (Station, 1950: 123). Some entrepreneurs renowned for their contribution to the society include Dragon Daw U, a women entrepreneur who has owned cheroots factories since 1945, employing almost 6,000 workers, mostly women, in her 27 factories. Donation of the building of the Rama Krishna Hospital in eastern Yangon and the land donated for leprosy patients in Mandalay are some of Daw U's contributions to public welfare (Cin, 2010). Philanthropic entrepreneurs in a business centre in Mandalay are recorded by Ludu Daw Amar in her works on 'Mandalarians'. Philanthropic business persons includes Daw Mein Kha Lay for her generous donation of twenty-six pavilions across the city, U Soe Kha Lays for his donation of public utilities such as water wells, Trader Daw Chi for donating a bridge across Ye Kyi stream (Amar, 1991: 72,73,86).

6.2.4 Business behavior in socialist Myanmar [1962-1988]

Scholars noted the continuation of clientelistic networks and cronyism during the socialist period (Hlaing, 2002: 92). State-led socialist economic plans hardly materialized due to

substantial investment in the extractive sector entering a joint venture with Burmah Oil and Burma Corporation for mining BROWN, I. 2011. Tracing Burma's economic failure to its colonial inheritance. *Business History Review*, 85, 725-747.

the uncoordinated economic policies of the socialist government. Competition between two policy camps, one preferring industrialization and import substitutions, and the other pushing for cooperative movement did not achieve either (Charney, 2009: 120-121). The government lost support from the business community due to abrupt changes in economic policies which had encouraged indigenous private enterprises and industries to the nationalization of indigenous and foreign private enterprises in 1963 (Silverstein, 1964: 88). Government efforts to increase production and import necessary goods were also negated by distribution problems (Silverstein, 1966: 96). Rampant corruption and inefficiency in the state's administrative capacity also undermined the economic output and welfare, resulting in an economy dominated by black markets (Bissinger, 2015: 223).

While recognizing the damaging role of illegal or smuggling business networks, *hmaung-kho*, in the country's long-term development, the networks had a positive role in helping the socialist government to create social equilibrium as the networks eased socio-political issues of the day such as shortages of basic goods and unemployment issues. Such state-business clientelistic networks broke out in 1987 when the government demonetized the largest currency notes and these networks stopped serving the interests of the businesses and the social equilibrium was disrupted (Hlaing, 2002: 83-88). Continuity of crony capitalism under successive administrations in the country's recent history portrays how businesses behave in the socialist era. Notwithstanding some positive socio-economic impacts made by these state-business clientelistic networks, the society had to bear the huge costs involved in crony capitalism.

The government's efforts to make economic reforms in the late 1980s were not able to salvage the economy and it could not serve the long-term interest of the peoples. Although the country experienced some economic growth between 1974 and 1984, the rice trade dependent economy collapsed in the mid-1980s following the fall in world rice prices. Ensuing economic difficulties and socialist planners' efforts to punish black markets through demonetization sparked mass unrests in 1987 and 1988, leading to the end of the socialist era. The country's experiences during the socialist era leads some scholars to conclude that the Burmese way to socialism produced 'equality of hardship and misery rather than equality of welfare', the opposite of the general expectation from a socialist economic system (Brandon, 1997: 79).

6.2.5 *Business behavior under SLOC and SPDC [1988-2010]*

The role of private businesses was expanded during the administration of the State Law and Order Restoration Council (1988-1997) and the State Peace and Development Council (1997-2010). SLORC's economic liberalization aimed to encourage private investment¹¹⁸ and foreign investment.¹¹⁹ The Myanmar Chamber of Commerce and Industries¹²⁰ was re-established after more than a quarter of a century (Brandon, 1997: 101-105). State monopoly was surrendered except in teak, oil and gas, pearls, precious stones and mineral extractions, banking, broadcasting, air transport, and the electricity sector (Krongkaew, 1995: 72-73, 1989). However, SLORC retained its economic role through maintaining state ownership of all land, natural resources and the exclusive right to operate in many key economic sectors. State Economic Enterprises (SEEs) continued to enjoy privileges in the forms of exemption of import licence fees for certain commodities and capital goods, privileged access to raw materials, domestic credits and the best locations, incentivizing foreign investors to partner with them (Bissinger, 2015: 127, Buzzi, 2001).¹²¹ SEEs constitute 23 percent of the country's GDP (Vicary, 1999: 4). Scholars were critical about limited structural changes to the command economy created in 1962 and the persistence of inherent tensions and contradictions in the society (Silverstein, 1995: 443, Steinberg, 1993). Continued economic authority of the state in the absence of essential economic institutions for a functioning market economy allowed the continuation of crony capitalism.

Crony capitalism was a growing characteristic of economic life under SLORC/SPDC. In the absence of economic institutions facilitating competition and encouraging transparency in the system of business licensing, businesses were incentivised 'to build relationships with government and boosting the foundations of the country's crony economy' (Bissinger, 2015:

¹¹⁸ The Private Industrial Enterprise Law and procedures were endorsed in November 1990 to enable private sector participation in industrial development.

¹¹⁹ The Union of Myanmar Foreign Investment Law of 30 November 1988 and procedures in December 1988 to encourage foreign direct investment.

¹²⁰ Although the exact date for the formation of the first Chamber of Commerce in Burma was recorded as unknown but references were made to the honorary secretary Mr. John Cornell of Rangoon Chamber of Commerce in 1863 and a meeting was held in 1877 for the establishment of the Burma Chamber of Commerce under the chairmanship of Mr. A. Watson, an agent of chartered banks of India, Australia and China. WRIGHT, A. 2015. *Twentieth century impressions of Burma*, White Lotus Press.

¹²¹ In 1995, three-quarters of all FDI (by value) were joint ventures or production-sharing arrangements with SOEs, while only 8 per cent was in partnership with private enterprise as cited in BISSINGER, J. 2015. Economic institutions and the development of Burma/Myanmar's private sector.

223). The extensive nature of business-government clientelistic networks both in legal and illegal businesses characterize the economy under SLORC/SPDC. Good connection with SLORC/SPDC authorities was ‘a crucial factor’ for the economic fortunes of the businesses (Hlaing, 2002: 79, 97, 98). Khin Maung Kyi saw these practices of rent-seeking and favouritism as systemic weakness which affected the functioning of the market economy (Kyi, 1994: 226).

The legal framework introduced by the SLORC did not redress the systemic weakness of the country’s economy. Lack of enforcement or arbitrary, preferential or opportunistic enforcement of the new laws allowed extraction of bribes from the businesses (Bissinger, 2015: 129). As the Foreign Investment Law and the Private Industrial Enterprise Law largely focus on investment incentives, they failed to include regulatory provisions in safeguarding labour rights, or social and environmental conservation. The design of SLORC’s economic reforms, which focus on short-term benefits by granting greater concessions in the extractive sectors of oil and gas, forestry, mining and fishery while paying little attention to the long-term sustainability of productive sectors such as agriculture, caused negative ecological and societal impacts that challenged the long-term development of the country.

Foreign Direct Investment (FDI)¹²² was controversial as the beneficiaries were persons and firms closely connected with the government and military. Stephen McCarthy states ‘most investors chose to embrace the system of organized corruption and obscure regulations by partnering the SLORC on a joint-venture or production-sharing basis’ as he could record that over 60 percent or 65 out of 107 FDI projects were joint ventures or production-sharing ventures with SEEs and military owned Union of Myanmar Economic Holdings (UMEH), while only 30 percent of FDI found private partners in 1995 (McCarthy, 2000: 243-247). The main controversies occurred in the extractive sectors. The oil and gas sector in particular got major attention due to the reported abuses of civilian populations by military personnel providing security, the extraction of civilians as forced labour to build roads and other infrastructure support, and forcible relocation of civilian populations in the project areas (Schermerhorn, 1999: 489-490). In analysing the impacts of the oil consortium in Yadana offshore project,¹²³ a balanced view was advanced by Ian Holiday arguing the impossibility of

¹²² FDI value approved by the Myanmar Investment Commission (MIC) increased from USD 2.5 billion in 1995 to USD 7 billion in 1998 of which the major bulk of rising investment was in the oil and gas sector.

¹²³ The oil consortium (U.S. based oil company Unocal, France-based oil company Total and Myanmar Oil and Gas Enterprise-MOGE) involved in the Yadana project building a gas pipe line in the southern region of Myanmar. Myanmar

judging the impacts of the Yadana project which were neither wholly positive nor wholly negative (Holliday, 2005: 46). Many scholars view that ‘the impact of foreign direct investment has been more negative than positive on the economic welfare of the people’ (Maung, 1996: 118, Maung, 1998: 166) and some scholars note growing social and economic disparities since 1988 (Buzzi, 2001).

Considering legal, institutional and regulatory loopholes which allowed businesses to pursue their interest while giving no adequate attention to societal and environmental sustainability, the current research concludes that behaviours of most businesses under SLORC and SPDC were far from being in line with RBC. However, this research recognized that even in less regulated economic environment under SLORC and SPDC, there were exceptional cases of businesses¹²⁴ which took a long view of business sustainability, respected the rights of stakeholders and gave due consideration to environmental and societal welfare.

While recognizing general conditions of business practices which are not in line with the purposes of RBC along with exceptional instances of RBC compliant businesses under SLORC/SPDC, the research concludes that states’ inhibiting agency had practically deactivated the agential dynamics for RBC. The state’s exercise of norm-inhibiting roles prevented the access of external norm agents, denying the space for domestic agents of norms. The state’s political structure and associated legal/institutional structures also did not favour RBC in those days. In addition to the four scenarios expected by this research’s theoretical framework on agential dynamic, the empirical data of RBC practices under SLORC/ SPDC administration exhibits a total lack of agential dynamics if the state (government) exercises norm-inhibiting agency.

6.3 Transition, favorable institutions and RBC practices (2010–2016)

This section presents the study’s findings on institutions contributing to promote responsible business practices in transitioning Myanmar. Discussions under the section emphasize the significance of transition-generated institutional structures to RBC socialization during the first phase of democratic transition. The discussions consider three distinct

villagers who suffered human rights violations filed a law suit against the oil consortium at the Superior Court of California which heard and decided in favour of the plaintiff.

¹²⁴ Shwe Pa Zam Confectionary (operated since 1978) and Fame Pharmaceutical Industry Co., Ltd. (operated since 2000).

institutional developments taking place during the period under consideration. First, legal reforms and the government-led initiatives such as the launch of Global Compact Myanmar Chapter in 2012 and the formation of Extractive Industry Transparency Initiative (EITI) Leading Authority in December 2012 are significant for RBC implementation. Second, development in freer media and more vibrant civil society and their role in socialization of RBC are discussed. Third, institutional development relates to the emergence of RBC dedicated entities such as Myanmar Centre for Responsible Business (MCRB), Global Compact Local Networks. The three major institutional developments (or emerging legal/institutional structures) are made possible by transition-generated reforms (or political structure changes) and they are largely supported by investments by international actors (or the agency of external socializing agents) through different channels—intergovernmental, bilateral and non-governmental. These evolving institutions, while supporting domestic agents of RBC, have great influence over the behaviour of businesses in Myanmar during 2011–2016. In line with the conceptual framework presented in Chapter Three, this section found that favourable domestic legal/institutional structures facilitate and are being facilitated by the agential dynamics making positive impacts on RBC practices.

6.3.1 The government initiatives on private sector governance

Policy shifts and legal reforms

Improved private sector governance is the most discernible policy shift relevant to the RBC norm. The Framework for Economic and Social Reforms (FESR), formulated in 2012, set out clear road map on private sector development, governance and transparency, and reform of State Enterprises (Government of the Union of Myanmar, 2012: 28-29). FESR's consideration of social, environmental and cultural aspects in pursuit of growth in advancing a balanced strategy of economic, social, environmental and cultural development is notable (Government of the Union of Myanmar, 2012: 38-39:). The introduction of a number of private sector related laws also confirms the government's priority for private sector development.¹²⁵ The specific laws—2012 Foreign Investment Laws and rules, 2013 Citizen

¹²⁵ During 2011, the first year of democratic government, fifteen laws legislated by the Union Parliament, half of which concerned private sector governance, including Law No. 1. The Law for the Repeal of the Profit Tax Law, Law No. 2. The Law Amending the Myanmar Stamp Act, Law No.3. The Law Amending the Commercial Tax Law, Law No. 4. The law Amending the Income Tax Law, Law No. 7. The Labour Organization Law, Law No. 13. The Microfinance Business Law

Investment Law, 2013 Anticorruption Law, 2014 Consumer Protection Law, and 2015 Competition Law—have direct impact on businesses behaviours in transitioning Myanmar. Although the transition era government’s regulatory and enforcement capacity remains limited, new laws provides improved legal frameworks with clearer roles for regulators as well as investors. For instance, along with the promulgation of the Consumer Protection Law and the formation of Food and Drug Administration Department and its monitoring and inspection of the products in the markets requires food manufacturing businesses to abide by the required safety and health standards.

Global Compact Myanmar chapter

The Myanmar chapter of Global Compact was opened after the launch of the voluntary governance initiative in the country by United Nations Secretary General Ban Ki-moon in May 2012. Myanmar Centre on Business and Aid (MCBA) has been leading the UNGC local network since 2013. It has been increasing the awareness of the private sector on the changing rules of the game. The UNGC being a set of voluntary guidelines as opposed to a regulated code of conduct, businesses’ pledge to take social, environmental and ethical due diligence improved motivation and inspired the private sector to take on a new role. The growing number of enterprises pledging to the UNGC indicates their realization that sustainability of their businesses depends on their adaptability to RBC as a new theme for doing business.¹²⁶ The broadness of the themes of RBC and the voluntary nature of its compliance also make it affordable for private sector participants.

Instrumental rationality largely explains the transitioning government’s UNGC initiative as it would serve as a means for private sector governance reform as part of broader socio-economic reform programmes. The potential role of the voluntary mechanism was recognized by scholars such as Kenneth Christie and Robert James Hanlon who framed the potential role of UNGC, stating:

... UNGC as transformative mechanism that incorporates the language of human rights and ethics into corporate and local business practices..... UN Global Compact is a voluntary and relatively new initiative in Burma, it has

14. The Private School Registration Law. UNION ATTORNEY GENERAL'S OFFICE 2013. Myanmar Laws 2011. *Iii*: UNION ATTORNEY GENERAL'S OFFICE (ed.).

¹²⁶ 190 businesses were registered with UNGC as of August 2018.

significant potential for shaping the direction of Myanmar's business discourse. Despite the impact of the UNGC being minimal in the initial stages, constructivist theory allows us to view the long term influence of the Compact as a meaningful mechanism for building trust amongst diverse stakeholders. (Abbott and Snidal, 1998: 12-15)

How and to what extent such transformative potential of UNGC is being realized in Myanmar will be considered in the section on 'Evolving Institutions as Drivers and Monitors of RBC'.

Myanmar chapter of Extractive Industry Transparency Initiative (MEITI)

Under the economic reforms framework, President U Thein Sein's government became part of the Extractive Industries Transparency Initiative (EITI), a global standard to promote the open and accountable management of oil, gas and mineral resources. The importance of the extractive sector and necessity for improved governance in this sector is apparent, as a significant portion (68 percent) of foreign direct investments in Myanmar flows into the extractive sector (Christie and Hanlon, 2014: 12), 38.5 percent of total export revenue comes from that sector (LLP, 2015: 10) and it contributes 23.6 percent of the state's revenue. Therefore, the Myanmar Extractive Industry Transparency Initiative Leading Authority was formed on 14 December 2012 and secured its candidacy for EITI membership in July 2014 while receiving support from international partners. In August 2015, the government signed a 290,000 USD grant agreement with EITI- Multi-Donor Trust Fund (MDTF), a 2.5 million USD grant agreement with World Bank MDTF in January 2017 through 2019, and a 1 million USD additional grant agreement with MP-MDTF in July 2017.

Effective oversight by the multi-stakeholder group is one of the seven requirements to be benchmarked by the EITI standard.¹²⁷ And thus, Myanmar Extractive Industries Initiative

¹²⁷ A consultant of the World Bank Group, Ms. Emma Irwin synthesized seven major requirements of the EITI: 1. Effective oversight by the multi-stakeholder group, 2. Timely publication of EITI Reports 3. EITI Reports that include contextual information about the extractive industries, 4. The production of comprehensive EITI Reports that include government disclosure of extractive industry revenues, and disclosure of all material payments to the Government by oil, gas and mining companies, 5. A credible assurance process applying international standards, 6. EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate and 7. The multi-stakeholder group to take steps to act on lessons learned and review the outcomes and impact of EITI implementation. IRWIN, E. 2015. Myanmar EITI Implementation: Progress and Implications for Companies. Yangon: Myanmar Extractive Industries Transparency Initiative. [Irwin, Emma 2015 Myanmar EITI Implementation: Progress and Implications for Companies [PowerPoint slides]. Retrieved from <https://mdricesd.files.wordpress.com/2016/01/presentation-eiti-implications-for-companies-jan-2015.pdf>]

(MEITI) led by the Multi Stakeholders Group (MSG) was set up in early 2014. MSG is composed of twenty-one representatives; six from the government, six from the private sector and nine from civil society groups. The Centre for Economic and Social Development, a non-profit, private think-tank, is the coordinating body of the leading authority of MEITI. EITI local units are also established in states and administrative divisions.

Myanmar's EITI initiative, oversight of MSG and civil society has direct impact on the extractive sector's RBC implementation. The initiative also has indirect implications for the broader private sector as EITI serves as leverage for civil society in the country in placing greater scrutiny over the private sector. Civil society participation is a fundamental prerequisite of the EITI process. According to EITI's civil society engagement requirement 1.3, the government has to ensure 'a full, active and effective participation of civil society through creation of enabling environment for civil society participation', 'their substantial engagement in the design, implementation, monitoring and evaluation of the EITI process and for their engagement in public debates on EITI processes'. Assessments on civil society participation in EITI process are made at candidature stage as well as at the validation stage according to the 'protocol on civil society participation' under EITI standards (Rogan, 2017: 13-16, 41-44).

Prompted by these developments, a core group of civil society groups organized the EITI National Conference of CSOs in October 2013 and a civil society coalition was formed under the name of 'Myanmar Coalition for Transparency' which was renamed 'Myanmar Alliance for Transparency and Accountability' (MATA). MATA, a key stakeholder in MEITI MSG, has now become a national network comprising 450 civil society actors and individuals across the country advocating for transparency and accountability in all sectors across Myanmar (MATA, 2017).

6.3.2 Civil society

Re-emergence of civil society is a notable institutional development in Myanmar in the democratic transition since 2011. Although autonomous civil society did develop in

parliamentary Myanmar (1948–1962), it was eliminated under socialist Myanmar (1962–1988) (Steinberg, 1997: 4-6). Under SLORC/SPDC, space for the Non-Governmental Organizations (NGOs) remained limited although there were civil associations which ran in the forms of religious and community welfare associations such as the Alms Giving Society and Free Funeral Service Society. In those days, the role of the government in sponsoring mass organizations such as the Union Solidarity and Development Association (USDA) and Government Organized Non-Governmental Organizations (GONGOs)¹²⁸ was highly controversial as they were particularly seen as supporters of SLORC/SPDC policies. Some autonomous groups, which can check on the government for accountability, were not able to operate within the country and they became ‘cross-border civil society’ along the Myanmar–Thai border¹²⁹ (Oo, 2012: 147).

However, re-emergence of civil society has been recorded since the late 1990s (Petrie and South, 2014: 90) as the government tolerated some groups perceived to be apolitical providers of social services for which the state’s provision was either absent or inadequate (Lorch, 2008, Lorch, 2007). Earlier reports vary on the number of Local NGOs (LNGOs) in the country. The Directory of Local NGOs listed sixty-two LNGOs as of March 2004 (Dorning, 2006: 197-198). In the work of scholar David Steinberg in 2010, he estimated 214,000 CBOs (several of them faith-based) and some 270 apolitical LNGOs with varying social missions (as cited in Saha, 2011: 5:). Such growth of civil society groups in the later years of SLORC/SPDC is explained not only by the reform-oriented initiatives of the government, but also by the ability of civil society groups to grab the humanitarian space opened in response to Cyclone Nargis in 2008 (Morgan, 2014: 503). The devastation caused by Nargis, and the limited reach and speed of the government’s relief and rehabilitation measures in the early stages has prompted local and international organizations to provide relief in every possible way. The extent of damage caused by the cyclone not only necessitated short-term relief,

¹²⁸ Sixteen GONGOs are listed by OO: Myanmar Red Cross Society (MRC), Myanmar Women Entrepreneur Association (MWEA), Karuna Foundation (KF), Union Solidarity and Development Association (USDA), War Veteran’s Organization (WVO), Myanmar Medical Association (MMA), Myanmar Theatrical Organization (MTO), Myanmar Vocalists Association (MVA), Myanmar Film Organization (MFO), Myanmar Writers and Journalists Association (MWJO), Myanmar Tradition Artists Association (MTAA), Myanmar Dental Surgeons Association (MDSA), Myanmar Health Association (MHAA), Myanmar Nurses’ Association (MNA), Myanmar Women’s Development Association (MWDA), and Myanmar Women Sport Federation (MWSF), OO, S. T. N. 2012. *Popular education, cross-border civil society and possibilities for democracy in Burma*.

¹²⁹ OO recorded fifty Burmese local self-help groups and NGO networks based in cease-fire areas and along the Thai-Burma border which have worked closely with Burmese civil society groups based in Thailand. Ibid.

medium and longer-term measures for rehabilitation, but it were also a wakeup call for risk reduction and preparedness. Therefore, civil society groups mushroomed in area of humanitarian, environmental conservation and poverty reduction after 2008. The growth of LNGOs is not just in number; their overall activities were also enhanced after Cyclone Nargis (Saha, 2011:7-8, Morgan, 2014: 504). The number of INGOs in the country also expanded to one hundred after 2008 compared to less than forty INGOs prior to Cyclone Nargis.

Democratic transition further accelerated the momentum of civil society growth after Cyclone Nargis. Policy shifts for greater civil liberty and civil participation in nation building has contributed to development of civil society groups. In the speech delivered to the Union Parliament on 30 March 2011, President U Thein Sein expressed the government's readiness to work together with the people and social organizations for environmental conservation and to work with international organizations including the United Nation, INGOs and NGOs for education and health sector development (President U Thein Sein, 2011). Initially, such policy statement was hesitantly welcomed by local and international actors owing to the legacy of tight restrains placed on the civil society under military rule. However, unprecedented measures taken to cooperate with civil society led some scholars to use the term 'remarkable occurrence' to describe the way the government engaged with the representative body of 275 local and foreign civil society organizations and revised the draft Association Registration Law in line with the recommendations of civil society representatives. Scholars recognize that civil society enjoyed greater political space, functional freedom and more room to manoeuvre following the transition in 2011 (Bünthe, 2016: 390-391). The new 'Association Registration Law' was introduced in July 2014 while revoking the 'Law Relating to Forming of Organizations No. 6/88' which narrowly defined the civil society organizations and practically restricted their activities in the past (Morgan 508-9). The preamble of the 'Association Registration Law' clearly states to strengthen civil society by removing all barriers for formation, registration and activities of civil associations in line with the constitutional rights granted to citizens. The voluntary nature of registration allowed by the law gave greater freedom to associations that wish to run in less formal ways. The numbers of LNGOs listed in the online directory of Local NGOs in the country after democratic transition quadrupled from 119 in 2011 to 480 in 2016 (Myanmar, 2016).

Aside from the enabling legal measures and triggering effects of government-led initiatives, stronger civil society in the country is attributable to support by international

development partners. Data analysis of the top five providers of Official Development Assistance (ODA) to Myanmar during the period 2011–2016 and their CSO development components reveals that a significant amount has been dedicated to the development of the civil society in the country. Table 5 presents the development assistance and CSO development provided by the top five partners:¹³⁰ Japan, World Bank, United Kingdom, European Union and United States. Due to data limitation, INGO support for domestic civil society is not presented here.

In addition to dedicated support from the top five donors to ‘civil society development’, 5.1 million USD was disbursed during 2011–2016 under United Nations Development Programme (UNDP) multi-donor funds with financing from Japan International Co-operation Agency (JICA), Swiss Agency for Development and Cooperation (SDC), Government of Finland, and Government of Denmark.

¹³⁰ Data from Myanmar Aid Information Management Unit, MONHINGA records the top five donors during the period 2011 - 2015 by commitment values 2.91 billion by Japan, 1.09 billion by World Bank, 762.9 million by the United Kingdom, 473.80 million by the European Union and 372.09 million by the United States. PORTAL, A. T. 2017. *Commitment by Donor(2011-2015)* [Online]. AID Transparency Portal. Available: <https://mohinga.info/en/dashboard/donor/> [Accessed 2017].

Table 5 Top Development Partners and Spending on CSO (2011-2016)

No.	Development Partner	Total AID Commitment in USD Millions	Total AID Disbursement in USD Millions	Spending on Development USD in Millions	Percentage of total amount	Remarks
1.	Japan	2910.00	253.40	39.39	15.54	delivered
2.	World Bank	1070.00	55.31	30.00*		
3.	United Kingdom	762.90	571.71	23.19	4.05	delivered
4.	European Union	473.8	256.67	44.23	17.23	delivered
5.	United States	372.09	290.02	26.69*		

Source: Extracted data from 'Monhinga' Aid Information Management Unit

*Registered as aggregated amount committed to government, civil society and general as opposed to disbursed amount

Scrutiny of the development partners' strategies in Myanmar suggests that strengthening civil society has been an important consideration in their aid planning and delivery. For instance, strengthening the grant assistance for grass-roots human security projects in partnership with NGOs is part of three pillars of Japanese aid policy towards Myanmar: livelihood development, institutional capacity building and infrastructural development. Similarly, aid strategies of the European Union (EU) and United Kingdom (UK) in Myanmar have a more concrete approach to strengthen civil society in the country. EU's programme for civil society development was delivered as early as 2008 through provision of voluntary services overseas, spending more than half a million euros (The European Union: 32). Such early engagement suggests a need for structured dialogue with civil society rather than the ad-hoc support, as the capacity of civil society groups in programme formulation and project management were found to be limited. To capitalize on the Myanmar government's reform measures and growing civil space, the EU has deepened its dialogue with civil society since

2012¹³¹ and its programmes were undertaken under the framework of Multi-annual Indicative Programme for 2014–2020. Within EU’s broader strategic focus on peace, democracy, development and reintegration of Myanmar with the international community, its civil society supports is done through its key thematic programmes, such as the Non-State Actors and Local Authorities programme (CSO/LA), the European Instrument for Democracy and Human Rights (EIDHR), and the Instrument contributing to Stability and Peace (IcSP). Empowering CSO as service providers, advocates and watchdogs is mainstreamed in all measures of the European aid programme and EU bilateral programmes in a coordinated manner. The approach of EU support for CSOs in Myanmar is demand-driven and supported by concrete measures to increase the space for CSOs to operate, to enhance the relationship between CSOs and public institutions, to strengthen their capacities for research, advocacy and policy dialogue with government and to enhance the organizational structures and internal management of CSOs and CSO networks (Council of the European Union, 2013: 3, The European Union: 4, The European Union: 11-13, The European Union: 3).

Likewise, the UK’s long-standing priority in development cooperation with Myanmar is to make their assistance available to local civil society organizations. None of the UK’s aid was provided through the Myanmar government; all is delivered either through United Nations Organizations, INGOs or LNGOs. The UK’s Department For International Development(DFID) developed innovative tools to monitor and evaluate the impact made by their aid on civil society (Department for International Development, 2014: 14-16). The Department For International Development has a dedicated programme for civil society development called ‘Pyo Pin’, a Myanmar Civil Society Strengthening Programme which was carried out over 2014–17 with the funding support worth 869,880 USD. The Department For International Development’s democratic support aims to seek improved accountability, transparency in both public and private sectors through institutional support to the EITI process, civil society, and the parliamentary and electoral systems (Department for International Development, 2012, Department for International Development, 2014).

Australia takes a more balanced approach to support civil society strengthening in-country while engaging with the Myanmar Government. The AusAID Civil Society Engagement Framework guides Australian assistance to Myanmar and 35 percent of Australian

¹³¹ The European Union’s Office to Myanmar was established in April 2012.

assistance to Myanmar was delivered through Australian and International NGOs and their domestic partners in 2011 (The Australian Agency for International Development- AusAID, 2013: 15-17).

All CSO development measures taken by development partners in Myanmar have contributed, in varying extent, to strengthening and gradually institutionalizing civil society in Myanmar. The increasing role of civil society in delivering services, policy advocacy and civil monitoring has been able to place checks on the government and businesses to become more accountable to the society and to the environment. The gradual growth of civil society has become a major characteristic of the country's transition despite some hiccups in the policy implementation of civil society empowerment. In the early days, there were some reports about difficulties in CSO registrations and operation at township levels (Harris, 2013: 12). Such issues were addressed in the later days. The growing strength of civil society is attributable to three main factors: the enabling role of the government, development partners' support and alertness, and the ability of civil society actors to grab the political space. How the dynamism of civil society groups leverages RBC implementation will be discussed in the section on 'Institutions, Multiple Actors and RBC practices' Drivers and Monitors of RBC'.

6.3.3 Freer media and affordable telecommunication services

Government initiatives and international support have changed the media landscape during 2011-2016. Media freedom and affordable telecommunication have significant impact on society at large and enterprises in particular. Successive administrations prior to 2011 were able to manage the media for the promotion of government policy and activities. In the past, such narrow function of the media as a propaganda tool was further constrained by censorship. The press censorship board and its pre-publication censorship were notorious and the country was in the top ten of 'least free' countries in Freedom House's press freedom index from 2002 to 2010. The country left that group in 2011 due to improvements made after 2011 (Open Society Foundation, 2013). A study noted,

Since the reform process began in 2011 there have been significant improvements in the rights to freedom of expression, including loosening of restrictions on the media, and in peaceful assembly and the ability to stage peaceful protests. (MCRB, 2014: 73)

Some drastic measures were undertaken in liberalizing the media such as termination of pre-censorship and dissolution of the Press Scrutiny Board.¹³² In 2012, Myanmar Press Council was re-organized as the Interim Media Council, with leaders and members of major media associations in place of the government-appointed 20-member core press council.¹³³ The Printing and Publishing Enterprise Law and the News Media Law enacted on 14 March 2014 become the first legislation to give greater freedom to the media (Edward, 2017, the Diplomat).¹³⁴ Civil society's voices were brought on board in media legislation, signalling an inclusive and consultative process¹³⁵ (UNESCO, 2016: 23) (Lisa, 2013: 695-6). Although print media organizations were required to register with the Ministry of Information, licensing requirements are relaxed under the new Printing and Publishing Enterprise Law. In line with the News Media Law, the Interim Media Council serves as an independent regulatory body which drafted and adopted a media Code of Conduct (COC) in 2014. A new Broadcasting Law opens licensing to private, public and community broadcasters, and licensing is to be managed by a civilian council to ensure plurality and diversity. In addition to increased availability of information from media, the government has been proactively making available new laws, announcements and activities of its agencies (UNESCO, 2016: 18). Along with media development in the country, people enjoy greater freedom of expression and UNESCO reports on the extent of freedom of expression in Myanmar, stating:

In practice, more citizens are beginning to express their views and opinions publically despite continued uncertainty regarding how far their rights extend. In a nationally representative survey, respondents were asked how free they felt they were to 'say what they think'. Sixty nine per cent responded 'Very Free' or 'Somewhat Free', although this figure dropped to forty three per cent when the question included mention of the government. (UNESCO, 2016: 15)

¹³² Pre-publication censorship was abolished in August 2012 and the press scrutiny board was dissolved in January 2013.

¹³³ The Myanmar Press Council was formally organized on 21 October 2015.

¹³⁴ Pyidaungsu Hluttaw [Union Parliament] Law No. 12, the News Media Law and Law No. 13, the Printing and Publishing Enterprise Law 13, the Printing and Publishing Enterprise Law was promulgated on 14 March 2014.

¹³⁵ Civil society and media organizations were invited to a workshop to comment on a draft version of the Public Service Media Bill in 2014.

Development of the media was supported by international agencies such as UNICEF, UNESCO, International Media Services and International IDEA and some state-funded training by the Australian Broadcasting Corporation (ABC), Voice of America, Japan and Chinese State-funded media organizations provided media training to journalists and state media (Trevor 2016). UNDP supported the development of state/regional media networks in the seven states/regions, enabling them to conduct joint initiatives and assist each other in translation of government documents and verifying against misquotes and mis-translation (Art of Networking NGO, p. 15).

Improvement in the formal media was accompanied by the social media development in the country. The introduction of telecommunication sector reforms enlivened the public space opened by freer media and investigative reports. As the cost of SIM cards was slashed from 300 USD in 2012 to 1.5 USD in 2015 (The World Bank, 2015: 2) and as affordable mobile phone services reached most people in town and villages, social media traffic grew heavy and opened the eyes of many who had been less exposed to diverse sources of news and information. Online media traffic intensified, as internet censorship barely existed from 2012. UNESCO mentions survey results from the Open Net Initiative in its report, which reads:

In August 2012, Internet censorship in Myanmar was largely removed. At that time, the Open Net Initiative conducted a content filtering test in which only five of 541 websites identified to have political content were blocked. In short, restrictions on Internet content have been relaxed significantly since 2012 and Internet users have been able to view, upload and post content that is critical of the government with few actualized reprisals. (UNESCO, 2016: 42,44)

Freer and affordable access to formal and social media enabled and empowered people in greater engagement in civil life and allowed them to have a voice on matters which impact their lives. Increasingly empowered civil society with freer media in their hands means a stronger voice against violation of human rights and against political or socio-economic exploitation by state and businesses. State and enterprises are increasingly held accountable for their activities. Any infringements are promptly reported in social and formal media, drawing wider attention from the whole society. Serving as amplifier on best practices as well as whistle-blowers and investigators against malpractice and exploitation, the power of freer media become recognizable in the transitioning period. How such media developments can lead to

changes in the business community's perception and actions is discussed under the heading below.

6.4 Transition, multiple actors and RBC practices

Aside from the role of legal/institutional developments discussed in the preceding section, dedicated entities for RBC promotion emerged following democratic transition. These entities ranged from non-for-profit multi-donor supported institutions for private sector governance such as the Myanmar Centre for Responsible Business (MCRB), business sustainability consultancy services, and international chambers of commerce to business firms for environmental and social impact assessment and audit. The utility of such entities in RBC promotion is significant in a country like Myanmar where legal structures are evolving. Filling the institutional vacuum in a transitioning democracy, these institutions help bridge local laws and practices with international norms. This section maps out the key players in socialization of RBC.

6.4.1 The MCRB as a dedicated lead actor for RBC practices

The MCRB was set up in 2013 by the Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR) with multi-donor funding. The founders' long term goal is to provide an independent platform for stakeholders to address dilemmas, challenges and opportunities for shaping responsible business practices and to build national and local capacity and partnerships on business and human rights issues(OECD, 2014: 74). The MCRB promotes responsible business in Myanmar through innovative mechanisms encouraging and enabling businesses to conduct their operations in their long-term interest without negating social, environmental and human rights norms. Its work anchors on the UN Guiding Principles on Business and Human Rights, the UN Global Compact and the OECD Guidelines for Multinational Enterprises. The MCRB receives support from the governments of Denmark, Ireland, the Netherlands, Norway, Switzerland and the United Kingdom.

The centre creates appreciation of the concept of 'RBC' in two significant ways: first by providing venues for businesses to practice RBC through disclosure of their operation, and second by provision of a platform for dialogues between state and businesses, among businesses and civil society and state, and between business and civil society. Its introduction of

Pwint Thit Sa or 'Transparency in Myanmar Enterprises' TiMEs¹³⁶ project serves as competition grounds for businesses who wish to seek sustainability through greater transparency and accountability. Its sector-wide impact assessments, its research works, advocacy and networking measures also create conditions conducive to RBC in Myanmar.

6.4.2 Emerging RBC Consultancy Service Providers

When Myanmar first opened up in 2011, there was considerable attention from international businesses as a frontier market. Business services, consultants and local partners were what those foreign businesses sought to explore a new frontier. On the other hand, domestic businesses also anticipated potential advantages as well as vulnerability in the new business environment. Demands for business services increased among domestic enterprises in order to recalibrate their businesses in grabbing new opportunities to partner with incoming international businesses or simply to remain resilient against greater competition from external businesses. Therefore, demand for business services and willingness to pay for services such as market information, linkage with consumers/buyers and skill sourcing become strong¹³⁷ despite the immaturity of the business services market and its weak capacity to supply the services (Wijesena and Hakemulder, 2014: 16, 26, 30).

In response to increasing market demands, entities such as Thura Swiss,¹³⁸ SMART Myanmar and HamsaHub¹³⁹ came in as service providers for such services as project and programme design, stakeholder analysis and operational strategy for due diligence. It also provides training for public, private sectors and NGOs in strengthening their responsible management practices. One aspect in their service delivery is instilling knowledge about doing business in Myanmar in the context of evolving legal and institutional conditions. Although consultancy services are not requested with a specific focus on RBC implementation, a broader range of societal, legal and administrative-related advice encourages RBC practice among

¹³⁶ A Myanmar chapter of Transparency International's 'Transparency in Corporate Reporting - Accessing the World Largest Companies' TRAC.

¹³⁷ ILO survey indicates that 88.7 per cent of small and medium enterprises are willing to pay for the services they needed.

¹³⁸ Thura Swiss was established in 2012.

¹³⁹ HamsaHub was founded in 2013.

service users.¹⁴⁰ The following discussions will elaborate how these business service providers incubate RBC norms among businesses.

6.4.3 International Chambers of Commerce

The country's democratic transition invites international Chambers of Commerce in Myanmar. These business associations, while promoting the benefits of businesses from their respective country, facilitate their businesses' compliance to the host country's laws and regulations including RBC. How Chambers of Commerce from countries' international partners helps facilitate RBC implementation will be elaborated further in the next section.

6.4.4 IFC conditionality for funded enterprises

The International Financial Institution (IFC) re-engaged Myanmar in August 2012 following democratic transition in the country. There are some controversies on the negative societal and environmental impacts caused by business projects, in Myanmar and elsewhere, which are funded by IFC through third-party financial intermediaries (Roasa, 2017). IFC received great criticism from its internal audits, World Bank's Office of the Compliance Advisor/Ombudsman (CAO), for its failure to monitor and provide risk mitigation strategies for its clients (third-party financial intermediaries) and their sub-projects. IFC was exposed to such criticism through its 'strait equity' investment of 186 million USD in Austria's Raiffeisen Bank which own 2.98 per cent of shares in Thai-based Energy Earth PCL, major investors in Banchaung coal mines¹⁴¹ in Myanmar and IFC's 300 million USD equity investment in the Postal Savings Bank of China, which finances buyers of coals from Energy Earth PCL, China's big five electric utility companies.

Despite such controversies over certain projects, IFC's engagement with government agencies as well as with private businesses in Myanmar is instrumental in promoting RBC practices in the country. IFC has been providing advisory services and making investments in

¹⁴⁰ Interview with Dr. Aung Thura, Founder and CEO of Thura Swiss Ltd., Industrial Research and Consulting on 26 April 2018.

¹⁴¹ Bang Chaung coal mine, covering 2,100 acre of land in southern Myanmar, was run by four companies led by Myanmar firm Mayflower Mining and three Thai companies Energy Earth PCL, East Star Company and Thai Asset Mining Company since 2012. The mine was producing nearly 500 tons of coal per day causing critical damage to 16,000 residents in the areas. Local residents filed complaints with the Thailand Human Rights Commission in June 2017 and lodged complaints to the government and the mine's operation is in temporary suspension.

private enterprises either in the form of loans or equity. The enterprises seeking investments from IFC are assessed for the environmental and social risks likely to be involved in the proposed business activities. Fund-seeking enterprises are required to follow eight Performance Standards of IFC.¹⁴² Performance Standards 1 to 8 define the responsibility of IFC fund recipients to manage social and environmental risks of their business operations and to improve the social and environmental performance of their activities (IFC, 2012b). IFC do not finance any business activities that fall under the IFC exclusion list. For instance, production and trading of alcoholic beverages, tobacco, gambling, drift fishing, commercial logging, businesses using child and forced labour are on IFC Exclusion List (IFC, 2007). How these IFC standards, financing conditionality and advisory services help private businesses in Myanmar to act in conformity with RBC norms will be discussed in the following section.

6.5 Institutions, actors and RBC practices

This section discusses driving factors and actors for RBC practices in Myanmar during the transitioning period (2011–2016). The findings demonstrate the enabling role of the legal and institutional framework, the incubating role of RBC-dedicated entities and business support services, and the facilitative role of donor-supported programmes and the accelerating role of government-led initiatives, civil society and freer media for RBC norm implementation in transitioning Myanmar. These findings comport with the research’s theoretical expectation of strong-synergetic agential dynamic as fortified by enabling legal/institutional structures, facilitated by external agency of the RBC as well as domestic agency of the RBC.

6.5.1 *New legal framework as enabler of RBC norm*

The weak legal framework under successive administrations prior to democratic transition neither enabled nor effectively regulated the businesses. The prevalence of a rent-seeking culture and an inefficient judicial system allowed the persistence of a regulatory vacuum (Wilson, 2017). The mutually reinforcing nature of institutional weakness and corruption suggests the critical role of institutional strengthening in overcoming corruption (Myint, 2000:

¹⁴² PS1: Assessment and Management of Environmental and Social Risks and Impacts, PS2: Labour and Working Conditions, PS3: Resource Efficiency and Pollution Prevention, PS4: Community Health, Safety, and Security, PS5: Land Acquisition and Involuntary Resettlement, PS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources, PS7: Indigenous Peoples, PS8: Cultural Heritage.

20). Ongoing legal reforms transcribed important international norms into domestic legislation under the first Union Parliament (2011–2016). Though the institutional capacity remains weak and difficult to reform (Wilson, 2017), growing political space and strengthened laws creates greater space for advocacy by domestic and international society for improved private sector governance in Myanmar.

Three-dimensional legal reforms, and environmental, social and private sector governance strengthen the country’s legal framework. The new legal framework improves the mechanisms for consultation, grievance handling and law enforcement. Owing to the legacy of the government’ weak enforcement capacity and evolving nature of the institutions, the presence of a new and better legal framework alone does not guarantee an outright improvement in the respective areas. Nevertheless, new laws constitute new institutional structures which were non-existent under preceding administrations. These new laws also stimulate societal consciousness and expectation for the betterment in different aspects of people’s life. These changes in legal structure provide better avenues as well as stronger reasons for international actors to get involved in the improvement of democratic governance; including environment, social and private sector governance. International support, in turn, enhances the government’s capacity to enforce new laws. Therefore, a circular causation between enabling legal framework, international cooperation and greater effectiveness in legal enforcement in many policy areas, especially in RBC implementation, is observed.

RBC is an evolving norm with broad definition which encompass environmental, social and anti-corruption (OECD, 2014: 64), and it does not obligate the state and businesses to comply in strict legalistic sense. However, key elements constituting the RBC norm have legal force under different domestic laws introduced by the transitioning parliament and thus the norm binds government to regulate and businesses to respect environmental, social and governance-related laws and regulations. Table 6 provides the list of environmental, social and governance-related laws promulgated during the first Union Parliament (2011–2016). The presence of new laws dealing with environmental, social, anti-corruption and governance issues provides greater clarity to the respective roles of different stakeholders and predictability, which is one of the six important criteria for regulatory assessment (Cornish and Vivoda, 2016).¹⁴³ Notwithstanding the enforcement capacity of the government institutions, the presence of the

¹⁴³ The six criteria include role clarity, predictability, participation, autonomy, capacity and accountability.

laws itself has impact on business behaviour in three significant ways. First these laws stimulate businesses' consciousness of environmental conservation, social justice and improved practices of private sector governance as norms of democratic society. Second, the new institutions created by these laws enable the businesses to be aware of the risks associated with their activities and thus lead them to engage more with the RBC norm. Finally, these laws empower social actors, which are potential beneficiaries of effective enforcement, to monitor and speak out in the case of infringement by businesses.

The first dimension of law reforms relates to environmental conservation. Chapter X of the 2012 Environmental Conservation Law requires businesses to get prior permission from the Ministry of Environment Conservation and Forestry¹⁴⁴ for activities with the potential of environmental impact. Failure to get the permit would be penalized by up to three years prison terms and/ or maximum fines of one million Kyats (estimated equivalent of USD 1000).¹⁴⁵ The law requires the government to form and specify the function of the Environmental Conservation Committee with the powers to prohibit activities of other government and private entities causing environmental damage and with the mandate to coordinate programmes with government departments and donors.¹⁴⁶ The National-Level Environmental Conservation and Climate Change Central Committee was formed by the order number 35/2016 of Union Government Office on 2 June 2016.

Improved legal frameworks give venues for increased international support which, in turn, is instrumental in enforcement of the law, particularly in regulatory capacity building. For example, a programme on the 'capacity building for implementing the environmental and social safeguards in Myanmar' was carried out from 2013-14 to 2015-16 with the USD 200,000 support of Asian Development Bank (ADB). The project on 'capacity development in basic water environmental management and EIA system in Myanmar' was carried out from 2012-2013 to 2015-2016 with the support of Japan International Cooperation Agency (JICA) (The Ministry of National Planning and Economic Development, 2015: 594-595). JICA also gave 7.31 million USD for the 'Integrated Mangrove Rehabilitation and Management Project'

¹⁴⁴ The Ministry was reorganized as the Ministry of Natural Resources and Environmental Conservation merging with the Ministry of Mines on 30 March 2016.

¹⁴⁵ Chapter XII paragraph 31 to 34 of the Environmental Conservation Law 2012.

¹⁴⁶ Chapter III paragraph 4 to 6 of the Environmental Conservation Law 2012.

(2007–2013) at four townships in Ayeyarwaddy division, and 583 million yen for the ‘Mangrove reforestation project at Bogalay Township’ (2012–2017). The United Kingdom-based Fauna & Flora International (FFI) and the Biodiversity and Nature Conservation Association (BANCA), FFI-BANCA, supported with 2.5 million USD for the Biodiversity Conservation Project (2012–2017). Mercy Corp (Myanmar) supported with 4 million USD for ‘Market Network building for environmental sustainability and reduction poverty in rural areas’ (2013–2017). These are some examples of international cooperation activities undertaken during 2011–2016. Such cooperation is not limited to the donor countries and non-governmental organizations. Business participation is also noted. For instance, Mottama Gas Transportation Company Ltd. (MGTC), Tanintharyi Pipeline Company Ltd. (TPC), PTT Exploration and Production PCL (PTTEP), contributed 1.8 million USD to the ‘Tanintharyi nature reserve project’ (2013–2017) at Yephyu township, Dawei district, Tanintharyi division (The Ministry of National Planning and Economic Development, 2015: 80-86).

The second dimension of law reforms deals with the justice and welfare for the social sphere. The newly elected government elevated social protection into the national agenda. A national-level conference was organized in 2012, recommending a high-level committee to implement measures for the development of a social protection system (The Government of the Union of Myanmar, 2014: 12). Such government plans as the Social Protection Strategic Plan 2014 and National Plan of Action for Food and Nutrition (2011–2015) are facilitated by new laws governing consumer protection, minimum wage, legal aids, and social security, workers’, farmers’ and ethnic rights. These legal frameworks and strategic plans lead to the institutional developments under the respective laws promoting social entrepreneurship and participation of the private sector in the workplace, production, distribution, sales and marketing. For instance, the Minimum Wage Law set up the National Committee for Minimum Wage with the representatives from employers, government and workers. Similarly, the Consumer Protection Law stipulates the rights and responsibilities of businesses to be ethical, to take responsibility for the quality of products and services, and to disclose information about product and services. The law prohibits deceptive advertisement and discrepancies in information on the label and actual ingredients, or instructions for usage.¹⁴⁷ Consumer Dispute Settlement bodies are mandated to inspect, confiscate and destroy sub-standard products in the markets and withdraw business licences. Severe penalties of 3 years

¹⁴⁷ Chapter VI and VII of the Consumer Protection Law 2014

prison terms and fines of 50 Lakh Kyats (estimated equivalent of USD 5000) are assigned for violations.¹⁴⁸

The shift in the government's expenditure in the social sector also stimulated the involvement of the private sector and international actors in strategizing and implementing social development in the country during 2011–2016. During the period 2009–2010 to 2013–2014, the government's expenditure on social protection increased from 1.5 per cent to 4.8 per cent, on education from 7.2 per cent to 12.5 per cent, expense on health from 1.7 per cent to 6.4 per cent and social benefit expenditure (mainly social security and pension payments) from 1.7 per cent to 5.1 present (The World Bank, 2015: 31,33). The World Bank, UNICEF, WFP, ILO and Help Age International facilitated the formulation of the strategic plan and development of the social protection system. Similarly, several initiatives were undertaken in cooperation with international partners. Some of these initiatives include World Vision supporting vocational training in sixteen townships and the launching of Early Childhood Care and Development Centres (ECCD), and Save the Children's assistance in forty-one townships for nutritional support in schools and student-centred education programmes. The initiatives also included several other projects for aged and disability care and women's empowerment with diverse international actors (The Ministry of National Planning and Economic Development, 2015: 534-541). A significant private sector involvement in the social sector can be attributed to the Max Myanmar's and its Ayeyarwaddy Foundation's contribution to the health sector. The foundation renovated and expanded the office building of the Ministry of Mines into the 550-bed Yankin Childrens' Hospital and transferred its ownership to the Ministry of Health. This contribution cost 9 billion Kyats (estimated equivalent of USD 9 million). The Foundation supports free medical treatment to under-privileged children and such logistical support as weekly all-round cleaning chores in and around the hospital.

The third aspect of legal reforms relates to governance issues. Enactment of the Anti-Corruption Law 2013 was welcomed as a milestone in the government's effort to improve governance in the country (Cornish and Vivoda, 2016). Stipulation of harsh prison terms for perpetrators has been a big step in the right direction.¹⁴⁹ However, appointment of a fifteen-

¹⁴⁸ Chapter VIII and IX of the Consumer Protection Law 2014

¹⁴⁹ The Anti-corruption law stipulates 15 years in prison for politicians and 10 years for civil servants if found guilty of corruption.

member Anti-Corruption Commission in February 2014,¹⁵⁰ its tardiness in case handling¹⁵¹ and its failure to respect the confidentiality of corruption reporting¹⁵² are points of concern for many people (Cornish and Vivoda, 2016: 1081). Despite these criticisms, a 45 percent reduction in corrupt practice in the country is recorded by the business survey taken among 494 enterprise leaders during 2017 (Billen, 2018). Another important legislation for improved governance is the Money Laundering Eradication Law of 2013 which defines details on actions that amount to laundering, including hiding or transforming the financial proceeds from illegal sources and means. Illegal sources or means of earning includes IP infringement, damage to the environment, tax evasion, and illegal acts of market control. The laws establish several layers of institutions including the Central Body for Money Laundering Eradication, ‘Investigation military unit relating to money’, ‘Scrutinizing team’, ‘Investigating team’, and ‘Reporting organization’. Heavy penalties are stipulated, with a maximum seven years prison terms and/or 500 Lakh Kyats (estimated equivalent of USD 50,000).¹⁵³

In addition to legislation on broad areas of governance, many laws relate to private sector governance and sector-specific laws. The Foreign Investment Law of 2012 and Myanmar Citizen Investment Law of 2013¹⁵⁴ facilitate, protect and incentivize investors while obligating them to abide by the law of the land based on key principles of employment, renewable energy and environment conservation.¹⁵⁵ The new investment laws were seen as positive steps for greater predictability for businesses in the country (Gillian and Vlado, 2016: 1079). The Myanmar Investment Commission (MIC) is mandated to verify and approve investment proposals. Restructuring of the MIC with stakeholders from government, non-governmental organizations, academics and the private sector also theoretically allows stakeholders’ views. The 2014 Special Economic Zone Law stipulates the duties of investors to follow the standards

¹⁵⁰ Five members were appointed by the President and five each by speakers of Pyithu Hluttaw (House of Representatives) and speakers of Amyothar Hluttaw (Upper House).

¹⁵¹ By September 2014, the Commission had handled only three cases out of 530 reported complaints since its establishment in February 2014.

¹⁵² Corruption reporter needed to disclose its identity.

¹⁵³ Chapters IV, V, VI, VII establish the central body, the financial investigation team, for eradication of money laundering and Chapter XI stipulates penalties for committing money laundering.

¹⁵⁴ The two laws are merged into one as the Myanmar Investment Law in October 2016 giving a better level-playing field for all investors in the country.

¹⁵⁵ Chapter XIII, Paragraph 17 (a) to (g) of the Foreign Investment Law 2012

and norms relating to the keeping of business accounts, environmental and labour matters.¹⁵⁶ The 2016 Shops and Enterprise Law requires businesses to ensure workplace health and safety, adequacy of compensations and stipulated working hours. Inspectors are mandated to sue those businesses which are found to be violating the provisions under the law. Severe penalties are provided for violation of stipulated working hours, working age and working conditions. For instance, fines for under-aged recruitment can be imposed to a maximum of 6 months prison term and/or 100 Lakh Kyats (estimated equivalent of USD 10,000).¹⁵⁷ Likewise, Chapters VII to IX of the Competition Law 2015 specify and define anti-competitive acts, market monopoly, unfair competition and collusion respectively. It also requires the formation of a Competition Commission. Severe penalties are stipulated for the specified activities. For instance, three years prison terms or fines of 15 million Kyats (estimated equivalent of USD 15,000) for activities which restrict competition.¹⁵⁸

The enabling nature of these legal reforms is reflected in the growth of private sector participation in the country's economy since the start of private sector reforms in May 2013 (The Ministry of National Planning and Economic Development, 2015: 4). Between 2011-2012 and 2014-2015, the number of registered foreign companies increased from 40 to 1,257 and local companies from 4,596 to 6,320, shops from 132,887 to 148,744, mini markets from 822 to 1,224 (Government of the Union of Myanmar, 2015: 59, 61). In an economy where many foreign companies used to run under the name of local individuals in the past and disclosure of beneficiary ownership is not compulsory, growth of registered businesses is a positive step towards responsible business practice.

¹⁵⁶ Chapter VIII and Chapter XVI of the Myanmar Special Economic Zone Law 2014

¹⁵⁷ Chapter VIII paragraph 25 to 31 of the Shops and Enterprise Law 2016.

¹⁵⁸ Chapter XII of the Competition Law stipulate penalties for violation and the law has been in force since 24 February 2017.

Table 6 Legislation on Environment, Social and Governance issues (2011–2016)

Environment	Social	Private Sector Governance
<p>The Environmental Conservation Law (No.9, 30-3-12)</p> <p>Prevention from Danger of Chemical and associated materials Law (No.28, 26-8- 13)</p> <p>Pesticide Law(No.14, 20-1- 16)</p> <p>Law on Protecting New Species of Plant (No.15, 20-1-16)</p>	<p>The Law relating to the Right of Peaceful Assembly and Peaceful Procession(No.15,2-12-11)</p> <p>The Labour Organizations Law (No. 9, 11-10- 11)</p> <p>The Social Security Law (No.15, 31-8-12)</p> <p>The Minimum Wage Law (No. 7, 22-3-13)</p> <p>Law of protection of Farmers’ rights and enhancement of their benefits (No. 67, 1-10-13)</p> <p>Consumer Protection Law (No.10, 14-3-14)</p> <p>Media Law(No. 12, 14-3-14)</p> <p>Print and Publishing Law(Law No. 13, 14-3-14)</p> <p>Myanmar National Human Rights Commission Law(No. 21, 28-3-14)</p> <p>Law for protection of Ethnic Peoples Rights(No.8,24-2-15)</p> <p>Payment of Wage Law(No.17, 25-1-16)</p> <p>Legal Aid Law(No.10,18-1- 2016)</p>	<p>The Settlement of Dispute Law (No. 5, 28-3- 12)</p> <p>Foreign Investment Law (No. 21, 2 - 11- 12)</p> <p>Myanmar Citizen Investment Law(No. 18, 29-7-13)</p> <p>Central Bank Law (No.16, 11 -7- 13)</p> <p>Anti-corruption Law(No.23,7 -8- 13)</p> <p>Telecommunication Law (No. 66, 8 - 10- 13)</p> <p>Myanmar Special Economic Zones Law (No.1, 23-1-14)</p> <p>Money Laundering Eradication Law(No.11,14 -3-14)</p> <p>Union Taxation Law(No.20, 28-3-14)</p> <p>Standardization Law(No.28, 3-7-14)</p> <p>Competition Law (No.9,24-2-15)</p> <p>SME development Law (No. 23, 9-4- 15)</p> <p>Arbitration Law(No.5,5-1-16)</p> <p>Special Good Tax Law (No.11, 18-1- 16)</p> <p>2016 Shops and Enterprise Law(No. 18, 25-1-16)</p> <p>Financial Institutions Law (No. 20, 25- 1-16)</p> <p>National Tax Law (No.22, 25-1- 2016)</p>

Sources: Myanmar Law Library

6.5.2 RBC dedicated actors as incubators of RBC

Myanmar Centre for Responsible Businesses

MCRB plays an important role in promoting RBC in Myanmar. Several mechanisms introduced are proved to serve as effective tools to encourage businesses in Myanmar to seek excellence in disclosing their operational policies. An important contribution of MCRB is its publication of Sector-Wide Impact Assessments (SWIA) with recommendations for different stakeholders. In the country where reliable and verifiable data used to be scarce, the utility of SWIAs cannot be over-emphasized.¹⁵⁹ Detailed legal and policy analysis and field research reports of SWIAs provide invaluable resources for the government in effectively regulating the private sector and empower the civil society in their future monitoring role. These reports also serve as health-checks for participants in the respective sectors.

Such works done by the MCRB as the Oil and Gas SWIA has potential to bridge the government's private sector regulatory and enforcement gaps if policy makers can make good use of the information provided by the SWIAs. Ms. Vicky Bowman vividly points out the difficulties of the previous administrations in playing its private sector regulatory role, mentioning,

In the past decades, government tried to control everything but effectively regulated next to nothing. They have laws but never implemented..... But obeying law in Myanmar is challenging. Part of the reason for they don't comply with the law is because some laws are too complicated and sometimes they do not make sense. For example, Sunday is a paid rest day, but half of Saturday isn't, so a weekly wage is calculated at six and half day a week.¹⁶⁰

SWIAs also serve as advocacy for legal improvements. SWIAs detail scrutiny on existing legal frameworks governing respective sectors and shed light for stakeholders on the

¹⁵⁹ Up to 2017, SWIAs on Oil and Gas Sector, Information Communication Technology ICT Sector, Tourism Sector and Mining Sector are published by MCRB.

¹⁶⁰ Interview with Ms. Vicky Bowman, Director, Myanmar Centre for Responsible Business on 8 February 2017

gaps. While creating venues for stakeholder engagement, MCRB plays its advocacy role in bridging the international norms and local practice. Such role of MCRB serves multiple purposes. For instance, the government-business dialogue on the environmental and social impacts of shooting seismic offshore hosted by MCRB in 2014 allowed business actors a voice in drafting EIA procedures, exposed the government agencies to best practices, brought businesses and the government the same page and thus built trust among the stakeholders. Similarly, multi-stakeholder discussion on community engagement in the extractive industries hosted in 2015 and workshops with the participation from regional players on ‘Developing Guidelines for public participation in EIT’ hosted in 2016 in cooperation with PACT, served to promote greater exchanges among domestic and regional businesses, civil society and the government.

MCRB’s venue provision and stakeholders’ networking role serve dual functions: to keep OECD businesses on check as representative of home governments, and to facilitate, coordinate and assist them to keep updated and informed of developments in different sectors of the host country. Ms. Vicky Bowman, Director of the Centre, described the Centre’s networking role:

MCRB position itself between three sets of stakeholders: Civil Society Organizations, Businesses and the Government.... MCRB engages with all these groups, brings them together, and also builds networks among them. For example, we co-chair a quarterly meeting with the local ILO office where we bring together MNCs (Multinational Corporations) who are headquartered in OECD countries. It allows for an informal Chatham House Rule discussion by ‘like-minded’ companies since there are companies coming from countries which are signatories to the OECD Guidelines on Responsible Business Conduct for Multinational Enterprises. The meeting allows for peer to peer sharing experience on issues like labour laws, corruption and the EIA process, and human rights due diligence.¹⁶¹

¹⁶¹ Ibid.

Being funded by entities from OECD member countries,¹⁶² the role of MCRB in Myanmar might be considered as a promoter of OECD standards in developing countries and facilitating OECD businesses in the country. However, its works demonstrates much more than such narrow objectives. The activities of MCRB on awareness raising, capacity building, its research works on Sector-Wide Impact Assessment and networking make a difference to private sector participants. The mechanisms it utilizes stimulate the private sector to improve their behaviour in line with RBC norms, especially in disclosing their operational policies and activities.

Transparency is the first and fundamental step towards responsible business practice. Being transparent about environmental, social and human rights due diligence, measures for avoidance, publicizing their policies on avoiding, preventing, and mitigating environmental and social risks and grievance mechanisms are the basics for responsible businesses. Such transparency of businesses was not the case in Myanmar until recently. The introduction of MCRB projects such as Transparency in Myanmar Enterprises-TiMEs for greater transparency of businesses awakened RBC awareness and appreciation among local businesses. Some positive results of changes are reported:

Some Myanmar companies, including Max, Shwetaung, Serge Pun Associates and Dagon, have disclosed EIAs possibly as a result of prompting by MCRB's 'Transparency in Myanmar' or because they have the International Finance Corporation (IFC) as a partner. The projects include cement factories, coal mines, oil depots and hydropower dams. (MCRB, 2016: 16)

Pwint Thit Sa/ Transparency in Myanmar Enterprises serves as a competition grounds for businesses. TiMEs was originally inspired by the model of Transparency International's TRAC -Transparency in Corporate Reporting- survey, which was anchored on three types of disclosure: anticorruption, organization transparency, and tax payment. MCRB adapted this model to encourage businesses to disclose information on stakeholders' engagement, health and safety performance, and grievance mechanisms. However, Ms. Vicky Bowman notes that it

¹⁶² MCRB is founded by the Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR) with multi-donor funding.

benchmarks the information companies choose to disclose, and does not test its accuracy or completeness:

We don't have the resources to check that their disclosures are all true or complete, although sometimes we can spot gaps. For instance, we noted that Asia World's website didn't mention that they have palm oil plantations, even though it is well known that they do. So we noted that in the report, and asked them about it. We also use to have annex to the report where we list media and CSO reports. We get interesting feedbacks from other businesses, who sometimes tell us that whatever the company say claim about having a good anti-corruption policy, they know that their actual practice is different. But we don't include that feedback in the report as we can't verify it.¹⁶³

Ms. Bowman shared her perspective on what works best to stimulate businesses to compete to embrace RBC. She said:

What we tried to do is to show Myanmar company good practice to other Myanmar companies. Because if you show a Myanmar company what Statoil does in Norway, they will say that's Norway, this is Myanmar. But, if you show them what MPRL-Michael Moe Mint's company- does in Mann oil field in Magwe, then they are more likely to see it as something they can emulate. So, we always try to find a good local examples and try to spread that practice around, or occasionally we will draw on Asian examples as they have more resonance.

Although such mechanisms as TiMEs can neither obligate all businesses in the country to disclose nor fully verify all disclosed information, the usefulness of such reports cannot be underestimated. Such reports familiarize the businesses with the practices of doing business in a more transparent and accountable manner; the reports stimulate competitive spirit among them for a good cause.

One advantage of such an entity as MCRB is having an individual, Ms. Vicky Bowman, who has in-depth knowledge on the local culture and local nature. Ms. Vicky Bowman served

¹⁶³ Interview with Ms. Vicky Bowman, Director of Myanmar Centre for Responsible Business on 8 February 2017

as diplomat in the country for a decade. She is married to a Myanmar artist. So her work in MCRB not only rests on professional purpose alone but on passion to help improve the country's private sector governance. And thus, she can capitalize on where there is potential to make impact. Therefore, entities such as MCRB serve as incubators of the RBC norm in Myanmar. They take the role of defining an international norm in local contexts and creating appreciation of the intents and contents of RBC among Myanmar businesses.

6.5.3 International actors as RBC promoters

Associations of foreign business communities in Myanmar

Foreign business associations play an important role in providing business services for their business community from their respective country. As the country's service sector remains at a nascent stage, the necessity and utility of these associations are apparent for the foreign business community in Myanmar. Several partner countries have had Chambers of Commerce for their business communities in Myanmar since the early days of country's transition. The presence of the French Myanmar Chamber of Commerce and Industry (CCI France Myanmar) dates back to 1996.

Many associations came into existence in Myanmar after the country's transition in 2011: the Japan-Myanmar Association (JMA) in 2012, the American Chamber of Commerce Myanmar (AMCHAM-Myanmar) in 2013, Australia-Myanmar Chamber of Commerce in 2013 (AUSCHAM-Myanmar),¹⁶⁴ European Chamber of Commerce Myanmar (EuroCham Myanmar) in 2014, the British Chamber of Commerce of Myanmar in 2014 and Myanmar Norway Business Council in 2015. Their nature varies in terms of funding and operation mechanics; for instance, EuroCham is funded by the European Union under a five-year grant (2014–2019) before it is to run as a self-sustained entity while others—JMA, the British Chamber of Commerce Myanmar, CCI France Myanmar—run as independent non-profit associations.

A common theme of all these associations is to play a facilitative role for the businesses based in their respective country through coordination and representation of the respective

¹⁶⁴ The two Australian business chambers registered in Myanmar signed a Memorandum of Understanding (MoU) on 14 August 2017 merging into single organizations AUSCHAM-Myanmar. AMI. 2017. Merger of Chambers of Commerce to Support Australian Business in Myanmar.

business communities in the host country. These associations provide business resources for ease of market entry to the country and networking opportunities. Strategising and representing the respective business communities for public policy advocacy works with the Myanmar government is also one important aspect of these organizations. While their primary focus is to support their home-based businesses in Myanmar, these associations address the issues of corporate responsibility in Myanmar as a means for risk control, creating level-playing fields for their businesses in respective sectors in Myanmar and thus enhancing sustainability of respective business community.

Several of these associations have thematic committees promoting responsible investment, corporate responsibility and environmental sustainability. For instance, the ‘Responsible Investment Working Group’ of AUSCHAM, ‘CSR Committee’ of the AMCHAM, ‘CSR Advocacy Group’ of EUROCHAM, encourage their businesses to educate, advocate and share their business models and demonstrate leadership in doing business in responsible ways in Myanmar. Several such programmes encourage responsible businesses in Myanmar. For example, the AMCHAM-Myanmar annual recognition given to American businesses for ‘Corporate Social Responsibility Excellence’ give inspiration to many other enterprises in the country.

Activities of international chambers of commerce also complement the Myanmar government’s private sector development initiatives such as Myanmar Presidential Awards for excellent private sector performers and individuals for their contribution to the society¹⁶⁵ (Government of the Union of Myanmar, 2015: 55-56). EUROCHAM’s stakeholders’ annual publishing of a White Book (position paper) also addresses issues around responsible business practices in the country by showcasing best business models and voicing their concerns over policy and practices around responsible businesses in the country during their discussion with the Myanmar government at the end of each year. Some examples are: EUROCHAM’s position on mandatory contributions for corporate social responsibility (CSR); their advocacy for avoidance of regulating CSR as percentage of business revenue; and encouraging CSR as an initiative creating positive spin and shared value (Myanmar, 2017: 28-31). Likewise, AUSCHAM’s Responsible Investment Working Group’s position paper presents their views

¹⁶⁵ The first award ceremony was held on 30 April, 2013, the second award ceremony on 3 May 2014 and the third award ceremony on 15 May 2015.

and recommendations on these issues. These activities of business chambers in Myanmar help define the concept of RBC in Myanmar and provide different models of RBC practices and thus gives greater options for the policy makers as well as other stakeholders.

IFC Performance Standards and financing conditionality for private enterprises

IFC's mechanisms for credit worthiness screening, business operation supervision, complaint and grievance mechanism, and transparency policy of IFC are instrumental in encouraging private businesses to act on RBC norms in Myanmar. Since 2012, IFC has been providing advisory services and financing private enterprises in Myanmar.¹⁶⁶ IFC's business appraisal or credit worthiness assessment process involves identifying and categorizing environmental and social risk and impacts levels: A, B, C and FI-1, 2, 3 (IFC, 2012a).¹⁶⁷ The IFC screening process encourages fund-seeking private enterprises to formulate plans in line with IFC Performance Standards and to have coping strategies in place to manage if the project involves risks and gaps exist between IFC Performance Standards and project's existing capacity. IFC finances only those businesses which are expected to possess capacity to meet the requirements of IFC Performance Standards within a reasonable period of time. Businesses need to provide environmental and social action plans which are reviewed by IFC throughout the project's life span. IFC apply more stringent rules in case of discrepancies between local laws and IFC performance standards. Therefore, in the country case of transitioning Myanmar, where most of domestic legislations are weak and emerging, IFC's activities are helpful in bridging international standards and local practices. IFC's assessment mechanism in screening potential clients provides less chance for enterprises to infringe on environmental and social standards.

IFC supervisory activities help IFC-financed businesses to be consistent with their obligations to follow IFC Performance Standards. They also need to apply the Corporate Supplier Code of Conduct to contractors and subcontractors. In the cases of norm conformity,

¹⁶⁶During 2012-2016, the Central Bank of Myanmar, Ministry of National Planning and Economic Development and six other private enterprises were receiving IFC advisory services and eighteen private enterprises were receiving IFC financing. Of eighteen enterprises, one falls under category A, eleven under B, one under C and two under FI-2 and three under FI-3.

¹⁶⁷ For financing private enterprises, the categories are: Category A - significant risk and adverse impact, B - limited risk and reversible impact, C - minimal risk and impact, for financing Financial Intermediaries(FI), FI-1 for FI with portfolios including financial exposure to businesses with significant risk and diverse, irreversible impact, FI-2 for FI with portfolios including financial exposure to businesses with limited risk and reversible impact, and FI-3 for FI including portfolios financing businesses with minimal risk and impacts.

IFC clients are required to take corrective actions. Regular supervision is continued through the review of clients' annual reports and review of clients' environment and social risk management action plans. Although supervision through regular site visits would be more desirable, IFC's grievance mechanisms and transparency policy allows community monitoring of business activities. All IFC-financed projects, environmental and social risks and management plans are assessable by the public. Compliance Advisor/Ombudsman (CAO) are reachable by individuals and communities in cases where IFC-supported business activities cause concerns for human rights, environmental and social impacts.¹⁶⁸

Aside from its private sector advisory and financing activities, IFC promotes corporate governance in Myanmar in cooperation with the Australian Department of Foreign Affairs and Trade and the UK Department of International Development. A working group on corporate governance which is known as the Myanmar Corporate Governance Initiative (MCGI) was established by the UK-Myanmar Financial Services Taskforce and Australian and UK embassies in Yangon. MCGI facilitated the Myanmar Institute of Directors (MIoD), which was formed as an independent organization promoting corporate governance standards and best practices in Myanmar.¹⁶⁹ These activities and programmes facilitate RBC implementation in Myanmar.

HumsaHub

HumsaHub is a firm run by a Myanmar expert who has expertise on international business as well as in-depth knowledge on local contexts. It provides consultancy services through Price Waterhouse Coopers for the implementation of the Myanmar Chapter of the Business Innovative Facility (BIF), which is a Department for International Development of the Government of the United Kingdom (DFID) funded five-year program (2014-2019) for market systems development to encourage inclusive businesses in Myanmar. BIF Myanmar project cost 4,970,992 Pound Sterling. U Thuta Aung, founder of HamsaHub, shares his experience in implementing inclusive business in the garment sector in Myanmar and the need for a unique approach in changing the behaviour of businesses:

¹⁶⁸ Interview with Mr. Jose Recardo Silva, Senior Private Sector Specialist, Finance, Competitiveness & Innovation, World bank group on 24 April 2018.

¹⁶⁹ Interview with Htoi Seng Ra, Coordinator, Myanmar Corporate Governance Initiative (MCGI), IFC Myanmar on 27 April 2018.

Approach to business cannot be done in academic way or NGO style. It is important to give businesses a good reason for change. So, we first pinned down the systemic issues in the sector, i.e. low efficiency, high turnover. And then we address those issues giving them [businesses] a good reason to participate in the project and change the way they operate. When businesses saw such good results as doubling of business efficiency and sixty percent reduction in turnover rates by participating in our programmes for supervisor trainings, productivity trainings, businesses become more incentivized for social compliance.¹⁷⁰

This discussion reveals that for instilling RBC, approaches towards businesses must be realistic and must be rational. Until and unless the right incentive is given to the business, it is difficult to change their behaviour. Good incentives for businesses are evidence-based and indicate the concrete results a new norm can bring to the businesses. U Thuta Aung explained that the increased interest gained from the garment sector to participate in the BIF activities was mainly because their pain points are addressed by a new way of operating business. Participants to BIF are allowed to experience the tangible benefits generated by new ways of doing business. This suggests that evidence-based incentives are superior to legal enforcement and right-based demands for new norms. Business service providers like HumsaHub demonstrate RBC as a new way to enhance efficiency and a means to minimize cost and thus maximize profits. His experiences show that ‘demonstration of benefits’ rather than ‘merely defining the moral purpose of RBC’ determines the compliance. Therefore, the best way to socialize a new norm is through demonstration whereby recipients are allowed to experience the benefits of the new way of doing business. And thus, business services play an important role in instilling RBC among business enterprises through this unique approach.

SMART-Myanmar

SMART-Myanmar, a consultancy service provider, is an implementing partner of the Switch Asia programme of the European Union in Myanmar. With Switch Asia’s strategic focus on promotion of Sustainable Consumption and Production (SCP), SMART-Myanmar engages in capacity building, consumer awareness, public procurement, green finance and

¹⁷⁰ Interview with U Thuta Aung, HumsaHub, on 20 February 2017.

women's empowerment. It is also the main service provider for capacity building in the Myanmar Garment Manufacturing Association (MGMA). As SMART works very closely with the government, ILO and MGMA, it generates recognizable improvement in the garment sectors' legal and social compliance.

SMART-Myanmar gives an encouraging story about acting as RBC incubator. Interview with project manager Ms. Su Tayar Lin, reveals how their services make a difference in the garment sector where Sustainable Consumption and Production (SCP) practice is the weakest, non-compliance issues are common and industrial actions are frequent. She explains the approach which works in encouraging social compliance in garment factories:

During our first phase of the project (2013–2015), we introduced the SCP concept to local businesses through MGMA (Myanmar Garment Manufacturers' Association). Business matching opportunity to link up with brand buyers served as initial incentives. To make real and sustainable impact through production enhancement, participants are persuaded at the kick off stage—their interests get invoked and earnest to participate in 6-month on site compliance Academy: which involves 2 days in class introductory session on educating what is social compliance and so on, 2 days site assessment, corrective actions (BSCI or pre-audit service). In 2016, 26 factories participated in the compliance Academy and we targeted for 200 factories in our second phase for 2016–2019.¹⁷¹

SMART-Myanmar's women's empowerment programme through Sunday Café is popular among garment workers in Hlalin Thar Yar Industrial Zone. Its Shwe Job Mobile App, with voice function in disseminating Occupational, Health and Safety and Labour Law information, also is instrumental for labour law awareness-raising within the tech-savvy garment sector.¹⁷² Business service providers with their innovative ways were able to convince business to comply with labour laws and to perform their social responsibility to their employees while facilitating the social needs of employees, and scaling up their knowledge has improved

¹⁷¹ Interview with Ms. Su Tayar Lin, Project Manager, SMART- Myanmar on 14 February 2017.

¹⁷² Mobile penetration in garment workers is high (80 per cent) from the sample of 100 participants from 3 representative factories: foreign owned, joint venture and locally owned factories. (ibid)

working conditions in the garment sector which was notorious for rights abuses (Action Labour Rights, 2016).

6.5.4 Government initiatives, CSO, media accelerates RBC

The Myanmar chapter of EITI accelerated the RBC norm implementation in Myanmar, particularly in the extractive sector. The EITI membership application process requires the government to set up a system where participants of the sector report revenue and are held accountable for their operation, which is a new norm for businesses as well as for the government. An important aspect of EITI which helps accelerate responsible business practice is its compulsory composition of the collective governance mechanism, i.e, the Multi-Stakeholder Group (MSG), where government, companies and civil society are represented. Government and businesses' regular, active and effective engagement with civil society are governed by the protocol on engaging civil society. CSO engagement is a key criteria under which assessment for membership application is made. EITI evaluates whether civil society members are able to effectively engage in EITI, and whether CSO participants are freely represented and functionally distinct from other political actors, such as members of parliaments, members of the ruling party or other political parties. They make sure that CSO participants are not aligned to the government and to the private sector. The presence or absence of enabling frameworks for CSO activities, their freedom to access external funding and training, and their freedom from harassment and intimidation while working on governance, transparency and anticorruption issues are ensured. The government's accommodation of all these requirements under the EITI process has the possibility of collateral positive impacts for all civil society (MCRB, 2014: 66). The platform provided by the EITI for civil society to engage with state and businesses, and the positive spill over it creates is reflected in some scholars' works:

The civil society network across the country has expanded in recent years. A notable example of this development has been the establishment of the Myanmar Alliance for Transparency and Accountability (MATA). MATA is a network of nearly 500 organisations that are concerned with transparency and accountability in all sectors, including extractive industries. The network coordinates civil society stakeholders for the EITI process and promotes open government partnership, budget transparency, anti-corruption measures and rights to information. (Cornish and Vivoda, 2016: 1081)

The Multi-Stakeholder Group (MSG) and its unique nature of collective governance might not be an ideal model of governance for many other cases. Some practitioners admit difficulties are involved in making such mechanism work:

[t]here is much written about multi-stakeholder governance, yet there is little applicability, and even less practice. Our experience in EITI might help inform why this has been such a difficult area to make progress on and what might be the necessary pre-conditions for progress, it does not mean that they are the better way to govern. [Multi-Stakeholders Initiatives] MSIs are, to an extent, an expression of crisis: they are borne from the reality that existing models are not sufficient to meet the challenge. (Jonas and Eddie, 2014)

However, the MEITI-MSG in Myanmar proved to be instrumental in creating common understandings on the issue at stake and collective solution to it. Establishment of local EITI units in states and administrative divisions has increased the level of transparency of the sector. Opportunities for citizens' engagement in debates of resource use and benefit sharing are appreciated by civil actors. Some civil society representatives comment on the utility of the MSG mechanism for greater public participation in EITI process;

Since the start of Myanmar's EITI process in 2012, cooperation between civil society organizations, the Government (particularly the Ministry of Mines) and parliament has improved greatly. One example is the civil society public consultations that took place during parliament's deliberations over laws governing hand-drilled oil wells, which allowed those most affected to present their views to lawmakers directly. Another positive development was the establishment of local EITI units in the country's states and administrative divisions. While these have been subject to delays and have recorded few concrete achievements to date, they have provided a valuable forum for dialogue at the local level that is essential to making the EITI process in Myanmar accessible and useful to the public. (Tun, 2016)

Civil society members also hailed the first EITI report as 'a major milestone' when it was published in January 2016, disclosing information on the local oil and gas, minerals and gems businesses over 2013-2014, information about 57 companies, including ownership, revenue flows, licences, their deals with the state and their contribution to government revenue.

These data serve all stakeholders. It is a reality check for businesses, regulatory resources for government and basis of future advocacy works for civil society for the sustainability of the extractive sector. Civil society participants also become aware of sector-specific intricate knowledge, particularities, and technicalities of the extractive sector. Although many civil society observers point out the remaining challenges in the sector and weaknesses of the report, such as reporting of revenues in other accounts of State Economic Enterprises (SEEs), civil actors recognize an increased level of transparency which would have been unthinkable in the past (Tun, 2016).

Such views from civil society concurred with government representatives' perspectives which state;

This EITI Report is a driving force for strengthening democratic process and building trust among stakeholders. HE Dr Maung Maung Thein, Union Deputy Minister, Ministry of Finance (Andreasen and Ponsford, 2016: 13).

Therefore, the country's engagement in the EITI process, and its commitment to the mechanisms and processes EITI necessitates, has accelerated the extractive sector's transparency and accountability and thus their upholding of the RBC norm. The progress made in the extractive sector can have positive spillover to broader private sector participants as civil actors become more empowered to channel their advocacies and push for increased transparency and improved accountability in other economic sectors. Therefore, the government-led process of EITI and its mechanisms has been serving as an accelerator of the RBC norm in Myanmar.

As discussed above, the EITI process is closely linked with empowerment of civil actors in accelerating RBC implementation. Freer media also enable a wider reach and stronger voice for civil society and affected communities in the cases of rights abuses. Positive impacts made by empowered civil society and a freer media is reflected in the suspension of a highly controversial copper mine project in Letpadaung region and the Myitsone hydro power projects in Myanmar. The civil protest against the controversial Myitsone Dam project in 2011 was able to convince the government to suspend the project, a joint venture of China Power Investment Corporation, Myanmar's Ministry of Electric Power and special-purpose company Asia World over human rights and environmental concerns. Likewise, protests in 2011 by local residents in the Letpadaung mine region against forced relocation caused by Letpadaung

copper projects run by Chinese-owned Wanbao Mining and Union of Myanmar Economy Holding Limited (UMEHL) led to the formation of the Letpadaung Investigation Commission to investigate the impacts of the Monywa project. The Commission's report calls for the government and the companies to pay compensation at market value for all the land they took and to provide greater transparency and community consultations in future activities. Although these cases are yet to be fully settled, empowered civil society and freer media mean similar businesses activities could not progress without due consideration to their potential impacts on local community and environment.

6.6 Practice changes of businesses in Myanmar

To be able to verify the changes in behaviour of businesses for increased engagement in RBC norms, or the transparency and accountability of businesses' social, environmental and governance-related issues, two cases are considered in the following section. The first case, Max Myanmar Holding, is a local business. According to international players and RBC watchers, Max Myanmar is reportedly making significant changes in its operation in line with better environmental, social and governance practices. The current study selects the Max Myanmar case to reveal the driving forces behind such changes. The second case, Telenor Myanmar, is an international business with a good reputation for responsible business practices. The Telenor Myanmar case is selected as the study hopes to disclose how a business with high RBC principles plays out in the weak governance environment in Myanmar and how it raises the level of playing field for business in Myanmar.

6.6.1 *MAX Myanmar Holding Co. Ltd.*

MAX Myanmar Holding Co., Ltd. is a business conglomerate owned by U Zaw Zaw. Its businesses spread across seven sectors: energy, hospitality, construction, highways, manufacturing, trading and agriculture.¹⁷³ And, as of 2015, the conglomerate is running with total assets worth USD 412,503,000.¹⁷⁴ The business started in 1993 as a family-owned trading and construction company. U Zaw Zaw's reported close links with military elites during the SLORC and SPDC administration and reported concessions and advantages he enjoyed in securing

¹⁷³ 1. Max Myanmar Construction, 2. Max Energy, 3. Max Highway, Max Cement, 4. Max Logistics, 5. Max Hotels, 6. Max Well Trading, 7. Shwe Yaung Pya Agro.

¹⁷⁴ Available at <http://www.maxmyanmargroup.com/en/content/key-financial-indicators> accessed on 18 January 2017.

import and distribution licenses for automobiles, fuels and dam construction projects earned his business a bad reputation as a crony business. He was one of a few hundred individuals and entities blacklisted by the United States under the Department of the Treasury's Specially Designated Nationals (SDN) List in 2007.¹⁷⁵ Some studies record that a 2007 U.S. diplomatic cable described how 'Zaw Zaw actively seeks favour with the senior generals' (Myo Aung (Myanmar), 2015)

This research selected the case of Max Myanmar Ltd. for two reasons. First to understand how a business with bad reputation can be turned into a business which holds top positions in transparency reporting in TiMEs, became a member of the Global Compact Myanmar Chapter and is a regular communicator to the Global Compact with Communication on Progress (COP), became listed in consecutive TOP tax payer lists, and that has won several recognitions with State Awards and international awards.¹⁷⁶ The second objective in selecting the business case of Max is to reveal the motives and enablers for such drastic changes of behaviour.

An interview was conducted with U Aung Myo Saw, Director at Max Myanmar Group of Companies, Max Myanmar Holding Co. Ltd. To trace the origin of the change in behaviour, the research asks an open-ended question on how the company evolved and where it stands now. The interviewee recounts the history of the business and gets more passionate about the transformation the conglomerate has made since 2012. U Aung Myo Saw explains:

We started our corporate restructuring to become a pioneer and model for local businesses and to become a worthy partner of foreign companies for mutually beneficial cooperation through more transparent way of doing business. Auditing boards, financial and all respective subsidiaries' auditing were made to become more transparent. We took bold steps to restructure the whole corporate structure. For financial auditing, we hired Deloitte &

¹⁷⁵ He was delisted by the U.S. Treasury SDN list in 2016.

¹⁷⁶ The State Excellence Award of the President of the Republic of the Union of Myanmar for being one of the top taxpayers in the country on 30 April 2013, the award for business Capital Finance International (cfi) for Best ESG Transparency Myanmar (2015), Capital Finance International (cfi) for Best ESG Transparency Myanmar (2016) and World Finance for Entry to WF100 (2016).

Touche LLP. in 2012 and starting from 2013-14, we hired RBC, a U.S. private firm based in Hong Kong for operational auditing, for EIA, SIA and for more transparency and accountability. We want to make sure that we are complying all international norms, all rules and regulations an international company should have.'

U Aung Myo Saw explained that the whole process of financial and operational auditing is ongoing. Although it is not a compulsory to hire follow-up visit of auditors after recommendations of RBC and financial audit reports, the company chose to do so. On the questions about bearing costs for those services, he states that Max Holding Ltd. subsidizes the costs to all the subsidiaries. In addition to the external consultancy and monitoring services, Max Holding also plays a compliance monitoring role, making sure that all subsidiaries follow up the short-term, medium-term and long-term recommendations from RBC and Deloitte & Touch LLP.

With regards to the question about the timing chosen for corporate restructuring, U Aung Myo Saw states:

When the county open and new demo government is coming off, investors' interests started growing. Foreign investors can't start off alone; they need to find local partners. Among top few corporations in Myanmar, we can cooperate with international partners only through good corporate governance and accountability and transparency. Lack of practice in Myanmar corporation. U Zaw Zaw wanted to demonstrate as the best model of business in Myanmar and show that such practices can bring a long-term benefits to the corporation; such as in getting foreign partners and for business expansion abroad through listing in stock exchanges in global financial markets. Bearing short term cost for long term interest.'

With regard to the reaction from the subsidiaries to the changes and in implementing the RBC's recommendation and social and legal compliance, he says,

Initially, subsidiaries were relatively reluctant to change as most prefer to live in their comfort zone. We understand that change can't be made overnight. We did take time to convince and coach them. Rewards and disciplining are used. We educated them and gradually we are now seeing the results. Self

actualization of subsidiaries is important. So, we have to push them hard but we don't overrule them.

He elaborated on their role as internal monitor for social compliance and compliance with RBC function:

We give our subsidiaries challenges as the best incentives. For example, in Max energy, we gained Shell branding rights. They have their criteria to be followed by franchise holder. As every challenge has rewards, the best incentives we give to our subsidiaries are challenges.

U Aung Myo Saw discloses the unique position the company takes, and the careful consideration U Zaw Zaw made in upholding responsible business norms:

Major motive for us to uphold responsible business norm is to demonstrate that our business is competitive and can follow the regional and global standards. Aspiration for us is to expand abroad, to get listed in international stockmarkets. U Zaw Zaw is very nationalistic; he wanted to show that Myanmar is not backward in this aspect of responsible business norm. We can be on par with regional and international businesses [spirit of competitiveness], his nationalistic spirit and competitive 'will' is also matched up with practical measures in recruiting and nurturing the right people, recruit expertise and investing resources at right place. [his advantage as national business]

This statement about competition as a major drive behind RBC norm adherence reflects the broad sentiment of Myanmar conglomerates. Mr. Dieter Billen, principal and head of Roland Berger, presented the findings of a business survey taken during 2017 among 494 enterprise leaders (61 per cent locals and 39 per cent international) at the American Chamber in Myanmar, where he reported that 49 per cent of local business find competition from foreign companies is somewhat threatening and 19 per cent find it highly threatening (Billen, 2018).

Although Max reformed its corporate governance in recent years, progress made in engaging the RBC norm is recognizable. All its seven subsidiaries are now participating in the UN Global Compact and regularly submitting their Communications of Progress (COPs).

Progress made by Max Myanmar is recognized by international players in Myanmar. Ms. Patricia Curran, Senior Vice President and Head of Education Telenor Myanmar, made reference to U Zaw Zaw of Max Myanmar, stating:

Zaw Zaw, he is amazing trying to do business in a new standard. There are a few others as well. He is a good case to look at where he may be different when he faced different challenges 10 years ago. But, now that he wants to be an international player, wants to partner with the organizations like Novotel. He is very interesting to watch. My observation is that he recognizes that he has the potential to be an international player. Before the challenges for him might have compelled him to work in a certain way. Now he just seems to me a model trying to do everything in a way that shifts shapes.¹⁷⁷

In their COPs, human rights and labour standards, environment and anti-corruption policies are disclosed and third-party assessment and outcomes are also presented. The COPs also lists their responsible business activities over the year. It is found that some specific mechanisms used by Max Myanmar Holding led to such progress in engaging the RBC norm. Hiring human rights experts for third-party assessment of business operations helps keeps things in check. Grievance mechanisms such as whistle blowing committee, suggestion boxes, and communication through email, social media and arrangement of a monthly Dabar are found to be effective. The most interesting observation about Max Myanmar is the absence of workers' associations in its subsidiaries. Interviews with its employees indicates that available communication channels of knowledge sharing, rights and obligation awareness as well as grievance mechanisms in place are superior to the traditional grievance mechanisms and communication channels of trade unions. And thus, they can do away with formation of employees' unions.

6.6.2 Telenor Myanmar

Telenor Group is a global mobile operator with 54 percent of shares owned by the Government of Norway, a country with its high foreign policy agenda for human rights and democracy; the business model the group brings into Myanmar deserves close scrutiny. This

¹⁷⁷ Interview with Ms. Patricia Curran, Senior Vice President and Head of Education and Corporate Affairs Group of Telenor Myanmar on 27 March 2017.

study selected the Telenor-Myanmar case to examine whether and how a good business model has multiplier effects. Scrutiny of Telenor-Myanmar also gives better understanding on how it adapts its operational practices to a different situation with low social, environmental and governance standards. As Telenor-Myanmar works with a great number of local business partners (80 percent of its business partners in Myanmar are local), 200 distributors, and 90,000 or more points of sale, its practices can have a large spill over to local business. A fifty-minute interview with the Vice President and Head of Education and Corporate Affairs Group, Ms. Patricia Curran, gives a good insight on how responsible business practices are embedded in Telenor's business model and how its operations in Myanmar make positive multiplier effects on the local supply chain.

Telenor is the second largest operator with 19 million customers in the country to MPT with 21 million customers. It has obtained a business licence since February 2014. As of 2016, its total investment value is 1.5 USD billion. Despite the corporation's due diligence on human rights and social safety, it was not spared from some unpleasant incidents caused by local suppliers' irresponsible actions. Ms. Curran recounts that incident, saying:

When I started this job, I was the head of sustainability and shifted to a new position now. Because child labour was a horrible problem, lack of safety, lack of understanding on the health and safety standards, we had to worry about that. Because poor people will send their kids to work. When I started working here, three people died actually. Because our suppliers cut corners or somebody recommended he can climb the coconut trees, but when he climbs the tower and they fall and they died, they do things improperly on the ground, it was horrible..... in one of the deaths, that's really the negligence of the supervisor. He was not careful and he was not just figuring out finishing up some works at the end of the day. And somebody slipped and a beam hit him in the head and he died and that was the fault of the supervisor. He was supposed to be sure that everybody is safe and he is supposed to be there supervising. So, not only did we fire, we blacklisted him and we also blacklisted the company. We take our staff very seriously.¹⁷⁸

¹⁷⁸ Interview with Ms. Patricia Curran, Senior Vice President and Head of Education and Corporate Affairs Group of Telenor Myanmar on 27 March 2017.

Such experiences led Telenor to take supply chain integrity seriously as an important aspect of Telenor-Myanmar's sustainability programmes. This aspect of the company's sustainability measures is key in creating positive multiplier effects on local businesses through its suppliers to lower tiers of suppliers and vendors. All its suppliers have to enter into an Agreement for Responsible Business Conduct (ABC) which mandates Supplier Conduct Principles (SCPs) covering human rights, labour rights, HSSE, privacy, freedom of expression and corruption (Telenor, 2017: 3). Ms. Curran details how Telenor-Myanmar makes sure that they have the right local partners in their operations, stating:

Each of our suppliers are to sign an agreement which is stipulated across Telenor's thirteen business units around the world. That is our minimum standard related to international standards on quality of performance, related to human rights, related to equality, transparency and accountability etc. All our tier-one suppliers have to sign a contract with Telenor. And the inspections that we do. So, you sign to say everybody is going to use the safety equipment and you sign to say there is going to be no kids in your supply chain. And we have to invest a lot to make sure the people are walking the talk. So, basically, what we have to do before entering into a contract with our supplier is Integrity Due Diligence Assessment, they call it **IDD** and **Risk Assessment**. **IDD** and risk assessment is carried out by examining the concerned-company, their infrastructures and their reputation. For example, if we wish to find out whether a company in Kachin State we send our staff to Kachin state to find out such information as regularity in paying rents, following health and safety standard in the areas they used to work and their compliance to other domestic laws and regulations. When we found out bad reputation of the company, we won't take the risk in working with such company.

Detailing the process of the supply integrity gives a better appreciation of the way a responsible international business player can contribute to changes in the behaviour of the broader business community in the country. Ms. Curran further elaborates on the process of 'IDD Risk Assessment', stating:

The other thing we want to do is we want to understand whose is on your board. Are there any people who are on U.S. government Specially

Designated Nationals and Blocked Persons List (SDN) list for human rights abuse. So, we spend thousands and thousands of dollars to make these assessments. We can't take a risk because the 54 percent of the company is owned by Norwegian government. Its reputation is gold to us. We can't not cut corners in engaging them. And we don't. So, we have not get in trouble. You know you might hear the stories of other companies that are not as ... Unfortunately, in other cases they did not discover what we discovered. So we had the IDD and we sign the contract with those have past the first assessment and then we have to do on board training in our ethics and our way of works, the Telenor Way. Then we do the 'compliance and performance monitoring' that we do in unannounced visits, and some fifteen vendors are terminated and six companies blacklisted for failing to fulfill our standards and contract violation.

Even when there are opportunities to use the minimum standards stipulated by local laws, Telenor is adhering to its own standards. Although Myanmar domestic law allows employing young workers between 14–16 years of age with doctors recommendations for four hours a day,¹⁷⁹ Telenor strictly follows the law not employing employees younger than 18 years as some of their jobs involve construction sites. Enforcing the strict Telenor way has helped avoid the incidents it faced in the early days of operation and led to a significant decrease in the number of children who are working with their suppliers.

Ms. Patricia Carren mentioned corruption as another challenge they face as it is an everyday issue in Myanmar, saying:

Corruption is the area of concern. So we have absolutely no gift-giving policy. It is challenging in Myanmar because we give gifts when visiting your house and its very normal and I don't think their intention are bad necessarily. Like they are senior levels with million dollar contracts that sort of thing in general is expected and accepted that you are going to say thank you through giving

¹⁷⁹ Shops and Establishment Laws (2016) Chapter IV, Article 13 A prohibited employing anyone younger than 14 years of age at any shop or establishment. Article 13 B stipulated that anyone younger than 16 years of age shall be allowed to work within a stipulated working hour. Article 14 A stipulated that young employee between 14 years of age and 16 years of age can be employed with the recommendation of a doctor and for not more than four working-hours per day. Article 14 D stipulated that anyone younger than 18 years of age can not be employed at hazardous jobs.

somebody something. It does not mean much. It is kind of ingrained. With our colleagues, we just had to say, it is absolutely unacceptable. We have an ethic and compliance officer solely dedicated to this work, awareness training and extensive risk-based anti-corruption programme.

Relating to this issue, Telenor also has to handle the authority's requests for personal data. Such requests may be on phone records, location identifications of some individuals related to missing persons, human trafficking, drugs and murder cases. In the absence of domestic law on cybercrimes, Telenor handled such data requests by making all these requests public before they are provided to the authority as they can have implications for individual privacy.

One unique thing about Telenor-Myanmar is its ability to match its business ambitions with optimal solutions by bringing in clean and renewable energy technology to the country. For a business with an ambition to provide services covering 95 percent of the population in Myanmar, energy is a daunting issue as only 18 percent of the country's rural villages are on the grid. Half of its 7,400 sites in the country are not on grid and over 700 sites use super-silent diesel generators, 700 sites with lithium Ion batteries and 500 solar hybrid sites. On February 2017, Telenor-Myanmar tried the country's first wind and solar powered tower in an attempt to eliminate the need for the diesel generators.

The most interesting aspect of Telenor-Myanmar RBC practices is its empowering programmes which address inclusivity, women's empowerment and welfare issues, three important themes for responsible businesses. According to Ms. Curran, 40 per cent of their employees are women and 28 per cent of leadership positions are women. It is the first company to offer in Myanmar a six-month paternity leave and it offers flexible working hours. With regards to recruitment policy of Telenor-Myanmar, Ms. Curran says:

It is challenging in this industry. Not a lot of women are in technology. So, in the area of technology, there are more men than women. Definitely you will have the advantage of you being women and if your skills were similar to men, then women will be chosen. We are one who has our local leadership positions for local women. Two of our employees Chief Finance Officer and Chief Peoples Officer, are women. We employ 17 nationalities and 88 are on

executive development programme. Telenor is serious about the empowering project.

In addition to the activities embedded in the business operations of Telenor-Myanmar such as ‘supply chain integrity’, ‘anti-corruption’, ‘empowerment’, ‘innovative technology’, it has a dedicated team for responsible business activities which lie beyond its operation, such as digital literacy, with summer school programmes in remote areas to educate children to be digitally literate and safe online.

The case of Telenor-Myanmar demonstrates how RBC practices embedded in a business model can bring positive spill over when the business ventures to a country with low-based governance. When foreign businesses venture into a country with a weak regulatory regime, there are two tendencies. One tendency is that their business principles degenerate while adapting to the local circumstances. The other possibility is their principles and norms are disseminated through the local supply chain. Although there are many foreign business who take advantage of weak regulatory institutions in Myanmar, the Telenor case proves it is possible to be a business which creates positive spillover of its sustainability model to local businesses.

6.7 Drivers keeping RBC on-track

This section discusses the main drivers which keep RBC practices in Myanmar on track during the transition phase of the country (2011–2016). Increased awareness about responsible business conduct among society and among businesses is discernible. The RBC norm, with its multiple components addressing multiple issues, human and labour rights, environment and anti-corruption, became a norm which matches the needs of the state to promote its domestic and international legitimacy through encouraging international norms. Although challenges remain in implementing RBC among businesses in Myanmar, specifically in extractive industries, the mining sector and large-scale development projects, RBC implementation is on track towards the moral and functional purposes of the RBC norms. The evidence of the two cases discussed in the preceding section supports the claim for practice outcomes of RBC being measured as on-track.

Two main factors are found to be contributing to keep RBC implementation on track. First, increased awareness, better experience and appreciation of RBC implementation among

executing agents of RBC (businesses) determines the implementation process. Such awareness and appreciation (conceptual development) and application of RBC among key stakeholders (norm practices of businesses executing agents) are made possible by the socializing activities of multiple actors. International actors' focus on RBC norm promotion through multiple channels further strengthens the synergetic dynamic of agents of RBC in Myanmar. Agential dynamic in RBC practice is also fortified by society and stakeholders' monitoring, and stricter enforcement measures being put in place. Second, such strong-synergetic dynamic of multiple agents is enabled and facilitated by norm-favoured legal, institutional and political structures emerging in the country during the periods under study.

6.7.1 Strength and synergy of multiple actors

Discussions in the earlier sections make apparent the density and diversity of actors' involvement in promoting RBC in Myanmar. The role of multiple actors and the innovative tools they apply in promoting RBC are significant in putting RBC implementation on-track. Activities and programmes of multiple actors in encouraging businesses to act on RBC are only made possible by the support of international actors. Most of the significant players for RBC promotion such as MCRB, DaNa Facility are functional only with the support of multiple donors such as the Governments of Denmark, Ireland, Netherlands, Norway, Switzerland and the United Kingdom. In the absence of international partners' supports, it is less likely that multiple actors would emerge in such a diverse array and their activities be innovative and attractive to the businesses to act on RBC practices. Without the support of international partners, local actors' programmes are less likely to deliver good experiences of RBC application for businesses in Myanmar.

6.7.2 Institutional enablers for RBC in Myanmar

The enabling role of legal frameworks and institutional arrangements are significant for any policy area. RBC implementation is not an exception. Despite RBC's non-obligatory nature, each of the elements of RBC—human rights, labour rights, environmental protection and anti-corruption—are obligatory for government and businesses. Specific laws and regulations related to labour rights, environment preservation and anti-corruption defines the expected behaviour of businesses and government. These laws along with international actors empower two important institutional pillars: civil society to monitor any infringement, and media to amplify and seek redress for abuses by government and businesses. Therefore,

mutually reinforcing legal and institutional structures evolve in favour of RBC implementation in transitioning Myanmar. Domestic institutional also is complemented by regional networks which promote responsible businesses.

6.8 Conclusion

The current chapter addresses the question of how RBC was implemented or socialized to the executing agents of RBC, a principle norm with multiple components, in transitioning Myanmar during 2011–2016. I argue that RBC implementation or socialization in Myanmar during 2011–2016 was found to be on-track, considering many businesses increasingly act on RBC. The study also recognizes that many challenges remain for the country's RBC implementation as several businesses are yet to be in conformity with RBC. Extending from historical perspectives, current research highlights the important role of multiple actors and their diverse approaches in encouraging RBC among stakeholders in making positive effects on RBC implementation. The diverse approach of multiple actors allows stakeholders to conceive of RBC in converging ways and to act in conformity with the RBC norm's moral and functional purposes for creating positive spin-off from business activities in society.

RBC dedicated entities' ability to design their activities, capitalizing on key stakeholders' interests for 'competition to excel' and 'business sustainability'; their ability to create opportunity for businesses to experience RBC through participatory programmes such as TiMEs of MCRB, Social Compliance Academy of SMART and Business Innovative Facility of HumsaHub made a difference for RBC implementation in Myanmar. The important role of 'conditionality' by the IFC investment and 'instrumental' use of RBC by many businesses as effective tools for branding strategy, consumer relations, stakeholder relations and international buyer linkages also need to be recognized. In this respect, the innovative approaches employed by external socializing agents are found to be significant in fortifying the agential dynamics and thus having positive impacts on norm practices.

The research draws three conclusions based on the discussions in the previous sections about multiple actors and legal and institution structures. First, the specific nature of RBC, a composite of four elements—human rights, labour rights, environmental protection and anti-corruption—found a match with the legitimacy-seeking government to anchor on international norm addressing multiple issues at risk in the country at the time of transition. Multiple

elements of RBC led to emergence of diverse actors whose activities found synergy through local platforms such as MCRB, MEITI and Myanmar Business Forum.¹⁸⁰ Second, the state's provision of legal frameworks is activated through the activities of the civil societies and media. The institutional strength of the civil society and media are enabled by legal frameworks and facilitative support by international actors, signifying the mutually constitutive roles of agents and structures in norm implementation in the transitioning state. Third, converging conceptions on RBC are created by the effective agency of domestic and international actors in communicating RBC to key stakeholders through multiple channels; this gives grounds for competition, providing participatory opportunity to experience RBC practice and stronger civil society and media monitors.

¹⁸⁰ IFC in cooperation with the Government of Myanmar and Union of Myanmar Chamber of Commerce and Industry (UMFCCI) form the Myanmar Business Forum.

Chapter Seven: Conclusions

7.1 Introduction

(Norm) implementation cannot be seen in purely state-centric terms but is also determined, often significantly, by contestation among non-state actors. (Orchard and Betts, 2014: 274-275)

The movement toward human rights (norm) compliance is a multifactor interactive process. (Risse et al., 2013: 294)

How is norm socialization animated in domestic sites of socialization? How does global-local interaction shape norm practices in states? These questions are yet to be fully addressed by socialization studies despite their rich body of knowledge on the influence of norms and socialization on states' policies. Although scholars of norm research recognize that states' norm practices are multifactoral and interactive (Risse et al., 2013), we know little about such processes. Less is understood about how to analyze such multi-actor, multifactoral processes in domestic sites of norm target states. The involvements of transnational social actors in the processes of turning norm-favored state policies into norm practices are under-conceptualized. Lisbeth Zimmermann pointed out that socialization studies assume that once the norm is internalized by political elites, general dissemination will follow or trickle down to wider society (Zimmermann, 2017: 26). Less study has been done on how such processes of trickle down take place and how international players are involved in those processes. Understanding these processes of norms from state policies to societal practices is important for socialization studies if norm research's main concerns are to explain the real impacts of norms in society rather than on state policies.

For the cases of norms whose domestic practices lag behind state policies, the prevailing literature might suggest 'capacity building' as a social mechanism (Risse et al., 2013: 15) which would support state institutions and state enforcement of related laws. Although such social mechanisms are found to be at work in most instances, much more is taking place on the path from norm policies to practices. In addition, the existing socialization literature finds it difficult to take into account the instances of varied practices of international norms which receive similar level of policy support from states. The cases in point are the practices of FOA and RBC norms. Both of these norms target businesses to execute and governments to enforce and

enable practices. The practices of FOA are observed to be off-tracking from its desired path of peaceful industrial relations while RBC implementations are found to be on-track as a growing number of businesses are incorporating RBC principles in their operations. Therefore, studies need not only to explain the norm policy-practice gap but also explicate the variation.

To explore this variation, this research has examined two norm cases, FOA and RBC, and analyzed the processes by which stakeholders put into practice the FOA and RBC norms in Myanmar before and during the first phase of democratic transition (2011–2016). The cases demonstrated that the process of socialization at norm target states' domestic sites can reveal new insights distinct from the existing knowledge generated by socialization studies at international and regional sites. The focus on the domestic site allows a better view of the global-local interactions which occur within the confines of domestic structures and ultimately shape norm practice outcomes. The body of knowledge in norm research would not be complete without the knowledge on norm processes at the domestic sites of target states. In the absence of studies like this one, socialization studies would miss many aspects of relevance to its interests, i.e. socializing actors and social mechanisms at work in the domestic sites of states. The cases demonstrate that socialization at the domestic site is a two-way process between global and local agents of norms. The dynamics of such processes vary with times, issue areas (or the content of norms) as different issue areas attract differing levels of interest and investment from external agents of norms in different time periods. The varying dynamics of each norm is also influenced by domestic structural factors. The resultant norm practices can only be understood by the analysis of this multi-actor dynamics or 'agential dynamics'.

This chapter presents first, the summary of empirical findings from the two cases which were discussed in detail in Chapters Five and Six. Second, the analytical discussions comparing the two cases will be provided. And third, it provides a highlight on the study's contributions to the literature by refining the theoretical model and framework for the 'domestic chapter of norm socialization' as introduced in Chapter One and mirrored in Chapter Three. A refined conceptual map linking the point of norm-favored state policies to variegated norm practices will be presented. While discussing these three aspects, the chapter argues that domestic processes of norm socialization can be better examined by employing the concept of 'agential dynamic'. The 'agential dynamic' is a focal point from where studies can appreciate and unpack the influences of domestic structural factors, norm contents and international socializing actors' interests and investment in norm practices.

7.2 Summary of empirical findings

This research's examination of two norm cases revealed important insights beyond the expectation of the existing socialization literature. The two cases demonstrated the importance of norm target states' domestic sites as important socialization sites. The studies focusing on domestic sites disclosed new knowledge on several aspects of interest to norm socialization studies. The two cases demonstrate that socialization at domestic sites can be understood as two-way processes of global and local forces. The degree of global-local dynamic varies across time as well as varies across issue areas, as illustrated by the cases of FOA and RBC. External actors' interest and investment in activities relating to practices of each norm influence the dynamic of the multiple actors involved in the practices of each norm. The two cases provide some specific insights which are of relevance to socialization studies. They include, 1) the domestic site as an important site where socialization can be observed in greater complexity, 2) the dynamic of multiple actors explains practice variation, 3) the multi-actor dynamic, socializing mechanisms and external actors' interests vary with issue areas, and 4) the dynamic of multiple actors influences and is being influenced by domestic structures.

7.2.1 States' domestic arena as the site of norm socialization

Studying norm practices within domestic sites of socialization generates knowledge distinct from those generated by studies focusing on states' socialization at the social sites of regional and international organizations. Norm processes at domestic sites is under-theorized in prevailing literature. The recent study brings to light the distinctiveness of domestic social sites in understanding norm socialization and impact variation.

First, studying domestic sites of socialization allows appreciation of the interaction between diverse interest groups within a state and their interaction with external forces. Unlike in regional and international sites where socialization can be conceptualized as interaction of norm advocates and recipients, socialization at the domestic sites involves multiple actors with diverse interests. The domestic constituency is diverse, rather than being a unitary force favouring international norms and which would mobilize against states if the state fails to implement. Focus on a domestic site allows the study to identify the diverse group of actors involved in the practices of the international norms covered in this study. For the case of FOA practices, the states' role as enabling/inhibiting agents of norms changes over time. The role of businesses and workers as executing/evading agents of norms also changes over time and across

cases. The role of external norm agents as facilitating agents and the degree of facilitation it provides varies across issue areas. The role of societal actors as monitoring agents also varies across issue areas. Interactions among identified actors are dynamic. Such dynamic of multiple actors can only be captured at a domestic site of socialization.

Second, socialization at domestic sites renders both advantages and disadvantages to external socializing actors. External socializing actors face greater challenges as they have to interact with more diverse counterparts and operate within the confines of domestic structures. At the same time, they also have advantages from operating at the domestic sites as they can identify target policy actors, channel policy advocacy more effectively and thus, in one way or another, influence evolving domestic legal and institutional structures. They can also deal directly with executing agents of norms, i.e. businesses and workers in the cases of FOA and RBC.

Third, socialization at domestic sites is more demanding as it has to go beyond policy advocacy to state actors. Unlike in international and regional social sites, socialization at domestic sites is not limited to states' (government) policy change and influencing domestic discourses through advocacy. Policy change and influencing domestic discourses can be advocated. But socializing actors' roles are found to be broader than policy change and their programmes encompass activities which aim for practice changes. Practice changes cannot be brought about by advocacy works alone. Many external social actors' activities involve programmes which showcase and demonstrate how new norms can be put into practice. This is illustrated by the RBC-related programmes introduced by such leading actors as MCRB, which deliver concrete programmes to influence practices. Pwint Thit Sa or 'Transparency in Myanmar Enterprises' TiMEs¹⁸¹ help businesses to execute and practice the principles of 'anti-corruption through transparency'. RBC-related programmes and platforms provided by MCRB and other external actors for the executing agents to practice the principles are found to be more effective and facilitative to the executing agents (businesses) than FOA activities, which mainly focus on advocacy, awareness raising and empowering different groups of executing agents (workers).

¹⁸¹ The Myanmar chapter of Transparency International's 'Transparency in Corporate Reporting-Accessing the World Largest Companies' TRAC.

7.2.2 Multiple actors dynamics at domestic social site

This study identified multiple norm agents who are found to be active in domestic sites, giving a more complex picture than those made available by existing socialization studies at the familiar social sites of international organizations and regional organizations. The activities of the multiple norm agents taking place within the confines of domestic structural factors are conceptualized and presented in a model explaining the varying norm practices of the two norms under study. The model will be discussed in the following section along with analytical discussions on the findings from the two cases.

Both FOA and RBC norm cases illustrate that diverse actors are involved in the respective norm practices. Socialization at international and regional sites tends to be a contestation of socializees and socializers, national elites who carry ‘domestically constituted normative baggage’ into international negotiations (Wiener, 2009: 185), and contestation on norms is found to be driven more by conflicts. In fact, the case of FOA demonstrates that rather than open contestation on the validity of a norm, businesses and workers reinterpret FOA in a way which suits their interest. Whereas state (government agency) interprets it as a means for peaceful industrial relations, businesses expect it as a communication channel. In practice, it is found that workers use FOA as a tool to vent grievances and sometimes they go beyond the red line while posing challenges to their employers. On the other hand, businesses’ neglect of FOA tends to create a vicious circle of distrust and conflict between the two sides of key stakeholders (executing agents of FOA). Such conflicts among executing agents of FOA drag down the agential dynamic and such ‘conflictual agential dynamic’ fails to serve the moral and functional purposes of FOA, i.e. peaceful industrial relations. Such practices reflect the limitation of the state (government) as enabling agent in provision of legal/institutional structures as well as the inadequacy of socializing agents in facilitating and in helping to address the issue of conceptual underdevelopment in the two opposing sides of executing agents of FOA.

On the other hand, RBC practices gained domestic salience (Cortell and Davis Jr, 2000: 68-80) or increased awareness and were embraced by stakeholders. Such cases are reflected in the domestic discourse as well as in domestic policy and legal/institutional structures. Initially, the principles of RBC were interpreted / understood as philanthropic activities by businesses. Over time, more businesses come to conceive it in a more rounded understanding of RBC as the ‘hygiene factor’ most basic to the sustainability of business. The

role of socializing actors, in persuading businesses to conceive **RBC** in such a rounded way, is significant. As discussed in Chapters Five and Six, it was found that more diverse external socializing agents devote considerable investment in promoting **RBC** as compared to **FOA** where external actors' involvement is not as vibrant as in **RBC**. External actors' interest and investment in **RBC** promotion is more critical for the country in transition where emerging legal/institutional structures can largely be influenced by these actors. External actors' interest and investment are a major impetus for the multi-actor dynamic involved in **RBC** practices.

The two cases of norms also demonstrate the importance of the leading actor in domestic norm socialization. This finding supports Alexander Betts and Phil Orchard's emphasis on the importance of norm entrepreneurs, leading individuals or organizations, in 'shaping implementation and surmounting potential structural obstacles' (Orchard and Betts, 2014: 14-15). Leading actors' role and strategies are also found to be a significant factor for practice outcomes. Their attributes such as authority, legitimacy, financial resources, academic esteem, and professional connections etc. are important (Hafner-Burton, 2013, Herro, 2015). Although it is established that external socializing agents derive their legitimacy from technical expertise and normative authority from the norms they promote, less research has examined how they create trust in domestic socialization grounds. Case studies of this research reveal how external agents secure trust in socialization. For the case of **FOA** norm promotion, **CTUM** plays a leading role while **MCRB** is found to be a lead player in promotion of **RBC**. Adding to existing insights that socializing actors' attributes is important for norms' impact, the two cases show that deep local knowledge is necessary for leading actors in promoting norms, but it is not a sufficient factor. Leading actors of **FOA** with full local knowledge without being able to secure trust from stakeholders cannot make much difference as compared to the leading norm promoters of **RBC**, who have adequate local knowledge as well as stakeholders' trust.

As discussed detailed in Chapter Five, the leading actor in the **FOA** case, **CTUM**, was led by a local individual with full knowledge of domestic politics and social settings, but could not secure trust from labour activist groups and some small unions. Therefore, its ability was limited in fortifying the agential dynamic and thus moving **FOA** on-track. In fact, distrust among some workers' organizations and some workers advocacy groups created a conflictual dynamic of multiple norm agents for **FOA**.

On the other hand, **MCRB**, led by a foreign individual, could secure trust from the businesses and other stakeholders and thus contribute to the synergetic dynamic of multiple norm agents. **MCRB** strengthened the agential dynamic through such activities and

programmes as Pwint Thit Sa or ‘Transparency in Myanmar Enterprises’ TiMEs¹⁸² project. TiMEs allow businesses to participate and experience the benefits of being in line with prescriptions by RBC norms. In the absence of such projects, businesses won’t have any platform to exercise transparency about their operations. Therefore, the cases demonstrate the importance of socializing agents, suggesting that socializing actors derive trust not solely from familiarity with local contexts, but more from sincerity, and the effective and innovative delivery of promises laid out in the norm’s contents.

Therefore, it is found that socializing agents derive trust not solely from local knowledge but from their dedication and sincerity to the values they promote and their ability to deliver what they promise by allowing stakeholders to participate in activities and experience the benefits of practicing norms.

7.2.3 Distinct strategies at domestic social sites

Following discussions on the findings relating to multiple actors, comparative studies of the two cases revealed that socializing strategies or mechanisms employed by external socializing agents at domestic sites varies across issue areas. At international and regional sites of socialization, communicative actions and social mechanisms range from 1) strategic bargaining, 2) moral conscious raising and persuasion through dialogue, social learning and 3) institutionalized habitualizations (Risse and Sikkink, 1999a). The effectiveness of respective mechanisms in influencing the conception of target actors varies depending on domestic structural factors (Risse et al., 2013).

Rather than mirroring the mechanisms of socialization employed at international and regional sites, mechanisms deployed in domestic sites are found to be distinctive. The two cases in this research illustrate that socializing agents for FOA employ the strategies of empowerment to domestic rights holders, workers (executing agents) and policy advocacy and assistance to institutional strengthening for enforcement by government (enabling agents). On the other hand, external agents for RBC deploy more diverse mechanisms: 1) enabling businesses (executing agents) through concrete activities; 2) policy advocacy through network

¹⁸² The Myanmar chapter of Transparency International’s ‘Transparency in Corporate Reporting-Accessing the World Largest Companies’ TRAC.

building and forum giving; 3) research and out-reach to stakeholders; and 4) consultative and participatory programmes. Diversity of socializing strategies strengthens the agential dynamics.

In sum, it is found that different mechanisms employed by custodians of the respective norms at the domestic site of socialization have an impact on norm practice outcomes. As illustrated by FOA norm practices, conventional strategies of empowering domestic rights holders to find commitment-compliance gaps acting as ‘watch dogs’ and pressuring government for accountability as reflected in ‘information politics, symbolic politics, leverage politics and accountability politics’ (Keck and Sikkink, 1998) are less effective as compared to the strategy employed by RBC agents who enable businesses and guide them to act in prescribed ways by acting more as a ‘guide dog’.¹⁸³

7.2.4 Socialization as mutual learning at a domestic social site

In this study, it is found that global-local interactions at the domestic sites are based on a two-way track rather than one defined by unidirectional activities. Learning how to pass the message across to their counterparts is found to be an important part of the works of external socializing actors. That is the reason many external players invest a great deal in the ongoing research and assessment of domestic situations.

The two cases in the study demonstrate the dynamic nature of multiple actors which operate beyond expectation on the path from norm-favored policies towards societal practices. Socialization at domestic sites is found to be a mutual learning processes as distinct from other studies which have described socialization as teaching projects in the sites of international and regional institutions (Finnemore, 1993). In domestic sites, most external socializing actors commence their jobs with learning the societal and political fabrics and learning how to get their message across to target actors. They learn through their implementing local partners and through network activities in the respective issue areas. Interviews with foreign expatriates who

¹⁸³ UN Global Compact explained its role and influence on business practices in the official website’s FAQ ‘the UN Global Compact is more like a guide dog than a watch dog. However, the UN Global Compact has a mandatory disclosure framework. Business participants are required to communicate their progress to their own stakeholders on an annual basis and to post a copy on the UN Global Compact’s website. Failing to communicate progress on an annual basis results in a downgrading of participant status from active to non communicating. Participants who do not communicate progress for two years in a row are expelled and the UN Global Compact publishes their name.’

manage the training center for internal migrant workers with support from multi-donor funds, reveal that they learn over time and through their experiences, and they have to adapt their curriculum from rights-based empowerment themes to more of a mix of basic life skills , technical (sewing skills) and industrial skills (responsibility and rights at work).¹⁸⁴ Although not all external actors being interviewed were explicit about their learning process in their norm-promoting activities, a few of them discussed making assessment on the local state of play as part of their work.¹⁸⁵ Therefore, we can understand that socialization in the domestic site is a mutual learning project of external and domestic actors.

7.2.5 Multi-actor dynamics and domestic structures

The two norm cases reveal that multiple actor dynamics, including the density of agents, intensity of their interactions and actions, and their visibility, is influenced by structural factors, norm contents and interests, and the investments of external norm promoters. The study found that the content of norms (or issue area), rather than the form/type of norms, matters in generating interest by external actors and their investment which, in turn, affect multi-actor dynamic in norm practices. Such multi-actor dynamic can be enhanced or eased by the attributes and strategies of socializing lead actors. The RBC norm attracts more diverse actors and greater interest from external agents as the norm is composed of four distinct elements: human rights, labour rights, environmental conservation and anti-corruption. External actors' interests in RBC are high as they have a higher stake in RBC practices than in FOA. More vibrant and diverse actors are involved in RBC processes, which allow agents to employ greater policy influence to shape favorable legal/institutional structures and innovative mechanisms to shape the ideas of businesses (norm executing agents) in line with the purposes of RBC. On the other hand, less dynamic agents of norms (trade unions and their international alliance) in FOA processes and their conflicting nature of interactions led to deviation from the purposes of the FOA norm. Therefore, this multiple actors' dynamic explains varying norm processes within a state. Cross-case comparison allows such findings on the impact of norm contents on

¹⁸⁴ Interview with Mr. Harry Schwarz, Project Manager, Success Garment sector training centre on 25 April 2018.

¹⁸⁵ Interviews with Mr. Harada Kiochi, Labour Affairs officer, Japan International Cooperation Agency (JICA) on 22 March 2017 and Mr. Christian Heimig, Technical Advisor, Bundesanstalt für Geowissenschaften und Rohstoffe (BGR) on 16 February 2017.

practice outcomes which scholars anticipated but did not examine (Orchard and Betts, 2014: 278-9).

This study found that differing contents of norms generates different constellations of actors, interest and investment in norm promotion activities. The value of this research is that the cluster norms with complimentary components attract diverse norm agents; their dynamism, union and their ability to ‘expose’ key stakeholders (businesses) to experience the new practice make a difference to RBC practice in the country. In contrast, the specificity of the FOA norm’s obligation does not necessarily prevent multiple actors from interpreting norms in differing ways, thus undermining the moral and functional purpose of FOA. Although there were no overt contestations over the meaning of FOA between employers and employees, its application has been contested. The prevalence of wild-cat strikes and union busting are evidence of contestation and interest-based interpretation of FOA. And thus, the state’s policy intent of employing FOA as means for peaceful industrial relations in the country was not fulfilled during the first phase of the country’s transition and it is far from getting back on track in the second phase of transition.

Mutual constitution of structures and actors to produce practice outcomes is more pronounced as the two cases are studied in the context of the transitioning state. The cases suggest transition offers permissive structural contexts for the cases. In this regard, this study comports with Thomas Risse’s take on ‘enhancing human rights change, therefore, go hand in hand with domestic structural changes’ (Risse, 2016: 150). The cases highlight the importance of the state (government’s) enabling agency of norm. Temporal analysis of individual cases (discussed in in Chapter Five and Chapter Six), reveals that the norm-enabling nature of the domestic political and legal/institutional context is the bare minimum ground required for international norms to take root and be fostered in the domestic field. As argued by Alexander Betts and Phil Orchards, that the role and identity of local actors are endogenous to local processes of negotiations rather than understanding them from pre-established roles (Orchard and Betts, 2014: 279-280), this study found that the state’s role can swing from inhibiting agent to enabling agent with the changing political context.

The norm recipient state’s enabling role is key for facilitating ‘access’ to external socializing agents and opening ‘space’ for domestic actors. Government-initiated legal/institutional reforms in Myanmar such as the introduction of Labour Organization Laws, launching of the UNGC Myanmar Chapter and Extractive Industry Transparency Initiatives,

allowed greater space for civil society actors to empower and enable agents of norms, thus enhancing the norm's impact. These stakeholders in the respective norm practices of FOA and RBC such as workers, civil society, and development actors and different other entities, in turn, strengthen the legal/institutional structures to be more in line with international practices. Processes of Labour Law reforms and establishing anti-corruption commissions and Environmental and Social Impact Assessment (ESIA) procedures are some of the examples of legal/institutional structures which evolved as a result of the interactive process of norm agents with government. Therefore, actor dynamics is mutually constitutive of domestic structures.

By taking together these empirical insights, this research answers the research questions of 'how socialization animates in domestic sites in turning norm-favoured policies to practices', with four-points arguments which are of relevance to theoretical, empirical and methodological issues: 1) Socialization is animated as multiple actor dynamic or agential dynamic at domestic sites of socialization. Variegated practices of FOA and RBC are the function of interactions among multiple actors, state (government), businesses, workers, societal actors and international actors. Norm practices are neither the product solely of domestic actors alone or state policies and enforcement nor that of external agents' strategies and socialization. 2) Norm content matters for practice outcomes by way of generating different actor constellation and affecting differing degree of multi-actor dynamics. 3) International and regional socialization sites complement the multiple actor dynamics at domestic sites by means of venues for networking opportunity, exchanges of expertise and enhancing visibility of norms in the domestic social site. 4) Agency of norms and domestic structural influences can better be appreciated through a single framework that is 'agential dynamics', where the impact of norms' contents, structural influences and external norm agents' interests and investment are reflected. This conceptual contributions add value to existing insights on identified structures and agency of multiple actors on practice outcomes (Orchard and Betts, 2014: 271,272, 279).

7.3 Discussions on comparative analysis

In addition to the discussions in the preceding section on empirical findings which also includes points of comparison between FOA and RBC practices, this section presents explicit points of similarity and differences exhibited by the two cases. This section complements the temporal analysis of individual cases at the concluding sections of Chapters Five and Six. Data

from the two cases allows identifying the key actors (agents of norms) and structures shaping the socialization process of the two norms.

At this late stage, it is necessary to address the question of comparability of the two norm cases, given the different nature of each norm. This research argues for the comparability of FOA and RBC as business actors are the main targets in both norms. In addition, similar levels of policy support each norm, also indicating points of similarity which would enhance comparability.

The research takes three main analytical points: actors, and structures and practice outcomes. For the first points for analysis, actors or key stakeholders are identified as states (enabling/inhabiting agents), businesses and workers (executing agents), societal actors (monitoring agents) and international actors (facilitating/hampering agents). Each group of actors exerts agency on norm practices either in a positive or negative direction. In analyzing actors and their activities, the study examines the direct impact of their actions on norm practices and their indirect impacts through shaping structures.

The second analytical point is the structural conditions relating to ideational structure (examination of the stakeholders' conception of the respective norms), legal/institutional structure (examination of the presence and absence of the required legal and institutional mechanisms for each norm).

The third analytical point is practices of the respective norms in the first phase of transition to democracy (2011-2016). Practices are examined as to whether they fulfill the moral and functional purposes of the respective norms. Practice outcomes are categorized as 'on-track', 'off-track' and 'back-track' as markers for varied outcomes.

7.3.1 Actor constellations and norms' contents

It is conventional knowledge that actor constellation varies with norm content. However, the dynamic of such actor constellations did not get adequate scholarly attention in the existing literature. This research identifies actors (agents) who are active in FOA and RBC practices and their activities are examined.

FOA generates distinctive groups of workers (rights holders and executing agents), government (duty bearers-enabling agents), and business firms (duty bearer-executing agents)

(government and firms). The main players in FOA practices are CTUM and eight union federations which are leading over 2,000 workers unions at enterprise level. The main external players are ILO and several development partners and trade unions from partner countries (details discussed in Chapter Five). Competing interpretation of FOA norms among executing agents, businesses and workers is found to be weakening the agential dynamic. Government agencies see the FOA norm as a means to improve industrial relations. Workers take FOA as a tool to claim long-denied rights by challenging employers¹⁸⁶ while employers' take on FOA is as a means of communication to the best and unnecessary layer hindering business operation. Such interest-based appropriation of FOA norms leads to conflictual dynamics of agents which is responsible for off-tracking of FOA practice, as neither violent workers' strikes nor employers' union busting serve the FOA norm's purpose for peaceful industrial relations.

On the other hand, the RBC norm spawns a greater diversity of norm agents as it encompasses four different areas: human rights, labour rights, environment conservation and anti-corruption. Activities of theme-based norm agents complement each other in defining the RBC and the cooperative agential dynamic increasingly leads executing agents (firms and businesses) to interpret RBC as a means to simultaneously address several areas of interest to the firms' sustainability; enhancing the firm's competitiveness, improving marketing strategy, managing supply chains, stakeholders and shareholder relations. Complementary and cooperative agential dynamics kept RBC on-track in Myanmar during democratic transition. As discussed in Chapter Six, different groups of actors working to promote RBC are more diverse, their activities are more concrete and more visible among business actors.

The differing degree of norm agent density, intensity of their activities and their visibility acting on FOA and RBC is one of the contributing factors to varied norm practices. A higher degree of agent density naturally spawns more activities and further reaches out to local actors and leads to higher visibility of their presence and their activities. While the FOA project run by ILO with the support from development partners and those of trade union federation and confederation could not reach out enough to the important segment of the workforce, well-funded activities operated by dedicated entities such as MCRB, business consultancies, and chambers make better impacts on businesses which are increasingly aware of the new norm and actively participate in the programmes offered by diverse norm agents. It is difficult to

¹⁸⁶ The motto of AFFI-IUF 'organize, fight and win' reflects the sentiments of some workers towards employers.

evaluate and differentiate whether all of those businesses (executing agents) who increasingly embrace RBC are driven by their true belief in RBC or driven by incentives associated with the practices, or just getting involved in the ready platforms RBC agents provided. However, two cases studied in depth, Max-Myanmar and Telenor, confirmed that their activities are largely driven by the desire to be competitive and stay ahead of their competitors and for the sustainability of their businesses. These businesses recognize the values of RBC agents such as MCRB and other players who are active in promoting RBC.

Therefore, this study argues that the varied degree of agential dynamics, i.e. density, intensity of their activities and visibility, contribute to variegated norm practices. The following sections will discuss how this agential dynamic shapes and is being shaped by ideational and legal/institutional structures around FOA and RBC.

7.3.2 Awareness, appreciation and application of norms

The study finds different stakeholders' takes on FOA and RBC are diverse, confirming the broader contention about norms taking different shapes based on different interpretations and conceptions (Hurrell, 2002, Wiener, 2007, Wiener, 2014). Especially for FOA, key stakeholders' conception varies even within the same group of stakeholders. For instance, different labour organizations' interpretation of the FOA varies. Some members of labour organizations see FOA as a means to seek justice rather than as a tool to antagonize employers.¹⁸⁷ Some others take FOA as a tool to 'organize, fight and win'.¹⁸⁸ Others place the latent right to strike in FOA in centre stage and they state 'collective bargaining without strikes is collective begging'. Right holders' interpretations of FOA are found to be going beyond the prescription of the ILO Convention 87. On the part of government, FOA is a way to improve industrial relations and is thus key in promoting investment, production and the economy in general. Though some businesses view FOA as a potential tool in stakeholder communication, their views are changing with their frequent experiences of wildcat strikes. These diverse and sometimes hostile conceptions of FOA indicate the limits of the legal and institutional measures of the government, particularly inadequate government measures on defining the concept among key stakeholders. Although the main custodian of the FOA norm, the ILO,

¹⁸⁷ Interview with Daw Hla Hla, Leader of Workers' Organization and member of We Generation Network

¹⁸⁸ AFFM IUF Annual Report

conducted FOA projects with the support of development partners, such programmes reached only to a limited segment of executing agents (businesses and workers).¹⁸⁹ These findings agree with Kees Van Kersbergen and Bertjan Verbeek's conclusions that adoption of a new norm is 'the start of a fierce battle to define its precise meaning, which can lead to a reformulation of such norms'. They found that such battles are more likely if the norm in question is 'expected to affect the power relations between the major actors involved' (Van Kersbergen and Verbeek, 2007: 234, 235). These findings are also in line with the expectation of Alexander Betts and Phil Orchard to see the implementation being shaped by material structures or interest-based appropriation (misappropriation) of norms (Orchard and Betts, 2014: 273).

Despite norm studies' consistent attention to the importance of will and capacity on the part of the recipient, it is found that both the recipient government and norm custodian ILO were not able to sufficiently address the issue of awareness (or lack of awareness), appreciation of the norm's contents and thus appropriate application of FOA in Myanmar. On the other hand, the awareness, appreciation of norm contents and appropriate application of RBC is increasingly observed in Myanmar despite some businesses not yet abandoning their old habits of irresponsible conduct. Therefore, stakeholders' awareness, appreciation and application of the norm are significant determinants of the compliance/implementation of international norms. The differing degree of awareness and appreciation of the respective norm's contents constitutes favourable or unfavourable ideational structures for norms. And thus, the evolving nature of ideational structures for RBC, on the one hand, and the difficulties of FOA norms to be properly conceived of by executing actors with diverging interests in the other, is the scenario one can imagine of ideational structures for each norm. Such structural development (lack of development) is largely associated with 1) agential dynamics and strategies of actors, 2) legal/institutional structures, and 3) norm contents. These factors will be discussed in the following sections.

7.3.3 Agential dynamics: conflictual or synergetic

The state's enabling role is found to be activating factor for 'agential dynamic'. Transition generated the emergence of multiple actors. The greater role of civil society, the

¹⁸⁹ Interview with Daw Thet Thet Aung, Interview with Daw Ei Shwe Cin Nyunt, Workers' Rights Groups.

media and multiple stakeholders' initiatives and workers' organizations became key players exerting agency in the implementation of FOA and RBC.

The density of actor involvement in norm practices, degree of communications and intensity of engagement and interaction, and visibility of these agents and activities are closely linked phenomena. Diversity and density of agents facilitates greater interaction and wider reach to executing agents, as for RBC. Limited presence and availability of external support in FOA leads to competition for funds and attention. Likewise, greater intensity of norm agents' activities and programmes provides more opportunity for stakeholders to partake and to be exposed more often to norm promotion activities. The density and intensity of norm agents and activities made the norm more visible in the society and created greater awareness in the public. The nature and strength of actors' dynamics can be thought of as either conflictual vs. synergetic and weak vs. strong. Agential dynamics exert influence directly on norm compliance/implementation and indirectly through their impact on ideational and legal/institutional structures for each norm.

It is important to understand the factors constituting differing agential dynamics for FOA and RBC. While international actors have an independent effect on agential dynamics, a mutually constituting nature is observed between the agential dynamics and the evolving government's policy, legal, and institutional structures as well as ideational structure.

7.3.4 Limits of states in norm implementation

One of the key insights revealed by the studies of FOA and RBC implementation in Myanmar is the inherent role of the state as either enabling or forbidding agent of international norms. The state's transitioning context creates an enabling role for the state and provides space for the emergence of new actors such as civil society, interest groups and stake holder groups. The historical silence of the two norms in the country can largely be understood as the evidence of the norm-forbidding role of state which created the political structure unfavourable to FOA and RBC. The same state actor has been found to be changing its role to norm enabler since 2011 and it allowed legal and institutional improvements in the country. The state's enabling/inhibiting agency becomes more apparent through the historical analysis on the practices (or lack of practices) of FOA and RBC in Myanmar under successive administrations. The state's changing role as enabler of FOA and RBC norms through legal, institutional and

administrative improvements produces differing implementation track records for the two norms.

Casual observers would expect greater difficulties with FOA implementation as it is politically sensitive compared to RBC and one would usually want to be suspicious of the state's ability to relax its restrictions over FOA practice. However, case studies reveal that state restriction was not sufficient reason to explain off-tracking of FOA. In fact, FOA and RBC are accorded a similar level of state commitments through measures improving legal and institutional structures for FOA and RBC. It was found that the transitioning government's elites see that it is in their interest if FOA gets on-track as it would enhance their legitimacy domestically and internationally. And this was reflected in the measures taken to legislate the FOA norm domestically. However, the permissive laws alone were not able to change the practices as several loopholes allow different stakeholders to interpret the FOA norm in diverging ways. The off-tracked FOA reflects the tension between the entrenched exploitative attitudes of employers and the revolutionary spirits of workers and it will take time to correct it.¹⁹⁰ These observations indicate the limited role of the state in norm compliance/implementation. The enabling role of state (i.e. transitioning government) alone does not determine the compliance/implementation process and its track records.

Building on the themes arising from comparative analysis of FOA and RBC in Myanmar, this research proposes a conceptual framework linking the explanatory constructs of agential dynamics with explained construct of implementation track records of norms through ideational structures. Display and discussion of the model will be made in the following section.

7.3.5 Influence of norm contents on agential dynamics

The interest and investments of international actors contribute to differing levels of agential dynamics. Greater interest by international actors to create a level playing ground for their businesses in Myanmar led to greater engagement and investment in promoting RBC through different channels (AID, Governance, Chamber of Commerce, RBC dedicated entities such as MCRB) as compared to FOA, promotion of which is largely undertaken under

¹⁹⁰ Interview with U Maung Myint, MP Pyithu Hluttaw (House of Representatives), retired Minister for Labour from 2012-2013, retired Minister for Industry from 2013-2016 on 16 February 2017

the framework of ILO and some specific programmes such as U.S. support through Solidarity Centre, Labour Law reforms support.

Therefore, this research argues that a norm's content matters for compliance outcomes in three ways.

First, it affects the 'agential dynamics'—specifically, it shapes external actors' interest in enforcing the norm. The contents of the FOA norm allow workers or specific groups in the country to freely organize and participate in collective bargaining with their employers. But beneficiaries of FOA implementation are domestic actors, specifically workers and employers. External actors' interest and involvement in FOA promotion is limited compared to RBC activities. Although ILO undertook the FOA project during 2013 in an effort to define FOA, its reach to broader segments of society was limited. Only a few development actors, such as Solidarity Centre and ITUC, are involved in enforcing FOA through workers' empowerment programmes.

On the other hand, the contents of the RBC norm are broad, encompassing four elements: human rights, labour rights, environmental conservation and anti-corruption. The beneficiaries of RBC compliance are not limited to domestic firms, workers and Myanmar society. International actors have key stakes in promoting RBC as RBC promotion in the host country is analogous to creating a level playing field for their businesses (existing and potential) in the host country, Myanmar. Therefore, external actors have a higher interest in promoting RBC in Myanmar relative to FOA. Limited investment of external actors in FOA promotion as opposed to their involvement in RBC activities in Myanmar is manifested in different dynamics of activities and entities led by international actors, both states and businesses, in addressing each norm.

Second, the content of norms matters for compliance outcomes through their effects on institutional structures. The contents of RBC are diverse and such diversity creates more diverse stakeholders compared to the FOA norm. RBC promotion involves human rights groups, environmentalists, workers' rights advocates, and anti-corruption advocates as well as several CSOs and CBOs acting on various themes involved in RBC. Along with the evolution of multiple stakeholders, multiple institutions such as Myanmar Responsible Business Centre, Business Consultancy Firms, Chamber of Commerce representing international businesses from different countries, are actively working on RBC awareness-raising programmes among

local businesses. These stakeholders are actively introducing different programmes such as Corporate Social Responsibility awards, which also encourage businesses in the country to act on RBC.

Third, the contents of norms matters for its domestic effects. FOA as a rights-based norm requires government to enable and enforce it. Most fundamentally, putting into practice the FOA norm requires two distinct groups, employers and workers groups, to act on FOA. And thus, external actors or facilitating agents need to split their attention and resources to three directions, to support government agencies for strengthening legal and institutional measures, to promoting FOA among employers and workers groups. On the other hand, the RBC norm requires all norm agents' attention to two directions: towards improving legal frameworks and towards businesses as executing agents. For RBC, external and domestic norm agents can aim for a single direction, as businesses are executing agents and thus they can dispense most of their resources to activities revolving around private sector governance focusing on external monitoring activities and to the activities incentivising businesses as executing agents of norms.

And therefore, the findings from this research provide updates to norm 'implementation' research's inconclusive findings on the norm type-practice impact nexus (Orchard and Betts, 2014: 276-277). By carrying out these scholars' recommended tasks to examine the norm content-impact nexus, this study found that the content-impact nexus is stronger than the type-impact nexus.

In sum, the empirical findings from individual cases of norms and cross-case analysis add nuances and further refine the research's proposed conceptual model introduced in Chapter One and discussed in Chapter Three. Elaborating these arguments and fleshing out the model displayed in Chapter One, the following models displayed in Figure 5 and Figure 6 are proposed to take account of the differing track records of FOA and RBC practices reflecting norm socialization and agents' dynamics involved in the processes from state policies to society practices.

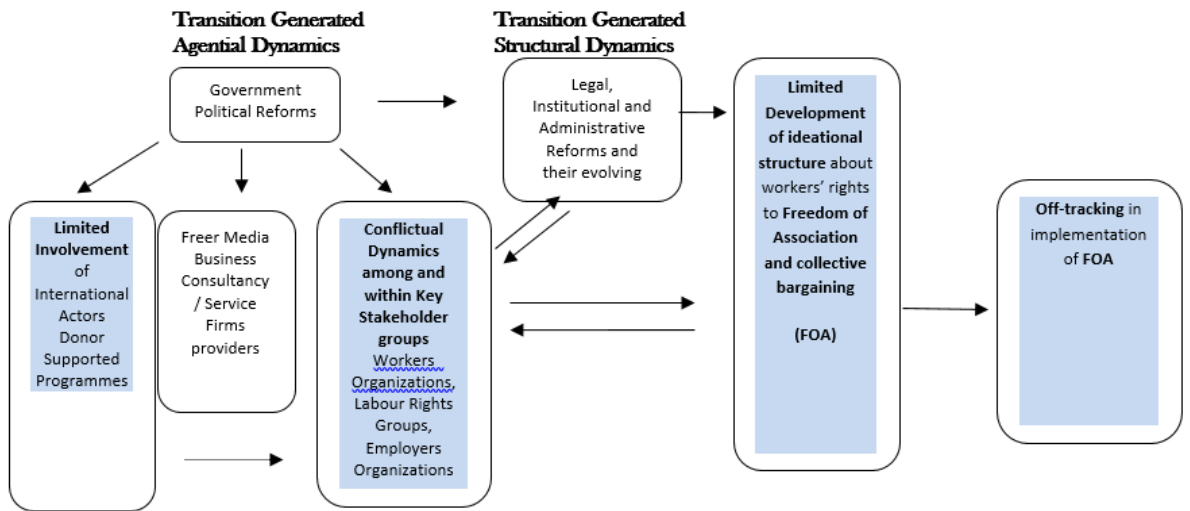
7.4 Refined conceptual model for norm socialization within states

Following discussions on the analytical steps taken in preceding section, this section proposes a theoretical model which addresses the question of norm socialization within states.

The models explain variation in the norm practices of FOA and RBC norms during the first phase of transition to democracy (2011–2016). The model reflects the roles played by socializing agents in the practices of each norm. This model addresses three areas of vagueness in norm literature: ‘socialization from state policies to practices’, ‘compliance impact of norm’s contents’, ‘compliance impact of multiple domestic actors’ dynamics’.

The models take account of practice variations as the functions of differing nature and strength of ‘agential dynamics’; weaker and conflictual dynamics for FOA and stronger and more synergetic dynamics for RBC. Different contents of norms and domestic structures intervene in the implementation processes of FOA and RBC by affecting and being affected by ‘agential dynamics’.

Figure 5 Implementation of FOA norm in transitioning democracy

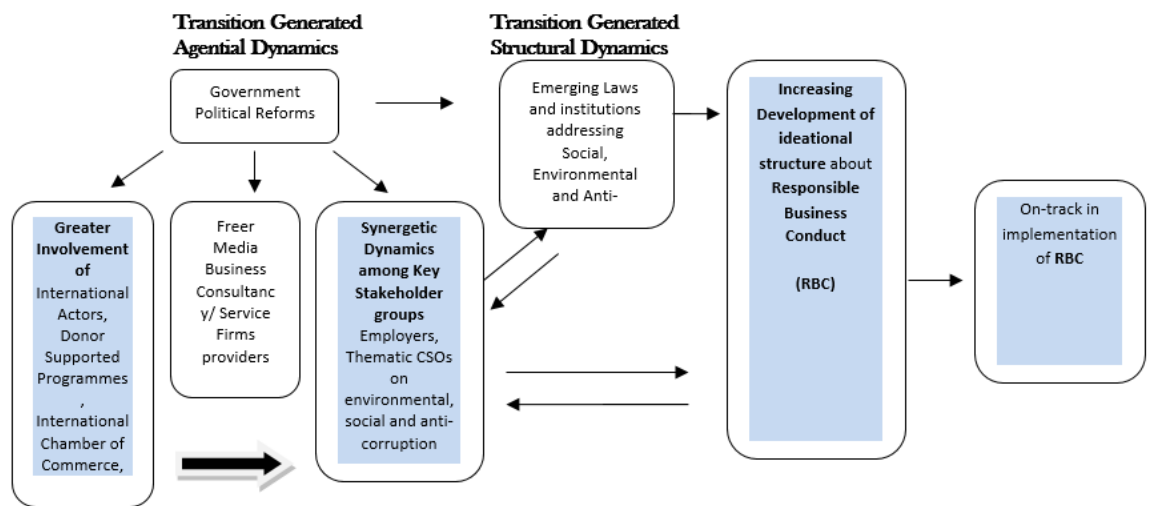


Constraints on ideational structures

1. Historical legacy and continuity of revolutionary spirit of workers
2. Entrenched authoritarian culture of society
3. Limited legal and administrative efforts to define the FOA concept
4. Limitation in enforcement Mechanism from ILO and Government
5. Weak incentive Mechanism

Source: Designed by the researcher

Figure 6 Implementation of RBC norm in transitioning democracy



Enablers for the ideational structures

1. Cultural Traits of philanthropy, religious guidance in generosity
2. Innovative strategies of multiple agents (MCRB, CCIs, Business Consultancy) Multi-actors' involvement in defining RBC
3. Strong Monitoring/ Incentive Mechanisms

Source: Designed by the researcher

The dominant themes in the above figures comprise *agential dynamics*, *legal*, *institutional structures*, *ideational structures*, and *international actors*. Arrows in the model depict the inter-relationship between respective themes. Inferring from these themes, the research posits that implementation of different norms within a state may vary depending on the nature and strength of agential dynamics. Such agential dynamics influence and are influenced by ideational developments about the norms.

Figure 5 predicts the off-tracking record of FOA implementation. Off-tracked FOA can be explained by the discord within pro-norm stakeholders (tension among workers over competition for attention and interests) and their antagonistic relations with norm-evading agents (businesses). Such discord among stakeholders shapes (and is being shaped by) the degree of ideational structure development unfavorable to FOA implementation. Development of an ideational structure for FOA can be constrained by five factors: long-held grievances of workers against employers, the authoritarian legacy of societal culture and exploitative intent of some businesses (mainly those who are running with low profit margin such as Cut-Make-Pack (CMP) garment factories owned by Asian neighbours), weak legal frameworks, weak incentive mechanism and weak external interest and resources in promoting FOA.

Figure 6 expects RBC's on-track implementation records which is explained by the agency of multiple actors (international development actors, societal actors, multi-stake holders) and their innovative mechanisms (disclosure mechanism, experience-based incentive mechanism for compliance and participatory programme and activities of RBC practices) leading to the emergence of a favorable ideational structure for the RBC norm. While recognizing the moderating role of structural factors, i.e. historical, legal and institutional strength or shortcomings, the current research found the significant roles of multiple norm agents to take account of the variation in the implementation records of the FOA and RBC norms during Myanmar's democratic transition.

Analyses on 'agential dynamics' also allow appreciating the structural conditions which are in place or in formation. That is, examination of actors' conception helps gauge the development of ideational structure and investigation of their activities helps estimate the development and effectiveness of structures in terms of policy, legal and institutional. The

ideational structures relating to respective norm will be reflected in the activities of enabling agent (state government), activities of executing agents (businesses and workers), agency of facilitating agents (IOs, INGOs, NGOs and other entities), and agency of norm monitoring agents (media and society).

Detailed empirical accounts of FOA and RBC that are presented in Chapters Five and Six will verify and refine this research's arguments for 'agential dynamics' (the dynamic of multiple actors/key stakeholders) as an explanatory factor for norm practices and socialization within states. Such dynamics are also moderated by domestic structures, norms' contents and external actors' interests and investments.

The proposed conceptual model overcomes the existing socialization studies' conceptual limits in explaining norm practice variation across issue areas at a similar level of policy support. As discussed in detail in Chapter Two, existing studies focusing on unidirectional flow of norm socialization (as in the first strand of socialization studies), or those studies explaining practice variation with sole reliance on domestic factors (as in the second strand of socialization studies), or those explaining practices as the outcomes of contestation or joint translations between domestic and external agents (as in the third strand of socialization studies) could not take full account of the socialization processes from state policies to domestic practices as states' policies and laws are their analytical end points. Existing studies on socialization also find it hard to explain the variation of domestic socialization processes across issue areas as the impact of norms' contents is not well analyzed so far. Overcoming these limitations, the proposed model explains cases of domestic norm practices in the contexts where domestic structure factors are evolving and actors' role are dynamic. Therefore, norm socialization within states in transition is animated in agential dynamics which is fortified and faded by domestic structural factors, norms' contents and interests, and investments of external actors. The model would serve as an alternative to existing accounts that explain domestic socialization processes ending at domestic policy changes. The distinctiveness and value offered by this research's proposed model will be discussed further in the following sections.

7.5 Transferability of the model

The proposed model will work best in contexts where structural factors are emerging and flexible. The cases of norms are more relevant to the model if their practices are more diffused in the society than concentrated in the behavior of certain groups of people. In the context of Myanmar, the model explains the other case of norm and their practices. For instance, gender equality rights.

In the case of gender equality in Myanmar, the country made a certain degree of progress in terms of ‘women’s political participation and representation’ and ‘greater voices and visibility’. The most recent instance of such progresses is the agreement reached at the 21st Century Panglong Union Peace Conference held in July 2018 to encourage 30 percent minimum participation of women in future peace processes. Such progress was made possible by an active and organized agency of women’s groups who are well networked and united in advancing their cause. In this case ‘agential dynamic’ is fortified by a strong network of gender groups which can source considerable technical and financial support from external partners. All development partners in the country have a dedicated component of their funds for gender equality. Financial support from external players is also significant for such networks to function. In a survey taken among 150 women at the 2017 annual conference of Myanmar Women Federation, 95 instances of feedback supported the significance of external support programmes for gender equality movement. The survey questionnaire and feedback are presented in **Annex VI**. This research also found that strong local networks significantly contribute in advancing gender equality. The network of alumni from Gender Development Studies (GDS), Asian Institute of Technology, forms a catalyst in moving this agenda forward (**Annex VII**). In this respect, insights from Kathryn Sikkink’s works which stress the significance of the ‘close link’ among norm agents is relevant here (Sikkink, 2011b: 7-9, 90-95). The GDS alumni network is found to be taking a lead player role in promotion of gender equality norms, fortifying the ‘agential dynamic’ which makes a positive impact on practice outcomes.

7.6 Addressing counter-arguments

My argument for the agential dynamic to explain the varied practices of FOA and RBC in Myanmar anticipates four counter arguments. First, the differing degree of political sensitivity involved in each norm may be considered as an alternative explanatory factor to variation in

practices of FOA and RBC in Myanmar. Second, my measurement of the RBC norm being on-track may be questioned, pointing to the continued existence of exploitative businesses in the country. Third, the global trend of declining unionism, particularly in Europe, may be considered as a factor to explain the off-tracking practices of FOA in Myanmar. Fourth, material interests such as benefits in brand image, supply chains management etc. greatly incentivize business actors to complying with RBC.

With regard to the first counter argument for the impact of norms' political sensitivity on practices, this research does not rule out such possibility as it was the case in Myanmar under military administration. Due to the nature of the FOA norm which can mobilize a significant segment of society, the government prohibited its practices. However, political sensitivity arguments do not work during the first phase of democratic transition (2011–2016) as FOA was legislated and mechanisms required for its implementation were put in place encouraging FOA. The issue with off-tracking FOA is mainly caused by the diverging conception of norms or the underdevelopment of ideational structure around FOA. Interest-based interpretation of FOA and long-held grievances, mistrust and conflicting attitudes of workers and employers are mainly responsible for contestation over FOA. And thus, if and when social agents invest more to foster a long view and converging attitudes towards FOA as a practice which can benefit both contending groups over the long run, more synergetic agential dynamic can be created, leading FOA to be on-track.

With regard to the second point on the question of measurement of RBC practices as on-track, this research recognizes the instances of irresponsible practices of businesses, particularly investors from neighbouring countries. Even those businesses which violate RBC norms were increasingly exposed to public and civil society scrutiny during the first phase of transition as opposed to the conditions under military administration. Therefore, if one considers counterfactuals such as the absence of the external norm advocacy and domestic civil society groups monitoring and revealing businesses and their activities which go against RBC norms, the progress of norm practices are apparent and in positive trajectory. Therefore, this research's use of the on-track indicator for RBC practices neither neglects the existence of persisting violations nor claims full compliance with the RBC norm in the country.

Relating to the third alternative explanation for off-tracking FOA being potentially influenced by declining trends of international unionism, this research agrees that such observations are relevant. Comparative analysis of FOA and RBC reveals that the degree of

external interest to support each norm is different. If the global trend of unionism were on growth, external support flowing to FOA promotion might have been higher than the level of support FOA activities garnered during the first phase of transition (2011-2016). In this regard, this research's findings comports with Thomas Risse and colleagues' points on 'World Time' or 'global level situations' as scoping conditions which can influence the 'general possibility of (norm) change' and 'the speed with which such (norm) changes' can be expected in target states (Risse and Sikkink, 2013: 294).

With regard to the fourth counter argument around material interest as incentives for norm compliance, this research recognizes the importance of material and reputational incentives in norm implementation. In fact, material structure, as identified by renowned scholars such as Alexander Betts and Phil Orchard, closely interact with norm agents and agential dynamics through shaping ideational structure in norm recipient society.

7.7 Limitations of the study and future research

In addressing the question of how international norms are implemented in varying processes in a transitioning state, different approaches may produce differing knowledge depending on the focus of analysis. Although this study's method of single country case study reveals in-depth knowledge of mechanisms influencing practices of the respective norms, cross-state comparison in the future may reveal several other context-related factors which can further refine the findings of this research.

One limitation of this research's proposed model relates to 'theoretical validity'. According to Joseph A. Maxwell, 'theoretical validity' is validity of the concepts applied to the research phenomena and postulated relationship among the concepts and 'theoretical validity' depends on 'whether there is consensus' within the community concerned with the research about the terms used to characterize the phenomenon' (Huberman and Miles, 2002: 51-52). 'Consensus' on the terms this research employs in analysis such as 'on-track', 'off-track' or 'back track' of the RBC and FOA norms and 'agential dynamics' has yet to be explored and acquired. However, the research's aims are realized if the arguments and conceptual tool proposed by this study serves to open debates on the processes of norm socialization at domestic sites of norm target states, and on the drivers and impacts of such processes.

This research should also recognize another limitation when it comes to our assumption about the positive relationship between state policy impetuses and implementation outcomes. There are obvious areas where such outcomes are shaped fundamentally, by interest conflicts among different state agents, including those with direct responsibility for norm implementation.

During the course of this research, it was found that some norms are superior to others in addressing the issues of concern such as industrial issues. For example, the RBC addresses the communication issues and grievance settlement issues with better mechanisms than FOA can do. For future studies, it would be interesting to examine how political and functional interests are intertwined in norms' practices and why some norms persist despite the emergence of superior norms. Given the ongoing international efforts to draft an 'international legally binding instrument on transnational corporation and other business enterprises with respect to human rights' with the mandate of UN Human Rights Council Resolutions 26/9 dated 2014, several aspects are of interest for future studies. It would be of interest to examine the way domestic agent dynamics in states feeds into international socialization processes at intergovernmental negotiations in drafting legally binding instruments. Questions of how the interests of states and non-state actors are negotiated, how inter-institutional engagements by ILO and HRC can be understood in such a process and how such efforts for new binding instruments impact member states in financial and functional terms would be of interest for norm scholars who are seeking to undertake future research on these themes.

Bibliography

1989. The State-owned Economic Enterprises Law. In: COUNCIL, T. S. L. A. O. R. (ed.). 'DISCUSSIONS' 1987. Discussions at the Second Meeting of the Central Executive Committee at the Third Conference of the Workers' Council. *Workers' Journal*, 3/87.
- ABBOTT, K. W. & SNIDAL, D. 1998. Why states act through formal international organizations. *Journal of conflict resolution*, 42, 3-32.
- ACHARYA, A. 2004. How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism. *International Organization*, 58, 239-275.
- ACHARYA, A. 2009. *Whose Ideas Matter?: Agency and Power in Asian Regionalism*, Ithaca, Cornell University Press.
- ACHARYA, A. 2011. Norm Subsidiarity and Regional Orders: Sovereignty, Regionalism, and Rule-Making in the Third World1. *International Studies Quarterly*, 55, 95-123.
- ACHARYA, A. 2014. Rethinking Power, Institutions and Ideas in World Politics : Whose IR? Florence: Taylor and Francis.
- ACHARYA, A. & JOHNSTON, A. I. 2007. Comparing regional institutions: an introduction. *Crafting cooperation: Regional international institutions in comparative perspective*, 1-31.
- ACTION LABOUR RIGHTS. 2016. *Under Pressure: A Study of Labour Conditions in Garment Factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies* [Online]. Available: <https://business-humanrights.org/en/under-pressure-a-report-on-labour-conditions-in-korean-factories-in-myanmar-by-action-labor-rights> [Accessed].
- ADB. 2017. *ADB's Works in Myanmar* [Online]. Available: <https://www.adb.org/countries/myanmar/overview> [Accessed 13 November 2017].
- ADLER, E. & HAAS, P. M. 1992. Conclusion: epistemic communities, world order, and the creation of a reflective research program. *International organization*, 46, 367-390.
- ALDERSON, K. 2001. Making sense of state socialization. *Review of international studies*, 27, 415-433.
- ALIYU, A. A., BELLO, M. U., KASIM, R. & MARTIN, D. 2014. Positivist and non-positivist paradigm in social science research: Conflicting paradigms or perfect partners. *J. Mgmt. & Sustainability*, 4, 79.
- ALLDÉN, S. 2009. How do international norms travel?: Women's political rights in Cambodia and Timor-Leste.
- AMAR, L. D. 1991. *Mandalay Thu Mandalay Thar Myar*(Mandalarians). Ludu Publishing House.
- AMI. 2017. Merger of Chambers of Commerce to Support Australian Business in Myanmar.
- ANDREASEN, K. & PONSFORD, V. 2016. EITI Progress Report 2016.
- ARNOLD, D. & CAMPBELL, S. 2017. Labour Regime Transformation in Myanmar: Constitutive Processes of Contestation. *Development and Change*, 48, 801-824.
- AUNG, S. L. 2017. Notes on a factory uprising in Yangon.
- BADESCU, C. G. & WEISS, T. G. 2010. Misrepresenting R2P and advancing norms: an alternative spiral? *International Studies Perspectives*, 11, 354-374.
- BEARCE, D. H. & BONDANELLA, S. 2007. Intergovernmental organizations, socialization, and member-state interest convergence. *International Organization*, 61, 703-733.
- BERNHARDT, T., DE, S. K. & THIDA, M. W. 2017. Myanmar labour issues from the perspective of enterprises: Findings from a survey of food processing and garment manufacturing enterprises. ILO, CESD, GIZ and IDRC,.
- BHATTACHERJEE, A. 2012. Social science research: Principles, methods, and practices.

- BILLEN, D. 2018. Myanmar Business Outlook Briefing.
- BISSINGER, J. 2015. Economic institutions and the development of Burma/Myanmar's private sector.
- BRAKE, B. & KATZENSTEIN, P. J. 2013. Lost in translation? Nonstate actors and the transnational movement of procedural law. *International Organization*, 67, 725-757.
- BRANDON, J. J. 1997. *Burma/Myanmar towards the twenty-first century: dynamic of continuity and change*, Open Society Institute Thai Studies Section.
- BROWN, I. 2009. British firms and the end of empire in Burma. *Asian Affairs*, 40, 15-33.
- BROWN, I. 2011. Tracing Burma's economic failure to its colonial inheritance. *Business History Review*, 85, 725-747.
- BROWN, I. 2013. *Burma's Economy in the Twentieth Century*, Cambridge University Press.
- BRYMAN, A. 2012. *Social Research Methods*, OUP Oxford.
- BÜNTE, M. 2016. Myanmar's protracted transition: arenas, actors, and outcomes. *Asian Survey*, 56, 369-391.
- BURMA, L. U. T. R. C. O. T. U. O. 1964. Law No. 6. 1964 Law Defining the Fundamental Rights and Responsibilities of the People's Workers available at <http://www.ibiblio.org/obl/show.php?cat=3575&lo=d&sl=0>.
- BUZZI, C. 2001. Burma—Twelve Years after 1988. *Unpublished Thesis, Oslo University, Norway*.
- CALLAHAN, M. 2012. The generals loosen their grip. *Journal of Democracy*, 23, 120-131.
- CASTLEBERRY, A. & NOLEN, A. 2018. Thematic analysis of qualitative research data: Is it as easy as it sounds? *Currents in Pharmacy Teaching and Learning*.
- CHANDLER, D. P. & STEINBERG, D. J. 1987. *In search of Southeast Asia: A modern history*, University of Hawaii Press.
- CHARNEY, M. W. 2009. *A history of modern Burma*, Cambridge University Press.
- CHAYES, A. & CHAYES, A. H. 1991. Compliance Without Enforcement: State Behavior Under Regulatory Treaties. *Negotiation Journal*, 7, 311-330.
- CHAYES, A. & CHAYES, A. H. 1993. On compliance. *International Organization*, 47, 175-205.
- CHECKEL, J. T. 1997. International Norms and Domestic Politics: Bridging the Rationalist—Constructivist Divide. *European journal of international relations*, 3, 473-495.
- CHECKEL, J. T. 1998. The constructive turn in international relations theory. *World politics*, 50, 324-348.
- CHECKEL, J. T. 1999a. Norms, institutions, and national identity in contemporary Europe. *International Studies Quarterly*, 43, 84-114.
- CHECKEL, J. T. 1999b. Social construction and integration. *Journal of European Public Policy*, 6, 545-560.
- CHECKEL, J. T. 2001. Why comply? Social learning and European identity change. *International organization*, 55, 553-588.
- CHECKEL, J. T. 2005a. International Institutions and Socialization in Europe: Introduction and Framework. *International Organization*, 59, 801-826.
- CHECKEL, J. T. 2005b. It's the process stupid! Process tracing in the study of European and international politics. *Arena*.
- CHECKEL, J. T. 2017. *Socialization and violence: Introduction and framework*. SAGE Publications Sage UK: London, England.
- CHRISTIE, K. & HANLON, R. J. 2014. Sustaining Human Rights and Responsibility: The United Nations Global Compact and Myanmar. *Athens Journal of Social Science*, 1, 9-20.
- CIN, B. B. L. 2010. *Nagar Daw Oo ei Bawa Sar Myat Hnar Myar (life of Nagar Daw Oo)*.

- COCKETT, R. 2013. A Burmese spring. *The Economist*, 25.
- CORNISH, G. & VIVODA, V. 2016. Myanmar's extractive industries: An institutional and regulatory assessment. *The Extractive Industries and Society*, 3, 1075-1083.
- CORTELL, A. P. & DAVIS JR, J. W. 1996. How do international institutions matter? The domestic impact of international rules and norms. *International Studies Quarterly*, 451-478.
- CORTELL, A. P. & DAVIS JR, J. W. 2000. Understanding the Domestic Impact of International Norms: A Research Agenda. *International Studies Review*, 2, 65-87.
- COUNCIL OF THE EUROPEAN UNION 2013. Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma.
- CRESWELL, J. W. & MILLER, D. L. 2000. Determining validity in qualitative inquiry. *Theory into practice*, 39, 124-130.
- DAI, X. 2005. Why comply? The domestic constituency mechanism. *International Organization*, 59, 363-398.
- DAI, X. 2014. The conditional effects of international human rights institutions. *Human Rights Quarterly*, 36, 569-589.
- DAI, X. & MATTIACCI, E. 2011. The Compliance Gap and the Efficacy of International Human Rights Institutions.
- DANCY, G. & SIKKINK, K. 2011. Ratification and human rights prosecutions: toward a transnational theory of treaty compliance. *NYUJ Int'l L. & Pol.*, 44, 751.
- DAVIES, M. 2009. Regional communities, membership and socialisation: a comparative analysis.
- DAVIES, M. 2014. *Realising Rights: How Regional Organisations Socialise Human Rights*, Hoboken, Routledge Ltd.
- DENZIN, N. K. & LINCOLN, Y. S. 2011. *The SAGE handbook of qualitative research*, Sage.
- DEPARTMENT FOR INTERNATIONAL DEVELOPMENT 2012. Summary of the DFID's work in Burma(2011-2015).
- DEPARTMENT FOR INTERNATIONAL DEVELOPMENT 2014. Operational Plan 2011-2015 DFID BURMA.
- DORNING, K. 2006. Creating an Environment for Participation: International NGOs and the Growth of Civil Society in Burma/Myanmar. *Myanmar's Long Road to National Reconciliation*, 188-217.
- DOWNS, G. W., ROCKE, D. M. & BARSOOM, P. N. 1996. Is the good news about compliance good news about cooperation? *International Organization*, 50, 379-406.
- EDIGER, L. & FLETCHER, C. 2017. Labor Disputes in Myanmar: From the Workplace to the Arbitration Council.
- FAEHNLE, D. 2014. Burma in Transition: On the Path to Democracy. Joint Military Operations Department, Naval War College Newport United States.
- FARRELLY, N. 2013. Discipline without democracy: Military dominance in post-colonial Burma. *Australian Journal of International Affairs*, 67, 312-326.
- FENICHEL, A. & KHAN, A. 1981. The Burmese way to 'socialism'. *World Development*, 9, 813-824.
- FINNEMORE, M. 1993. International organizations as teachers of norms: the United Nations Educational, Scientific, and Cultural Organization and science policy. *International Organization*, 47, 565-597.
- FINNEMORE, M. 1994. Negotiating power. *Agenda*, 10, 16-21.
- FINNEMORE, M. 1996a. National interests in international society.
- FINNEMORE, M. 1996b. Norms, culture, and world politics: insights from sociology's institutionalism. *International organization*, 50, 325-347.

- FINNEMORE, M. & SIKKINK, K. 1998. International norm dynamics and political change. *International organization*, 52, p. 891.
- FINNEMORE, M. & SIKKINK, K. 2001. Taking stock: the constructivist research program in international relations and comparative politics. *Annual review of political science*, 4, 391-416.
- GEORGE, A. L. & BENNETT, A. 2005. *Case studies and theory development in the social sciences*, mit Press.
- GERRING, J. 2004. What is a case study and what is it good for? *American political science review*, 98, 341-354.
- GIDDENS, A. 1979. Agency, structure. *Central problems in social theory*. Springer.
- GIDDENS, A. 1984. *The constitution of society*. Cambridge: Polity Press.
- GILLIAN, C. & VLADO, V. 2016. Myanmar's extractive industries: An institutional and regulatory assessment. *The Extractive Industries and Society*, 3, 1075-1083.
- GILPIN, R. G. 1988. Implications of the changing trade regime for US-Japanese relations. *The Political Economy of Japan*, 2, 138-170.
- GOERTZ, G. & DIEHL, P. F. 1992. Toward a Theory of International Norms: Some Conceptual and Measurement Issues. *The Journal of Conflict Resolution*, 36, 634-664.
- GOODMAN, R. & JINKS, D. 2008. Incomplete internalization and compliance with human rights law. *European Journal of International Law*, 19, 725-748.
- GOODMAN, R. & JINKS, D. 2013. *Socializing states: Promoting human rights through international law*, Oxford University Press.
- GOVERNMENT OF THE UNION OF MYANMAR 2012. Framework for Economic and Social Reforms.
- GOVERNMENT OF THE UNION OF MYANMAR 2015. Record of Union Government's Reforms and Procedures(2011-2015).
- GUROWITZ, A. 1999. Mobilizing international norms: domestic actors, immigrants, and the Japanese state. *World Politics*, 51, 413-445.
- GUTTER, P. & SEN, B. K. 2001. *Burma's State Protection Law: An analysis of the broadest law in the world*, Burma Lawyers' Council.
- HAACKER, J. 2016. *Myanmars foreign policy under President U Thein Sein: non-aligned and diversified*, ISEAS Publishing.
- HAFNER-BURTON, E. 2013. *Making human rights a reality*, Princeton University Press.
- HALL, D. G. 1950. Burma. London: Hutchinson University Library. 41981. A History of Southeast Asia. London: Macmillan Asian Histories Series.
- HARRIS, M. 2013. *Burma: Freedom of Expression in Transition* [Online]. Index on Censorship. Available: <http://creativecommons.org/licenses/by-nc-sa/3.0/> [Accessed].
- HEINZE, T. 2011. Mechanism-based thinking on policy diffusion. A review of current approaches in political science. Free University Berlin.
- HERRO, A. 2015. Norm Entrepreneurs Advocating the Responsibility to Protect, and Peacekeeping Reform Proposals. In: CURRAN, D., FRASER, T., ROEDER, L. & ZUBER, R. (eds.) *Perspectives on Peacekeeping and Atrocity Prevention*. Springer International Publishing.
- HLA, L. U. 1950. *The din sar myar ka pyaw thaw ah kyaung myar (Stories told by newspapers)*, Ludu Publishing House.
- HLA, T. 1989. Money-lending and contractual'thet-kayits': A socio-economic pattern of the later Konbaung period, 1819-1885.
- HLAING, K. Y. 2002. The politics of government-business relations in Myanmar 1. *Asian Journal of Political Science*, 10, 77-104.

- HLAING, K. Y. 2003. Reconsidering the failure of the Burma Socialist Programme Party government to eradicate internal economic impediments. *South East Asia Research*, 11, 5-58.
- HLAING, K. Y. 2012. Understanding recent political changes in Myanmar. *Contemporary Southeast Asia: A Journal of International and Strategic Affairs*, 34, 197-216.
- HOLLIDAY, I. 2005. Doing business with rights violating regimes corporate social responsibility and Myanmar's military junta. *Journal of Business Ethics*, 61, 329-342.
- HOUSE, F. 2018. Freedom in the World 2018 : Democracy in Crisis.
- HOWSE, R. & TEITEL, R. 2010. Beyond compliance: Rethinking why international law really matters. *Global Policy*, 1, 127-136.
- HUBERMAN, M. & MILES, M. B. 2002. *The qualitative researcher's companion*, Sage.
- HURRELL, A. 2002. Norms and ethics in international relations. *Handbook of International Relations*, 137-154.
- IFC, I. F. C. 2007. IFC Exclusion List.
- IFC, I. F. C. 2012a. International Finance Corporation's Policy on Environmental and Social Sustainability.
- IFC, I. F. C. 2012b. Performance Standards on Environmental and Social Sustainability.
- IKENBERRY, G. J. 1998. Constitutional politics in international relations. *European Journal of International Relations*, 4, 147-177.
- IKENBERRY, G. J. & KUPCHAN, C. A. 1990. Socialization and hegemonic power. *International organization*, 44, 283-315.
- ILO 1953. Report to the Government of the Union of Burma on Industrial Relations.
- ILO 1962. The Trade Union Situation in Burma: Report of a Mission from the International Labour Office.
- ILO 1984. National Tripartite Seminar on improvement of working conditions and environment held in Rangoon, 2-5 November 1982
- ILO 1989. Observation (CEACR) adopted in 1989 published 76th ILC Session in 1989.
- ILO Geneva 1954. Report to the Government of the Union of Burma on Labour Administration and Labour Inspection.
- IRWIN, E. 2015. Myanmar EITI Implementation: Progress and Implications for Companies. Yangon: Myanmar Extractive Industries Transparency Initiative.
- JACOB, C. 2014. Practising civilian protection: Human security in Myanmar and Cambodia. *Security Dialogue*, 45, 391-408.
- JAGAN, L. 2017. Myanmar Embraces CSR. *Bangkok Post*.
- JAKOBI, A. P. 2012. International organisations and policy diffusion: the global norm of lifelong learning. *Journal of International Relations and Development*, 15, 31-64.
- JAPAN Japan's Projected Economic Cooperation to the Republic of the Union of Myanmar.
- JETSCHKE, A. & RÜLAND, J. 2009. Decoupling rhetoric and practice: the cultural limits of ASEAN cooperation. *The Pacific Review*, 22, 179-203.
- JOHNSTON, A. I. 2001. Treating international institutions as social environments. *International Studies Quarterly*, 45, 487-515.
- JOHNSTON, A. I. 2008. Social states. *China in International Institutions, 1980-2000*.
- JONAS, M. & EDDIE, R. 2014. May 21, 2014. Available from: <https://eiti.org/blog/governance-of-last-resort-when-to-consider-multistakeholder-approach>.
- KECK, M. & SIKKINK, K. 1998. Activist beyond borders. *Advocacy networks in international politics*.

- KELLEY, J. 2004. International actors on the domestic scene: Membership conditionality and socialization by international institutions. *International organization*, 58, 425-457.
- KENT, A. E. 2007. *Beyond compliance: China, international organizations, and global security*, Stanford University Press.
- KEOHANE, R. O. 1997. International relations and international law: two optics. *Harv. Int'l. LJ*, 38, 487.
- KLOTZ, A. 1995. Norms reconstituting interests: global racial equality and US sanctions against South Africa. *International Organization*, 49, 451-478.
- KOH, H. H. 1996. Transnational Legal Process. *Neb. L. Rev.*, 75, 181.
- KOH, H. H. 1997. Why do nations obey international law? : JSTOR.
- KOH, H. H., CHAYES, A., CHAYES, A. H. & FRANCK, T. M. 1997. Why do nations obey international law? : JSTOR.
- KRASNER, S. D. 1995. Power politics, institutions, transnational relations. *Cambridge Studies in International Relations*, 42, 257-257.
- KRATOCHWIL, F. & RUGGIE, J. G. 1986. International Organization: A State of the Art on an Art of the State. *International organization*, 40, 753-775.
- KRONGKAEW, M. 1995. *PERILS AND PROSPECT OF MYANMAR'S ECONOMIC REFORMS*.
- KROOK, M. L. & TRUE, J. 2012. Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality. *European Journal of International Relations*, 18, 103-127.
- KYI, A. S. S. 1993. *Towards a true refuge*, The Refugee Studies Programme, Queen Elizabeth House.
- KYI, K. M. 1977. Myanmar Socioeconomic transformation Process.
- KYI, K. M. 1994. Myanmar: Will forever flow the Ayeyarwady? *Southeast Asian Affairs*, 209-230.
- LEGRO, J. W. 1997. Which norms matter? Revisiting the "failure" of internationalism. *International Organization*, 51, 31-63.
- LEVITT, P. & MERRY, S. 2009. Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States. *Global Networks*, 9, 441-461.
- LINTNER, B. 1990. *Outrage: Burma's struggle for democracy*, White lotus London.
- LLP, M. S. 2015. EITI REPORT FOR THE PERIOD APRIL 2013- MARCH 2014
- OIL, GAS AND MINING SECTORS. Yangon: Myanmar Extractive Industries Transparency Initiative.
- LOCKWOOD, A. N. 1957. Burma Road to Pyidawtha, the. *Int'l Conciliation*, 32, 383.
- LONE, W. 2013. Committee rejects Military Intelligence prisoner proposal. *Myanmar Times*, 22 December 2013.
- LORCH, J. 2007. Myanmar's Civil Society-a Patch for the National Education System? The Emergence of Civil Society in Areas of State Weakness. *Südostasien aktuell: journal of current Southeast Asian affairs*, 26, 54-88.
- LORCH, J. 2008. The (re)-emergence of civil society in areas of state weakness: the case of education in Burma/Myanmar. *Dictatorship, disorder and decline in Myanmar*, 151-176.
- LWIN, E. E. T. 2013. Prisoners Freed, but 60 remain behind bars. *Myanmar Times*, 18 November 2013.
- LWIN, K. S. 2014. Understanding Recent Labour Protests in Myanmar. *Debating Democratization in Myanmar*, 233, 137.
- LWIN, T. 1968. History of Myanmar Naing Ngan Labour Movements.
- LYNN, M. H. & LYNN, U. M. H. 1961. *Labour and labour movement in Burma*, Department of Economics, University of Rangoon.

- MARCH, J. G. & OLSEN, J. P. 2004. *The logic of appropriateness*, Arena.
- MARTIN, E. W. 1975. The Socialist Republic of the Union of Burma: How Much Change? *Asian Survey*, 15, 129-135.
- MATA. 2017. *Myanmar Alliance for Transparency and Accountability* [Online]. Myanmar Alliance for Transparency and Accountability (MATA). Available: <http://www.mata-nrg.org/> [Accessed 1.12.2017 2017].
- MAUNG, M. 1964. Socialism and economic development of Burma. *Asian Survey*, 1182-1190.
- MAUNG, M. 1989. The Burma road to poverty: A socio-political analysis. *Fletcher F. World Aff.*, 13, 271.
- MAUNG, M. 1996. The Burmese approach to development: Economic growth without democratization. *Journal of Asian economics*, 7, 97-129.
- MAUNG, M. 1998. *The Burma Road to Capitalism: Economic Growth versus Democracy*, Praeger Publishers.
- MAYS, N. & POPE, C. 1995. Qualitative research: observational methods in health care settings. *Bmj*, 311, 182-184.
- MCCARTHY, S. 2000. Ten years of chaos in Burma: Foreign investment and economic liberalization under the SLORC-SPDC, 1988 to 1998. *Pacific Affairs*, 233-262.
- MCGREGOR, L. 2015. Myanmar workers strikes at five garment factories.
- MCRB 2014. Sector Wide Impact Assessment Myanmar Oil & Gas Sector Myanmar Centre for Responsible Business.
- MCRB 2016. A survey of the state of disclosure of environmental impact assessments in Myanmar's Oil and Gas sector. Myanmar Centre for Responsible Business.
- MERRIAM, S. B. 2002. *Qualitative research in practice: Examples for discussion and analysis*, Jossey-Bass Inc Pub.
- MERRY, S. E. 2006. Transnational human rights and local activism: Mapping the middle. *American anthropologist*, 108, 38-51.
- MEYER, J. W., BOLI, J., THOMAS, G. M. & RAMIREZ, F. O. 1997. World society and the nation-state. *American Journal of sociology*, 103, 144-181.
- MILES, M. B., HUBERMAN, A. M. & SALDANA, J. 2013. *Qualitative data analysis*, Sage.
- MILIO, S. 2014. *From policy to implementation in the European Union: the challenge of a multi-level governance system*, IB Tauris.
- MNHRC 2017. Three Year Report(2011-2014).
- MOORE, W. H. & WELCH, R. M. 2015. Why Do Governments Abuse Human Rights? *Emerging Trends in the Social and Behavioral Sciences: An Interdisciplinary, Searchable, and Linkable Resource*.
- MORGAN, A. J. 2014. Remarkable Occurrence: Progress for Civil Society in an Open Myanmar, *A. Pac. Rim L. & Pol'y J.*, 23, 495.
- MYANMAR, C. 2016. *The Art of Networking : The Study of Civil Society Networks in Myanmar*. Yangon: Christianaid Myanmar.
- MYANMAR, E. C. O. C. I. 2017. White Book 2017 Trade & Investment Policy Recommendations.
- MYINT, U. 2000. Corruption: Causes, consequences and cures. *Asia pacific development journal*, 7, 33-58.
- MYO AUNG (MYANMAR) 2015. Research Report of Cronies in BURMA (MYANMAR).
- NOUTCHEVA, G. 2009. Fake, partial and imposed compliance: the limits of the EU's normative power in the Western Balkans. *Journal of European Public Policy*, 16, 1065-1084.

- O'FAIRCHEALLAIGH, C. 2014. IR theory and domestic adoption of international norms. *International Politics*, 51, 155-176.
- O'NEILL, K., BALSIGER, J. & VANDEVEER, S. D. 2004. Actors, norms, and impact: recent international cooperation theory and the influence of the agent-structure debate. *Annu. Rev. Polit. Sci.*, 7, 149-175.
- OECD 2014. OECD Investment Policy Review: Myanmar 2014.
- ONWUEGBUZIE, A. J. & LEECH, N. L. 2007. Validity and Qualitative Research: An Oxymoron? *Quality & Quantity*, 41, 233-249.
- OO, S. T. N. 2012. *Popular education, cross-border civil society and possibilities for democracy in Burma*.
- ORCHARD, P. 2014. Implementing a Global Internally Displaced Persons Protection Regime. *Implementation and World Politics: How International Norms Change Practice*, 105-24.
- ORCHARD, P. & BETTS, A. 2014. *Implementation and World Politics: How International Norms Change Practice*, Oxford, Oxford University Press.
- PARK, J. 2014. Labour Laws in Myanmar. *Asia monitor resource center*.
- PEDERSEN, M. B. 2011. The politics of Burma's "democratic" transition: prospects for change and options for democrats. *Critical Asian Studies*, 43, 49-68.
- PETRIE, C. & SOUTH, A. 2014. Development of civil society in Myanmar. 2014). *Burma/Myanmar—where now*, 87-94.
- PORTAL, A. T. 2017. *Commitment by Donor(2011-2015)* [Online]. AID Transparency Portal. Available: <https://mohinga.info/en/dashboard/donor/> [Accessed 2017].
- PRESIDENT U THEIN SEIN 2011. address at the first regular session of Pyidaungsu Hluttaw. *The New Light of Myanmar*. 31 March 2011 ed.
- PROGRAM, U. S. I. C. L. 2000. 2000 Report on Labor Practices in Burma. United States Bureau of International Labor Affairs,.
- RASKIN, J. D. 2002. Constructivism in psychology: Personal construct psychology, radical constructivism, and social constructionism. *American communication journal*, 5, 1-25.
- RIEFFEL, A. 2010. *The Economy of Burma/Myanmar on the Eve of the 2010 Elections*, United States Institute of Peace.
- RISSE-KAPPEN, T. 1994. Ideas do not float freely: transnational coalitions, domestic structures, and the end of the cold war. *International Organization*, 48, 185-214.
- RISSE-KAPPEN, T. 1995. *Bringing transnational relations back in: Non-state actors, domestic structures and international institutions*, Cambridge University Press.
- RISSE-KAPPEN, T., ROPP, S. C. & SIKKINK, K. 1999. *The power of human rights: international norms and domestic change*, Cambridge, Cambridge University Press.
- RISSE, T. 2016. *Domestic Politics and Norm Diffusion in International Relations: Ideas Do Not Float Freely*, Taylor & Francis.
- RISSE, T., ROPP, S. C. & SIKKINK, K. 2013. *The persistent power of human rights: From commitment to compliance*, Cambridge University Press.
- RISSE, T. & SIKKINK, K. 1999a. The power of principles: the socialization of human rights norms into domestic practices. *The Power of Principles: International Human Rights Norms and Domestic Change*, edited by Thomas Risse, Stephen Ropp and Kathryn Sikkink.
- RISSE, T. & SIKKINK, K. 1999b. The socialization of international human rights norms into domestic practices: introduction. *Cambridge Studies in International Relations*, 66, 1-38.
- RISSE, T. & SIKKINK, K. 2013. *The persistent power of human rights: from commitment to compliance*, Cambridge University Press.

- RITCHIE, J., LEWIS, J., NICHOLLS, C. M. & ORMSTON, R. 2013. *Qualitative research practice: A guide for social science students and researchers*, sage.
- ROASA, D. 2017. Reckless Development: The IFC's Dodgy Deals in Southeast Asia.
- ROGAN, D. 2017. The EITI Standard 2016. 24.5.2017 ed. Oslo, Norway: The EITI International Secretariat.
- ROUSSEAU, E. 2018. Power, Mechanisms, and Denunciations: Understanding Compliance with Human Rights in International Relations. *Political Studies Review*, 1478929918768979.
- SAHA, S. R. 2011. Working Through Ambiguity: International NGOs in Myanmar. Humanitarian & Development NGOs domain of practice of the Hauser Center for Nonprofit Organizations at Harvard University.
- SANGERMANO, V. 1833. *A description of the Burmese empire*, Oriental Translation Fund of Great Britain and Ireland.
- SAUERESSIG-SCHREUDER, Y. 1986. The Impact of British Colonial Rule on the Urban Hierarchy of Burma. *Review (Fernand Braudel Center)*, 10, 245-277.
- SCHERMERHORN, J. R. 1999. Terms of global business engagement in ethically challenging environments: Applications to Burma. *Business Ethics Quarterly*, 9, 485-505.
- SCHIMMELFENNIG, F. 2000. International socialization in the new Europe: rational action in an institutional environment. *European Journal of International Relations*, 6, 109-139.
- SCHIMMELFENNIG, F. 2003. *The EU, NATO and the integration of Europe: Rules and rhetoric*, Cambridge University Press.
- SCHIMMELFENNIG, F., ENGERT, S. & KNOBEL, H. 2006. *International socialization in Europe: European organizations, political conditionality and democratic change*, Springer.
- SEIN, P. U. T. 2013. Myanmar's Complex Transformation: Prospects and Challenges. *lecture, Chatham House, London*.
- SHEIN, U. C. 2015. Analysis on labour disputes and labour strikes in Myanmar. unpublished.
- SHELTON, D. 2003. *Commitment and compliance: The role of non-binding norms in the international legal system*, Oxford University Press.
- SIKKINK, K. 1991. *Ideas and institutions: developmentalism in Brazil and Argentina, Cornell studies in political economy*, Ithaca: Cornell University Press.
- SIKKINK, K. Beyond the justice cascade: how agentic constructivism could help explain change in international politics. Revised paper from a Keynote Address presented at the Millennium Annual Conference, Princeton, NJ, 2011a. 516-23.
- SIKKINK, K. 2011b. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics (The Norton Series in World Politics)*, WW Norton & Company.
- SIKKINK, K. 2013. The United States and torture: Does the spiral model work? *CAMBRIDGE STUDIES IN INTERNATIONAL RELATIONS*, 126, 145-163.
- SIKKINK, K. & SMITH, J. 2002. *Infrastructures for change: Transnational organizations, 1953-93*, University of Minnesota Press.
- SILVERSTEIN, J. 1964. First steps on the Burmese way to socialism. *Asian Survey*, 716-722.
- SILVERSTEIN, J. 1966. Burma: Ne Win's revolution considered. *Asian Survey*, 95-102.
- SILVERSTEIN, J. 1986. Burma in 1985: A Nation "On Hold". *Southeast Asian Affairs*, 55-67.
- SILVERSTEIN, J. 1995. Change in Burma? *Current History*, 94, 440.
- SIMMONS, B. A. 2009. *Mobilizing for human rights: international law in domestic politics*, Cambridge University Press.
- SIMMONS, B. A. 2013. From ratification to compliance: quantitative evidence on the spiral model. *The persistent power of human rights: From commitment to compliance*.

- STAHL, B. C. 2007. Positivism or non-positivism—tertium non datur. *Ontologies*. Springer.
- STANTON, T. H. 2014. Law and Economic Development: The Cautionary Tale of Colonial Burma. *Asian Journal of Law and Society*, 1, 165-181.
- STATION, B. B. 1950. *Burma Speaks : A collection of Broadcast Talks from the Burma Broadcasting Station*.
- STEINBERG, D. 2013. *Burma/Myanmar: What Everyone Needs to Know?*, Oxford University Press.
- STEINBERG, D. I. 1982a. *Burma, a socialist nation of Southeast Asia*, Westview Pr.
- STEINBERG, D. I. 1982b. Economic growth with equity? The Burmese experience. *Contemporary Southeast Asia*, 4, 124-152.
- STEINBERG, D. I. 1993. Liberalization in Myanmar: how real are the changes? *Contemporary Southeast Asia*, 161-178.
- STEINBERG, D. I. 1997. *A void in Myanmar: civil society in Burma*, BCN.
- STIFEL, L. D. 1972. Burmese socialism: economic problems of the first decade. *Pacific Affairs*, 45, 60-74.
- STILES, K. W. & SANDHOLTZ, W. 2009. Cycles of International Norm Change. *Wayne Sandholtz and Kendall Stiles, International Norms and Cycles of Change*.
- TALLBERG, J. 2002. Paths to compliance: Enforcement, management, and the European Union. *International organization*, 56, 609-643.
- TAYLOR, R. H. 1990. Burma's ambiguous breakthrough. *Journal of Democracy*, 1, 62-72.
- TAYLOR, R. H. 2013. MYANMAR'S 'PIVOT' TOWARD THE SHIBBOLETH OF 'DEMOCRACY'. *Asian Affairs*, 44, 392-400.
- TELENOR, M. 2017. Telenor Myanmar Sustainable Business Briefing.
- THAN, T. 2013. The languages of Pyidawtha and the Burmese approach to national development. *South East Asia Research*, 21, 639-654.
- THAN, T. M. M. 2007. *State Dominance in Myanmar: The Political Economy of Industrialization*, Institute of Southeast Asian Studies.
- THANE, S. 2018. Myanmar's Transformation & U Thein Sein: An Insider's Account. May 2018 ed. Yangon: Tun Foundation Literature Committee.
- THE AUSTRALIAN AGENCY FOR INTERNATIONAL DEVELOPMENT- AUSAID 2013. Australia – Myanmar Aid Program Strategy (2012–14).
- THE EUROPEAN UNION The EC-Burma/Myanmar Strategy Paper(2007-2013).
- THE EUROPEAN UNION Joint EU Development Partners' Transitional Strategy for Myanmar 2014-16.
- THE EUROPEAN UNION Multiannual Indicative Programme (2014-2020) MYANMAR/BURMA.
- THE GOVERNMENT OF THE UNION OF MYANMAR 2014. Myanmar National Social Protection Strategic Plan.
- THE MINISTRY OF NATIONAL PLANNING AND ECONOMIC DEVELOPMENT 2015. National Development Plan 2011-12 to 2015-16.
- THE WORLD BANK 2015. Myanmar Public Expenditure Review 2015.
- THE WORLD BANK. 2017. *The Projects and Operations* [Online]. Available: <http://web.worldbank.org/external/projects/main?pagePK=218616&piPK=217470&theSitePK=40941&menuPK=224076&category=simsearch&pagenumber=1&pagesize=100&sortby=BOARDSORTDATE&sortorder=DESC&query=myanmar&status=ALL>
- [Accessed 13 November 2017].
- THEUWS, M. & OVEREEM, P. 2017. The Myanmar Dilemma: Can the garment industry deliver decent jobs for workers in

Myanmar?

- THIRGOOD, R. 2002. The State: Enemy of the People. Suppression of Human Rights in Burma. *Australian Journal of Human Rights*, 13.
- TRAGER, F. N. & SCULLY, W. L. 1978. Burma in 1977: cautious changes and a careful watch. *Asian Survey*, 18, 142-152.
- TRONDAL, J. 2001. Is there any social constructivist-institutionalist divide? Unpacking social mechanisms affecting representational roles among EU decision-makers. *Journal of European Public Policy*, 8, 1-23.
- TUN, M. M. 2016. Myanmar shed some lights on murky extractive industries. *Nikkei Asian Review*.
- TUN, T. 1986. *The Royal orders of Burma, AD 1598-1885*, Center for Southeast Asian Studies, Kyoto University.
- TURNELL, S. 2005. The Chettiars in Burma. Citeseer.
- UN COMMITTEE FOR DEVELOPMENT PLANNING 1987. Report on the Twenty Third Session. In: COUNCIL, U. N. E. A. S. (ed.). New York.
- UNESCO 2016. Assessment of media development in Myanmar 2014-2016.
- UNION ATTORNEY GENERAL'S OFFICE 2013. Myanmar Laws 2011. In: UNION ATTORNEY GENERAL'S OFFICE (ed.).
- VAN KERSBERGEN, K. & VERBEEK, B. 2007. The politics of international norms: Subsidiarity and the imperfect competence regime of the European Union. *European Journal of International Relations*, 13, 217-238.
- VENKATESWARAN, K. 1996. *Burma: Beyond the law*, Article 19.
- VICARY, A. 1999. *Rent extraction by Burma's military regime: a link between state ownership, military expenditure and human rights abuses*, Macquarie University Dept. of Economic.
- WAI, U. T. 1961. *Economic Development of Burma 1800 to 1940*.
- WALINSKY, L. J. 1962. *Economic Development in Burma, 1951-1960*. New York: Twentieth Century Fund. *Google Scholar*.
- WENDT, A. 1992. Anarchy is what states make of it: the social construction of power politics. *International organization*, 46, 391-425.
- WENDT, A. 1999. *Social theory of international politics*, Cambridge University Press.
- WHITTEMORE, R., CHASE, S. K. & MANDLE, C. L. 2001. Validity in qualitative research. *Qualitative health research*, 11, 522-537.
- WHITTINGTON, R. 2010. Giddens, structuration theory and strategy as practice. *Cambridge handbook of strategy as practice*, 109-126.
- WIENER, A. 2004. Contested compliance: Interventions on the normative structure of world politics. *European journal of international relations*, 10, 189-234.
- WIENER, A. 2007. Contested meanings of norms: a research framework. *Comparative European Politics*, 5, 1-17.
- WIENER, A. 2008. *The invisible constitution of politics: contested norms and international encounters*, Cambridge, Cambridge University Press.
- WIENER, A. 2009. Enacting meaning-in-use: qualitative research on norms and international relations. *Review of International Studies*, 35, 175-193.
- WIENER, A. 2014. *A theory of contestation*, Springer.
- WIENER, A. & PUETTER, U. 2009. The quality of norms is what actors make of It critical-constructivist research on norms. *J. Int'l L & Int'l Rel.*, 5, 1.

- WIJESENA, G. & HAKEMULDER, R. 2014. Assessment of the business service and training market in Myanmar.
- WILSON, T. 2016. Strategic Choices in Myanmar's Transition and Myanmar's National Security Policies. *Asia & the Pacific Policy Studies*, 3, 59-68.
- WILSON, T. 2017. Myanmar Political Reform: A Slow But Steady Transformation. Available from: http://www.internationalaffairs.org.au/australian_outlook/myanmars-political-reform-slow/.
- WORLD BANK 2014. Myanmar Enterprise Survey 2014 : Early Findings. Yangon: World Bank.
- WRIGHT, A. 2015. *Twentieth century impressions of Burma*, White Lotus Press.
- YIN, R. K. 2010. *Qualitative Research from Start to Finish*, New York, UNITED STATES, Guilford Publications.
- YIN, R. K. 2011. *Applications of case study research*, Sage.
- YIN, R. K. 2013. Validity and generalization in future case study evaluations. *Evaluation*, 19, 321-332.
- YIN, R. K. 2015. *Qualitative research from start to finish*, Guilford Publications.
- ZIMMERMANN, L. 2017. *Global Norms with a Local Face: Rule-of-Law Promotion and Norm Translation*, Cambridge University Press.
- ZWINGEL, S. 2012. How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective1. *International Studies Quarterly*, 56, 115-129.

Annex I.

Text of ILO Convention 87

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Convention concerning Freedom of Association and Protection of the Right to Organise (Entry into force: 04 Jul 1950) Adoption: San Francisco, 31st ILC session (09 Jul 1948) - Status: Up-to-date instrument (Fundamental Convention).

Preamble

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress";

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I. FREEDOM OF ASSOCIATION

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term *organisation* means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

PART III. MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating:

(a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13

1. Where the subject-matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

(a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV. FINAL PROVISIONS

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the

Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.

Source: Website of the International Labour Organization

Annex II

Text of the Ten Principles of the UN Global Compact

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

Labour

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour;

Principle 5: the effective abolition of child labour; and

Principle 6: the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

Source: Website of United Nations Global Compact

Annex III

List of interview participants

No.	Interviews with trade union leaders/members	
	Name	Date
1	Daw Phyo Sandar Soe, Confederation of Trade Unions Myanmar(CTUM)	10-11-2016
2	Ye Win Naing, Myanmar , MICS education division, FOA Educator (2013-14 TOT alumni)	18-12-2016
3	Wunna Soe, We Generation Trade Union Networks	22-12-2016
4	Daw Myo Myo Aye, Solidarity Trade Union Myanmar(STUM)	16-1-2017
5	Ko Zar Ni Thwe, AFFM IUF	11-2-2017
6	U Naw Aung, MICS	7-3-2017
7	U Maung Maung, President, CTUM	26-3-2017
8	Daw Hla Hla, Former Trade Union Leader, Gallant Ocean Ltd.	15-1-2017
9	U Aung Soe Min, Former Union Leader San Gaung Penang Bags Factory	15-1-2017

No.	Interviews with CSOs, NGOs representatives	
	Name	Date
1	Daw Ei Shwe Cin Nyunt, Labour Right Defenders and Promoters (LRDP)	14-10-2016
2	Daw Thet Thet Aung, (88 Generation Peace and Open society, Labour Affairs in Charge)	19-10-2016
3	U Kan Min Thar, Future Light Centre, Labour support group	19-10-2016
4	U Thurein Aung, Action Labour Rights (ALR)	6-12-2016
5	Daw Mar Mar Oo, Action Labour Development	11-1-2017

No	Academics, political elites and independent entities interviews	
	Name	Date
1	U Than Aung, Member, Anti-corruption commission	8-8-2016
2	U Nyunt Swe, Member of the Myanmar National Human Rights Commission	15.09.2016
3	Associate Professor Jurgen Haacke, Department of International Relations, L.S.E.	19-9-16
4	Dr. Ma Thida, PEN International Board Member PEN Myanmar	9-12-16
5	Dr. Yan Myo Thein Political Commentator	22-1-17
6	U Htay, Lawyer, Member of Yangon Division Labour Dispute Settlement Tribunal	8-1-2017
7	Daw Ei Ei Pyone, MP, Pyi Thu Hluttay Member of Committee on Labour Affairs	31-1-2017
8	U Hla Thein Swe, Secretary, Labour Affairs Committee, USDP	1-2-2017
9	Daw San San, Member of Yangon Division Labour Dispute Settlement Tribunal	17-2-2017
10	Dr. Aung Tun Thet, Presidential Advisor	24-3-2017
11	Dr. Yin Myo Hlaing, AP, Yangon University	25-3-2017



No.	Interviews with government decision makers	
	Name	Date
1	U Htin Lynn, Director General, MOFA	8-9-2016
2	Ambassador U Kyaw Myo Htut	18-10-2016
3	U Htay Aung, Permanent Secretary, Ministry of Natural Resources and Environment	6-1-2017
4	U Myint Thu, Permanent Secretary, MOFA	6.1.2017
5	Former Foreign Minister U Wunna Maung Lwin	31-1-2017
6	U Chit Shein, Director General, Ministry of Labour, Immigration and Populations	31-1-2017
7	General Aung Thaw, Former Deputy Defense Minister	7-02-2017
8	U Maung Myint, MP and former minister at Ministry of Industry, Ministry of Labour	16-2-2017
9	U Thein Sein, Former President	28-2-2017
10	U Khin Nyunt, Former General and PM	26-3-2017
11	U Nyan Win, former MP and foreign minister	25-3-2017
12	U Thaung Tun, National Security Advisor	29-3-2017

No.	Interviews with participants from Private Sector	
	Name	Date
1	Daw Khine Khine Nwe, Joint Secretary General, Union of Myanmar Federation of	19-1-2017
2	U Khin Maung Han, Chair, Mining Sector Businesses Association	6-2-2017
3	U Aung Myo Saw Max Myanmar Holding Ltd.	
4	Ms. Khun Subhachitra Thongchawe, PTTEP International Ltd. Yangon Branch(just a	23-01-2017
5	Ms. Patricia Curren, Vice President and Educational Affairs, Telenor Myanmar	27-03-2017
6	Daw Su Taryar Lynn, SMART Myanmar	14-02-2017
7	U Aung Ko Ko Oo, Manager, MP Garment Co.Ltd.	22-02-2017

No.	Interviews with International Actors	
	Name	Date
1	Mr. Jamie Davis, Director, Solidarity Centre(Myanmar) Yangon	26.10.16
2	Mr. Rory Mungoven, LO, ILO office Yangon	22-11-2017
3	U Saw Moon Light Pan Po, Programme Manager for workers' rights and social justice,	13-01-2017
4	Ms. Vicky Bowman, Director, MCRB	8-02-2017
5	U Thu Ta Aung, Humsa Hub, IP, BIF, DFID	20-02-2017
6	Mr. Warren Harrity, Programme Officer, USAID	24-3-2017
7	Mr. Steve Marshall, New Zealand Ambassador to Myanmar and former ILO Liaison Officer to	28-3-2017
8	Mr. Christian Heimig, Technical Advisor, BGR	16-02-2017
9	Mr. Harada Koichi(Ko Htin Zin) JICA Yangon	23-3-2017
10	Daw Shoe Ei Ei Htun, Nathan Consulting, IP, USAID- PSDA	24-3-2017
11	Mr. Jose Ricardo Silva, Senior Private Sector Specialist, World Bank Group	24-4-2018
12	Daw Thidar Ko, Business-Kind, Thone Pan Hla	2-4-2018
13	Mr. Harry Schwarz, Project Manager, Success Garment sector training centre on 25 th April	25-4-2018
14	Dr. Aung Thura, Founder and CEO of Thura Swiss Ltd., Industrial Research and Consulting	26-4-2018
15	Ms. Htoi Seng Ra, Coordinator Myanmar	27-4-2018

No.	Interviews with government officials at working level	
	Name	Date
1	U Chit Paw (Labour Law , Enforcement) Hlaing Thar Yar Township	23-12-16
2	U Aung Shwe Kyaw, Township Officer, Directorate of Labour, Mingaladon	23-12-2016
3	Daw Tin Mar Htwe, Director, Directorate of Labour, MOLIP	6-1-2017
4	Daw Htay Htay Soe, Director, Directorate of Labour Yangon Division	25-1-17
5	U Kyaw Thet, Director, Directorate of Mining, Ministry of Natural Resources and	2-2-2017
6	U Sein Tun Lynn, Deputy Director General Environment Conservation Department	3-2-2017
7	U Ohn Lwin, Director, Mineral resources and environmental conservation Department, Department of Mines	16.2.2017
8	Daw Nilar Soe, Ministry of Commerce	24-03-2017

Annex IV

Sample Interview Questions

1. How long have you been with this organization?
2. What role do you play in the organization?
3. Please explain me about the activities of your organization
4. What are the major aims and objectives of the organizations' activities?
5. How well your organization is moving ahead to fulfill these objectives?
6. What are major obstacles for achieving these objectives?
7. How do you manage the sustainability of your organization?
8. How would you describe the current state of industrial relations in the country?
9. How would you describe the sentiments of different stakeholders?
10. How is your organizations' relationship with other stakeholders?
11. What plans does your organization have for the future?

Annex V

List of events attended for personal observations

1. Stakeholders Forum on Labour Laws Reform and Institutional Capacity Building held on 29-30 September 2016 at Sedona Hotel, Yangon
2. Annual Meeting of Myanmar Women Federation(MWF) held on 15 February 2017, at Nay Pyi Taw
3. ILO's Sustaining Competitive and Responsible Enterprises (SCORE) Training delivered by SMART Myanmar, Certification Ceremony held on 22 February 2017, at Yangon
4. Women' Week Opening Forum, Creating Inclusive Growth, Myanmar and State Counselors' Business Talk with Business Women, held on 6th March 2017 at Kempinski Hotel, Nay Pyi Taw
5. Industrial Action organized by Confederation of Trade Union Myanmar(CTUM) on 26 March 2017 at city square, Yangon
6. Skill Training School for migrant workers delivered by Success on 25 April 2018 at Yangon

Annex VI

List of Myanmar Alumni at GDS, AIT

Sr.	Name	Year	Current Job (Title/Organization)
1.	Kyawt Kyawt Khaing	1999	
2.	May May Pyone	2000	Executive Director, NGO Gender Group
3.	Ohnmar Ei Ei Chaw	2000	
4.	Zin Mar Oo	2000	Kant Kaw Education Center
5.	Aye Aye Mar Kyaw	2000	
6.	May Nwe Nwe Aung	2001	
7.	Sanda Thant	2002	Founder and Director, SEGRI
8.	Nang Phyu Phyu Lin	2003	
9.	U Gyi Je Ra	2003	
10.	Mai Kaythi Min Din	2004	Student Christian Movement
11.	Khin Zar Naing	2004	Senior Program Officer, UNFPA
12.	Nilar Tun	2004	National Gender Advisor, CARE
13.	Aye Aye Hlaing	2004	
14.	Nay Eh Mywee Aye Wai	2004	
15.	Cho Cho Latt Tun	2004	
16.	Deborah Ling	2005	
17.	Cecil Khin	2006	
18.	Nay Aye Aye Hlaing	2006	WCDI

19.	<u>Phyu Sin</u>	2006	
20.	<u>Win Theint Theint</u>	2006	ActionAid Myanmar
21.	<u>May Thu Myint</u>	2007	
22.	<u>Thet Htar Myint</u>	2007	
23.	<u>Khin Hnin Phyu</u>	2008	LIFT
24.	<u>May Sabe Phyu</u>	2009	Director, Gender Equality Network
25.	<u>Agatha Nu Nu</u>	2010	
26.	<u>Chaw Su</u>	2010	UNFPA
27.	<u>Khin Yu Yu Win</u>	2010	
28.	<u>Poe Ei Phyu</u>	2010	Gender Policy Advisor, Oxfam
30.	<u>Khet Khet Shein</u>	2010	May Doe Kabar, UNDP
31.	<u>Ni Ni Thauang</u>	2011	WFP
32.	<u>Khin Swe Myint</u>	2011	
33.	<u>Su Su Yin</u>	2011	
34.	<u>Hnin Shwe Zin Hlaing</u>	2014	Programme Manager, Gender Equality
35.	<u>Nang May Phu Mon</u>	2014	Technical Advisor (GBV);
36.	<u>Kelvin Lynn</u>	2014	
37.	<u>Sein Htet</u>	2015	
38.	<u>Pyae Phyo Swe</u>	2014	<u>Trocaire</u>
39.	<u>Ying Lwin @ Naung Latt</u>	2016	Peace Support Fund
40.	<u>Yin Yin Min</u>	2016	National Gender Consultant, CDD Project, Department of Rural

|

Source: Yin Yin Min, National Gender Consultant, CDD Project, Department of Rural Development

AnnexVII

Survey Questions and Feed backs on Gender Development

92 out of 150 responded survey ken during Myanmar Women Federation Annual Conference.

- 1. What would be the best indicator for development of women in Myanmar?**
 - (a) Women's ability to ensure healthy and happy family (34)
 - (b) Better contribution in development of family economy (45)
 - (c) Ability to contribute in community works and social activities (46)
 - (d) Ability to take a greater role in political life and decision making positions (14)
 - (e) Others (if any) (-)
- 2. Myanmar Women's Federation ability to assess the needs of women at respective levels: states, regions, districts and township.**
 - (a) Strong (10)
 - (b) Partial (53)
 - (c) Weak (27)
 - (d) Others (-)
- 3. Barriers for Myanmar women to play greater role in decision making and leadership positions.**
 - (a) Lack of interest in politics and public life (8)
 - (b) Influence of customary norms (25)
 - (c) Family responsibility (48)
 - (d) Lack of opportunity (23)
 - (e) Capacity constraint (13)
 - (f) Others (-)
- 4. The ability of Myanmar laws and institutional practices to ensure gender equality.**
 - (a) Fully ensure (23)
 - (b) Do not ensure (5)
 - (c) Ensure to a certain extent (46)
 - (d) Need reforms in laws and institutional practices (21)
- 5. Major challenges faced by MWF members in carrying out activities for development of women and protection of women rights**
 - (a) Financial (49)
 - (b) Technical (11)
 - (c) Cooperation from local public (47)
 - (d) Others (7)
- 6. Ability to assess and record the impacts made by MWF activities**
 - (a) Annually assess and record (45)
 - (b) Assess (9)
 - (c) Record (23)
 - (d) No record (9)
- 7. The role of international technical assistance in development of Myanmar women**
 - (a) Not significant (-)
 - (b) Significant (62)
 - (c) Important to a certain extent (30)
- 8. The best way for international supporters to help development of Myanmar women.**
 - (a) Raising awareness of women's rights and gender equality norms (8)
 - (b) Sharing best practices and experiences (21)
 - (c) Financial support (7)
 - (d) Develop capacity of women (27)
 - (e) All of the above (38)
 - (f) Others. (-)

Note. Some participants chose more than one options in the questions