MYANMAR: CROSS-CUTTING GOVERNANCE CHALLENGES

Cullen Hendrix and Marcus Noland

NO. 428

March 2015

ADB ECONOMICS WORKING PAPER SERIES

ASIAN DEVELOPMENT BANK

ADB Economics Working Paper Series

Myanmar: Cross-Cutting Governance Challenges

Cullen Hendrix and Marcus Noland

No. 428 | 2015

Cullen Hendrix (Cullen.Hendrix@du.edu) is Assistant Professor of Korbel School of International Studies, University of Denver and Nonresident Senior Fellow at the Peterson Institute for International Economics. Marcus Noland (MNoland@PIIE.COM) is Executive Vice President and Director of Studies of Peterson Institute for International Economics and Senior Fellow at the East-West Center.

This was a background paper for the Asian Development Bank (ADB) Myanmar Country Diagnostics Study. We would like to thank Kevin Stahler for diligent and conscientious research assistance, and participants in the ADB workshops, particularly Jean-Pierre Verbiest for helpful comments on an earlier draft. We also thank Cyn-Young Park and Winfried Wicklein for their thorough review and comments on the paper.

ASIAN DEVELOPMENT BANK

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org

March 2015
ISSN 2313-6537 (Print), 2313-6545 (e-ISSN)
Publication Stock No. WPS157145-2

Note: In this publication, "$" refers to US dollars.

The ADB Economics Working Paper Series is a forum for stimulating discussion and eliciting feedback on ongoing and recently completed research and policy studies undertaken by the Asian Development Bank (ADB) staff, consultants, or resource persons. The series deals with key economic and development problems, particularly those facing the Asia and Pacific region; as well as conceptual, analytical, or methodological issues relating to project/program economic analysis, and statistical data and measurement. The series aims to enhance the knowledge on Asia's development and policy challenges; strengthen analytical rigor and quality of ADB's country partnership strategies, and its subregional and country operations; and improve the quality and availability of statistical data and development indicators for monitoring development effectiveness.

The ADB Economics Working Paper Series is a quick-disseminating, informal publication whose titles could subsequently be revised for publication as articles in professional journals or chapters in books. The series is maintained by the Economic Research and Regional Cooperation Department.

CONTENTS

TABLES AND FIGURES

TABLES

FIGURES

ABSTRACT

Since 2010, Myanmar has been in the midst of a multifaceted transition, involving economic reforms, the resolution of multiple long-standing civil conflicts, and a nascent transition to democratic rule. These transitions are coinciding with a resource-led economic boom. The paper assesses the current status of governance institutions, as well as their performance, in comparison to the Association of Southeast Asian Nations (ASEAN) and selected other countries. Specifically, the paper discusses outstanding problem areas related to economic governance, particularly in the legal system, the business regulatory framework, and in bureaucratic capacity as well as the potential use of external policy anchors, particularly in the Extractive Industries Transparency Initiative (EITI) process, to strengthen Myanmar's ongoing reform effort.

Keywords: Myanmar, governance, economic reform, peace process, property rights, resource curse

JEL Classification: D72, D73, N45, P28

I. INTRODUCTION

Good governance, or efficient and transparent conduct of public affairs and management of public resources, is more fundamental to economic development than any specific policy intervention. Good governance can be thought of as the creation of an environment in which beneficial policy can be formulated and implemented in a socially inclusive manner. Governance is an inherently multifaceted concept that encompasses both formal rules and norms governing the conduct of public affairs. Broadly speaking, it can be broken into three basic baskets: the legal and regulatory framework, bureaucratic and administrative capacity, and government transparency/engagement with civil society.

Without good governance, countries fail to unlock the full potential of their human and natural capital. For society to make productive investments in human and physical capital, it needs assurances that these investments will not be expropriated—directly or indirectly--and that contracts will be enforced by independent, nonpartisan courts, even when it is not in the short-term interest of the government for them to do so.[1] Moreover, these assurances are particularly valuable for courting investment from firms in Organisation for Economic Co-operation and Development (OECD) countries and investment in the nonresource sector, whose development will be crucial for balancing Myanmar's export profile and providing employment opportunities. For markets to truly flourish, the government must be able to efficiently provide market-sustaining public goods, in the form of transparent market regulation, infrastructure, and enforcement of contracts. For these benefits to be widely shared and promote social inclusion, policies should be crafted in collaboration and consultation with civil society groups.

Since 2010, Myanmar has been in the midst of a multifaceted transition, involving economic reforms, the resolution of multiple long-standing civil conflicts, and a nascent transition to democratic rule. These transitions are co-occurring with a resource-led economic boom, and all the blessings and challenges such booms entail. These transformations are occurring in parallel, and outcomes of each transition are dependent on the outcomes of the others. These transitions provide a unique opportunity to engage in broad governance reform and develop the institutions necessary for a growing economy.

The remainder of this paper proceeds as follows. Section II assesses the current status of governance institutions, as well as their performance, in comparison to the Association of Southeast Asian Nations (ASEAN) and selected other countries. Section III discusses outstanding problem areas related to economic governance, particularly in the legal system, the business regulatory framework, and bureaucratic capacity, and provides specific policy recommendations for leveling the playing field between state economic enterprises (SEEs), military-affiliated enterprises, and the private sector. Section IV discusses opportunities to engage civil society in Myanmar's economic governance and the peace process. Section V addresses the potential use of external policy anchors, particularly in the Extractive Industries Transparency Initiative (EITI) process, to strengthen Myanmar's ongoing reform effort, before Section VI concludes with a brief summary of key policy recommendations.

[1] To be clear, the direct expropriation is prohibited by the constitution. However, investors can be indirectly expropriated by changing rules and regulations after the investment has been undertaken. This consideration points to the need for a strong court system to impartially adjudicate such disputes.

II. CROSS-NATIONAL INDICATORS OF GOVERNANCE

In recent years, a consensus has emerged on the importance of institutions, governance, and specifically transparency, to economic development. Challenges in assessing the quality of institutions or governance, or the degree of transparency or corruption are nontrivial, however. Cross-national surveys have become an important means of benchmarking absolute performance, relative ranking, and direction trends across a variety of relevant metrics. While there may be a "beauty pageant" aspect to this evidence, it likely contains some "true" information, and at an absolute minimum can be interpreted as a valid indication of the perceptions of local and outside observers.

One of the immediate difficulties confronting both analysts and policymakers alike is the sheer number of such indicators and their reliance on sometimes overlapping sources of information. Even if these challenges can be sorted out, one still faces the issue of prioritization across various agenda items and devising actual policy responses.

Givens (2013) carefully examines a huge number of these indicators to statistically separate out redundancy and derive the true new information contained in each measure, then determines the dimensions of governance that have the biggest impact on growth performance. He finds that measures relating to "market infrastructure," essentially rule of law and corruption and "civil liberties," essentially other dimensions of rule of law plus voice, have the biggest impact on growth, surpassing such influences on growth such as international trade and geography.

In this section, we review Myanmar's performance on a number of these cross-national surveys of governance, focusing on rule of law and the extent of corruption. We then link back to these themes in the concluding section on how international initiatives can be used to anchor Myanmar's own efforts to improve performance in these areas. In almost all cases, we benchmark Myanmar's performance against local comparators Cambodia, Lao People's Democratic Republic (Lao PDR), and Viet Nam (together, the CMLV countries).

The bottom line is that Myanmar's economic governance needs improvement on most of these indicators. Evidence derived from Myanmar-based respondents in the World Economic Forum's (WEF) *Global Competitiveness Report* survey indicates that financing and governance issues are at the top of the list of obstacles to development (World Economic Forum 2014).[2] However, some improvement in recent years is evident in the data, reinforcing the notion that the country's recent reforms are being recognized around the world. These results also underscore a basic lesson—Myanmar has nowhere to go but up, and as its institutional practices converge on global norms, we can expect to observe a concomitant reduction in the risk premium associated with doing business in Myanmar, increased foreign investment on better financial terms, and an overall acceleration in growth and improvement in outcomes. In the final section, we discuss some specifics of how external policy anchors can be leveraged to further this effort.

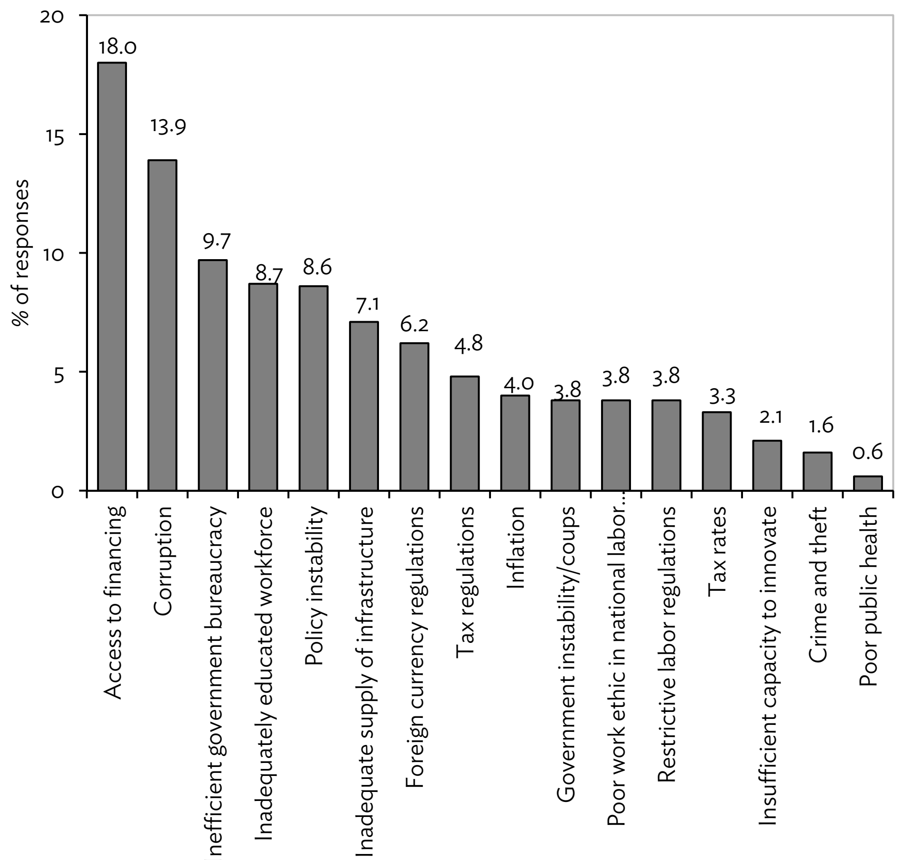
We start by examining how local market participants evaluate their own environment. Figure 1 reports the Myanmar respondent ranking on the WEF's "most problematic factors for doing business," a mixture of institutional, policy, and economics fundamentals challenges. Five indicators that stand

---

[2] The 2014 WEF Global Economic Competitiveness Survey was based on 13,264 valid responses, administered through more than 160 partner institutions worldwide. (The Myanmar partner institution was the Centre for Economic and Social Development of Myanmar Development Resource Institute (MDRI-CESD).) The median country sample size was 87 responses. In the case of Myanmar, there were 86 respondents.

out are access to financing (18.0), corruption (13.9), inefficient government bureaucracy (9.7), inadequately educated workforce (8.7), and policy instability (8.6). Following these, the most problematic factors in rank order are inadequate supply of infrastructure (7.1), foreign currency regulations (6.2), tax regulations (4.8), inflation (4.0), government instability/coups (3.8), poor ethic in the national labor force and restrictive labor regulations (both 3.8), tax rates (3.3), insufficient capacity to innovate (2.1), crime and theft (1.6) and poor public health (0.6). In short, in a substantial sample of Myanmar businesspeople, governance issues, such as corruption and an inefficient bureaucracy, are considered among the most serious obstacles to economic advancement.

Figure 1: The Most Problematic Factors for Doing Business in Myanmar



Note: From the list of factors above, respondents were asked to select the five most problematic for doing business in their country and to rank them between 1 (most problematic) and 5. The bars in the figure show the responses weighted according to their rankings.
Source: World Economic Forum, *Global Competitiveness Report* 2014-2015.

How does Myanmar stack up in a comparative perspective? Table 1 reports scores on overall government effectiveness for the most recent year, available from five sources: the aforementioned World Economic Forum *Global Competitiveness Report* (World Economic Forum 2014), the World Bank's Ease of Doing Business Indicators (World Bank 2014a),[3] the World Bank's World Governance

[3] The World Bank's Doing Business Indicators is a survey based on indicators that reflect a mix of analysis of laws and regulations and subjective assessments by local experts. It is implemented through more than 9,600 local representatives and partner institutions. The data refer to conditions in each country's largest business city and may not be representative of the country as a whole.

Indicators (World Bank 2012a),[4] Freedom House (Freedom House 2014),[5] and the Heritage Foundation's Index of Economic Freedom (Heritage Foundation 2014).[6] Table 1 shows that the CLMV countries generally score below the 50th percentile on these indicators, with Viet Nam exhibiting the strongest performance. Myanmar's percentile ranks are 6.9% on the WEF overall competitiveness indicator, 6.3% on the World Bank's Ease of Doing Business index, 3.8% on the World Bank's government effectiveness rank, 9% on the Heritage Foundation's overall economic freedom indicator, but it scores 14.2% on the Freedom House index. The country shows some modest improvement in recent years in absolute terms on both the Freedom House measure (Figure 2), and the Heritage Foundation index of economic freedom (Figure 3).

Table 1: Overall Governance Indicators

Indicator	Cambodia	Lao PDR	Myanmar	Viet Nam
WEF Global Competitiveness Index: Overall Rank (2014-2015 edition)	95 / 144	93 / 144	134 / 144	68 / 144
Percentile rank	*34.2%*	*35.6%*	*6.9%*	*53.1%*
WB Ease of Doing Business: Overall Rank (2015 edition)	135 / 189	148 / 189	177 / 189	78 / 189
Percentile rank	*28.7%*	*21.8%*	*6.3%*	*59.0%*
WB World Governance Indicators: Government Effectiveness Rank (2012)	164 / 210	166 / 210	202 / 210	117 / 210
Percentile rank	*22.0%*	*21.0%*	*3.8%*	*44.4%*
Freedom House Freedom in the World: Overall Rank (2014 edition)	147 / 182	177 / 182	147 / 182	165 / 182
Percentile rank	*14.2%*	*5.2%*	*14.2%*	*7.8%*
Heritage Foundation Index of Economic Freedom: Overall Rank (2014)	108 / 178	144 / 178	162 / 178	147 / 178
Percentile rank	*39.5%*	*19.2%*	*9.0%*	*17.5%*

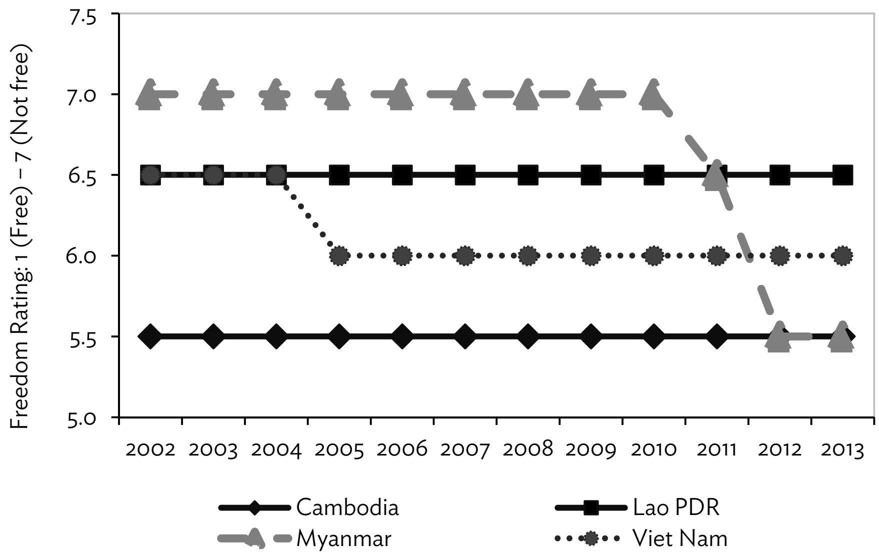
Lao PDR = Lao People's Democratic Republic, WB = World Bank, WEF = World Economic Forum.
Note: In some cases, rankings/percentiles have been slightly altered to account for ties with other countries.
Sources: Freedom House 2014; Heritage Foundation 2014; World Bank 2014a, 2014b; World Economic Forum 2014.

[4] The World Bank's World Governance Indicators are based on information compiled from 30 existing data sources, including surveys of households and firms; commercial business information providers, including the Economist Intelligence Unit, Global Insight, and the WEF's Global Competeviness Report; nongovernmental sources, including Global Integrity, Freedom House, and Reporters without Borders; and public sector sources such as the EBRD Transition Report. The inclusion of the WEF and Freedom House is a reminder that indices may share underlying data sources, meaning that their apparent consistency may be partly illusory. Conversely, divergences might point to fragility in these indices.

[5] Freedom House is an American nongovernmental organization (NGO) that reaches its findings through "analysis and evaluation by a team of in-house and consultant regional experts and scholars" (http://www.freedomhouse.org/report/freedom-world-2013/methodology, accessed 20 September 2013).

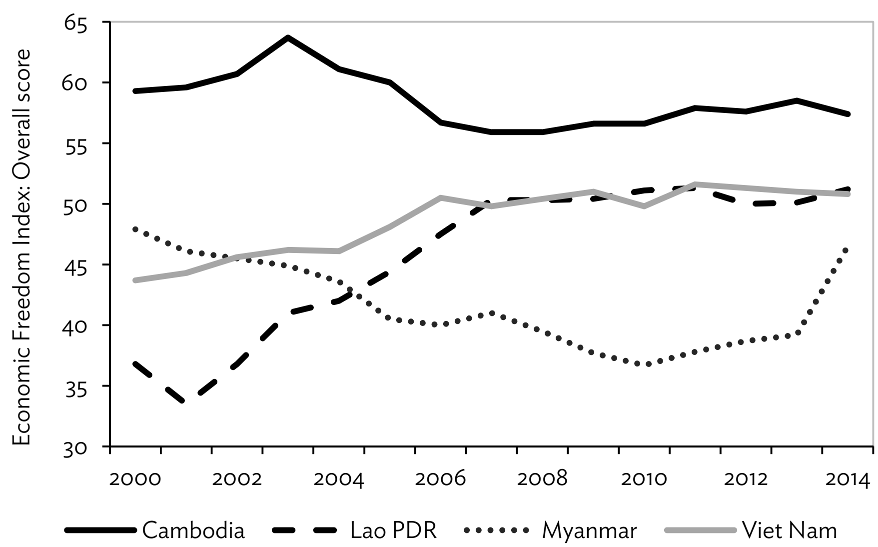
[6] The Heritage Foundation's Index of Economic Freedom is a summary measure based on 10 sub-components. The sub-components, in turn, are based on a mix of statistical data (tariff levels or tax rates) and indicators derived from sources such as Transparency International and the Economist Intelligence Unit. Specific methodological information is provided on sub-components cited in subsequent tables.

Figure 2: Freedom House Freedom in the World Compared, 2002–2013



Lao PDR = Lao People's Democratic Republic.
Notes: (1) Countries with Freedom Ratings between 1 and 2.5 are considered "Free", between 3 and 5 are considered "Partly Free", and 5.5 to 7 are considered "Not Free"; (2) Overall score is the average of "political rights" and "civil liberties" ratings; (3) Reported years refer to year of survey (i.e. "years covered").
Source: Freedom House 2014.

Figure 3: Heritage Foundation Economic Freedom Index Compared, 2000–2014



Lao PDR = Lao People's Democratic Republic.
Notes: Data refers to Economic Freedom Index composite score. Scores on a scale of 0–100.
Source: Heritage Foundation 2014.

These indicators are quite broad and include factors beyond economic governance, narrowly defined. Research indicates that rule of law and corruption are particularly salient to long-term growth performance and we concentrate on these dimensions of governance. Table 2 summarizes data on the commercial legal systems of the CMLV countries. The first indicator is the World Bank rule of law measure. It is a composite designed to capture perceptions of the extent to which agents have confidence in and abide by the rules of society, in particular with respect to contract enforcement, property rights, the police, and the courts as well as the likelihood of crime and violence. The second indicator is a more narrow measure of judicial independence— the country's score on the question "In your country, to what extent is the judiciary independent from influences of members of government, citizens or firms?" The next four indicators address more narrow issues of commercial law: the efficiency of dispute settlement, the efficiency of the legal system in handling challenges to regulation, the cost of enforcing contracts, and the cost of resolving insolvency.

Table 2: Legal System Indicators

Indicator	Cambodia	Lao PDR	Myanmar	Viet Nam
WB World Governance Indicators: Rule of Law Rank (2012)	176 / 212	163 / 212	199 / 212	132 / 212
Percentile rank	*17.0%*	*23.2%*	*6.1%*	*37.9%*
WEF Global Competitiveness Index: Judicial Independence Rank (2014–2015 edition)	129 / 144	61 / 144	117 / 144	88 / 144
Percentile rank	*10.4%*	*58.0%*	*18.8%*	*39.1%*
WEF Global Competitiveness Index: Efficiency of Legal Framework in Settling Disputes Rank (2014–2015 edition)	114 / 144	38 / 144	125 / 144	89 / 144
Percentile rank	*20.9%*	*74.1%*	*13.2%*	*38.4%*
WEF Global Competitiveness Index: Efficiency of Legal Framework in Challenging Regulations (2014–2015 edition)	116 / 144	106 / 144	128 / 144	80 / 144
Percentile rank	*19.5%*	*26.5%*	*11.1%*	*44.7%*
WB Ease of Doing Business: Enforcing Contracts Rank (2015 edition)	178 / 189	99 / 189	185 / 189	47 / 189
Percentile rank	*5.8%*	*47.8%*	*2.1%*	*75.5%*
WB Ease of Doing Business: Resolving Insolvency Rank (2015 edition)	84 / 189	189 / 189	160 / 189	104 / 189
Percentile rank	*55.8%*	*0.0%*	*15.4%*	*45.2%*

Lao PDR = Lao People's Democratic Republic, WB = World Bank, WEF = World Economic Forum.
Note: In some cases, rankings/percentiles have been slightly altered to account for ties with other countries
Sources: World Bank 2014a, 2014b; World Economic Forum 2014.

Myanmar scores relatively low in the World Bank's rule of law indicator, and just above the lowest decile on the WEF's dispute settlement indicator, and on the WEF's challenging regulations indicator. Anecdotal evidence suggests that investors complain about uncertainties in the rule of law and sanctity of contracts (McKinsey Global Institute 2013).[7] Myanmar scores better in the WEF ranking of judicial independence (18.8%). Results for the World Bank's enforcing contracts and resolving insolvency indicators are similar, though the country scores close to last place in terms of enforcing contracts (2.1%) whereas it sits comfortably above the lowest decile with regards to resolving insolvency (15.4%).

[7] McKinsey Global Institute observes that "One index [of rule of law, done by International Bar Association Human Rights Institute] based on perceptions prior to when reform began in earnest, ranked Myanmar 172nd of 176 nations on the issue" (McKinsey Global Institute 2013, p. 49). As implied, Myanmar's absolute score and relative position may improve in the future as reforms take hold.

Table 3 contains seven cross-national measures of transparency and corruption. First is the well-known Transparency International (TI) corruption perceptions index, derived from 13 underlying data sources (Transparency International 2013). This is followed by the World Bank's control of corruption indicator, the Heritage Foundation's freedom from corruption indicator (which is partly based on the TI corruption perceptions index), the WEF diversion of public funds ranking, the WEF irregular payments and bribes ranking (the average score across the five components of the question: "In your country, how common is it for firms to make undocumented extra payments or bribes connected with (a) imports and exports, (b) public utilities, (c) annual tax payments, (d) awarding of public contracts and licenses, (e) obtaining favorable judicial decisions?"), the WEF favoritism in decisions of government officials rank ("In your country, to what extent do government officials show favoritism to well-connected firms and individuals when deciding upon policies and contracts?"), and finally, the International Budget Partnership open budget index.[8]

Table 3: Transparency and Corruption Indicators

Indicator	Cambodia	Lao PDR	Myanmar	Viet Nam
Transparency International Corruption Perceptions Index Rank (2013)	160 / 175	140 / 175	**157 / 175**	116 / 175
Percentile rank	*8.5%*	*19.3%*	*10.2%*	*33.5%*
WB World Governance Indicators: Control of Corruption Rank (2012)	180 / 210	179 / 210	**186 / 210**	136 / 210
Percentile rank	*14.3%*	*14.8%*	***11.4%***	*35.4%*
Heritage Foundation Index of Economic Freedom: Freedom From Corruption Rank (2014)	167 / 184	168 / 184	**180 / 184**	123 / 184
Percentile rank	*9.7%*	*9.2%*	***2.7%***	*33.6%*
WEF Global Competitiveness Index: Diversion of Public Funds Rank (2014–2015 edition)	113 / 144	59 / 144	**122 / 144**	76 / 144
Percentile rank	*21.6%*	*59.4%*	***15.3%***	*47.5%*
WEF Global Competitiveness Index: Irregular Payments and Bribes Rank (2014–2015 edition)	129 / 144	96 / 144	**139 / 144**	109 / 144
Percentile rank	*10.4%*	*33.5%*	***3.4%***	*24.4%*
WEF Global Competitiveness Index: Favoritism in Decisions of Government Officials Rank (2014–2015 edition)	102 / 144	38 / 144	**127 / 144**	74 / 144
Percentile rank	*29.3%*	*74.1%*	***11.8%***	*48.9%*
International Budget Partnership: Open Budget Index Rank (2012)	81 / 98	n/a	**98 / 98**	77 / 98
Percentile rank	*19.1%*	*n/a*	***0.0%***	*23.2%*

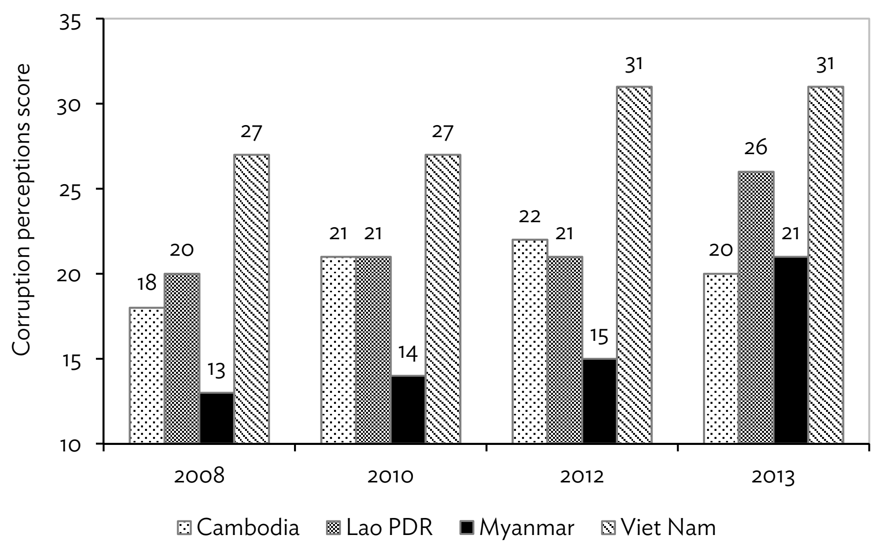
Lao PDR = Lao People's Democratic Republic, WB = World Bank, WEF = World Economic Forum.
Sources: Heritage Foundation 2014; International Budget Partnership 2013; Transparency International 2013; World Bank 2014a, 2014b; World Economic Forum 2014.

[8] The International Budget Partnership is a global initiative started by the Center for Budget and Policy Priorities, a highly respected American think tank, supported by UK Aid and a number of well-known philanthropic foundations. "The Survey assesses the contents and timely release of eight key budget documents that all countries should issue at different points in the budget process, according to generally accepted good practice criteria for public financial management. Many of these criteria are drawn from those developed by multilateral organizations, such as the International Monetary Fund's (IMF) *Code of Good Practices on Fiscal Transparency*, the Organization for Economic Co-operation and Development's (OECD) *Best Practices for Fiscal Transparency*, and the International Organization of Supreme Auditing Institutions' (INTOSAI) *Lima Declaration of Guidelines on Auditing Precepts*. The strength of such guidelines lies in their universal applicability to different budget systems around the world and to countries with different income levels. The results for each country in the 2012 Survey are based on the 125-question questionnaire that is completed by one researcher or group of researchers within an organization from the country," typically from academic institutions or civil society organizations, with most of the respondents coming from organizations with a significant focus on budget issues (International Budget Partnership 2012, p. 44). The Myanmar partner institution was not listed in the report.

In the past, Myanmar had trailed its local comparators on all seven indicators. However the country exhibited a noticeable improvement in the 2013 TI ranking, surpassing Cambodia. In percentile terms, the country scores better on the WEF's favoritism in decisions of government officials (11.8%), the World Bank's control of corruption indicator (11.4%), and the WEF's diversion of funds indicator (15.3%). In the case of the open budget index, where Myanmar was tied for last place with two others, among 98 countries, recent reforms involving publication and parliamentary discussion of the national budget make the country's improvement in the next survey a virtual certainty. Other ongoing reforms in the areas of transparency and corruption mean that the country is likely to show improvement with respect to the other indicators as well. Figure 4 shows that the country has made modest improvements in absolute terms in recent years.

Whatever is the "true" information provided by the various measures of governance, any fair reading of these results would indicate that Myanmar does not score very high, generally trailing the three comparators, always in the lowest quartile. There is evidence of modest improvements in recent years, however, and with deepening reforms, further improvements in absolute and relative scores can be anticipated. One would expect such improvements to translate into improved economic performance in the medium- to long-term.

Figure 4: Transparency International Corruption Perceptions Compared, 2008–2013



Lao PDR = Lao People's Democratic Republic.
Note: Scores on a scale of 0–100 beginning in 2012, and 0–10 in prior years. All scores have been adjusted for 2012 scaling.
Source: Transparency International 2013.

III. ONGOING ECONOMIC GOVERNANCE REFORMS

In 2011, President Thein Sein launched a wide-ranging and ongoing reform program, covering not only the economy, but internal political issues and foreign relations as well. A human rights commission (HRC) was established (and reorganized in 2014). The HRC has launched a website, and state media published material specifying the complaint process and necessary documentation. The right to publicly demonstrate (subject to notification) was introduced, and draft legislation on the right of association is under debate.[9] Application of the peaceful protest law by local authorities has remained subject to controversy, however, and in June 2014, amendments were enacted to improve implementation. Labor legislation (the Trade Union Law, 2011), liberal by regional standards, has been enacted allowing unions, and protecting the employment of workers joining a union or participating in a strike, though activists complain of problems in implementation. As of October 2013, more than 500 basic labor organizations (unions) had been certified and wildcat labor unrest is being transformed into legal strikes.

Censorship has been greatly diminished with the abolition of the Press Scrutiny and Registration Division, private publications have commenced political reporting, and independent newspapers began publication in April 2013 (Steinberg 2013a, Clapp and DiMaggio 2013). As we will argue below, the development of civil society and a free press are key aspects of making transparency initiatives like the Extractive Industries Transparency Initiative (EITI) work.

With respect to more technocratic concerns, a nongovernmental (though state authorized) think tank, the Myanmar Development Resource Institute (MDRI) was established as a reform brain trust. It has a three part program encompassing economics, law, and security and political affairs. The Social and Economic Advisory Council was subsequently started to advise ministries on the enactment of reforms and implementation.

In a further effort to improve the functioning of government, President Thein Sein has also established the Public Services Performance Appraisal Task Force to review the operations of all government ministries dealing with the public, cut red tape, streamline decision making, restructure organization where necessary, and change organizational culture to improve the delivery of public services" (Clapp and DiMaggio 2013, p. 4). In related moves, he also

i. established an anticorruption committee and signed the Anti-Corruption Law (2013);
ii. initiated the process of joining EITI, with the Centre for Economic and Social Development, the economic wing of MDRI, tasked with serving as the secretariat for the application process; MDRI will need enhanced budgetary support to expand its capacity to address its myriad new roles;
iii. declared the country's intention to join the Open Government Partnership, a multilateral initiative aimed at securing "concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance" (Open Government Partnership http://www.opengovpartnership.org/about accessed 27 September 2013); and

---

9 Reforms aimed at opening space for civil society are discussed further in Section IV.

iv. has constituted a working group in the president's office "to make necessary preparations to meet these standards for transparency, accountability, citizen participation, and technology and innovation" (Clapp and DiMaggio 2013, p. 4).[10]

Myanmar's fiscal processes, which had been among the most opaque in the world, have opened up (International Budget Partnership 2013). In 2012, the state budget was publicly debated in parliament and published in private newspapers for the first time, and the auditor general "has been given a measure of independence" (McKinsey Global Institute 2013, p. 14). As a result of this greater openness, the state budget is beginning to change in ways reflecting greater accountability to the public. Expenditures on health and education have risen by 78% and 50%, respectively (IMF 2013).

Tax reform has been undertaken and the country has established a long-term vision, which includes reform of tax administration, movement to value-added tax, and, in conjunction with multilateral partners such as the International Monetary Fund (IMF), the World Bank, and the Asian Development Bank (ADB), strengthened fiscal management (IMF 2013). Historically, tax measures were subject to somewhat arbitrary implementation, and the government has accepted that going forward, "all taxation-related orders and instructions be enshrined in legislation" (Vriens and Partners 2013b, p. 6). In 2014, legislation was enacted with the aim of streamlining administration and broadening the tax base, though the IMF expressed concerns that numerous exemptions reduced the system's revenue generation potential (IMF 2014a). Public records indicate that Myanmar's largest firms have stepped up tax payments (Vriens and Partners 2014).

A. Property Rights and Factor Markets

Myanmar is sometimes described as a "transitional economy" and lumped together with neighbors such as Cambodia, Lao PDR, and Viet Nam. The reality is more complex, however. Private property rights are delineated and nationalization prohibited under the constitution. And unlike its neighbors, nominally private businesses, not state-owned enterprises, are already at the center of the economy. But these entities may reflect deep state connections, either as former SEEs with implicit expectations of bailouts if they run into difficulties, or are simply controlled by politically connected cronies. State influence is more profound than notional figures on private sector activity would suggest.

1. The Land Market

The land market remains problematic. Constitutionally, all land is residually owned by the state (Steinberg 2013b). Historically, the state or politically connected entities have exercised eminent domain in what some have described as arbitrary "land-grabbing." Land ownership registries are inadequate, and as McKinsey has observed, "if disputes arise over land, Myanmar currently has no meaningful recourse and no national legal-aid program to ease access to the justice system" (McKinsey Global Institute 2013, p. 77). Pre-socialist era cadaster maps—surveys of land ownership

[10] President Thein Sein signed the Anti-Corruption Law with reservations over concerns that its terms did not comply with the United Nations Convention Against Corruption (UNCAC), which Myanmar signed in December 2012. In February 2014, a 15-member Anti-Corruption Commission was formed, but as of November 2014, the composition and functioning of this body remain under discussion.

and tenure—have been lauded for comprehensiveness (Binns and Dale 1995) but are likely to be of limited use in establishing current property rights and appropriate valuation.[11]

The land dispute issue is particularly sensitive insofar as the military's prominence in alleged land-grabbing. A parliamentary commission calculated that since 1988, the military has seized nearly 100,000 hectares. In June 2013, the press reported that the Minister of Defense, Brigadier General Wai Lwin, promised to return confiscated land that was not being used, or about 8% of the disputed property. There are now disputes over the definition of "use" and claims that the military rushed to construct improvements to demonstrate the land was under use (Vriens and Partners 2013a, 2013b, 2013c). Beyond the obvious commercial stakes, this particular aspect of the land issue is likely to take a long time to sort out, insofar as it turns on the image of the military and its relationship to the broader society, as well as military practices such as requiring soldiers to grow their own food. The government has formed a Central Land Management Committee and set a 1-year deadline for resolving 745 targeted disputes.

The Farmland Law (2012), while representing progress, is inadequate. The law allows farmers use rights (though not for the extraction of subsoil minerals). The bill strengthens protection of farmers from "land grabbing" by private entities, while maintaining the government's right to exercise the principle of eminent domain in exchange for "suitable compensation" (Nehru 2013, p. 11). In other low-income countries where farmers have been given the right to "permanently transfer" their user rights or the right to sell land, "land ownership concentration has increased dramatically, creating large numbers of landless and exacerbating poverty" (Nehru 2013, p. 11). It is claimed that, "Despite the passage of a new land law by the parliament, people in Myanmar are still being unfairly displaced by large businesses and agricultural projects without adequate compensation or means of providing a livelihood. This is largely a legal matter, in which the law itself still allows sizeable tracts of land to be seized" (Clapp and DiMaggio 2013, p. 11). Ultimately, the solution is not simply more efficient legal systems, but more systematic programs to ensure that large-scale development projects are adequately inclusive and address the legitimate interests and needs of local residents, and that those residents are afforded stable land rights that are not subject to abrogation by politically connected interests. A new draft Land Use Law was unveiled in October 2014.

The use (and misuse) of forest land is also an issue. According to Woods (2013), Myanmar's timber land can be categorized in five ways:

i. State-managed (Myanmar Timber Enterprise) forests;
ii. Logging concessions in natural forest, most in ethnic minority populated areas;
iii. Land conversion in natural forests, also occurring in, though not limited to, areas of ethnic conflict;
iv. A limited number of tree plantations; and
v. Community forests where commercial logging is prohibited.

The last category is the only one in which local communities have legal land or resource use rights, and not surprisingly, logging activities have been subject to considerable internal controversy.[12]

---

[11] In October 2013, the Yangon Region Revenue Department began using fixed appraisal rates to collect taxes on local land transactions. The policy was introduced in part to confront the phenomenon of grossly underreporting sales prices in order to avoid property taxes, which are linked to the buyer's ability to document his or her income source. Buyers who obtained their income through illicit activities would report transaction prices that could be justified on the basis of licit earnings alone (Vriens and Partners 2013c).

[12] The exportation of timber is also subject to controversy, as taken up below.

In this context, the controversy over the Letpadaung copper mine could provide a salutary learning moment. The March 2013 parliamentary commission report which attempted to address various stakeholder interests could form a model for other such disputes, calling for "adequate social and environmental safeguards from companies, transparency in the conduct of the project, proper compensation for local people who have been displaced, adequate provisions for their future livelihoods, preservation of local cultural and religious sites where appropriate, and training for local populations to provide the skills needed to work on the project" (Clapp and DiMaggio 2013, p. 12).

Likewise, there are issues with respect to urban or industrial use land. The government has established 18 industrial parks in nine states and regions under the auspices of the Industrial Development Committee chaired by the Minister of Industry No. 2 (Min and Kudo 2012, McKinsey Global Institute 2013). Investors have complained of bottlenecks, however, with regard to lack of available land for industrial development, and the high price of unimproved land in these estates (Pun 2012, Min and Kudo 2012). It has been estimated that only 20% of the land in the existing zones is currently used for industrial production; the other 80% is used for activities, such as warehousing, or is unused altogether.

It would appear that to spur industrial development, the state should lease land at competitive rates to anyone who will build a factory and provide employment; the land could revert to the state if the factory closed. Concurrent with these new leases, the Ministry of Finance and Revenue should conduct a comprehensive land survey—security conditions permitting—in order to establish a current cadaster map of the country's territory and promote transparency in land use and tenure.

2. The Labor Market

The state has enacted or is considering a number of major pieces of labor reform legislation. One of these is the Settlement of Labor Dispute Law (2012), which replaces the Trade Disputes Act (1929). It safeguards workers' rights and establishes procedures, including conciliation and arbitration for the orderly settlement of labor relations disputes.

3. The Capital Market

Although there are ongoing efforts to establish direct capital markets (and indeed a tiny stock market opened in October 2014), it is safe to assume that for the foreseeable future, enterprises in Myanmar will continue to rely primarily on a bank-dominated system of indirect finance.

The banking system consists of four state-owned banks which have their origins in a monobank system under the socialist regime, and 19 private banks established in the 1990s when the Financial Institutions Law (1990) permitted the creation of private banks (Mieno 2013). There is currently no foreign operational banking presence, though the government is in the process of finalizing regulations that will permit entry via joint ventures with local banks, and some foreign banks have begun establishing representative offices (IMF 2013).

Many of the private banks are subsidiaries of large conglomerates. Such an arrangement, where industrial conglomerates own private banks, has proved to be problematic in other settings.

The state-owned banks and private banks each account for roughly half of bank assets. Of the four state banks, Myanmar Economic Bank (MEB) is by far the largest, accounting for more than 40%

of the sector's assets. So in reality, the banking system could be described as a single bank dominant system with a fringe of much smaller competitors.

Banking regulations have historically been restrictive, including a ban on private lending to farmers, outmoded quantitative limits on deposit and loan rates implying negative interest rates, a ban on the provision of uncollateralised credit, a ban on "at call" deposits, which are used for liquidity management in most other banking systems, and a ban on deposit withdrawals from the Myanmar Agricultural Development Bank (MADB), which unsurprisingly discourages new deposits.

The situation is changing, however. The IMF reports that the country's eligible collateral has been expanded to include agricultural exportables, deposit rates have been liberalized within a fixed band, and the MADB has increased credit limits to farmers. The banks are opening more branches, and new technologies, such as credit cards and automatic teller machines, are being introduced. Therefore, it would appear that access to banking, at least for the urban middle class, is improving.

Apart from the debilitating affect that the atrophied state of the banking sector has on development, the lack of financial inclusion could contribute to undesirable long-term political economy developments. Groups, either with access to capital outside the local banking sector, notably the ethnic Chinese minority, or with privileged access to finance, such as the military, may come to dominate the private sector economy and the emergent middle class. Such a development and its implied blunting of socioeconomic mobility could become a source of tension (Steinberg 2013a, 2013b).

In August 2014, nine foreign banks were issued licences to operate. The licences require $75 million investment and restrict the foreign banks to a single branch offering, only lending in foreign currencies to foreign companies and local banks. In the words of one commentator, "the restrictions are aimed both to protect the local financial services sector and to encourage the transfer of knowledge and best practices by encouraging foreign-local cooperation" (Gallucci 2014), and the on-lending to local banks may create a potential for local firms to access foreign banks through syndicated loans (Turnell 2014).

B. Corporate Governance

Given the state domination of the financial sector and the ubiquity of SEEs and politically connected enterprises in the economy, corporate governance in Myanmar has been historically problematic. The basic issue is that the SEEs were not subjected to hard budget constraints, and benefitted from capital channelling by the state-dominated banking sector, provisions of subsidies, and dispensation from paying taxes (Kubo 2012). However, recent reforms should mitigate, if not terminate, such practices.

Exchange rate reforms have been important in this regard. With the introduction of a managed float in April 2012, the reference rate has converged on the previously unofficial market rate, eliminating the implicit subsidization of the SEEs that occurred via the old exchange rate mechanism (Kubo 2012, Mieno 2013). President Thein Sein has proposed that the SEEs stop receiving explicit subsidies and begin paying taxes, as comparable private enterprises do (Min 2013).

The issue of soft budget constraints is a deeper problem, however. Kubo (2012) argues that the integration of the SEEs into the state budget through the State Fund Account (SFA) actually worsened the problem, and that resolving the issue requires the abolition of central planning of prices, production, and distribution of goods and services that the SEEs provide. "The necessary reforms include the separation of the SEEs from the state budget as well as the abolition of price controls, and the implicit cross-subsidies in the state sector." (Kubo 2013, p. 26). From 2013–2014, profitable SEEs are expected to self-finance working capital, while the state will continue to finance 20% of the working capital of loss-making SEEs. This represents a move toward greater financial autonomy for the SEEs insofar as the state financed 78% of the working capital of these enterprises previously (IMF 2013).

However, in February 2011, just before the military junta left office, there was a massive privatization of state assets, which some observers likened to a "fire sale" (e.g., Kubo 2012). As a consequence, the soft budget constraint issue may now manifest in a different form, similar to that observed with respect to the Government Supervised Agencies (GSAs) at the heart of the 2007–2008 financial crisis in the United States (US). The problem is one of moral hazard, where ostensibly, private enterprises engage in risky behavior because they believe themselves to be indemnified against losses due to their political connections. Specifically, the expectation is that, these now nominally private enterprises, in many cases controlled by former officials, could seek help from the government after making bad investments, thus increasing the likelihood that bad investments would be made; or, similarly, banks may infer that the government is likely to bail out bad loans made to the former SEEs and thus not scrutinize borrowing carefully. The situation in Myanmar is made worse by the fact that the banks themselves may be connected through ownership to the borrower.

Moreover, the simple privatization of such entities without any regulatory oversight may create the conditions for implicit monopolies, oligopolies, and rampant rent-seeking. Such developments may become particularly pernicious in the nontraded sector, as the external opening of the economy and integration into ASEAN bring greater competition to the relatively undeveloped traded-goods sector and indigenous, more politically connected entrepreneurs retreat to the comparative safety of the nontraded sector.

C. Bureaucratic Capacity

Both survey-based indicators of government effectiveness and official government revenue statistics suggest Myanmar's bureaucracy is in need of reform and significant capacity building. The World Bank Governance Indicators place Myanmar in the 4th percentile in terms of government effectiveness, which captures "perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies" (Kaufman, Kraay, and Mastruzzi 2010, p. 4). Revenue-generating capacity is another often-used measure of bureaucratic/administrative capacity, as revenue collection requires the development of significant infrastructure and human capital for collecting and managing information. Total government revenues in 2011 were estimated at only 12% of GDP, compared to a mean of 20.4% for the ASEAN-5 countries (Indonesia, Malaysia, the Philippines, Thailand, and Viet Nam) and 28.1% for emerging market and developing economies (IMF 2014b). Since then, however, revenue collection has increased dramatically, nearly doubling to 22.3% in 2013, putting it at par with ASEAN-5 countries (IMF 2014b).

Myanmar is emerging from a 25-year period of military rule, during which the State Peace and Development Council (SPDC), formerly the State Law and Order Restoration Council (SLORC), exercised control over all three branches of government. During this period, virtually all of the senior positions in line ministries were staffed by generals and retired military officers. Military penetration into the bureaucracy extended into lower levels of the bureaucracy as well, after many civilian bureaucrats were sacked due to their participation in antigovernment protests in 1988. These positions were often given to regional military commanders who were folded, in large numbers, into the central administration.

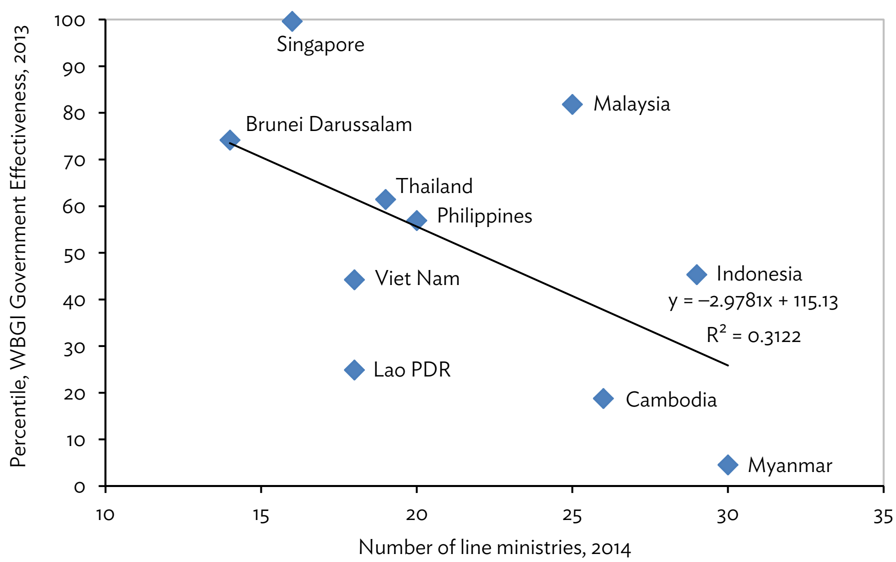
The militarization of the bureaucracy had three pervasive effects. The first was to produce a highly centralized and assertively top-down form of decision-making and policy implementation. While all bureaucracies are hierarchical in nature, military hierarchies are unique in the degree to which the chain of command is observed. The salient features of the chain of command are vertical lines of communication and accountability (orders flow down, feedback flows up), strict observance of orders, and non-interference in other units. Each has practical implications for the functioning of line ministries. Chains of command do not reward initiative by lower-level functionaries, who instead rely on top-down direction. Diversity of opinion is considered divisive, rather than potentially innovative. Because information must flow back up through several links in the chain, it can be both distorted (either intentionally or unintentionally) or quashed in order to avoid the appearance of unsatisfactory performance.

The principal of non-interference in other units hampered inter-ministerial cooperation, as lines of delegated authority were blurred and there was no clear mechanism for producing or carrying out joint policy initiatives. While some ministries appear to collaborate effectively—the Ministry of National Planning and Economic Development and the Ministry of Finance jointly harmonize capital and current budgeting—other areas do not benefit from such collaboration. The Ministries of Energy and Electrical Power are currently developing separate master planning documents without inter-ministerial coordination. Education policy currently falls under the purview of at least a dozen different ministries. While the Ministry of National Planning would be a potential agent for policy harmonization across ministries, it has neither budgetary power nor a mandate to do so.

The second result of the militarization of the bureaucracy was the proliferation of ministerial appointments, though this was also due in part to the pursuit of a centrally planned economy. Myanmar's cabinet is comparatively large, consisting of 30 line ministries. The median for ASEAN countries is 19.5.[13] There is a general negative relationship between cabinet size and government effectiveness, with a significant deterioration of government effectiveness once the threshold of 20 line ministers is passed (Klimek, Hanel, and Thurner 2009; see Figure 5). As ministries proliferate, it becomes more difficult both to achieve collective decisions and to coordinate policy implementation across ministries. Whether this is due to declining efficiency in collective decision-making, increasing transaction costs of coordinating policy at the implementation stage, or both, has not been tested, but it is likely that both play a role. Also, more government ministries provide more government jobs, and thus more opportunities for staffing ministries as a form of political patronage.

[13] As of 23 November 2014, per CIA (2014).

Figure 5: Larger Cabinets, Weaker Bureaucratic Effectiveness



Lao PDR = Lao People's Democratic Republic, WBGI = World Bank Governance Indicator.
Sources: World Bank 2014b, CIA 2014.

The third result was to homogenize the educational backgrounds and worldviews of mid- and top-level bureaucrats. Of the 38 current[14] line ministers and cabinet-level appointments, 23 are former military officers. Many, if not all, were trained at the Defense Services Academy (DSA), which trains future military officers for all three branches of the Tatmadaw. While this service academy is widely viewed as one, if not the, preeminent institution of higher learning in Myanmar, the prevalence of its graduates in ministerial positions implies that most ministers share a common formal training in the natural and social sciences. Whatever its merits, relying so heavily on a single educational institution to staff the bureaucracy risks the stifling of initiative and diversity of opinion. The success of DSA graduates in climbing the ranks of both the military and the bureaucracy contributes to the perceptions that the military is still the most reliable vehicle for advancement in the public sector.

At the sub-ministerial level, resource and staffing constraints are significant. Multiple ministries have had their mandates grow much faster than their budgets. Bureaucratic pay remains low, despite salaries having been increased by 20% in each of the last 2 years. Low public sector salaries hamper attempts to recruit "the best and the brightest" and can exacerbate problems with corruption (Van Rijckeghem and Weder 2001). Even though the 2013–2014 budget includes an additional 23% increase in public sector wages, this problem is likely to become more significant with the emergence of the private sector and increasing foreign investment (OECD 2013). In 2012, business interests forecast an increase in wages for skilled workers of 20% to 50% for the next year, with wages for those working for foreign firms potentially even higher.[15] Nongovernment jobs have become relatively more attractive, making it more difficult for the government to recruit and retain productive workers. This is

[14] As of 23 November 2014.
[15] *Eleven*. 2012. Salaries of skilled workers in Myanmar to rise up to 50%. 22 October. http://www.elevenmyanmar.com/index.php?option=com_content&view=article&id=1038:salaries-of-skilled-workers-in-myanmar-to-rise-up-to-50&catid=33&Itemid=356

especially in those ministries that rely on highly sought-after technical skills, such as the Ministry of Finance and Revenue, which operates the Central Bank.

One obvious option is to continue raising wages in the public sector, a strategy successfully implemented by Singapore (Rahman 1986). However, wage increases may not by themselves be sufficient, for several reasons. First, wage increases that would be necessary to stamp out corruption and retain the most effective bureaucrats might be so large as to be impractical—on the order of two to eight times wages in the manufacturing sector (Besley and McLaren 1993, Van Rijckeghem and Weder 2001). Second, the long-term retention effects of wage increases are likely to be eroded by continued growth in the private sector. Third, given the size of the public sector, across-the-board wage increases could have undesirable inflationary effects. Moreover, general wage increases benefit both highly productive and shirking employees alike, and may actually lower morale among the most talented.

Developing country governments have tried a variety of alternatives to build longer-term allegiance to bureaucratic careers among desirable workers. One possibility would be to train and construct a career ladder for a cadre of elite civil servants. Career-based elite civil services, such as those in the Republic of Korea and Malaysia, are staffed via entry-level recruitment according to performance on an elite exam, with small proportions being nominated to serve from within the existing civil service (World Bank 2012b). If successfully implemented, this would endow the Myanmar government with a young, cohesive cohort of civil servants that could be induced to stay long-term by informal social bonds. While this would be attractive, the present staffing needs of the Myanmar government are such that it would likely need to be supplemented at the outset with recruitment from the broader civil service, based on performance reports. These elite services act as teams within the broader bureaucracy and can be significant agents of change.

A complementary measure would be to place greater emphasis on delayed rewards, establishing attractive pensions and retirement benefits, such as subsidized insurance. This strategy may be advisable for two reasons. First, the deferment of benefits to late life means that the effect on current expenditures need not be as large as with wage increases (Becker and Stigler 1974). Second, these types of benefits would have minimal impact on inflation, as they would not entail large injections of cash into the local economy. Another option would be to reform the system to place greater emphasis on rewarding performance. Implementing a two-tier salary structure, consisting of a base wage and a variable wage that would be based on performance, would be one way of addressing this issue. Finally, another option would be to enhance recruitment efforts aimed at those individuals who are discriminated against in the private labor market for reasons of disability, gender or religion. These individuals can be recruited and retained at lower costs. This suggestion should not be taken as encouraging discrimination, but rather recognizing that it exists and can be exploited by the public sector. Moreover, a diversification of the civil service could enhance central government credibility among peripheral minority groups.

President Thein Sein designated 2013 as the year for public sector reform, with the goal of streamlining the policymaking process, with the Ministries of National Planning and Finance intended to emerge as policy coordinators. This process resulted in the creation of inter-ministerial committees, including the National Energy Management Committee (NEMC) and the Energy Management Committee (EMC), composed of representatives of the Ministries of Energy, Electric Power, Agriculture and Irrigation, Environmental Conservation and Forestry, Industry, Mines, and Science and Technology. While these bodies have a specific mandate to break down stovepipes in policy formation, they lack independent secretariats. Whatever issues or policy initiatives emerge out of the committee meetings are then reassigned to the independent ministries later. Providing these units with independent secretariats would be a useful step in enhancing policy coordination. ADB is providing some support for the development of a 20-year, integrated energy master plan, but similar infusions of resources – and help with cross-ministry planning and coordination – would be welcome (ADB 2013). At the national level, the Ministry of National Planning should be tasked with coordinating policy. Policy coordination among a coordinating ministry and a line ministry is difficult enough; divvying up the coordinating responsibilities between two ministries amplifies the associated problems. If planning and finance are so intimately linked that assigning the master planning role to one ministry would be unworkable, another model would be to merge the Ministries of National Planning and Finance. The Republic of Korea did just this in 2008, with the state rationale being "to put under one roof fiscal policy functions and inter-ministerial policy coordination" (Ministry of Strategy and Finance 2010, IMF 2010).

Policy coordination between the central government, and state and regional governments will be an increasingly important issue. The 2008 constitution established state and regional governments,[16] each with the constitutional power to levy excise, land, and water taxes as well as toll fees and royalties on marine fisheries. Moreover, state and regional governments will be responsible for implementing central government directives alongside central government ministries. Additional staffing demands will be significant. The state and regional governments will form their own cabinets, with ministers drawn from the elected state and regional Hluttaws, and subject to final approval by the president. As at the national level, the Minister for Border and Security Affairs will be appointed by the Commander-in-Chief of the Defense Services. However, these ministries will not have direct power over hiring and promotion in these bureaucracies, which will be conducted by the national line ministries. This blurs the lines of delegation, with bureaucrats potentially receiving conflicting directives and assignments from national, and state- and regional-level ministers. Moreover, regional ministers will be fewer in number than line ministries, meaning that individual regional and state ministers will have to shoulder multiple portfolios with a single ministry's staff and resources (Nixon et al. 2013). These circumstances are ripe for an increase in corrupt practices, as blurred lines of delegation complicate oversight.

IV. ENGAGING CIVIL SOCIETY AND THE PEACE PROCESS

A. Civil Society

Since 2011, the Myanmar government has enacted wide-ranging reforms that should support development of a more robust civil society, even if they fall short of guaranteeing true freedom of press and assembly. Press censorship has been eased by the abolition of the Press Scrutiny and Registration Division. Prior to its abolition in 2012, all newspaper articles were subject to its purview. The state's monopoly on daily print media has ended as well. As of 1 April, 2013, four privately owned daily newspapers went into circulation, though private newspapers still require government-issued permits.[17] These reforms have been noticed—in just 2 years (2012–2014), Myanmar moved from

---

[16] States and regions are equivalent. The term state applies to those administrative units encompassing regionally concentrated ethnic minorities (Chin, Kachin, Kayah, Kayin, Mon, Rakhine, and Shan), while the regions are composed of majority Burman areas (Ayeyarwady, Bago, Magway, Mandalay, Sagaing, Taninthyari, and Yangon). The capital, Naypyidaw, is administered as a union territory.

[17] Sixteen separate newspapers were granted licenses by the Myanmar government. See Tun 2013.

169th to 145th on Reporters Without Borders' *World Press Freedom Index,* putting it ahead of regional comparators Malaysia and Viet Nam (Reporters Without Borders 2014).

The Law on Peaceful Assembly and Peaceful Procession, enacted 5 July 2012, allows the right to hold peaceful demonstrations and marches, though organizers must obtain permission 5 days in advance from the commander of the relevant Township Police Force. Applications are not to be denied unless they pose a threat to state security, the rule of law, or "public tranquility," though these terms are left without precise definition, and thus regional police commanders have wide latitude in determining what constitutes a threat (Ministry of Home Affairs 2012).

The Myanmar National Human Rights Commission (NHRC) was empaneled in 2011. It has issued repeated calls for the President to grant amnesty to political prisoners and exiles. Over 6,000 such prisoners were released on 11 October 2011 (NHRC 2011), and hundreds of political dissidents have returned from abroad after the government removed over 2,000 individuals from a "blacklist" that prohibited entry into the country. Nevertheless, the NHRC has thus far not investigated claims of human rights abuses in conflict zones, where conditions are likely much worse.

A welcome sign has been an enhanced role for civil society in the policy formation and advising process. As discussed above, an independent think tank, the Myanmar Development Resource Institute was formed. It consists of three components: economics, law, and security and political affairs. This group has been tasked with acting as the secretariat in Myanmar's Extractive Industries Transparency Initiative application (see the following section).

As Myanmar's private sector develops, opportunities to leverage private expertise through public-private partnerships (PPPs) should be expanded as well (ADB 2008). PPPs have been a widely used mechanism for developing infrastructure, particularly in the areas of telecommunications, power generation, water and sanitation, and transportation. Given Myanmar's needs in all these areas, this may be a mechanism for channelling private investment into the provision of public services.

Improvements in communications infrastructure will help spur both economic growth and civil society. As of 2012, only one out of 100 Myanmar people had internet access, and telephone lines were similarly scarce. Cellular subscriptions, however, are up over 800% since 2010, with more than 5 million cellular subscribers nationwide (World Bank 2013). As has been the experience in other countries, the expansion of communication is expected to have both economic and sociopolitical effects by facilitating communication among private citizens.

While the long-term effects of a burgeoning civil society will likely be very positive, the opening of political space for private, non-state actors is not always an unalloyed blessing. Independent civil societies can and will mobilize to protest reforms, particularly those that entail the withdrawal of perceived benefits. Moreover, not all civil society actors are necessarily benevolent, which implies that the government must play a larger role in punishing and deterring such violent actions, especially as they may have the potential to escalate.

B. Peace Process

Myanmar's past history of unrest has been a significant brake on economic development. While country-specific estimates are not feasible, Cerra and Saxena (2008) estimate the output loss from a civil war in low-income countries to be significant (on average, 6%), and higher for those with comparatively weak checks on executive power. Conflict in Myanmar has complicated efforts to combat narcotics production, illegal mining and logging, the latter of which constitutes a significant loss of both export and government revenue. More generally, concerns about political instability drive down foreign direct investment (FDI), especially in nonresource sectors like light manufacturing.

On September 10, 2013, Minister of the President's Office Aung Min met with members of the Federal Council to discuss plans for a national cease-fire agreement. If successful, it could pave the way to a more comprehensive peace agreement. However, just 10 days later, the UNFC announced that it would not accept the government's offer, in part due to continued fighting in Kachin and Shan states. Tensions rose further in November 2014 following the shelling of a Kachin training facility, which resulted in the deaths of 23 Kachin Independence Army (KIA, the militant wing of the Kachin Independence Organization); the action was condemned by the United Nationalities Federal Council. Despite day-to-day uncertainty, these most recent cease fires differ significantly from those of the past. The most recent cease-fires have been a) written, rather than verbal; b) openly reported by media outlets, meaning that public awareness of the cease-fires has been significantly enhanced; c) involve not just field military commanders, but delegates of the highest levels of the civilian government; and d) explicitly tackle the issue of armed-group involvement in illicit activities (Yawnghwe and Maung Than 2011).

While these are positive developments, a cease-fire should not be viewed as marking the cessation of hostilities. Conflict could resume if the underlying issues that generated the conflicts are not addressed. The 2010 constitution began the process of transitioning more governance roles to regional governments, thereby granting minority groups greater policy autonomy. However, the stability of these ethno-federal and/or power-sharing arrangements is not guaranteed. Lijphart (1977), Stepan (1999), Gurr (2000) all argue the merits of decentralization, either via federalism or some power-sharing arrangement, as a solution to rule in ethnically divided societies. Power-sharing arrangements are those that build in representation for various identity groups in order to insure that their interests are represented in postconflict governance institutions. Hartzell and Hoddie (2003) find that power-sharing institutions across a wide range of areas—economic, military, political, and territorial autonomy—are associated with a decreased likelihood of return to conflict, though their findings are based on small samples.

There are dissenting views as well. Brancati (2006) finds that ethno-federalism reinforces ethnic and regional identities and party cleavages, producing legislation that favors certain groups over others, and mobilizing groups to engage in ethnic conflict and secessionism. Christin and Hug (2012) note that this tendency is strongest when ethnic groups are highly geographically concentrated – a condition that definitely obtains in Myanmar. Alternately, Bakke and Wibbels (2006) note that the stability of ethno-federal arrangements is conditional on a society's level of economic development and ethnic composition. Alternately, Roeder and Rothschild argue in favor of power dividing, rather than power-sharing arrangements (Roeder and Rothschild 2005). Power-dividing institutions stress the importance of multiple, overlapping majorities and checks and balances as well as universal protection of civil liberties, and ethnic and religious identities. Roeder and Rothschild find that power-dividing, rather than power-sharing, institutions are associated with more robust peace following civil wars.

Whatever the resolution of existing conflicts, further institutional reforms are likely necessary to encourage the development of broad-based political parties that have support across ethnic and regional lines. The current electoral system, in which legislative candidates compete for a single seat (single member district plurality, or SMDP) within relatively ethnically and religiously homogeneous districts, does not encourage politicians to seek support outside of their own group. These systems tend to disproportionately reward large national parties and smaller parties with highly geographically concentrated bases of support, such as the various regional parties, while underrepresenting smaller, less geographically concentrated parties.

Electoral systems research comes up with three classes of solutions: closed-list proportional representation (PR); rules that require parties to run candidates across the country, rather than just in ethnic homelands, as in Indonesia (Selway 2013); and preferential voting systems. In preference voting systems, voters rank their preferences over candidates within their district (Reilly 2002). The idea is to encourage parties not just to campaign for first-place votes, but to court second-place votes as well, pooling votes across ethnic lines and thus decreasing ethnic identity as a salient driver of political affiliations. Alternative vote is a single member district system that requires an absolute majority, rather than plurality; if an absolute majority is not gained in the first round, the candidate with the lowest number of first-place votes is eliminated, and their votes are distributed to the remaining candidates. Single transferable vote is a proportion system with multimember districts, with a "quota" of votes required to elect a single candidate, and a subsequently similar redistribution of remaining first-place votes. Either of these reforms would help to reduce the salience of ethnic identity in partisan politics.

V. EXTERNAL POLICY ANCHORS AND THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

Myanmar is reforming its policies and practices on governance. External anchors can be used to promote internal reforms, reinforce credibility, and lock in commitments. In particular, Myanmar's transformation is occurring in the context of a massive resource boom. The Extractive Industries Transparency Initiative (EITI) and other international anticorruption efforts can be used to deepen and strengthen Myanmar's ongoing efforts in this area.

A. Resource Development Context

Myanmar has incredibly rich and diverse mineral resources, ranging from precious stones to oil and natural gas. The country has an estimated 283 to 334 billion cubic meters of natural gas, with much higher reserve potential, along with 50 million barrels of crude oil reserves (US EIA 2013, BP 2013). The country has 90% of the world's jade reserves. A strengthened legal framework, streamlined approvals process, and a removal of export bans on certain minerals could induce billions of dollars of FDI inflows and transform the sector.

In addition to minerals, Myanmar exports considerable timber (perhaps more than 2.5 million m^3), though assessing the true volume of timber exports, as in the case of semi-precious stones, is impeded by the problem of illegal exports (Woods 2013).

Energy and minerals account for perhaps half of exports, and FDI has been overwhelmingly targeted at the mineral and natural gas sectors. Sixty-one companies, including Total, Eni, and other large multinationals that are EITI stakeholders, have registered to bid on both onshore and 30 offshore blocks in 2013; 20 more offshore oil and gas blocks were auctioned to companies including Royal Dutch Shell, Total and Statoil, with a further nine blocks to be auctioned in 2015. Pipelines to carry the oil and gas to end users have been built traversing the country, including through areas largely inhabited by ethnic minorities, and protests have at times disrupted the operation of oil and gas pipelines.

An open issue is whether economic and political institutions are capable of successfully managing the sudden influx of wealth this mineral boom will generate, or whether the wealth will complicate macroeconomic management, inhibiting development of nonenergy sectors and complicating the country's political reforms.

Countries whose wealth is heavily derived from the exploitation of natural resources tend to be poorer and grow more slowly than those whose wealth is based on the accumulation of human and physical capital. However, the empirical literature on the resource curse—the tendency of resource-dependent economies to grow more slowly for purely economic reasons, such as resource pulls and crowding out, Dutch disease, price volatility, etc.—have reached consensus that these economic phenomena cause only slightly negative effects. The most potentially deleterious effects of natural resource wealth on economic development may rather operate indirectly, through institutions and conflict.

Dependence on high-value, mined commodities has negative effects for bureaucratic and state capacity, and political violence—all of which exert direct or indirect effects on economic growth. It is perhaps no accident that the two countries with which Myanmar tied for last in the open budget index were Qatar and Equatorial Guinea, two oil exporters. However, the negative effects for bureaucratic capacity and political violence—the factors with the clearest implications for economic growth—are found to be largely contingent on the quality of preexisting institutions and, in the case of conflict, certain attributes of the resources themselves.

Whether natural resource wealth leads to violence is largely a function of both attributes of the resource itself and the technology of its extraction, and the preexisting political, economic, and social environment. Commodities with high value-to-weight ratios, such as gemstones, oil, cocaine, and opium are ideal contestable, or "lootable," goods, and indeed the gem trade has fueled some of Myanmar's peripheral insurgencies for decades.

With respect to hydrocarbons, location is key. The relevant distinction is onshore versus offshore production. Onshore oil production increases the probability of conflict onset by 50% relative to the baseline risk, in contrast to offshore production, which has no effect. The differential effects of onshore and offshore production are due to the differential opportunities onshore versus offshore production created for rent-seeking by violent actors. Transporting onshore hydrocarbons to terminals for export generally requires large, aboveground networks of pipelines. This onshore infrastructure creates a network of targets—including pipelines and the workers that service them—only a few of which can truly be hardened against attack. Deep-pocketed energy companies make attractive targets for insurgents, who may have limited capacity to hold and defend such installations, but significant capacity to extort. Myanmar's own experience with its pipeline through Shan state—which has been sabotaged by insurgents in the past—shows this in action. In contrast, offshore platforms are comparatively easy to defend, since most insurgent groups do not have naval capacity, and have limited capacity to extract rents from offshore production. As Myanmar's production transitions to more offshore gas fields, its gas infrastructure will be less prone to sabotage.

Many seemingly resource-related conflicts have occurred in societies that would be among the most likely candidates for conflict outbreak, even absent the role of contestable resources—countries like Colombia, Indonesia, and Myanmar are at elevated risk of experiencing conflict because of past histories of violence, comparatively low levels of economic development, and horizontal inequalities.

For this reason, political reforms aimed at redressing horizontal inequalities—such as those between the ethnic majority and minorities—are vital.

B. The Extractive Industries Transparency Initiative

Policy concerns regarding the potentially negative institutional aspects of the resource curse fall into two basic categories. The first revolve around fiscal issues. Proposed solutions typically involve the adoption of fiscal policy rules (including the possibility of dedicating or earmarking expenditures for particular programs with the expectation that this will generate a broad political constituency for transparency and accountability), the creation of natural resource fund (NRF) or sovereign wealth funds (SWFs), and/or direct distribution of resource rents via cash transfers/dividends to the public, or what has been called "oil-to-cash." Each of these proposals has merits and drawbacks, and some judicious mixture of all three (an NRF or SWF, earmarks for particular programs, and dividend payments) may be ideal. However, what we focus on in this context, are institutional concerns, which are much more foundational to economic development than any specific policy intervention.

Over the past decade, a number of international good governance initiatives including the Kimberley Process Certification System (KPCS) and associated Diamond Development Initiative, the EITI, and the Conflict Minerals Trade initiative, have emerged to address the resource management challenges described in the previous section.[18] In July 2014, Myanmar was accepted as a candidate country to the EITI.[19] It is also pursuing a pilot project to push down EITI to the state level.

EITI works off of two components: disclosure, which is supposed to generate the information needed to reduce corruption, and the establishment of country-level multi-stakeholder bodies, which in principle absorb and propagate this information with the aim of enforcing accountability.

The aim of the first component is to build double-entry accounts that can be checked for consistency. Governments must require extractive firms operating within their territory to disclose payments to governments to explore or extract energy or minerals, and governments must record revenues that they receive from extraction. A third-party independent administrator reconciles these figures. A current source of contention is whether these payments are aggregated or reported on a company-by-company basis, as is now required by laws in the US and the European Union (EU). Roughly half of EITI member countries publish only aggregate amounts; the other half, publish their results by company (Moran 2013).[20] Myanmar can choose to make such reporting mandatory.

The second component is the establishment of a formal multi-stakeholder group that evaluates the information provided by the firms, the government, and the third-party administrator. Finally, an outside body validates the reports in conjunction with the stakeholder group. This is supposed to close a loop between the government and the governed.

There are two tiers of countries in EITI: candidate countries that have signed up to implement the EITI protocol, and compliant countries that have fully and successfully implemented EITI. As of November 2014, there are 31 compliant countries, 17 candidate countries, 8 stakeholder

---

[18] This section draws on Hendrix and Noland (2014). In addition to the initiatives mentioned above, the EU, US, and Australia all maintain their own regulations on the importation of timber from Myanmar, which have created a trade regime somewhat similar to the conflict minerals regulatory regime.

[19] The US is also in the process of applying to EITI and has entered into a partnership with Myanmar to provide political and technical assistance to implement best practices in the oil, gas, and mining sectors.

[20] See Darby (2009) on the rationale for company-by-company disclosure.

nongovernmental organizations (NGOs), more than 80 supporting companies, more than 80 supporting institutional investors, and 21 stakeholder organizations, including ADB. Petrobras (Brazil) is an EITI supporter, but other large non-Western oil companies such as China National Petroleum Company, Lukoil (Russian Federation), and Petronas (Malaysia) are not.[21]

While EITI was originally oriented toward the oil sector, several signatories produced other minerals and were not primarily oil producers. EITI is being expanded to include fisheries and forestry in some countries. There is no reason, for example, that Myanmar cannot also apply EITI to the production of timber, and not just oil, gas, and minerals.[22]

The effectiveness of EITI is in significant part a function of the degree of buy-in by host governments. The pact is voluntary. A government committed to behaving corruptly may simply not participate. There is no mechanism for directly sanctioning noncompliance, though there may be reputational or signaling costs.[23] EITI focuses on a single point in the production chain (the transfer of money from the firm to the government) and ignores critical upstream stages (contracting and procurement) and downstream activities (expenditure).

The stakeholder body is also potentially a point of weakness, depending on the preexisting strength of civil society and on the attitude of the government. EITI creates a platform for communication between the government, the companies, and civil society, and establishes a set of internationally accepted norms and procedures. But in other countries, particularly those that have recently transitioned from more autocratic forms of rule, the press and the NGO sectors remain weak, making effective civil society participation difficult. And in some countries, the government literally appoints the stakeholder representatives, allowing it to pack the body with cronies who may have little interest in rocking the boat. Similarly, EITI may serve as a spur to national legislation to strengthen regulation of the extractive sector.

One barrier to implementation has been a simple lack of accounting expertise. The NGOs Publish What You Pay and Transparency International train budget activists, and the Revenue Watch Institute has developed educational materials for journalists and civil society groups. The World Bank has launched an "EITI++" program that assists host governments from the initial bid tendering stage through expenditure management. The ability of these initiatives for fostering civil society, as distinct from providing technical assistance to functioning civil society groups, is unclear. Ultimately, EITI is only as effective as there are mechanisms, including a free press, which allows citizens to exert accountability over their government. In this regard, Myanmar's recent moves toward greater budget transparency, and enhanced civil and political freedoms, including critically, press freedoms, make it more likely that EITI can function successfully as intended in Myanmar.

Producers from nonsignatory countries are steadily becoming entangled in the regime. One prong is EITI itself—as more countries begin implementing EITI, and validation standards tighten, more and more companies will be subject to host government pressure to participate.

---

[21] See EITI website. http://eiti.org/supporters/companies(accessed 20 November 2014).

[22] Myanmar has a legal regime for timber exports requiring certification by Myanmar Timber Enterprise and exportation via the port of Yangon. Neighboring importing countries, the People's Republic of China (PRC) and Thailand, also have laws prohibiting the importation of illegal Myanmar timber. However, the enforcement of these laws is ineffective, and improper certification of illegally logged timber has created problems exporting to the EU and the US (Woods 2013).

[23] For example, Rex Tillerson, Exxon Mobil CEO, subsequently argued that host country adherence to EITI signals a commitment to strengthen the business-enabling environment, and for example, encouraged Equatorial Guinea to join (Aaronson 2011). (The country began the implementation process but was delisted in 2010.)

The other prong consists of laws and regulations in the US, the EU, and other jurisdictions. Foreign firms listing on US stock exchanges must observe US law, which embodies increasing rigor with respect to transparency and disclosure.[24] Companies are expected to begin reporting in 2015–2016.[25]

In the case of the EU, the European Commission proposed one set of rules in June 2012, but the European Parliament passed stricter regulations in September 2012. After consultations, in April 2013, the European Parliament overwhelmingly passed legislation going further than Dodd-Frank, requiring resource companies to publish total payments, taxes on profits or production, royalties dividends, bonuses, related fees, and payments for infrastructure improvements, for any project generating more than €100,000 in revenues. Together, the US and the EU regulations would cover about 70% of value in global extractive industries. As of November 2014, an Extractive Sector Transparency Measures Act, supported by Canadian Prime Minister, Stephen Harper, is before the Canadian parliament.

Bribery of public officials is broadly illegal throughout the world due to the 1977 Foreign Corrupt Practices Act (FCPA), which American authorities have applied extraterritorially, and the counterpart 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,[26] and similar national and regional laws passed since (Danielsen and Kennedy 2011). So, for example, Britain's 2010 Bribery Act goes farther than FCPA, making it illegal to receive a bribe or bribe private officials, but also contains an adequate preventative measures provision that would appear to make it marginally easier for a defendant to insulate itself legally from the profit maximizing malfeasance of its employees and agents (Rose-Ackerman 2010, Danielsen and Kennedy 2011).

The oil and gas sector appears to be especially prone to bribery (Weisman 2008, Sanyal 2012 Table 1). There is some statistical evidence that the US anticorruption enforcement officials may act altruistically, imposing proportionately greater fines for violations committed in low-income countries (Choi and Davis 2012). Whether employees of SEEs and SWFs count as "foreign officials" under FCPA is an unresolved issue that may take on greater salience in the future (Rose 2012). So, for example, if the management of Myanmar SEEs are defined as "foreign officials" for the purposes of the US law, then bribery involving management of Myanmar SEEs by firms falling under the jurisdiction of the

---

[24] According to Moran (2012), in 2012 the Hong Kong Stock Exchange adopted similar rules.

[25] The American Petroleum Institute filed a lawsuit to block the Securities and Exchange Commission (SEC) implementation of Section 1504. The industry position is that subjecting the US and the EU firms to these requirements would create an unleveled playing field with respect to their non-Western competitors, and that the disclosure requirement could conflict with confidentiality agreements required by some host governments, including Angola, Cameroon, the PRC, and Qatar, effectively requiring firms to break either the law of the US and/or the EU, or the law of their hosts. The US and the EU laws assert their primacy in this situation. In July 2013, the US District Court for the District of Columbia ruled in favor of the oil companies, accepting the industry's argument that the payment reports should go to the SEC privately and not be made public. The court sent the regulations back to the SEC for revision. What may be revised, and what, if any, impact the court ruling might have for developments in the EU, Canada, and elsewhere are unclear at this writing. Large US firms such as Exxon-Mobil, Chevron, and CononoPhilips would still be covered under the stricter EU laws since they list on European stock exchanges.

[26] This convention has been ratified by all members of the OECD as well as six non-member countries--Argentina, Brazil, Bulgaria, Colombia, Russian Federation, and South Africa. Enforcement is via national law, with a peer-review mechanism to encourage diligence.

FCPA would be subject to prosecution in the US.[27] This is a potentially powerful tool for anticorruption activities within Myanmar, insofar as Myanmar authorities could appeal to counterparts in the US, the EU, and other jurisdictions with strong antibribery statutes, for assistance in investigation and prosecutions. So, for example, the government of Ghana successfully enlisted the US Department of Justice participation in an investigation into corruption in that country's oil industry that involved a firm located in the US.

Ultimately, the effectiveness of EITI and other good governance initiatives to generate better development outcomes in the long run is conditioned on a number of political and institutional factors, such as the existence of a free press and a robust civil society. Myanmar is making progress in these areas, though progress in these spheres is not plausibly under the control of the agencies implementing EITI and related initiatives. This simply underscores the need for a holistic approach to addressing these multifaceted concerns.

VI. CONCLUSIONS

The government of Myanmar faces important decisions that will determine the future trajectory of governance reform, and condition long-run growth and poverty reduction. Since 2010, the pace of reform has been nothing short of stunning, yet significant challenges remain. While the agenda for continued reform is extensive, we identify the following agenda items as crucial for enhancing government effectiveness and locking in recent gains in this area:

i. Enhancing bureaucratic salaries and diversifying the candidate pool by targeting underrepresented groups and those likely to face some discrimination in the private labor market.
ii. Developing an elite cadre of senior civil servants as a desirable career path.
iii. Streamlining the number of line ministries, cutting their number roughly in half, while shifting staffing to inter-ministerial coordinating secretariats. In particular, the government should consider merging the Ministries of National Planning and Finance in order to unite strategic planning and budgeting under one ministry.
iv. Achieving a comprehensive cease-fire with various armed groups.
v. Reforming electoral law to encourage development of more national parties, either by requiring parties to run candidates in all constituencies or by introducing some form of preference voting.
vi. Increasing involvement of the private sector (private industry, think tanks, and independent educational institutions) in the policy formation process.
vii. The Ministry of Finance and Revenue should conduct a comprehensive land survey—security conditions permitting—in order to establish a current cadaster map of the country's territory and promote transparency about land use and tenure.

[27] The trend is clearly toward ratcheting up disclosure requirements for a broad swath of producers. For example, all four of the PRC's major oil companies have foreign operations and all are listed on the New York Stock Exchange (therefore subject to FCPA). Many of the PRC's major extractive firms are in joint ventures with Western multinationals, such as Total, BP, and BHP Billiton, and thus are included in these operations by extension, though as Moran (2012) observes, there may be significant gaps with respect to coverage of non-Western producers. Moran (2012, 2013) notes that a number of major Russian, Chinese, and Indian oil and mining companies do not list in New York or Hong Kong, China and thus would not be subject to EITI via those channels. The regulations also do not apply to foreign issuers of American depository receipts such as Lukoil and Gazprom.

viii. Economic research reviewed in this chapter has demonstrated the link between rule of law and the control of corruption with economic growth. This implies using EITI as a means to leverage Myanmar's indigenous good governance efforts in the extractive sector, and more broadly, exploit opportunities to anchor broader policy reforms, including anticorruption efforts, to international best practices.

Specifically, in implementing EITI, Myanmar can

i. require company by company disclosure;
ii. extend EITI to oil, gas, minerals, and timber;
iii. look favorably on bids by EITI stakeholder firms committed to transparency; and
iv. participate in EITI+ and EITI++, extending the transparency initiative upstream to contracting and procurement, and downstream to expenditure.

Likewise, a similar set of arguments hold for foreign anticorruption statutes, such as the US FCPA, more broadly. Specifically, the government of Myanmar should look favorably on bids by firms based in jurisdictions with strong antibribery laws and enforcement, thereby "piggy-backing" on the more rigorous standards of foreign partners; if firms that fall under the jurisdiction of those governments (whether they be headquartered in that country or not), while in Myanmar, engage in potential violations of the foreign country's anticorruption laws, then the government of Myanmar can appeal to the foreign government for support in prosecuting corrupt activity. When evaluating potential foreign participants in resource extraction, the government of Myanmar should take into account whether those firms are subject to the laws of the US, the EU, or other jurisdictions with strong antibribery laws and histories of extraterritorial legal cooperation, and give preference to those firms (regardless of nationality) whose behavior in Myanmar will be constrained by anticorruption statutes elsewhere. In short, Myanmar should use international initiatives, such as EITI and FCPA, to leverage its own reform efforts while building its own indigenous institutional capacity.

REFERENCES

Aaronson, S. A. 2011. Limited Partnership: Business, Government, Civil Society, and the Public in the Extractive Industries Transparency Initiative (EITI). *Public Administration and Development* 31 (1). pp. 50–63.

Asian Development Bank (ADB). 2008. Public-Private Partnership Handbook. Manila

———. 2013. Institutional Strengthening of National Energy Management Committee in Energy Policy and Planning. ADB Project Datasheet, 13 September. http://www.adb.org/projects/46389-001/main (accessed 28 September 2013).

Bakke, K. and E. Wibbels. 2006. Diversity, Disparity, and Civil Conflict in Federal States. *World Politics* 59 (1). pp. 1–50.

Becker, G. S. and G. J. Stigler. 1974. Law Enforcement, Malfeasance, and Compensation of Enforcers. *The Journal of Legal Studies.* 3 (1). pp. 1–18.

Besley, T. and J. McLaren. 1993. Taxes and Bribery: the Role of Wage Incentives. *The Economic Journal.* 103 (416). p. 119–41.

Binns, B. O. and P. F. Dale. 1995. Cadastral Surveys and Records of Rights in Land. *FAO Land Tenure Studies #1, Revised Edition*. Rome: Food and Agriculture Organization of the United Nations.

Brancati, D. 2006. Decentralization: Fueling the Fire or Dampening the Flames of Ethnic Conflict and Succession? *International Organization.* 60 (3). p. 651–85.

British Petroleum (BP). 2013. *Statistical Review of World Energy*. London.

Central Intelligence Agency (CIA). 2014. *Chiefs of State and Cabinet Members of Foreign Governments: A Directory*. Washington, DC.

Cerra, V. and S. C. Saxena. 2008. Growth Dynamics: The Myth of Economic Recovery. *The American Economic Review.* 98 (1). pp. 439–57.

Choi, S. J. and K. E. Davis. 2012. Foreign Affairs and Enforcement of the Foreign Corrupt Practices Act. *Public Law and Legal Theory Research Paper Series Working Series* No. 12-35. New York: New York University School of Law.

Christin, T. and S. Hug. 2012. Federalism, the Geographic Location of Groups, and Conflict. *Conflict Management and Peace Science.* 29 (1). p. 93–122.

Clapp, P. and S. DiMaggio. 2013. *Sustaining Myanmar's Transition: Ten Critical Challenges*. Washington, DC: Asia Society.

Danielsen, D. and D. Kennedy. 2011. *Busting Bribery: Sustaining the Global Momentum of the Foreign Corrupt Practices Act*. New York: Open Society Foundations.

Darby, S. 2009. The Case for Company-by-Company Reporting of Data in the Extractive Industries Transparency Initiative. http://caspianrevenuewatch.org/images/RWI_EITI_AggDisagg Reporting_Darby.pdf (accessed 24 July 2013).

Eleven. 2012. Salaries of skilled workers in Myanmar to rise up to 50%. 22 October. http://www.elevenmyanmar.com/index.php?option=com_content&view=article&id=1038:sala ries-of-skilled-workers-in-myanmar-to-rise-up-to-50&catid=33&Itemid=356http

Extractive Industries Transparency Initiative (EITI). http://eiti.org/ (accessed 23 September 2013).

Freedom House. 2014. Country Ratings and Status, Freedom in the World 1973 - 2014. http://www.freedomhouse.org/report-types/freedom-world (accessed 20 November 2014).

Gallucci, D. 2014. Telecoms and Banks Lead Myanmar Reform Push. *Financial Times.* 18 August.

Givens, D. 2013. Defining Governance Matters: A Factor Analytic Assessment of Governance Institutions. *Journal of Comparative Economics*. 41 (4). pp. 1026–53.

Gurr, T. R. 2000. Ethnic Warfare on the Wane. *Foreign Affairs.* 79 (3). pp. 52–65.

Hartzell, C. and M. Hoddie. 2003. Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management. *American Journal of Political Science.* 47 (2). pp. 318–32.

Hendrix, C. S. and M. Noland. 2014. *Confronting the Curse: The Economics and Geopolitics of Natural Resource Governance*. Washington, DC: Peterson Institute for International Economics.

Heritage Foundation. 2014. Index of Economic Freedom 1995-2014. http://www.heritage.org/ index/explore?view=by-region-country-year (accessed 20 November 2014).

International Budget Partnership. 2012. *Open Budget Survey 2012*. Washington, DC.

———. 2013. The Open Budget Index 2006-2012. http://survey. internationalbudget.org/#download (accessed 22 September 2013).

International Monetary Fund (IMF). 2010. 2009 Article IV Consultation with Myanmar. Washington, DC.

———. 2013. Myanmar: 2013 Article IV Consultation and First Review Under the Staff-Monitored Program. IMF Country Report No. 13/250). http://www.imf.org/external/ pubs/ft/scr/2013/ cr13250.pdf (accessed 27 September 2013).

———. 2014a. Myanmar: 2014 Article IV Consultation. IMF Country Report No. 14/307. Washington, DC.

———. 2014b. World Economic Outlook Database, April 2014. http://www.imf.org/external/pubs/ft/ weo/2014/01/weodata/download.aspx (accessed 23 November 2014).

Kaufmann, D., A. Kraay, and M. Mastruzzi. 2010. The Worldwide Governance Indicators: Methodology and Analytical Issues. *World Bank Policy Research Working Paper* No. 5430. Washington, DC: World Bank.

Klimek, P., R. Hanel, and S. Thurner. 2009. To How Many Politicians Should Government Be Left? *Physica A: Statistical Mechanics and its Applications.* 388 (18). pp. 3939–47.

Kubo, K. 2012. Myanmar's Two Decades of Halfway Transition to a Market Economy: A Negative Legacy for the New Government. In Hank Lim and Yasuhiro Yamada, eds. *Economic Reforms in Myanmar: Pathways and Prospects.* BRC Research Report No. 10. Bangkok Research Center, IDE-JETRO. Bangkok, Thailand.

Lijphart, A. 1977. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press.

McKinsey Global Institute. 2013. *Myanmar's Moment: Unique Opportunities, Major Challenges*.

Mieno, F. 2013. Toward Myanmar's New Stage of Development: Transition from Military Rule to the Market. *Asian Economic Policy Review*. 8 (1). p. 94–117.

Min, W. 2013. Interview at Myanmar Development Resource Institute. 29 May.

Min, A. and K. Kudo. 2012. New Government's Initiatives for Industrial Development in Myanmar. In Hank Lim and Yasuhiro Yamada, eds. *Economic Reforms in Myanmar: Pathways and Prospects.* BRC Research Report No. 10. Bangkok Research Center, IDE-JETRO. Bangkok, Thailand.

Ministry of Home Affairs. 2012. Regulations Relating to the Right to Peaceful Assembly and Peaceful Procession. Translation. http://www.burmalibrary.org/docs15/2012-Peaceful-procession_regulations-en.pdf (accessed 27 September 2013).

Ministry of Strategy and Finance. 2010. Ministry of Strategy and Finance (MOSF): History. http://www.asia21.org/node/44 (accessed 19 November 2013).

Moran, T. H. 2012. An Assessment of the Requirement that Oil, Gas and Mining Companies Registered with the U.S. Security and Exchange Commission Publish How Much They Pay to Governments Where They Operate. Unpublished paper. http://www.cgdev.org/sites/default/files/Draft%20CGD%20Policy%20Paper%20-%20EITI%20-%20Moran_.pdf (accessed 24 July 2013).

———. 2013. Reform EITI to Require Compliant Countries to Publish Disaggregated Company-by-Company Revenue Payments. Proposal for the Extractive Industry Transparency Initiative Strategic Review 2013. Washington, DC: Center for Global Development.

National Human Rights Commission (NHRC). 2011. Myanmar National Human Rights Commission sends open letter to President. 12 November. http://www.burmalibrary.org/docs14/NHRC-prisoners-NLM2011-11-13.pdf (accessed 18 September 2013).

Nehru, V. 2013. Myanmar's Economic Policy Priorities. Washington, DC: The Carnegie Papers.

Nixon, H., C. Joelene, K. P. Chit Saw, T. Aung Lynn, and M. Arnold. 2013. *State and Region Governments in Myanmar*. Asia Foundation/Myanmar Development Resource Institute.

Organization for Economic Cooperation and Development (OECD). 2013. Multi-dimensional Review of Myanmar, Volume 1: Initial Assessment. OECD Development Pathways, OECD Publishing.

Pun, S. 2012. Remarks at the Center for Strategic and International Studies Myanmar conference. Washington, DC. 25 September.

Rahman, A. K. M. 1986. Legal and Administrative Measures Against Bureaucratic Corruption in Asia. In L. Carino, ed. *Bureaucratic Corruption in Asia: Causes, Consequences, and Controls*, pp. 109–62. Quezon City: NMC Press.

Reilly, B. 2002. Electoral Systems for Divided Societies. *Journal of Democracy*. 13 (2). pp. 156–70.

Reporters Without Borders. 2014. *World Press Freedom Index 2014*. Paris, France: RSF.

Roeder, P. G. and D. S. Rothchild, eds. 2005. *Sustainable Peace: Power and Democracy After Civil Wars*. Ithaca: Cornell University Press.

Rose, P. 2012. State Capitalism and the Foreign Corrupt Practices Act," *Working Paper Series* No. 176. Columbus, OH: The Ohio State University Moritz College of Law.

Rose-Ackerman, S. 2010. The Law and Economics of Bribery. *John M. Olin Center for Studies in Law, Economics, and Public Policy Research Paper* No. 408. New Haven, CT: Yale Law School.

Sanyal, R. 2012. Patterns in International Bribery: Violations of the Foreign Corrupt Practices Act. *Thunderbird International Business Review*. 54 (3). pp. 299–309.

Selway, J. 2012. In Myanmar, An Election Doomed to Fail. *New York Times*. 30 March.

Steinberg, D. I. 2013a. *Burma/Myanmar: What Everyone Needs to Know*. Revised edition. Oxford University Press. (Forthcoming).

———. 2013b. *Transforming "Outposts of Tyranny"? Lessons and Cautions: Myanmar's Liberalization and North Korea*. Working paper. Seoul: Asian Institute for Policy Studies.

Stepan, A. 1999. Federalism and Democracy: Beyond the US Model. *Journal of Democracy*. 10 (4). pp. 19–34.

Transparency International (TI). 2013. Corruption Perceptions Index 2013. http://www.transparency.org/cpi2013/results (accessed 20 November 2014).

Tun, A. H. 2013. Private Dailies Re-emerge in Myanmar, Face Difficulties. *Reuters*. 1 April. http://in.reuters.com/article/2013/04/01/myanmar-newspapers-idINDEE93007220130401 (accessed 21 November 2014).

Turnell, S. 2014. Myanmar (partially) Opens the Door to Foreign Banks. *East Asia Forum*. 13 October. www.eastasiaforum (accessed 21 November 2014).

United States Energy Agency. 2013. Burma (Myanmar) Country Overview. http://www.eia.gov/countries/country-data.cfm?fips=BM (accessed 21 November 2014).

Van Rijckeghem, C. and B. Weder. 2001. Bureaucratic Corruption and the Rate of Temptation: Do Wages in the Civil Service Affect Corruption, and by How Much? *Journal of Development Economics.* 65 (2). pp. 307–31.

Vriens and Partners. 2013a. *The New Myanmar*. Issue 21. 12 July.

———. 2013b. *The New Myanmar*. Issue 24. 23 August.

———. 2013c. *The New Myanmar*. Issue 27. 4 October.

———. 2014. *The New Myanmar*. Issue 38. 21 March.

Weismann, M. F. 2008. The Foreign Corrupt Practices Act: The Failure of the Self-Regulatory Model of Corporate Governance in the Global Business Environment. *Journal of Business Ethics.* 88 (4). pp. 615–61.

Woods, K. 2013. *Timber Trade Flows and Actors in Myanmar*. Washington: Forest Trends Association. November.

World Bank. 2012a. Worldwide Governance Indicators 2012. http://info.worldbank.org/governance/wgi/index.aspx#reports (accessed 22 September 2013).

———. 2012b. Senior Public Service: High Performing Managers of Government. http://www1.worldbank.org/publicsector/civilservice/epublishdocs/SPS%20note%201216.pdf (accessed 5 December 2013).

———. 2013. World Development Indicators. http://data.worldbank.org/data-catalog/world-development-indicators (accessed 25 September 2013).

———. 2014a. Doing Business 2015: Going Beyond Efficiency. http://www.doingbusiness.org/reports/global-reports/doing-business-2015 (accessed 20 November2014).

———. 2014b. Worldwide Governance Indicators 2014. http://info.worldbank.org/ governance/wgi/index.aspx#reports (accessed 5 February 2015).

World Economic Forum (WEF). 2014. The Global Competitiveness Report 2014–2015. http://www.weforum.org/reports/global-competitiveness-report-2014-2015/ (accessed 20 November 2014).

Yawnghwe, S. and T. Maung Than. 2011. Ceasefires Sans Peace Process in Myanmar: The Shan State Army, 1989-2011. *Asia Security Initiative Policy Series Working Paper* No. 26. Singapore: Center for Non-Traditional Security Studies.

Myanmar: Cross-Cutting Governance Challenges

Since its nascent transition to democratic rule 2010, Myanmar has embarked on economic reforms, and the resolution of multiple longstanding civil conflicts. These transitions coincide with a resource-led economic boom. The paper assesses the current status and performance of governance institutions in comparison to ASEAN and selected other countries. Specifically, the paper discusses outstanding problem areas related to economic governance, particularly in the legal system, the business regulatory framework, and in bureaucratic capacity. It also touches on Myanmar's initiation into the Extractive Industries Transparency Initiative (EITI) process to strengthen Myanmar's ongoing reform effort.

About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to approximately two-thirds of the world's poor: 1.6 billion people who live on less than $2 a day, with 733 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

ADB

ASIAN DEVELOPMENT BANK
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org