

## Tackling Myanmar's Corruption Challenge

*Khaing Sape Saw*



Corruption is widespread in Myanmar, and this has significant negative effects on its development. In response, President U Thein Sein has made fighting corruption a priority. But despite Myanmar's gradual improvement in corruption rankings, it still ranks as one of the most corrupt ASEAN countries. Although progress in combating corruption has been made in some areas, there is much still to be done. This paper by *Khaing Sape Saw* identifies the key corruption issues still facing Myanmar, and lays out recommendations to strengthen the efforts to tackle them.

Since the installation of the civilian government under President U Thein Sein, economic and political reform in Myanmar has been high on the government's agenda. In the president's inaugural speech on March 30, 2011, a central theme focused on the importance of clean government and good governance. In the speech, he argued that "democracy will [be] promoted only hand in hand with good governance. That is why our government responsible for Myanmar's democratic transition will try hard to shape good administrative machinery ... We will fight corruption in cooperation with the people as it harms the image of not only the offenders, but also the nation and the people."<sup>1</sup> Accordingly, the Myanmar government has recognized the seriousness of corruption in hindering the country's economic and political development and, in so doing, the importance of taking steps to curb it.

Corruption, the misuse of public power for private gain,<sup>3</sup> is a complex social, political, and economic

phenomenon.<sup>3</sup> There are different levels of corruption in a society. "True" corruption where the deliberate embezzlement or misuse of funds occurs for illicit purposes can be distinguished from petty or "necessary" corruption in which bribery, gift-giving, and other activities become part and parcel of the process of conducting business or dealing with the bureaucracy.<sup>4</sup> Further examples of activities considered to be corruption include: extortion, fraud, nepotism, cronyism, appropriation of public assets and property for private use, and influence peddling. All of these forms of corruption are present in Myanmar.<sup>5</sup>

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The consequences of endemic corruption are many. One of the most damaging effects is its obstruction of the establishment of the set of institutional structures conducive to a well-functioning society and economy broadly defined as “good governance.” The concept of good governance encompasses many factors, but can be broadly described as the maintenance of governing institutions in which bureaucratic and legal processes are able to be carried out in ways which meet the needs of society as a whole,<sup>6</sup> and not just the needs of specific interest groups.

Of particular relevance to Myanmar is the link between good governance and economic development. According to the IMF, the absence of good governance results in public trust in the state, civil society, and private enterprise being undermined and which also hinders the efficient functioning of markets and the formation of a more competitive business environment. If markets are not able to function well enough, their resource-reallocating properties will not be able to be harnessed, and this will be detrimental to economic activity and welfare, and by extension the development of the economy as a whole. As a result, the presence of corruption has far-reaching negative consequences on Myanmar’s transition process from a command to market economy.

This paper analyzes corruption issues in Myanmar from both economic and political perspectives and discusses how corruption impacts Myanmar’s period of transition. In addition, the Myanmar government’s efforts to tackle corruption, the challenges faced, as well as suggestions for further reform will also be treated.

## The Prevalence of Corruption in Myanmar

Myanmar is a country which suffers from endemic corruption.<sup>7</sup> As such, it continually ranks towards the bottom of Transparency International’s Corruption Perceptions Index rankings, even when compared with other ASEAN countries. The indexes for 2012 and 2013 in Table 1 (opposite) show the seriousness of the situation.<sup>8</sup> However, it is notable that Myanmar has displayed improvement between these years, moving up 15 places. This suggests that the authorities’ recognition of the damage done by corruption and their attempts to tackle it have yielded some results, as will later be explored. However, much more needs to be

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done. This section aims to provide an overview of the different forms of corruption in Myanmar including petty corruption,<sup>9</sup> political corruption,<sup>10</sup> and economic corruption. These are examined in turn below with particular focus on the latter form of corruption.

## Petty Corruption

Petty corruption is a small-scale type of corruption which is endemic to the everyday life of Myanmar citizens. It is particularly prevalent when citizens deal with the bureaucracy of the country and engage with low- to mid-level public officials. A common example is to be found in application processes for permits or documents, where bribes or gift-giving end up becoming unavoidable elements of the process, perhaps even becoming culturally engrained with bribery rather being seen as gift-giving or a kind gesture. This form of corruption is made worse given that existing rules do not include penalties for small-scale corruption of this sort. Although the amounts exchanged are small, petty corruption on a nationwide scale represents a huge cost for the government, undermines trust in state institutions, and violates the principle of equal treatment of citizens. What is more, officials who become well-vers-

**Table 1. CPI Ranking: ASEAN countries, 2012-13**

Corruption Perceptions Index 2012		Corruption Perceptions Index 2013	
Countries	Rank	Countries	Rank
Singapore	5	Singapore	5
Brunei Darussalam	46	Brunei	38
Malaysia	54	Malaysia	53
Thailand	88	Philippines	94
Philippines	105	Thailand	102
Indonesia	118	Indonesia	114
Vietnam	123	Vietnam	116
Cambodia	157	Laos	140
Laos	160	Myanmar	157
Myanmar	172	Cambodia	160

Source: Transparency International

-ed in corruption at the lower levels of the bureaucracy will likely continue to adopt corrupt practices if they are promoted and gain more power.

### Political Corruption

Lobby groups in Myanmar are plentiful and they may be employed by a variety of institutions or individuals, such as the private sector, public sector, non-governmental organizations, think tanks, law firms, legislatures, media, political parties, politicians, and other interest groups. The term political lobbying<sup>11</sup> is becoming more popular nowadays to describe the actions of lobbyists from all of these areas. The problem with Myanmar's lobbyists is not their diversity and increasing presence, but rather their lack of proper regulation. Lobbyists regularly resort to bribes and concessions to secure favor, and this is abetted by the lack of transparency and accountability in Myanmar.

Political corruption is also present at the higher levels of government, particularly when large infrastructural works or other “mega-projects” are being negotiated or implemented. This is particularly the case when seals of approval are sought and, in order to obtain these, politicians or other high-ranking officials must often be bribed. Companies or other organizations are often willing to pay these rents to avoid trouble or delays, or to establish illicit networks of patronage which can be exploited in future deals, adding an

element of path-dependency to the problem. This misuse of discretionary power by officials and politicians is difficult to address, given that those engaging in it are often influential, powerful individuals and are at the same time those with the power to legislate to curb it.

### Economic Corruption

#### *Corruption in State Sectors and Budgetary Corruption*

Although Myanmar has been engaging in economic reforms and moving away from central planning, its nascent market economy remains bound by myriads of regulations. The complex and nebulous regulatory frameworks are coupled with well-established tendencies for political and petty corruption, and this hinders the functioning of the price mechanism, upon which the proper functioning of the market economy is based. For example, government rationing of fuel and the accompanying price ceilings are often circumvented by sellers who, seeing long queues, raise their prices accordingly.

The abuse of discretionary powers also has economic costs as companies with patronage networks or who have provided bribes to high ranking officials are often given monopoly control over the markets or sectors they win by “bidding.” As is well known, monopolies produce inefficiently low amounts of goods and services, and charge too high prices for them, reducing the welfare of citizens and stifling competition and growth.

Another issue facing Myanmar is the misappropriation of revenues intended for the country's budget. Bribing tax collectors to obtain lower taxes is commonplace, as is the bribing of customs officials to avoid paying customs duties and circumventing other regulations. Government ministries are furthermore poor reporters of the money that they spend on the projects they are carrying out. These “operational” ministries are noticeably less transparent than ministries carrying out policy formulation, and they rarely publish fig-

ures or disclose details about investors or spending. A particular concern is in the area of hydropower where electricity generation projects may have been sold to profit-seeking foreign or domestic investors who conflict with the government's stated goals of providing comprehensive and affordable electricity to the entire country, including the rural or mountainous regions where electrification is costly and where private companies are less inclined to invest. Indeed, electricity shortages are a persistent problem in Myanmar today.

### *Corruption Affecting Business*

The problem of corruption in Myanmar is particularly severe in the area of business activity. The 2014 Ease of Doing Business Index by the World Bank ranks Myanmar near the bottom of most categories. In particular, Myanmar is ranked bottom when it comes to starting a new business, and also ranks 185th out of 189 countries with regard to contract enforcement.<sup>13</sup> This latter point is especially worrisome, since the rule of law and property rights are important institutions for facilitating economic interaction in a country and creating the conditions for economic development.<sup>14</sup> Indeed, the 2011-13 "Transformation Index" of transition economies also ranks Myanmar as a bottom-tier country; with the level of market organization and competition being measured as particularly low.<sup>15</sup> This is unsurprising since on average it takes years to enforce a contract in Myanmar courts and the judicial system is characterized by institutionalized corruption.<sup>16</sup> The inability to enforce contracts likely contributes to explaining the dire situation of new businesses. If economic activity is conducted in arbitrary ways and engulfed by corruption then this will work to de-incentivize the formation of new businesses. Myanmar businesses report under-the-table payments to authorities, at times of considerable size, in order to register their businesses as one of the most common difficulties they encounter.<sup>17</sup> A 2014 survey carried out by the UN and OECD indicates that 20 percent of firms see corruption as a "very severe obstacle" in Myanmar's business environment, with only 40 percent of firms indicating they did not have to pay bribes and extra costs.<sup>18</sup> The irregularity of the tax system and the widespread practice of gift-giving to public officials add further costs.<sup>19</sup>

Endemic corruption is also stunting Myanmar's attempts to become more engaged in international

economic activity. Import and export licenses are often obtained through the payment of bribes, and official taxes on these documents are in any case very high. Corruption and burdensome bureaucracy combine to make it take almost a month to import or export a standard shipment.<sup>20</sup>

### *Corruption in Development Aid Projects*

An additional area of corruption that receives little attention is the siphoning off of funds by both international and domestic NGOs present in Myanmar. It is not unheard of for monies intended to be used for project implementation or to reach Myanmar communities to be siphoned off and used to rent very expensive office spaces, residences,<sup>12</sup> or to pay unnecessary expenditures. Better monitoring of projects is required to stop such misappropriation.

## **Tackling Corruption: Measures and Limitations**

### **The Anti-corruption Law & Commission**

The government has made concerted efforts to grapple with the problem of endemic corruption. An early target of anti-corruption efforts was the telecommunications ministry with a former minister being forced to resign in January 2013. Furthermore, it was announced in February 2013 that in the preceding 20 months, some 17,000 civil servants and about 700 police officers had been punished for corruption as part of a "good governance and clean government" campaign.<sup>21</sup> In April 2013, a number of senior government officials charged with corruption were forced into retirement or transferred away from departments dealing with investment in an effort to root out political and economic corruption.

In an attempt to institutionalize anti-corruption measures, the government has passed several laws. In August 2012, the government approved an anti-bribery bill, and enacted a law for the eradication of corruption in August 2013. Anti-corruption laws were further amended in 2014 to allow for the parliament to establish a committee to investigate allegations of corruption among government officials with the mission of substantially cleaning up the public sector. The Anti-corruption Commission mandated by the above

law was accordingly brought into being in February 2014 consisting of 15 members.

### Myanmar's Anti-corruption Law: An Explainer

Myanmar's 2013 anti-corruption law establishes a special anti-corruption commission and focuses primarily on bribery and encompasses most of its forms. Public officials found to have engaged in bribery are to be fined and imprisoned for up to fifteen years. The law also stipulates that officials accused of accepting bribes have to show their sources of income in a transparent fashion. A list of "authorized persons" has also been drawn up by the commission, and those identified have to declare all of their assets.<sup>22</sup> However, the law still misses some key areas, and provisions to define and eliminate facilitation payments are absent.<sup>23</sup>

As of today, there are several cases of malpractice and malfeasance in the public sector still being investigated. However, the commission's work is argued to be hampered somewhat due to the dubious past of some of its members who as former high-ranking military officers may have been engaged in corruption themselves.<sup>24</sup> Fully implementing the 2013 anti-corruption law also remains a challenge. In fact, the above measures have struggled to provide an encompassing definition of corruption and criminalize it accordingly. For example, gifts of up to 300,000 Kyat (300 USD) are still not considered corruption and can be readily accepted by officials.<sup>25</sup> The significance of this is clear when many officials earn an actual total salary of 200 USD per month. In light of this and other issues, there are still some legal experts who argue that the anti-corruption law is ignored or twisted at all levels and is selectively enforced on some persons, and not all of those openly engaged in corruption.

### Myanmar Joins the EITI

The Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies, and civil society working together to improve openness and accountable management of revenues from natural resources. The goal of EITI is to promote good governance of these revenues and promote their

use for sustaining economic growth and promoting social development, rather than, for example, being wasted on short-sighted projects or being lost to corruption. Myanmar was accepted as an EITI candidate country in 2014 and its candidacy will hopefully be an impetus to increasing transparency in the oil, gas, and minerals sectors.

As an EITI member country, Myanmar civil society will have the authority to conduct surveys and analysis of government projects and their impact on citizens, and they will have the authority to register their objections to the projects and to have their complaints heard.

To meet EITI standards, Myanmar will have to publish all of the payments the government receives from the natural resource sector. The allocation of the revenues received also has to be published as do details on the bidding for contracts and the allocation of extraction activity between foreign and state-controlled agents. In an additional attempt to enhance anti-corruption efforts, Myanmar invited international academics and civil society on October 1 and 2, 2013, to form an executive committee to consistently monitor the extractive industries. The project will compute how much revenue the government will receive and how much profit the companies will gain from the projects, thus acting in the fashion of an auditor.

### The Myanmar Centre for Responsible Business

The Myanmar Centre for Responsible Business (MCRB) was established in 2013 with the goal of promoting more responsible business practices in Myanmar. It is currently carrying out an initiative called Transparency in Myanmar Enterprise (TiME) which publishes information about anti-corruption, organizational transparency, and concern for human rights, health, and the environment among the largest businesses in Myanmar. Using criteria laid out by Transparency International the project has produced rankings of companies according to the above criteria by analyzing information they post online. These were published in its first report.<sup>26</sup>

Only 35 of Myanmar's 60 largest companies have

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“Government Ministries rarely publish figures or disclose details about investors or spending.”

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websites, 25 of which are updated. Surprisingly even the largest Myanmar companies active in hydropower, agriculture, tourism, and mining often lacked any individual firm or corporate websites. Analysis of the information available implies that these businesses display significant shortcomings in the areas identified above. Only 11 of the 35 companies provide any information about anti-corruption efforts and only 10 provide details about policies on human rights and

the environment. Regarding organizational transparency the performance was better, however, and 32 of the 35 companies reported on this.

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### Adjusting Public Sector Pay

One of the reasons why corruption is so widespread within Myanmar’s civil service is the financial incentives involved. In attempts to combat this, the Myanmar government has undertaken several salary increases for public sector workers in recent years, raising additional allowances by 30 USD per month in the fiscal year of 2012-13 and raising salaries by 20 USD in 2013-14.<sup>27</sup> However, regardless of these salary increases, public sector employees are still underpaid and they may find it difficult to make ends meet as prices increase (inflation in Myanmar ran in excess of 5 percent during these years).<sup>28</sup> Additionally, there are few incentives present within the job structure of government employees and the presence of bonuses or promotion prospects is limited, meaning that financially incentivized corruption will likely remain a problem among government employees. At the time of writing, the Myanmar government is continuing to push through further increases in employees’ salaries, raising both minimum and maximum government salaries starting from April 2015.<sup>29</sup>

### Fighting Financial Corruption

Corruption in the financial system is another area Myanmar has worked to address. The Central Bank of Myanmar has powers to regulate financial transactions

under the 2002 anti-money laundering law and the 2014 money laundering eradication law. With these laws, the Central Bank is able to monitor and sanction suspicious transactions, and has implemented controls commensurate with the IMF’s Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) guidelines. Thanks to the efforts of the Central Bank, Myanmar was removed from the Financial Action Task Force’s (an intergovernmental organization combating money laundering) list of “Non-cooperative Countries and Territories” already in October 2006.<sup>30</sup>

### Recommendations for Further Reform

Although Myanmar has made some progress in the above areas, substantial reform will continue to be hampered unless the country improves the strength of its currently weak institutions. Like many other developing countries, Myanmar’s institutional quality is low and this exacerbates problems in, for example, healthcare, education, and income distribution, which all in turn reinforce the presence of corruption. The lack of transparency in the country damages efforts to accelerate economic development and generate the investment and higher incomes which may reduce the temptation of engaging in corruption among officials and others. For example, receiving investment in the form of loans and grants from international institutions such as the IMF or the Asian Development Bank is conditional on the actual implementation of the intended goals, but if monies are siphoned off due to corruption, lenders will be less forthcoming in financing projects in the future. The effect on FDI is the same, since if invested funds are misappropriated, profitability, and hence the attractiveness of Myanmar as an FDI destination, will be damaged.

Fortunately there is room for further reform for combating corruption in Myanmar, and the implementation of the recommendations in the following areas will go some ways to enhancing anti-corruption efforts.

### Civil Service Reform

An important component of following through on civil service reform is to continue increasing government employees’ pay so as to provide them with a dig-

nified wage commensurate with their positions, and to de-incentivize recourse to corruption, the receipt of gifts, and the like to supplement wages. Together with stricter limits and oversight of officials' discretionary powers, this will serve to help professionalize the civil service and stop dealings with government officials being carried out on the basis of favor and personal benefit. There is also room to remove unnecessary human interaction from bureaucratic processes by expanding the scope of electronic processing systems instead of relying on manual processing. This will automatically reduce the number of instances where personal favor and manipulation can be used.

When it comes to the organization and structure of the civil service and other public institutions, several reforms can be made. By strengthening management structures rules can become more enforceable, as presently, weak management in, for example, ministries, has contributed to insufficient adherence to rules. The expressed goal should be for zero-tolerance on corruption in the public sector. In addition, lobbying activities should be subject to more regulation, and the Anti-corruption Commission should be made more credible by removing former military officers from its membership.

### Economic and Educational Reforms

There are several economic reforms Myanmar can implement which may serve to curb corruption. At present, there are still many price controls in force in Myanmar, and which can lead to the spread of black markets as corrupt sellers seek to raise prices on their own and circumvent the controls. By deregulating these controls, the price mechanism can be allowed to work more fully, increasing competition among sellers and reducing incentives to engage in black market trading, which will lead to higher tax revenues. Instead of recourse to price controls, Myanmar should pursue greater price stability through other means, such as by working on controlling inflation. Progress can be made here by continuing to develop the Central Bank of Myanmar's nascent monetary policy and ceasing the monetization of budget deficits.<sup>31</sup> Through inflation control, the authorities can reduce the erosion of higher public sector wages, which is important for reducing civil service corruption. Additionally, better regulation frameworks for FDI in strategic sectors should be in-

roduced, for example, by applying the Build, Operate, Transfer (BOT) system to hydropower projects whereby investors receive concessions for building and operating utilities and infrastructure for a fixed period and thereafter transfer ownership to government. This will make the process through which large infrastructural projects are handled more transparent and thus limit the scope for shady deals or specific companies being given unfair preferential treatment.

Another area where Myanmar must do more is in the area of education and social spending. Myanmar spends less on education than any other member of ASEAN, and its expenditure on health is the third lowest.<sup>32</sup> Together with higher wages, better social welfare provision would be another way of reducing the temptation to accept gifts, bribes, and curry favor. More spending on education, apart from all of its other positive effects, would allow for more teaching about issues like corruption to adults and youth and raise their awareness about petty, political, and economic forms of corruption. At present, lack of education or training about corruption issues throughout society significantly obstructs the recognition among citizens and businesses of corruption as a problem for Myanmar, rather than just being the normal way of doing things.

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“Lack of education about corruption obstructs the recognition of corruption as a problem.”

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### Concluding Remarks

Corruption remains a significant problem in Myanmar, and has negative effects on the country's economic development. Although Myanmar is growing fast, widespread corruption stops the economy from reaching its full potential and remains entrenched within political and public institutions, further frustrating Myanmar's transition to a more democratic system. While the government has made progress in combating corruption in some areas, there is much still to be done. The issues identified here and the recommendations for further reform, if recognized and acted upon, will go some ways to further reducing the problems of corruption in Myanmar.

## Key Points

- Myanmar is undergoing a process of economic and political transition, but endemic corruption stands in the way of the country achieving its full economic potential. Accordingly, President U Thein Sein has made fighting corruption a priority. But despite Myanmar's gradual improvement in corruption perceptions' rankings, it still ranks as one of the most corrupt ASEAN countries.
- In recent years, Myanmar has developed a range of measures to help reduce corruption. An important action was the formation of an anti-corruption committee in 2013. Progress has also been made in areas such as public sector wages, which have increased, and in the transparency of the natural resource sector as Myanmar became a candidate country of the Extractive Industries Transparency Initiative (EITI) in 2014.
- However, there is much room for further improvement. Recommendations to strengthen the fight against corruption in Myanmar include stricter oversight of bureaucrats' discretionary powers, and the removal of restrictive economic measures such as price controls which encourage black market activity. Finally, educational reform can help raise awareness about corruption and serve to weaken notions that corruption, gift giving etc. are just part and parcel of getting things done in Myanmar.

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