STRATEGY FOR CIVIL SOCIETY ORGANIZATIONS FIGHTING THE CORRUPTION IN MYANMAR

Strategy for Civil Society Organizations Fighting the Corruption in Myanmar

Handbook and strategic overview

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Strategy for CSOs Fighting the Corruption in Myanmar

This document is not an academic study. It is an working material based on strategic consideration of the role of CSOs fighting the corruption in Myanmar, provided there will be conditions for them to do so.

It grew from countless personal debates, interviews and team-researches of program officers and expert civil society actors of Myanmar Alliance for Transparency and Accountability and Transparency International Czech Republic and it represents the results of two years process of considerations. It also compiles texts which were created previously and for different reasons by other competent authors. The nature of the text is admittedly eclectic, using big parts of original texts, cited, and need to be understood as a practical note-book rather than original work in its own terms. Thus it is not supposedly to be published and distributed, but rather shared as a source and didactic material with representatives of Myanmar anti-corruption NGOS.

First we will lay down an overview of the specific features of corruption in the Republic of the Union of Myanmar, then we will identify the role of non-governmental actors to suppress corruption and after that we shall conclude the simple road map or provisional steps for civil society organizations interested in picking up anti-corruption agendas.

Seven main conclusions for CSOs working on anti-corruption agenda in the Republic of the Union of Myanmar

Conclusion 1
Myanmar suffers from a specific form of state capture, where the public interest is in hands of military exponents who owe the main business assets in the country and control the political working. Thus the civic organization need to address the problems os grand corruption and state capture, develop measurement tools, measures and tools for opposing these forms of corruption.

Conclusion 2
Anticorruption legislation in the Republic of the Union of Myanmar is un-sufficient, it suffers both inconsistence as well as narrow scope, focused mainly at executing the bribery and petty corruption. Civil society players shall initiate comparative research and emendations to Anti-corruption Law in order to push it towards the international standards.
While the working of the Anti-Corruption Commission is to be supported and the civil society organization s should secure its independence to investigate claims of corruption, prosecute violations of the 2013 law and to produce recommendations to counter corruption.

Conclusion 3
Civil society organizations shall become skilled in Corruption Perception Index methodology thus competent to interpret is yearly outcomes for the benefit of the country. COSs should get in touch with Transparency International in order to have an authorization and credentials for interpreting the CPI results for Myanmar.

Conclusion 4
There are anti-corruption initiatives, which are well known and used in other countries. Among the most achievable or important for Myanmar anti-corruption CSOs we can sort out those:
Developing anti-corruption strategies, policies and risk assessments – such as this one, but more specifically according to forms an sectors of corruption.
Training of public servants – as it proved to be doable and enriching for both sides, NGOs and the state administration.
Strengthening whistleblower protection measures – since advocacy and advisory centres on corruption can be set as legitimate civil society initiative, and developing anti-corruption hotlines/citizen complaints mechanisms is doable.
Developing/enforcing political finance regulations – since there are already proven concept of civic oversight procedures for Myanmar, especially for political campaigns.
Developing and promoting standards on parliamentary ethics – which is a traditional watchdog assignment of CSOs.
Strengthening beneficial ownership transparency requirements – since it is one of the crucial problems for the country and also the one where civil expertise in OSINT methods can be applied. This one goes hand in hand with introducing/strengthening foreign bribery legislation and introducing/strengthening asset recovery measures.

Conclusion 5
CSOs in Myanmar should create awareness amongst the general public, members of parliament, local government officials, and international government officials of how Myanmar's elections are corrupted by national and international corporate interests on political party campaigns. Hand in hand CSOs should create public awareness of how Myanmar's policies are corrupted by national and international corporate interests to the detriment of democracy, human rights and public welfare and support public mobilization to reform rules and regulations to prevent the influence of corporations on public policies. A good method to do that is to run civic oversight over pre-election campaign, campaign monitoring and setting up a political finance transparency index.

Conclusion 6
Based on previous quality work, the investigative groups of CSO representatives shall continue with identifying and publishing the cases of corruption.

Conclusion 7
It is a crucial thing to be achieved: Myanmar CSOs have to be implemented into the international, regional and global networks which can provide them with advocacy, financial, expert and security capacities. One of the concrete tasks shall be to start the process of forming up a chapter of Transparency International movement in the Union of the Republic of Myanmar.

Overview and context:

Corruption in Myanmar

Along with the definition provided by global movement of Transparency International we start with acknowledgement, that corruption is any abuse of entrusted power for private gain which can take many forms, and can include behaviours like:
public servants demanding or taking money or favours in exchange for services,
politicians misusing public money or granting public jobs or contracts to their sponsors, friends and families,
corporations bribing officials to get lucrative deals

Corruption can happen anywhere: in business, government, the courts, the media, and in civil society, as well as across all sectors from health and education to infrastructure and sports.
Corruption can involve anyone: politicians, government officials, public servants, business people or members of the public.
Corruption happens in the shadows, often with the help of professional enablers such as bankers, lawyers, accountants and real estate agents, opaque financial systems and anonymous shell companies that allow corruption schemes to flourish and the corrupt to launder and hide their illicit wealth.

Corruption adapts to different contexts and changing circumstances. It can evolve in response to changes in rules, legislation and even technology.
'Myanmar has 23 laws dealing with corruption dating from 1861' (Allen 2014). Under Myanmar's 2013 Anti-Corruption Law, "corruption" is defined as follows:
'Corruption means doing directly or indirectly of an authoritative person by abusing his authoritative position, such as giving, accepting, receiving, attempting to receive, offering, pledging, or discussing in any way of a consideration from a person concerned for himself or any other or any organization in order to do anything, refrain from doing any lawful act, give a person his legitimate right, or prohibit a person wrongfully form his legitimate right.' (Allen 2014)
Nature of corruption in Myanmar has experienced profound changes in recent years. With the initiation of a transition process towards democracy and the appointment of Aung San Suu Kyi as State Counsellor in 2016, there was a remarkable burst of optimism for Myanmar's future.
The democratization process, however, is neither linear, nor complete. The military maintains a dominant role in the process and, for this reason, analysts frequently refer to Myanmar as a 'Disciplined Democracy' (e.g. Jones 2014). The military has a large proportion of parliamentary seats reserved, continues to control the Defence, Border and Home ministries and enjoys a great degree of control over important appointments in the bureaucracy.
Moreover, Myanmar continues to face numerous challenges to its security and development. There are ongoing armed ethnic conflicts with little sign of reconciliation in sight, and the military continues to commit systematic crimes against humanity with impunity (Ellis-Petersen 2018).

The government of Myanmar, in its 2018 national sustainable development plan, has signalled its commitment to peace, justice and building efficient and inclusive institutions. Yet, it faces serious challenges in its attempts to do so. Central to these challenges is putting an end to state capture by the military, and making all security actors subject to civilian control (Stokke et al 2018). This remains a key issue not only in securing peace, but also in tackling the corruption challenges facing the country.

In spite of its hybrid status as a disciplined democracy, Myanmar has taken a number of important steps towards more transformative change. In most sectors, we can identify reforms that, in theory, should make corruption less prevalent, even though the effectiveness of their implementation remains an open question.

The consensus among analysts is that corruption is well entrenched within Myanmar's institutions.

Though it is no longer to be found at the very bottom of Transparency International's Corruption Perceptions Index, Myanmar's score remains low. In 2018, the country ranked 132 out of 180 assessed countries and had a score of 29/100 (where 100 is the best score). This makes Myanmar the sixth most corrupt country in the Asia Pacific region after Afghanistan, Bangladesh, Cambodia, Papua New Guinea and North Korea.

A similar trend can be identified by assessing Myanmar's scores on the World Bank's Worldwide Governance Indicators (2018) where Myanmar scores poorly on regulatory quality, control of corruption, rule of law and government effectiveness. According to the latest Asian Barometer Survey (2016), only a third of respondents believe that the government is responsive to the needs of the population.

While all indicators show that corruption remains an endemic issue, Myanmar has made steady improvements across most governance indicators in recent years. Indeed, 47% of respondents in the Asia Barometer Survey (2016) believed that corruption had decreased to some extent in the previous twelve months.

It is important to note that the capacity of the Myanmar state differs significantly across the country. The organs of state are incapable of penetrating some of the peripheral areas where various armed factions are the ones in charge of governance, taxation and delivering public services (Bertelmann Stiftung 2018). The 2008 constitution does indeed allow decentralisation. However local governments are more likely to lack capacity and significant disparities remain between governance in the Bamar heartland and the peripheries (Bertelmann Stiftung 2018). In this respect, it is not entirely surprising that the OECD (2018) considers Myanmar to be a fragile state.

Petty corruption in the bureaucracy, such as everyday facilitation payments, is a prevalent issue in Myanmar. Evidence suggests that rent-seeking behaviour pervades most public institutions and affects both small, everyday, interactions as well as larger tendering processes.

Bribes are common if one wishes to obtain permits, process applications or receive various forms of public services. According to Transparency International's Asia Pacific Global Corruption Barometer (2017) 40% of people in Myanmar paid a bribe when accessing a basic service. Facilitation payments are sometimes required to access basic services such as education, health care and to register with authorities (Transparency International 2017; Quah 2016). Indeed, the completion of most standard bureaucratic procedures involving the

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interaction between state and citizen are vulnerable to requests for bribes and facilitation payments (Quah 2016). Rich people are more likely than poor to pay bribes (Transparency International 2017).

The high rates of bribery have multiple drivers. One is low salaries (Quah 2016). For instance, police officers are not paid very well (around 120-180 US$/month), and it can take many years of progressing through the ranks to exceed 200 US$ a month (Quah 2016). Extraction of bribes is a common coping mechanism for civil servants with low salaries, providing them an important source of income to supplement their wages.

Bureaucratic corruption in Myanmar is also in part enabled by cumbersome bureaucratic procedures. Excessive red tape provides a pretext for civil servants to extract rents in return for speeding up various administrative procedures. In particular, this affects the private sector, which typically needs various licenses and permits to operate (Quah 2016). The vast majority of companies in Myanmar report having to pay bribes. According to a 2016 survey, more than 70% of larger firms report paying bribes, while for SMEs this number is only slightly lower (Soans and Abe 2016)[1]. World Bank data from the Enterprise Survey (2016) however, put this number at around 30% and there is thus significant uncertainty around these numbers.

Moreover, there are researchers who claim that various social customs, such as gift-giving, and 'Tea Money' further inculcate a culture of bribery in Myanmar's bureaucracy (Andrews and Htun 2016).

Bureaucratic corruption also greatly affects the judiciary, thereby impeding the rule of law that would be needed act as a check on systemic bribery. The International Commission of Jurists (ICJ 2013) found that the majority of lawyers interviewed admitted participating in corrupt practices. The reason often given was that bribery is so deeply entrenched and systematic that there is little way to avoid using bribes: even the likelihood of graduating law school is relatively low without facilitation payments. The fact that everything from obtaining licenses to accessing basic information requires some form of payment greatly reduces the ability of courts to rule with impartiality. Batesmith and Stevens also describe what they find to be "a culture of passivity among ordinary practitioners" of law (2018:1) in the face of pressure by the armed forces and the police to conform to their demands.

Cronyism, clientelism and 'nascent oligarchy'

Personal relationships and patron-client networks have long been among the chief forms of market governance in Myanmar.

Since the late 1980s, the government of Myanmar has introduced a number of privatisation programmes. These processes have been opaque and heavily dominated by political interests.

The Privatisation Commission for State Owned Economic Enterprises, which is largely controlled by military staff, has on many occasions refused to release the terms of transfer, failed to publish adequate information about asset valuations, declined to publically announce competition winners and kept transfers of state assets secret (Ford et al 2016). Moreover, state assets have often been sold to favoured firms below the market price and, in many cases, these companies were directly controlled by the military themselves (Ford et al 2016). Consequently, privatisation programmes have benefitted strategically selected

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[1] The mentioned survey was carried out by OECD, UN Economic and Social Commission for Asia and the Pacific (ESCAP) and the Myanmar Chamber of Commerce.

individuals and have led to the formation of domestic conglomerates with strong ties to the ruling military. Indeed, privatisation and the sale of state assets has been employed as an instrument for state elites to foster patronage networks with cronies who can wield a form of market power that resembles monopoly (Jones 2013). This can of course be seen as both a way to shore up the political economy of (indirect) military rule, as an expression of greed and abuse of power by individual generals or both.

Some analysts (e.g. Ford et al 2016) fear that cronies are now so economically powerful that they use their wealth and personal networks in the state apparatus not only to benefit from coming waves of privatisation, but also to skew the nature of reform processes in their favour. These networks, some argue, have come to constitute a class of Burmese 'nascent' oligarchs in their own right (Jones 2013; Ford et al 2016). Well-connected individuals are still able to consolidate monopolies over certain sectors under shady circumstances and without public tendering processes (Saw 2015).

However, in line with broader shifts in the political landscape there is perhaps some potential for reforms towards technocratic decision-making and increased transparency. The government seems to increasingly conform to policies favoured by international financial institutions such as the World Bank, The IMF and the Asian Development Bank by providing more opportunities for foreign investment (Ford et al 2016). For instance, foreign companies have increasingly been bidding for tenders (Ford et al 2016). World Bank (2016) data also suggests that foreign companies are less affected by demands for bribes (though many still report paying bribes). Moreover, some of the conglomerates that benefited from rapid privatisation programmes have now started to gradually distance themselves from the military and former patrons (Ford et al 2016). These trends will have to be followed closely in the coming years, as they inevitably will affect both the extent and forms of corruption in Myanmar.

Ceasefire capitalism and organised crime

A third common form of corruption happens in the context of the armed forces' attempt to establish authority in conflict-affected territories where the state's authority is disputed. The military and connected elites have used various tactics to co-opt armed actors into client networks. In doing so, the state of Myanmar has used ceasefire agreements to convert former zones of insurgencies into sources of wealth for armed groups and political allies. Other insurgent groups, such as the Kachin Independence Army, are not covered by these agreements, but have made agreements with external powers to export various resources in order to finance their insurgencies In some cases, former rebels have received legal concessions to exploit resources upon signing ceasefire agreements (Eizenberger 2016). This process is often described in the literature as 'ceasefire capitalism' (Woods 2011; Jones 2014). This allows the state to gain some level of control, or at least breaking the monopoly of hostile insurgents over their income sources. In other words, ceasefire capitalism has allow the military-state to enter disputed areas, co-opt non-state actors that are signatories to ceasefire agreements into its networks, and increase its influence over capital flows in disputed territories (Woods 2011).

Particularly important in this regard is the fact that Myanmar is the world's second largest producer of opium and amphetamine. Shan state alone accounts for over 90% of Southeast Asia's illegal opium – and consequently heroin (Meehan 2015). The drug trade is in many way a good example of ceasefire capitalism as it is an opportunity for the state of Myanmar to establish control in areas where it is contested. By permitting politically obedient militias

to trade in narcotics, the military has tacitly approved the illicit enrichment of militias through which it can exercise indirect control. The income generated from such illicit activities – poppy cultivation in particular – has provided an ideal means of financing counter-insurgencies in the peripheries through enabling counter-insurgent or politically expedient militias to finance themselves (Meehan 2015). Large parts of the drugs trade and other illicit flows are therefore, directly or indirectly, sanctioned by the army and, consequently, the state of Myanmar (Meehan 2015).

Myanmar is also exposed to a high risk of Money Laundering, coming from drugs, environmental crime and extractive industries. According to the Financial Action Task Force (FATF) it has a poor framework for addressing the issue (APG 2018). It falls behind international standards on many levels owing, among others to poor coordination, lack of capacity and strategies for how to address the issue of money-laundering. Given that it is unlikely that Myanmar will get to implement FATF's recommendations, it could be placed on the list of high risk jurisdictions in the next meeting in February 2020 (expert interview 1)

Excerpts from TI ACHA 2019

Conclusion 1

Myanmar suffers from a specific form of state capture, where the public interest is in hands of military exponents who owe the main business assets in the country and control the political working. Thus the civic organization need to address the problems of grand corruption and state capture, develop measurement tools, measures and tools for opposing these forms of corruption.

Legislative and institutional framework for countering corruption in Myanmar

In recent years, Myanmar has installed a framework for preventing and countering corruption. This framework still has its issues and is often subject to criticism. However, while gaps do remain, the framework for countering corruption has received gradual improvements due to legal amendments and relevant initiatives. These have translated into improved efforts in combating corruption.

Around the beginning of the transition to democracy, the government of Myanmar initiated campaigns to institute "Good Governance and Clean Government", resulting in some of the first crackdowns and firings for corrupt practices. In 2012, Myanmar introduced the first anti-bribery bill and ratified the UN Convention against Corruption. However, the first step at establishing a more comprehensive framework for countering corruption came with the adoption of the Anti-Corruption Law and the establishment Anti-Corruption Commission. This Anti-Corruption Law is Myanmar's primary legal framework for preventing, countering and punishing corruption (Saw 2015) and the Anti-Corruption Commission is the primary anti-corruption framework.

Anti-corruption Law

Adopted in 2013, The Anti-Corruption Law aims to improve governance and promote government accountability. The objectives of the law are to: *"(a) to eradicate bribery as a national cause; (b) to provide clean and good governance; (c) to promote prestige and accountability; (d) to prevent the impairment of State property and citizens' rights and interests resulting from bribery; (e) to take effective action against those who commit bribery; and (f) to encourage transparency in order to encourage economic development by local and foreign investments"* (Anti-Corruption Law 2013, Chapter 2)

The Anti-Corruption Law contains provisions for punishing bribery with prison sentences of up to 15 years. It also requires certain elected officials within the parliament to declare their assets publicly (Saw 2015).

However, the law does not directly address the issue of small facilitation payments and leaves some ambiguity to be exploited (Soans and Abe 2016; Saw 2015). Moreover, until recent amendments, the law covered only 'authoritative persons' (meaning public servants). This meant that the law could not be used to charge private sector actors with corruption.

Anti-Corruption Commission

The Anti-Corruption Law also established the Anti-Corruption Commission as Myanmar's primary anti-corruption agency. The Anti-Corruption Commission (henceforth ACC) is mandated to investigate claims of corruption, prosecute violations of the 2013 law and to produce recommendations to counter corruption. The ACC also has the powers to request help from international organisations (Quah 2016).

The ACC consists of 15 members as well as a permanent staff. Five of these members are appointed by the president and five each by the lower and upper houses of parliament. For this reason, a common criticism is that the ACC is not entirely politically independent (Quah 2016) and its composition changes with elections (expert interview 1). The ACC has also

accused of having members who could defend powerful vested interests, especially seeing that some members have a background in the military (Saw 2015). Another issue with the ACC is the lack of publicly available information on its activities; little is known about its work, staffing and allocated resources.

Observers have noted that lack of tangible evidence of the ACC's impact in curbing corruption in Myanmar, which is viewed to be a result of low capacity and an absence of political will (Quah 2016, Soe 2018). The ACC allegedly investigated only 66 out of the 4,500 allegations of corruption it received up until 2017, while a little more than 1,000 cases were forwarded to line ministries for 'internal' investigations (Soe 2018). However, as will be investigated later, the ACC has recently become much more forceful and active.

Recent reforms to the legal and institutional framework

In 2016, the UNODC produced an examination of the 2013 Anti-Corruption Law. It concluded that a number of reforms were needed, including ones that clarify what actually constitutes a bribe. The law was also judged to require better provisions for punishing corruption in the private sector. Moreover, the ACC needed greater political independence and the means to provide some protection for whistleblowers (Soe 2018).

Recent amendments to the law, made in 2018, addressed some of these criticisms. They introduced two new features to the definition of corruption (and thus what is covered as such by the criminal code). Importantly, whereas the law used to cover '*authoritative persons*' it now covers '*any person*' misusing their post, position of authority or abuses what they have been entrusted.

Secondly, the amendments gave the ACC broader powers to investigate claims and launch preliminary proactive investigations prior to receiving formal complaints. Whereas before the ACC could only investigate and prosecute public servants, it is now entitled to investigate private entities and can require that businesses establish anti-corruption codes of conduct (expert interview 1). The lacking ability to ensure protection for whistleblowers remain an issue, however.

The extent to which the ACC can work independently of political interests is still in question. The ACC still has to report to the president and the Hluttaw (parliament) speakers, and as such may be subject to their interference behind the scenes (Quah 2016). Moreover, Anti-Corruption efforts typically work in a top-down fashion (expert interview 1). Crucially, the ACC cannot prosecute the military. On one hand, military personnel are considered civil servants, but they are simultaneously governed by military laws and thus have to be tried in military courts (Aung and Hammond 2018).

However, in spite of the fact that the ACC still faces some constraints, the organisation has been rather bold as of lately.

In February 2019 the ACC began investigating the Chief minister of the Tanintharyi region, Daw Le Le Maw on suspicions of awarding contracts without calling for tenders and unclear spending of revenue (Nanda 2019). In late 2018 the ACC filed cases against six officials, including Yangon's Attorney General on the basis of accusations of dropping charges against three murderers of a comedian in exchange for bribes (Aung 2018).

Other prominent cases include prosecutions on charges of bribery against the former Director-General of the ministry of Health and Sports (Winn 2019); A Nay Pi Taw city official for extracting bribes from traders (Kyaw 2019) and land registration officials who have accepted payments in return for land transactions and registration (Zaw 2019)

The ACC have also been turning its attention to the extractives sector, and there are reports of ongoing investigations against extractive companies (expert interview 1). This is both ambitious and politically risky.

The ACC, in other words, appear to be more assertive and proactive in investigating and prosecuting corrupt behaviour. It has not only gone after high-ranking civil servants, but have charged civil servants for "aiding and abetting" corruption (expert interview 1). Moreover, the ACC is expanding, setting up offices in Yangon and Mandalay. This could potentially translate into increased capacities to file complaints faster (Aung 2018b). The ACC is also working on establishing an asset declaration system which is supposed to be rolled out by the end of 2019 and has pushed for measures to protect whistleblowers (though that is highly difficult in the current environment (expert interview 1).

A major initiative currently being implemented by the ACC are the so-called Corruption Prevention Units that monitor and report bribery in the line ministries in which they are embedded (Mon 2018). The units are mandated to refer larger corruption cases in public institutions directly to the ACC for investigation. This way, the ACC hopes the Corruption Prevention Units can help prevent corruption from happening in the bureaucracy. The staff of the Corruption Prevention Units are still either in training or early deployment at the time of writing. However, the activities of these units are likely to a subject of much attention throughout 2019 (expert interview 1).

Conclusively, the ACC has been using its operational mandate and appears to have been doing so with a great deal of autonomy. While a potential risk is that it will turn into a politicised 'attack dog' (Quah 2017) we do not see signs currently that this is what is happening (expert interview 1). Paradoxically, a more short-term risk is that the ACC will end up either overstretching or going too fast into sensitive cases against the will of some powerful interests (expert interview 1). However, some do indeed see this as testament to the ACC maturing.

Conclusion 2

Anticorruption legislation in the Republic of the Union of Myanmar is un-sufficient, it suffers both inconsistence as well as narrow scope, focused mainly at executing the bribery and petty corruption. Civil society players shall initiate comparative research and emendations to Anti-corruption Law in order to push it towards the international standards.

While the working of the Anti-Corruption Commission is to be supported and the civil society organization s should secure its independence to investigate claims of corruption, prosecute violations of the 2013 law and to produce recommendations to counter corruption.

Anti-corruption tools and measures available to CSOs

Since the reform process began in Myanmar, the conditions for the country's civil society organisations have somewhat improved. In 2014, a new law was passed allowing Civil Society Organisations to register - a significant step towards increased openness. However, there are still many restrictions against freedom of assembly inscribed in laws such as the Anti-Defamation Law (International Center for non-profit Law 2019). Freedom House ranks Myanmar as 5 out 7 (where 7 is the worst performance) on its freedom score, making it "partly free".

That being said, civil society has a role to play when it comes to securing and consolidating gains in anti-corruption efforts. One notable example of a civil society group that works on governance issues is the Myanmar Alliance for Transparency and Accountability (MATA). MATA is a consortium of over 450 civil society organisations whose aim is to advocate for increased accountability and good governance in Myanmar. The organisation was formed around the time that Myanmar began participating in the EITI and therefore has an emphasis on transparency in the extractive sector. Another relevant organisation is the 'Land in Our Hands', an organisation advocating for justice and comprehensive reform in land administration (https://lioh.org/).

Other initiatives by CSOs are being supported or led by international donors and NGOs. For instance, throughout Myanmar so-called Rule of Law Centres have recently opened. These Centres provide training for community-based groups to raise awareness of legal issues (UNDP 2016).

The list of possible initiatives that can be undertaken to combat corruption can appear endless, however the table below provides some examples of the many and varied actions that can be taken by citizens, anti-corruption activists and organizations, governments, business and others. Let us identify those, which have been tested or which are especially suitable for being used by CSOs in Myanmar.

Anti-Corruption Framework	**Developing anti-corruption strategies, policies and risk assessments**
	Strengthening institutional capacity for prevention and investigation
	Implementing inter-institutional cooperation measures
Bureaucratic corruption	**Training of public servants**
	Strengthening/enforcing codes of ethics for public servants
	Strengthening/enforcing conflict of interest and asset disclosure regulations
	Strengthening internal and external auditing
	Strengthening whistleblower protection measures
	Strengthening procurement regulations
	Strengthening customs and tax administration
	Strengthening communication & public education measures
	Supporting social accountability and citizen oversight mechanisms

	Developing anti-corruption hotlines/citizen complaints mechanisms
Political corruption	**Developing/enforcing lobbying regulations**
	Developing/enforcing revolving doors regulations
	Developing/enforcing political finance regulations
	Developing and promoting standards on parliamentary ethics
Private sector corruption	Supporting good corporate governance and corporate transparency
	Increasing market competition/reducing regulation
	Ensuring transparency of corporate bribery investigations
	Strengthening country-by-country reporting
	Strengthening beneficial ownership transparency requirements
	Strengthening anti-bribery legislation and its enforcement
Cross-border corruption	**Introducing/strengthening foreign bribery legislation**
	Introducing/strengthening asset recovery measures
	Developing/strengthening due diligence requirements for financial institutions
	Introducing/strengthening regulation of real estate and luxury good sectors
	Introducing/strengthening denial of entry measures for corrupt individuals
	Supporting mutual legal assistance and automatic exchange of information
Law enforcement and judiciary	Developing mechanisms for citizen assistance/legal aid for corruption issues
	Supporting proactive investigations by law enforcement
	Limiting immunities and statutes of limitations for corruption offences
	Introducing/strengthening public interest litigation measures
	Increasing the transparency of enforcement data
	Enhancing rules-based approach to the appointment, promotion and secondment of judges
	Introducing measures to strengthen the capacity/independence of judicial authorities
	Increasing the transparency of judicial data, including on rationale for court decisions
	Improving the system for and implementation of disciplinary liability and disciplinary proceedings of judges
	Training of judges on issues of ethics, conflict of interests and corruption

(Transparency International, 2016)

Conclusion 3

There are anti-corruption initiatives, which are well known and used in other countries. Among the most achievable or important for Myanmar anti-corruption CSOs we can sort out those:

Developing anti-corruption strategies, policies and risk assessments – such as this one, but more specifically according to forms an sectors of corruption.

Training of public servants – as it proved to be doable and enriching for both sides, NGOs and the state administration.

Strengthening whistleblower protection measures – since advocacy and advisory centres on corruption can be set as legitimate civil society initiative, and developing anti-corruption hotlines/citizen complaints mechanisms is doable.

Developing/enforcing political finance regulations – since there are already proven concept of civic oversight procedures for Myanmar, especially for political campaigns.
Developing and promoting standards on parliamentary ethics – which is a traditional watchdog assignment of CSOs.
Strengthening beneficial ownership transparency requirements – since it is one of the crucial problems for the country and also the one where civil expertise in OSINT methods can be applied. This one goes hand in hand with introducing/strengthening foreign bribery legislation and introducing/strengthening asset recovery measures.

Concrete tasks for CSOs

There are some anti-corruption measures and tools which can be used by Civil society and which have been already used, tested or applied. In accordance with the table above, let us formulate concrete tasks for CSOs in MM.

Using Corruption Perception Index for advocating

One of the most common methods for putting a value on the scale of the corruption problem in a country is through various international rankings informed by indices that measure a range of factors, often using surveys. Arguably the most well-known of these is Transparency International's Corruption Perceptions Index (CPI), and tools such as these have achieved a great to map corruption for the international community.
Interpretation of CPI has been already done by MATA and its Political Finance Index team in recent years. CPI is attracting the interest of both political representation and government as well as of military owned businesses since it is used by international donors as a hint about the stability for investments.

The Corruption Perception Index ranks **180 countries** from data aggregated from a number of sources that provide perceptions of corruption in the public sector by private sector and country experts. The CPI 2020 is calculated based on **13 different independent sources** from 12 institutions (In the case of Myanmar, 7 different sources were used). The CPI uses a scale of zero (highly corrupt) to 100 (very clean), offering a yearly snapshot of relative degree of corruption by countries. CPI is an a projection of assessment done by other institutions and **it has nothing to do with a vox populi or any sociological approaches towards the research**.

In 2020, Myanmar scores 28 out of 100, 1 point below last year. Globally, Myanmar ranks 137th out of 180 countries, sharing the rank with the Dominican Republic, Guinea, Liberia and Paraguay. (Transparency International 2021).
Regionally, Myanmar also maintains its rank as 25th out of 31 countries in the Asia Pacific, with 17 points less than the regional average of 45. It is notable that for the most part, in the past few years, Myanmar's neighbouring countries appear to be improving or remaining consistent in their CPI score whereas Myanmar has slowly been backsliding in its score. Admittedly, the difference of one or two points does not signify serious change; since 2017, there has been a slow decline rather than an outright downfall or improvement regarding reducing corruption in Myanmar's governance.

CPI Scores 2016-2020

	Bangladesh	Cambodia	Laos	Myanmar	Thailand	Vietnam
2016	26	21	30	28	35	33
2017	28	21	29	30	37	35
2018	26	20	29	29	36	33
2019	26	20	29	29	36	37
2020	26	21	29	28	36	36

Figure 1: CPI scores 2016-2020

Nonetheless, Myanmar's score indicates that the country has regressed, returning to its CPI 2016 score, the year in which the new democratically elected government entered power. From 2015 to 2016, Myanmar made a significant 6-point jump (from 22 to 28) and further increased its score in 2017 (to 30). When the new government entered power and took over the semi-civilian, semi-military government regime, there was hope that much needed governance reforms would finally be under way, which explains the jump. There seemed to be a level of uncertainty in the beginning on whether or not systemic corruption activities within the regime could continue business as usual. However, since 2016, significant reforms have not actually been developed and enforced to curb corruption.

Myanmar CPI Time Series
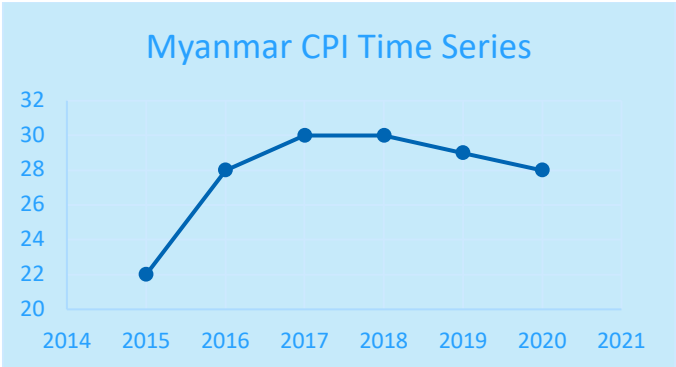
Upon further analysis of CPI data, the reasons why Myanmar's score have dipped from its previous progress is due to three measures: corruption in rule of law, limited democracy development, and limited civil society access to information about public affairs. The World Justice Project Rule of Law Index, Varieties of Democracy Project, and World Bank CPIA, which measure each of these areas respectively, have decreased their ratings of Myanmar in the past couple of years.

To contextualize these ratings, we would like to highlight that the government has refrained from enforcing strong and systematic efforts to combat systemic corruption in the government, despite the existence of an Anti-Corruption Law.
Further, for the past 5 years, the rule of law appears to be arbitrarily applied in favour of those in power to silence dissenters and critical voices. Analysis of CPI results shows that the judicial branch continues to be perceived as severely corrupt; in this area, Myanmar scores amongst the lowest in the world with a rank of 122/128 globally and 14/15 in the Asia Pacific region, pulling in below Vietnam, Indonesia and Thailand and just above Cambodia.
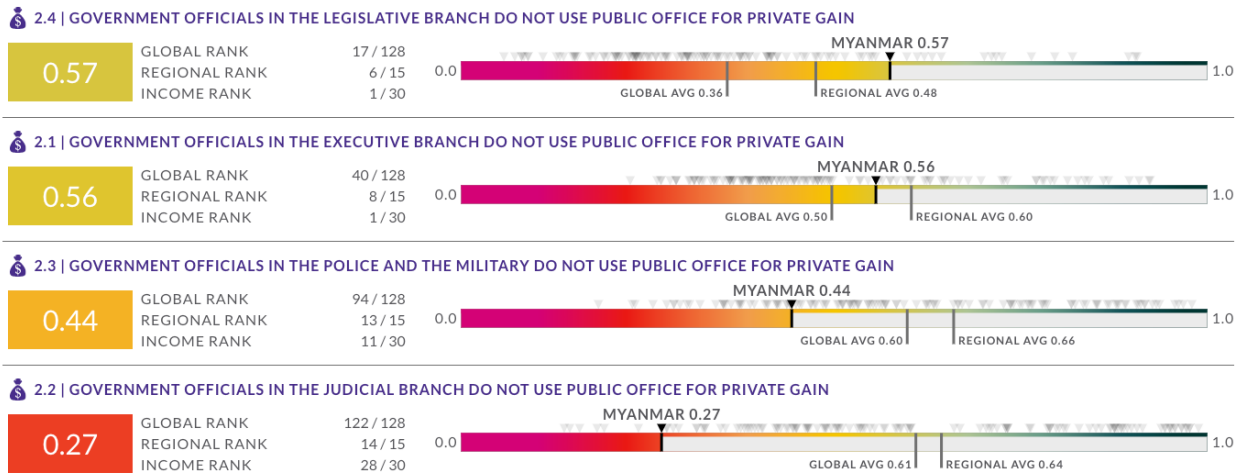
FACTOR 2 | Absence of Corruption Sub-factors for Myanmar, 2020
SORT: SUB-FACTORS 1-4 SUB-FACTOR SCORE

2.4 | GOVERNMENT OFFICIALS IN THE LEGISLATIVE BRANCH DO NOT USE PUBLIC OFFICE FOR PRIVATE GAIN

0.57
GLOBAL RANK 17 / 128
REGIONAL RANK 6 / 15
INCOME RANK 1 / 30

MYANMAR 0.57
0.0 — 1.0
GLOBAL AVG 0.36 | REGIONAL AVG 0.48

2.1 | GOVERNMENT OFFICIALS IN THE EXECUTIVE BRANCH DO NOT USE PUBLIC OFFICE FOR PRIVATE GAIN

0.56
GLOBAL RANK 40 / 128
REGIONAL RANK 8 / 15
INCOME RANK 1 / 30

MYANMAR 0.56
0.0 — 1.0
GLOBAL AVG 0.50 | REGIONAL AVG 0.60

2.3 | GOVERNMENT OFFICIALS IN THE POLICE AND THE MILITARY DO NOT USE PUBLIC OFFICE FOR PRIVATE GAIN

0.44
GLOBAL RANK 94 / 128
REGIONAL RANK 13 / 15
INCOME RANK 11 / 30

MYANMAR 0.44
0.0 — 1.0
GLOBAL AVG 0.60 | REGIONAL AVG 0.66

2.2 | GOVERNMENT OFFICIALS IN THE JUDICIAL BRANCH DO NOT USE PUBLIC OFFICE FOR PRIVATE GAIN

0.27
GLOBAL RANK 122 / 128
REGIONAL RANK 14 / 15
INCOME RANK 28 / 30

MYANMAR 0.27
0.0 — 1.0
GLOBAL AVG 0.61 | REGIONAL AVG 0.64

Figure 2: Source WJP Rule of Law Index 2020

More concretely, examples of recent arbitrary applications in the rule of law undermining integrity of the judicial system include cases restricting civic space (See more examples.)

Given the present trajectory that Myanmar is on, Myanmar's CPI score is likely to continue to decrease unless sincere efforts to make changes are carried out. A worsened CPI rating in turn risks affecting companies' willingness to invest in the country, negatively impacting overall development of the country. Indeed, the International Monetary Fund (IMF) has shown that "the more corruption, the less investment and the less economic growth."

Conclusion 4
Civil society organizations shall become skilled in Corruption Perception Index methodology thus competent to interpret is yearly outcomes for the benefit of the country. COSs should get in touch with Transparency International in order to have an authorization and credentials for interpreting the CPI results for Myanmar.

Political finance monitoring

Based on experience of COVID year 2020 and testing the monitoring methods on pre-election campaigns, we can conclude, that Transparency International Czech Republic method can be adjusted for MM.
Monitoring team should first measure the level of transparency in political party funding using CRINIS, an assessment tool developed by Transparency International and the Carter Center, which assess legislative systems and practices of key actors involved in political finance.
The assessment shall identify gaps and shortcomings in Myanmar's political financing system. The tool can be used to assess each political party within Myanmar; a ranking will be given to each depending on the transparent practices of each party with regards to political party funding.

Following this, the CSO's oversight team in Myanmar can provide a comparative analysis of how Myanmar
ranks compared to other countries, and describe the shortcomings in detail with recommendations on what is needed to address the gaps.

Before publication of results, TI and MM initiative will invite all political parties to a conference to discuss the assessment's findings. Political parties will have exactly one month to respond to the findings and implement changes to their party practices. The planned changes of each party (if any) will then be written in the assessment. Small political parties that may not have the capacity to implement desired changes will be supported by TI members.

Following the responses of the political parties to the assessment findings, Transparency International will publish the assessment on its website with the support of TI Czech Republic in both Myanmar and English. The target audience shall be both the Myanmar population and the international community, policymakers, Myanmar civil society, international donors and the media.

To ensure the average Myanmar population is made aware of the findings of the assessment, the team must work with local media outlets, including Myanmar Now and Khit Thit. Monitoring team will work with the media outlets to provide awareness amongst the general population regarding the rating of each political party in finance campaigning, and provide information regarding the ways in which unchecked corporate interests hurt public welfare and erode democracy and human rights.

The media will meet with companies and governments to ask for commentary on the index. These activities will put pressure on political parties to reform their practices.

Conclusion 5

CSOs in Myanmar should create awareness amongst the general public, members of parliament, local government officials, and international government officials of how Myanmar's elections are corrupted by national and international corporate interests on political party campaigns. Hand in hand CSOs should create public awareness of how Myanmar's policies are corrupted by national and international corporate interests to the detriment of democracy, human rights and public welfare and support public mobilization to reform rules and regulations to prevent the influence of corporations on public policies. A good method to do that is to run civic oversight over pre-election campaign, campaign monitoring and setting up a political finance transparency index.

Investigation of cases of corruption

Transparency International and the Transboundary Investment Research Initiative (TIRI) will work together on investigating cases of corruption related to political party financing. Corruption cases to be investigated will be selected based on the following tentative criteria:
• Access to information required, including budget figures from parliament and Auditor General Report
• Our network's geographical access to company activities
• Accessibility of key players in the cases
• Level of impact of the company activity

TI and TIRI will choose 5 cases to investigate. Two cases will stem from the infrastructure sector; one from the extractives sector; one from a CMEC project; and one that involves international development financing. The first four cases will concern how business entities are working with government officials and political parties; the last case will concern how international funds are supporting crony and military companies either directly or indirectly. Members of TI and TIRI have built relations with the Democratic Accountability Partnership, which can provide access to parliamentary budget figures of all ministries and Auditor General reports. Given that TIRI is specializing in understanding Chinese investment within Myanmar, TIRI will handle cases linked to Chinese investment.

4. Publicizing investigation of corruption cases and advocacy campaigns, both nationally and internationally.

The investigation of the cases of corruption will strengthen the initial advocacy activity regarding the political party financing index. It will provide evidence to the figures that were disseminated in the first year. These cases will then be reported by the same media allies that TI initially worked with to the general public.

TI and TIRI will then start advocacy campaigns both nationally and internationally to put pressure on the government to start regulating political party campaign financing, to investigate how the Myanmar government is influenced by corporate interests and to develop rules and regulations to stop this from happening in the future.

Significant international pressure will be necessary. TI and TIRI are hoping that donor-country governments may cooperate by 1) warning their own national companies to not engage in corrupt practices and punishing those that are doing so; 2) putting pressure on the Myanmar government to reform to achieve a genuine free and fair democracy.

Conclusion 6

Based on previous quality work, the investigative groups of CSO representatives shall continue with identifying and publishing the cases of corruption.

Interconnecting with international community, forming a TI chapter in the country

It is a crucial thing to be achieved: Myanmar CSOs have to be implemented into the international, regional and global networks which can provide them with advocacy, financial, expert and security capacities.

Based on Czech chapter's collaboration with CSOs connected to Myanmar Alliance for Transparency and Accountability (MATA) we deliver short briefing pager about the profile, status and nature of the group which is involved in becoming a Chapter in Formation for TI.

Conclusion 7

It is a crucial thing to be achieved: Myanmar CSOs have to be implemented into the international, regional and global networks which can provide them with advocacy, financial, expert and security capacities. One of the concrete tasks shall be to start the

process of forming up a chapter of Transparency International movement in the Union of the Republic of Myanmar.

Developing measurements for identification of grand corruption

Once an anti-corruption activists had analyzed the causes of the grand corruption under scrutiny, and assessed which of the four syndromes best fits the country being looked at, primary and secondary tasks can be prioritized according to the above. For example, in a country that fits the 'oligarchs and clans' syndrome, action to open up safe political and economic space, and then engaging in reform activism, can be prioritized.

Military businesses take the form of both private and state-owned enterprises (SOEs). SOEs are playing very important roles in both the extractive sector and other sectors, which are controlled by a network of active and former military personnel currently serving as directors and in others high-level management roles. SOEs operate with a serious conflict of interest. In addition to their profit-making responsibilities, they are also mandated to write the rules of their respective sectors while also functioning as decision-making entities to award extractive licenses and collect revenues and share products at a project level.

Regarding private enterprises, since the 1980s, the government has introduced privatization programmes of SOEs, a process of which has been opaque and dominated by political interests. State assets have been sold to firms below the market prices, and in many cases, these companies were controlled by the military or their trusted partners (cronies).

The problem we are seeking to address is the dominance of these select few players (the military and their affiliates) in the economic scene, which has influenced governance in Myanmar, resulting in lack of accountability and transparency of revenue from large investment projects. The governance system regarding budget collected and allocated in turn is opaque, which presents a challenge to advancing government accountability in Myanmar.

Thus, CSOs have to aim at bringing to light governance issues and the likely influence of corporate interest by carrying out an investigation of selected investment cases of national and international corporate influence over the government. These cases should include investment projects from the infrastructure sector, extractives sector, and involvement of international development financing.

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