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Master's Thesis of Public Administration

Effectiveness and Challenges of Myanmar's Anti-Corruption Commission

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Abstract

Effectiveness and Challenges of Myanmar's Anti-Corruption Commission

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This research paper is the case study of the effectiveness and challenges of Myanmar's Anti-Corruption Commission (ACC). Albeit the newness of the Anti-Corruption Commission, it has made some tangible effectiveness along with the governmental reforms. This research is focused on the extent of the effectiveness of ACC with regard to the Transparency International's anti-corruption agencies strengthening assessment framework. Based on this framework, ACC's strengths, weaknesses, opportunities and threats are analysed. The research finally concludes with some key findings and suggestions on how to strengthen the anti-corruption efforts of the country.

Key Words: Corruption, anti-corruption, Anti-Corruption Commission

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CHAPTER ONE: Introduction

1.1 Background

"The negative impact of corruption on development is not a new phenomenon. Evidence from across the globe confirms that corruption not only disproportionately impacts the poor but also hinders economic development, reduces social services, and diverts investments in infrastructure, institutions and social services. Moreover, it fosters an anti-democratic environment characterized by uncertainty, unpredictability and declining moral values and disrespect for constitutional institutions and authority. Corruption therefore, reflects a democracy, human rights and governance deficit that negatively impacts on poverty and human security"[1]. Fighting against corruption has become a major industry as a priority objective of economic policy, involving all governments whether of developed or developing countries and all the international organizations (Mungiu-Pippidi 2006, Me'dard 2002). However many anti-corruption efforts have failed due to prioritizing short-term targets which merely scratch the surface of the problem of corruption (UNDP 2014). Nowadays, all nations agree that corruption weakens state governance and reduces government revenues available to provide services, thus promoting state weaknesses and fragility (USAID 2006). Myanmar is the most fragile state in Asia after Afghanistan, according to the World Bank's Harmonized List

[1] UNDP, Practice Note: Anti-Corruption, 2004, p.1.

of Fragile Situation for year 2019 and also the sixth most corrupt country in the Asia Pacific region after Afghanistan, Bangladesh, Cambodia, Papua New Guinea and North Korea, ranked 132nd in the Transparency International's 2018 Corruption Perception Index. Decades long internal conflict contributed the country's political system unstable and quality of government has declined. Corruption is well entrenched within Myanmar's institutions and rampant corruption in all sectors. Needless to say unfavourable policy context creates the breeding ground for endemic corruption which affect socioeconomic and become Least Developed Country (LDC). Since corruption has been a top concern for doing business, Myanmar ranked near the bottom of all categories in Ease of Doing Business by WB in 2014. ACC chairman U Aung Kyi also commented that "corruption hurts country's economy, administration system and politic, society and culture. Based on complaint letters, the worst sector is government administration."[2] He also declared in the annual report to the Parliament that corruption remains rampant in the country due to self-interest, resistance to change, ineffective measures and poor rule of law based on the findings of a nationwide survey[3]. Corruption in Myanmar is widespread from petty to grand forms which we call endemic and relatively challenging to curb it within few years. Quah (2016) claimed the ineffectiveness in curbing corruption in Myanmar can be confirmed by

[2] Frontier Myanmar, June 18, 2018.
[3] Tea Circle, June 5, 2019. https://teacircleoxford.com/2019/06/05/corruption-a-severe-chronic-disease-myanmar-has-to-fight/

diversion of public funds, irregular payments and bribes, favouritism in decisions of government officials, public trust in politicians and burden of government regulations. Furthermore low probability of detection and management is also catalyst for endemic corruption in the country. Lindsey (2014) contended that poor economic performance may have prompt Myanmar's transition which occurred after decades of weak economic management and isolation. For developing countries, commitment for anti-corruption is sometimes a condition for receiving financial support from development partners (Gnimassoun, B., & Keneck, J. 2015). Particularly, the aim of reforms are to diminish discretion of public officials through privatization and deregulation, cut monopoly by promoting political and economic competition, increase accountability by supporting democratization and bureaucratization, improving salaries of public officials thereby increasing the opportunity cost of corruption, improving the rule of law so that corrupt bureaucrats and politicians can be prosecuted and punished, and encouraging greater transparency of government decision making through deepening democratization, decentralization, as well as through the creation and encouragement of civil society watchdogs (Ivanov 2007; Lawson 2009). Myanmar is now on the road to Federal Democracy and national reconciliation is the highest on the government agenda. The adoption of a new Constitution in 2008 signalled a transition from military to civilian rule and launch of a series of political, social and

economic reforms. With transitional democracy followed by new civilian government in 2011, Myanmar government aims to promote the country's economic environment more transparent to the international community, and attract foreign investment by undertaking sectoral reforms. Not long before country's economy grew at 6.8 per cent in 2017/2018 and targeting to exit from the LDC in 2021. In recognition of the vital role of the public sector in facilitating nation's transformation, launched a "third wave" of reforms, following the political, and social and economic waves. The "third wave" focused on public administration emphasizing to combat the corruption with the aim of bringing forth the clean government with a system of good governance. Key initiatives for Myanmar's transition includes broad media and press law reforms, allowing external scrutiny into the public finances management, more NGOs and INGOs are permitted for registrations, rules and regulations have been relaxed and engage the public in policy making and voluntarily signing up to international good governance protocols, such as the United Nations Convention against Corruption (UNCAC), South East Asia Parties against Corruption (SEA-PAC), the Extractive Industries Transparency Initiative (EITI), the Open Government Partnership (OGP) and also preparing to join the International Anti-Corruption Academy (IACA).[4] Myanmar Anti-Corruption Commission (ACC) was established in 2014 and become the

[4] OECD, Open Government Review Myanmar, 2014

youngest ACC in the region, making efforts to meet the local, international credibility in fighting against the rampant corruption in the country. The former president U Thein Sein committed to ensuring the good governance and clean government as well as the incumbent president at his inauguration declared fighting corruption a top priority and his first public meeting was with the Anti-Corruption Commission. Undeniably the performance of ACC has become more proactive as well as gained some achievements and credits thanks to governmental reforms and political commitment.

1.2 Significance of the Study

Myanmar's isolation for decades leads to limited data assessment and only few international non-governmental organizations (INGOs) and some donor agencies as well as some scholars have done the researches. Therefore it is crucial to have in-depth understanding to find the loopholes to curb the corruption. Moreover, scholars and International Organizations have criticized ACC's operations and status as the commission is not independent, lacking resources, lacking legal teeth, not having transparency and less political will to address its focus of corruption. Doig and Noris (2007) contented that developing countries with systemic corruption usually have an incompatibility between the newness of the ACA, the expectation regarding its performances and the nature and the extent of corruption to be addressed. This paper attempts not only to rectify the

scarcity of research on corruption in Myanmar especially the gaps that the previous research papers did not covered during the amendments of ACC Law, but also to prove the recent tangible performances of ACC. Hence this paper will benchmark the effectiveness and challenges of ACC with regard to its legal reforms, efficiency and effectiveness in fighting against the corruption.

1.3 Objective

This study aims to explain that ACC's performance has improved to some extent and gained tangible success since establishment of the organization due to the above mentioned governmental reforms and high-level government commitment helping to promote transparency and combating corruption in the country. Secondly this study attempts to identify key issues of the internal and external factors that affect ACC's functions. The results from this study may provide government leaders and policy makers with more information and key policy recommendations based on international best practices for strengthening the ACC in fighting against the corruption in the country.

1.4 Research Questions

In order to examine the effectiveness and challenges of Myanmar ACC, this study asked; to what extent ACC's performance has improved until recently since its establishment and what are the strengths, weaknesses, threats and opportunities of ACC compared with international

standard and what other practices ACC needs to adopt for further effectiveness and success?

1.5 Methodology

This paper conduct the analysis based on the UNDP anti-corruption practice note, USAID corruption assessment handbook, and Transparency International's research implementation guide. Therefore, the policy context of the country and its perceived extent of corruption is analysed as a pre-assessment analysis, later analyse the legal-institutional framework as well as functions of the agency and then evaluate the anti-corruption measures and lastly present the key findings. The approach of this study will be qualitative by using secondary data concluding the reliability of primary information about ACC's history, legislations and policy and news releases relating to corruption. In addition, some required data sources are collected from other publications that different scholars and experts including published articles, academic journals, authorized documents which provided by the government as well as review of reports and interviews, reports from IOs such as TI, United Nations Development Programme (UNDP) and World Bank (WB) and other reliable sources to back up the study. From these major findings, to what extent Myanmar ACC could meet the criteria that a strong and successful ACC should have will be analysed.

1.6 Scope and Limitations

In order to analyse the performance of ACC, this study has many limitations. For instance, the ACC's annual report to the Parliament is yet to be publicly available and there is no statistical data of corruption survey on institutions conducted locally. There is also no national integrity assessment by the Transparency International. Therefore this study has to emphasize just the ACC's legal documents, its organizational structure, number of cases taken actions and the collaborative activities with international organizations to compare and analyse with the international standard.

1.7 Organization of the Study

This paper is organized into five chapters. The first chapter describes introduction of Myanmar's political context and historical background of corruption in the country, objective, significance of the study, research questions, methodology and finally scope and limitations of the study. The second chapter reviews the relevant theoretical concepts from the scholars and researchers. And in the third chapter, the country governance and operating environment in light of international indicators and the extent of corruption control in the country is analysed. The fourth chapter evaluates the performance and effectiveness of ACC comparing with the international standard. Finally, the last chapter provides a review of major

findings and finally some policy suggestions are made for the better performance of ACC together with recommendations for future research.

CHAPTER TWO: Literature Review

This chapter draws a number of sources of recent research for systematic approach to understand the nature of corruption and types of ACAs. Then elaborate the reviews of dimensions of assessment which are critical for the effectiveness of ACAs and, lastly presents the way to approach ACAs should adhered to.

2.1 Understanding Corruption

Corruption can be said principally a governance issue which means that failure of institutions and a lack of a capacity to manage society by means of a social, judicial, political and economic checks and balances. When these formal and informal systems fail, it becomes harder to implement and enforce laws and policies that ensure accountability and transparency (UNDP 2004). Corruption; the abuse of public office for private benefit is widely accepted term. According to the IMF the concept of good governance can be broadly described as sustaining governing institutions in which bureaucratic and legal processes are proficient enough to meet the needs of society as a whole, and not just the needs of specific interest groups. The absence of good governance results in public trust in the state, civil society and private enterprises being undermined and which also hinders the efficient functioning of markets and the formation of a more competitive business. Corruption is common at all levels of

government – from the central to the regional to the local levels (USAID 2006). In consideration of the phenomenon of corruption, *state capture* refers to the actions of individuals, groups or firms both in the public and private sectors to influence the formation of laws, regulations, degrees, and other governmental policies to their own advantage whereas *administrative corruption* refers to the intentional imposition of distortion in the prescribed implementation of existing laws, rules and regulations to provide advantages to either state or non-state actors as a result of the improper and non-transparent provision of private gains to public officials.[5] A corruption syndrome is defined by the political and economic dynamics that a country has experienced and, within these dynamics, how people participate in them and how institutions have been established to define their rules and boundaries.[6] Corruption tends to thrive when the individual concerned receive inadequate salaries, have ample opportunities to be corrupt, and are very small chance to be caught or not severely punished if detected (Quah 1997, p.7). It is important to situate the problem of corruption as part of the comprehensive challenge of good governance (WB 2004) and also understand the causes of corruption in a particular country context to ensure that any planned interventions or reforms address the roots of the problem (UNDP 2004, p.3).

[5] The World Bank, Anti-Corruption in Transition: a Contribution to the Policy Debate, September 2000 p. xv-xvii.
[6] USAID, Corruption Assessment Handbook – Draft Final Report, Washington May 2006 p. 8.

2.2 Types of ACAs

ACAs are legal entities, durable policy funded organisations entrusted with the objective of fighting corruption and reducing the opportunities for corruption by means of preventive and/or repressive measures (de Sousa 2010, p.5). An autonomous and well-functioning anti-corruption body is a fundamental pillar of the national integrity system in any country context, the principle aim of which is to reduce and prevent corruption.[7] Besides an ACA is a permanent, government-funded agency created to prevent and control corruption that is separate from other government agencies, but is accountable to parliament, the justice ministry or the executive. It also centralises information on domestic corruption that is circulated to the media and other law enforcement agencies, and is recognized by, and accessible to, the public (Charron 2008, p.6). Since there is no standard model for ACAs, some ACAs have been created from scratch, while others have been based on ombudsman offices, special units within police departments, or justice departments (Johnston 1999, De Sousa 2009). Although ACAs have heterogeneous nature, they can be broadly categorized into two types of approaches (Doig et al., 2007, Megher 2004): single and multiple-agency approaches to the anti-corruption mandate. The single-agency approach, which is the most popular among newly created ACAs worldwide, is a centralized, powerful agency that focuses

[7] TI, Strengthening Anti-Corruption Agencies in Asia Pacific - Regional Synthesis Report, p 8.

specifically on anti-corruption responsibilities, which also requires interaction with other public bodies, for example line ministries and courts. The Singapore Corrupt Practices Investigation Bureau (CPIB) and the Hong Kong Independent Communion Against Corruption (ICAC) both use this type of approach and are widely viewed as models for the establishment of successful strong, centralized anti-corruption agencies (Arsema Tamyalew 2010). Unfortunately, the replication of these models in entirety, without taking into account countries' specific political, social, and economic conditions has not been successful or efficient (Doig et al., 2007). Under multiple-agency approach, the anti-corruption authority shares anti-corruption mandate and responsibilities among different bodies, agencies, or departments as in U.S., Brazil, France, Pakistan and Vietnam (Arsema Tamyalew 2010 and Quah 2016). Regardless of whether a single or multiple-agency approach is adopted, most ACAs have one or more of the following four universal functions; investigation and prosecution, corruption prevention, creating public awareness and disseminating education on the issue of corruption, coordination of anti-corruption – related efforts and policies (Doig et al., 2007, Charron 2008, Meagher 2004, Quah 2009, De Speville 2008). Depending on the scope of action, however, ACAs focus exclusively on the investigation, prosecution, education and awareness-raising, prevention and coordination have advantages over other less specialized agencies in combating corruption by

means of reducing administrative costs, lesser uncertainty regarding jurisdiction by preventing duplication of powers and work, high degree of specialization, expertise and autonomy, separation from the agencies and departments that it will be investigating, high public credibility and profile, establishing security protection, political, legal and public accountability, clarity in the evaluation of its progress, achievements and failures, initiating swift action with its own resources and specialised personnel (Nicholls et al. 2006, p. 476 and UNODC 2004 b, pp.89-90). By contrast, type of ACAs performs both anti-corruption and non-corruption-related functions may not give the same importance in fighting corruption as other items in their portfolio (Arsema Tamyalew 2010). For example, the OMB in the Philippines performs investigation of complaints of inefficiency and anomalies in the delivery of public services, prosecution of graft cases in the Special Anti-graft Court, disciplinary control over appointed officials, public assistance and graft prevention (OMB 2009, pp.7-8). Nevertheless establishing ACAs should be based on a systematic assessment of particular needs and priorities of the country and form part of an overall integrated approach (UNDP 2004, p.6).

2.3 The Importance of Policy Context

Francis Fukuyama (2004, p.58) contents that most good solutions to public administration must be incorporated a great deal of context-specific information. The policy context refers to the geographical, historical,

economic, demographic and political aspect of a country's environment that influences formulation and implementation of policy and should be enabling environment (Quah 2011, p.30). Countries with "enabling environments" would encounter fewer obstacles in curbing corruption than their counterparts in those countries which have been affected by prolonged periods of conflict, the so-called natural resource curse or landlocked or adversely affected by natural disasters (Quah 2017, p. 3). Besides the level of economic development of a country is vital factor for ACA effectiveness because economically robust countries are likely to encounter less difficulty in implementing anti-corruption laws and measures than countries with low economies, unless they receive external financial and technical assistance [8]. In USAID's (2006) corruption assessment handbook, it described as follows:

(1) Enabling environment: functioning courts, free and active media; energetic community of NGOs and public interest groups; other capable agencies of restraint such as capable financial management authorities; supreme audit institutions and central banks; freedom of Information Law; and regional and global treaties that provides for cross-border exchange of information and resources.

(2) Background conditions: macroeconomic stability, political stability, confidence that an attempt to challenge corruption would

[8] Ibid.

> not lead to violence; public order; absence of crippling[…], an environment where corruption is not entrenched in the whole system[…], and legislation and practice that support freedom of expression and decriminalizes defamation.

For the purpose of strengthening the ACAs, three aspects of country's policy context are emphasized; firstly, land area, population, gross domestic product (GDP) per capita, and cultural values and practices; secondly, type of government and level of governance according to the World Bank's five indicators, and thirdly the country's perceived level of corruption according to the World Bank's control of corruption, Transparency International's Corruption Perception Index (CPI), and Global Competitiveness Report's Indicator on Irregular Payments and Bribes.[9] Therefore it is important to understand a country's full governance environment as a critical foundation to crafting appropriate anti-corruption policies and programs (WB 2004).

The size of the country in terms of land area is an important factor affecting ACAs effectiveness since large country encounters more problems in implementing anti-corruption law in country wide. For example the ACA headquarters being located in the capital city and many branch offices are needed to establish in the provinces.

[9] TI, Anti-Corruption Agencies Strengthening Initiative- Research Implementation Guide, p.4

The country's political system can also affect the ACAs' effectiveness in curbing corruption both positively and adversely (UNDP 2017). A long duration of democracy appeared necessary to significantly reduce corruption (Treisman 2000) and also provide citizens with an opportunity to punish government that fails to control corruption (Asparism Gosh 1997). The nature and level of corruption in advanced democracies with solid political and economic institutions is likely to be different from those countries in transitional stage of democratization and economic reforms.[10] Another factor is that a country which had undergone a peaceful transfer of power through free and fair elections is more likely to be effective in combating corruption than a regime which has assumed power through conflict or military coup (Quah 2015). Recent research also suggest that post-conflict conditions breed more ground for corrupt behaviour, and specific circumstances surrounding transition from centrally-planned to market economies allowed for state capture and administrative corruption to flourish (UNDP 2004, p.3). Countries which have endured protracted period of civil war are particularly vulnerable to corruption because of the combined effect of three factors; the legacy of wartime corruption, the management and distribution of massive influxes of material wealth from natural resources or foreign aid, and the overall weakness of state (Sarah Dix and Nihal Jayawickrama 2010). ACAs' effectiveness is also depend

[10] Ibid

on the level of governance which is measured by five indicators; voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality and the rule of law (Quah 2015). Moreover UNDP (2004, p.3) stated that concentration of powers in the executive, weak in checks and balances, poor transparency in executive decision combined with restricted access to information, weak system of oversight and enforcement and high tolerance for corrupt activities are the typical features of a system prone to corruption.

Corruption and corruption perception can be considered as cultural phenomena because they depend on how a society understands the rules and what constitutes a deviation. Furthermore the bonds of custom obligation create opportunities for corruption and hinder corruption control (Quah 2015). Corruption perception differs from the level of corruption but the latter may influence the former (Natalia Melgar, Maximo Rossi and Tom W. Smith 2010). The perceived level of corruption in a country is another important factor for ACAs because those ACAs operating in countries with widespread perceived corruption would likely have heavier workload (Quah 2015) and face more challenges in implementing the mandate than ACAs in countries where corruption is perceived to be low (UNDP 2017). Treisman (2000) claims that former British colonies with common law legal systems had significantly lower perceived corruption

because of their superior administration of justice and their preoccupation with procedural fairness even at the expense of social hierarchy.

2.4 Factors Affecting the Successful ACAs

There are certain factors that need to be in place for ACAs to function effectively. Patrick Meagher and Caryn Voland (2006) identify ten factors that are critical for the effectiveness of ACAs: their political mandate, cross-agency coordination, focus on prevention and monitoring government implementation, accountability, independence, powers, well-trained staff and adequate resources, an enabling environment, complementary institutions, and complementary legislation. In order to judge the performance of ACAs, Transparency International developed a framework for assessing seven criteria that influence the work of ACAs; legal independence and status, financial and human resources, detection and investigation, prevention, education and outreach, cooperation with other organizations, accountability and oversight, public perception of ACA's effectiveness.[11] When category; exogenous factors are external issues that affect the agency's institutional effectiveness and endogenous factors are internal conditions that affect an ACA's ability to fight corruption successfully (Johnston 1999, De Sousa 2009, Quah 2009, De Speville 2008, Doig et al., 2007, De Speville 2000, Pope and Vogl 2000, Dionisie and Checchi 2007, De Sousa 2006). Exogenous factors include

[11] TI, Strengthening Anti-Corruption Agencies in Asia Pacific - Regional Synthesis Report, p 5.

political will, economic conditions, donor initiatives, public trust and confidence, the media and ACA's relationship with civil society actors. Endogenous factors include the ACA's independence in performing its functions, the specificity of its objectives in terms of the context of the country, permanence, sufficiency of financial resources, and staff capacity (human capital).

2.4.1 Political will

Strong political leadership with a will to spearhead good governance reforms can advance the ACA's work and political leadership that engages in the misuses of power can obstruct effective implementation of its functions (UNDP 2017). Quah's insight of anti-corruption strategies in different matrix that depends on the commitment of political leadership and anti-corruption measure applied the commonly held assertion that without a strong political will, anti-corruption reforms are born to fail (Williams and Doig 2004, Brinkerhoof 2000, Kpundeh1998, Johnston and Kpundeh 2004, UNDP 2004, World Bank 2000). Without strong political will it would not be possible to establish ACAs with adequate budget and personnel provide ACAs with legal powers and operational autonomy to act as an independent watchdog without political interference, and widely public support to protect ACAs from its enemies (Quah 2017). Moreover the bottom-up sources of political will such as from street-level bureaucrats, whistleblowers who are strongly committed to prevent corruption

(Brinkerhoof 2010). Indeed the strongest determinant of the ACA's fate is the attitude of the ruling parties toward it (Batory 2012, p. 656).

2.4.2 Economic conditions and donor initiatives

The ACAs must have an adequate budget to perform its functions effectively (TI 2015). Both economic conditions and donor initiatives are the main arteries for survival of ACAs. The impact of the country's unfavourable economic conditions may cause shortfalls in funding, which results in unpaid staff and diminished morale (Megher 2004). The budget allocated by the Ministry of Finance to the ACA is an important indicator of the government's political will to combat corruption (TI 2015). Most ACAs suffer from a lack of funding, donors determine which ACA components to finance mostly based on donors' choices rather than ACAs' needs assessments (Doig et al, 2007). Donors and international organizations can provide impetus for reform but they need to be home grown and locally driven (UNDP 2004).

2.4.3 Public trust

Corruption also leads people to believe that the political system performs worse than it could and that those who work for the state cannot be trusted; is important because it strongly suggests that corruption is likely to be an important component of government performance people use to judge political institutions (Anderson, C. J. and Y. V. Tverdova, 2003).

Study of political trust across ten East-Central European states found that higher levels of corruption were related to lower levels of political trust. Corruption violates fundamental tenets of democracy such as equality, fairness and accountability and also citizens in more corrupt democratic societies would report lower levels of satisfaction with the performance of their political systems and trust in civil servants compared to people in democracies that are cleaner (Mishler and Rose, 2001 a). When a political system is tainted by corruption, people's willingness to accept government-initiated reforms or even the legitimacy of a system as a whole may flag. In the long term, this can pose significant challenges to the sustainability of democratic government (Anderson, C. J. and Y. V. Tverdova, 2003). Therefore ACAs' impartiality and openness in their functions are fundamental to securing public trust and confidence. It is equally important for ACAs to demonstrate that their officials and staff are incorruptible (UNDP 2017).

2.4.4 Relationship with civil service actors

An important factor impacting the effectiveness of ACAs is building cross sectional-sectoral support to create a significant mass of public officials, civil society groups, and private firms (Johnston and Kpundeh 2002). Free media and nongovernmental watch dogs play a vital role through their capacity to build public awareness and monitor ACA activities (Tamyalew 2010).

2.4.5 Independence

Independence basically refers to the ability of an ACA to carry out its mission without political interference. However, it does not mean the absence of reporting to executive and legislative agencies, and provide public access to information on their work (Gorana Klemencic, Janez Stusek and Inese Gaika 2008). Rather, it refers to an ACA‘s degree of independence to freely investigate corruption wherever it suspects that it may occur without the punishment being cancelled or modified because of the interests of powerful individuals or groups (Johnston 1999). In order to function efficiently, the ACA should have a broad mandate without restrictions on its investigation of suspected corruption. However, at the same time, the ACA should also be held accountable for its actions, investigations, and general comportment as a government agency. In this regard, an independent anti-corruption institution needs to integrate a system of checks and balances in order to maintain transparency and accountability. There must be an independent oversight mechanism to monitor ACAs functions and practices for example, a parliamentary oversight committee and/or a committee comprising a cross-section of professional groups and civil society (UNDP 2017). Another related problem of independence of the ACAs is the reliance by their governments on using corruption allegations as a weapon against political opponents (Quah 2016). The success of Singapore and Hong Kong in combating

corruption is not relying on the police to curb corruption when police corruption is rampant (Quah 2017).

2.4.6 Legal powers

Since institutional ineffectiveness and corruption are directly and positively related to each other, legal effectiveness is crucial to combat corruption. It is important to have an effective legal framework in place as the effectiveness of ACAs is challenged when a government institution underperforms and there is an inadequate legal framework (Doig et al., 2007). The basic legal framework needed to fight corruption are effective criminal and civil code, conflict of interest laws, meritocratic hiring rules, freedom of information laws, sunshine laws, asset disclosure rules, codes of conduct and whistle blower protection (USAID 2006).

2.4.7 Country-specific objectives

It is crucial that the decision to set up a specialized anti-corruption body and the selection of a specific model be based on analysis and strategy. The country must take stock of where it is, decide on where it wants to go, and finally elaborate a detailed road map. While these steps might seem obvious, it is surprising that many countries have established anti-corruption agencies without proper evaluation or strategy in a context where basic legal, structural and financial perquisites were not in place (OECD 2007, p. 26). Much has been said about fitting anti-corruption

reforms to specific country settings; the most frequent has until today been to use “toolkits” of ideas provided by the international community in line with the logic of a “one fits all” approach (Kpundeh 2004, p.127). Quah (1999) also claims that the correct diagnosis of the nature, depth and strength of corruption is crucial to control it and the extent of corruption is depend on the nature of the causes of corruption and the degree of effectiveness of the measures initiated by political leaders to combat corruption. In Anwar Shah’s (2007) view, policy makers need to understand the local circumstances that encourage or permit public and private sectors to be corrupt and each country must tailor reform strategies to suit its particular context (Leslie Gielow, Jacobs and Bajamin Wanger, 2007). There is no one model to fight corruption although best practices exist; they are not automatically applicable to any one country’s specific context (UNDP 2004, p.6).

2.4.8 Adequate human resources

The political will of government in combating corruption is reflected in the budget and personnel allocated to the ACA. Effective ACAs rely on recruiting well-trained personnel with highly specialised skills on the basis of merit, compensating them adequately, and making them accountable for their actions (Meagher and Voland 2006, p. 12). A key factor responsible for the ACA’s effectiveness is its ability to recruit and select personnel on the basis of their technical competence (Francesca Recanantini, 2011). The

specialisation of the ACA refers to the ability of specialised staff with special skills and a specific mandate for fighting corruption[12]. Since the effectiveness of the organization is determined by its capacity or performance of its anti-corruption functions, higher per capita expenditure and more favourable staff-population ratio should be devoted. Deficiencies in recruitment and training procedures are the major causes for a lack of specialization among personnel (de Sousa 2009).

2.5 Approaches

Researchers agree that the overall failure of anti-corruption reforms is by and large the result of implementation problem (Anna Persson, Bo Rothstein and Jen Teorell 2010, p.4). Many anti-corruption efforts have failed due to the imbalance between prioritizing short-term, immediate visible targets that create momentum but merely scratch the surface of the problem. A well-thought anti-corruption reform strategy requires a long-term vision and a clear understanding that fundamental change can take place, at the earliest, in the next and not in the present generation. However, an appropriate mix of immediate and medium-term actions can yield crucial results that help build the foundations for strengthening a culture and system for accountability, transparency and integrity. Most importantly anti-corruption reforms needs to transform values and ethical framework through education and close participation of youth to be

[12] Klemencic, Stusek and Gaika, Specialised Anti-Corruption Institutions, p. 10.

imbedded in culture (UNDP 2014). To be effective, ACAs must avoid the two serious mistakes; use the ACAs as an attack dog against the government's political opponents; and the lack of government's commitment letting ACAs as paper tiger (Quah 2017). Indeed, ACA must be a type of organization that is flexible, adaptable and sustainable to the external environment and organization's success will depend on creativity, maximize competency and resources to the full, and seek alternative ways to exercise the mandate (de Sousa 2010, p.19).

CHAPTER THREE: Country Analysis with Corruption Perspective

This chapter present the country level study as well as prerequisite factors on which ACAs' effectiveness and performance utterly rely on. This chapter starts with the policy context of Myanmar to fully understand the environment for the ACC to perform followed by the key governmental reforms to promote transparency and lastly present the emergence of ACC.

3.1 Policy Context of Myanmar

Myanmar covers an area of 676,578 square kilometres and the size of the country is the second largest in ASEAN and the sixth largest in Asia. The country's population is 53 million comprises of a hundred and fifty three ethnic groups. Neighbouring countries are China, Laos, Thailand, India and Bangladesh. Myanmar has a presidential system of government, with three distinct sets of powers; the legislature, the executive, and the judiciary. Myanmar underwent British colonial period from 1862 to 1947 and gained independence in 1948. Then experienced a nascent democratic period from 1948 to 1958; in the form of parliamentary democracy during 1960-62; then military rule after a coup in 1962-1988; later proceeded by one party system. The first general elections are held in 2010. Since 2011, a series of major reforms have seen the country move from a military-ruled political system to one that is more focused on people-centred

development; from a state-dominated to a market-oriented economy; from decades of ethnic conflict towards a nationwide ceasefire and political dialogue; and from regional-isolation to re-engagement in global affairs (David Hook, Tin Maung Than, Kim N.B Ninh 2015). The 2008 Constitution calls for a multi-party democratic system that also enables the Defense Services to participate in political leadership (Staddon A., Thompson G., 2019). However Myanmar continues to face numerous challenges to its security and development. The on-going conflicts in the north and western parts of the country have weighed the slowdown of the economy despite recent efforts to improve the tax system and the ease of doing business. Smith (2007) describes Myanmar as "a land trapped in conflict" and is "a pre-eminent example of a post-colonial state" caught in "conflict trap". Although GoM has been striving with highest efforts for the comprehensive development of the country, there are still clashes between the Government Military and the ethnic-armed groups in northern and western part of the country. Most fighting has occurred in isolated and inaccessible border areas far from the centre of state power. Separatist territories and nationalities in ethnically distinct states at the fringes of the country have struggled against the central government through decades of armed conflicts[13]. The organs of state are incapable of penetrating some of the peripheral areas where various armed factions are in charge of

[13] OECD, Open Government Review Myanmar, 2014.

governance, taxation and delivering public services (Bertelsmann Stiftung 2018). Another fact is that Myanmar is the world's second largest producer of opium (Meehan 2015) as well as the world's largest producer of methamphetamine (Hogan 2018) and Shan state alone accounts for over ninety per cent of Southeast Asia's illegal opium (Meehan 2015) which is controlled by many armed groups in the peripheral areas. Myanmar is also plagued by traffic in narcotics, people, wildlife, gems, timber and other forms of contrabands because of the problems in controlling its permeable borders (Chêne 2012, p.4). Myanmar's location in a bad neighbourhood surrounded by corrupt countries with low CPI scores enhances the difficulties in combating corruption and smuggling along its border with these five countries. Elsewhere in Southeast Asia, the region's mix of one party states, multi-party democracies and military regimes makes it hard to draw a clear line between the aims or approaches of governments conducting anti-graft drives (Quah 2011).

Since culture and politics are closely related to corruption, the colonial culture and its political characteristics are the main reasons for the serious corruption in the colonial countries (Liu,X. 2016). Colonial administration and military regime give legacy for less effective and efficient administration system in Myanmar (Political Risk 2011) and saw the surge of cronyism as well as the deterioration of the judiciary. It is characterized by economic mismanagement and corruption at the highest levels.

Weakened institutions in both national and local governments also weakened accountability and served to support rent-seeking activities by exploiting government rules and resources. The outcome for the country had been slow growth, persistent poverty and inequality, and environmental degradation (WB 2004).

3.1.1 Grand corruption

Privatization and 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 resemble monopoly (Jones 2013). For example winning in the larger tender is common due to personal relationships and patron-client networks have long been among the chief forms of market governance in Myanmar (TI 2019). In the area of hydropower, the electricity generation projects may have been sold or compromised with foreign or domestic investors. Operational ministries are noticeably less transparent than ministries carrying out policy formulation as they rarely publish figures or disclose details about investors or spending (Saw 2015).

3.1.2 Bureaucratic corruption

Myanmar's civil bureaucracy has long been characterized by poor organization, mismanaged, under-trained and under-utilized staff, weak accountability mechanism particularly in higher ranks dominated by deputized military personnel, poorly-designed public programs, badly

implemented public services and high degree of centralization (Alex M. Mutebi 2005). Bureaucratic corruption in Myanmar is in part enabled by cumbersome bureaucratic procedures and bribes or gift-giving is unavoidable element of the process whenever citizens deal with the bureaucracy. Red-tape provides with the excuse to extort bribes from the public, especially business people, who are willing to pay the grease to reduce delay by expediting their applications or licenses or permits (Quah 2009, pp. 820-821). Facilitation payment is prevalent and rent seeking behaviour pervades most public institutions and affects both small and everyday interactions as well as larger tendering processes (TI 2019). Poorly-paid civil servants use their position to collect bribes as a way of making ends meet, particularly when the expected cost of being caught is low (Mauro 1997, p.5). The practice for providing "tea money", essentially bribes, in exchange for licenses and permits engaged with low to mid-level public officials is common vis-à-vis undermines trust in state institutions, and violates the principle of equal treatment of citizens. The Table I show the salary of civil servants which is below market levels.

No.	**Job title**	**Current salary range (MM Kyat), (1 USD = 1518.20)**
1.	Peon	154,000 (estimate 100 USD)
2.	Record Keeper	172,000

3.	Lower Division Clerk	190,000
4.	Upper Division Clerk	208,000
5.	Branch Clerk	226,000
6.	Branch Clerk	244,000
7.	Office Superintendent	262,000
8.	Staff Officer	295,000
9.	Assistant Director/ Deputy Director	328,000
10.	Director	361,000
11.	Deputy Director General	394,000
12.	Director General/ Managing Director	438,000
13.	Permanent Secretary	550,000

Table 1.Civil service salary structure
Source: The Global New Light of Myanmar, April 30, 2018.

3.1.3 Judicial corruption

Bureaucratic corruption also greatly affects the judiciary, thereby impeding the rule of law that would be needed to act as a check on systematic bribery. The weak rule of law and rampant corruption in the courts and police let the corrupt offenders to escape punishment by bribing police officers and judges (TI 2019). Bribes and irregular payments in exchange for favourable judicial decisions are very common (GCR 2015-2016); two out of five citizens believe most or all judges are corrupt (GCB 2017); nearly half of citizens believe most or all police officers are corrupt (GCB 2017). Companies perceive the judiciary to be inefficient when it

comes to settling disputes and challenging government regulations (GCR 2015-2016).

Box 1The Important Lessons

The success of Singapore and Hong Kong in combatting corruption can be attributed to their rejection of the ineffective British colonial government's method of relying on the police to curb corruption and their reliance instead on the CPIB and ICAC, respectively. Singapore took 15 years (1937-1952) and Hong Kong needed 26 years (1948-1974) to learn the important lesson of not relying on the police to curb corruption when police corruption is rampant. Unfortunately, India has not learnt this lesson after 76 years because it still relies on the CBI, a police agency, to fight corruption when there is widespread police corruption.[14] The Solomon Islands, a former British protectorate, still rely on the police to curb corruption in spite of the rampant police corruption and its limited investigative capability.[15]

Source: Quah (2017) Anti-Corruption Agencies in Asia Pacific Countries: An Evaluation of their Performance and Challenges

3.1.4 Cultural factors

Cultural factors also contribute to corruption when cultural practices like gift-giving and the importance of family ties enhance tolerance for corrupt acts and influence individuals to give or receive bribes. In Myanmar culture there is a saying "giving is the key to success" which is

[14] India began its battle against corruption with the formation of the Delhi Special Police Establishment (DSPE) in 1941. The CBI was established in April 1963 by incorporating the DSPE as the Investigation and Anti-Corruption Division and five other divisions. See Quah (2011), pp. 92-94.

[15] den Heyer (2016), pp. 185-187.

the deeply rooted in mind-set of the people. Culture of "donation" is deeply rooted but not all of them philanthropist. This kind of donation is found where mining companies use "CSR budget" to make as a donation to village elders and officials in return for signature and support (Pwint Thit Sa 2018). Making contacts in Myanmar is also important as connections are required for almost every aspect of social and business life (Quah 2016, p.9). Lack of easy information generates bias in favour of those who have connections, creates opportunities for corruption (MBEI 2019). Various social customs, such as gift-giving, and "tea-money" even becoming culturally engrained rather being seen as a kind gesture (Saw 2015, Andrew and Htun 2016).

3.1.5 Natural resources curse

Myanmar is a resource rich country and share borders with countries with low CPI score enhances the difficulties in combating corruption and smuggling along the borders (Chěne 2012). The tendencies for natural-resource-exporting countries to economically underperform have nondemocratic government as well as poor governance, and a higher propensity for involvement in conflicts which refers to natural resource curse (Shaffer 2012). Myanmar is among the worst performers in the world in terms of transparent and responsible governance of its extractive industries (NGRI 2017). The jade trade in Myanmar is characterized by low levels of transparency and high levels of corruption. EITI estimates

that up to eighty percent of gemstone production goes undeclared and bypasses the formal system, yet Myanmar has disclosed some of the legal ownership of the oil, gas, and mining companies operating in the country (EITI 2017). Myanmar, Kachin state in particular, has the world's largest jade reserves, and the industry is worth billions of dollars. In 2014, 31 billion USD worth of Jade was extracted - equivalent to half of Myanmar's GDP (Global Witness 2019). Again the Myanma Timber Enterprise (MTE), a state-owned enterprise, has been widely accused of engaging in corrupt practices and failing to live up to international standards in the sector (Frontier Myanmar, Mar. 2017). Europe's Environmental Investigation Agency (EIA) has warned that MTE's use of subcontractors comes with high risks of corruption and bribery in the allocation of harvesting rights due to a lack of transparency in the required procedures (Myanmar Times, Aug. 2017). Because of the lack of transparency, Denmark has placed an injunction on all Danish companies preventing them from selling teak imported from Myanmar on European markets (Mongabay, Mar. 2017). There exists a large-scale illicit timber trade between China and Myanmar worth hundreds of millions of dollars every year (EIA & EU 2015).

3.1.6 Land administration

Land access and security is notoriously complex in Myanmar. Land access is complicated by a long history of state control, land transfer to

private companies, and protracted armed conflicts in various part of the country.[16] There is concern that many citizens have trouble obtaining enough farm land as well as the complications and expenses of the titling process remains problematic due to the lack of clarity about fees and procedures (Leckie and Simperigham 2009: Guyitt 2014).

3.2 Perceived Extent of Corruption

Due to the unfavourable policy context as mentioned above, the perceived extent of corruption is always high in the international indexes. According to the Global Corruption Barometer, forty percent of people in Myanmar had to pay bribe whenever they came into contact with public services (GCB 2018). It emerged that sixteen to thirty percent had paid a bribe in public schools, public hospitals and utilities; as had thirty one to forty five percent to get IDs, voter's card permit and in courts and; forty six to sixty percent in police. It is also found out that the richest people (sixty three percent) are more likely to pay bribes. Moreover twenty two percent of people in the country said that corruption had increased within a year and forty seven percent of people do not believe that the government is doing a good job at tackling corruption; especially people think the police are the most corrupt. However, citizens have rated that the level of corruption has changed positively as well as they feel positively empowered to fight corruption (GCB 2017).

[16] The Myanmar Business Environment Index 2019, p(36).

The World Bank's 2016 Enterprise Survey on Myanmar underscored the three specific types of situations where business encounter corruption in the country; including requesting a construction permit, securing a government contract and in meetings with tax officials. The survey report also argued that corruption creates an unfavourable business environment in the country by causing inefficient regulation and raising bureaucratic costs. The time required to comply with customs regulations is significantly higher than elsewhere in the region, while the costs are largely in line with regional averages. Starting a business takes more steps and the costs are significantly higher than the regional average, but the required time is significantly shorter (DB 2017). Import and export licenses are awarded on a case-by-case basis, leaving discretionary space to public officials (BTI 2016). Companies cited burdensome import procedures, tariffs, and corruption at the border as the most problematic factors for importing (GETR 2014). More than seventy per cent of larger firms reported paying bribes, while for small and medium-sized enterprises reported nearly the same percent (Soans and Abe 2016). Nearly half of firms indicate they expect to give gifts to obtain a construction permit and also one in five companies indicates they expect to give gifts in meetings with tax officials (ES 2016). Roughly a third of citizens believe most or all tax officials are corrupt (GCB 2017). Unfavourable policy context and difficult governance environment is shown in the table I, II and III.

Year	CPI Rank & Score	FSI Rank & Score	Government Effectiveness percentile rank	Rule of Law percentile rank	Doing Business Ranking
2010	176th (14)	16 (99.4)	2.87	2.84	-
2011	180th (15)	18 (98.3)	3.79	4.69	-
2012	172nd (15)	21 (96.2)	3.79	6.10	-
2013	157th (21)	26 (94.6)	4.27	9.86	182
2014	156th (21)	24 (94.3)	9.13	8.17	178
2015	147th (22)	27 (94.7)	10.10	7.69	177
2016	136th (28)	26 (96.3)	16.35	17.79	171
2017	130th (30)	35 (95.7)	13.46	16.83	170
2018	132nd (29)	22 (96.1)	12.50	15.38	171

Table 2.Government environment in Myanmar
Sources: Transparency International, World Bank.

Notes: [a]The Fragile States Index (FSI) is based on 12 indicators: four social indicators; two economic indicators; and six political and military indicators. The FSI score for 178 countries ranges from "very sustainable" (0-20) to "very high alert" (110-120); [b]This indicator of political stability and absence of violence is defined as the "perceptions of the likelihood that the government in power will be destabilized or overthrown by possibly unconstitutional and/or violent means, including domestic violence and terrorism" (Kaufmann, Kraay and Mastruzzi, 2004, p. 3);
Sources: Transparency International, World Bank.

Year	Corruption Perception Index Rank and Score	Control of Corruption	Governance (Total Percentile Rank)
2010	176th (14)	0.48	19.47
2011	180th (15)	0.47	28.35
2012	172nd (15)	13.74	49.63
2013	157th (21)	16.11	56.75
2014	156th (21)	20.19	65.02
2015	147th (22)	20.67	71.88
2016	136th (28)	32.21	127.34
2017	130th (30)	32.21	118.71
2018	132nd (29)	30.29	-

Table 3.Corruption incidence and governance level in Myanmar
Sources: Transparency International, World Bank.

Year	Diversion of Funds	Irregular Payments and Bribes Ranking	Organized Crime Rank and Score	Ethical Behaviour of Firms Ranking
2013	128/151 (2.29)	145/151	142/151 (2.91)	126/151
2014	122/151 (2.37)	139/151	136/151 (3.11)	133/151
2015	121/151 (2.44)	133/151	124/151 (3.51)	118/151
2016-2018	Data not available	Data not available	Data not available	Data not available

Table 4.Perceived extent of corruption by firms in Myanmar
Source: World Economic Forum Global Competitiveness Index.

Currently the USAID is carrying out the Promoting Rule of Law programme in Myanmar and the team conducted the survey on corruption status within 2017 and 2019 (ACC Myanmar). According to the survey, people have perception that corruption is still widespread in the country.

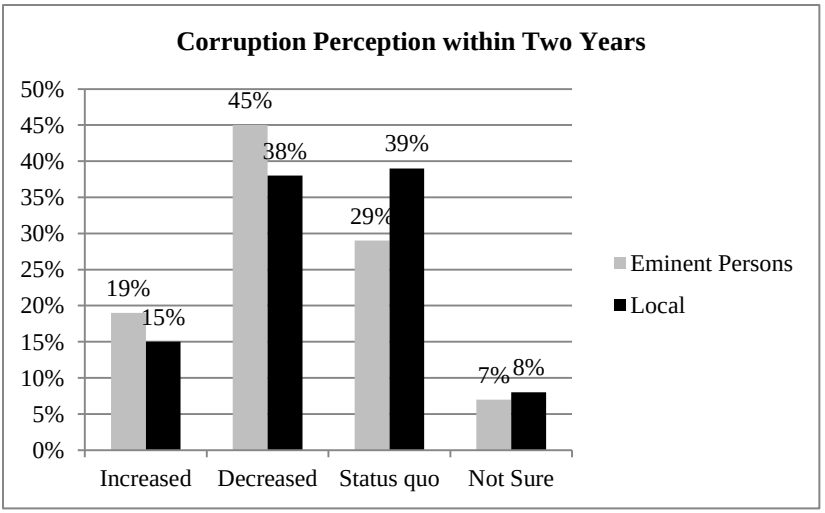

Figure 1 Corruption perception between 2017 and 2019
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

People mentioned that anti-corruption efforts need more emphasize on the local level meaning petty corruption is well entrenched in the country.

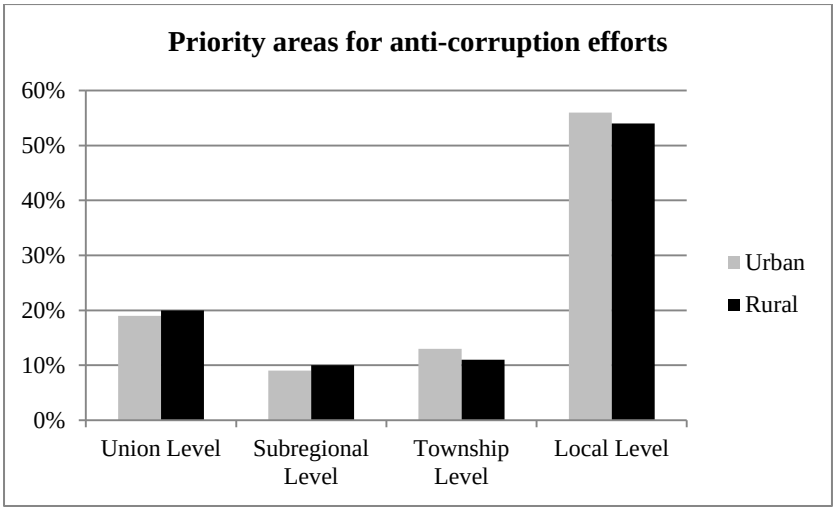

Figure 2 Priority areas to combat corruption
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

People also believed that governmental reforms have significant impact on reducing the corruption.

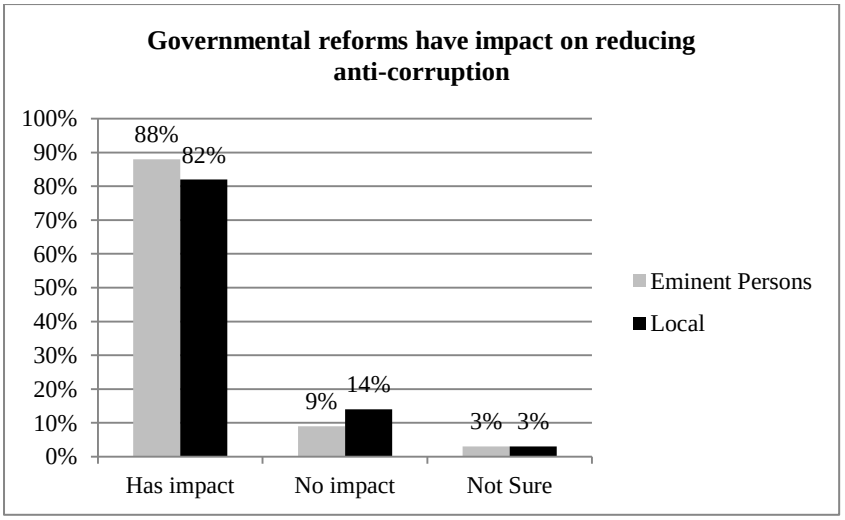

Figure 3 Corruption perception on anti-corruption within two years
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

3.3 Key Governmental Reforms

To create the favourable policy context, the economic liberalisation and accelerated democratic transformation started in 2011. The reforms include releasing hundreds of political prisoners, signing a nationwide cease-fire with several of the country's ethnic armed groups, pursuing legal reform, and gradually reducing restrictions on freedom of the press, association, and civil society. The government has also taken steps to improve transparency in the mining and oil sectors (cia.gov). These being result in the announcement of the United States government to lift its economic sanctions against Myanmar.

3.3.1 Economic reforms

The GoM commits to empowering states and regional governments by decentralizing the approval process of the investment. Myanmar Investment is law is also enacted in line with international norms. Moreover the century-old Myanmar Companies Act is replaced by the Myanmar Companies Law in 2017. Under the New Company Law, companies are allowed to register online and more transparency and fewer restrictions are guaranteed as well as allowing companies to seek arbitration in the third country (ICS 2017). The government also announced new National Land Use Policy by improving public access to information about land use management and developing independent dispute resolution mechanism (ICS 2017). All these economic reforms

prompt inflows of foreign direct investment and the economy is expected to grow in coming years while the country's GDP is estimated to rise to 6.8 per cent in 2020 and currently the country's GDP per capita is US$ 1326 in 2018.[17]

[17] Vice President U Myint Swe address 3rd Myanmar-EU Economic Forum,5 June 2019. http://www.president-office.gov.mm/en/?q=briefing-room/news/2019/06/06/id-9388

Box 2 Myanmar Investment Law (2016)

In October 2016, the Government passed a new Myanmar Investment Law (MIL)[18], which supersedes the previous 2012 Foreign Investment Law and the 2013 Myanmar Citizens Investment Law. This creates a single law for both foreign and domestic/Myanmar citizen investors. In March 2017, the Myanmar Investment Rules (MIR) were adopted.[19]The new Law and Rules introduces a number of changes to the previous 2012 Foreign Investment Law. These include:

· The introduction of new types of permit, one being a 'full' Myanmar Investment Commission (MIC) Permit, and the other an approval or 'Endorsement' for permission to use land; the second process supposedly being a faster process. Full MIC Permits will be necessary for strategic, large, or environmentally/socially impactful projects (Section 36 of the MIL, defined further in Article 3-11 of the MIR)

· The MIL applies to all investors: The previous 2012 Foreign Investment Law applied only to those foreign investors holding an MIC permit. Under the new MIL, everyone who invests in Myanmar is an investor subject to the 2016 Investment Law, irrespective of whether they hold an MIC permit or not.

After adopting the Law, in December 2016, the government also adopted an Investment Policy. This highlights that Myanmar welcomes 'responsible and mutually beneficial foreign investments', and promises that these will be facilitated 'through transparent, clear and expeditious procedures'. Point 5 of the Investment Policy notes that 'Local and foreign investors shall comply with the principles for responsible investment and business conduct, including environmental and natural resources matters on an equal basis and in a non-discriminatory manner at all times' (sic).

Source: Myanmar Centre for Responsible Business (MCRB) and Yever, March 2018, Transparency in Myanmar Enterprises.

[18] VDB, Client Briefing Note: What Changes in Practice under the New Investment Law?, 8 October 2016.

[19] Myanmar Investment Rules, MIC Notification 35/2017, 31 March 2017.

Box 3 Business Reforms in Myanmar

In 2012, the severely over-valued official exchange rate was unified under a managed float.

In 2013, external arrears were cleared and the Central Bank has been divested from the Ministry of Finance with independent monetary authority.

In 2014, Myanmar made paying taxes less costly for companies by reducing the corporate income tax rate.

In 2015, Myanmar made trading across borders easier by reducing the number of documents required for exports and imports.

In 2016, Myanmar made starting a business easier by eliminating the minimum capital requirement for local companies and streamlining incorporation procedures. The Ministry of Electric Power facilitated the process to obtain a new electricity connection by reducing delays through fewer approvals.

In 2017, Myanmar made starting a business easier by reducing the cost to register a company. It also simplified the process by removing the requirement to submit a reference letter and a criminal history certificate in order to incorporate a company. Myanmar also improved its credit information system by enacting a law that allows the establishment of a new credit bureau.

In 2018, Myanmar made registering property less costly by reducing the stamp duty. Besides access to credit information has improved by adopting a regulation allowing the establishment of credit bureaus.

Source: Doing Business (The World Bank), https://www.doingbusiness.org/en/reforms/overview/economy/myanmar

3.3.2 Fiscal transparency

Myanmar was criticized for its lack of budget transparency as well as secrecy in sources of budget revenues. In 2012 Myanmar received a score of 0 out of 100 in the Open Budget Survey by the World Bank since there

was almost no information to the public in the government budget document. In 2015, the Ministry of Finance and Planning Myanmar started publishing the Citizen's Budget, an accessible, macroeconomic summary of national, fiscal policy and public financial management that includes government revenues and expenditures, deficits and international debt, spending on health care and education, and other aspects of the national and state budgets. Myanmar scored 7 points out of 100 in the Open Budget Survey; substantially lower than the global average score of 42 (Open Budget Survey 2017). In 2017, states and region governments started publishing own Citizen's Budget with the help of Asia Foundation.[20] The Union pre-budget statement is working underway and these are the remarkable transparency movement by the GoM.

3.3.3 Media reform

Press freedoms have significantly improved since the country began its transition from military rule to a democracy, but there is still tight control over the media sector through the use of defamation and other laws against critics (FotP 2017). The Official Secrets Act restricts access to information despite a censorship lift in 2012, and the Telecommunications Act (2013) allows the state to imprison for up to three years for 'defaming, disturbing, causing undue influence or threatening any person using a telecommunications network'. Freedom of assembly is has recently taken

[20] The Asia Foundation, Budget Transparency Replacing Budget Secrecy in Myanmar, May 22, 2019.

steps to ease restrictions and civil society groups have increasingly been able to operate openly and freely discuss human rights and political issues (HRR 2016); being able to influence policy-making processes, criticize the government, and advocate for political parties during the last five years (BTI 2016). Freedom house classified Myanmar as "partly free" for the first time in 2017 (FotP 2017).

3.4 Emergence of ACC

Myanmar's anti-corruption strategies essentially commenced with the signing of the UNCAC as the 165th member country in December 2005, which was later officially ratified in December 2012.

Box 4 Myanmar and the United Nations Convention against Corruption (UNCAC)

Myanmar's signing and ratification of the UNCAC was an important step in promoting integrity. Myanmar signed the UNCAC on 2 December 2005, shortly before the convention went into force, and ratified it on 20 December 2012. This set a minimum standard of institutional and legal obligations in combatting corruption which the Union of Myanmar is still working to establish, despite having officially ratified the Convention.

The UNCAC offers clear steps to establishing effective anti-corruption mechanisms. Chapter 2 of the Convention outlines the need to develop preventative measures, such as effective anti-corruption bodies (Article 6) tasked with developing and delivering anti-corruption policies (Article 5), including drafting of codes of conduct (Article 8), policies related to public procurement and public finance (Article 9), reporting mechanisms (Article 10), and civic engagement (Article 11). It also outlines definitions of corruption or breaches of integrity in Chapter 3 - Criminalisation and Law Enforcement, considerations of international cooperation (Chapter 4), and asset recovery (Chapter 5). Finally, it offers recommendations for technical assistance (Chapter

6) and implementation of the Convention (Chapter 7).

The ratification of the UNCAC followed an inter-ministerial pre-ratification workshop organized by the Bureau of Special Investigations (BSI) and the United Nations Office on Drugs and Crime (UNODC) and attended by high-level government officials. Following the deliberations, workshop participants recommended: that the GoM take the necessary measures to ratify the UNCAC as soon as possible; that on-going legal and institutional reforms be maintained in compliance with requirements of UNCAC; that UNODC and UNDP be requested to provide legal advice in the on-going drafting process of the anti-corruption legislation; and that UNODC and UNDP consider providing comprehensive legal and technical assistance to support Myanmar in the process of ratification and implementation of UNCAC.

The relevance of the UNCAC to the GoM's efforts to improve integrity is clear through the repeated references to it in recent parliamentary debate surrounding the Anti-Corruption Law. However, even a cursory read through the UNCAC will reveal that, despite Myanmar's ratification of the UNCAC, it has not yet put most of its principles and guidance into effective practice.

Source: OECD (2014) Open Government Review Myanmar, p (53).

The ACC was originally established on 25 February 2014 in accordance with the Anti-Corruption Law enacted on 7 August 2013. The 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.

Formation	2013 Anti-Corruption Law in February 2014.
Composition	Consists of 15 members, five of these members are appointed by the President and five each by Speakers of Upper and Lower Houses of Parliament
Accountability	To the President and the Parliament

Budget	600 billion Kyat for 2019-2020 FY
Human Resources	Over 300 staff
Functions	Investigation and prevention
Jurisdiction	Public and Private sector, however, military and police are exempt from the jurisdiction according to the 2008 institution

Table 5.ACC's profile
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

Myanmar has a legal anti-corruption framework in place, however – and in spite of renewed efforts to curb corruption – enforcement remains inadequate (BTI 2016).

Laws	Description
The Penal Code, 1861	Chapter XI relates to Offences By Or Relating To Public Servants, which outlines basic anti-corruption laws punishable with a fine and/or up to 3 years imprisonment.
The Suppression of Corruption Act, 1948	This law allows the court to presume an accused guilty of corruption if he owns or owned assets beyond his income where the accused

	cannot prove his lawful ownership of such assets. This further defines four kinds of offences: receiving bribes habitually; obtaining habitually without or with inadequate consideration from a person concerned in a proceeding; taking valuable things or pecuniary advantage by abuse of position; and fraud or breach of trust on public property. Serious corruption cases would be prosecuted under this law due to more severe punishments from 3 to 7 years imprisonment with fines, but requires obtaining prior sanction from a relevant appointing authority.
The Election Law, 2010	Under sections 57 and 58, outlines punishment for vote-

	buying and vote-selling of up to 1 year and/or fines of up to 100,000KS.
The Defence Services Act, 1959	Sections 51 and 66 outlines punishments for theft of government property and bribery of between 7 and 10 years imprisonment.
The Myanmar Police Force Maintenance of Discipline Law, 1995	Section 17 outlines punishment for demanding or accepting cash in a corrupt manner with punishment of up to 3 years imprisonment.
The Law Taking Action against the Ownership or Sale of Property obtained by Illegal Means, 1986	Authorises the government to confiscate assets gained by illegal means, from illegal business, or bought with money that has evaded taxes.
The Commercial Tax Law, 1990	Section 23 prohibits the giving or taking of bribes, whether it be actual, attempted or abetted, with punishment of 3 to 7

	years imprisonment.
The Forest Law, 1992	Section 46 outlines punishment for giving or receiving bribes of between 1 and 7 years imprisonment.
The Narcotic Drugs and Psychotropic Substances Law, 1993	Outlines punishment of authorised drug enforcement officials for requesting or accepting bribes or narcotic gifts with punishments of up to 10-year imprisonment.
The Fire Services Law, 1997	Outlines punishment for fire brigade staff for acquiring property, gifts or money during an outbreak of fire, with imprisonment terms of up to 7 years and fines outlined as punishment.
The Control of Money Laundering Law, 2002	In line with the international convention of 2002, this law created reporting requirements to detect suspicious transactions, particularly by setting a threshold amount for

	reporting cash transactions by banks and real estate firms. Section 25(a) outlines that any member of an Investigation Body who demands or accepts money or property in investigating a money laundering offence shall be punished with a prison term of up to 7 years and is liable for a fine. Interestingly, this law has been amended 3 times in recent years to better counter money laundering: In 2004 to include 11 predicate offenses, including fraud, narcotics activities, human trafficking, arms trafficking, cyber-crime, and "offenses committed by acts of terrorism", among others; in 2006 to require banks, customs officials, and the legal

	and real estate sectors to file suspicious transaction reports (STRs) and impose severe penalties for non-compliance; and in 2007 to add further predicate offenses to comply with the Financial Action Task Force (FATF) recommendations.[21]
The Anti-Trafficking in Persons Law, 2004	In accordance to the international convention, section 30 outlines punishment for public officials that demand or accept money while carrying out investigations, prosecution or adjudication.
The Anti-corruption Law, 2013	The law has been a strong positive step in developing anti-corruption measures, and particularly improves Myanmar's eligibility for OGP status with the

[21] Marie Chêne (2012), Overview of corruption in Burma (Myanmar), U4 Expert Answer, U4 Anticorruption Resource Centre, 1 October 2012.

	introduction of a limited – non-public – asset declaration requisite for select government officials. This Law adds on the requirement in Section 68 of the 2008 Constitution for the President and Vice Presidents to non-publically disclose assets to the head of the Hluttaw. According to Section 4, the law aims to eradicate bribery as well as further improve integrity in government by requiring all officials in the executive, judicial and legislative branches of government to declare their assets [22] , and those found to be corrupt will be charged 15 years and fine for

[22] Nyein Nyein (2013) "Burma's Parliament Approves Anti-Corruption Bill", The Irrawaddy, 30 July 2013.

	those "political holders" found guilty of bribery (Section 55), 10 years imprisonment and fine for "authorized persons" committing bribery offences (Section 56), and 7 years imprisonment and fine for anyone found guilty of bribery (Section 57). The Hluttaw will form the Anti-Corruption committee under article 115 of the Constitution and will be tasked with overseeing the Anti-Corruption Law. The law will also require members of the anti-corruption commission to declare their assets.

Table 6.Laws containing provisions related to integrity and anti-corruption

Source: OECD Open Government Review Myanmar

The Anti-Corruption Law is the primary tool for prosecuting acts of corruption by public servants, government officials, and public office

holders. The Penal Code acts as an additional tool for certain specific instances of corruption, and contains a number of anti-corruption provisions relating to the conduct of public servants, prohibiting them from accepting or soliciting a benefit for the exercise or non-exercise of their duties, and relating to persons providing benefits to induce or reward others in the exercise of their electoral rights. The Penal Code and the Anti-Corruption Law cover most forms of bribery in the public sector, including active and passive bribery, extortion, attempted corruption and abuse of office (Conventus Law 2016). However separate definition of private corruption is not mentioned in those laws, only the definition of bribery contained in the Anti-Corruption Law could be read to include certain high level managers at state-owned enterprises and public-private partnerships; there is no practical evidence of this interpretation as of yet (Conventus Law 2016).

The 2013 Anti-Corruption Law requires all officials in the executive, judicial and legislative branches of the government to declare their assets (The Irrawaddy 2013), giving penalties for those who do not comply. Section 8 of the Anti-Corruption law specifies the persons to whom the asset declaration applies. In it, it states that asset declaration is applicable to "*the person who has authorizes by rank, decision and management as a civil servant, or civil servant who is in another country, or the person who is serving on political area, or high rank level person or the person who is*

in management level of civil organization or representative person." The Anti-corruption law also specifies the types of assets to disclose as "*money, property, responsibilities and authorities for notice from the department or organization*"; and that "*the person who is on the list for declaration need to send all of list to commission once in a year under the ownership of this person's family business, properties, responsibilities and to get authorizes*"; and has stipulations regarding inheritance (OECD 2014). Penalties for offenses include maximum imprisonment up to 15 years for persons who hold political power and a fine, ten years and a fine for civil servants, and seven years and a fine for all others (Conventus Law 2016). However, facilitation payments are not explicitly excluded, so they may be considered bribes (Conventus Law 2016). Therefore the 2013 Anti-Corruption Law gives a mandate to Myanmar's Anti-Corruption Commission to address graft and bribery.

Later the law was amended four times between 2014 and 2018- the first time on 23rd July 2014, the second time on 29th July 2016, the third time on 31st July 2017, and the fourth time on 21st June 2018. The first time to the third time amendments included the name of the law (it was originally called Anti-Bribery Law), the status, emolument and allowance for the chairman and members of the ACC, expressions related to membership and the age of members. The fourth time amendment included the definition of "corruption" with the result extending the prohibition of

corrupt acts to all persons—not just government officials. The amendment also gives the Anti-Corruption Commission to launch preliminary investigations without a formal complaint, such as indications of unusual wealth.

CHAPTER FOUR: Analysis of ACC and Results

The previous chapter provided the prerequisites factors for ACC to perform. This chapter will directly focus on the dimensions to analyse the internal and external factors affecting the performance of ACC. The discussion is based on the TI's anti-corruption agencies strengthening assessment framework.

4.1 Strong Political Will

The government of Myanmar has been consistently committed to governmental reforms with the aim of achieving good governance and clean government as Myanmar chart a path to political liberalization and economic growth following its 2010 transition (ISEAS 2019). On 9th August 2013, President U Thein Sein highlighted the need for openness, transparency and participation as *"Special emphasis should be placed on full implementation of people-centred development tasks for ensuring the transparency of government's administrative mechanism, effective implementation of people's voices and desires, fight against corruption and bribery, peace and tranquillity and regional development."*[23]

[23] President U Thein Sein speech at the meeting with Union ministers, region/state chief ministers, and deputy ministers. Nay Pyi Taw, 9 August 2013. *http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2013/08/11/id-2536*

Tackling corruption is also top priority of the government led by the National League for Democracy. The government has committed to make 'clean government' and a 'corruption-free society'. President U Wint Myint declared fighting corruption a top priority at his inauguration and his public meeting was with the Anti-Corruption Commission, in which he underscored the need for the Commission to take effective and clear-cut actions in accordance with the law regardless of name, position or social strata. Furthermore, in his speech to the Union on the first day of the Myanmar New Year (ME 1380), with regard to combatting corruption, he stated as "*if we were to show visible and tangible results you would see our successes to a certain extent in the area of preventing and combatting corruption, a chronic disease which has taken deep roots for many administrations. Our Union Government has been taking action against corruption in accordance with the law without favoring anyone with only the interest of the people and the country in our minds."*[24]

Again on the International Anti-Corruption Day celebration, he delivered a message as "*corruption has become deeply embedded like an accepted custom in most departments; and in taking more forceful actions to combat corruption, there was a need to undertake a reassessment to ensure that there was proper balance between rights and benefits and duties of public service personnel. This was to be done by each individual department by*

[24] TEACIRCLEOXFORD, June 5, 2019. https://teacircleoxford.com/2019/06/05/corruption-a-severe-chronic-disease-myanmar-has-to-fight/

taking responsibility. In addition to the Anti-Corruption Commission, the media and the people need to seek out and report truthfully"[25]

Moreover, within three days of assuming power, State Counsellor Daw Aung San Suu Kyi issued the 'President's Office Guidelines on Accepting Gifts' which ban civil servants from accepting gifts from anyone that would seek to benefit from the civil servant's position. Beyond the political symbol, the guidelines signal the growing recognition by the GoM that corruption is an impediment to state-building, sustainable development, social cohesion and ultimately peace. Anti-corruption and the strengthening of integrity have been since guiding principles of the Government of Myanmar policy framework.

Later in 2016, the Office of the State Counsellor established an online complaints system open to the general public, to raise corruption related issues to the State Counsellor, Daw Aung San Suu Kyi, herself.[26]

4.2 Legal Independence and Status

The 2013 Anti-Corruption Law allowed the ACC to act only in response to formal complaints filed with strong supporting evidence and gave it no power to launch its own investigation. ACC was criticized for being a paper tiger in tackling graft and the doubts continued to grow with the previous term ACC having little to show in catching the big fish as well

[25] Message of Greetings sent by President U Win Myint to the International Anti-Corruption Day celebrations, Nay Pyi Taw, 9 December 2018. https://www.president-office.gov.mm/en/?q=briefing-room/messages/2018/12/07/id-9156
[26] https://jobs.undp.org/cj_view_job.cfm?cur_job_id=79862

as noticeably absent in large scandals. Under the 4th Amendment to the Anti-Corruption Law, enacted on June 21, 2018, enables the ACC to regard indications of unusual wealth or give the authority to determine that a person has a general reputation of being corrupt, and initiate investigations, based on prima facie evidence that they have committed a corrupt act. It also has power to examine the record of banks and financial institutions, issue an order to banks and financial institutions to allow the seizure of evidence if necessary, issue a prohibitory order not to transfer, conceal, and disguise the accounts and money, confiscation the money and property with the recommendation of preliminary scrutiny body as well as give rewards and protection to the witnesses.[27] Since the definition of corruption has also been changed by replacing the word "bribery" to "corruption" under the last amendment, with very significant result extending the prohibition of corrupt acts to all persons—not just government officials, and the ACC is also empowered to order private organizations to establish codes of business ethics and anti-bribery and corruption policies. The Directorate of Investment and Companies Administration (DICA) issued a notification drawing companies to an announcement from the ACC defining the fundamental principles for businesses on prevention of corruption; requiring companies to set up mechanisms for employees to report suspected corrupt practices.

[27] Myo Khaing Swe (2014), Anti-Corruption Efforts in Myanmar

Albeit the amendment was clearly a step forward, it still fails to include provisions for the protection of whistleblowers, or who testify as witnesses in the ACC's investigations. The absence of protection for witnesses and whistleblowers may deter people from reporting incidences of corruption, and may thus lower the chances of the ACC detecting corruption. Although the penalty has been reduced from five years to three years with the latest amendment, the complaints risk counter-suits for defamation in a court system still deters whistleblowers from reporting. Troels Vester, UNODC Myanmar country manager, highlighted that the legal framework needs to change to cover whistleblower protection. Besides, there is still no criminal liability for offering bribes in Myanmar law, or regulations on political donations (Conventus Law 2016). Moreover, ACC has no jurisdiction over the military according to the 2008 Constitution.

4.3 Financial and Human Resources of ACC

Since the political commitment is reflected in budget allocation and recruitment, the Ministry of Finance allocated around six billion kyats for 2019-2020 fiscal year for ACC which is higher than the previous year (Eleven 2019). The ACC currently has 300 staff and also seek to recruit more of 25 deputy investigators, 30 assistant investigators and deputy investigators by meritocratic system (Myanmar Times).

4.4 Detection and Investigation

According to the ACC report, a significant rise of complaint received can be seen as shown in the Table IV.

Year	No. of Complaints Received
2019 (January to September)	7473
2018	10543
2017	2014
2016	710
2015	983
2014	968

Table 7.Yearly complaints received
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

ACC reported that it received total of 8083 complaints, with 7473 complaints between January to September 2019 and with the remaining complaints of 610 from 2018 which are still in investigation. Out of the total cases, the ACC has been scrutinized 6887 cases (85.2%), and 1196 cases (over 14.8%) are still under scrutiny. The status of tackling the complaints is shown in Table VII.

No.	Categories	2019 January to September
1	Corruption complaints	64
2	Misconduct of administration	1326
3	Land administration	623
4	Judgment	1052

5	Misconduct of personal management	3228
6	Retreat of complaints	15
7	General	579
8	Under scrutiny	1196
	Total	8083

Table 8.Total Complaints Received
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

According to the report, the ACC has only investigated 64 cases of the 8083 complaints lodged in 2019, with another 199 cases at the stage of pre-investigation. 997 cases were transferred to concerned Union ministries, Union-level agencies, and regional or state governments for action in accordance with the code of conduct for civil servants. Out of the other complaints ACC judged that 3725 cases were not related to the Anti-Corruption Law but provided suggestions to complainants. For the remaining 1902 complaints, the ACC took no further action because: the complaints are still on trial or lack of important evidence, or the grievances occurred before the law was enacted. Therefore, according to the official statistics, the ACC directly addressed only 263 complaints (investigation and pre-investigation), only 3% of the total complaints received.

No.	**Title**	**Total No.**		
			Complaints	**Percentage**
1	Finished scrutinized		6887	85.2%
	-Investigated	64		
	-Pre-investigation	199		
	-Transferred to relevant government bodies	997		
	-Complaints provided with Suggestion	3725		

	-Not relating to the Anti-Corruption Law	1902		
2	Under Scrutiny		1196	14.8%
	Total		8083	

Table 9.Category of complaints lodge
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

4.5 Public Trust

Since the beginning of the transition to democracy, the GOM has initiated campaigns to institute good governance and clean government, resulting in some of the first crackdown and firings for corrupt practices. Publicly taking action against senior figures for corruption is sending a strong signal to others that old habits need to change. The President U Thein Sein's remark at the meeting with Union Minister as "*the government has had to retire and transfer some senior government officials including Union ministers, deputy ministers and directors-general and take other actions against them due to poor performance, lack of transparency, lack of responsibility and accountability in dealing with the public, noncompliance with rules and regulations and corruption by some government departments and regional administration bodies over the past 30 months* […]"[28]

The NLD government came into office by winning the landslide votes in 2015 general election with the promise of clean government by State

[28] President U Thein Sein speech at the meeting with Union ministers, region/state chief ministers, and deputy ministers. Nay Pyi Taw, 9 August 2013. *http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2013/08/11/id-2536*

Counsellor Daw Aung San Suu Kyi. Moreover, the ACC has been perceived as lacking resources, legal teeth, and political will to address its focus of corruption consequently and also the previous ACC Chair failed to prove commendable performance of the Commission being result in reconstitution of the Commission into 12 members group and also appointed the new Chair.

The eminent economist U Myint once mentioned that "*more high-level public servants, or "big fish", needed to be caught for the people to have confidence in the ACC*" (Frontier Myanamar). After the fourth amendment of the Anti-Corruption Law, notable successes in tackling graft have been seen since it was impossible to arrest big fish with the previous law. The very first prominent scenario was the resignation of Planning and Finance Minister in 2018, after the Anti-Corruption Commission revealed he was being investigated for bribery.

Box 5 A round of applause for the Anti-Corruption Commission

In September 2018, the ACC began catching big fish; a month-long investigation resulted in the arrest of the chief legal officer of Yangon Region, a district court judge and four others, over allegations involving the payment of bribes totaling K72 million to have murder charges withdrawn against three suspects accused of beating to death a celebrity comedian on New Year's Eve 2017.

The trial continues of former Yangon Advocate General U Han Htoo, judge U Aung Kyi from Yangon Eastern District Court, Yangon Eastern District law officer U Ko Ko Lay and deputy law officer Daw Thit Thit Khin, Police Lieutenant Chit Ko Ko from Thuwunna police station and Yangon Region law officer U Thein Zaw.

In mid-March, the ACC announced charges of corruption and bribery against Tanintharyi Region Chief Minister Daw Lei Lei Maw, a member of the NLD, and three directors of Global Grand Services Co.

The allegations against Lei Lei Maw, the first chief minister to be charged with corruption since the NLD took office, include that she sold a two-storey house valued at about K32 million to Global Grand Services for K200 million, in return for awarding the company construction contracts in the region.

The biggest case investigated by the ACC so far involves five senior officials of the Directorate of Water Resources and Improvement of River Systems who are alleged to have misappropriated K537 million since 2014.

Source: Frontier Myanmar, 3rd May 2019.

The number of cases taken action against the senior level officials is significantly high during 2018 and 2019, and the flood of complaints filed to the ACC is a testament to the peoples' expectation as shown in the Table IX.

No.	Rank	2014	2015	2016	2017	2018	2019
1.	Political Post	_	_	_	_	1	1
2.	Senior Official	_	1	_	_	9	2
3.	Official	4	_	4	8	13	16
4.	Staff	1	1	7	8	17	34
5.	Civil servant	1	2	1	12	6	1
6.	External	_	_	_	_	_	12
Total		**6**	**4**	**12**	**28**	**46**	**66**

Table 10.Status of Yearly Prosecution
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

According to the USAID survey in the country, people have positive opinion about ACC that the Commission is doing well in combatting the corruption.

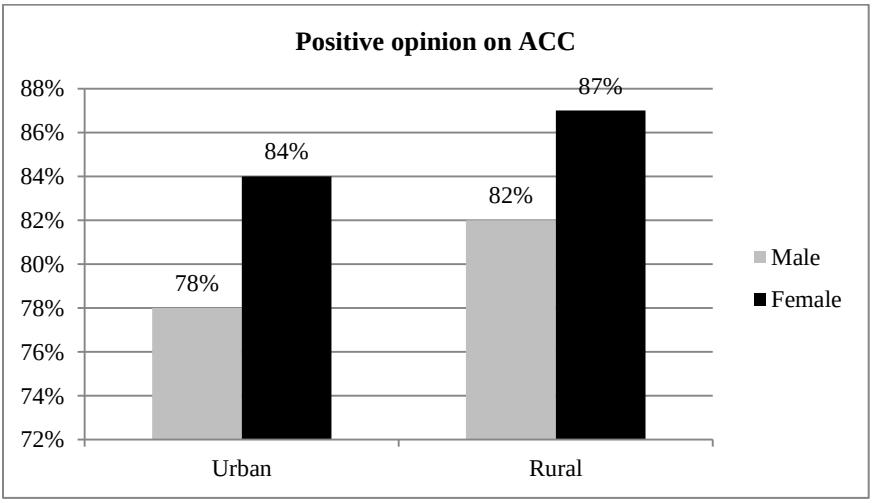

Figure 4 Corruption perception by gender and region
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

4.6 Prevention, Education and Outreach

The most important action to combat corruption which has been deeply rooted in the country is to change the mind-set of the citizens. With the

aim of cleaning up the bureaucracy, the president approved the creation of Corruption Prevention Units (CPUs) as a pilot project within government departments. Therefore, thirty seven CPUs have been established in the ministries that have drawn the most complaints from the public such as Home Affairs, Office of the Union Government, Agriculture, Livestock and Irrigation, Transport and Communications, Natural Resources and Environmental Conservation, Electricity and Energy, Labour, Immigration and Population, Commerce, Education, Health and Sports, Planning and Finance, Hotels and Tourism, Construction, and the Union Attorney General's Office. The administrative departments in the ministries have to operate CPUs to tackle the internal corruption cases. Those Corruption Prevention Units must reveal the corruption problems inside the ministries. CPUs' most important task is to conduct corruption risk assessments in order to find the causes of corruption and devise appropriate control measures. If a problem is revealed, the head of department has authority to resolve it through the Civil Servants Law. States and Regional Chief Ministers also have the authority to take administrative action according to that law. The World Bank also gives technical support for a mobile service delivery feedback monitoring system which is designed to collect citizens' feedback on the public service and to detect whether there were any corruptions involved in receiving the public services. This will make the huge obstacle to the public servants to demand the bribes.

Furthermore the ACC and the Ministry of Education (MoE) jointly launched the "Primary Level and the Secondary Level Teacher's guidebook" for integrity and anti-corruption with the help of UNODC by making the Thai curricula on integrity and anti-corruption available in Myanmar language. To change the public morale, MoE has regularly updated its academic curriculum under the overarching framework of the National Education Strategic Plan (NESP) for 2016-2021. To further respond to current domestic dynamics, the MoE successfully cooperated with the ACC in holding the first Myanmar Youth Integrity Camp in June 2019. Supported by UNODC, the Youth camp gathered 130 young anti-corruption future leaders, teachers and students from 10 universities and aimed at raising awareness on corruption threats, increasing youth's involvement in the anti-corruption struggle, and promoting ethos of leadership and integrity. Besides, in cooperation with the UNODC, anti-corruption measures will focus on advocacy and educating campaigns with the support and social organizations and media.

4.7 Cooperation with other Organizations

To boost the country's anti-corruption initiatives, further cooperation with international organizations has also been carrying out. OECD conducted the civil service sector of Myanmar as; many government institutions have vague or out-dated mandates; the capacity of public officials is need to be upgraded; institutions are hindered by lengthy

administrative procedures; managers often lack sufficient authority to taken action; and institutions have insufficient IT infrastructures and public officials lack the IT knowledge to employ the available IT tools (OECD 2014). Therefore the corruption remains rampant in the country due to the civil servants' self-interest and resistance to change. Currently UNDP is working with the Union Civil Service Board (UCSB) to increase government capacity to promote ethics and integrity in the civil service, as well as to promote equality and equal opportunities in the civil service. The UCSB launched a Strategic Action Plan for Civil Service Reform (CSR) in 2017 which sets out efforts to enhance integrity in the public service and promote in a more effective manner transparency and accountability in the service and towards the public.

Myanmar's cooperation with EITI is also another major step for promoting transparency. In 2016, Myanmar launched a first report containing publicly available data on revenues in the extractive industries (World Bank 2016b). EITI Board concludes that Myanmar has made progress in EITI implementation by introducing policy reforms, improving transparency in extractives data, stimulating robust public debate and creating a platform for dialogue among stakeholders. EITI Chair Helen Clark said, "*Myanmar is a unique example of a formerly opaque regime opening its doors and committing to greater transparency. The Government's 12-point economic policy emphasises the strategic role of*

the EITI in the reform process, specifically in natural resource governance. The Government's intention to ensure sound governance of its natural resource sector is signalled in this policy framework and in a reform agenda that puts emphasis on transparency."[29] However Myanmar still need to improve public disclosures, particularly related to license allocation, gemstone production data and state-owned enterprises (SOEs). The report contains many gaps, and there is still little data on the jade industry or the activities of military-linked companies. Nonetheless, the fact that Myanmar has actually published a report on extractive industry revenues is still considered a milestone (World Bank 2016b).

The ACC is also cooperating with international anti-corruption agencies to seek the technical assistance in combating the corruption. ACC has signed a Memorandum of Understanding (MoU) with the Anti-Corruption and Civil Rights Commission (ACRC) of Korea on 30 May 2018. ACRC has developed the "Corruption Risk Assessment" (CRA) that discovers and eliminates corruption risk factors from the phase of drawing up a bill since 2006. Under the Korea-Myanmar Anti-Corruption Cooperation MOU, ACRC and ACC will exchange information to prevent and tackle corruption, to develop integrity education materials, and strengthen cooperation and promotional activities in areas requiring

[29] EITI: *Myanmar Moving Towards Greater Transpaency*, https://eiti.org/news/myanmar-moving-towards-greater-transparency

cooperation.[30] Myanmar has also signed MoUs with Laos' State Inspection and Anti-corruption Authority- SIAA, Thailand's National Anti-corruption Commission as well as with the Central Steering Committee for Anti-corruption of Vietnam.

Moreover Myanmar underwent the second cycle of review of the implementation of the United Nations Convention against Corruption (UNCAC) conducted by governmental experts from the Republic of Iraq and Republic of Uzbekistan with the support of UNODC. The review covers preventive measures (Chapter II of the UNCAC) and asset recovery (Chapter V); looked at existing legal institutional framework and overall effectiveness of current measures.

ACC also coordinate with UNODC and UNDP to devise the National Anti-corruption Strategy and related implementation plan to help positioning the ACC as coordination body for a broad range of law enforcement and prevention of corruption activities. The strategy includes the development of a prevention unit of ACC as well as a series of legal and institutional reforms covering issues such as whistleblower and witnesses' protection, corruption complaints mechanisms, asset declarations for public officials, investigative tools, and the freezing and seizing of proceeds of crime.

[30] ACRC: *ACRC signed Korea-Myanmar MoU on anti-corruption Cooperation*, http://www.acrc.go.kr

4.8 Summary

To analyse the internal and external factors affecting the ACC, the assessment table is presented below according to the TI's assessment framework containing fifty indicators, divided between seven specific dimensions. Each indicator has been assigned one of three possible levels –high, moderate and low. To level each indicator, specific sources of information is substantiated such as Anti-Corruption Law, interviews with ACC Commissioner and its senior officials and legal experts, ACC's website as well as press released by the President Office and local medias.

No.	Indicators	Level
ACC's Independence and legal status		
1.	ACC's legal independence	High level of legal independence
2.	ACC's mandate	High level of mandate with focus on investigation, education and prevention
3.	ACC's legal power	High level of legal power due to extensive powers (arrest and search of arrested persons; examining suspect's bank accounts, safe-deposit boxes, income tax records and property; search and entry of premises, etc.)
4.	Appointment of ACC's commissioner	Low level of independence and legal status due to the appointment decision is made by President/ Prime Minister/ Head of State

5.	ACC Commissioner's term of office and removal	High level of legal status due to fixed term with tenure (difficult to remove Commissioners without cause, e.g. incompetence or proven misconduct)
6.	ACC's operational autonomy and impartiality	Medium level because of (some political interference) criticized by the local news agencies
7.	Government's reliance on ACC to use corruption as weapon against political opponents	Medium level because of the evidence of limited use of ACC by government as a weapon against political opponents (an incident in the previous term of ACC)
Overall level: ACC's legal independence and legal status is high.		
ACC's financial and human resources		
1.	Average proportion ACC's budget to total government budget for past 3 years	Low level due to below 0.10% (No figure available but budget below 0.10%of the government Budget)
2.	Sufficiency for ACC's budget for performing its functions	Low level due to inadequate and relies on funding by donor agencies
3.	Security and stability of ACC budget during past 3 years	Moderate level as ACA budget has not been reduced during past 3 years
4.	ACC's personal salary and benefits	Low level due to low salary and limited benefits
5.	ACC's selection criteria for Personnel	High level due to meritocratic and transparent procedures
6.	Expertise of ACC personnel in corruption investigation	Low level due to lacking expertise in many areas
7.	Expertise of ACC personnel in corruption prevention and education	Low level due to lacking expertise in many areas
8.	Training of ACC's personnel	High level due to well-trained personnel with many

		training opportunities
9.	Stability of ACC's personnel	High level due to low turnover and resignation rate (0% to 5% per year)
Overall level: ACC's financial and human resources are in medium rank.		
ACC's detection and investigation function		
1.	ACC's accessibility to corruption, including public and whistle-blowers during past 3 years	Low level because ACA is inaccessible as reflected in low proportion of corruption complaints received relative to population and perceived level of corruption, and no. of signed complaints
2.	ACC's responsiveness to corruption complaints during past 3 years	Low level because ACA is not responsive as reflected in the low proportion of corruption complaints investigated and investigation cases completed during past 3 years
3.	ACC's willingness to initiate corruption investigations during past 3 years	Low level due to low number of corruption investigations initiated by ACA before the amendment of the law
4.	Average number of cases investigated by ACC personnel during past 3 years	Low level due to low number of cases investigated during past 3 Years
5.	Efficiency and professionalism of corruption cases investigated by ACC during past 3 years	High level due to efficient and professional investigation of corruption cases get high score
6.	Average conviction rate of corruption cases investigated by ACC personnel during past 3 years	Low level due to below 50%
7.	ACC's investigation of influential persons for corruption without fear or favour during past 3 years	Medium level due to some evidence of investigation of influential persons for corruption

8.	ACC's role in restitution, asset recovery, freezing and confiscation during past 3 years	High level due to very active role by ACA
9.	Does ACC identify gender in compiling corruption complaints and monitoring corruption trends?	Low level due to the ACA does not collect gender sensitive demographic information
Overall level: ACC's detection and investigation function is low.		
ACC's prevention, education and outreach function		
1.	Average proportion of ACA's operating expenditure allocated to public outreach and prevention during past 3 years	Low level due to below 0.5% of ACA's operating expenditure due to reliance on donors
2.	ACA's corruption prevention initiatives during past 3 years	High level due to many corruption prevention initiatives (average of 3 or more per year)
3.	Number of reviews of organizational procedures conducted by ACA to prevent corruption during past 3 years	High level due to many reviews were conducted
4.	Frequency of including corruption prevention recommendations in ACA's investigation reports during past 3 years	Medium level (reports in sometimes)
5.	ACA's plan for outreach and education and its implementation	Medium level due to the plan for outreach and education exists but not implemented fully
6.	ACA's collaboration with other stakeholders in outreach and education activities	High level due to high degree of collaboration with three or more joint projects
7.	ACA's research and exploration of corruption risks, context and conditions	Medium level due to some degree of research to support its prevention functions and its outreach and education plan
8.	ACA's dissemination of corruption prevention information and use of campaigns	High level due to extensive dissemination of corruption prevention and reliance on campaigns

9.	ACA's use of its website and social media for disseminating information on corruption prevention	Medium level due to limited use of its website and social media to spread corruption prevention information
Overall level: ACC's prevention, education and outreach function is moderate.		
ACC's operation with other organizations		
1.	Support provided by attorney-general's office to ACA for prosecution of corruption cases	High level of support as reflected in absence of interference and average prosecution rate of above 75%
2.	Cooperation between ACA and other integrity agencies including other ACAs if there are multiple ACAs in country	High degree of cooperation between ACAs or between ACA and other integrity agencies
3.	Cooperation between ACA and other organizations including CSOs and private companies	Medium level due to limited cooperation between ACA and other organizations
4.	ACA's participation in international networks	High level due to very active with ACA participating in 3 or more networks
5.	ACA's cooperation with ACAs in other countries	Medium level due to limited cooperation in some areas with one or two ACAs in other countries
Overall level: ACC's operation with other organizations is relatively high.		
ACC's accountability and oversight		
1.	Information provided in and accessibility of ACA's annual report and website	Low level because ACC submits annual report to government but is not available to the public
2.	ACA's oversight mechanisms	Medium level due to oversight committees with members of parliament and senior civil servants as members

3.	ACA's procedure for dealing with complaints against ACA personnel	Medium level due to complaints against ACA personnel are investigated by its internal control unit but results of investigation and punishment imposed are publicized
4.	Proportion of ACA personnel disciplined or dismissed for misconduct in past 3 years	Medium level due to some valid complaints against ACA personnel result in punishment and punishment imposed is publicized
Overall level: ACC's accountability and oversight is in medium rank.		
Public perceptions of ACC's performance		
1.	Public confidence that government has given ACA the required powers and resources for curbing corruption	Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders and journalists
2.	Public confidence in ACA's adherence to due process, impartiality, and fairness in using its powers	Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders and journalists
3.	Confidence in ACA's adherence to due process, impartiality, and fairness in using its powers among persons who had direct contact with ACA	Moderate level of confidence as reflected in views of ACA senior personnel, CSO leaders and journalists
4.	Public confidence in ACA's dignified and respectful treatment of persons under investigation during interrogations	Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders and journalists
5.	Public perception of ACA's effectiveness in corruption control	Moderate level of confidence as reflected in views of ACA senior personnel, CSO leaders and journalists
6.	Perception of ACA's effectiveness in corruption control among persons with direct contact with ACA	Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders

		and journalists
7.	Perception of ACA's effectiveness in dealing with complaints among female citizens who had direct contact with ACA	Low level of effectiveness as reflected in survey finding (below 50%) and views of CSO leaders and journalists
Overall level: Public perceptions of ACC's performance is moderate.		

Table 11.ACC's performance: dimensions, indicators and range of scores

SWOT Analysis	
Strengths - High legal independence and legal status - Strong political support	**Weaknesses** - need more expertise in prevention, education, detection and investigation - need more accountability and openness in terms of budget and report to the public
Opportunity - UN agencies aid in promoting rule of law, conducting nationwide surveys as well as giving technical supports - Positive attitude from the public to the Commission's performance	**Threats** - Strong political support mainly depend on the ruling party - need more resources in terms of financial and human resources

Table 12. SWOT analysis of ACC

CHAPTER FIVE: Conclusion

This chapter discusses the summary of key findings regarding the dimensions as presented in the previous chapter as well as suggesting some recommendation for ACC to be more effective and efficient in its performances. And finally provide recommendation for the future study of the Myanmar's anti-corruption movements and developments.

5.1 Summary of Key Findings

From the study, several fundamental findings are found for the ACC to be more effective and efficient as well as challenges to face ahead. Regarding the policy context, everything that happens in Myanmar is related to politics (GCB 2017). Regardless of the unfavourable policy context of Myanmar due to the arm-conflicts, weak rule of law and weak institutions, the establishment of ACC means a lot for the government commitment to foster its path to the democracy. The 2015 general elections in Myanmar have not only opened the way for democratization but also highlighted the call of the people to enhance transparency and fight corruption. Myanmar has made steady improvements across most governance indicators in recent years. It is undeniable that country's GDP is growing rapidly due to the governmental reform; opening up more to the international community and international business confidence has returned. It is also notable that Myanmar's CPI index ranking has displayed improvements between these years, moving up 15 places;

improved more than any country in the period between 2012 and 2018, increasing its score by 14 points. Moreover, according to the Asia Barometer Survey (2016), 47 per cent of respondents believed that corruption had decreased to some extent in the previous 12 months. Therefore it can be said that favourable environment for ACC to perform its functions are gradually happening in the political context which had been the challenge for ACC before.

For ACC's effectiveness, which is backed by the relevant initiatives to curb corruption in many respects; leading to the improvement of the legal and institutional anti-corruption framework. ACC gets full political support from the leaders and also has full legal strength to combat corruption which is the life blood for the ACC's performance effectiveness. Moreover, a significant rise of complaint received is the obvious evidence for the public trust on the ACC's detection and investigation performance; 10,543 complaints were filed in 2018 which is five times higher than 2017 and more than in any previous year. Establishment of CPUs and collecting SMS feedback is also the cornerstone of ACC's prevention function which may restore the credibility of civil servants as well as the public's trust in the government's public service delivery. The major short coming is the inadequate protection of whistleblower and still ACC has to depend on donors' initiatives and proper resources for the strengthening of the institution. To sum up, acquiring more legal independence and status as

well as gaining more public trust and enhancing the public awareness comparing with the previous two years vividly depicted the increased effectiveness of ACC.

5.2 Recommendation

It is undeniable that Myanmar's anti-corruption battles has just started or just scratch the surface of the problem. To combat the endemic corruption, time and resource intensive systemic reforms should carry on. Besides, ACC should extend efforts to cover the political corruption since there are still no criminal liability for offering bribes and no effective regulations on political donations. Next for further effectiveness of ACC, coordination with the private sector especially with the main domestic economic players is important to tackle the corruption prevention and fraud as well as to combat grand corruption. Moreover, ACC should conduct detailed measures for risk assessment to effectively identify and evaluate exposure to corruption as well as make periodic review and evaluation of anti-corruption prevention measures.

5.3 Conclusion and Suggestions

Since GoM is dedicated to raise the status in the World Bank index for good management in combatting corruption, more governmental reforms are needed to be implemented. Fiscal decentralization can restrain the corruption level in the region; greater transparency of the budget process will generate a better understanding and knowledge of how government

resources are being used, thereby promoting greater accountability and, in turn, restricting opportunities for corruption. Another fact is that by improving decision-making processes, more transparent procurement processes and reducing requirements for unnecessary permits can reduce the opportunities for corruption. It is notable of the USAID (2006) recommendation that corruption can be found at all levels of government-from the central to the regional to the local levels, preventive and control programs at the central level may have only limited reach and effectiveness down to the lower levels of government. Therefore initiatives are typically required with a greater push toward decentralization strategies; from the top-down and from the bottom-up simultaneously. According to the ADB-OECD anti-corruption template for Asia-Pacific countries, GoM's anti-corruption efforts should fared with respect to the developing effective and transparent systems for public service, strengthening anti-bribery actions and promoting integrity in business operations and supporting active public involvement.

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Appendix: Interview Questions

1. What are the significance advancements of ACCM when compare to the previous government period?

2. Can ACCM commissioner and his officers operate independently without political interference?

3. Has the ACCM investigated political leaders, senior civil servants and prominent citizens without fear or favour if they are accused of corruption?

4. Does the government provide the ACCM with consistent funding and continuous political support to enable it to achieve concrete results?

5. Does ACCM have significant personnel to perform investigation, prevention and education effectively?

6. How many times does ACCM have been making recommendations to prevent corruption in investigation reports?

7. Is the ACCM's annual report, which is submitted to Parliament, published on its websites to ensure that it is accessible to the public?

8. Does ACCM cooperate with other governmental agencies and private sector agencies/ with other ACAs in the region in sharing information and providing assistance in cross-border arrest of corruption offenders?

9. How many complaints are made by the public against the ACCM's personnel per year and how many personnel are found guilty and punished?

국문초록

미얀마 반부패 위원회의 효과성과 도전

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본 연구논문은 미얀마 부패방지위원회(ACC)의 효과성과 도전에 대한 사례연구다. 비록 부패방지위원회는 최근에 신설된 위원회임에도 불구하고, 본 위원회는 정부 개혁과 함께 어느정도 가시적인 효과를 가지고 왔다. 본 연구는 국제 투명성 반부패 기관의 강화된 평가 체계에 관한 ACC 의 효과성 정도에 초점을 두고 있다. 이 체계를 기반으로 ACC 의 장점, 약점 기회 그리고 위협을 분석한다. 따라서 본 연구는 최종적으로 국가의 부패방지 노력을 어떻게 강화할 것인지에 대한 몇 가지 주요 조사 결과와 제안으로 결론을 내렸다.

주제어: 부패, 반부패, 부패방지 위원회
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Abstract

Effectiveness and Challenges of Myanmar's Anti-Corruption Commission

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This research paper is the case study of the effectiveness and challenges of Myanmar's Anti-Corruption Commission (ACC). Albeit the newness of the Anti-Corruption Commission, it has made some tangible effectiveness along with the governmental reforms. This research is focused on the extent of the effectiveness of ACC with regard to the Transparency International's anti-corruption agencies strengthening assessment framework. Based on this framework, ACC's strengths, weaknesses, opportunities and threats are analysed. The research finally concludes with some key findings and suggestions on how to strengthen the anti-corruption efforts of the country.

Key Words: Corruption, anti-corruption, Anti-Corruption Commission

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CHAPTER ONE: Introduction

1.1 Background

"The negative impact of corruption on development is not a new phenomenon. Evidence from across the globe confirms that corruption not only disproportionately impacts the poor but also hinders economic development, reduces social services, and diverts investments in infrastructure, institutions and social services. Moreover, it fosters an anti-democratic environment characterized by uncertainty, unpredictability and declining moral values and disrespect for constitutional institutions and authority. Corruption therefore, reflects a democracy, human rights and governance deficit that negatively impacts on poverty and human security"[1]. Fighting against corruption has become a major industry as a priority objective of economic policy, involving all governments whether of developed or developing countries and all the international organizations (Mungiu-Pippidi 2006, Me'dard 2002). However many anti-corruption efforts have failed due to prioritizing short-term targets which merely scratch the surface of the problem of corruption (UNDP 2014). Nowadays, all nations agree that corruption weakens state governance and reduces government revenues available to provide services, thus promoting state weaknesses and fragility (USAID 2006). Myanmar is the most fragile state in Asia after Afghanistan, according to the World Bank's Harmonized List

[1] UNDP, Practice Note: Anti-Corruption, 2004, p.1.

of Fragile Situation for year 2019 and also the sixth most corrupt country in the Asia Pacific region after Afghanistan, Bangladesh, Cambodia, Papua New Guinea and North Korea, ranked 132nd in the Transparency International's 2018 Corruption Perception Index. Decades long internal conflict contributed the country's political system unstable and quality of government has declined. Corruption is well entrenched within Myanmar's institutions and rampant corruption in all sectors. Needless to say unfavourable policy context creates the breeding ground for endemic corruption which affect socioeconomic and become Least Developed Country (LDC). Since corruption has been a top concern for doing business, Myanmar ranked near the bottom of all categories in Ease of Doing Business by WB in 2014. ACC chairman U Aung Kyi also commented that "corruption hurts country's economy, administration system and politic, society and culture. Based on complaint letters, the worst sector is government administration."[2] He also declared in the annual report to the Parliament that corruption remains rampant in the country due to self-interest, resistance to change, ineffective measures and poor rule of law based on the findings of a nationwide survey[3]. Corruption in Myanmar is widespread from petty to grand forms which we call endemic and relatively challenging to curb it within few years. Quah (2016) claimed the ineffectiveness in curbing corruption in Myanmar can be confirmed by

[2] Frontier Myanmar, June 18, 2018.
[3] Tea Circle, June 5, 2019. https://teacircleoxford.com/2019/06/05/corruption-a-severe-chronic-disease-myanmar-has-to-fight/

diversion of public funds, irregular payments and bribes, favouritism in decisions of government officials, public trust in politicians and burden of government regulations. Furthermore low probability of detection and management is also catalyst for endemic corruption in the country. Lindsey (2014) contended that poor economic performance may have prompt Myanmar's transition which occurred after decades of weak economic management and isolation. For developing countries, commitment for anti-corruption is sometimes a condition for receiving financial support from development partners (Gnimassoun, B., & Keneck, J. 2015). Particularly, the aim of reforms are to diminish discretion of public officials through privatization and deregulation, cut monopoly by promoting political and economic competition, increase accountability by supporting democratization and bureaucratization, improving salaries of public officials thereby increasing the opportunity cost of corruption, improving the rule of law so that corrupt bureaucrats and politicians can be prosecuted and punished, and encouraging greater transparency of government decision making through deepening democratization, decentralization, as well as through the creation and encouragement of civil society watchdogs (Ivanov 2007; Lawson 2009). Myanmar is now on the road to Federal Democracy and national reconciliation is the highest on the government agenda. The adoption of a new Constitution in 2008 signalled a transition from military to civilian rule and launch of a series of political, social and

economic reforms. With transitional democracy followed by new civilian government in 2011, Myanmar government aims to promote the country's economic environment more transparent to the international community, and attract foreign investment by undertaking sectoral reforms. Not long before country's economy grew at 6.8 per cent in 2017/2018 and targeting to exit from the LDC in 2021. In recognition of the vital role of the public sector in facilitating nation's transformation, launched a "third wave" of reforms, following the political, and social and economic waves. The "third wave" focused on public administration emphasizing to combat the corruption with the aim of bringing forth the clean government with a system of good governance. Key initiatives for Myanmar's transition includes broad media and press law reforms, allowing external scrutiny into the public finances management, more NGOs and INGOs are permitted for registrations, rules and regulations have been relaxed and engage the public in policy making and voluntarily signing up to international good governance protocols, such as the United Nations Convention against Corruption (UNCAC), South East Asia Parties against Corruption (SEA-PAC), the Extractive Industries Transparency Initiative (EITI), the Open Government Partnership (OGP) and also preparing to join the International Anti-Corruption Academy (IACA).[4] Myanmar Anti-Corruption Commission (ACC) was established in 2014 and become the

[4] OECD, Open Government Review Myanmar, 2014

youngest ACC in the region, making efforts to meet the local, international credibility in fighting against the rampant corruption in the country. The former president U Thein Sein committed to ensuring the good governance and clean government as well as the incumbent president at his inauguration declared fighting corruption a top priority and his first public meeting was with the Anti-Corruption Commission. Undeniably the performance of ACC has become more proactive as well as gained some achievements and credits thanks to governmental reforms and political commitment.

1.2 Significance of the Study

Myanmar's isolation for decades leads to limited data assessment and only few international non-governmental organizations (INGOs) and some donor agencies as well as some scholars have done the researches. Therefore it is crucial to have in-depth understanding to find the loopholes to curb the corruption. Moreover, scholars and International Organizations have criticized ACC's operations and status as the commission is not independent, lacking resources, lacking legal teeth, not having transparency and less political will to address its focus of corruption. Doig and Noris (2007) contented that developing countries with systemic corruption usually have an incompatibility between the newness of the ACA, the expectation regarding its performances and the nature and the extent of corruption to be addressed. This paper attempts not only to rectify the

scarcity of research on corruption in Myanmar especially the gaps that the previous research papers did not covered during the amendments of ACC Law, but also to prove the recent tangible performances of ACC. Hence this paper will benchmark the effectiveness and challenges of ACC with regard to its legal reforms, efficiency and effectiveness in fighting against the corruption.

1.3 Objective

This study aims to explain that ACC's performance has improved to some extent and gained tangible success since establishment of the organization due to the above mentioned governmental reforms and high-level government commitment helping to promote transparency and combating corruption in the country. Secondly this study attempts to identify key issues of the internal and external factors that affect ACC's functions. The results from this study may provide government leaders and policy makers with more information and key policy recommendations based on international best practices for strengthening the ACC in fighting against the corruption in the country.

1.4 Research Questions

In order to examine the effectiveness and challenges of Myanmar ACC, this study asked; to what extent ACC's performance has improved until recently since its establishment and what are the strengths, weaknesses, threats and opportunities of ACC compared with international

standard and what other practices ACC needs to adopt for further effectiveness and success?

1.5 Methodology

This paper conduct the analysis based on the UNDP anti-corruption practice note, USAID corruption assessment handbook, and Transparency International's research implementation guide. Therefore, the policy context of the country and its perceived extent of corruption is analysed as a pre-assessment analysis, later analyse the legal-institutional framework as well as functions of the agency and then evaluate the anti-corruption measures and lastly present the key findings. The approach of this study will be qualitative by using secondary data concluding the reliability of primary information about ACC's history, legislations and policy and news releases relating to corruption. In addition, some required data sources are collected from other publications that different scholars and experts including published articles, academic journals, authorized documents which provided by the government as well as review of reports and interviews, reports from IOs such as TI, United Nations Development Programme (UNDP) and World Bank (WB) and other reliable sources to back up the study. From these major findings, to what extent Myanmar ACC could meet the criteria that a strong and successful ACC should have will be analysed.

1.6 Scope and Limitations

In order to analyse the performance of ACC, this study has many limitations. For instance, the ACC's annual report to the Parliament is yet to be publicly available and there is no statistical data of corruption survey on institutions conducted locally. There is also no national integrity assessment by the Transparency International. Therefore this study has to emphasize just the ACC's legal documents, its organizational structure, number of cases taken actions and the collaborative activities with international organizations to compare and analyse with the international standard.

1.7 Organization of the Study

This paper is organized into five chapters. The first chapter describes introduction of Myanmar's political context and historical background of corruption in the country, objective, significance of the study, research questions, methodology and finally scope and limitations of the study. The second chapter reviews the relevant theoretical concepts from the scholars and researchers. And in the third chapter, the country governance and operating environment in light of international indicators and the extent of corruption control in the country is analysed. The fourth chapter evaluates the performance and effectiveness of ACC comparing with the international standard. Finally, the last chapter provides a review of major

findings and finally some policy suggestions are made for the better performance of ACC together with recommendations for future research.

CHAPTER TWO: Literature Review

This chapter draws a number of sources of recent research for systematic approach to understand the nature of corruption and types of ACAs. Then elaborate the reviews of dimensions of assessment which are critical for the effectiveness of ACAs and, lastly presents the way to approach ACAs should adhered to.

2.1 Understanding Corruption

Corruption can be said principally a governance issue which means that failure of institutions and a lack of a capacity to manage society by means of a social, judicial, political and economic checks and balances. When these formal and informal systems fail, it becomes harder to implement and enforce laws and policies that ensure accountability and transparency (UNDP 2004). Corruption; the abuse of public office for private benefit is widely accepted term. According to the IMF the concept of good governance can be broadly described as sustaining governing institutions in which bureaucratic and legal processes are proficient enough to meet the needs of society as a whole, and not just the needs of specific interest groups. The absence of good governance results in public trust in the state, civil society and private enterprises being undermined and which also hinders the efficient functioning of markets and the formation of a more competitive business. Corruption is common at all levels of

government – from the central to the regional to the local levels (USAID 2006). In consideration of the phenomenon of corruption, *state capture* refers to the actions of individuals, groups or firms both in the public and private sectors to influence the formation of laws, regulations, degrees, and other governmental policies to their own advantage whereas *administrative corruption* refers to the intentional imposition of distortion in the prescribed implementation of existing laws, rules and regulations to provide advantages to either state or non-state actors as a result of the improper and non-transparent provision of private gains to public officials.[5] A corruption syndrome is defined by the political and economic dynamics that a country has experienced and, within these dynamics, how people participate in them and how institutions have been established to define their rules and boundaries.[6] Corruption tends to thrive when the individual concerned receive inadequate salaries, have ample opportunities to be corrupt, and are very small chance to be caught or not severely punished if detected (Quah 1997, p.7). It is important to situate the problem of corruption as part of the comprehensive challenge of good governance (WB 2004) and also understand the causes of corruption in a particular country context to ensure that any planned interventions or reforms address the roots of the problem (UNDP 2004, p.3).

[5] The World Bank, Anti-Corruption in Transition: a Contribution to the Policy Debate, September 2000 p. xv-xvii.
[6] USAID, Corruption Assessment Handbook – Draft Final Report, Washington May 2006 p. 8.

2.2 Types of ACAs

ACAs are legal entities, durable policy funded organisations entrusted with the objective of fighting corruption and reducing the opportunities for corruption by means of preventive and/or repressive measures (de Sousa 2010, p.5). An autonomous and well-functioning anti-corruption body is a fundamental pillar of the national integrity system in any country context, the principle aim of which is to reduce and prevent corruption.[7] Besides an ACA is a permanent, government-funded agency created to prevent and control corruption that is separate from other government agencies, but is accountable to parliament, the justice ministry or the executive. It also centralises information on domestic corruption that is circulated to the media and other law enforcement agencies, and is recognized by, and accessible to, the public (Charron 2008, p.6). Since there is no standard model for ACAs, some ACAs have been created from scratch, while others have been based on ombudsman offices, special units within police departments, or justice departments (Johnston 1999, De Sousa 2009). Although ACAs have heterogeneous nature, they can be broadly categorized into two types of approaches (Doig et al., 2007, Megher 2004): single and multiple-agency approaches to the anti-corruption mandate. The single-agency approach, which is the most popular among newly created ACAs worldwide, is a centralized, powerful agency that focuses

[7] TI, Strengthening Anti-Corruption Agencies in Asia Pacific - Regional Synthesis Report, p 8.

specifically on anti-corruption responsibilities, which also requires interaction with other public bodies, for example line ministries and courts. The Singapore Corrupt Practices Investigation Bureau (CPIB) and the Hong Kong Independent Communion Against Corruption (ICAC) both use this type of approach and are widely viewed as models for the establishment of successful strong, centralized anti-corruption agencies (Arsema Tamyalew 2010). Unfortunately, the replication of these models in entirety, without taking into account countries' specific political, social, and economic conditions has not been successful or efficient (Doig et al., 2007). Under multiple-agency approach, the anti-corruption authority shares anti-corruption mandate and responsibilities among different bodies, agencies, or departments as in U.S., Brazil, France, Pakistan and Vietnam (Arsema Tamyalew 2010 and Quah 2016). Regardless of whether a single or multiple-agency approach is adopted, most ACAs have one or more of the following four universal functions; investigation and prosecution, corruption prevention, creating public awareness and disseminating education on the issue of corruption, coordination of anti-corruption – related efforts and policies (Doig et al., 2007, Charron 2008, Meagher 2004, Quah 2009, De Speville 2008). Depending on the scope of action, however, ACAs focus exclusively on the investigation, prosecution, education and awareness-raising, prevention and coordination have advantages over other less specialized agencies in combating corruption by

means of reducing administrative costs, lesser uncertainty regarding jurisdiction by preventing duplication of powers and work, high degree of specialization, expertise and autonomy, separation from the agencies and departments that it will be investigating, high public credibility and profile, establishing security protection, political, legal and public accountability, clarity in the evaluation of its progress, achievements and failures, initiating swift action with its own resources and specialised personnel (Nicholls et al. 2006, p. 476 and UNODC 2004 b, pp.89-90). By contrast, type of ACAs performs both anti-corruption and non-corruption-related functions may not give the same importance in fighting corruption as other items in their portfolio (Arsema Tamyalew 2010). For example, the OMB in the Philippines performs investigation of complaints of inefficiency and anomalies in the delivery of public services, prosecution of graft cases in the Special Anti-graft Court, disciplinary control over appointed officials, public assistance and graft prevention (OMB 2009, pp.7-8). Nevertheless establishing ACAs should be based on a systematic assessment of particular needs and priorities of the country and form part of an overall integrated approach (UNDP 2004, p.6).

2.3 The Importance of Policy Context

Francis Fukuyama (2004, p.58) contents that most good solutions to public administration must be incorporated a great deal of context-specific information. The policy context refers to the geographical, historical,

economic, demographic and political aspect of a country's environment that influences formulation and implementation of policy and should be enabling environment (Quah 2011, p.30). Countries with "enabling environments" would encounter fewer obstacles in curbing corruption than their counterparts in those countries which have been affected by prolonged periods of conflict, the so-called natural resource curse or landlocked or adversely affected by natural disasters (Quah 2017, p. 3). Besides the level of economic development of a country is vital factor for ACA effectiveness because economically robust countries are likely to encounter less difficulty in implementing anti-corruption laws and measures than countries with low economies, unless they receive external financial and technical assistance [8]. In USAID's (2006) corruption assessment handbook, it described as follows:

(1) Enabling environment: functioning courts, free and active media; energetic community of NGOs and public interest groups; other capable agencies of restraint such as capable financial management authorities; supreme audit institutions and central banks; freedom of Information Law; and regional and global treaties that provides for cross-border exchange of information and resources.

(2) Background conditions: macroeconomic stability, political stability, confidence that an attempt to challenge corruption would

[8] Ibid.

> not lead to violence; public order; absence of crippling[…], an environment where corruption is not entrenched in the whole system[…], and legislation and practice that support freedom of expression and decriminalizes defamation.

For the purpose of strengthening the ACAs, three aspects of country's policy context are emphasized; firstly, land area, population, gross domestic product (GDP) per capita, and cultural values and practices; secondly, type of government and level of governance according to the World Bank's five indicators, and thirdly the country's perceived level of corruption according to the World Bank's control of corruption, Transparency International's Corruption Perception Index (CPI), and Global Competitiveness Report's Indicator on Irregular Payments and Bribes.[9] Therefore it is important to understand a country's full governance environment as a critical foundation to crafting appropriate anti-corruption policies and programs (WB 2004).

The size of the country in terms of land area is an important factor affecting ACAs effectiveness since large country encounters more problems in implementing anti-corruption law in country wide. For example the ACA headquarters being located in the capital city and many branch offices are needed to establish in the provinces.

[9] TI, Anti-Corruption Agencies Strengthening Initiative- Research Implementation Guide, p.4

The country's political system can also affect the ACAs' effectiveness in curbing corruption both positively and adversely (UNDP 2017). A long duration of democracy appeared necessary to significantly reduce corruption (Treisman 2000) and also provide citizens with an opportunity to punish government that fails to control corruption (Asparism Gosh 1997). The nature and level of corruption in advanced democracies with solid political and economic institutions is likely to be different from those countries in transitional stage of democratization and economic reforms.[10] Another factor is that a country which had undergone a peaceful transfer of power through free and fair elections is more likely to be effective in combating corruption than a regime which has assumed power through conflict or military coup (Quah 2015). Recent research also suggest that post-conflict conditions breed more ground for corrupt behaviour, and specific circumstances surrounding transition from centrally-planned to market economies allowed for state capture and administrative corruption to flourish (UNDP 2004, p.3). Countries which have endured protracted period of civil war are particularly vulnerable to corruption because of the combined effect of three factors; the legacy of wartime corruption, the management and distribution of massive influxes of material wealth from natural resources or foreign aid, and the overall weakness of state (Sarah Dix and Nihal Jayawickrama 2010). ACAs' effectiveness is also depend

[10] Ibid

on the level of governance which is measured by five indicators; voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality and the rule of law (Quah 2015). Moreover UNDP (2004, p.3) stated that concentration of powers in the executive, weak in checks and balances, poor transparency in executive decision combined with restricted access to information, weak system of oversight and enforcement and high tolerance for corrupt activities are the typical features of a system prone to corruption.

Corruption and corruption perception can be considered as cultural phenomena because they depend on how a society understands the rules and what constitutes a deviation. Furthermore the bonds of custom obligation create opportunities for corruption and hinder corruption control (Quah 2015). Corruption perception differs from the level of corruption but the latter may influence the former (Natalia Melgar, Maximo Rossi and Tom W. Smith 2010). The perceived level of corruption in a country is another important factor for ACAs because those ACAs operating in countries with widespread perceived corruption would likely have heavier workload (Quah 2015) and face more challenges in implementing the mandate than ACAs in countries where corruption is perceived to be low (UNDP 2017). Treisman (2000) claims that former British colonies with common law legal systems had significantly lower perceived corruption

because of their superior administration of justice and their preoccupation with procedural fairness even at the expense of social hierarchy.

2.4 Factors Affecting the Successful ACAs

There are certain factors that need to be in place for ACAs to function effectively. Patrick Meagher and Caryn Voland (2006) identify ten factors that are critical for the effectiveness of ACAs: their political mandate, cross-agency coordination, focus on prevention and monitoring government implementation, accountability, independence, powers, well-trained staff and adequate resources, an enabling environment, complementary institutions, and complementary legislation. In order to judge the performance of ACAs, Transparency International developed a framework for assessing seven criteria that influence the work of ACAs; legal independence and status, financial and human resources, detection and investigation, prevention, education and outreach, cooperation with other organizations, accountability and oversight, public perception of ACA's effectiveness.[11] When category; exogenous factors are external issues that affect the agency's institutional effectiveness and endogenous factors are internal conditions that affect an ACA's ability to fight corruption successfully (Johnston 1999, De Sousa 2009, Quah 2009, De Speville 2008, Doig et al., 2007, De Speville 2000, Pope and Vogl 2000, Dionisie and Checchi 2007, De Sousa 2006). Exogenous factors include

[11] TI, Strengthening Anti-Corruption Agencies in Asia Pacific - Regional Synthesis Report, p 5.

political will, economic conditions, donor initiatives, public trust and confidence, the media and ACA's relationship with civil society actors. Endogenous factors include the ACA's independence in performing its functions, the specificity of its objectives in terms of the context of the country, permanence, sufficiency of financial resources, and staff capacity (human capital).

2.4.1 Political will

Strong political leadership with a will to spearhead good governance reforms can advance the ACA's work and political leadership that engages in the misuses of power can obstruct effective implementation of its functions (UNDP 2017). Quah's insight of anti-corruption strategies in different matrix that depends on the commitment of political leadership and anti-corruption measure applied the commonly held assertion that without a strong political will, anti-corruption reforms are born to fail (Williams and Doig 2004, Brinkerhoof 2000, Kpundeh1998, Johnston and Kpundeh 2004, UNDP 2004, World Bank 2000). Without strong political will it would not be possible to establish ACAs with adequate budget and personnel provide ACAs with legal powers and operational autonomy to act as an independent watchdog without political interference, and widely public support to protect ACAs from its enemies (Quah 2017). Moreover the bottom-up sources of political will such as from street-level bureaucrats, whistleblowers who are strongly committed to prevent corruption

(Brinkerhoof 2010). Indeed the strongest determinant of the ACA's fate is the attitude of the ruling parties toward it (Batory 2012, p. 656).

2.4.2 Economic conditions and donor initiatives

The ACAs must have an adequate budget to perform its functions effectively (TI 2015). Both economic conditions and donor initiatives are the main arteries for survival of ACAs. The impact of the country's unfavourable economic conditions may cause shortfalls in funding, which results in unpaid staff and diminished morale (Megher 2004). The budget allocated by the Ministry of Finance to the ACA is an important indicator of the government's political will to combat corruption (TI 2015). Most ACAs suffer from a lack of funding, donors determine which ACA components to finance mostly based on donors' choices rather than ACAs' needs assessments (Doig et al, 2007). Donors and international organizations can provide impetus for reform but they need to be home grown and locally driven (UNDP 2004).

2.4.3 Public trust

Corruption also leads people to believe that the political system performs worse than it could and that those who work for the state cannot be trusted; is important because it strongly suggests that corruption is likely to be an important component of government performance people use to judge political institutions (Anderson, C. J. and Y. V. Tverdova, 2003).

Study of political trust across ten East-Central European states found that higher levels of corruption were related to lower levels of political trust. Corruption violates fundamental tenets of democracy such as equality, fairness and accountability and also citizens in more corrupt democratic societies would report lower levels of satisfaction with the performance of their political systems and trust in civil servants compared to people in democracies that are cleaner (Mishler and Rose, 2001 a). When a political system is tainted by corruption, people's willingness to accept government-initiated reforms or even the legitimacy of a system as a whole may flag. In the long term, this can pose significant challenges to the sustainability of democratic government (Anderson, C. J. and Y. V. Tverdova, 2003). Therefore ACAs' impartiality and openness in their functions are fundamental to securing public trust and confidence. It is equally important for ACAs to demonstrate that their officials and staff are incorruptible (UNDP 2017).

2.4.4 Relationship with civil service actors

An important factor impacting the effectiveness of ACAs is building cross sectional-sectoral support to create a significant mass of public officials, civil society groups, and private firms (Johnston and Kpundeh 2002). Free media and nongovernmental watch dogs play a vital role through their capacity to build public awareness and monitor ACA activities (Tamyalew 2010).

2.4.5 Independence

Independence basically refers to the ability of an ACA to carry out its mission without political interference. However, it does not mean the absence of reporting to executive and legislative agencies, and provide public access to information on their work (Gorana Klemencic, Janez Stusek and Inese Gaika 2008). Rather, it refers to an ACA‘s degree of independence to freely investigate corruption wherever it suspects that it may occur without the punishment being cancelled or modified because of the interests of powerful individuals or groups (Johnston 1999). In order to function efficiently, the ACA should have a broad mandate without restrictions on its investigation of suspected corruption. However, at the same time, the ACA should also be held accountable for its actions, investigations, and general comportment as a government agency. In this regard, an independent anti-corruption institution needs to integrate a system of checks and balances in order to maintain transparency and accountability. There must be an independent oversight mechanism to monitor ACAs functions and practices for example, a parliamentary oversight committee and/or a committee comprising a cross-section of professional groups and civil society (UNDP 2017). Another related problem of independence of the ACAs is the reliance by their governments on using corruption allegations as a weapon against political opponents (Quah 2016). The success of Singapore and Hong Kong in combating

corruption is not relying on the police to curb corruption when police corruption is rampant (Quah 2017).

2.4.6 Legal powers

Since institutional ineffectiveness and corruption are directly and positively related to each other, legal effectiveness is crucial to combat corruption. It is important to have an effective legal framework in place as the effectiveness of ACAs is challenged when a government institution underperforms and there is an inadequate legal framework (Doig et al., 2007). The basic legal framework needed to fight corruption are effective criminal and civil code, conflict of interest laws, meritocratic hiring rules, freedom of information laws, sunshine laws, asset disclosure rules, codes of conduct and whistle blower protection (USAID 2006).

2.4.7 Country-specific objectives

It is crucial that the decision to set up a specialized anti-corruption body and the selection of a specific model be based on analysis and strategy. The country must take stock of where it is, decide on where it wants to go, and finally elaborate a detailed road map. While these steps might seem obvious, it is surprising that many countries have established anti-corruption agencies without proper evaluation or strategy in a context where basic legal, structural and financial perquisites were not in place (OECD 2007, p. 26). Much has been said about fitting anti-corruption

reforms to specific country settings; the most frequent has until today been to use “toolkits” of ideas provided by the international community in line with the logic of a “one fits all” approach (Kpundeh 2004, p.127). Quah (1999) also claims that the correct diagnosis of the nature, depth and strength of corruption is crucial to control it and the extent of corruption is depend on the nature of the causes of corruption and the degree of effectiveness of the measures initiated by political leaders to combat corruption. In Anwar Shah’s (2007) view, policy makers need to understand the local circumstances that encourage or permit public and private sectors to be corrupt and each country must tailor reform strategies to suit its particular context (Leslie Gielow, Jacobs and Bajamin Wanger, 2007). There is no one model to fight corruption although best practices exist; they are not automatically applicable to any one country’s specific context (UNDP 2004, p.6).

2.4.8 Adequate human resources

The political will of government in combating corruption is reflected in the budget and personnel allocated to the ACA. Effective ACAs rely on recruiting well-trained personnel with highly specialised skills on the basis of merit, compensating them adequately, and making them accountable for their actions (Meagher and Voland 2006, p. 12). A key factor responsible for the ACA’s effectiveness is its ability to recruit and select personnel on the basis of their technical competence (Francesca Recanantini, 2011). The

specialisation of the ACA refers to the ability of specialised staff with special skills and a specific mandate for fighting corruption[12]. Since the effectiveness of the organization is determined by its capacity or performance of its anti-corruption functions, higher per capita expenditure and more favourable staff-population ratio should be devoted. Deficiencies in recruitment and training procedures are the major causes for a lack of specialization among personnel (de Sousa 2009).

2.5 Approaches

Researchers agree that the overall failure of anti-corruption reforms is by and large the result of implementation problem (Anna Persson, Bo Rothstein and Jen Teorell 2010, p.4). Many anti-corruption efforts have failed due to the imbalance between prioritizing short-term, immediate visible targets that create momentum but merely scratch the surface of the problem. A well-thought anti-corruption reform strategy requires a long-term vision and a clear understanding that fundamental change can take place, at the earliest, in the next and not in the present generation. However, an appropriate mix of immediate and medium-term actions can yield crucial results that help build the foundations for strengthening a culture and system for accountability, transparency and integrity. Most importantly anti-corruption reforms needs to transform values and ethical framework through education and close participation of youth to be

[12] Klemencic, Stusek and Gaika, Specialised Anti-Corruption Institutions, p. 10.

imbedded in culture (UNDP 2014). To be effective, ACAs must avoid the two serious mistakes; use the ACAs as an attack dog against the government's political opponents; and the lack of government's commitment letting ACAs as paper tiger (Quah 2017). Indeed, ACA must be a type of organization that is flexible, adaptable and sustainable to the external environment and organization's success will depend on creativity, maximize competency and resources to the full, and seek alternative ways to exercise the mandate (de Sousa 2010, p.19).

CHAPTER THREE: Country Analysis with Corruption Perspective

This chapter present the country level study as well as prerequisite factors on which ACAs' effectiveness and performance utterly rely on. This chapter starts with the policy context of Myanmar to fully understand the environment for the ACC to perform followed by the key governmental reforms to promote transparency and lastly present the emergence of ACC.

3.1 Policy Context of Myanmar

Myanmar covers an area of 676,578 square kilometres and the size of the country is the second largest in ASEAN and the sixth largest in Asia. The country's population is 53 million comprises of a hundred and fifty three ethnic groups. Neighbouring countries are China, Laos, Thailand, India and Bangladesh. Myanmar has a presidential system of government, with three distinct sets of powers; the legislature, the executive, and the judiciary. Myanmar underwent British colonial period from 1862 to 1947 and gained independence in 1948. Then experienced a nascent democratic period from 1948 to 1958; in the form of parliamentary democracy during 1960-62; then military rule after a coup in 1962-1988; later proceeded by one party system. The first general elections are held in 2010. Since 2011, a series of major reforms have seen the country move from a military-ruled political system to one that is more focused on people-centred

development; from a state-dominated to a market-oriented economy; from decades of ethnic conflict towards a nationwide ceasefire and political dialogue; and from regional-isolation to re-engagement in global affairs (David Hook, Tin Maung Than, Kim N.B Ninh 2015). The 2008 Constitution calls for a multi-party democratic system that also enables the Defense Services to participate in political leadership (Staddon A., Thompson G., 2019). However Myanmar continues to face numerous challenges to its security and development. The on-going conflicts in the north and western parts of the country have weighed the slowdown of the economy despite recent efforts to improve the tax system and the ease of doing business. Smith (2007) describes Myanmar as "a land trapped in conflict" and is "a pre-eminent example of a post-colonial state" caught in "conflict trap". Although GoM has been striving with highest efforts for the comprehensive development of the country, there are still clashes between the Government Military and the ethnic-armed groups in northern and western part of the country. Most fighting has occurred in isolated and inaccessible border areas far from the centre of state power. Separatist territories and nationalities in ethnically distinct states at the fringes of the country have struggled against the central government through decades of armed conflicts[13]. The organs of state are incapable of penetrating some of the peripheral areas where various armed factions are in charge of

[13] OECD, Open Government Review Myanmar, 2014.

governance, taxation and delivering public services (Bertelsmann Stiftung 2018). Another fact is that Myanmar is the world's second largest producer of opium (Meehan 2015) as well as the world's largest producer of methamphetamine (Hogan 2018) and Shan state alone accounts for over ninety per cent of Southeast Asia's illegal opium (Meehan 2015) which is controlled by many armed groups in the peripheral areas. Myanmar is also plagued by traffic in narcotics, people, wildlife, gems, timber and other forms of contrabands because of the problems in controlling its permeable borders (Chêne 2012, p.4). Myanmar's location in a bad neighbourhood surrounded by corrupt countries with low CPI scores enhances the difficulties in combating corruption and smuggling along its border with these five countries. Elsewhere in Southeast Asia, the region's mix of one party states, multi-party democracies and military regimes makes it hard to draw a clear line between the aims or approaches of governments conducting anti-graft drives (Quah 2011).

Since culture and politics are closely related to corruption, the colonial culture and its political characteristics are the main reasons for the serious corruption in the colonial countries (Liu,X. 2016). Colonial administration and military regime give legacy for less effective and efficient administration system in Myanmar (Political Risk 2011) and saw the surge of cronyism as well as the deterioration of the judiciary. It is characterized by economic mismanagement and corruption at the highest levels.

Weakened institutions in both national and local governments also weakened accountability and served to support rent-seeking activities by exploiting government rules and resources. The outcome for the country had been slow growth, persistent poverty and inequality, and environmental degradation (WB 2004).

3.1.1 Grand corruption

Privatization and 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 resemble monopoly (Jones 2013). For example winning in the larger tender is common due to personal relationships and patron-client networks have long been among the chief forms of market governance in Myanmar (TI 2019). In the area of hydropower, the electricity generation projects may have been sold or compromised with foreign or domestic investors. Operational ministries are noticeably less transparent than ministries carrying out policy formulation as they rarely publish figures or disclose details about investors or spending (Saw 2015).

3.1.2 Bureaucratic corruption

Myanmar's civil bureaucracy has long been characterized by poor organization, mismanaged, under-trained and under-utilized staff, weak accountability mechanism particularly in higher ranks dominated by deputized military personnel, poorly-designed public programs, badly

implemented public services and high degree of centralization (Alex M. Mutebi 2005). Bureaucratic corruption in Myanmar is in part enabled by cumbersome bureaucratic procedures and bribes or gift-giving is unavoidable element of the process whenever citizens deal with the bureaucracy. Red-tape provides with the excuse to extort bribes from the public, especially business people, who are willing to pay the grease to reduce delay by expediting their applications or licenses or permits (Quah 2009, pp. 820-821). Facilitation payment is prevalent and rent seeking behaviour pervades most public institutions and affects both small and everyday interactions as well as larger tendering processes (TI 2019). Poorly-paid civil servants use their position to collect bribes as a way of making ends meet, particularly when the expected cost of being caught is low (Mauro 1997, p.5). The practice for providing "tea money", essentially bribes, in exchange for licenses and permits engaged with low to mid-level public officials is common vis-à-vis undermines trust in state institutions, and violates the principle of equal treatment of citizens. The Table I show the salary of civil servants which is below market levels.

No.	**Job title**	**Current salary range (MM Kyat), (1 USD = 1518.20)**
1.	Peon	154,000 (estimate 100 USD)
2.	Record Keeper	172,000

3.	Lower Division Clerk	190,000
4.	Upper Division Clerk	208,000
5.	Branch Clerk	226,000
6.	Branch Clerk	244,000
7.	Office Superintendent	262,000
8.	Staff Officer	295,000
9.	Assistant Director/ Deputy Director	328,000
10.	Director	361,000
11.	Deputy Director General	394,000
12.	Director General/ Managing Director	438,000
13.	Permanent Secretary	550,000

Table 1.Civil service salary structure
Source: The Global New Light of Myanmar, April 30, 2018.

3.1.3 Judicial corruption

Bureaucratic corruption also greatly affects the judiciary, thereby impeding the rule of law that would be needed to act as a check on systematic bribery. The weak rule of law and rampant corruption in the courts and police let the corrupt offenders to escape punishment by bribing police officers and judges (TI 2019). Bribes and irregular payments in exchange for favourable judicial decisions are very common (GCR 2015-2016); two out of five citizens believe most or all judges are corrupt (GCB 2017); nearly half of citizens believe most or all police officers are corrupt (GCB 2017). Companies perceive the judiciary to be inefficient when it

comes to settling disputes and challenging government regulations (GCR 2015-2016).

Box 1The Important Lessons

The success of Singapore and Hong Kong in combatting corruption can be attributed to their rejection of the ineffective British colonial government's method of relying on the police to curb corruption and their reliance instead on the CPIB and ICAC, respectively. Singapore took 15 years (1937-1952) and Hong Kong needed 26 years (1948-1974) to learn the important lesson of not relying on the police to curb corruption when police corruption is rampant. Unfortunately, India has not learnt this lesson after 76 years because it still relies on the CBI, a police agency, to fight corruption when there is widespread police corruption.[14] The Solomon Islands, a former British protectorate, still rely on the police to curb corruption in spite of the rampant police corruption and its limited investigative capability.[15]

Source: Quah (2017) Anti-Corruption Agencies in Asia Pacific Countries: An Evaluation of their Performance and Challenges

3.1.4 Cultural factors

Cultural factors also contribute to corruption when cultural practices like gift-giving and the importance of family ties enhance tolerance for corrupt acts and influence individuals to give or receive bribes. In Myanmar culture there is a saying "giving is the key to success" which is

[14] India began its battle against corruption with the formation of the Delhi Special Police Establishment (DSPE) in 1941. The CBI was established in April 1963 by incorporating the DSPE as the Investigation and Anti-Corruption Division and five other divisions. See Quah (2011), pp. 92-94.

[15] den Heyer (2016), pp. 185-187.

the deeply rooted in mind-set of the people. Culture of "donation" is deeply rooted but not all of them philanthropist. This kind of donation is found where mining companies use "CSR budget" to make as a donation to village elders and officials in return for signature and support (Pwint Thit Sa 2018). Making contacts in Myanmar is also important as connections are required for almost every aspect of social and business life (Quah 2016, p.9). Lack of easy information generates bias in favour of those who have connections, creates opportunities for corruption (MBEI 2019). Various social customs, such as gift-giving, and "tea-money" even becoming culturally engrained rather being seen as a kind gesture (Saw 2015, Andrew and Htun 2016).

3.1.5 Natural resources curse

Myanmar is a resource rich country and share borders with countries with low CPI score enhances the difficulties in combating corruption and smuggling along the borders (Chěne 2012). The tendencies for natural-resource-exporting countries to economically underperform have nondemocratic government as well as poor governance, and a higher propensity for involvement in conflicts which refers to natural resource curse (Shaffer 2012). Myanmar is among the worst performers in the world in terms of transparent and responsible governance of its extractive industries (NGRI 2017). The jade trade in Myanmar is characterized by low levels of transparency and high levels of corruption. EITI estimates

that up to eighty percent of gemstone production goes undeclared and bypasses the formal system, yet Myanmar has disclosed some of the legal ownership of the oil, gas, and mining companies operating in the country (EITI 2017). Myanmar, Kachin state in particular, has the world's largest jade reserves, and the industry is worth billions of dollars. In 2014, 31 billion USD worth of Jade was extracted - equivalent to half of Myanmar's GDP (Global Witness 2019). Again the Myanma Timber Enterprise (MTE), a state-owned enterprise, has been widely accused of engaging in corrupt practices and failing to live up to international standards in the sector (Frontier Myanmar, Mar. 2017). Europe's Environmental Investigation Agency (EIA) has warned that MTE's use of subcontractors comes with high risks of corruption and bribery in the allocation of harvesting rights due to a lack of transparency in the required procedures (Myanmar Times, Aug. 2017). Because of the lack of transparency, Denmark has placed an injunction on all Danish companies preventing them from selling teak imported from Myanmar on European markets (Mongabay, Mar. 2017). There exists a large-scale illicit timber trade between China and Myanmar worth hundreds of millions of dollars every year (EIA & EU 2015).

3.1.6 Land administration

Land access and security is notoriously complex in Myanmar. Land access is complicated by a long history of state control, land transfer to

private companies, and protracted armed conflicts in various part of the country.[16] There is concern that many citizens have trouble obtaining enough farm land as well as the complications and expenses of the titling process remains problematic due to the lack of clarity about fees and procedures (Leckie and Simperigham 2009: Guyitt 2014).

3.2 Perceived Extent of Corruption

Due to the unfavourable policy context as mentioned above, the perceived extent of corruption is always high in the international indexes. According to the Global Corruption Barometer, forty percent of people in Myanmar had to pay bribe whenever they came into contact with public services (GCB 2018). It emerged that sixteen to thirty percent had paid a bribe in public schools, public hospitals and utilities; as had thirty one to forty five percent to get IDs, voter's card permit and in courts and; forty six to sixty percent in police. It is also found out that the richest people (sixty three percent) are more likely to pay bribes. Moreover twenty two percent of people in the country said that corruption had increased within a year and forty seven percent of people do not believe that the government is doing a good job at tackling corruption; especially people think the police are the most corrupt. However, citizens have rated that the level of corruption has changed positively as well as they feel positively empowered to fight corruption (GCB 2017).

[16] The Myanmar Business Environment Index 2019, p(36).

The World Bank's 2016 Enterprise Survey on Myanmar underscored the three specific types of situations where business encounter corruption in the country; including requesting a construction permit, securing a government contract and in meetings with tax officials. The survey report also argued that corruption creates an unfavourable business environment in the country by causing inefficient regulation and raising bureaucratic costs. The time required to comply with customs regulations is significantly higher than elsewhere in the region, while the costs are largely in line with regional averages. Starting a business takes more steps and the costs are significantly higher than the regional average, but the required time is significantly shorter (DB 2017). Import and export licenses are awarded on a case-by-case basis, leaving discretionary space to public officials (BTI 2016). Companies cited burdensome import procedures, tariffs, and corruption at the border as the most problematic factors for importing (GETR 2014). More than seventy per cent of larger firms reported paying bribes, while for small and medium-sized enterprises reported nearly the same percent (Soans and Abe 2016). Nearly half of firms indicate they expect to give gifts to obtain a construction permit and also one in five companies indicates they expect to give gifts in meetings with tax officials (ES 2016). Roughly a third of citizens believe most or all tax officials are corrupt (GCB 2017). Unfavourable policy context and difficult governance environment is shown in the table I, II and III.

Year	CPI Rank & Score	FSI Rank & Score	Government Effectiveness percentile rank	Rule of Law percentile rank	Doing Business Ranking
2010	176th (14)	16 (99.4)	2.87	2.84	-
2011	180th (15)	18 (98.3)	3.79	4.69	-
2012	172nd (15)	21 (96.2)	3.79	6.10	-
2013	157th (21)	26 (94.6)	4.27	9.86	182
2014	156th (21)	24 (94.3)	9.13	8.17	178
2015	147th (22)	27 (94.7)	10.10	7.69	177
2016	136th (28)	26 (96.3)	16.35	17.79	171
2017	130th (30)	35 (95.7)	13.46	16.83	170
2018	132nd (29)	22 (96.1)	12.50	15.38	171

Table 2.Government environment in Myanmar
Sources: Transparency International, World Bank.

Notes: [a]The Fragile States Index (FSI) is based on 12 indicators: four social indicators; two economic indicators; and six political and military indicators. The FSI score for 178 countries ranges from "very sustainable" (0-20) to "very high alert" (110-120); [b]This indicator of political stability and absence of violence is defined as the "perceptions of the likelihood that the government in power will be destabilized or overthrown by possibly unconstitutional and/or violent means, including domestic violence and terrorism" (Kaufmann, Kraay and Mastruzzi, 2004, p. 3);
Sources: Transparency International, World Bank.

Year	Corruption Perception Index Rank and Score	Control of Corruption	Governance (Total Percentile Rank)
2010	176th (14)	0.48	19.47
2011	180th (15)	0.47	28.35
2012	172nd (15)	13.74	49.63
2013	157th (21)	16.11	56.75
2014	156th (21)	20.19	65.02
2015	147th (22)	20.67	71.88
2016	136th (28)	32.21	127.34
2017	130th (30)	32.21	118.71
2018	132nd (29)	30.29	-

Table 3.Corruption incidence and governance level in Myanmar
Sources: Transparency International, World Bank.

Year	Diversion of Funds	Irregular Payments and Bribes Ranking	Organized Crime Rank and Score	Ethical Behaviour of Firms Ranking
2013	128/151 (2.29)	145/151	142/151 (2.91)	126/151
2014	122/151 (2.37)	139/151	136/151 (3.11)	133/151
2015	121/151 (2.44)	133/151	124/151 (3.51)	118/151
2016-2018	Data not available	Data not available	Data not available	Data not available

Table 4.Perceived extent of corruption by firms in Myanmar
Source: World Economic Forum Global Competitiveness Index.

Currently the USAID is carrying out the Promoting Rule of Law programme in Myanmar and the team conducted the survey on corruption status within 2017 and 2019 (ACC Myanmar). According to the survey, people have perception that corruption is still widespread in the country.

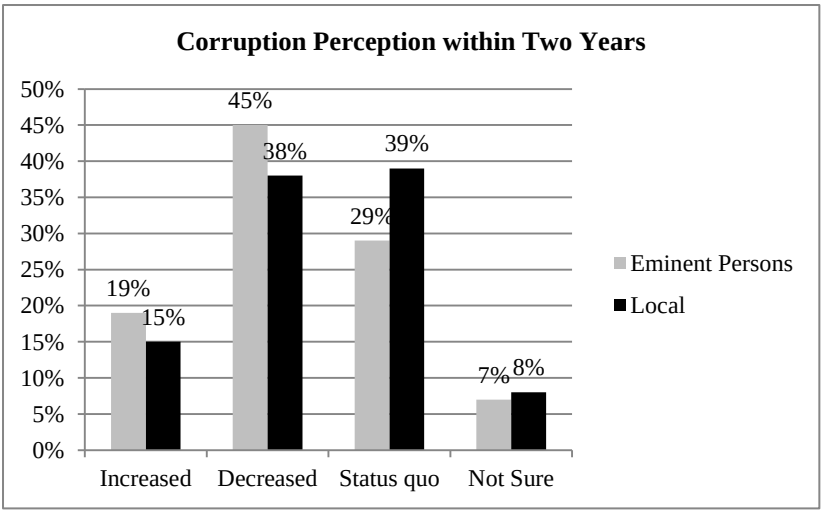

Figure 1 Corruption perception between 2017 and 2019
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

People mentioned that anti-corruption efforts need more emphasize on the local level meaning petty corruption is well entrenched in the country.

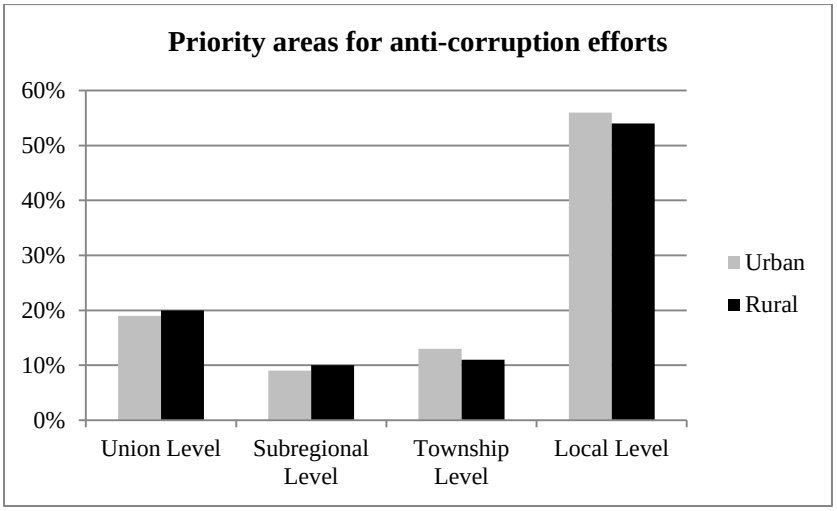

Figure 2 Priority areas to combat corruption
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

People also believed that governmental reforms have significant impact on reducing the corruption.

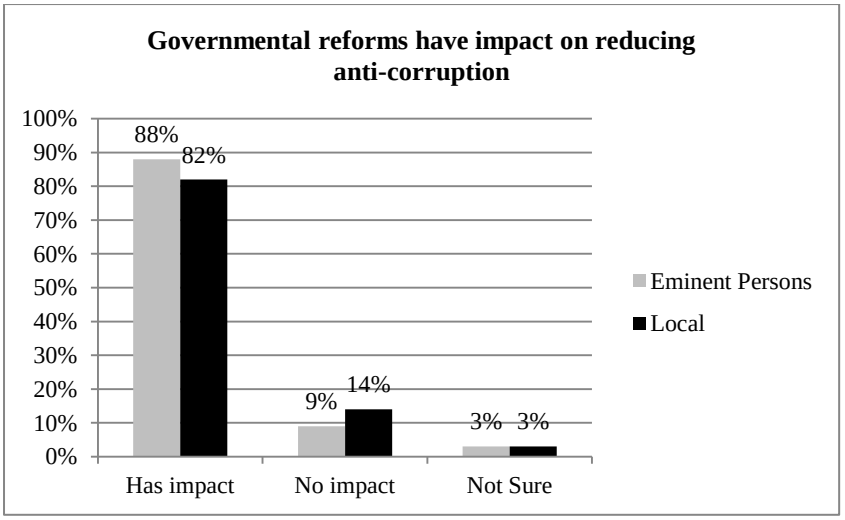

Figure 3 Corruption perception on anti-corruption within two years
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

3.3 Key Governmental Reforms

To create the favourable policy context, the economic liberalisation and accelerated democratic transformation started in 2011. The reforms include releasing hundreds of political prisoners, signing a nationwide cease-fire with several of the country's ethnic armed groups, pursuing legal reform, and gradually reducing restrictions on freedom of the press, association, and civil society. The government has also taken steps to improve transparency in the mining and oil sectors (cia.gov). These being result in the announcement of the United States government to lift its economic sanctions against Myanmar.

3.3.1 Economic reforms

The GoM commits to empowering states and regional governments by decentralizing the approval process of the investment. Myanmar Investment is law is also enacted in line with international norms. Moreover the century-old Myanmar Companies Act is replaced by the Myanmar Companies Law in 2017. Under the New Company Law, companies are allowed to register online and more transparency and fewer restrictions are guaranteed as well as allowing companies to seek arbitration in the third country (ICS 2017). The government also announced new National Land Use Policy by improving public access to information about land use management and developing independent dispute resolution mechanism (ICS 2017). All these economic reforms

prompt inflows of foreign direct investment and the economy is expected to grow in coming years while the country's GDP is estimated to rise to 6.8 per cent in 2020 and currently the country's GDP per capita is US$ 1326 in 2018.[17]

[17] Vice President U Myint Swe address 3rd Myanmar-EU Economic Forum,5 June 2019. http://www.president-office.gov.mm/en/?q=briefing-room/news/2019/06/06/id-9388

Box 2 Myanmar Investment Law (2016)

In October 2016, the Government passed a new Myanmar Investment Law (MIL)[18], which supersedes the previous 2012 Foreign Investment Law and the 2013 Myanmar Citizens Investment Law. This creates a single law for both foreign and domestic/Myanmar citizen investors. In March 2017, the Myanmar Investment Rules (MIR) were adopted.[19]The new Law and Rules introduces a number of changes to the previous 2012 Foreign Investment Law. These include:

· The introduction of new types of permit, one being a 'full' Myanmar Investment Commission (MIC) Permit, and the other an approval or 'Endorsement' for permission to use land; the second process supposedly being a faster process. Full MIC Permits will be necessary for strategic, large, or environmentally/socially impactful projects (Section 36 of the MIL, defined further in Article 3-11 of the MIR)

· The MIL applies to all investors: The previous 2012 Foreign Investment Law applied only to those foreign investors holding an MIC permit. Under the new MIL, everyone who invests in Myanmar is an investor subject to the 2016 Investment Law, irrespective of whether they hold an MIC permit or not.

After adopting the Law, in December 2016, the government also adopted an Investment Policy. This highlights that Myanmar welcomes 'responsible and mutually beneficial foreign investments', and promises that these will be facilitated 'through transparent, clear and expeditious procedures'. Point 5 of the Investment Policy notes that 'Local and foreign investors shall comply with the principles for responsible investment and business conduct, including environmental and natural resources matters on an equal basis and in a non-discriminatory manner at all times' (sic).

Source: Myanmar Centre for Responsible Business (MCRB) and Yever, March 2018, Transparency in Myanmar Enterprises.

[18] VDB, Client Briefing Note: What Changes in Practice under the New Investment Law?, 8 October 2016.

[19] Myanmar Investment Rules, MIC Notification 35/2017, 31 March 2017.

Box 3 Business Reforms in Myanmar

In 2012, the severely over-valued official exchange rate was unified under a managed float.

In 2013, external arrears were cleared and the Central Bank has been divested from the Ministry of Finance with independent monetary authority.

In 2014, Myanmar made paying taxes less costly for companies by reducing the corporate income tax rate.

In 2015, Myanmar made trading across borders easier by reducing the number of documents required for exports and imports.

In 2016, Myanmar made starting a business easier by eliminating the minimum capital requirement for local companies and streamlining incorporation procedures. The Ministry of Electric Power facilitated the process to obtain a new electricity connection by reducing delays through fewer approvals.

In 2017, Myanmar made starting a business easier by reducing the cost to register a company. It also simplified the process by removing the requirement to submit a reference letter and a criminal history certificate in order to incorporate a company. Myanmar also improved its credit information system by enacting a law that allows the establishment of a new credit bureau.

In 2018, Myanmar made registering property less costly by reducing the stamp duty. Besides access to credit information has improved by adopting a regulation allowing the establishment of credit bureaus.

Source: Doing Business (The World Bank), https://www.doingbusiness.org/en/reforms/overview/economy/myanmar

3.3.2 Fiscal transparency

Myanmar was criticized for its lack of budget transparency as well as secrecy in sources of budget revenues. In 2012 Myanmar received a score of 0 out of 100 in the Open Budget Survey by the World Bank since there

was almost no information to the public in the government budget document. In 2015, the Ministry of Finance and Planning Myanmar started publishing the Citizen's Budget, an accessible, macroeconomic summary of national, fiscal policy and public financial management that includes government revenues and expenditures, deficits and international debt, spending on health care and education, and other aspects of the national and state budgets. Myanmar scored 7 points out of 100 in the Open Budget Survey; substantially lower than the global average score of 42 (Open Budget Survey 2017). In 2017, states and region governments started publishing own Citizen's Budget with the help of Asia Foundation.[20] The Union pre-budget statement is working underway and these are the remarkable transparency movement by the GoM.

3.3.3 Media reform

Press freedoms have significantly improved since the country began its transition from military rule to a democracy, but there is still tight control over the media sector through the use of defamation and other laws against critics (FotP 2017). The Official Secrets Act restricts access to information despite a censorship lift in 2012, and the Telecommunications Act (2013) allows the state to imprison for up to three years for 'defaming, disturbing, causing undue influence or threatening any person using a telecommunications network'. Freedom of assembly is has recently taken

[20] The Asia Foundation, Budget Transparency Replacing Budget Secrecy in Myanmar, May 22, 2019.

steps to ease restrictions and civil society groups have increasingly been able to operate openly and freely discuss human rights and political issues (HRR 2016); being able to influence policy-making processes, criticize the government, and advocate for political parties during the last five years (BTI 2016). Freedom house classified Myanmar as "partly free" for the first time in 2017 (FotP 2017).

3.4 Emergence of ACC

Myanmar's anti-corruption strategies essentially commenced with the signing of the UNCAC as the 165th member country in December 2005, which was later officially ratified in December 2012.

Box 4 Myanmar and the United Nations Convention against Corruption (UNCAC)

Myanmar's signing and ratification of the UNCAC was an important step in promoting integrity. Myanmar signed the UNCAC on 2 December 2005, shortly before the convention went into force, and ratified it on 20 December 2012. This set a minimum standard of institutional and legal obligations in combatting corruption which the Union of Myanmar is still working to establish, despite having officially ratified the Convention.

The UNCAC offers clear steps to establishing effective anti-corruption mechanisms. Chapter 2 of the Convention outlines the need to develop preventative measures, such as effective anti-corruption bodies (Article 6) tasked with developing and delivering anti-corruption policies (Article 5), including drafting of codes of conduct (Article 8), policies related to public procurement and public finance (Article 9), reporting mechanisms (Article 10), and civic engagement (Article 11). It also outlines definitions of corruption or breaches of integrity in Chapter 3 - Criminalisation and Law Enforcement, considerations of international cooperation (Chapter 4), and asset recovery (Chapter 5). Finally, it offers recommendations for technical assistance (Chapter

6) and implementation of the Convention (Chapter 7).

The ratification of the UNCAC followed an inter-ministerial pre-ratification workshop organized by the Bureau of Special Investigations (BSI) and the United Nations Office on Drugs and Crime (UNODC) and attended by high-level government officials. Following the deliberations, workshop participants recommended: that the GoM take the necessary measures to ratify the UNCAC as soon as possible; that on-going legal and institutional reforms be maintained in compliance with requirements of UNCAC; that UNODC and UNDP be requested to provide legal advice in the on-going drafting process of the anti-corruption legislation; and that UNODC and UNDP consider providing comprehensive legal and technical assistance to support Myanmar in the process of ratification and implementation of UNCAC.

The relevance of the UNCAC to the GoM's efforts to improve integrity is clear through the repeated references to it in recent parliamentary debate surrounding the Anti-Corruption Law. However, even a cursory read through the UNCAC will reveal that, despite Myanmar's ratification of the UNCAC, it has not yet put most of its principles and guidance into effective practice.

Source: OECD (2014) Open Government Review Myanmar, p (53).

The ACC was originally established on 25 February 2014 in accordance with the Anti-Corruption Law enacted on 7 August 2013. The 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.

Formation	2013 Anti-Corruption Law in February 2014.
Composition	Consists of 15 members, five of these members are appointed by the President and five each by Speakers of Upper and Lower Houses of Parliament
Accountability	To the President and the Parliament

Budget	600 billion Kyat for 2019-2020 FY
Human Resources	Over 300 staff
Functions	Investigation and prevention
Jurisdiction	Public and Private sector, however, military and police are exempt from the jurisdiction according to the 2008 institution

Table 5.ACC's profile
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

Myanmar has a legal anti-corruption framework in place, however – and in spite of renewed efforts to curb corruption – enforcement remains inadequate (BTI 2016).

Laws	Description
The Penal Code, 1861	Chapter XI relates to Offences By Or Relating To Public Servants, which outlines basic anti-corruption laws punishable with a fine and/or up to 3 years imprisonment.
The Suppression of Corruption Act, 1948	This law allows the court to presume an accused guilty of corruption if he owns or owned assets beyond his income where the accused

	cannot prove his lawful ownership of such assets. This further defines four kinds of offences: receiving bribes habitually; obtaining habitually without or with inadequate consideration from a person concerned in a proceeding; taking valuable things or pecuniary advantage by abuse of position; and fraud or breach of trust on public property. Serious corruption cases would be prosecuted under this law due to more severe punishments from 3 to 7 years imprisonment with fines, but requires obtaining prior sanction from a relevant appointing authority.
The Election Law, 2010	Under sections 57 and 58, outlines punishment for vote-

	buying and vote-selling of up to 1 year and/or fines of up to 100,000KS.
The Defence Services Act, 1959	Sections 51 and 66 outlines punishments for theft of government property and bribery of between 7 and 10 years imprisonment.
The Myanmar Police Force Maintenance of Discipline Law, 1995	Section 17 outlines punishment for demanding or accepting cash in a corrupt manner with punishment of up to 3 years imprisonment.
The Law Taking Action against the Ownership or Sale of Property obtained by Illegal Means, 1986	Authorises the government to confiscate assets gained by illegal means, from illegal business, or bought with money that has evaded taxes.
The Commercial Tax Law, 1990	Section 23 prohibits the giving or taking of bribes, whether it be actual, attempted or abetted, with punishment of 3 to 7

	years imprisonment.
The Forest Law, 1992	Section 46 outlines punishment for giving or receiving bribes of between 1 and 7 years imprisonment.
The Narcotic Drugs and Psychotropic Substances Law, 1993	Outlines punishment of authorised drug enforcement officials for requesting or accepting bribes or narcotic gifts with punishments of up to 10-year imprisonment.
The Fire Services Law, 1997	Outlines punishment for fire brigade staff for acquiring property, gifts or money during an outbreak of fire, with imprisonment terms of up to 7 years and fines outlined as punishment.
The Control of Money Laundering Law, 2002	In line with the international convention of 2002, this law created reporting requirements to detect suspicious transactions, particularly by setting a threshold amount for

	reporting cash transactions by banks and real estate firms. Section 25(a) outlines that any member of an Investigation Body who demands or accepts money or property in investigating a money laundering offence shall be punished with a prison term of up to 7 years and is liable for a fine. Interestingly, this law has been amended 3 times in recent years to better counter money laundering: In 2004 to include 11 predicate offenses, including fraud, narcotics activities, human trafficking, arms trafficking, cyber-crime, and "offenses committed by acts of terrorism", among others; in 2006 to require banks, customs officials, and the legal

	and real estate sectors to file suspicious transaction reports (STRs) and impose severe penalties for non-compliance; and in 2007 to add further predicate offenses to comply with the Financial Action Task Force (FATF) recommendations.[21]
The Anti-Trafficking in Persons Law, 2004	In accordance to the international convention, section 30 outlines punishment for public officials that demand or accept money while carrying out investigations, prosecution or adjudication.
The Anti-corruption Law, 2013	The law has been a strong positive step in developing anti-corruption measures, and particularly improves Myanmar's eligibility for OGP status with the

[21] Marie Chêne (2012), Overview of corruption in Burma (Myanmar), U4 Expert Answer, U4 Anticorruption Resource Centre, 1 October 2012.

	introduction of a limited – non-public – asset declaration requisite for select government officials. This Law adds on the requirement in Section 68 of the 2008 Constitution for the President and Vice Presidents to non-publically disclose assets to the head of the Hluttaw. According to Section 4, the law aims to eradicate bribery as well as further improve integrity in government by requiring all officials in the executive, judicial and legislative branches of government to declare their assets [22] , and those found to be corrupt will be charged 15 years and fine for

[22] Nyein Nyein (2013) "Burma's Parliament Approves Anti-Corruption Bill", The Irrawaddy, 30 July 2013.

	those "political holders" found guilty of bribery (Section 55), 10 years imprisonment and fine for "authorized persons" committing bribery offences (Section 56), and 7 years imprisonment and fine for anyone found guilty of bribery (Section 57). The Hluttaw will form the Anti-Corruption committee under article 115 of the Constitution and will be tasked with overseeing the Anti-Corruption Law. The law will also require members of the anti-corruption commission to declare their assets.

Table 6.Laws containing provisions related to integrity and anti-corruption

Source: OECD Open Government Review Myanmar

The Anti-Corruption Law is the primary tool for prosecuting acts of corruption by public servants, government officials, and public office

holders. The Penal Code acts as an additional tool for certain specific instances of corruption, and contains a number of anti-corruption provisions relating to the conduct of public servants, prohibiting them from accepting or soliciting a benefit for the exercise or non-exercise of their duties, and relating to persons providing benefits to induce or reward others in the exercise of their electoral rights. The Penal Code and the Anti-Corruption Law cover most forms of bribery in the public sector, including active and passive bribery, extortion, attempted corruption and abuse of office (Conventus Law 2016). However separate definition of private corruption is not mentioned in those laws, only the definition of bribery contained in the Anti-Corruption Law could be read to include certain high level managers at state-owned enterprises and public-private partnerships; there is no practical evidence of this interpretation as of yet (Conventus Law 2016).

The 2013 Anti-Corruption Law requires all officials in the executive, judicial and legislative branches of the government to declare their assets (The Irrawaddy 2013), giving penalties for those who do not comply. Section 8 of the Anti-Corruption law specifies the persons to whom the asset declaration applies. In it, it states that asset declaration is applicable to "*the person who has authorizes by rank, decision and management as a civil servant, or civil servant who is in another country, or the person who is serving on political area, or high rank level person or the person who is*

in management level of civil organization or representative person." The Anti-corruption law also specifies the types of assets to disclose as "*money, property, responsibilities and authorities for notice from the department or organization*"; and that "*the person who is on the list for declaration need to send all of list to commission once in a year under the ownership of this person's family business, properties, responsibilities and to get authorizes*"; and has stipulations regarding inheritance (OECD 2014). Penalties for offenses include maximum imprisonment up to 15 years for persons who hold political power and a fine, ten years and a fine for civil servants, and seven years and a fine for all others (Conventus Law 2016). However, facilitation payments are not explicitly excluded, so they may be considered bribes (Conventus Law 2016). Therefore the 2013 Anti-Corruption Law gives a mandate to Myanmar's Anti-Corruption Commission to address graft and bribery.

Later the law was amended four times between 2014 and 2018- the first time on 23rd July 2014, the second time on 29th July 2016, the third time on 31st July 2017, and the fourth time on 21st June 2018. The first time to the third time amendments included the name of the law (it was originally called Anti-Bribery Law), the status, emolument and allowance for the chairman and members of the ACC, expressions related to membership and the age of members. The fourth time amendment included the definition of "corruption" with the result extending the prohibition of

corrupt acts to all persons—not just government officials. The amendment also gives the Anti-Corruption Commission to launch preliminary investigations without a formal complaint, such as indications of unusual wealth.

CHAPTER FOUR: Analysis of ACC and Results

The previous chapter provided the prerequisites factors for ACC to perform. This chapter will directly focus on the dimensions to analyse the internal and external factors affecting the performance of ACC. The discussion is based on the TI's anti-corruption agencies strengthening assessment framework.

4.1 Strong Political Will

The government of Myanmar has been consistently committed to governmental reforms with the aim of achieving good governance and clean government as Myanmar chart a path to political liberalization and economic growth following its 2010 transition (ISEAS 2019). On 9th August 2013, President U Thein Sein highlighted the need for openness, transparency and participation as *"Special emphasis should be placed on full implementation of people-centred development tasks for ensuring the transparency of government's administrative mechanism, effective implementation of people's voices and desires, fight against corruption and bribery, peace and tranquillity and regional development."*[23]

[23] President U Thein Sein speech at the meeting with Union ministers, region/state chief ministers, and deputy ministers. Nay Pyi Taw, 9 August 2013. *http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2013/08/11/id-2536*

Tackling corruption is also top priority of the government led by the National League for Democracy. The government has committed to make 'clean government' and a 'corruption-free society'. President U Wint Myint declared fighting corruption a top priority at his inauguration and his public meeting was with the Anti-Corruption Commission, in which he underscored the need for the Commission to take effective and clear-cut actions in accordance with the law regardless of name, position or social strata. Furthermore, in his speech to the Union on the first day of the Myanmar New Year (ME 1380), with regard to combatting corruption, he stated as "*if we were to show visible and tangible results you would see our successes to a certain extent in the area of preventing and combatting corruption, a chronic disease which has taken deep roots for many administrations. Our Union Government has been taking action against corruption in accordance with the law without favoring anyone with only the interest of the people and the country in our minds."*[24]

Again on the International Anti-Corruption Day celebration, he delivered a message as "*corruption has become deeply embedded like an accepted custom in most departments; and in taking more forceful actions to combat corruption, there was a need to undertake a reassessment to ensure that there was proper balance between rights and benefits and duties of public service personnel. This was to be done by each individual department by*

[24] TEACIRCLEOXFORD, June 5, 2019. https://teacircleoxford.com/2019/06/05/corruption-a-severe-chronic-disease-myanmar-has-to-fight/

taking responsibility. In addition to the Anti-Corruption Commission, the media and the people need to seek out and report truthfully"[25]

Moreover, within three days of assuming power, State Counsellor Daw Aung San Suu Kyi issued the 'President's Office Guidelines on Accepting Gifts' which ban civil servants from accepting gifts from anyone that would seek to benefit from the civil servant's position. Beyond the political symbol, the guidelines signal the growing recognition by the GoM that corruption is an impediment to state-building, sustainable development, social cohesion and ultimately peace. Anti-corruption and the strengthening of integrity have been since guiding principles of the Government of Myanmar policy framework.

Later in 2016, the Office of the State Counsellor established an online complaints system open to the general public, to raise corruption related issues to the State Counsellor, Daw Aung San Suu Kyi, herself.[26]

4.2 Legal Independence and Status

The 2013 Anti-Corruption Law allowed the ACC to act only in response to formal complaints filed with strong supporting evidence and gave it no power to launch its own investigation. ACC was criticized for being a paper tiger in tackling graft and the doubts continued to grow with the previous term ACC having little to show in catching the big fish as well

[25] Message of Greetings sent by President U Win Myint to the International Anti-Corruption Day celebrations, Nay Pyi Taw, 9 December 2018. https://www.president-office.gov.mm/en/?q=briefing-room/messages/2018/12/07/id-9156
[26] https://jobs.undp.org/cj_view_job.cfm?cur_job_id=79862

as noticeably absent in large scandals. Under the 4th Amendment to the Anti-Corruption Law, enacted on June 21, 2018, enables the ACC to regard indications of unusual wealth or give the authority to determine that a person has a general reputation of being corrupt, and initiate investigations, based on prima facie evidence that they have committed a corrupt act. It also has power to examine the record of banks and financial institutions, issue an order to banks and financial institutions to allow the seizure of evidence if necessary, issue a prohibitory order not to transfer, conceal, and disguise the accounts and money, confiscation the money and property with the recommendation of preliminary scrutiny body as well as give rewards and protection to the witnesses.[27] Since the definition of corruption has also been changed by replacing the word "bribery" to "corruption" under the last amendment, with very significant result extending the prohibition of corrupt acts to all persons—not just government officials, and the ACC is also empowered to order private organizations to establish codes of business ethics and anti-bribery and corruption policies. The Directorate of Investment and Companies Administration (DICA) issued a notification drawing companies to an announcement from the ACC defining the fundamental principles for businesses on prevention of corruption; requiring companies to set up mechanisms for employees to report suspected corrupt practices.

[27] Myo Khaing Swe (2014), Anti-Corruption Efforts in Myanmar

Albeit the amendment was clearly a step forward, it still fails to include provisions for the protection of whistleblowers, or who testify as witnesses in the ACC's investigations. The absence of protection for witnesses and whistleblowers may deter people from reporting incidences of corruption, and may thus lower the chances of the ACC detecting corruption. Although the penalty has been reduced from five years to three years with the latest amendment, the complaints risk counter-suits for defamation in a court system still deters whistleblowers from reporting. Troels Vester, UNODC Myanmar country manager, highlighted that the legal framework needs to change to cover whistleblower protection. Besides, there is still no criminal liability for offering bribes in Myanmar law, or regulations on political donations (Conventus Law 2016). Moreover, ACC has no jurisdiction over the military according to the 2008 Constitution.

4.3 Financial and Human Resources of ACC

Since the political commitment is reflected in budget allocation and recruitment, the Ministry of Finance allocated around six billion kyats for 2019-2020 fiscal year for ACC which is higher than the previous year (Eleven 2019). The ACC currently has 300 staff and also seek to recruit more of 25 deputy investigators, 30 assistant investigators and deputy investigators by meritocratic system (Myanmar Times).

4.4 Detection and Investigation

According to the ACC report, a significant rise of complaint received can be seen as shown in the Table IV.

Year	No. of Complaints Received
2019 (January to September)	7473
2018	10543
2017	2014
2016	710
2015	983
2014	968

Table 7.Yearly complaints received
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

ACC reported that it received total of 8083 complaints, with 7473 complaints between January to September 2019 and with the remaining complaints of 610 from 2018 which are still in investigation. Out of the total cases, the ACC has been scrutinized 6887 cases (85.2%), and 1196 cases (over 14.8%) are still under scrutiny. The status of tackling the complaints is shown in Table VII.

No.	Categories	2019 January to September
1	Corruption complaints	64
2	Misconduct of administration	1326
3	Land administration	623
4	Judgment	1052

5	Misconduct of personal management	3228
6	Retreat of complaints	15
7	General	579
8	Under scrutiny	1196
	Total	8083

Table 8.Total Complaints Received
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

According to the report, the ACC has only investigated 64 cases of the 8083 complaints lodged in 2019, with another 199 cases at the stage of pre-investigation. 997 cases were transferred to concerned Union ministries, Union-level agencies, and regional or state governments for action in accordance with the code of conduct for civil servants. Out of the other complaints ACC judged that 3725 cases were not related to the Anti-Corruption Law but provided suggestions to complainants. For the remaining 1902 complaints, the ACC took no further action because: the complaints are still on trial or lack of important evidence, or the grievances occurred before the law was enacted. Therefore, according to the official statistics, the ACC directly addressed only 263 complaints (investigation and pre-investigation), only 3% of the total complaints received.

No.	**Title**	**Total No.**		
			Complaints	**Percentage**
1	Finished scrutinized		6887	85.2%
	-Investigated	64		
	-Pre-investigation	199		
	-Transferred to relevant government bodies	997		
	-Complaints provided with Suggestion	3725		

	-Not relating to the Anti-Corruption Law	1902		
2	Under Scrutiny		1196	14.8%
	Total		8083	

Table 9.Category of complaints lodge
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

4.5 Public Trust

Since the beginning of the transition to democracy, the GOM has initiated campaigns to institute good governance and clean government, resulting in some of the first crackdown and firings for corrupt practices. Publicly taking action against senior figures for corruption is sending a strong signal to others that old habits need to change. The President U Thein Sein's remark at the meeting with Union Minister as "*the government has had to retire and transfer some senior government officials including Union ministers, deputy ministers and directors-general and take other actions against them due to poor performance, lack of transparency, lack of responsibility and accountability in dealing with the public, noncompliance with rules and regulations and corruption by some government departments and regional administration bodies over the past 30 months* […]"[28]

The NLD government came into office by winning the landslide votes in 2015 general election with the promise of clean government by State

[28] President U Thein Sein speech at the meeting with Union ministers, region/state chief ministers, and deputy ministers. Nay Pyi Taw, 9 August 2013. *http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2013/08/11/id-2536*

Counsellor Daw Aung San Suu Kyi. Moreover, the ACC has been perceived as lacking resources, legal teeth, and political will to address its focus of corruption consequently and also the previous ACC Chair failed to prove commendable performance of the Commission being result in reconstitution of the Commission into 12 members group and also appointed the new Chair.

The eminent economist U Myint once mentioned that "*more high-level public servants, or "big fish", needed to be caught for the people to have confidence in the ACC*" (Frontier Myanamar). After the fourth amendment of the Anti-Corruption Law, notable successes in tackling graft have been seen since it was impossible to arrest big fish with the previous law. The very first prominent scenario was the resignation of Planning and Finance Minister in 2018, after the Anti-Corruption Commission revealed he was being investigated for bribery.

Box 5 A round of applause for the Anti-Corruption Commission

In September 2018, the ACC began catching big fish; a month-long investigation resulted in the arrest of the chief legal officer of Yangon Region, a district court judge and four others, over allegations involving the payment of bribes totaling K72 million to have murder charges withdrawn against three suspects accused of beating to death a celebrity comedian on New Year's Eve 2017.

The trial continues of former Yangon Advocate General U Han Htoo, judge U Aung Kyi from Yangon Eastern District Court, Yangon Eastern District law officer U Ko Ko Lay and deputy law officer Daw Thit Thit Khin, Police Lieutenant Chit Ko Ko from Thuwunna police station and Yangon Region law officer U Thein Zaw.

In mid-March, the ACC announced charges of corruption and bribery against Tanintharyi Region Chief Minister Daw Lei Lei Maw, a member of the NLD, and three directors of Global Grand Services Co.

The allegations against Lei Lei Maw, the first chief minister to be charged with corruption since the NLD took office, include that she sold a two-storey house valued at about K32 million to Global Grand Services for K200 million, in return for awarding the company construction contracts in the region.

The biggest case investigated by the ACC so far involves five senior officials of the Directorate of Water Resources and Improvement of River Systems who are alleged to have misappropriated K537 million since 2014.

Source: Frontier Myanmar, 3rd May 2019.

The number of cases taken action against the senior level officials is significantly high during 2018 and 2019, and the flood of complaints filed to the ACC is a testament to the peoples' expectation as shown in the Table IX.

No.	Rank	2014	2015	2016	2017	2018	2019
1.	Political Post	_	_	_	_	1	1
2.	Senior Official	_	1	_	_	9	2
3.	Official	4	_	4	8	13	16
4.	Staff	1	1	7	8	17	34
5.	Civil servant	1	2	1	12	6	1
6.	External	_	_	_	_	_	12
Total		**6**	**4**	**12**	**28**	**46**	**66**

Table 10.Status of Yearly Prosecution
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

According to the USAID survey in the country, people have positive opinion about ACC that the Commission is doing well in combatting the corruption.

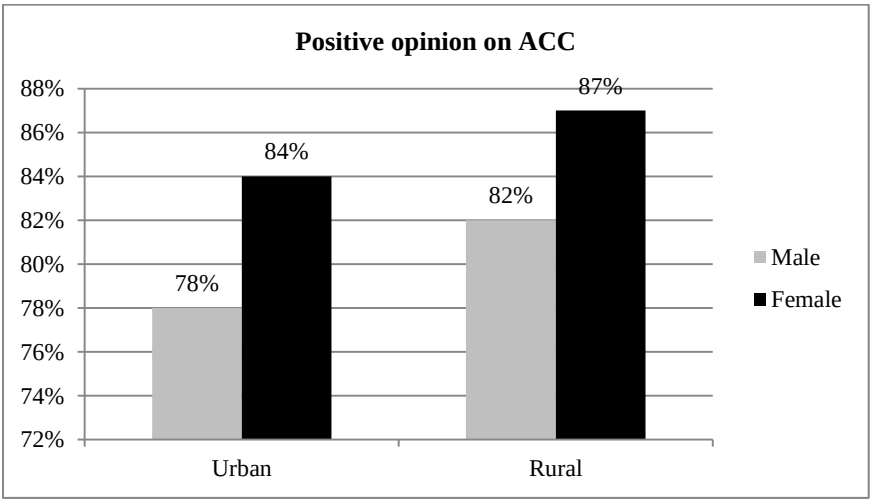

Figure 4 Corruption perception by gender and region
Source: Anti-corruption Commission, http://www.accm.gov.mm/acc/

4.6 Prevention, Education and Outreach

The most important action to combat corruption which has been deeply rooted in the country is to change the mind-set of the citizens. With the

aim of cleaning up the bureaucracy, the president approved the creation of Corruption Prevention Units (CPUs) as a pilot project within government departments. Therefore, thirty seven CPUs have been established in the ministries that have drawn the most complaints from the public such as Home Affairs, Office of the Union Government, Agriculture, Livestock and Irrigation, Transport and Communications, Natural Resources and Environmental Conservation, Electricity and Energy, Labour, Immigration and Population, Commerce, Education, Health and Sports, Planning and Finance, Hotels and Tourism, Construction, and the Union Attorney General's Office. The administrative departments in the ministries have to operate CPUs to tackle the internal corruption cases. Those Corruption Prevention Units must reveal the corruption problems inside the ministries. CPUs' most important task is to conduct corruption risk assessments in order to find the causes of corruption and devise appropriate control measures. If a problem is revealed, the head of department has authority to resolve it through the Civil Servants Law. States and Regional Chief Ministers also have the authority to take administrative action according to that law. The World Bank also gives technical support for a mobile service delivery feedback monitoring system which is designed to collect citizens' feedback on the public service and to detect whether there were any corruptions involved in receiving the public services. This will make the huge obstacle to the public servants to demand the bribes.

Furthermore the ACC and the Ministry of Education (MoE) jointly launched the "Primary Level and the Secondary Level Teacher's guidebook" for integrity and anti-corruption with the help of UNODC by making the Thai curricula on integrity and anti-corruption available in Myanmar language. To change the public morale, MoE has regularly updated its academic curriculum under the overarching framework of the National Education Strategic Plan (NESP) for 2016-2021. To further respond to current domestic dynamics, the MoE successfully cooperated with the ACC in holding the first Myanmar Youth Integrity Camp in June 2019. Supported by UNODC, the Youth camp gathered 130 young anti-corruption future leaders, teachers and students from 10 universities and aimed at raising awareness on corruption threats, increasing youth's involvement in the anti-corruption struggle, and promoting ethos of leadership and integrity. Besides, in cooperation with the UNODC, anti-corruption measures will focus on advocacy and educating campaigns with the support and social organizations and media.

4.7 Cooperation with other Organizations

To boost the country's anti-corruption initiatives, further cooperation with international organizations has also been carrying out. OECD conducted the civil service sector of Myanmar as; many government institutions have vague or out-dated mandates; the capacity of public officials is need to be upgraded; institutions are hindered by lengthy

administrative procedures; managers often lack sufficient authority to taken action; and institutions have insufficient IT infrastructures and public officials lack the IT knowledge to employ the available IT tools (OECD 2014). Therefore the corruption remains rampant in the country due to the civil servants' self-interest and resistance to change. Currently UNDP is working with the Union Civil Service Board (UCSB) to increase government capacity to promote ethics and integrity in the civil service, as well as to promote equality and equal opportunities in the civil service. The UCSB launched a Strategic Action Plan for Civil Service Reform (CSR) in 2017 which sets out efforts to enhance integrity in the public service and promote in a more effective manner transparency and accountability in the service and towards the public.

Myanmar's cooperation with EITI is also another major step for promoting transparency. In 2016, Myanmar launched a first report containing publicly available data on revenues in the extractive industries (World Bank 2016b). EITI Board concludes that Myanmar has made progress in EITI implementation by introducing policy reforms, improving transparency in extractives data, stimulating robust public debate and creating a platform for dialogue among stakeholders. EITI Chair Helen Clark said, "*Myanmar is a unique example of a formerly opaque regime opening its doors and committing to greater transparency. The Government's 12-point economic policy emphasises the strategic role of*

the EITI in the reform process, specifically in natural resource governance. The Government's intention to ensure sound governance of its natural resource sector is signalled in this policy framework and in a reform agenda that puts emphasis on transparency."[29] However Myanmar still need to improve public disclosures, particularly related to license allocation, gemstone production data and state-owned enterprises (SOEs). The report contains many gaps, and there is still little data on the jade industry or the activities of military-linked companies. Nonetheless, the fact that Myanmar has actually published a report on extractive industry revenues is still considered a milestone (World Bank 2016b).

The ACC is also cooperating with international anti-corruption agencies to seek the technical assistance in combating the corruption. ACC has signed a Memorandum of Understanding (MoU) with the Anti-Corruption and Civil Rights Commission (ACRC) of Korea on 30 May 2018. ACRC has developed the "Corruption Risk Assessment" (CRA) that discovers and eliminates corruption risk factors from the phase of drawing up a bill since 2006. Under the Korea-Myanmar Anti-Corruption Cooperation MOU, ACRC and ACC will exchange information to prevent and tackle corruption, to develop integrity education materials, and strengthen cooperation and promotional activities in areas requiring

[29] EITI: *Myanmar Moving Towards Greater Transpaency*, https://eiti.org/news/myanmar-moving-towards-greater-transparency

cooperation.[30] Myanmar has also signed MoUs with Laos' State Inspection and Anti-corruption Authority- SIAA, Thailand's National Anti-corruption Commission as well as with the Central Steering Committee for Anti-corruption of Vietnam.

Moreover Myanmar underwent the second cycle of review of the implementation of the United Nations Convention against Corruption (UNCAC) conducted by governmental experts from the Republic of Iraq and Republic of Uzbekistan with the support of UNODC. The review covers preventive measures (Chapter II of the UNCAC) and asset recovery (Chapter V); looked at existing legal institutional framework and overall effectiveness of current measures.

ACC also coordinate with UNODC and UNDP to devise the National Anti-corruption Strategy and related implementation plan to help positioning the ACC as coordination body for a broad range of law enforcement and prevention of corruption activities. The strategy includes the development of a prevention unit of ACC as well as a series of legal and institutional reforms covering issues such as whistleblower and witnesses' protection, corruption complaints mechanisms, asset declarations for public officials, investigative tools, and the freezing and seizing of proceeds of crime.

[30] ACRC: *ACRC signed Korea-Myanmar MoU on anti-corruption Cooperation*, http://www.acrc.go.kr

4.8 Summary

To analyse the internal and external factors affecting the ACC, the assessment table is presented below according to the TI's assessment framework containing fifty indicators, divided between seven specific dimensions. Each indicator has been assigned one of three possible levels –high, moderate and low. To level each indicator, specific sources of information is substantiated such as Anti-Corruption Law, interviews with ACC Commissioner and its senior officials and legal experts, ACC's website as well as press released by the President Office and local medias.

No.	Indicators	Level
ACC's Independence and legal status		
1.	ACC's legal independence	High level of legal independence
2.	ACC's mandate	High level of mandate with focus on investigation, education and prevention
3.	ACC's legal power	High level of legal power due to extensive powers (arrest and search of arrested persons; examining suspect's bank accounts, safe-deposit boxes, income tax records and property; search and entry of premises, etc.)
4.	Appointment of ACC's commissioner	Low level of independence and legal status due to the appointment decision is made by President/ Prime Minister/ Head of State

5.	ACC Commissioner's term of office and removal	High level of legal status due to fixed term with tenure (difficult to remove Commissioners without cause, e.g. incompetence or proven misconduct)
6.	ACC's operational autonomy and impartiality	Medium level because of (some political interference) criticized by the local news agencies
7.	Government's reliance on ACC to use corruption as weapon against political opponents	Medium level because of the evidence of limited use of ACC by government as a weapon against political opponents (an incident in the previous term of ACC)
Overall level: ACC's legal independence and legal status is high.		
ACC's financial and human resources		
1.	Average proportion ACC's budget to total government budget for past 3 years	Low level due to below 0.10% (No figure available but budget below 0.10%of the government Budget)
2.	Sufficiency for ACC's budget for performing its functions	Low level due to inadequate and relies on funding by donor agencies
3.	Security and stability of ACC budget during past 3 years	Moderate level as ACA budget has not been reduced during past 3 years
4.	ACC's personal salary and benefits	Low level due to low salary and limited benefits
5.	ACC's selection criteria for Personnel	High level due to meritocratic and transparent procedures
6.	Expertise of ACC personnel in corruption investigation	Low level due to lacking expertise in many areas
7.	Expertise of ACC personnel in corruption prevention and education	Low level due to lacking expertise in many areas
8.	Training of ACC's personnel	High level due to well-trained personnel with many

		training opportunities
9.	Stability of ACC's personnel	High level due to low turnover and resignation rate (0% to 5% per year)
Overall level: ACC's financial and human resources are in medium rank.		
ACC's detection and investigation function		
1.	ACC's accessibility to corruption, including public and whistle-blowers during past 3 years	Low level because ACA is inaccessible as reflected in low proportion of corruption complaints received relative to population and perceived level of corruption, and no. of signed complaints
2.	ACC's responsiveness to corruption complaints during past 3 years	Low level because ACA is not responsive as reflected in the low proportion of corruption complaints investigated and investigation cases completed during past 3 years
3.	ACC's willingness to initiate corruption investigations during past 3 years	Low level due to low number of corruption investigations initiated by ACA before the amendment of the law
4.	Average number of cases investigated by ACC personnel during past 3 years	Low level due to low number of cases investigated during past 3 Years
5.	Efficiency and professionalism of corruption cases investigated by ACC during past 3 years	High level due to efficient and professional investigation of corruption cases get high score
6.	Average conviction rate of corruption cases investigated by ACC personnel during past 3 years	Low level due to below 50%
7.	ACC's investigation of influential persons for corruption without fear or favour during past 3 years	Medium level due to some evidence of investigation of influential persons for corruption

8.	ACC's role in restitution, asset recovery, freezing and confiscation during past 3 years	High level due to very active role by ACA
9.	Does ACC identify gender in compiling corruption complaints and monitoring corruption trends?	Low level due to the ACA does not collect gender sensitive demographic information
Overall level: ACC's detection and investigation function is low.		
ACC's prevention, education and outreach function		
1.	Average proportion of ACA's operating expenditure allocated to public outreach and prevention during past 3 years	Low level due to below 0.5% of ACA's operating expenditure due to reliance on donors
2.	ACA's corruption prevention initiatives during past 3 years	High level due to many corruption prevention initiatives (average of 3 or more per year)
3.	Number of reviews of organizational procedures conducted by ACA to prevent corruption during past 3 years	High level due to many reviews were conducted
4.	Frequency of including corruption prevention recommendations in ACA's investigation reports during past 3 years	Medium level (reports in sometimes)
5.	ACA's plan for outreach and education and its implementation	Medium level due to the plan for outreach and education exists but not implemented fully
6.	ACA's collaboration with other stakeholders in outreach and education activities	High level due to high degree of collaboration with three or more joint projects
7.	ACA's research and exploration of corruption risks, context and conditions	Medium level due to some degree of research to support its prevention functions and its outreach and education plan
8.	ACA's dissemination of corruption prevention information and use of campaigns	High level due to extensive dissemination of corruption prevention and reliance on campaigns

9.	ACA's use of its website and social media for disseminating information on corruption prevention	Medium level due to limited use of its website and social media to spread corruption prevention information
Overall level: ACC's prevention, education and outreach function is moderate.		
ACC's operation with other organizations		
1.	Support provided by attorney-general's office to ACA for prosecution of corruption cases	High level of support as reflected in absence of interference and average prosecution rate of above 75%
2.	Cooperation between ACA and other integrity agencies including other ACAs if there are multiple ACAs in country	High degree of cooperation between ACAs or between ACA and other integrity agencies
3.	Cooperation between ACA and other organizations including CSOs and private companies	Medium level due to limited cooperation between ACA and other organizations
4.	ACA's participation in international networks	High level due to very active with ACA participating in 3 or more networks
5.	ACA's cooperation with ACAs in other countries	Medium level due to limited cooperation in some areas with one or two ACAs in other countries
Overall level: ACC's operation with other organizations is relatively high.		
ACC's accountability and oversight		
1.	Information provided in and accessibility of ACA's annual report and website	Low level because ACC submits annual report to government but is not available to the public
2.	ACA's oversight mechanisms	Medium level due to oversight committees with members of parliament and senior civil servants as members

3.	ACA's procedure for dealing with complaints against ACA personnel	Medium level due to complaints against ACA personnel are investigated by its internal control unit but results of investigation and punishment imposed are publicized
4.	Proportion of ACA personnel disciplined or dismissed for misconduct in past 3 years	Medium level due to some valid complaints against ACA personnel result in punishment and punishment imposed is publicized
Overall level: ACC's accountability and oversight is in medium rank.		
Public perceptions of ACC's performance		
1.	Public confidence that government has given ACA the required powers and resources for curbing corruption	Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders and journalists
2.	Public confidence in ACA's adherence to due process, impartiality, and fairness in using its powers	Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders and journalists
3.	Confidence in ACA's adherence to due process, impartiality, and fairness in using its powers among persons who had direct contact with ACA	Moderate level of confidence as reflected in views of ACA senior personnel, CSO leaders and journalists
4.	Public confidence in ACA's dignified and respectful treatment of persons under investigation during interrogations	Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders and journalists
5.	Public perception of ACA's effectiveness in corruption control	Moderate level of confidence as reflected in views of ACA senior personnel, CSO leaders and journalists
6.	Perception of ACA's effectiveness in corruption control among persons with direct contact with ACA	Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders

		and journalists
7.	Perception of ACA's effectiveness in dealing with complaints among female citizens who had direct contact with ACA	Low level of effectiveness as reflected in survey finding (below 50%) and views of CSO leaders and journalists
Overall level: Public perceptions of ACC's performance is moderate.		

Table 11.ACC's performance: dimensions, indicators and range of scores

SWOT Analysis	
Strengths - High legal independence and legal status - Strong political support	**Weaknesses** - need more expertise in prevention, education, detection and investigation - need more accountability and openness in terms of budget and report to the public
Opportunity - UN agencies aid in promoting rule of law, conducting nationwide surveys as well as giving technical supports - Positive attitude from the public to the Commission's performance	**Threats** - Strong political support mainly depend on the ruling party - need more resources in terms of financial and human resources

Table 12. SWOT analysis of ACC

CHAPTER FIVE: Conclusion

This chapter discusses the summary of key findings regarding the dimensions as presented in the previous chapter as well as suggesting some recommendation for ACC to be more effective and efficient in its performances. And finally provide recommendation for the future study of the Myanmar's anti-corruption movements and developments.

5.1 Summary of Key Findings

From the study, several fundamental findings are found for the ACC to be more effective and efficient as well as challenges to face ahead. Regarding the policy context, everything that happens in Myanmar is related to politics (GCB 2017). Regardless of the unfavourable policy context of Myanmar due to the arm-conflicts, weak rule of law and weak institutions, the establishment of ACC means a lot for the government commitment to foster its path to the democracy. The 2015 general elections in Myanmar have not only opened the way for democratization but also highlighted the call of the people to enhance transparency and fight corruption. Myanmar has made steady improvements across most governance indicators in recent years. It is undeniable that country's GDP is growing rapidly due to the governmental reform; opening up more to the international community and international business confidence has returned. It is also notable that Myanmar's CPI index ranking has displayed improvements between these years, moving up 15 places;

improved more than any country in the period between 2012 and 2018, increasing its score by 14 points. Moreover, according to the Asia Barometer Survey (2016), 47 per cent of respondents believed that corruption had decreased to some extent in the previous 12 months. Therefore it can be said that favourable environment for ACC to perform its functions are gradually happening in the political context which had been the challenge for ACC before.

For ACC's effectiveness, which is backed by the relevant initiatives to curb corruption in many respects; leading to the improvement of the legal and institutional anti-corruption framework. ACC gets full political support from the leaders and also has full legal strength to combat corruption which is the life blood for the ACC's performance effectiveness. Moreover, a significant rise of complaint received is the obvious evidence for the public trust on the ACC's detection and investigation performance; 10,543 complaints were filed in 2018 which is five times higher than 2017 and more than in any previous year. Establishment of CPUs and collecting SMS feedback is also the cornerstone of ACC's prevention function which may restore the credibility of civil servants as well as the public's trust in the government's public service delivery. The major short coming is the inadequate protection of whistleblower and still ACC has to depend on donors' initiatives and proper resources for the strengthening of the institution. To sum up, acquiring more legal independence and status as

well as gaining more public trust and enhancing the public awareness comparing with the previous two years vividly depicted the increased effectiveness of ACC.

5.2 Recommendation

It is undeniable that Myanmar's anti-corruption battles has just started or just scratch the surface of the problem. To combat the endemic corruption, time and resource intensive systemic reforms should carry on. Besides, ACC should extend efforts to cover the political corruption since there are still no criminal liability for offering bribes and no effective regulations on political donations. Next for further effectiveness of ACC, coordination with the private sector especially with the main domestic economic players is important to tackle the corruption prevention and fraud as well as to combat grand corruption. Moreover, ACC should conduct detailed measures for risk assessment to effectively identify and evaluate exposure to corruption as well as make periodic review and evaluation of anti-corruption prevention measures.

5.3 Conclusion and Suggestions

Since GoM is dedicated to raise the status in the World Bank index for good management in combatting corruption, more governmental reforms are needed to be implemented. Fiscal decentralization can restrain the corruption level in the region; greater transparency of the budget process will generate a better understanding and knowledge of how government

resources are being used, thereby promoting greater accountability and, in turn, restricting opportunities for corruption. Another fact is that by improving decision-making processes, more transparent procurement processes and reducing requirements for unnecessary permits can reduce the opportunities for corruption. It is notable of the USAID (2006) recommendation that corruption can be found at all levels of government-from the central to the regional to the local levels, preventive and control programs at the central level may have only limited reach and effectiveness down to the lower levels of government. Therefore initiatives are typically required with a greater push toward decentralization strategies; from the top-down and from the bottom-up simultaneously. According to the ADB-OECD anti-corruption template for Asia-Pacific countries, GoM's anti-corruption efforts should fared with respect to the developing effective and transparent systems for public service, strengthening anti-bribery actions and promoting integrity in business operations and supporting active public involvement.

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Appendix: Interview Questions

1. What are the significance advancements of ACCM when compare to the previous government period?

2. Can ACCM commissioner and his officers operate independently without political interference?

3. Has the ACCM investigated political leaders, senior civil servants and prominent citizens without fear or favour if they are accused of corruption?

4. Does the government provide the ACCM with consistent funding and continuous political support to enable it to achieve concrete results?

5. Does ACCM have significant personnel to perform investigation, prevention and education effectively?

6. How many times does ACCM have been making recommendations to prevent corruption in investigation reports?

7. Is the ACCM's annual report, which is submitted to Parliament, published on its websites to ensure that it is accessible to the public?

8. Does ACCM cooperate with other governmental agencies and private sector agencies/ with other ACAs in the region in sharing information and providing assistance in cross-border arrest of corruption offenders?

9. How many complaints are made by the public against the ACCM's personnel per year and how many personnel are found guilty and punished?

국문초록

미얀마 반부패 위원회의 효과성과 도전

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본 연구논문은 미얀마 부패방지위원회(ACC)의 효과성과 도전에 대한 사례연구다. 비록 부패방지위원회는 최근에 신설된 위원회임에도 불구하고, 본 위원회는 정부 개혁과 함께 어느정도 가시적인 효과를 가지고 왔다. 본 연구는 국제 투명성 반부패 기관의 강화된 평가 체계에 관한 ACC 의 효과성 정도에 초점을 두고 있다. 이 체계를 기반으로 ACC 의 장점, 약점 기회 그리고 위협을 분석한다. 따라서 본 연구는 최종적으로 국가의 부패방지 노력을 어떻게 강화할 것인지에 대한 몇 가지 주요 조사 결과와 제안으로 결론을 내렸다.

주제어: 부패, 반부패, 부패방지 위원회
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