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New Institutional Economics and the Economic Reforms of Myanmar between 2011 and 2015

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Abstract

This study is based upon research conducted amongst companies in Yangon in February 2015. The thesis sets out by exploring the development of Myanmar both politically and economically, focusing on the independent era. Using New Institutional Economics, the study then aims to test the ideas of institutional influence and importance against the results of the field study. It finds that looking at the institutions and their development holds significant explanatory value for the current situation in Myanmar. However, the concept struggles with differentiation between actors: some of the informal institutional effects this study has found affected local companies much more gravely than international actors. The most important lessons learned from this study are the importance of the state in the economy in Myanmar and the importance of informal institutions, such as relationships, in an environment of weak formal institutions. The study also concludes that Myanmar has to be classified as a Basic LAO for the time being, however, it finds signals that it is on the way to becoming a Mature LAO.

Diese Studie basiert auf Daten die während einem Forschungsaufenthalt in Yangon im Februar 2015 gesammelt wurden. Nachdem sie zunächst die politische und ökonomische Entwicklung des unabhängigen Myanmars analysiert, nutzt sie dann das Konzept der Neuen Institutionellen Ökonomie um die Ergebnisse der Studie zu interpretieren. Das Konzept kann einen großen Teil der Ergebnisse der Studie erklären, allerdings erklärt es nicht, weshalb einige informelle Institutionen, die während der Studie gefunden wurden, Akteure unterschiedlich beeinflussen. Zu den wichtigsten Erkenntnissen der Studie zählen die Bedeutung des Staates in der Wirtschaft in Myanmar, sowie die Bedeutung informeller Institutionen, wie Beziehungen, in einem Umfeld schwacher formeller Institutionen. Die Studie findet außerdem, dass Myanmar als LAO einzustufen ist, sie findet jedoch auch Anzeichen für eine Entwicklung in Richtung einer gereiften LAO.

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List of Abbreviations

ADB	Asian Development Bank
BIT	Bilateral Investment Treaty
BSPP	Burma Socialist Program Party
CIL	Citizen Investment Law
DICA	Directorate of Investment and Company Administration
FIL	Foreign Investment Law
GOM	Government of Myanmar
LAO	Limited Access Order
MIC	Myanmar Investment Commission
MIL	Myanmar Investment Law
NIE	New Institutional Economics
NLD	National League for Democracy
OAO	Open Access Order
RC	Revolutionary Council
SLORC	State Law and Order Restoration Council
SME	Small and Medium Enterprises
SOE	State-owned Enterprise
SPDC	Sate Peace and Development Council
USDP	Union Solidarity and Development Party

1. Introduction

1.1. Research Purpose

Since the 2010 elections, Myanmar has been undergoing a “multiple transition” with major changes to, first and foremost, the political system, which is to changing from a military dictatorship towards a democracy and has already taken major steps on the way. In September 2015 the first major elections were won by the opposition party and in March 2016 the power has been transferred to the new President Htin Kyaw peacefully. Additionally, the country has made major changes to almost every other aspect of public life, such as civil society and economic rules.

The political reforms have reintroduced the country to the international community. Sanctions, which were in place by the European Union and the United States have since been eased or discontinued. In an attempt to “capture” or attract as much foreign investment as possible the Government of Myanmar (GOM) has made a number of reforms to its economy. Most notably the investment laws have been changed, the fixed exchange rate was abolished and the central bank has become more independent.

While every aspect of the transition in progress begs for detailed analysis, this work will focus on the implications recent developments have on the work of companies active in Myanmar, both local and foreign. The research is focused on companies operating out of Yangon, the economic capital of the country, and will shed a light on changes in their work and the constraints they face today. The results will be interpreted using the framework of New Institutional Economics. Additionally, the data will be tested for differences in the situations of local and foreign companies.

Since Myanmar has seen frequent changes in its political regimes during the 20th century, relevant laws are a patchwork form different eras. The government and parliament are currently working on reforms and new laws in order to create a modern legal framework, while balancing development opportunities in the country with investment incentives for foreign companies. These factors create a highly volatile environment for companies, who have to adapt to changes frequently.

1.2. Definitions

As with most topics, there are a few disputed terms and concepts involved in this thesis. To clarify the use of the terms used in this text, they will be explained here. The possibly most important terms to clarify is the name of the country in question. In 1989 the then ruling military regime changed the official name of the country to "Republic of the Union of Myanmar", the reasons for which will be discussed in chapter 3.

Within this thesis the name "Burma" will be used for the colonial and independent country until 1988, when the regime changed the name. The SLORC, SPDC and contemporary country is referred to as Myanmar. It should be mentioned that during the interviews both parties used the term "Myanmar", the choice of words by interview partners in this matter should therefore not be overestimated.

1.3. Thesis Structure

This thesis is divided into five main parts. After the introductory chapter, the Methodology used in this research will be discussed, focusing on the intricacies of qualitative data as well as the field research process and the and methodology behind the analysis of the gathered data. In chapter three the thesis will focus on the country of Myanmar, discussing its history as well as the setup of economic institutions in the country and how they came into existence. It will also describe the economic situation in Myanmar and discuss of the changes the country has gone through in recent years. Thus, after providing the foundation this research is based upon, the thesis then turns to the results of the data gathered in the field. This chapter will be divided into three parts: results which were relevant to all interview partners, results which were relevant only to local companies and results which were found only with international companies.

Chapter five will turn towards the theoretic backdrop of this thesis, beginning with the concept of New Institutional Economics, exploring the assumptions and premises and how the theory relates to the work of companies, as well as the criticism of NIE. This chapter will also explore a different approach to institutions which focuses on the role of informal institutions. In chapter six the results discussed in chapter four will be combined with the framework of New Institutional Economics. This chapter will explore the explanatory value of NIE for the results gathered in the research project while also discussing the limitations the theory faces in this context. Chapter seven will provide an overview of the most important arguments of the thesis as well as some closing thoughts on the research question.

2. Methodology

The following chapter will look at the research process, starting with the preparation of research questions, the chosen methodology and the relevance of the topic. Furthermore, a theoretic approach to qualitative research and Interviews will be discussed, as well as the implementation of the research. The conducting of the interviews and the process of analysis. The implications of the current situation in Myanmar and how it changed the research will be discussed in the next paragraph.

2.1. Research Design

The original research interest for work was sparked by the ongoing negotiations for a Bilateral Investment Treaties (BIT) and Free Trade between the European Union and Myanmar. Myanmar has already signed such contracts or Free Trade Agreements containing Investment clauses with other countries, most notably Japan, South Korea and Israel (UNCTAD 2015). However, with the multitude of topics and issues that are currently happening in Myanmar it quickly materialized that the specific advantages and disadvantages of these contracts were not something companies were preoccupying themselves with. While some were aware of the ongoing negotiations, the general opinion was that time would tell if there would be significant changes, other matters seemed more pressing. To account for the local situation the research focus shifted towards the economic transition of the country and the changes already implemented through the laws passed in the recent years.

In view of the situation in Myanmar and the sparse amount of data available, this work is designed as an explorative study using qualitative research, especially guided interviews with people directly affected by the economic changes. The interview partners have a range of different backgrounds including local companies, foreign companies, the financial sector and a business networking organization. These different actors have different views on the changes happening in the country, because they are affected by them in different ways. Especially their relation to the changes in economic institutions in Myanmar, both formal and informal is at the heart of this research.

In the preparation of this study, the following questions, which Jennifer Mason postulated, were instrumental in narrowing down an interest to a research approach: (Mason, 2002: 13)

1. What is the nature of the phenomena, or entities, or social 'reality', which I wish to investigate?

This question deals with the very core of research itself and the ontological approach by the researcher. In asking what the nature of the phenomenon one wishes to investigate is, the researcher has to decide what he considers "observable" and which approaches are fit to explain reality (ibid. 16). It is especially important to notice that different answers to this question may result in fundamentally different results, and approaches might not be complementary, the answers provided by different approaches may contradict each other. For this research the nature of the data are the experiences of the people involved, their narratives and stories. Additionally, the laws and formal institutions of Myanmar will be taken into account. This means that the experiences individuals have made in Myanmar are central to this research, which also means that the opinions given in the interviews may contradict what one might expect or even what others have said. This approach is supposed to facilitate a better understanding of the implications economic reforms have on the different actors involved.

2. What might represent knowledge or evidence of the entities or social 'reality' that I wish to investigate?

This question is concerned with the epistemology of the research, in other words "What is evidence, if it even exists, and how can it be gathered?" In any social context the existence of objective evidence or facts seems debatable. In this research the experiences and subjective opinions of the interviewees will be analyzed, additionally the laws passed by the Government of Myanmar will be discussed. Even though laws generally aim to be objective and clear in their intents and consequences, how they affect the people is subjectively experienced by them. This research therefore takes into account the subjective nature of any 'reality', as it is always a reality as it is perceived by an individual. In the analysis of this study at least two interpretations have taken place: The interpretation of the interviewee, and the interpretation of the given data by the researcher. These steps should be kept in mind in reading and interpreting this paper (for a third time).

3. What topic, or broad substantive area, is the research concerned with?

In light of the multiple transition taking place in Myanmar the topic has to be narrowed down further than said transition. Taking into account the focus on experience and the subjective interpretation of the reality by individuals as described on the previous questions, the broad topic of this research exploration of how companies are affected and how New Institutional Economics aim to explain them. Relevant phenomena in this context are the formal and informal institutions as regulated by the state of Myanmar as well as the opinions formed about these by the different actors.

4. What is the intellectual puzzle?

Mason understands an intellectual puzzle as the area and questions which are at the center of a research project. Examples include developmental puzzles (how did x become y), mechanical puzzles (how does x work) or comparative puzzles (comparing x to y). Arguably this research project is about a developmental puzzle as well as a mechanical puzzle. The development of economic institutions in Myanmar is important for this project as well as understanding how these work with their environment. Since the economic environment in Myanmar is shaped by its diverse history the developmental dimension has to be part of any attempt to analyze the situation. It would be possible to refer to this puzzle as a "transition puzzle" (how do changes made to x affect y).

5. What are my research questions?

Research questions condense the ideas about ontology, epistemology and broad research area down into more coherent sentences. Since these are fundamental to finding a direction and doing the research, their importance cannot be overestimated. As mentioned at the beginning of this chapter, the original research interest dealt with the impact of Free Trade Agreements and Bilateral Investment Treaties on Companies in Myanmar. Since this was not feasible the research question was changed to:

Which effects does the economic transition of Myanmar have on companies in the country, and how can they be explained through New Institutional Economics?

While this is a very broad question subsequent questions include:

- How do companies interact with economic institutions?
- Which of the changes since 2010 have been the most effect full, and which changes are companies “lobbying” for?
- Which experiences are important for the companies operating in Myanmar?

6. What is the purpose of my research? What am I doing it for?

For any research, especially social research is it extremely important to be aware of the purpose of the research. Qui bono?

With the history of Myanmar in mind it is important to ask oneself, who will benefit from research done in the country, and what kind of information may be published about the research process and the local partners. Understanding how the changes made in Myanmar impact businesses operating in Myanmar may benefit both locals looking to improve their situation as well as those making changes or lobbying for them. Additionally, understanding the impacts of a transition such as the one currently happening in Myanmar may help in shaping transitions in other situations and in other countries undergoing similar transformations. The information given about the research data will be carefully designed to protect the identity of participants so no negative effects may arise.

Keeping these points in mind, this research is designed to grant insights to the work of companies in Myanmar, especially in their relation to economic institutions. It reflects the subjectivity of the experiences people make in their lives, however, the implications of changes can best be assessed out of their personal experiences.

2.2. Qualitative Research

Qualitative research allows for a different look at real life phenomena than quantitative methods. In the case of Myanmar another reason is important: Myanmar has little to no reliable statistics available, the ones that are available have to be taken with a grain of salt, as even the government of Myanmar acknowledges. Quantitative research would therefore have to be based on data collected in the field. The scope of such a study would not only surpass the limits of this study but quantitative research would also not be able to deliver the depth of insights provided by a qualitative approach.

Qualitative research provides a more open approach to the topic, and is thus often closer to the individuals the research is centered on (Flick et al. 2012, 17). In the context of Myanmar an open approach to the reality of the people is especially important because little research has been done in the field. During the isolation of the country few researchers were allowed in the country, and while the opening has increased the research done, many fields still require much more attention. Furthermore, the research topic in question, the impact on those affected by the changes to economic institutions is something that is hard to quantify. It is important to notice, that qualitative research is open to discover new things during the research, even in contexts which thought to be clear (Ibid. 17), which is very fitting for this research proposal, as the transition in Myanmar still holds many surprises.

Furthermore, Flick describes 12 points which are significant in qualitative research. These are (Ibid. 22 ff.):

1. the multitude of methods, of which the most appropriate has to be chosen for any given research topic
2. the strong correlation between question and method, similarly to the first point, this concerns the range of methods at the disposal of a qualitative researcher and the research design
3. Qualitative research focuses the everyday life and knowledge of affected people
4. Qualitative research has to contextualize, meaning gathered data has to be interpreted taking the context into account
5. Different perspectives are being taken into account

6. The researcher has to think reflexively about his own position and his perceptions of the field
7. The core idea of qualitative research is to deepen understanding of complex correlations rather than the isolation of single cause and effect relationships, it is focused of understanding perspectives
8. Questions are formulated in an open way, the whole research process is open in terms of expected results
9. Qualitative research often starts with understanding single cases before moving to broader terms by generalizing or comparing cases
10. Reality is subjectively constructed, by the researched subjects as well as through the research itself
11. Qualitative research is mostly a text based approach, data is processed as text, e.g. through transliterated interviews
12. Qualitative research is focused on discovery, rather than confirmation

These points capture the essence of qualitative research quite well. It is focused on the everyday life, taking into account their subjective nature and aims to comprehend perspectives on reality.

In the last two chapters, the ideas of both Flick and Mason concerning qualitative research have been established and linked to this research project. Qualitative research focuses on the subjective realities of people and analyses their everyday knowledge with the aim of furthering understanding rather than strict cause and effect relationships. Looking at the situation in Myanmar, this approach is a good approach to gathering meaningful data in the field.

2.3. Interviews, Data Sources

As mentioned before, and as suggested by the theoretic approaches to qualitative research, interviews were chosen to gather the data for this study. The following chapter will look at the method of interviews, its advantages and disadvantages, the preparation and the guiding questions used in the interviews.

Interviews have been described by Burgess as "conversations with a purpose" (Mason 2002, 62), which captures the heart of the matter very well. There are a number of factors which are present in every Interview, which will be discussed here. Mason argues, that every Interview features interaction and dialogue, either between two or more people, mostly in an informal style, as opposed to fixed questions and answers to choose from. The "conversations with a purpose" usually have a strong topic centered approach, where the researcher has a number of topics in mind rather than prefixed questions. The interview itself is fluid, giving both parties the option to react to the conversation. Finally, it is important to account for the context of the knowledge and make it a part of the interview itself. Being aware of the subjective nature of the data gathered in interviews, the researcher can account for this (Ibid., 62).

In the appendix the interview guideline for the first interview conducted in Myanmar has been provided. While it was mentioned earlier, that qualitative interviews do not follow a strict path, preparation of topics and issues to connect to is important in order to keep the flow of the conversation going.

The introduction is made with a question relating to the personal background of the interview partner, giving an easy entrance to the conversation as well as some context of personal experiences of the interview partner. The focus then shifts towards the company the interview partner is working for, before shifting towards the topics at the heart of the research. Because the first interview partner was a foreigner in Myanmar working for a local company which was only recently founded and growing strongly, investment and capital are a big topic, as well as changes in laws and regulations, and the competition between local and international companies. Finally, the interview partner has the choice to make final remarks or recommend other interview partners, which he thinks relevant to the research.

While each interview was prepared separately, the general setup of topics and the structure of the interviews remained largely the same. With every interview additional topics came up which would be discussed in the next interview, as topics became clearer. The level of preparation possible depended on the availability of data about the companies. Giving the interview partner the impression that they are talking to someone who is prepared for both the topic and the company often opened the way for a more open and cooperative interview.

2.4. Implementation

The field research for this project was conducted during February of 2015. In the context of a research seminar a group of 6 students and the professor travelled to Myanmar to conduct research for four weeks. As each student had separate research questions the group split up eventually. The research for this project was conducted in Yangon, the biggest city of the country and the economic capital. As the economic center of Myanmar, Yangon sees the highest amount of economic changes in the country, most companies are based in or around the town and relevant political actors such as the Myanmar Investment Commission (MIC) or the Directorate for Investment and Company Administration (DICA) have their offices here. In order to find interview partners several different attempts were made, including meetings with networking organizations such as the French Chamber of Commerce and Industry in Myanmar, the German embassy or local lawyers, which were mostly organized by the professor in advance. Additional to contacts generated through these meetings own research turned up additional interview possibilities.

Generally, there were a few different ways to make contact with potential research partners. The most frequently used was contacting companies via email or phone calls. However, the weak infrastructure both in terms of internet access and phone coverage made this approach very time consuming. Many of the contacted companies did not respond, however those that did proofed very useful sources.

Another attempt was to make contact directly by visiting the companies at their offices. While being a somewhat unorthodox method of making contact it did provide a way into one of the big corporations of the country. A third way was the referral by others, either through contacts gained at meetings organized by others or through referral during interviews. Finding interview partners proved quite difficult, as it seemed that most companies or individuals were hesitant to answer requests from unknown sources, be it because of lack of time, interest or uncertainty how it might benefit themselves. However, some interviews yielded additional suggestions or contacts for new interviews.

All interview partners were asked for permission to record the interview, which all of them allowed. The companies and interview partners are anonymized for the analysis, so no sensitive information or opinions given may come to their disadvantage.

The interviews were transliterated by the interviewers, and will be analyzed using qualitative content analysis.

For this project 8 interviews were conducted that proved relevant to the research:

Table 1: Interviews conducted for this study

	Company type	***Sector / Interview partner***
Interview 1	Local business	Property Developer
Interview 2	Local conglomerate	Diversified, Business developer
Interview 3	Local business	Technology, CEO
Interview 4	International business platform	Networking, CEO
Interview 5	Local Business	Finance, CEO
Interview 6	Foreign company	Consumer goods, General Manager
Interview 7	International Joint Venture	CEO
Interview 8	Social business	Store manager

Local businesses all had their headquarters in Yangon, the international businesses or joint venture partners were from countries of the European Union.

2.5. Qualitative Content Analysis

The concept of qualitative content analysis originates in the academic field of communication studies. It is a technique which aims to facilitate the analysis of large quantities of text, an original example would have been newspaper articles. However, in its original form, the content analysis was a quantitative approach, which aimed at determining the frequency of certain topics, words or formal criteria, or, in more complex scenarios, the connection of certain topics through quantifiable means. However, for the interpretation of the data gained through this system no rules were in place, which eventually led to criticism. Especially the limitation to quantifiable subjects and the omission of latent underlying causes of the approach and the innovation of the concept.

The qualitative content analysis aims to improve on this by defining rules for the analysis of data, to facilitate a more objective analysis of interpretative texts. For this three main techniques have been put forward (Mayring 2010, 602):

1. Aggregation aims to reduce texts to its essential contents, to reach key statements of the data. Categories are created inductively.
2. Explication aims to clarify unclear passages by providing context to the respective statements
3. Structuring aims to show connections between text passages using previously defined categories, which are used to structure the material.

Qualitative content analysis tries to provide a foundation on which the interpretation of qualitative analysis is verifiable and reproducible. In the context of qualitative and quantitative research methods, qualitative content analysis can be seen to take a middle ground approach, because the categorization of data can make it, in certain situations, quantifiable.

To achieve this, the data is fitted into a communication model, which focuses the circumstances and context of the data such as the socio-cultural background of the speaker, the context of the conversation and such. In the process of analysis rules are generated before going through the material, according to which the data analysis is conducted. These rules are adapted throughout a series of loops in the process, which makes sure that the rules and categories are appropriate for the data. The categories are central to qualitative content analysis. They bear similarity to the codes of Grounded-Theory, however they have to be defined clearly and are assigned to text passages according to the rules set forth. It is in essence a circular system, which hinges on the categories and their definition, which are created from scratch for every research project. These categories must then, as any new tool in academic research should, be tested. In the analysis of text, this can be done on the research material itself. Ideally, the allocation of text passages to categories is then redone by another researcher, to prove that the allocation is reliable across different interpreters.

The steps of research conducted with qualitative content analysis are shown in the following figure:

Step 1: Specification and theoretic explanation of the question

Step 2: Choice and characterization of material

Step 3: Fitting into communication model, choice of direction of analysis

Step 4: Choice of analysis units

Step 5: Determination of category definitions

Step 6: Determination of level of abstraction

Step 7: Start of grounded creation of categories

Step 8: Revision of category system, Intracodecheck

Step 9: Final work through material

Step 10: Intercoder reliability check

Step 11: Qualitative and quantitative analysis of categories

Figure 1: Procedure model of qualitative content analysis using grounded category creation (Adapted from Mayring 2010, 605)

While this figure gives an overview of the research process, each of these steps may consist of further steps, which will not be discussed in as much detail here.

While widely successful and in use in social sciences, qualitative content analysis has been criticized in the past. Especially the use of fixed, and with a grounded approach prepared categories has been considered as subsuming data by Ulrich Oevermann. However, this disregards the circular nature of the method, which designs categories that fit the data to the largest extend possible. Other voices have criticized the method as one dimensional in showing subjective interpretations rather than facts and statements. However, this seems to miss, that the allocation of text passages to categories actually takes the context and meaning into account, something other methods of text interpretation often lack (Ibid. 610).

On the other hand, Florian Kohlbacher has summarized the strengths of the method as follows (Kohlbacher 2006):

- Openness and ability to deal with complexity
- Theory guided analysis,
- Integration of context,
- Integration of different material/evidence
- Integration of quantitative steps of analysis.

This makes it a method with great potential in analyzing textual sources, especially in an environment of uncertainty and unfamiliarity, which is certainly true for the interviews analyzed in this thesis. Of the three approaches described earlier in this chapter, this thesis the first one was utilized in the thesis. The categories were derived from the data of the interviews, and in multiple circles the categories were reduced and harmonized to the ones that will be discussed in chapter 4 and analyzed in a theoretic framework in chapter 5.

2.6. Challenges and Shortcomings

While all efforts were made to ensure the quality of the data and other sources used in this study, there are some limitations which should be kept in mind while reading the thesis. First of all, the companies which participated in the interviews of this study are located in Yangon, which, while being the major economic hub of Myanmar, is not indicative of the situation in the rest of the country, possibly even contradictory to it. As one of the interviewees put it:

> "Almost everything is captured by Yangon. Because then you get out of Yangon and you barely have any infrastructure, the road network is catastrophic, what they call a highway is uh, is a road that can barely have 2 buses crossing each other." (Interview 1, 6)

Additionally, the quality of public data in Myanmar often leaves much to be desired. General statistics such as GDP, GDP growth, population and so on should therefore be seen as an indicative size. The limited time available in the country also limited the number of interviews that could be conducted and the companies that were contacted. While the sample of companies which took part in the study should not be considered representative of all companies in Myanmar, they are diverse enough to show some differentiation between them, especially along the, for this study, most important criteria, their country of origin.

3. Myanmar

3.1. The Country of Myanmar and its History

This chapter will give an introduction into the country and its history. While Myanmar has a long history of civilizations, kingdoms and culture, the focus will be on the history after its independence because the events of this era have the biggest effect on the situation in Myanmar today.

For anyone interested in the country one of the first questions that arises is what to call the country. There are two commonly known names: "Burma" and "Myanmar". Myanmar, or "*Mranma*" as it was originally spelled in the Burmese language, is commonly regarded as the name given to the country by its military leadership in 1989. However, the name is much older and was used by the inhabitants of the country as early as the twelfths century. In Burmese it is an adjective, the term for the country would be "Myanmar pyi", "pyi" meaning country. (Aung-Thwin, Aung-Thwin, 2013, 7). Burma on the other hand might have been derived from the Burmese word *"Barma"* during the colonial time, it is a foreign term, much like "Rangoon" for Yangon. Today choosing which name to use for the country has a political meaning. Some argue that Myanmar is the name chosen by a military dictatorship, using Burma instead is a form of protest.

Today, Myanmar (Republic of the Union of Myanmar) has 51 million inhabitants, according to a recent census (Federal Foreign Office of Germany, 2016). The country has five neighboring countries (Bangladesh, India, China, Laos and Thailand), and a 2800km coastline along the Bay of Bengal and the Andaman Sea (see Figure 1). Geographically, the most prominent feature of the country is the Ayerwaddy (Irrawaddy) river system, which stretches over 2000km into a vast delta in Myanmar's southwest. The delta region is the most fertile of the country, while much of the central land is rather dry. The northern part stretches into the Himalaya, the highest mountain of the country is the Hakakabo Razi at 5881 meters. In the far south east the Myeik Archipelago has over 800 islands, of which most are not open to visitors. (World atlas 2015).

The countries inhabitants are split between a number of different ethnics. The biggest group are the Barma, which make up about two thirds of the population. Their native language is Burmese, and they mostly populate the central parts of the country. Other significant ethnic group include the Chin, Kachin, Karenni, Karen, Mon, Rakhine and the Shan. Each of these seven ethnic minorities have a state named after their group, the remainder of the country, which is mostly inhabited by Barma, is divided into seven regions (Oxford Burma Alliance 2016).

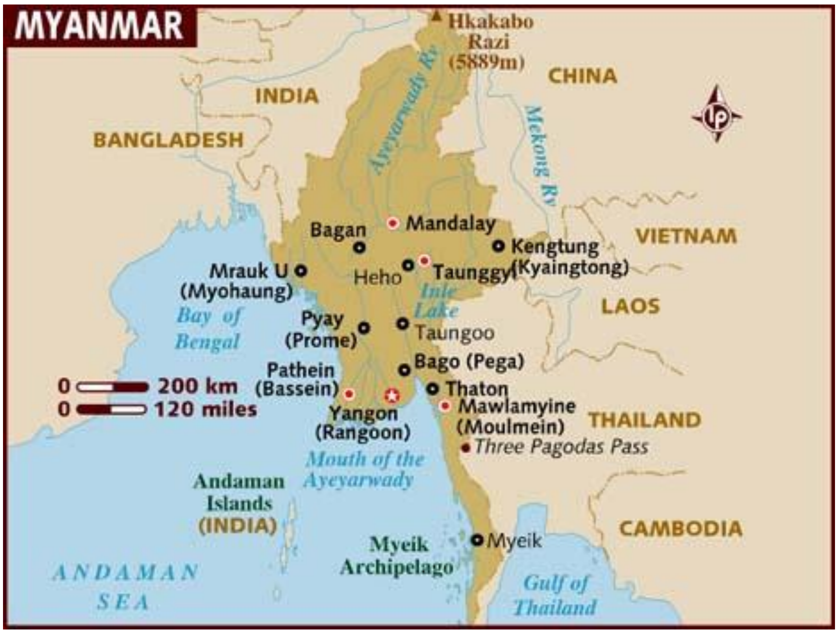

Figure 2: Map of Myanmar (Lonely planet, 2015)

3.1.1. Pre-colonial and Colonial Myanmar

Myanmar has a long and rich history of culture and kingdoms, which flourished until the country was colonized in the 19th century. In the 11th century the first country of Myanmar was founded in Bagan. It lasted until Bagan was conquered by the Mongols in 1287 (BBC 2015). The entire country was first united in 1531 with help of the Portuguese. In the first Anglo-Burmese war between 1824 and 1826 the British gained control of a first part of the country. In 1852 Britain gained control of lower Burma and in 1885 they gained control of the entire country by conquering Mandalay. Until 1937 Myanmar was ruled as a part of British India, only in 1937 it was declared a colony of its own, and Burmese people were increasingly involved in the governing of the country. During the Second World War the country changed hands from the British to the Japanese and back. Calls for independence of the country started to gain prominence during the 1920s already, yet they came to no avail at the time. During the Second World War, a group of men known as the "thirty comrades" first emigrated to Japan to receive military training. They were promised independence for the country once it was liberated from the British and subsequently fought alongside the Japanese during their invasion of the colony. However, it soon became clear that things did not improve for the Burmese people under Japanese rule, so the group negotiated with the British and helped them to retake the country from the Japanese. Aung San, the leader of the "thirty comrades" is the national independence hero. In January of 1947 Burma gained independence from Britain. Led by Aung San and his colleagues the new government went to work on a constitution and establishing the country. However, his efforts were short lived, as he and several other members of his cabinet were killed in July 1947. One of his comrades, U Nu took up the mantle and on January 4th 1948 the country was finally an independent state (Godrej 2008). From a political point of view, the time between 1937 and 1947 can be viewed as a single process, because for the entire time Burma was officially self-governed. Even though the de facto control of the country changed hands between being a British colony and Japanese control, it was able to experiment with different forms of government (Charney 2009, 46).

The history of the Burmese economy is of course as long as the history of the country itself. The economic system of the Burmese monarchy in Mandalay was organized around far-reaching privileges for the monarch, and a largely agricultural based economy. Revenues for the state were largely taken from the production of rice, as the rulers took yields which exceeded the necessities of the populace and stored it. Trading rights lay with the crown and the notion of private profits was not central to their economic system. Subsequently this was a major point of conflict between the British Empire and the Burmese monarchy. (Bissinger 2015, 72) In the late stages of the Burmese monarchy some industries began to develop, Tin Maung Maung Than found, however, these developments came to nothing as the British Empire took over power in 1885.

Bissinger argues that, in the following time of colonial rule, the basics of market supporting institutions were laid out. However, this was not in the interest of fostering a local economy but to extract resources from the newly acquired colony (Bissinger 2015, 71). While the previous center of the country, both politically and economically, had been Mandalay, the colonial center became Rangoon (now Yangon). Its position was more favorable to trade, especially with India. Myanmar was not controlled from London as much as from Calcutta, as it was considered a part of the Indian colony by the British Empire. Originally the economic institutions installed by the colonial power were designed to increase economic activity. They provided law and order and introduced the concepts of the rule of law, law-making legislature and an independent, law interpreting judiciary. These concepts had very little in common with the traditional economic system of the Burmese (Furnivall 1957, 73). After establishing a very limited state in the early years of colonial rule, the government subsequently increased in size and, while mostly invisible to the local population until at least 1900, by the 1920s it had increased to a point at which it touched almost every aspect of everyday life. Additionally, the colonial powers now openly opposed the previous institutions and started to establish new governance systems, for example on township level. Subsequently, the role of traditional dispute settlement faltered, causing criminality to rise. By the end of the colonial era, Rangoon had the highest murder rate in the entire British Empire (Bissinger 2015, 74-75).

One of the major economic changes brought about during the colonial time was the drastic increase in rice production. During the Burmese monarchy rice was mostly produced for home requirements, with surplus being taken by the monarchy. This changed drastically during the colonial era, as the colony became the biggest rice exporter of the world. Cultivated land increased by about 15 times by 1922 compared to 1852. There was a major population, shift from upper Burma towards lower Burma, where most of the newly cultivated land was. While rice cultivation was not without risks for the population as disease and price speculation could cause fluctuating income, scholars have shown that rice cultivating was the most profitable amongst all options for many people. The incentives given by the institutions and the government made it attractive: Those engaged in rice cultivation received advantages such as free passage and tax breaks (Ibid. 75). Additionally, after a few initial years it was comparatively easy to buy the land of the authorities. While, during the early years of the rice-rush, land was plentiful and labor was sought after (hence the migration), this eventually changed to the opposite. As rice prices collapsed in the 1930s many rice farmers were highly in debt, and subsequently dispossessed by their creditors, many of whom were Indian money lenders (Ibid. 76).

While increasing the rice production, there were no attempts to develop local industries in Burma. In fact, the industrial part of the colony's economy was so weak that almost everything necessary for the daily life had to be imported, mostly from India. The industry that did remain or develop was concerned with the resources present in the country. They revolved around rice or lumber processing as well as a few oil refineries, and some machine plants which produced for local railway and shipping operations (Khin Maung Kyi et al. 2000, 62). This extractive system was catered to the business interest of both English companies and Indian companies and did not support the local population (Tin Maung Maung Than 2007, 9). This is even further demonstrated by the fact, that especially India was treated preferentially in trade, as it enjoyed the right to import to Burma free of duty, while even other parts of the British Empire had to pay duties, and countries outside of the empire had to pay extremely high duties. This lead to a situation in which all major companies in the country were foreign owned. Oil concessions were owned almost exclusively by British companies and the same is true for most other industries (Ibid. 12). Arguably, the institutions in place at the time did not regulate the access to economic opportunity very well, as the evidence shows that foreign companies dominated with ease, and especially British and Indian companies received preferential treatment. Brown argues, that while the government did see its role as creating an environment which did not favor any particular side, an even playing field amongst advantaged (large foreign companies) and disadvantaged (local businessmen) was not a fair contest (Brown 2013, 19).

The institutions put in place during the colonial era were meant to support a market system, however their application seems to have been only partly successful. While generally, the country was included into the market system of the British Empire, the benefactors were almost solely foreign, especially British and Indian. The treatment of Indian companies and business men in Burma even led to a large migration from India to Burma, were the immigrants were treated with higher status than the local population. Skilled labor and management in the few industrial companies was mostly staffed with Indians, who later returned to live in India. Amongst other things, this led to dissatisfaction with the apparent exploitation of the country to the benefit of others, a sentiment which remained relevant in the country for a long time to come. The institutions that were established did not matter to the people of Myanmar, as they rarely got to use them. Since they were largely separated from the economic proceedings of the country, the institutions were frequented by English and Indian entrepreneurs rather than Burmese ones. Since these new institutions were also at odds with the previous ones, the result was corruption and inefficiency (Furnivall 1957, o). Some of the material gains made during the colonial era, such as improved infrastructure with a functioning railroad and waterway transport system were lost towards the end of the era in the Second World War. While the financial sector did develop, and foreign banks settled in Rangoon, these did not extent credit to farmers, and dealt almost exclusively with the foreign companies. Credit in the agricultural sector was almost exclusively given by Indian Chettiar-Moneylenders, who charged much higher interest rates and accumulated huge amounts of land during the 1930s depression.

Bissinger argues, that the institutions established during the colonial era let to economic growth which had previously been unknown to the country. He does concede that the distribution of the gains was very one-sided towards foreign companies, yet the overall growth was positive and introduced the market system to Myanmar (Bissinger 2015, 86-87). However, the extraction of resources to the benefit of foreign investors hardly fits the idea of a level playing field, especially in light of the advantages given to foreign businesses by formal institutions in the colony. Transaction costs clearly preferred a certain clientele, and incentives to grow businesses against the bigger and favored competition, especially from India seem small, suggesting shortcomings in the institutional setup during the colonial era.

During the Second World War, both the British while retreating from the Japanese and the Japanese retreating from the returning British forces employed a scorched earth tactic which left the country devastated after the war. The administration after the war was occupied with the rebuilding of the country, however the situation remained much worse than before the destruction. Additional to the destruction during the war, investors were weary of possible implications of the impending independence and hesitated with investments into the country (Ibid. 90f). To help the population, some previously private sectors were taken over by the government, for example the national energy supply and the provision of credit to the agricultural sector, as well as the processing and exporting of rice (Furnivall 1960, 20). When the country became independent in January 1948 and British rule ended, Burma faced great challenges.

3.1.2. Independence and Parliamentary Era

During the following 10 years a parliamentary democracy was in place, however, conflict riddled the young country. There was widespread discontent amongst the ethnic and political groups and in the country, which soon escalated to armed conflicts. The government placed religion, more specifically Buddhism in the center of his vision for the country, however, this course did not appeal to everyone. Especially communist groups resisted. (Charney 2009, 93).

Economically this time can be summarized under three aspects: Nationalization, Burmanization and Industrialization (Bissinger 2015, 91).

The experience of colonialism had left the Burmese with distrust against the previously practiced free market approach. It had become a synonym for the exploitation of the country. Thus, the government planned a more active role for the state in the economy. While the constitution did provide assurances regarding the protection of private property and against nationalization by the state, it did allow for expropriation in the interest of the public, against a compensation. Additionally, some sectors of the economy, most notably all forms of resource extraction, where reserved for the state to exploit, unless permission was granted otherwise. The increased presence of state-led enterprises led to competition between private and state-led companies, which put further strain on already scarce resources such as capital or skilled labor. The bad performance of state-led enterprises compared to the private sector led to a change of paradigm in the government by the mid-1950s. The nationalization of companies did have a significant drawback – along with the size of government and bureaucracy, corruption grew strongly during the parliamentary era (Bissinger 2015, 93-94).

Similarly inspired by the colonial experience, the Burmanization took place in both the bureaucracy and the economy. At the onset of independence, the bureaucracy experienced a huge exodus of personnel, as most of the top bureaucrats of the colonial administration left their positions. Different to India, which kept even foreign bureaucrats after independence until suitable replacements were found, Burma rapidly replaced all personnel. Added to this, the bureaucracy under the new, independent government had greater responsibility, as the increasing involvement of the government in economics brought new tasks with them (Ibid. 95). The policies used to further the Burmanization of the economy and private businesses were in some cases contra productive to the development of the economy. One policy was that 60% of import licenses were to be given to Burmese nationals. This rule however, was easily exploited, as the recipients resorted to selling the licenses on to foreigners, extorting a rent on the basis of being Burmese. Similarly, the requirements for local workers within companies despite the lack of skilled workers in the country limited possible growth. Lack of skilled labor was one of the major bottlenecks in the development of the economy after independence (Ibid. 95).

The last point, industrialization, was addressed by the government in 1954, when a list of 65 planned state-owned manufacturing industries was announced. While these were established soon after, their performance left much to be desired as they faced many of the problems already described above: Lack of skilled labor, problems in acquiring raw materials, as well as a lack of management arrangements (Ibid. 96). The advances of the national plan to industrialization had to be stopped rather soon as foreign exchange became limited in 1957. The private industrial sector on the other hand performed quite well in the same time period, in 1958 the World Bank stated its surprise at the size of the national industrial sector. When the military caretaker government took power between 1958 and 1960 two military companies started to grow, the Defense Services Institute and the Burma Economic Development Corporation. While they were dissolved in the 1960, they do have spiritual successors in the present (Ibid. 97).

The rapid changes to the institutions of the country after the independence showed in the parliamentary era. The increased focus on nationalization by the government shook the public believe in property rights, as did the nationalization of agricultural land. It has to be noted however, that by the end of the parliamentary era there were practically no landless laborers in the country, as the nationalized land had subsequently been distributed amongst the populace (Ibid. 92). The bureaucracy had lost most of its high-level representatives, and most of the foreign businesses which had previously used the market institutions in the country had left as well. Traditional institutions remained important on local levels, showing that the institutions established during the colonial era had not stuck with the people (who had hardly gotten to use them before independence) (Ibid. 97-98).

3.1.3. Military Rule and the Burmese Way to Socialism

In 1958 General Ne Win took over government to restore order, he purged communist followers and restored formal control over ethnic states. After U Nu won the following elections in 1960 Ne Win took power once more in 1962. He declared the country would now follow the "Burmese way to socialism" and the country was ruled by a military dictatorship under Ne Win for the following years. (Godrej 2008.) The country was closed off, opposition parties and the All Burma Students Union were banned. Burma transformed into a one party state, the economy was nationalized and independent newspapers were closed (BBC 2015). In 1974 the power was transferred to a people's assembly by a new constitution which was headed by General Ne Win. A one party structure under the Burma Socialist Program Party (BSPP) was established (Bissinger 2015, 99). In 1981 Ne Win handed the presidency to San Yu, however, he continued as the chairman of the socialist party.

The new government, which called itself the Revolutionary Council (RC), drafted many new economic laws, significantly changing the institutional environment in the country. Until 1974 50 economic laws were passed in the country. These included (Bissinger 2015, 101):

- The Enterprise Nationalization Law which was passed in 1963 announced the nationalization of major industries, it was consequently used to justify many additional nationalizations
- The People's Corporation Law, passed in the same year granted the government control over agriculture, commerce, industry and the distribution of goods and services
- The Tenancy Law, also from 1963 granted control over the rental rates for land, in 1965 it was amended to eliminate rents for land

- Also in 1963 Ne Win announced that the establishment of new private corporations would not be permitted.
- The Nationalization of Banking Business Ordinance No. 1 nationalized the 24 private banks active in the country
- In 1965 the Law to Invest Powers to Construct the Socialist Economy gave the government power over private businesses, including sales prices, and all costs attributed to economic activity, as well as to take action against offenders against this law.

Consequently, businesses were nationalized in many sectors, for example agricultural production, banking, industry, distribution, transportation, communications and trade and services. (Tin Maung Maung Than, 2007, 113). As a result, the share of production by the state-held business rose sharply in many sectors, such as the mining sector, where the share of state-held production rose from 1,5% to 85,6% between 1961/62 and 1973/74 (Ibid. 130). While agricultural production remained in the hands of the private sector, the government had a monopoly on the processing of food stuffs, especially rice. During this time, the private sector was driven to the outskirts of the economy, not only figuratively but also geographically, as Tin Maung Maun Than notes: "highland farmers, and peasants not wishing to participate in the state and co-operative sectors; individual livestock owners; producers of forest products for own use, small enterprises owned by nationals; building construction for own use; transport using animal-powered vehicles and mechanized services where the state is still unable to operate […]" (Ibid. 150) were the main components of the private sector in this era. The government-held companies were faced with many problems which are typical for production in a planned economy:

- Since costs and sales were prescribed the government there was no incentive to make operations more efficient or lower costs, since this would only decrease the allocation of resources by the government
- Production was determined by what was possible, not by what was necessary in the country, meaning shortages of necessary products while others were produced much more than necessary

- The financial dependency on the government left little room for autonomy of the companies. Profits could not be retained in the company, capital was provided
- Within the company there was little possibility for initiative either, as an example wages were set by the government
- The low compensation and lack of alternatives increased incentives for illicit activities such as selling on the black market or smuggling.

The market supporting institutions in the country, such as laws of property and contract, the legal system or the monetary and banking system, deteriorated under Ne Wins rule. This forced anyone wishing to conclude transactions to rely on informal networks, driving transactions costs up rapidly (Bissinger 2014, 242).

It is possible to create a direct link from the Burmese way to socialism, to the nationalization program during the parliamentary era to the economic regime established during the colonial era. At the time of independence, the local population was highly doubtful of the benefits of capitalism, as they were not included in the colonial economy and had been exploited by foreign interests. This led to an economic system which was driven by morality rather than a drive towards profits. The idea of private accumulation of profits was not common in the pre-colonial monarchy and the exploitation in the colonial era did not help to make the idea more appealing to the people. As the Revolutionary Council stated it was opposed to a system in which: "self-interest and self-seeking are the motivating forces" (Revolutionary Council 1962).

The new economic system revolved around state led decision making and the private sector ceased to exist in most areas. Long term investments no longer yielded returns (Bissinger 2014, 244). Market institutions suffered immensely. The wave of nationalizations eroded believe in property rights and contract enforcement. Contracts between government and business became a rare thing as the government felt the businesses contracts were awarded to used them to exploit their workers. Thus, the practice of contracting companies, for example for construction, was abandoned and the government contracted labor directly instead (Bissinger 2015, 106). Contract enforcement was similarly difficult as large parts of the private economy had been driven into illegality, were appealing to courts was not an option. The new system strongly focused informal and social institutions to facilitate business. To be economically successful connections were necessary, for example to the government, in order to capture government contracts, or to smuggle goods into the country (Bissinger 2014, 244). At the center of the socialist economy was the Central Security and Administrative Committee, which coordinated in economic, social and administrative matters. Additionally, the Ministry of National Planning organized the economy. The system was escalated to grant more control to the top officials in 1972, giving complete oversight and control to the central government (Ibid. 244).

The lack of success of strictly socialist approach had was quickly noticed, however it took until 1973 until changes to the approach were made. In 1973 the government revised its opinion on the private sector and private businesses. It announced a number of sectors in which investment and private enterprises would now be legal, hoping to infuse the economy with new life this way. The notification divided the manufacturing industries in different sectors, which mostly differed in their need of local and foreign resources. Private investment was allowed in manufacturing industries which relied upon local resources. On the other end of the scale there were industries which relied heavily on foreign inputs which were imported and distributed by government agencies. In these sectors investments needed approval by the government before private ownership was allowed. Overall, the new policy differentiated between 80 sectors of manufacturing industry, in 65 of which investment was possible. A number of other provisions aimed to improve the situation for private businesses at the time, for example the Rights or Private Enterprises Law of 1977 contained provisions against nationalization until 1994. However, the government was unsuccessful in convincing potential investors that the new approach would be more than a short lived change of opinion and investments did not meet the expectations of the plan (Bissinger 2015, 109-110). At the end of the socialist era in 1988, the private sector in Myanmar was just barely bigger than in 1962, and the number of big enterprises had reduced drastically. In 1987/88 there were only 13 private enterprises in the country which had more than 50 employees. It had taken until 1985 for the output levels of private enterprises to reach the levels of 1962.

The economic situation fostered corruption and smuggling in Myanmar. Illegal trade (hmaung-kho) accounted for a significant share of the GDP and employment during the socialist era. The control over the allocation of resources made smuggling very profitable. Smaller enterprises which did not have good, personal relations to the government had to acquire resources at international market level prices from the black market, while those who had, or could afford good relations were able to buy cheaper resources of the government. The profitability of smuggling was in part due to the risk of being caught, which made having someone on the inside of government to warn about crackdowns valuable. This practice, which favored the richer smugglers also led to monopolies on the black market.

Many of the illegal activities were consequences of ill-designed policies. The controlled exchange rate made official exports less profitable than illegal ones, subsidized fertilizer was commonly smuggled out of the country and sold at market price. However, the ruling elite did benefit from the system as well, as man items of everyday life could only be sourced through illegal markets. The low payment of officials and the possibility of harm to businesses by the government led to the establishment of relationships between the two sides in which government officials protected businesses against payment. Additionally, the bureaucracy was not able to monitor its members efficiently, as their number and tasks had grown rapidly under the socialist government. Therefore, the consequences for corruption were very limited. (Bissinger 2015, 113-114).

3.1.4. Military Rule and Market Liberalization

In 1988 widespread protest in the country, led by student unions, was violently suppressed, thousands of protesters were killed. The protests may have come as a surprise to the rest of the world, as the military government had mostly convinced the world that problems in the country stemmed from "ethnic polarization" and "foreign intervention" (Charney 2009, 148). In the wake of the protests, the State Law and Order Restoration Council (SLORC) took power in September of 1988, declared martial law and arrested and detained thousands of people. The leader of the opposition party, Aung San Suu Kyi, daughter of General Aung San, was put under house arrest. In the midst of all these changes the new leadership also adopted a new name for the country, which was now officially called "Republic of the Union of Myanmar". The communist party was dissolved in 1989, followed by elections in 1990. The National League for Democracy (NLD) won this election, however the SLORC ignored the results and remained in power. In 1992 Than Shwe stepped to the front of the SLORC, which was then replaced by the State Peace and Development Council (SPDC). In the same year the USA declared sanctions against Myanmar. (Charney 2009, x). In the 2000s the military government remained in power, and started to shift the capital of the country from Yangon to Nay Pi Taw. In 2003 the leadership announced a plan to transition the country to what it called a "disciplined democracy" (Bünte 2011, 6). While the international community remained skeptical the country pushed the plans forward with little regard for outside influences. In 2008 cyclone Nargis hit Myanmar hard, yet elections were held, even in some of the most affected areas. In 2010 general elections were held which hardly justify the name. The NLD boycotted it, and the spiritual successor to the military party won decisively. The results were generally considered fraud. However, in 2011 the country officially made the transition. Power has been transferred to a semi civilian government, which consisted of former militaries under the presidency of (former general) Thein Sein. (Riefel 2012)

The SLORC reintroduced the market economy formally, repealing the Law that had established the socialist economy in 1965 (Myat Thein 2004, 124). However, the socialist institutions remained in place. The state continued to play a major role in the economy, especially through state owned enterprises and economic controls in certain strategic areas. The market institutions which had been built during the parliamentary era had eroded during the RC and SBPP era, and while formally reintroducing market institutions, the government never fully committed to a market economy. The result was a mixture of state-controlled and open economy. The military government's economic agenda seemed irrational and arbitrary, leading to a volatile business environment, which made successful development unlikely (Bissinger 2014, 245). While there was some development in the country, the new companies usually remained limited to niches because the obstacles to grow were too big. Among the most important constraints, other than the economic agenda of the SLORC, were a lack of infrastructure, especially for electricity and transportation, financial barriers, lack of materials, lack of machinery and the lack of a skilled workforce (Ibid.). The uncertainty, produced through unforeseeable legislation and arbitrary enforcement of regulations, was a tool used to control the private sector. The general distrust against private businesses, which has been constant throughout the history of independent Myanmar, did not change in this period.

Some of the major changes to the economic policy in this time were the liberalization of international trade, which allowed the import of crops, and the passing of a Foreign Investment Law which opened the country to international investments for the first time since Ne Win took power in 1962. The new law also granted some benefits to investors, such as tax breaks for reinvestment or export, and exceptions from import duties for the first three years. The State-owned Economic Enterprise Law which was adopted in 1989 outlined the role SOEs were to play in the economy and confined them to resource and service sectors for the most part. However, there was no restriction on the forming of Joint-Ventures for these companies (Bissinger 2015, 116). It took until 1994 for the Citizens Investment Law to be passed, which granted many of the same rights given to foreign investors to national ones. Tin Maung Maung Than has compiled a list of the economic reforms between 1988 and 2003. In the 15 years 45 laws and announcements were made (Tin Maung Maung Than 2007, 356-357), most of which increased the operating space for private businesses, aimed at privatization or agricultural production. In 1990 the financial sector got a major overhaul with the Central Bank of Myanmar Law as well as the Financial Institutions of Myanmar Law, which allowed private banks to operate again. While the financial sector grew significantly the mediation between savings and lending was not fulfilled adequately (Bissinger 2015, 117). In their attempts to liberalize the economy there seemed to be some preference for sectors which were considered less profitable. The system shifted from socialist system to one of limited access to opportunities and an exclusive accumulation of wealth (Ibid.).

As previously mentioned, the government, despite officially pursuing a market economy, was trying to remain in control of the economy, especially of sectors which it deemed interesting, such as resources, import and export or distribution (Tin Maung Maung Than 2007, xiv). This was not the only continuity the SLORC had with the previous government. After taking power it implemented a number of plans, the early ones spanning one year, later extending the time horizon to 4 and 5 years. These plans were much like the ones of the plan economy, stating expected growth, prioritized sectors, output and trade volumes (Ibid. 364). The State-owned enterprises, while only moderately relevant to economic output (9,26% in 1997), played a major role in assuring state control. However, as many of them were operating at a deficit privatization of some of them became a topic in the mid-1990s. But the privatization attempts did not bear many fruits, due to a lack of interest from abroad and shortages of local capital (IMF 1999, 18).

The role of SOEs in creating economic distortions is a rather important. At the beginning of the SLORC era the SOEs were banned from taking on credit from private banks and instead relied on the state budget. Since this meant that there were no hard budget constraints, and the State-owned Economic Enterprise Law gave them monopolies over many important sectors, inefficiencies and corruption grew among the them (Bissinger 2015, 119).

Another source of economic distortions was the exchange rate regime, which gave a fixed rate, that was at times overvalued by a factor of as much as 200. As foreign currency became limited in supply, the government chose to ration it instead of liberalizing the exchange rate. This resulted in competition for access to foreign currency between government agencies, SOEs and private businesses, who were generally serviced in that order. The controls on in- and exports caused by the exchange rates also led to shortages of basic supplies and resources. In this environment business through personal contact and cronyism thrived. The limited access to resources and economic opportunities is something that can be found in the concept of the Limited Access Order, which will be discussed in more detail later in this thesis.

Throughout this period, policies changed quickly and often without apparent reason. This had a number of consequences: Transaction costs increased as organizations had to invest in gathering information and learning how to operate in the environment. The uncertainty of the policies and the institutions meant that there were very little incentives for long term investments in the country. Officials had relatively high discretion in their decision making, which made corruption and bribery easy.

The state of the judiciary system at this point can be one example of the market institutions at the time. During the socialist era they were practically irrelevant since private economic activity was largely forbidden, they ceased to exist as a market supporting institution. However, as private businesses were legalized again, the courts did not serve as a means of contract enforcement or dispute resolution, the traditional alternatives, which had revived during the socialist era, remained more important. Instead corruption was widespread at courts, some even stating it to be relevant in 50% of the judiciary system (Kyaw Min San 2012, 224). Additionally, the laws in place at this point were a patchwork of the three previous eras: colonial, parliamentary and socialist.

Other market institutions were similarly ill-equipped to support private businesses. In the financial sector the national bank was mostly used to bankroll the government and banks had very limited capacity. The bureaucracy was not able to fulfill regulatory tasks and was mostly used to grant licenses and permits. All these factors led to the fact that long term planning in a stable institutional environment was not possible (Tin Maung Maung Than 2007, 312).

All these developments from 1988 onwards led to some changes in the private sector. The total number of registered enterprises increased drastically between April 1991 and June 2005, from 4.873 to 39.133. However, they still faced competition from the SOEs and mostly remained small. The privileged position of the SOEs gave them advantages in international trade (exempt from duties) and capturing of international investments (more attractive to foreign investors). Since the government was still crucial in the allocation of resources, good relations to the government were essential to economic success.

While the economy was growing during SLORC/SPDC era, it was mostly due to the export of natural resources. The hierarchical military structure had spread to state institutions and the SOEs and fostered a culture of loyalty before performance. The lack of functioning market institutions caused businesses to invest in relationships with government officials, and economic opportunities were limited to a small circle who could bestow them upon their favored people (Bissinger 2015, 126-127).

3.2. Myanmar in Transition

This chapter will look at the political transition in Myanmar, while the changes to the economic system will be discussed in more detail in a following chapter. The process Myanmar underwent, the transition from a military dictatorship to a semi civilian, semi democratic government, was not expected by a lot of people. Even less expected was the course the Thein Sein government took once it was in power. (Rieffel 2012, 32).

The political transition Thein Sein implemented was set out by General Than Shwe in 2004. He outlined a seven step program towards a "discipline flourishing democracy", which culminated in the elections in 2010. Even though the 2010 election was deeply flawed it signaled change in the country. The winning party, the Union Solidarity and Development Party (USDP) was originally an institution of mass mobilization for the military government. Before the change towards a democratic system it was rebranded as a political party, giving the ruling elite a large party in the new system. Aung San Su Kyis National League for Democracy (NLD) did not contest in the 2010 election, because they did not agree with the 2008 constitution. The constitution has a number of provisions which contradict with a free and democratic political system. A fourth of the seats in parliament are reserved for the military, as well as three ministries (Home Affairs, Defense and Borders). The seats are appointed by the military leadership. Additionally, passages of the constitution bar anyone with foreign relatives from becoming president of the country. This includes Aung San Su Kyi, whose husband and children have foreign citizenship.

Once Thein Sein was in office however, the "new" government made a number of changes and commitments which impressed the people. The NLD could be convinced to contest in by-elections in 2012, where the opposition party won 43 out of 45 open seats, and Aung San Su Kyi entered the parliament (Rieffel 2012, 35). Another sign that the populace would now have a voice with impact in the country came when Thein Sein suspended construction on the Myitsone Damn in northern Myanmar. The construction project had caused controversy because the Chinese led project would have produced its electricity first and foremost for the Chinese market, and a very large area would have to be flooded for the construction. Thein Sein announced that the project would be on hold for the time of his presidency.

Continuing the fast pace of change of 2011, the Thein Sein government abandoned the fixed exchange rate which had led to a vastly overvalued official exchange rate of the kyat in 2012. In reaction to the changes in the country, international sanctions against Myanmar were either suspended, lifted or discontinued, opening the country economically to most western countries. (Ibid. 35) Furthermore the opening also brought an increased number of tourists into the country.

While the first steps into the new system were taken quickly and surpassed what people expected, there are still large obstacles to overcome. The initial euphoria has since passed as the speed of reform has, understandably, slowed down and the economic development of the country is not going as fast as the first months after the opening suggested. Additionally, the civil war in the country is still ongoing, the peace process among the different groups was not finished until October 2015. The National Ceasefire Agreement, while being a step forward, does not include all armed groups in the country, the biggest rebel forces have not been part of the negotiation. The civil war, which has been going on for most of the independent history of modern Myanmar is possibly the biggest obstacle to a long-term political solution in Myanmar. A general peace agreement could require amendments to the constitution and a renunciation of the strong central government system towards a more federal system. Within the system there are still risks as well. While the military delegates have shown a large degree of independence in the eyes of some observers, they remain factor which cannot be foreseen (Rieffel 2012, 35). And even within the USDP there were tensions before the elections in September 2015. Party chairman Shwe Mann was removed from his position along with his supporters in August, presumably because he wanted to position the party more independently from the military (Irrawaddy, 2015a). The old elites are still powerful and their influence is hard to assess. The parliament is increasingly voicing its opinion and amending laws suggested by the government (Rieffel 2012, 35). The elections in November 2015 have been a big test for the country, as the next chapter will explore.

3.3. The 2015 Election and the First Civilian Government

Despite all the challenges and achievements of the transition since the announcement of the "disciplined democracy", the crucial test of the changes in the country came on the 8th of November 2015 and the following weeks. These were the first major elections in Myanmar, and after the elections of 2010 were generally considered flawed, they had to show how serious the military and the USDP were about introducing a real democracy.

Most expected a comfortable win for Aung San Suu Kyis NLD, however, the Thein Sein Government was regarded highly amongst many, especially in the business community. At the end of the day, the results of the election were extremely one-sided. The NLD won overwhelmingly, grabbing 255 out of 330 contested seats in the lower house (Pyithu Hluttaw) and 135 out of 168 contested seats in the upper house (Amyotha Hluttaw). This means the NLD took approximately 78% of seats in the election, which was made possible by the voting system (first past the post), in which the winner of a constituency takes the seat, regardless of the margin. A look at the votes shows, that the NLD did win the highest number of votes by a huge margin, however the margin is not quite as huge as the advantage in seats is. In the lower house elections, the NLD won about 12,7 million votes, the runner up, the USDP won 6,3 million votes (Adam Carr 2015). Aung San Suu Kyi advised her followers to caution and restrain right after the results were published in order to avoid unrest or a reason for a crackdown. On the other hand, she did state that, since she could not become president herself, her position as party leader would see her standing above the president.

The parliament took seats on the first of February 2016, however the president was only sworn in at the end of March, almost half a year after the elections. At the time this thesis is written the new government has been in office for approximately four weeks, it is therefore impossible to gauge the impact of the new President already. Some decisions have already been made. President Htin Kyaw has reduced the number of ministries in the government by 15, as well as adding a ministry of ethnic affairs to address the role of the ethnic groups in the country and the government. In the NLD's election manifesto and the inaugural speech of president Htin Kyaw outlines of what the NLD is hoping to achieve can be found (NLD 2015, 4):

- National reconciliation and internal peace
- Constitutional reform towards a federal republic
- Improvement of living standards

Additionally, it is expected that policies will continue to look for quick wins in the country, especially economically. This, however, has been done by the previous government as well, so it remains to be seen if the NLD government will be able to find more opportunities.

The outgoing parliament and government seem to have used the grace period they had before the new parliament took seat, to press a number of legislations through which mostly benefited them. This was not illegal by any means; however, it seems highly unusual for a government which has lost elections to pass laws without consulting the winning party. Amongst the bills that were passed between the elections and the first session of the new parliament was a bill which increased pension funds for the outgoing parliamentarians, a presidential immunity bill, the transfer of five manufacturing plans from the ministry of industry to the ministry of defense (and thus from a civilian led ministry to one under control of the military). The government also awarded contracts to businesses, for example a contract for the construction of a sea port to a Chinese company (The Wall street Journal 2016).

3.4. The Economy of Myanmar

Until recently Myanmar was regarded as one of the most corrupt and opaque systems in the world, on a level with North Korea, Somalia and Afghanistan. The economic world outside of Myanmar showed very little interest in investing in the country, investments were made almost exclusively to the extractive sector, and mainly came from China. So, when Thein Sein took over government, he faced an economically extremely difficult situation, with institutions broken down and in disrepair after constant shifts between economic systems throughout the 20th century.

The Thein Sein government took a number of steps to address the economic situation in the country. One of the first major changes was the liberalization of the monetary system. In 2012 the exchange rate system was changed to a floating exchange rate, abandoning the previous official, fixed exchange rate. The previous rate had extremely overvalued the kyat, which made imports for those who were allowed to make them artificially cheap. State owned enterprises were among the biggest profiteers of the old system. The state owned enterprises came under additional pressure because they were now required to finance a part of their expenses themselves instead of relying on money allocated to them by the state. International banking rules were also relaxed, and a number of private banks got licenses to do international banking services, especially money exchange. Trading rules also changed, a previous rule had been "exports first" which stated that all imports had to be paid for with money generated through exports. Companies also no longer had to choose a certain number of categories they wanted to import goods from. Previously a company which wanted to import goods from all categories had to register a separate entity to be allowed to do so. As a preliminary last step, the central bank was reorganized and given greater freedom from the Ministry of Finance in 2013 (Bissinger 2014, 246).

In order to attract more international investments, the Thein Sein government passed a revised investment law, called the "Foreign Investment Law" (FIL). Main contents of this law were incentives for investors concerning taxes, imports and exports and repatriation of funds as well as arbitration mechanisms. It also provided greater clarity on restricted sectors and partnerships. With this law came the implementation of a new institution, the Myanmar Investment Commission (MIC). The commission's task is to assess investment applications and either grant a permit or not. However, the process of applications and grants is not comprehensible to many outsiders. The law also states a number of sectors in which foreign investment is either forbidden, restricted or only possible in a Joint Venture with a local company (GOM 2012). At the same time the government also passed the Citizens Investment Law (CIL), which gave many of the same benefits to local investors. The corporate tax system was also simplified and generally lowered. For example, the corporate profit tax was eliminated, export taxes reduced, as well as the corporate income tax (Bissinger 2014, 246). These investment laws were converted into the Myanmar Investment Law in December 2015. The combined law mostly gives the same rights to both foreign and national investors. Additionally, it gives the MIC the ability to delegate investment approval decisions to local authorities instead of the national level (Irrawaddy 2015b, December).

These changes, combined with the end of international sanctions, caused widespread optimism for the economic development of the country, within Myanmar as well as in the international sphere. Initially successes were seen, the amount of investments into Myanmar increased drastically, not just into the extractive sector but also in manufacturing and tourism, a trend which has continued into 2015. According to data published by the Directorate of Investment and Company Administration (DICA), the sectors attracting the highest amount of investment remains oil and gas, however it no longer captures almost all the investments. Electricity generation has had about 13.3 billion USD of investments until September 2015 from companies not yet present in Myanmar (DICA 2016a). The third highest sector is manufacturing, which captured approximately 10% of investments by companies not yet active in Myanmar. The total amount of approved investments has risen from about 91 million in 2003 to 8 billion in the financial year 2014-2015 (DICA 2016b). When looking at the number of investment projects instead of the value, manufacturing was the sector with the highest investment attracted in the financial years 2012-2013 and 2013-2014, with approximately 80% of projects in both years (Bissinger 2014, 246).

Another reason for the economic and political opening of Myanmar was the high dependence on China, especially economically. Today China is still the biggest investor in Myanmar, with approximately a third of investments. However, other Asian countries, such as Singapore and Thailand have increased their share in recent years (DICA 2016c). This data can be misleading though, because especially Singapore is an investment hub which channels capital from many countries. The investments from Singapore may therefore represent companies headquartered in different countries, outside Asia. The most commonly used indicator for economic performance is the GDP growth rate. In the year 2014 the World Bank recorded a growth of 8.5%, which is comparably high (World Bank 2015). For 2015, the Asian Development Bank recorded a growth of 7,2%, however natural disaster such as flooding reduced the growth. For the coming years the ADB expects Myanmar to continue to grow at a rate above 8%, which would be the strongest growth rate in Southeast Asia (Asian Development Bank 2016). Before the economic opening, growth in Myanmar was not always bad, however that was largely due to large investments from China and resource extraction. For example, in the 2010-2011 financial year investments were at a record 20 billion USD, because of previously approved extractive investments.

In a 2014 analysis of the economic reforms in the country Tin Maung Maung Than finds, that the country focuses on trade and foreign investment as its primary means of growth and has seen some success already (increased in- and exports), however challenges still remain. The investment laws and the liberalization of the financial sector have been steps towards realizing this plan, which was laid out in the Framework for Economic and Social Reforms in 2012 (Tin Maung Maung Than 2014, 168-170). However, the strengthening of the supporting institutions has not yet been finalized.

Despite the reforms made since 2011, Myanmar remains a highly volatile place to do business. In 2014 the World Bank ranked Myanmar in its Doing Business report as number 182 out of 189. It was ranked as the world's most difficult country to start a business in, and the second most difficult to enforce a contract in (World Bank 2013, 212). Corruption is still a big problem as well; Transparency International still ranks the country as one of the most corrupt. In 2015 it was ranked 147 out of 167 (Transparency International 2015). Additionally, political instability and risks of expropriation have negative impacts on the investment climate, as well as the remaining infrastructure deficiencies, especially electricity.

The size of the private sector in Myanmar today is difficult to state, as the available data is lacking in quality and the creation of formal businesses is not easy, increasing the incentives to operate informal businesses. The President's Office released a statement in 2013 which stated that approximately 83% percent of the countries businesses were informal, however it did not state how formal and informal businesses were defined. Of the remaining, formal businesses over 99% were classed as small or medium sized, the rest was considered large (Bissinger 2015, 135). This is a trend that has already been discussed in the chapters detailing the development of the economy since the independence. Additionally, there are multiple places and legal frameworks which companies can choose to register with, registration is possible under the Foreign or the Citizen Investment Law (now unified as the Myanmar Investment Law) or the Companies Act from 1914 (DICA 2016d). Amongst manufacturing companies, the most common sectors are Food and Beverages, followed by Construction and Metal and Minerals, as the following table shows:

Table 2: Distribution of Manufacturing Enterprises, by Sector and Size

Sector	***Large***	***Medium***	***Small***	***Total***	***Percentage***
Food and Beverage	2.369	4.110	20.976	27.455	63,5%
Construction Materials	510	650	2.117	3.277	7,6%
Metal and Mineral	315	381	1.204	1.900	4,4%
Clothing and Wearing Apparel	341	380	1.001	1.722	4,0%
Personal Goods	375	410	330	1.115	2,6%
Industrial raw materials	169	240	282	691	1,6%
Printing and publishing	60	117	183	360	0,8%
Household products	144	79	97	320	0,7%
Transport vehicles	194	40	33	267	0,6%
Industrial tools and equipment	15	49	66	130	0,3%
Agricultural machinery	9	25	37	71	0,2%
Electrical equipment	43	15	12	70	0,2%
Others	264	791	4.799	5.854	13,5%
Total	4.808	7.287	31.137	43.232	100%
Percentage	11,1%	16,9%	72,0%	100%	-

Source: Bissinger 2015, 137

3.5. Economic Institutions in Myanmar

The following chapter will look at some of the formal and informal institutions in Myanmar and how they have changed during over the cause of the last years. It will consider both formal and informal institutions and how they influence the access to economic opportunity and the market.

Even with the recent reforms to the economy, there are still hurdles to access of economic opportunity for private businesses. Most notably the government has control over many of the more lucrative sectors of economy, such as resource extraction. Since many of the regulations do not further transparency, access mechanisms are often arbitrary and difficult to determine. Problems in the enforcement of institutional rules have developed over a long period of time, as was pointed out in the beginning of this chapter. This has led to a situation in which officials often have a dual position: They are the rule-setting authority, as well as players in the game they create the rules for. This creates a framework for favoritism, bribery and corruption in which the players of the game have no choice but to comply, since the mechanisms for enforcing the formal rules are too weak and work arbitrarily, personal relationships are therefore a major part of the economy of Myanmar. The following chapters will explore three different aspects of the institutional setup of Myanmar: The Government and its structure, the formal institutions governing the economy and the role of informal institutions.

3.5.1. Governmental Structure and Regulation

The central government of the country, the Union Government is the most important governmental body in Myanmar. It has control over the State-owned enterprises, revenues from natural resource extraction and the two most profitable taxes: the commercial tax and the income tax. Economic laws are almost exclusively passed by the Union Government, which is made up by two houses of parliament, headed by a president and two vice presidents and the ministers. The ministries can be divided into two categories: sector and macro-level ministries, with the first kind overseeing specific economic sectors such as agriculture, tourism or industry and the latter addressing general economic concerns, such as finance, commerce or economic development. (Nixon et al. 2013, 9-11). The SOEs are generally controlled by one of the sector-based ministries. The administration of the Union Government extends beyond the capital of Nay Pyi Taw, as many ministries have both regional and municipal branches which are controlled by the central ministries. After the reduction of Ministries by President Htin Kyaw the Ministries of the Union Government are:

Table 3: Htin Kyaw Cabinet

Office	Name	Party
State Counsellor	Aung San Suu Kyi	NLD
Minister of Agriculture, Livestock and Irrigation	Aung Thu	NLD
Minister of Border Affairs	Ye Aung, Lt. Gen.	Mil
Minister of Commerce	Than Myint	NLD
Minister of Construction	Win Khaing	Ind
Minister of Defense	Sein Win, Lt. Gen.	Mil
Minister of Education	Myo Thein Gyi	NLD
Minister of Electric Power and Energy	Pe Zin Tun	NLD
Minister of Ethnic Affairs	Naing Thet Lwin	MNP
Minister of Foreign Affairs	Aung San Suu Kyi	NLD
Minister of Health	Myint Htwe	Ind
Minister of Home Affairs	Kyaw Swe, Lt. Gen.	Mil
Minister of Hotels and Tourism	Ohn Maung	Ind
Minister of Industry	Khin Maung Cho	Ind
Minister of Information	Pe Myint	Ind
Minister of Labour, Immigration and Population	Thein Swe	USDP
Minister of Natural Resources and Environmental Conservation	Ohn Win	Ind
Minister of Planning and Finance	Kyaw Win	NLD
Minister of Religious Affairs and Culture	Aung Ko	USDP
Minister of Social Welfare, Relief and Resettlement	Win Myat Aye	NLD
Minister of Transport and Communications	Thant Sin Maung	NLD
Minister of the President's Office	Aung San Suu Kyi	NLD

Source: Myanmar Times (2016a)

The governments of the States and Regions have very little power in comparison to the Union Government. They were established by the 2008 constitution; however, they are not independent of the central government. Each State/Region is headed by a Chief Minister and a cabinet under his control, but the ministers do not head independent ministries but rather the regional branches of Union Ministries. This makes the regional governments part of both the Union Government and the State/Regional government, with very little independence. While they do have limited rights to create their own revenue, they lack a network to collect the revenue with, which further diminishes their relevance.

Municipal Governments the only major governing structure which are under the regional governments rather than the Union Government. The Municipal Governments are entrusted with the delivery of basic services such as roads, water, sewers garbage collection or street cleaning and public electricity, as well as providing operating licenses for small businesses such as restaurants or shops. They also have the ability to raise revenue on their own and make staffing decisions.

3.5.2. Formal Institutions

Amongst the formal institution in Myanmar the constitution is maybe the most influential one. As described previously, the constitution was adopted in 2008 after a referendum which was widely criticized because the results were hardly believable. 94% approval to the new constitution and a voter turnout of 98% during the recovery of a cyclone seem highly unlikely. However, the constitution does define the rights and obligations of the government and other economic actors. For example, the constitution grants the right to property, inheritance or the right to conduct business freely in the Union. However, these rights do not take precedence over other laws, but instead are conditional to being "in accord with the law". This means, while the rights are given in principle, they are dependent on lawmaking and may be overruled. Only very few rights do not have this conditionality: protection from nationalization and demonization of currency are examples of these (Turnell 2009, 238). The rights given to the government also take precedence over those given to individuals. The constitution also states which government structures have lawmaking rights to which parts of the economy. The Union legislation may pass legislation over virtually all aspects of economic activity, while regional and state governments may pass legislation economic, commercial and co-operative matters undertaken within the region, if it is in accord laws enacted by the Union. This clearly shows, that economic laws are made by the central government, the regional governments may only make adjustments within the laws passed at national level. This trend is found in all other economic provisions of the constitution (GOM 2008, 183 – 187). This one-sided attribution of power is also found with taxation powers.

Amongst the most significant economic laws is the 1989 State-owned Economic Enterprise Law, which grants the government a monopoly position in many of the most important sectors of the economy. Most notable amongst those sectors are petroleum, natural gas, jade, precious stones, metals, teak, fisheries, air and rail transport and many more, or, if the government so chooses to award contracts through Joint Ventures or wholly private businesses for those sectors. This law is at the heart of the countries development of a crony economy, as the complete state control over these sectors invited abuse. It is this law, which legitimizes much of the state control over the economy and the lack of restrictions placed upon the government. The constitutional control over certain sectors are often vague in their wording which leads to uncertainty and arbitrary decision making in the awarding of permits. It also gives the government rights to intervene in the sectors if it so chooses, for example through regulating transactions or special dispute resolution mechanisms within the government instead of the court system.

Another important factor are the land laws. The most recent adaption of these were two laws passed in 2012, the Farmland Law and the Vacant, Virgin and Fallow Lands Law. These two stipulate strong government control over the ownership and use of land and restrict the possible uses of land dramatically. The Farmland Law, for example, forbids farming the land without permission from the concerned management body, the change of crops "besides the regular crop", leaving land fallow without good reason, bans on selling or pawning land without first obtaining farming rights. Violation of these restrictions may lead to punishment from fines to forced eviction (GOM 2012b).

The integration of Myanmar into international trade and the international economy was done through a number of laws, amongst them the Export and Import Law in 2012, the Foreign Investment Law in 2012 and the Citizen Investment Law in 2013. The latter laws have since been combined into the Myanmar Investment Law in 2015. These have led to a considerable liberalization of the processes, however, foreign investments are subject to approval by the Myanmar Investment Commission (MIC).

In considering the market institutions, it is not only important to look at the formal setup of them, but also at the way they are enforced. In the case of Myanmar there are a few points to be made about this. The enforcement is often characterized by uncertainty of the implementation of the implementation of institutions, arbitrary governance and lack of processes and clear procedures. This is exemplified by the frequent change of rules and laws in many business sectors. In the importing sector, the rules for which goods could be imported changed rapidly in the 2000s. During the 2000s the government announced that companies would no longer have to specify 7 out of 15 categories in which they would conduct business. This changed again in 2010, when the 7 categories rule was reapplied. Consequently, businesses would apply for a second license to be able to cover more categories. The application for these licenses was expensive in time and money. However, only four years later the restriction was dropped again, leaving the investment pointless (Bissinger 2015, 147). There are many additional cases in which the enforcement of rules was not foreseeable or logical to the affected people.

Similarly, procedures in established formal institutions are often unclear or nontransparent. This is very much the case with the 2012 FIL. While it is one of the more precise legal documents, it is very vague about the process of application for an MIC permit. While one might expect this to be rectified in the actual practice interviews during this research have shown that this is not the case. One of the interviewed companies has applied twice for a permit and was rejected both times. The company suspected that the investment sum was too small for the commission, however, there was no confirmation of this (Interview 1). Similar cases of substituting defined procedures with the creation of commissions or posts can be found in other laws. The Special Economic Zone Law from 2011 imbued the Central Body, the Central Working Body and Management Committees with extensive powers over the creation and management of SEZs. The Farmland Law created a hierarchy of Farmland Management Bodies charged with the guidance and control of registration for farming rights, issuing land use certificates, dispute resolution, control over the sale, pawn, lease, exchange and donation of farming rights, and the authority to revoke farming rights. This practice drastically increases transaction costs, as organizations need to invest in gathering information and navigating the uncertainties of dealing with officials. It also increases the likelihood of corruption, as lack of clear procedures opens room for interpretation and favoritism (Bissinger 2015, 150).

The bureaucracy itself similarly suffers from the lack of definition in laws, as authority is often not clearly defined and officials do not know whether they have the right to make a decision. Paired with the legacy of military appointed bureaucrats and a strong sense of hierarchy, decisions are often escalated along the hierarchy until someone higher up makes a decision. This practice complicates and lengthens processes between business and government officials, as even minor decisions involve the top levels of bureaucracy.

Amongst the most important institutions for supporting a market economy is the court system. The court system in Myanmar is avoided by businesses wherever possible. Instead it is common practice, especially for foreign investors, to contractually assign conflict resolution to a different country, commonly Singapore. Another important institution, the financial system is in a similar state. The access to capital through banks in Myanmar is extremely difficult. The banks require very high rates of collateral, which has to be provided in very specific commodities: Gold, land or foreign currency or exportable goods (Aye Thidar Kyaw, 2015)

3.5.3. Informal Institutions

This chapter will explore the role of two major informal institutions in Myanmar: The role of bribery and corruption and the role of relationships and networks.

Bribery and corruption thrive in environments of weak formal institutions, especially the monitoring of civil service and the judiciary system, as well as the enforcement of formal institutions. In Myanmar these factors are further boosted by the previously described lack of clear regulations in many laws and processes. Gathering data on corruption is extremely difficult as the very nature of it confines it to shady, unrecorded processes. However, studies have found that corruption and the extraction of bribes is common practice in Myanmar. Since the government has strong control over the economy, for example through the need for licenses to operate businesses and their renewal, civil servants have leverage to pressure businesses with. This is most common in the taxation system, where it is common practice to bribe the officials to receive a lesser tax load (Bissinger 2015, 161). This is of course only possible because taxation rules are opaque and businesses are hesitant to call on local courts to resolve the issue for reasons stated in the previous chapters. As one interview stated, "[..] suing the government would likely signal the end of that business." (Interview 1, 4). Obtaining licenses and permissions is similarly connected to paying bribes. Thus, the cost of obtaining a permission or license is often many times higher than the official cost, since a number of people have to be paid off before a project is allowed to continue.

Another informal institution with considerable influence are personal relationships and networks. From a theoretic point of view, these are used to decrease uncertainty and transaction costs in an environment of uncertainty and arbitrary governance. As one of the interviewees stated, it is common practice to establish networks of friends in order to do business. These relationships are often cultivated outside of the professional context, and access to contracts, especially contracts with government institutions are often granted within such networks (Interview 3, 1), another interviewee stated that relationships are similarly important in creating new contacts. Contact should always be made through someone who is already part of the new contacts network, in order to smoothen the process. Networks are also used to access information which is not publicly available concerning business opportunities. This is typical for cronyism, as only those with good relationships to those in power have access to these opportunities. Cronyism describes the practice of appointing people with good relations to those in power to positions of interest, politically or economically. There are a variety of different forms networks can be created, next to personal networks of businessmen associations are commonly found in Myanmar. These associations of businesses operating in the same or similar sectors are used to form relationships and trade information. Generally, the use of relationships and networks increases the security of companies and decreases transaction costs through access to information, government and business opportunities (Bissinger 2015, 165).

4. Results of the Data Collection

This chapter will look at the results of the study conducted in Myanmar. It organizes the findings into 3 categories: General Results, Local Companies and International Companies. General Results will look at problems which both local and international companies face in Myanmar while giving examples from the interviews. The other two chapters will do the same for their respective companies. Due to the amount of data gathered in the field, not all issues which were voiced during the interview can be dealt with in this study. However, the following chapters will give a good overview over the effects of the economic opening on companies in Yangon.

4.1. General Results

Market Growth

There are a few situations which affect every company operating in Myanmar. As one of the foreign companies pointed out, the market size and the development of a middle class as customers is important for sales.

> "There is certainly a development. The opening happened almost four years ago, things are happening and it reaches the people. There are the classical signs: People have mobile phones, the number of cars on the streets increased drastically. When I came here for the first time two years ago, there was hardly any traffic jams, now they are everywhere." (Interview 6, 3)

The purchasing power of the people is possibly more relevant for international companies, as they typically produce high quality goods which warrant international activity. However, for local companies which want to grow beyond the niche positions they were confined to in the closed country, customers willing and able to pay for products are similarly important. The increase in purchasing power described in the interview may be attributed to the reforms in Myanmar, however, because the country started at a very low level, initial gains can mostly be considered "low hanging fruits", if the economy will continue to grow, and especially how much of potential growth will actually reach the people, will have to be seen.

Access to Capital

Another factor which all companies were interested in was access to capital. Since local banking regulations, especially when it comes to granting loans, are very strict many companies struggle to raise capital locally. International companies may avoid the problem by borrowing from international banks and sending the money to Myanmar. Local companies usually do not have that access, and must find other ways, which will be discussed in more detail in the following chapter.

Uncertainty

The transition itself is another factor which affects every actor in the country. The amount of new laws being passed in rapid succession creates new opportunities but at the same time, there is a lot of changes in the business environment. As an example, the Foreign Investment Law, which was passed in 2012 has been revised twice since then, adapting the original rules to facilitate more investment and clarify the rules. This illustrates, that the institutional background is frequently changing, possibly deterring some investors, both locally and internationally. However, not all companies see this as a problem as was pointed out in one interview:

> "The reason, one reason why it has been amended could be that they realized after the first draft, that technically it was not easy to implement. And they reproduced second draft to correct the first mistakes, it is learning as you go I suppose." (Interview 1, 7)

Adding that, if the company could change one thing about the system, they would like to have clear guidelines and rules for the application for licenses and permits with the MIC. This uncertainty was also one of the reasons why foreign companies often chose to work with local partners in order to improve their position.

> „The reason for a Joint Venture was obvious, you have to see how you can enter a country which you know nothing about, how can you maximize impact, and how can you find the best possible partner in a country like this, where personal relationships are extremely important? We had certain criteria we followed,

> Corporate Guidelines, so finding a partner here was rather difficult." (Interview 7, 3)

Enforcement of Contracts

A third point which all actors are dealing with in Myanmar is the enforcement of contracts. As found by the World Bank, enforcing contract in Myanmar is extremely difficult. They found that, on average, it takes about 50% of the case value to enforce the contract through courts. It took 45 procedures and 1160 days (over three years) (World Bank 2013, 212). As one interview partner pointed out when asked about local courts:

> "Well that's… That we know is not going to happen, a company going to court in Myanmar, uhh, we know that is not going to happen before a very long time. The rule of law is questionable. […] so, suing the government would likely… signal the end of that business." (Interview 1, 4)

This shows that the enforcement of contracts through the court system is very difficult, as companies look for alternative ways to resolve disputes. One common way of doing to is to specify a different jurisdiction to Myanmar as the place of potential legal proceedings, especially in contracts involving foreign companies. The most common choice in this regard is Singapore.

Within the court system of Myanmar, one interviewee described the struggle to reach a final verdict:

> "Well the judicial system is very slow. That is why we try to avoid this bad loans. I have one case outstanding. For over 2 years now." […] "It involves auction, the collateral now. The borrower in the law court we won, and he appealed to a higher court. And then when we were about to auction it, judges asked for the case value from both parties, we submitted one for our and he will appeal again, so going it is going up and down, and it finally decided we are going to auction. Today there was a court appointment, the judge was away attending some course. (chuckles) So not today. Very slow judicial process that is why we try to stay away. Only one case for us." (Interview 5, 10)

Corruption

As described before, corruption is common place in Myanmar. The relevance of this was made obvious in one interview, in which the interview partner explained the nature of business in Myanmar:

> "Because previously we play golf, no problem, now I have to be very careful (laughing). And also there are many practices related to the standards of the norms and perceptions of the bribery and corruption. In Myanmar we do have, like baskets, of you know, whiskey bottles and all those things, carried to the customer's places like New Year or English New Year, Myanmar New Year, all those festive seasons. But this is also a cultural practice, not only in Myanmar but also in Thailand, in Singapore, in China etc." (Interview 3, 2)

The company in question had previously made bad experiences with opening up about their business practices. After describing the practices to a western journalist, an article about corruption in the country was published, citing him by name. The interviewee was therefore very careful when talking about this topic.

Human Capital

Another factor regularly brought up by both local and international companies is the lack of skilled labor in the country. This has been attributed to different things, especially, the education system, as one company pointed out about new hires:

> "[…] they come, they have no work experience, they don't know the work practices, the professional practices […] Because they were taught in the classroom, they were taught and they were writing but they have no right to ask questions. They have no right to debate. They don't go out and talk to people." (Interview 3, 5)

In response to this, businesses create their own training programs through internships or similar activities.

Relationships and Networks

Another reality of doing business in Myanmar is the importance of relationships to facilitate business. This extents to the realm of influencing new laws and regulations as one interviewee stated, although he did not like to call it "influencing":

> "It's very easy actually to work with all these ministers and VIP's so you connect with them, would be... Not necessarily to influence them but to discuss. And some it is still a very uhh, tradit… well, still a very connected society and there everybody knows each other especially the top of the country is a very small circle. So it is easy to know someone who knows someone who knows the right person. And that is how things still work a lot." (Interview 1, 10)

While the it was not stated whether it was easier to access these people for the pre-transition elite, it was stated in the same interview that who introduces someone is very important to the success of one's project.

Infrastructure

Finally, the infrastructure in Myanmar is the same for every company. This was confirmed by many of the interviews. During a networking dinner of the French Chamber of Commerce and Industry in Myanmar, a speech was given on the situation in Myanmar. There, amongst the most important stumbling blocks for economic development electricity and infrastructure were the most important ones. In an interview with an international company the interview partner voiced understanding for the situation: "I think the expectations from outside the country may have been too high. If you come somewhere, where the whole thing is still in its early stages, and you expect that all the political circumstances and the infrastructure is done by tomorrow, you may have gone in a little blind." (Interview 7, 8)

4.2. Local Companies

Access to capital

For local companies the question of access to capital very difficult as one interviewee pointed out:

> "Right, that brings money, usually it is on the form of either investment or loan, these loans are up to 25 to 30% interest that does provide absolutely no security to the investor or the lender. Because it is all done under the radar you cannot provide any guarantee. So that, that being said, it's difficult to find money and only people who are really connected locally and internationally, so who understand the whereabouts of foreign investors are in a position to actually capture some of this foreign money. But you have lots of local business who have absolutely no way to develop because they have no access to cash whatsoever." (Interview 1, 5)

The regulations by the Central Bank mean that lending is highly restricted. Banks ask for over 100% of the credit value in securities, which has to be provided in very specific form: export goods, land or gold. (Myanmar Times, 2015a) This makes growing very hard for local businesses, which have to look for alternative means of finance. A local company which develops property in Yangon the situation is very limiting: "Right now the only way to get small loans is actually to have land, or a house on which you own the land right. And you get small percentage as a loan of the value of the land (Interview 1, 7). One alternative is "street credit", which means taking loans from unofficial sources on the street. As an interview partner pointed out:

> "So we are talking about the access to finance for the projects, because… this level. But many people in the bottom of the pyramid, huge amount of people. They don't have access to the finance. They have access to the finance with high interest rates. 5% per month. 60% per year is a good rate." (Interview 3, 15).

However, if one lacks any form of collateral interest rates go up to as much as 10% per day (ibid.). While this is not usually the case for companies, it shows how badly developed the local financial market is. These extremely high interest loans are usually taken by people who use them to finance their everyday life.

Financial System

The government has already passed reforms aimed at improving this situation. The central bank has been given more freedom, additional forms of collateral have been allowed, even though they remain very restrictive. The Central Bank still controls the banks very closely, dictating the interest rates for loans and deposits, and requiring banks to report every day. How much of collateral can be given as credit is not controlled by the central bank, however, the banks are extremely risk averse. Partly because of the problems with the court system described in the previous chapter, lending is "Maybe up to 75%, if the business is good and the borrower has a good reputation for instance. And also the value of the collateral" (Interview 5, 3). In 2015 the central bank has granted banking licenses to a number of foreign banks, of which the first opened for business in April 2015. (Myanmar Times 2015b) However, these banks are initially restricted to service for international companies and customers, local companies do not initially have access to them. At the time of the study it was not yet clear if they had to comply with the same, strict, regulations the local banks were facing. Local financial institutions were pushing for that though:

> "That is what we are fighting for, right. It must be a level playing field. Right now we are closely supervised, controlled by the central bank. Now with the way the central bank gives licenses to foreign banks, they are freer than us. The central bank could not rightly control like they do with the local banks, because foreign banks are just a branch of their home country, so home countries central bank has more control, over here the central bank has less control. In that sense there is no level playing field. So we are fighting for that." (Interview 5, 3).

Laws and Regulations

New institutions, such as the MIC are relevant to local companies as well, especially when cooperating with international companies. As one interview partner explained, partnering with international companies is one of the better ways to generate capital to expand the company. To do so, a Joint Venture was set up, which is based in Singapore. Through this construct, the local company is in contact with the MIC. This, however, not an easy task: “[…] Or you try to go through a JV and MIC, but that is apparently only for big to extremely big projects, projects like ours, three million (Dollars), is apparently not big enough.” (Interview 1, 5). The MIC, as the interview continued to explain, is not transparent in its proceedings. Applications are made, and eventually an answer is communicated, however, there is no precise guideline which would tell potential investors if they have chances to succeed or not. Attempts to find out what was necessary for a successful application yielded different answers from different sources. This shows, that the system is still in its early stages.

While corruption, bribery and the importance of relationships are relevant to anyone looking to work in Myanmar, it is interesting to note, that only local companies referred to the phenomenon in the interviews. One foreign company even stated that they had not experienced the problem, however the creation of the company was done by a local partner which they had chosen. However, they were sure their partner did not have problems with it either. (Interview 7)

4.3. International Companies

Laws and Regulations

Finance, the biggest topic for local companies, is not as much of a problem for international investors. Since they have access to their mother company's funds, they are not dependent on the local credit market. The legal landscape is more important for them. To get a license to operate in Myanmar foreign companies need to apply with the MIC or register with the DICA, depending on the size of the investment. The MIC acts as a gate keeper, which checks if investments are in line with the laws and regulations the need to follow. As mentioned above, the criteria for this assessment are not always clear to the applicants.

> "The laws do not welcome everyone, especially those who are not looking to invest huge sums. The country is very much looking for FDI, but the results are disillusioning. The Japanese are doing a lot; the Chinese are doing a lot but the west is not doing much. […] In 2011, 2012 and 2013 the country was hot because it was a frontier market, where everyone could generate sales with little competition, there was a lot of delegations, but the amount of companies investing is comparably small" (Interview 6, 5).

International Competition

In the same interview another issue was raised: the support of home countries for international investments

> "Japan gives one billion credit which is used to give contracts to Japanese companies. Germany waives half a billion in interest charges and asks Myanmar to improve democratization and work on social issues. I mean that's great, but it could be used to improve market access for German companies." (ibid.)

The position of the MIC may change soon, as another interview partner disclosed: The International Finance Corporation is said to be currently working on a redraft of the MICs position in investments.

> "I know that one of their proposals was recently submitted, which I don't think was made publicly. But it was made to the MIC to basically say that it would

> basically allow businesses to self-regulate under the FIL – Foreign Investment Law, so that you don`t have to go through one administrative body to do everything, rather if you don`t violate the law you are not in trouble. You don`t need an express permission." (Interview 2, 4)

This information shows two things. One the one hand, international organizations, such as the IFC, are working with the Myanmar government, which was to be expected. It also shows that large corporations, such as this one, have access to decision making processes in the country. This is not different from other places in the world, but it gives them an advantage in decision making. Changing the MIC from a gate keeper to a sort of "investment police", would mean investments could be made without first applying for a license, this would be a major change for international companies. Their better access to capital could then give them an edge over local companies, which, at the moment, still have some protection against competition by large transnational corporations through the MIC.

A bilateral investment treaty (BIT), which is currently being negotiated between the European Union and Myanmar is considered helpful by international companies. It would give higher legal security, especially in cases against the state, which are especially difficult to settle within a country. To avoid legal cases in Myanmar as much as possible international companies already negotiate clauses which change the place of court to a different country, most commonly Singapore. However, the FIL already has clauses against expropriation, that international companies still think a BIT would help their business prospects in Myanmar shows, that legal action in Myanmar is not considered an option by these companies.

5. Theoretic Framework

5.1. Introduction

The idea of development economics as a stand-alone subject of academics is a relatively recent addition. It originates at the end of the second world war and the onset of the independence of many former colonies, whose economies called for a new approach of analysis. In its earliest stages, development economics were influenced by the capital transfer system of the Marshall Plan as well as the experience of other, already industrialized countries, which had development from agrarian states during the 18^{th} and 19^{th} century (Todaro and Smith 2012, 111). This chapter will give a brief overlook of different theories on development economics and how the differ. It serves to see how New Institutional Economics fit into the picture, and how the theory differs from other approaches to development that have been discussed in the past.

One of the earliest examples of a theory of development economics was Walt Rostow's suggestion, that economies develop through 5 distinctive stages, which all economies pass through (Rostow 1960, 4-16):

1. The traditional society,
2. Preconditions for take-off
3. Take-off
4. Drive to maturity
5. Age of high mass consumption

At the heart of this theory was the idea of capital accumulation in order to reach the Take-off stage, and the accumulation of factors of production. The theory was extended by different scholars, which added different aspects, such as the savings rate or specific preferences.

Another theory, Lewis's dual-sector model, suggested that the economy of developing countries consisted of an overpopulated subsistence sector and a more productive capitalist sector. The capitalist sector supposedly drew surplus labor from the subsistence sector because of higher wages, and could do so until all excess labor had shifted into the capitalist sector. The benefit of this development was a supposed "rising share of profits in the national income" which could then be reinvested into the country. Despite positive reception of the model, there was major criticism as well.

Especially the assumption that profits would be reinvested completely, and the failure to acknowledge the creation of a capitalist elite, as well as the simplification of the labor transfer between the sectors, despite widespread unemployment in transitioning cities were criticized (Todaro and Smith 2012, 116-117).

A third model of this era that should be mentioned is Paul Rosenstein-Rodan's Big Push model. He argued that, in order to achieve development, a certain degree of investment across the economy was necessary. These investments would enlarge the markets and increase productivity. These theories of economic development are united by the fact, that they focus on factors from outside the economy, most notably capital and investment, rather than the structural or endogenous factors of the economies (Zagha and Nankani 2005, 2). At the beginning of the 1970s these theories came under heavy criticism, as their predicted growth rates did not hold up with those observed in reality.

"Dependency theory" came to the forefront of development theories during the 1960s and 1970s. It was originally propagated by Raúl Prebisch and Hans Singer, two UN economists who independently published papers on the change of terms of trade between primary producers and manufacturers over time. They argued that, as time passes, the terms of trade increasingly favor the manufacturers, while the comparative price of primary products decreases. Since this meant that the developmental perspectives for countries relying on the export of primary products were grim, countries, especially in Latin America, were advised to follow a path of import-substituting industrialization. These policies were designed to decrease the dependence of developing countries on the import of manufactured goods and accumulate capital within the country. As other scholars explored the premises made by Prebisch and Singer, two main causes for underdevelopment were identified (Todaro and Smith 2012, 122):

1. Poor quality but well-intentioned advice from IFI's and development experts
2. Or the "historical evolution of a highly unequal international capitalist system of rich-country, poor country relationship" in which the rich-countries dominate the poor through unequal power relationships

The era of dependency theory came to an end eventually, as the ISI policies failed to deliver results, especially compared to the much better performing trade oriented policies which were simultaneously implemented in East Asia.

The mood shifted again in the late 1970s and 1980s, as poor economic performance in developed countries started to change the approach towards economic policy. While dependency theory was heavily focused on external reasons for differences in economies, the focus now shifted back towards internal reasons, such as bad resource allocation within the country and interventionist government policies. The focus was now on "getting the price right" (Ibid. 126f). This new focus was exemplified by what came to be known as the "Washington Consensus". The term originates in an article by John Williamson from 1990 titled "What Washington means by Policy Reform", in which the author lists 10 neoliberal policy prescriptions including fiscal discipline, tax and exchange reform, liberalization of the financial, trade and foreign investment regimes, privatization and deregulation. (Williamson 1990). The Washington Consensus came to its head in the transition of the former communist countries of eastern Europe, however the results of these policies were generally viewed as disappointing, not only in eastern Europe but around the world, as the IFI's advised countries around the world to follow this advice.

In response to another theory not producing the results that were hoped for, the 1990s and 2000s saw the emergence of a number of new theories which emphasized the "importance of complementarities between several conditions necessary for successful development. These theories often highlight the problem that several things must work well enough, at the same time, to get sustainable development underway" (Todaro and Smith 2012, 159). It was in this time that the role of institutions again played a major part in the development discourse, the emergence of New Institutional Economics can therefore be seen as a result of the failure of the neoliberal policies of the Washington Consensus, which did not take the role of constitutions into account.

Endogenous Growth is another theory which was developed in this time. It states, that growth is a result of changes to the system governing production rather than the addition of forces outside of the system such as labor, capital or technology, growth is therefore a result of the economic system, rather than of the influence of outside forces

(Romer 1994, 3). Other factors such as education, innovation, economies of scale and capital accumulation, which have traditionally been used to explain growth as factors that contribute to it, have been called growth itself by North and Thomas (North and Thomas 1973, 2). Overall, these changes can be described as a major shift in development theory, from concentrating on the role of narrowly defined economic factors to focusing the relevance of complex social structures and culture in facilitating economic growth.

5.2. New Institutional Economics

As described above, institutional approaches have gained popularity in the analysis of developing economies in recent decades. One such approach is "New institutional economics" (NIE). It "extends economic theory by incorporating new ideas and ideologies into the analysis, modelling the political process as a critical factor in the performance of economies, as the source of the diverse performance of economies, and as the explanation for 'inefficient' markets" (Harris, Hunter and Lewis 2003, 19). In this approach institutions become central to economic performance and therefore become an object of analysis. The role of institutions in economies was not unexamined before this period, their importance had been discussed by different scholars throughout time. Fundamental thinkers such as Smith, Marx and Max Weber discussed their role in forming a capitalist society (Zagha and Nankani 2005, 5). Institutional economics were debated during the 1920s and 1930s, however they eventually fell out of favor, being criticized for lacking a theoretical background, empirical evidence and being politically motivated (Joskow 2008, 6).

New institutional economics is not a theoretic framework in itself, rather, it is rooted in related works who work under two basic premises: "(i) institutions do matter, (ii) the determinants of institutions are susceptible to analysis by the tools of economic theory" (Matthews 1986, 903). Based on these assumptions, it aims to develop dynamic explanations of economic evolution. It does so by stressing institutions as rules and norms, examining the micro analytics of firm and market organizations and the ramifications for public policy. Another factor that sets it apart is its acceptance of interdisciplinary approaches and case studies and less mathematical methodologies (Ménard and Shirley 2012, 2). These factors make the concept of NIE a great tool to analyze the data gathered in the field in Yangon.

Another focus of NIE is the development of institutions and how the institutions of the past affect the institutions of today. North argues, that the history of institutions matters greatly, because the institutions of a society connect its past to the present. He says, that especially in post socialist societies the history of their institutions lies at the root of their current institutional performance (North et al. 2007, 25).

In order to properly talk about the value and role of institutions it is important to define what "Institutions" are. While there is no commonly agreed definition, Douglas North, one of the leading scholars on New Institutional Economics, describes institutions as a set of rules, compliance procedures, and moral and ethical behavioral norms designed to constrain the behavior of individuals in the interest of maximizing the wealth or utility of principals (North 1990, 201-202). These include both formal constraints such as rules, laws and constitutions, as well as informal constraints, for example behavioral norms or conventions. In easier terms, institutions are "the rules of the game" (ibid.), which structure human exchange. However, institutions are not only a constraint on human behavior, they also create incentives in human interaction, not only in the economic sphere but in all human interaction.

To clarify the different forms of institutions, Williamson has created a framework of different levels of social analysis which are relevant to the analysis of institutional economics. While all of the four levels identified have influence on development, NIE focusses on the second and third level of institutions.

Table 4: Different Levels of Institutions

Level		***Frequency of change (years)***	***Purpose***
Level 1	Embeddedness: informal institutions, customs, traditions, norms, religion	100 to 1000	Often noncalculative; spontaneous
Level 2	Institutional environment;: formal rules of the game - especially property (polity, judiciary, bureaucracy)	10 to 100	Get the institutional environment right. 1st order economizing
Level 3	Governance: play of the game: especially contract (aligning governance structures with transaction)	1 to 10	Get the governance structures right. 2nd order economizing
Level 4	Resource allocation and employment	continuous	Get the marginal conditions right. 3rd order economizing

Source: Williamson 2000, 597

Since institutions are the fundamental concept of NIE it is important to be thorough in the definition and understanding of them. Definitions in the literature vary often, and have very different degrees of clarity, some being too broad to be workable, while others limit themselves to formal institutions, leaving out the influence of informal factors. In this thesis the definition of North will be used, which focuses on the 2nd Level of institutions in Table 2.

If institutions are the "rules of the game" there is an obvious question: Who is playing the game? This role is filled by organizations. Organizations are formed in different spheres, they include political bodies (parties, parliaments, regulatory agencies), economic bodies (firms, trade unions), social bodies (clubs, athletic associations, churches) and educational bodies (schools, colleges) (North 1993, 6). The organizations act within the framework given by the institutions (rules of the game) and aim to maximize their benefits (win the game). However, the situation is not quite as simple. Organizations are not only subject to the rules the institutions create, they also interfere in and influence the change of institutions (North 1990, 4).

Quantitative studies have found correlations between institutions and economic performance. A listing by Bissinger found that institutions which protect against appropriation risk, limit the power of government, reward production and exchange rather than expropriation and redistribution and maintain the rule of law, free markets, small government consumption, and high human capital have a positive effect on economic performance (Bissinger 2014, 243).

NIE has had great impact on the analysis of investment climate, and the policy work related to it, the investment climate being the set of factors shaping the opportunities and incentives for firms to invest productively, create jobs and expand, specific to any given location (World Bank 2004, 20). For the analysis of the investment climate government institutions, regulation, infrastructure, financial systems and macroeconomic conditions are often looked at, therefore there is a significant degree of similarities in literature on both topics.

This short insight to New Institutional Economics is designed to give an impression of the theoretic background behind the analysis of the interviews in this paper. In the economic transition of Myanmar, a lot of new legislation has been targeted at improving the investment climate to attract foreign direct investment. However, this new legislation does not only affect potential new investors but also the economic players already in the country. The interviews conducted for this study dealt with the question how the economic transition influences the work of these actors, and if the institutions created in the last years create different investment and business climates for local and international companies.

5.2.1. Assumptions of New Institutional Economics

In the previous chapter the two main preconditions for analyzing institutions were discussed: Institutions matter and it is possible to analyze them with economic methods. However, there are two additional assumptions made by NIE which deserve to be mentioned.

The first assumption deals with bounded rationality. Bounded rationality describes the assumption that actors do not possess full information and limited capacity to process their information about the situation they are in. This is a major difference from neoclassical approaches. Bounded rationality means that actors do not always make the best possible decision, instead they make the best possible decision given the information they have about the situation. This assumption has a number of important consequences. First, in situations or limited information, actors, in this case organizations have to face transaction costs. North describes this as follows: "costs of transacting arise because information is costly an asymmetrically held by the parties to exchange" (North 1993, 2). Second, bounded rationality means that no contract can be complete. Due to the lack of information all contracts may be faced with situations which were not foreseen and are therefore not included in the text, giving the need for dispute settlement mechanisms. Third, since they exist in an environment of bounded rationality, institutions are inherently inefficient, and last, bounded rationality means that actors experience the world and their situation with limited information. This means they interpret the information they do have through theories or models, which opens the door for ideology (Bissinger 2015, 17).

The second major assumption is opportunism. Opportunism in this context describes the possibility that actors may change their path, and for example, not hold up their end of a contract. This element of self-interest creates a major element of uncertainty for contract partners and makes institutions to safeguard their interest necessary. The institutions created for this help to protect the majority against those who would take advantage in absence of reprimands (Williamson 1993, 12).

5.2.2. Property Rights, Transaction Costs and Contracts

This chapter will explore three main components of NIE: property rights, transaction costs and contracts. As described above the presence of bounded rationality and opportunism explains why transactions are associated with costs and why institutions are necessary to protect the fulfillment of contracts and the right to property. These three concepts are therefore central to NIE, as will be explained below.

Property rights, in the context of NIE focus more on the right to use something rather than the physical appropriation of the thing. Property rights can be thought of as a bundle of rights over an asset, including rights to use it, to change its form and substance, and to transfer the rights over the asset to someone else (Bissinger 2015, 19). However, property rights do not only confirm what may be done with an asset, it also includes rules to what may not be done with an asset, because it may incur externalities for other actors. Property lights therefore aim to eliminate externalities, meaning to internalize them. This process takes possible uses of an asset away from its owner, thus potentially limiting its use to the owner. In terms of a society it aims to achieve a state in which the benefits from internalizing externalities outweigh the costs of limiting the use of assets for their owners (Ibid.). Additionally, the set of property rights gives actors a certain expectation for future dealings with other actors since the rights and obligations of users are described beforehand. Generally, property rights can be considered an "instrument of society" (Demsetz 1967, 347), meaning, the rules they provide for the use and non-use of assets are basic requirements in every society and have, in one form or another, been present throughout history. The importance NIE places on property rights has previously been criticized, because they are such a fundamental requirement for economic activity that their existence has to be presumed. If it they are in place however, their relevance is no longer given.

(Bissinger 2015, 19-20). Research has shown that while property rights are necessary, they are not sufficient to foster economic growth.

Transaction costs, as described above, arise in part due to bounded rationality. North describes them as the costs to "define and protect property rights and to enforce agreements" (North 1990, 5). They apply to almost any transaction made and have first been theorized about by Ronald Coase in 1937. He argued that transaction costs are the reasons companies are formed, as opposed to exchanging goods and services exclusively through the market. His argument was, that each transaction incurs a cost, which can be minimized through forming a company. This sets this approach apart from neo-classical approaches, which assume transactions to be costless. Transactions which occur within a company are generally treated differently from transactions which take place over the market by the state, for example for taxation. Using and operating the market is not free of costs (Bissinger 2015, 21). Other authors expanded on this research, for example Williamson. He applied the theory to make-or-buy decisions in companies and found that the enforcement of contracts was one of the biggest forms transaction costs occur. Additionally, the transaction costs depended on the frequency of transaction, the uncertainty involved and how specific the asset traded was (Williamson 1993, 16). So, if transactions are not costless, they may not only matter for contract enforcement but in fact influence which goods and services are produced within a given set of institutions, or, depending on the transaction costs for doing so, if a firm is formed or not. Firms in this sense, should be understood not as a vehicle for production, which takes inputs and transforms them to be products, but as a contractual construct which governs transactions without using the market. (Bissinger 2015, 22). Transaction costs therefore influence the type of organizations one may find within an economy. Taking the transaction costs into account shows that environments with high transaction costs may deter economic activity, as they increase the costs of making business. Additionally, in environments with high transaction costs institutions arise to decrease uncertainty and increase predictability (Bissinger 2014, 243).

The third aspect of NIE that will be examined in this chapter are contracts. They are very closely linked to both property rights (as the method used to transfer them) and transaction costs (which arise during the creation of a contract as well as during its governing and enforcement phase). Contracts are defined by Williamson as "an agreement between a buyer and a supplier in which the terms of the exchange are defined by a triple: price, asset specificity and safeguards" (Williamson 1997, 377). New Institutional Economics assumes all contracts to have two major flaws, they are never fully enforced and they are never perfectly complete (Ménard and Shirley 2012, 5). The former due to the transaction costs which are associated with enforcing the contract, the latter due to bounded rationality, and the fact that unforeseen situations may arise.

5.2.3. The Genesis of Institutions and their Influence on Economic Growth

The importance of history is one important feature of analyzing economic institutions. As North puts it: "not just because we can learn from the past, but because the present and the future are connected to the past by the continuity of a societies institutions" (North 1990, vii). This statement shows us why it is important to see how institutions evolved in order to understand them, and in order to be able to change them. The historic relevance of institutions is not limited to formal institutions but extents to informal ones. Looking at the historic development of institutions can also give an insight to why they naturally resist change and attempt to preserve themselves.

Looking into the historic aspect of institutions prompts the major question: How and why do institutions change? Of course, the inverse question is just as interesting: Why do institutions persist, even if they seem less than ideal?

Changes in institutions can be explained through the interest of actors in the market. As explained above organizations are not only the players of the game but also agents in changing institutions. This means that organizations which have the bargaining power to do so may be incentivized to change the institutional setup if it does not suit their interests. North states that the economic interest of organizations looking to further their abilities in trade caused institutional change throughout history (Ibid. 122). However, not only organizations with economic interests have the chance to change institutions, organizations of a polity have a similar chance to further changes.

Generally, the institutional setup is resistant to change because changes may limit the chances for survival or certain institutions. Additionally, efforts to change institutions are not free of costs (much like any other transaction). This means the incentives to change the institutional setup for the organizations must be strong enough for them to be ready to bear the costs of lobbying for changes. This can create situations in which a suboptimal situation is not resolved because no actor has enough incentive to become active. Lastly, path dependency plays a major role in the evolution of institutions. Formal institutions provide the rules of the game, however it is the cultural and societal norms which provide the legitimacy of rules. This means that even revolutionary changes are most often less drastic than supporters would want them to be (North 1994, 366). Institutional change is therefore an inherently slow process, which takes time and effort to shape. Seeing these barriers to institutional change it is no surprise to see that external shocks are often found at the onset of institutional change. Disease, natural disasters or war have often brought about change.

History has shown many examples of both institutional change and stagnation. Most often, change was brought about by external shocks. For example, from an institutionalist perspective, the independence of the United States of America came about after neither the colony nor the monarchy faced a threatening French presence in North America anymore, and as a consequence the monarchy sought to increase its control over the colony. The new situation also meant that the colony felt less in need of its owner and the willingness to bear costs for the continuation of the relationship decreased, ultimately leading to independence (Bissinger 2015, 35)

Another commonly cited example of the role of institutions for economic development occurred after the Second World War. Germany and Korea faced similar fates, as both were divided into two one of which was governed in communist fashion, the other was capitalist. In the communist sectors, institutions underwent very quick change and created a state-led planned economy, while the other sectors were governed in a capitalist, market-based economy. In both cases the market economies performed much better than the panned economies. This drastically highlights the importance of institutions in economic performance (Feld and Kirchgässner 2008). It also shows that a different formal setup of institutions will produce different results in an otherwise homogenous environment.

Another much studied example of the influence of institutions is the development of post-colonial Botswana. Acemoglu, Johnson and Robinson argue, that the economic performance of the country, which is doing much better than other countries in the region, is due to its institutional setup and the historic elements of them. The tribal structure in Botswana is very inclusive and restricts the power of chieftains. The effects of colonialization were not as strong as in other regions, due to its remote location, and there were powerful interests in place which ensured the protection of property rights. These aspects lead to a comparatively good economic development despite poor physical preconditions, such as very little infrastructure, land-locked geography and risk of a resource curse. The interaction of formal and informal institutions in the country enforced property rights, and thus fostered growth in Botswana (Acemoglu, Johnson and Robinson 2001a, 1-3)

Finally, it is interesting to look at the relationship between colonial history and institutions, especially since Myanmar, as a former British colony is directly influenced by this. There have been different approaches to analyzing the history of colonial institutions and their impact on modern day institutions. One approach differentiated between extractive and inclusive institutional setups, the former being common in South America or the Gold Coast, the latter being typical for the Canada, the United States or Australia. Acemoglu and Johnson link these differences to exogenous factors, with mortality rates and disease susceptibility leading to more extractive institutions (Acemoglu, Johnson and Robinson 2001b, 1395). North, Summerhill and Weingast on the other hand looked at the different practices of granting property rights in English and Spanish colonies. Land in Spanish colonies was usually given to people close to the crown, and in large quantities, while land in the British colonies was given as private, transferable property rights. This led to a more efficient land use in British colonies. Additionally, trade flowed much more freely in the British colonies, while Spanish colonies had strong restrictions on trade in place. The different economic performance between these colonies after independence is attributed to their different colonial setups (North, Summerhill and Weingast 2000, 44-48).

Scholars have found that institutions are vital to economic growth. However, large, cross country studies which seek to demonstrate the correlation between institutions and growth often struggle with finding the right proxy for institutions. Studies have used different indices to demonstrate the institutional setup, however these are often arbitrary and not very precise. Accordingly, the studies find that a correlation exists, however not much else. It seems apparent, that the protection of property rights is vital to the promotion of growth, as well as limitations to rent-seeking are important factors for good institutions (Bissinger 2015, 24). Acemoglu, Johnson and Robinson state that good institutions provide protection of property rights as well as equal access to economic resources to a broad cross-section of society. (Acemoglu, Johnson and Robinson 2005, 8).

These actions have been challenged by other scholars who argue, that the role or property rights are overstated, and other developmental factors are overlooked in the process. It is argued, that other, collectivist rather than individualist, traditional networks are capable of providing an alternative to contract law (Bissinger 2015, 25).

As mentioned above institutions are difficult to measure and in the attempt to use indices to do so the influence of single institutions and the difference in institutions between countries is often lost. Another risk which scholars face in their work is the differentiation between institutions and policy work, which is often overlooked. Institutions are long-lasting entities, while policies are implemented decisions which may not be covered by the countries institutions (Ibid. 25f). The link between institutions and growth has been shown many a time and it can be assumed that institutions do play a role in determining the development of an economy, and research has shown that there are such things as good and bad institutions.

5.2.4. Institutional Influence on Economic Development and Companies

This chapter will explore the influence institutions have on economic development and companies on a smaller scale than the previous discussions of the broad connection of institutions and development and growth. North argues that institutions are the "underlying determined of long-run performance of economics" (North 1990, 107), and places them at the center of his analysis of long run growth. He argues that level 1 institutions, the long running norms and customs, play an important part in determining rich and poor countries. He also argues that different levels of development are caused by social and political norms, historic institutions and the constraints on action which path dependent institutions form. He argues that developed countries commonly have institutions which promote productive economic activity, while the institutions of economically less developed countries are commonly found to be favoring redistributive over productive activities, creating monopolies rather than competition and restricting business opportunities instead of fostering them. As discussed previously, organizations generally form to exploit the opportunities given by the institutional setup, meaning fostering productive activity incentivizes organizations to produce, while redistribution and monopolies may lead to stagnating results. Organizations will follow the incentives they face in order to survive.

NIE assumes the institutions of developing economies to be fundamentally different from those of developed economies, lacking the level of property right protection, formal contracts, and other economic institutions such as trademarks and guarantees we are used to seeing in rich economies. These may in cases be replaced by informal institutions, but more often they are lacking or less developed, which has direct consequences for the economy (Bissinger 2015, 27).

There are a number of ways in which institutions influence the work of companies which will be discussed here. Generally, institutions change the costs of certain transactions for businesses which changes incentives and effects whether or not they are viable business options or not. Bissinger has presented five channels through which institutions interfere with the costs of businesses (Bissinger 2015, 27-31).

Regulatory barriers and transaction costs are the most direct form in which formal institutions cause costs to companies. These are incurred when companies deal directly with state agencies, for example when obtaining a license to operate in a certain sector. These fees are usually paid for services the government provides and are in no way foul play, often they are absolutely necessary. The costs may however limit profitable opportunities.

Transaction costs are also affected by the institutional setup of a country. As described above, transaction costs are associated with all transactions an organization makes and they vary in different institutional environments. The institutions affect how high transaction costs at the marketplace are, for example through providing information about the credit history of a potential trade partner, if institutions for such information are in place. If they are not, transaction costs rise because this information has to be generated before closing the transaction. Furthermore, the judicial system plays a role in this, as a functioning and effective system would further decrease transaction costs. Ménard and Shirley have found that institutional arrangements such as written contracts enforced by courts were largely responsible for successful European economic development" (Ménard and Shirley 2012, 10). While having the potential to lower transaction costs, institutions may also raise them, if information becomes harder to find or institutions lesser the protection and enforceability of property rights.

Institutions affect transformation costs in the production through restrictions on in- and exports or environmental standards, similarly rules in the financial sector may inhibit capital provision and restrictions in the energy sector may prevent investment and increase in power production. These aspects are also found in considerations about the investment climate.

Another factor is the degree and distribution of property rights, in which the state has to be strong enough to protect them, but at the same time not appear to be a threat to them. It is important that the government and its institutions are at the same time strong enough to safeguard property rights, but bound to not violate them at the same time. Originally the consequence of this logic was that a state had to limit itself, be strong but limited, however it has also been argued, that, in light of the success of active state intervention in east Asian economies such as Japan or Korea, strong states may also bring development (Bissinger 2015, 29). Developing countries often struggle with either a state that is not strong enough to guarantee property rights, or one that is predatory in its administration of them. Predatory institutions often infringe on property rights. Controls on the other hand increase the transaction costs and at the same time decrease property rights. Additionally, the enforcement of contracts is key to property rights. Market based exchange relies on contract-enforcement institutions and coercion-constraining institutions (Greif 2005, 727).

Institutions also face the problem of manipulation. Especially in developing countries, they can be abused by elites to generate economic rents, which in turn are carried by the rest of society. This problem has been described as "Limited Access Order" by North (North et al. 2007, 2-3). The institutions used for rent extraction are often formal, state-controlled rules and regulations. Rents are extracted in two ways: Arbitrary enforcement and infringement on property rights and the altering of economic incentives through the creation of barriers both formal and informal.

While this numeration is not exhaustive of the ways institutions influence the work of economic organizations, they show some of the major ways institutions alter the costs. In doing so, they directly influence which opportunities are profitable for companies and which are not. Especially firms and companies in developing economies often face challenges in one or more of these channels and have no choice but to work with the opportunities the institutional environment offers them. These may be redistributive rather than productive, or even the black market if the market is too regulated or governed by predatory institutions.

Another factor that should be considered when considering the interaction of institutions and economic organizations is the Principal-Agent Problem. While the literature puts great emphasis on the protection of property rights, the means of enforcement often play only a smaller role. They are generally assumed to happen though the means of government, such as taxation or the judiciary. These are generally thought to be institutions of the second level. Thus, executive, legislature, judiciary and bureaucracy all play a part in incentivizing the players of the game. Principal-Agent problems arise when one actor (agent) makes decision over another (principal), but his personal interest may not align with the interests of the principal. Much like companies incur costs in enforcing their contracts and supervising their staff, similarly institutions have to monitor their staff. Since the players' interests are often not well aligned with the state, and there often is no perfect oversight, rent-seeking and bribery are often found in developmental states. The problem is amplified by large bureaucracies, were monitoring and enforcement are more complicated. This situation gives rise bribery and rent-seeking changing incentives and fostering monopolies (Bissinger 2015, 31).

5.2.5. Limited and Open Access Orders

Limited Access Order describes a society in which only a small elite regulates access to political and economic power to generate rents (North et al. 2007, 3). The main differences between Limited and Open Access Orders is how they deal with violence, both potential and actual within a society (North et al. 2011, 2).

In the LAO system, rents are extracted and dispersed among the elite which, in turn, incentivizes the elite to maintain the current situation. In terms of institutions this means that restrictions to the formation of organizations and contract enforcement are in place, which improves the value of the privileges the elite enjoys. Through the elimination of competition, the elites' organizations become more effective (North et al. 2007, 8). Limited Access Order refers to a common set of arrangements concerning organizations, institutions and beliefs, including: (Bissinger 2015, 33)

- Reliance on personal relationships amongst elites
- Limited access to resources
- Limited access to forms of social organization
- Selective suppression of economic and political competition
- Centrality of "state-controlled industries, problematic business licensing regimes (for new entrants), and corrupt patron-client networks" (North et al. 2007, 9)

As the name suggests, Open Access Order describes a situation in which access to political and economic privileges is not regulated, and is thus characterized by competition both politically and economically.

As North, Wallis, Webber and Weingast state, the vast majority of countries today can be classified as a LAO. However, there are important differences to be made within the category of LAO states. They identify four different kinds of LAOs: Fragile, Basic – authoritarian, Basic – competitive clientelist and Mature. The differences are shown in the following table:

Table 5: Types of Limited and Open Access Orders

Type (Examples)	**Economic Organizations (EOs)**	**Political Organizations (POs)**	**Violence Capacity (VC)**
Fragile LAO (Afghanistan, DR Congo, Haiti, Mozambique 1980s)	EOs and POs are not clearly distinguishable, except perhaps for multi-national firms present in fragile LAOs.		All organizations have VC. Civilian and military not clearly distinguished.
Basic LAO—Autoritarian (USSR, Korea with military government, Mexico 1940s-80s)	All major EOs—public or "private"—are linked with the central state; some are also linked with multi-nationals.	Most POs are controlled by the state, eg. one-party state or dictatorship. Opposition parties are under threat.	Most VC organizations are part of state, yet some may compete with or threaten the civilian state.
Basic LAO—Competitive Clientelist (Philippines, Bangladesh and Zambia, since early 1990s	Some private firms, some multi-nationals. Political connections needed for major economic success.	Competing POs, but effective power is dependent on central permission.	
Mature LAO (Mexico since 1990s, Chile since 1990, India, China)	Many private firms and multi-nationals. Political connections needed for major economic success in face of informal mechanisms of limits..	Multiple POs, but effective power is dependent on central permission. Democratic process, if present, cannot challenge major economic powers.	State controls almost all VC.
OAO (Western Europe, USA, Canada, Japan, S Korea since 2000?)	Most are private. Non-discriminatory rules for any citizen to start an EO and get state legal support.	Non-discriminatory entry rules for any citizens to start or join a PO.	No non-state organizations have VC.

Source: North et al. 2011, 9

For the transition from a LAO to an OAO three "doorstep conditions" are considered necessary:

1. Rule of law for elites
2. support for a perpetually lived organizations, including the state itself and elite organizations outside the state
3. centralized and consolidated control of violence

The transition into an OAO can only be achieved after these conditions are met. (North et al. 2011, 10).

North noted, that this is a major difference between developed and developing economies. Many of the policies suggested to developing economies by international organizations have been tested in Open Access Order circumstances:

> "Much of the assistance the World Bank offers to its clients come as recommendations and incentives to adopt specific institutional forms and

> mechanisms. Understanding why reform of institutional forms often fails to produce transformations in developing countries requires recognizing that the same institutional forms work differently in limited and open access orders, even if the recipient country has the political will to implement the reform" (North et al. 2007, 25)

Reforming along the experiences of western countries often produces theoretically open access order institutions, which are then used to retain the existing limited access order. It has been found, that forces which protect the elites and their privileged access to resources and opportunities are hindrances to development. The resistance to institutional change also shows, why development is so challenging to achieve.

5.2.6. Investment Climate

Considerations about the Investment Climate, or Business Environment began to grow during the 1990s. They argue, that in order to achieve economic growth, production costs must be kept as low as possible. Since many of the parts of production costs are affected by institutions (through transaction and transformation costs, as explained above) the commonalities between NIE and Investment Climate are significant. Key elements of the Investment Climate are infrastructure, financial systems, as well as macroeconomic policies. The Business Environment is generally defined as the external factors which influence the risks and returns associated with an investment (Bissinger 2015, 40). Investment Climate is defined by the World Bank as "the set of location-specific factors shaping the opportunities and incentives for firms to invest productively, create jobs and expand" (World Bank 2004). Differences have been pointed out, saying that the business environment is a part of the investment climate, however they are often used interchangeably.

Two core aspects of the investment climate are infrastructure and the financial system. Studies have found a significant link between infrastructure and poverty reduction. Infrastructure is usually thought of has the transport ways present in an economy, the availability of electricity and communication networks, as well as sanitation and waste management. Results commonly suggest that better infrastructure increases productivity however, infrastructure programs do not always yield the desired result, as some have problems with ineffective public spending. The benefit of public infrastructure programs is therefore disputed, one side seeing possible benefits to production as well as multiplier effects of public spending, others criticizing public investments in infrastructure as inefficient and not tailored to the need of the community. The trick is therefore to find the right path in infrastructure development. (Bissinger 2015, 46-49)

The financial system influences the investment climate in five ways, as Levi stated in 1997 (Levine 1997, 688-689):

- It facilitates trading, hedging diversifying and pooling of risk,
- It allocates resources,
- It monitors managers and exerts corporate control
- It mobilizes savings
- It facilitates the exchange of good and services.

All of these functions are fundamental to economic activity in a market system. As we will see, the financial system in Myanmar is somewhat lacking in the eyes of several actors, which constraints growth for them.

5.2.7. Criticism

NIE has contributed a major new school of thought to economics and developing economics. However, the concept is not without its shortcomings and critics. Some of the major quarrels with the approach will be discussed in this chapter.

New Institutional Economics, especially in the works of Douglas North, have attempted to include historic aspects in to the analysis of economic systems. This is exemplified by the idea of path-dependency in the development of institutions, and the Level 1 and 2 institutions which are formed over periods of many years, Level 1 reaching back as far as a thousand years (see chapter 6.1). However, NIE does not deviate from some basic assumptions of neoclassical economics, such as the existence of markets and market forces, as well as the basic problem in economics: The allocation of scarce resources and the quest of actors to choose the best possible option available to them. NIE has made adjustments and changes to the assumptions of neoclassicism, most apparent in their focus on bounded rationality and transaction costs (see chapter 6.2.1.), in an attempt to make the concept more realistic.

Daniel Ankarloo renews criticism brought about by Karl Polanyi in response to earlier thoughts on institutionalism. Polanyi argued, that, at the center of economic thought, there is not the attempt to allocate scarce resources but the basic human necessity to interact with nature in order to survive (Ankarloo 2002, 6-7). The market is therefore not the logical and only mode of circulation. Market systems, according to Polanyi only come about once markets for the "factitious" goods of land, labor and money have been established. Once the majority of trade is conducted via such a market, the market is so dominant that it effectively takes over society, becoming the society (Ankarloo 2002, 7). The NIE assumption that market systems have always existed is, in Polanyi's eyes, false. While markets did exist before market systems, they were not as central and definitive to the economy as classical economics assumes. What Polanyi describes as the "Great Transformation" was the overtaking of society by the market system. The markets shift from being a phenomenon in the sphere of economy to being essential to existence. Not participating in market transactions becomes a risk to survival. Ankarloo uses the concept of a pre-market world to criticize North's New Institutional Economics. Even though North admits that the market economy has not always existed, in order for NIE to work the institutions and forces which regulate the market today have to be assumed to exist before the market system does. The market remains the "universal yardstick" (Ankarloo 2002, 18-19), which is used to understand and analyze. NIE therefore remains strongly rooted in classical economy and the idea of markets. Assuming market principles to be present it reaches a historical view which states that, if markets are present it is because they are efficient, if they are not present, this too is because it is efficient (Ibid. 20).

This problem in the historic explanation of institutions is one of the major criticism brought against NIE, as other scholars follow the logic (Zouboulakis, 2004, 12). There are theoretical problems in explaining the genesis of institutions in pre-capitalist societies. It is important to note however, that institutions are man-made and people and institutions influence each other mutually. People are socialized in an environment of institutions, however, they too influence institutions and, at the end of the day leave behind different institutions then those they found at the beginning.

Claude Ménard raises different points of criticism which target the relation between the concepts of NIE and innovation as well as governance structures. While transaction costs have been widely researched, it is still questionable how they relate to innovation, or more precisely, how transactions can be organized in a way that is most conducive to creating new processes, on a micro level as well as on an institutional level (Ménard 2001, 3). Ménard also mentions that, while it has been established which institutions are critical to economic growth (see chapter 6.6.2.), less has been said about the way these institutions influence governance structures and influence transactions. This means that little can be said about comparative advantages of certain institutional setups (Ménard 2001, 4).

NIE as a concept argues from the basic premise that economies concern themselves with the allocation of scarce resources, and that markets are used to do just that. These markets are influenced by institutions which have effects on transaction costs. The institutions define the rules of the game, organizations on the other hand are the players of the game. It is one of the major advancements of NIE that some assumptions of classical economics have been changed to be more realistic, especially concerning bounded rationality and the role of history in the development of institutions. The historical aspect of NIE has been criticized because it takes the idea of the market and economizing in the sense of resource allocation as given forces, even in pre-capitalist societies. New Institutional Economics, while not free of flaws, have contributed important aspects to development economics because the role of culture and society is central to the concept. As North has stated about the difference between Limited Access and Open Access Orders, a set of policies can yield very different results in different institutional setups. There can be no single approach to development because institutions shape the way organizations behave through setting incentives.

5.3. Informal Institutions in Comparative Politics

Institutional research is often focused on formal institutions and understates the importance of informal institutions. However, informal institutions play a major role in the application of formal institutions, one can therefore not be discussed without the other (Helmke and Levitsky 2004, 725). Another understudied factor about informal institutions is their formation, more specifically why and how they have developed. Amongst the reasons for their development, the incomplete nature of formal institutions (bounded rationality) is one of the reasons. Since the formal institutional environment always has gaps, informal institutions develop. Additionally, informal institutions allow actors to pursue goals which they could not pursue through official channels, if they cannot change the official institutions, or the formal institutions are too weak to enforce the desired outcome. Another factor is the pursuit of goals which are not desirable or legal and can therefore not be pursued through official channels. As for the creation of informal institutions, the answer is more complicated than for formal institutions, since they are not created through official channels. In fact, they may be created through a number of ways ranging from a top-down, elite driven establishment to decentral, bottom-up development of practices. Once established, the practices are passed on through trial and error and learning through observation as actors who violate the institutions are punished.

In order to analyze them, it is important to define informal institutions, as the term itself seems vague. While informal institutions have been treated as a form of residual category (anything that is not a formal institution), analyzing them requires a more detailed definition. Helmke and Levitsky propose to define informal institutions as: "socially shared rules, usually unwritten, that are created, communicated and enforced outside of officially sanctioned channels." (Helmke and Levitsky 2004, 727). Within this definition it is important to note, that informal institutions are not to be mistaken with weak institutions. Additionally, not all behaviors can be classified as informal institutions. Some behaviors are expected but breach of them is not sanctioned. These can be classified as a behavioral norm. Helmke and Levitsky also differentiate between culture and institutions, as they argue institutions should be defined along common expectations rather than norms. (Ibid. 728).

This definition enables further differentiation amongst informal institutions. Rather than the traditional, two sided view of institutions in which they can either be seen as functional, structuring interaction in absence of functioning formal institutions, or dysfunctional, interfering with the functioning of formal institutions, it is proposed to differentiate along two categories: How outcomes differ from formal institutions and how strong the formal institutions are.

Table 6: A typology of informal institutions

Outcomes	Effective formal institutions	Ineffective formal institutions
Convergent	Complementary	Substitutive
Divergent	Accommodating	Competing

Source: Helmke and Levitsky 2004, 728

- Complementary informal institutions coexist with effective formal institutions. They fill gaps within the constitutional framework and can, at times, be the foundation of new formal institutions. They can also improve the effectiveness of formal institutions. As an example of this the bureaucracy of Singapore, which in its setup is similar to the Indonesian or Philippine bureaucracy, has been stated. The informal institutions of meritocracy and discipline increased the effectiveness of the formal institution.
- Accommodating informal institutions produce results which differ from the expected outcomes of following the formal institutions without directly violating them. They may realign the interests of specific actors with the existing formal institutions. Practices of power sharing and elite accommodation in democracies, which are counterintuitive to the formal institution of the vote, can be classified as an accommodating informal institution.
- Competing informal institutions exist next to ineffective formal institutions and often run contradictory to them. Following the informal institutions in this case means violating formal institutions, however since these are often not enforced the risk of violating them is relatively low. Common examples are corruption and bribery, especially in post-colonial countries, where colonial institutions

often compete with the traditional institutions. Following one means violating the other.

- Substitutive informal institutions also exist next to ineffective formal institutions; however, they produce results which are similar to those of the formal institutions. They achieve what the formal institutions attempted to, but could not achieve. Examples range from alternative conflict resolution methods to the provision of public goods outside of the official channels.

Having established the importance and the different kinds of informal institutions, exploring how they change is important to understanding how a transition might work. Helmke and Levitsky have identified five sources of change in informal institutions (Helmke and Levitsky 2004, 733):

1. Changes in the design of formal institutions;
2. Changes in the effectiveness of formal institutions;
3. Cultural change;
4. Change sin distribution of power and resources;
5. Updating of beliefs or mechanisms of coordination.

While it is commonly expected that change of informal institutions is a very slow process, this approach suggests that the first and the fifth cause of change cause very rapid changes, while the third and fourth cause a slower rate of change. The effect of changes in the effectiveness of formal institutions may be seen rapidly or with delay.

Especially in a situation which is characterized by weak formal institutions, as has been the case in Myanmar for a long time, it is important to look at the informal institutions and consider both, how they influence the application of formal institutions and how they may change as time progresses. The framework provided in this chapter will be useful to classify the importance and influence of informal institutions in Myanmar.

6. Economic Transition and New Institutional Economics

The following chapter will take the most important factors which were introduced in chapter four and discuss them in more detail. This section aims to show both, how NIE explains the phenomena businesses are faced with in Myanmar, but also which limitations NIE have in explaining the transition of the country.

6.1. Changes in Regulations and Laws

During the last years, Myanmar has seen a number of reforms and new laws instituted. For the companies which took part in this study the most important of these were the Foreign Investment Law and the Citizens Investment Law, which established the framework for the investments the government aimed to attract. These laws have been combined in December 2015. While the general direction of the laws remained the same, it was a step forward in terms of equal treatment of national and foreign businesses. The new law states, that:

> "Under equal circumstances, the treatment in respect of establishment of business, procuring of business, expansion of business, management, operation and sales or other plans concerning direct investment provided to any Foreign-Investors and their investments shall not be less favorable than those provided to Foreign-Investors from other countries and their investments." (Bohusch, 2015).

While the general provisions are for equal treatment of local and international investors it is noteworthy, that the text states that foreigners shall not be treated less favorable, not the other way round. While this may be seen as an assurance towards international investors, it shows that foreign investment remains a large focus for the government. For international companies, this may relate to fears of being at a disadvantage against SOEs, however, the situation of SMEs from Myanmar is not addressed. Another interesting provision concerns protection from nationalization. While the previous FIL stated that investors were guaranteed against it, the MIL leaves the possibility to nationalize in the interest of the public (against compensation). Dispute settlement is generally attributed to the national jurisdictional system, unless contracts state otherwise, both between the state and investors and amongst investors. The text also states that all parties are free to negotiate different provisions for conflict settlement. As this research has shown, this is commonly practiced, Singapore is the most common point of reference.

The changes to laws have not changed the governments general willingness to control parts of the economy. Under the State-Owned Economic Enterprises Law some sectors remain strictly under state control, all activity is subject to scrutiny by the authorities (GOM, 1989). However, some of the most notable changes in Myanmar have occurred in the state controlled telecommunications sector, where two foreign companies (Telenoor and Ooreedoo) have invested and increased mobile phone coverage immensely (Deutsche Welle, 2013).

These laws have also created new regulatory bodies, such as the Myanmar Investment Commission, which is tasked with assessing investment applications and granting permits. It acts as a gatekeeper which makes sure investors behave in the way the law requires them to.

Other new laws, such as the Condominium Law which one of the interviewees was waiting for in February 2015 has been passed in January of 2016 (Myanmar Times 2016b). The law allows foreign citizens to own flats which meet certain criteria, which was not allowed before. It is still not possible for foreigners to own land in the country. However, the rapid pace at which laws are being passed and the reactions to demands from the economy show that the government is serious about changing the economy.

NIE sees these changes as an evolvement of the formal institutions governing the economy of Myanmar. Many of the laws and institutions established in the country since 2010 can be considered good formal institutions, however, their application is the more interesting part in the case of Myanmar. The legal framework in Myanmar has had limited impact on the businesses operating in it in the past, as chapter three explored. Many of the formal institutions have failed to influence economic activity in the past, such as the court system which is generally avoided. Uncertainty about the enforcement of regulations and procedures as well as quickly changing institutions remain challenging in the country.

As chapter 6.3. will explore in more detail, Myanmar is currently in between stages, clearly not yet an OAO, however due to the reforms and transformed institutions it can no longer be seen as purely a vulnerable LAO.

Both NIE and Investment Climate approaches suggest, that the costs for pursing economic activity should be kept as low as possible to foster economic growth. The changes in regulations and laws in Myanmar have aimed to do so, especially the liberalization of the financial sector and the reform of the investment law are looking to attract companies to Myanmar and provide an environment in which they can develop. However, it is also an important aspect of the institutional setup to limit the scope for opportunism and thus increase certainty for organizations. According to multiple interviews, this has not been achieved yet.

6.2. Financial System

One of the most important market-supporting institutions is the financial system. It grants private actors access to capital, which, in Myanmar, it is struggling to do. Despite a number of reforms in recent years, local companies still struggle to acquire the capital necessary for growth, some have to rely on either unofficial credit sources or partnering with foreign investors. Amongst the most important change to the financial sector in the last decades was the abandonment of the fixed exchange rate regime in 2011. The immense overvaluation of the kyat in the past deterred exports, while especially SOEs were able to profit from the overvaluation through cheaper imports. Additionally, the government announced a number of foreign banks which were granted licenses to operate in Myanmar in early 2015. These licenses are limited though; the international banks are only allowed to engage in business with foreign companies (Financial Times 2014). The market for loans to local companies is still highly regulated. While banks are free in the size of a loan given for a collateral, they have to take collateral and banks generally seem give a maximum of about 50% of collateral as loan (Interview 5, 3). Additionally, while farmers are now allowed to use the land they work on as collateral, banks are hesitant to accept it, as the risk of a default on the loan is considered too high (Interview 5,10).

The problematic financial situation for local companies puts them at a major disadvantage in competition with international companies. During the research none of the interviewed foreign companies described problems with capital acquisition, as they mostly financed themselves through their parent companies. Local companies on the other hand had to rely on alternatives to the banking system, as described in chapter four. The current financial system and the requirements in collateral in order to access credit strongly favor those who have already accrued significant wealth. Expanding a business is difficult if credit has to be secured through export goods, gold or land. Especially the use of land as collateral is easier for customers with significant holdings, as the banks will usually give credit amounting only to a part of the collaterals worth. This, combined with the huge increase of property value in Yangon makes bank credit possible for some local companies. Other big conglomerates have a bank as part of their group of companies, giving them access to capital. On the losing side of this situation are the small and medium enterprises, which make up the bulk of the economy in Myanmar.

6.3. Relationships, Corruption and Cronyism

As explored in chapter 3.5.3., corruption can be seen as an informal institution. NIE suggest that corruption thrives in environments of weak formal institutions. Especially weak contract enforcement and uncertainty about rules and regulations increase the likelihood of corruption. As an effect, transaction costs rise drastically, and companies operate in an environment of insecurity, as the room for interpretation given to officials by a lack of control makes them dependent on their good will.

In Myanmar studies have found corruption to be a common practice in the dealings companies have with officials and bureaucracy. The government control over permits and licenses, which are needed for practically all parts of the economy, leads to frequent interaction between the regulatory powers and the economy, which often involves bribes and favors.

During the interviews conducted for this study, corruption came up only in interviews with local companies, while international companies insisted they had not experienced it. However, all interview partners could relate to the importance of relationships. International companies mostly thought them important for their dealings with business partners, while local companies also stated them as important for new business opportunities. It was also apparent that bigger, better connected companies had access to information smaller companies did not, as they knew about the contents of negotiations between the international financial institutions and the government of Myanmar.

Within NIE corruption is perceived as a problem of opportunism which arises in the absence of strong formal institutions for contract enforcement and high transaction costs. In this situation personal exchange, favors and bribery may speed processes along, give access to limited resources and thus be more efficient then the official alternative. In the case of Myanmar, the strong formal government control over the economy and the history of repressing private businesses may explain parts of the problem.

The importance of relationships marks Myanmar as a country which currently has to be considered a LAO. Characterized by limited access to political and economic opportunities, as personal relationships and access to information is still vital to taking advantage of business opportunities. Other studies have shown this even more clearly, for example a study by Bissinger quoted a business person saying that a minister's family member had proposed a partnership, promising to get all government contracts (Bissinger 2015, 164).

Within the concept of different stages of an LAO introduced in chapter 5.2.5., Myanmar today can be classified as Basic LAO, on the way to transitioning into a Mature LAO. As shown by both the interviews conducted for this study and the analysis of the Laws of the country, economic activity is still tightly connected to the state. The framework of restricted sectors and the necessity for permits for almost all economic activity, the gatekeeper function of the MIC and the relevance of personal relationships to access economic opportunities clarify that, in order to achieve economic success, a relationship with the government is necessary. In the political sphere, there has been a degree of competition since the by-elections in 2012. However, the central role of the military, which is protected by the 2008 constitution, shows that there still is a central actor on which political power is dependent. The economic development, which is focusing private sector growth, may soon be classified as a Basic Competitive Clientelist LAO, however the private sector still mainly consists of informal firms. With regard to the control of violence, the National Ceasefire Agreement can be seen as a step to more state control over organizations capable of violence, even though the biggest armed groups in the civil war are not covered by it. However, it is arguable whether the military itself can be seen as state controlled under the current government, as it is often treated as an outside force which the actors have to deal with. The military is independent of the national budget and their control over parts of the parliament and three ministries gives them considerable power, as do the companies they control. Since they effectively control themselves through the ministries they staff, it should be argued that they elude state control. To be classified as a mature LAO, the dependence of economic actors on the state needs to decrease further, while the number of companies in the private sector needs to grow. The role of the military under the new, civilian government will have to be clarified in the coming months and years. However, there are major institutional challenges to classifying the military as state controlled.

Regarding the transition into an OAO and the three conditions necessary to do so, none of the categories are fully given yet. The rule of law is still weak, as the reluctance to rely on the court system in Myanmar exemplifies. Bribery and corruption within the courts and the bureaucracy exemplify this further. Support for perpetually-lived organizations, especially for civil society organizations is building Myanmar, the 2015 election has shown that the transfer of power between parties is possible. However, so far only the NLD has shown itself as an alternative to the USDP. Finally, the central control of organizations with violence potential is not given. As argued above, the military is controlling itself, it is not controlled by the government. Additionally, the factions which have not signed the Ceasefire Agreement remain a factor.

There are developments which restrict the freedom of relationship based transactions in Myanmar. As one interview partner noted, the acquisition of shares of a "crony bank" by the grandson of General Man Shwe caused an uproar by civil society. As a result, now both the person buying shares of a bank and the bank itself have to assure the central bank that the money is not involved in money laundering and that all taxes have been paid (Interview 5, 7). This shows that the rule of law for elites is increasing in Myanmar.

Jong-Sung You has explored the transition of South Korea towards an OAO and found that, in comparison with the development of the Philippines, corruption was a major obstacle on the transition towards an OAO for the Philippines (You 2012, 31). Another factor was the early establishment of a state monopoly on violence in South Korea, while the Philippines had to content with uprisings in the country, much like Myanmar. The third factor You considers important for the different developments of South Korea, Taiwan and the Philippines are land right reforms. While South Korea and Taiwan successfully reformed their land rights to reduce the influence of large landowners, the Philippines failed to do so (Ibid. 32-33). While Myanmar did complete a land rights reform in the socialist era, the country is currently negotiating another reform. The Farmland Law, which was discussed previously, shows, that Myanmar is keen to keep governmental influence in this sphere.

The classification of bribery, corruption and cronyism as informal institutions, which are used by actors and organizations in different situations to further their interests, should not be seen as an alternative to the concept of NIE, but as complementary. In this case, the institutions developed as a response to weak formal institutions in the past, while actors were looking for other ways to secure opportunities. While corruption may be explained as a mixture of low income of government officials and missing certainty and contract enforcement for the businesses, the practice of cronyism has to be classified as a rent-seeking activity by all parties involved. Seeing how different informal institutions have been formed and how they differ from formal institutions can be useful in fighting the importance of relationships and corruption in Myanmar.

6.4. Skilled Workforce

Another important limitation on the work of the interviewed businesses was the lack of skilled labor available in Myanmar. This problem was faced by local and international companies alike. While some of the local companies stated that they were offering programs to improve the situation through internships or trainings (Interviews 3 and 5), most blamed the educational sector for the problem. It was stated that the education in Myanmar is very much influenced by "socialist style teaching", meaning a heavy focus on frontal instruction and memorizing, but little critical thinking and problem solving.

The new Myanmar Investment Law has additional provisions to help with this situation. The former investment laws had regulations about the percentage of the workforce which had to be staffed by local citizens, the new investment law also requires companies to help with training: "Investor shall carry out capacity building programs in order to enable citizens to be appointed in the positions of senior management, technical or business professional or consultant as per sub-section" (Luther 2016, 7). Low skilled labor is to be staffed entirely by nationals. Previously investors were required to have a certain amount of their staff consist of nationals, the percentage of which increased every year. With the changes, the government is clearly putting more emphasis on educating citizens to fill the higher jobs within companies. Additionally, the new law states that there can be no differences in remuneration.

For the development of the country, the creation of a skilled workforce will be fundamentally important. It is apparent in many of the companies interviewed for this study, that higher positions are often held by people which were educated in other countries. The lack of highly trained experts in the country increases the transaction costs for companies, as they need to invest into training their employees. Coupled with the uncertainty many companies are worried about, less actors take advantage of opportunities, as they worry that the investment needed to create skilled workers may not pay out before institutional change in the country renders investments unprofitable. Reforms to the educational system, which are in process at the moment, are therefore a much needed.

6.5. Contract Enforcement

As discussed, contract enforcement is one of the most crucial questions in the NIE approach to understanding economic development. The institutions in charge of enforcing contracts are therefore crucial to the development of a private sector. Many of the interviewees in this study have described problems with the enforcement of contracts. While it was stated in one interview, that appealing to the national courts might signal the end of a business, another described problem with the legal proceedings, as the take very long and the results might still not be satisfactory. These problems give rise to two incentives. One is the creation of informal institutions and other alternatives to conflict resolution and contract enforcement. The importance of relationships can also be explained by the fact that contracts with unknown actors are connected to considerable risk, if a dispute arises. The other incentive is risk aversion, as displayed by one of the interviewees in this study. To avoid the slow and arduous process of contract enforcement, organizations do not engage in transactions which might run risk of creating a dispute.

A look at the history of the economic institutions in Myanmar has shown, that the court system, which was originally implemented by the British colonial power, was of little consequence to the people of the country until the independence, as the business people which used them were mostly foreigners, specifically British and Indian. This bred a distrust against many market supporting institutions since they appeared to mostly benefit the foreigners which were perceived as exploiting the country. The role of the courts has not changed drastically, as they remained either unimportant for businesses, as private economic activity was highly restricted or forbidden during the socialist era, or their slow and corrupt nature deterred private businesses from using them once they were reinstated. Additionally, the courts of an authoritarian regime are unlikely to be concerned with contract enforcement, and more with the protection of power of the elites.

Today problems with the enforcements of contracts hinder economic growth, as especially foreign investors see it as an impediment. Partnerships between local and foreign companies often specify the court system of a different country, such as Singapore, to be the place were disputes are settled. Alternatively, international norms may be employed, such as the New York Arbitration Convention.

7. Conclusion

Based on the development of the economic institutions in Myanmar and the results of the research in Myanmar conducted for the study, this thesis has attempted to analyze how the economic reforms since 2011 and Thein Seins presidency have influenced the work of companies in Myanmar, and how the concept New Institutional Economics explains these changes.

One of the most important factors which the development of the economic institutions in independent Myanmar since 1948 has created, is the central position of the government in economic activity in Myanmar. Influenced by the colonial experience, which saw the economic exploitation of the country based on a market system catered to the interests of foreign companies, a continuous strife to control economic activity has surfaced throughout all independent eras of Myanmar. Beginning with the nationalizations in the parliamentary era, the complete state control during the socialist era, and the limited liberalization and preserving of the SOEs in the SLORC and SPDC era. Even in the recently reformed laws the state plays an important role: through the gatekeeper function of the MIC, restricted sectors for foreign investment, the regulation of the financial system and the close supervision through permits and licenses in all parts of the economy (see chapter 3.1.1. – 3.1.4., 3.4. and 3.5.).

The close relationship between economy and state has also played a role in some of the results of the interviews conducted for this study: Problems with the financial market, uncertainty created by new laws and regulations, the role of relationships, lack of a skilled workforce and problems in contract enforcement were the most prominent.

New Institutional Economics provide a valuable framework to analyze and understand the phenomena currently observable in Myanmar. Focusing on the role institutions play in transaction costs, property rights and contracts gives insights to how different institutions and regulations influence incentives for businesses operating in Myanmar (see 5.2.2. and 5.2.4.). As the previous chapter has shown, two of the biggest challenges companies face in Myanmar at the moment are contract enforcement and the prevalence of informal institutions through relationships, corruption and bribery. Other constraints cited in the interviews, such as the financial system in the country are closely related to the ones stated before. The financial market has seen reform in the past and is changing further. However, problems in contract enforcement and high risk aversion restrict lending even more than the legal framework (see chapter 4. And 6.).

It is one of the major contributions of NIE to the study of economic development, that it incorporates political and social institutions and the control of violence into the analysis. In this thesis this has been addressed by the discussion of LAO and OAO, and the subsequent classification of Myanmar as a Basic LAO which show first steps on the way to becoming a Mature LAO. Of the three doorstep conditions for an OAO Myanmar currently satisfies none (see 5.2.4. and 6.3.). As argued before, it is important to observe the nature of a LAO to understand how the institutions in it work. Formal institutions designed for an OAO will work differently in an LAO, as the elites use them to their advantage.

The idea of path dependency in the evolvement of institutions explains the continued importance of state institutions in Myanmar. The development of the political, social and economic institutions during the independent history of the country has created a very extensive network of state influence on economic activity. However, many of the institutions are weak, and not enforced the way they formally should be, as shown by examples of the court system or cronyism. The constitution, the protection of many economic sectors and the strong position of the central government show that there are few limits to the formal power of the state in Myanmar. On the other hand, limited capacity to enforce formal rules have led to a system which relies on relationships and corruption, creating a weak but unlimited state (Bissinger 2015, 223).

However, NIE is not without flaws, and the analysis in this thesis has produced some shortcomings for the interpretation of the transition in Myanmar. As Ménard argues, the big-picture view of the approach, and the necessity to abstract "institutions" into comparable variables in cross-country studies makes comparing specific institutional setups more difficult (see 5.2.7.). Similarly, in this study, NIE helps to understand and classify the observed institutions and how they influence the situation for businesses. However, the theory struggles in formulating policy alternatives outside of lowering transaction costs, guaranteeing property rights and the enforcement of contracts. The theory on informal institutions by Helmke and Levitsky helps to identify the role of informal institutions, and how they may alter the outcome if formal institutions do not provide the results actors seek, or are too weak to enforce them. Additionally, they show, that informal institutions often react to outside factors and can change much faster than the Level 1 institutions Williamson defined as cultural (see 5.2. and 5.3.).

Within the results of this study it was also apparent, that some institutions seem to affect some actors more than others. Specifically, the importance of corruption and, to a lesser extent, the role of relationships was perceived differently by local and foreign companies. Due to the limited number of interviews, no definitive statement can be made about this, however, three explanations seem possible: The formal institutions work better for foreign companies, which would suggest another level of institutional influence on businesses. Another explanation could be that the informal institutions corruption and relationships can only be accessed by local companies. Lastly it is possible that local companies were more forthcoming with information regarding this factor, possibly because they have accepted it as a part of making businesses in Myanmar. Either way, additional research on this topic would be beneficial.

Another factor which showed a similar discrepancy between local and foreign actors was the influence of the financial system. This seems to be explainable through the formal institutions governing the access to financial systems: Local companies have to rely on the highly regulated financial sector in Myanmar, while foreign companies can access the international financial system. Within the local companies there were differences between bigger and smaller firms, and as one interviewee stated, relationships between banks and customers are fundamental in determining how much money can be provided.

Finally, the role of institutions in a globalized world should be assessed. As stated in the introduction, at the onset of this research was the interest in the Bilateral Investment Treaty which is being negotiated between Myanmar and the European Union. Accordingly, it is debatable how much national attempts to develop institutions to support a market economy can matter. However, in the case of Myanmar it seems clear the restrictions and issues companies have reported should be addressed at a national level. Another question, which will have to be answered in the future is who will profit from the transition in Myanmar. While the last elections have clearly shown that the faces of the political landscape have changed, with the NLD being by far the strongest force, it remains to be seen if a similar effect will be witnessed in other arenas. For the moment Myanmar remains a LAO, with political power still regulated through the military. In the economy, the crony conglomerates seem to be in the best position of all local companies because many of them own banks and can thus avoid problems with the financial sector. Additionally, the SOEs remain a strong factor in the economy.

The transition in Myanmar has brought about many changes to the institutional setup of Myanmar, many of which fit well into the concept of NIE. As this chapter has shown, some questions remain unanswered, either because answering them will need more time, because more research is needed or because the concept used in this study does not address them. Because the pace of change in Myanmar is astonishing, and many of the problems raised in this study might no longer be relevant in the near future. The most important lesson that can be taken from this study is the importance of informal institutions and their development. Two major factors stay in mind: The continuity of the state in economic activity, bred by the distrust against the formal institutions introduced in the colonial era, and the relevance of relationships in an environment of weak formal institutions. To understand the economic development of Myanmar, these factors are essential.

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Appendix

Interview Guideline for first interview:

Interview with Property Developing Company, Position of interviewee: Business Director

Introduction

- Introduction, Background
  - Recording, Anonymity

Introduction of interview partner and organization

- Can you tell us something about your way to the company?
  - University
  - Joining the company

- Which services does the company Group offer to customers?
  - Size of company (employees, turnover)
  - Sector in which company is active (big competitors?)

- How did the company develop since 2011?
  - Growth
  - Additional companies "Group" (Joint Venture)
  - Opening of the economy

Joint Venture

- Who is your JV partner?
- How did you get in contact with your partner?
  - Why did you form a JV?

- When and how was the JV company formed?
  - How is the distribution of shares amongst the partners?
  - What are the most important features of the JV contract?
  - Is the JV contract individually written for the company or does it largely rely on relevant laws?

- How does the work of the JV look like? (Was macht das JV eigentlich?)
  - Contributions of partners
  - Advantages and disadvantages of JV system

- How are Joint Ventures influenced by Bilateral Investment Treaties?
  - Difference between local and international partners (one not covered by treaty)
  - Can JV sue for arbitration?

Investments

- Does the sector the company works in see a lot of investment?
  - Forming of new competitors or more projects?
  - Local or foreign investment?
  - Is the situation good or bad for the company?
  - Which changes would be appreciated?

- What does the investment situation for your sector generally look like?
  - Restrictions imposed on investments
  - Restrictive factors (infrastructure, energy, etc.)
  - Does the legal situation favor local or foreign investors?

- How can projects or investments be financed?
  - Credit (Local banks vs. international banks)
  - Joint Ventures
  - Equity (money saved)

- How do institutions influence or regulate the process of investments
  - Does the formation of JV differ in any way?
  - Which are the most important institutions

- Are there possibilities to influence or shape the development
  - Through your work
  - Through public consultation
  - How is the access to political decision making?
  - Who has (better/easy) access?

- Which are the most important legal works in your sector?
  - FIL
  - Land Use Act
  - Company Act

- How have the redrafts and notifications been perceived?
  - Are there anyone's interests in the papers?
  - Why have there been two notifications since 2012 in the FIL
  - Who suggested the changes in the notifications?

- Which effects do you anticipate of the coming EU-Myanmar BIT?
  - Which hopes and risks are involved for the company?
  - How can the different legal situations for local and foreign companies effect your work?

Closing

- Do you think we missed something important or would you like to add anything?
- Can you suggest other contacts which might be relevant to our work?

Thank you for your time, if you want to add anything or if you have any questions, don't hesitate to contact us.