

CORPORATIST INSTITUTIONS AND MILITANT ACTIONS: BUILDING AN  
INDUSTRIAL RELATIONS SYSTEM IN MYANMAR

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## ABSTRACT

Drawing on data from archives and fieldwork in Myanmar, a country in political transition from a five-decade authoritarian regime to a civilian one, this study explores the reasons for a prevalence of corporatism at the early stage of reforms and a divergence from other Asian countries that experienced transitions accompanied by labor militancy and later embraced corporatism with political power shifts to elected pro-labor parties. This study argues, first, that corporatism prevails in the rhetoric of the labor movement and in the industrial relations institutions while labor militancy has increased; second, corporatism in Myanmar has few historical traces but has recently been promoted primarily by the International Labour Organization (ILO); and third, while corporatism failed to bring about industrial peace, the rhetoric may limit the potential of the labor movement to develop and exercise political power by limiting unions' arena in economic concerns.

## BIOGRAPHICAL SKETCH

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## TABLE OF CONTENTS

Acknowledgement.....	iv
List of Tables.....	vi
List of Charts.....	vii
List of Abbreviations.....	viii
Chapter I. Introduction.....	1
Chapter II. Literature Reviews.....	4
Union Militancy and Corporatism in Political Transition.....	4
Myanmar: Socio-political History of Labor Relations and Its Current Situation.....	6
Chapter III. Methods.....	15
Chapter IV. Findings.....	17
Militant Actions of Workers.....	17
Rapid Union Growth.....	20
Prevailing Corporatism in the Labor Movement and IR Institutions.....	23
The ILO's Role.....	28
Chapter V. Discussion.....	31
The Sources of the ILO's Influence.....	31
Implications of 'Implanted Corporatism'.....	34
Chapter VI. Conclusion.....	39
Reference.....	41

## LIST OF CHARTS

Chart 1. Union Formation by the LOL

## LIST OF TABLES

Table 1. The Number of Strikes Before the Reform



## LIST OF ABBREVIATIONS

ALR	Action Labor Rights
AFFM	Agriculture and Farmers' Federation of Myanmar
BSPP	Burmese Socialist Programme Party
CCTU	Committee of Trade Unions
CTUM	Confederation of Trade Unions of Myanmar
FTUB	Federation of Trade Unions Burma
FTUM	Federation of Trade Union Myanmar
FTUWKC	Free Trade Union of Workers of the Kingdom of Cambodia
ILO	International Labour Organization
KCTU	Korean Confederation of Trade Unions
LAC	Labour Advisory Committee
LOL	Labor Organization Law
LRDP	Labour Rights Defenders & Promoters
MGMA	Myanmar Garment Manufacturers Association
MICS	Myanmar Industries, Crafts and Service Trade Union Federation
MMWF	Myanmar Maritime Workers' Federation
MTUF	Myanmar Trade Union Federation
NLD	National League of Democracy
PWC	People's Workers' Council
SLDL	Settlement of Labor Dispute Law
SLORC	State Law and Order Restoration Council
SOEs	state-owned enterprises
SPDC	State Peace and Development Council
TCTU	Taiwan Confederation of Trade Unions
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry
USDA	Union Solidarity and Development Association
WA	Workers' Association

## PREFACE

This thesis is original, unpublished, independent work by the author, Jinyoung Park.

## CHAPTER 1

### INTRODUCTION

Political transition often brings about changes in many aspects of a society, including industrial relations (IR), a fundamental pillar of any society's balance of power. This has especially been the case in Asia, where heightened labor militancy has accompanied a wave of transitions from authoritarian to democratic regimes in recent decades. Scholars have documented such processes of social change in South Korea and Taiwan beginning in the 1980s and Cambodia in the 1990s. In each case, political changes relaxing oppression of labor's collective action enabled workers to organize themselves and to demand their rights through strikes and other industrial actions.

In contrast to the experiences of other Asian countries, the transition away from authoritarian rule in Myanmar has led to a highly complex interplay between militant and corporatist labor strategies, and domestic and international actors. Myanmar has transitioned from a five-decade military regime to a civilian government in recent years. Labor unions gained legal recognition in 2012 after being severely oppressed and outlawed by a succession of military regimes since 1962. While legalization gave rise to union organization and industrial actions, my fieldwork suggests that the discourse amongst Myanmar's unions is surprisingly corporatist, not militant. The discourse is dominated by a concern for "harmonious employment relations, negotiation, and tripartism."

In addition, compared to other Asian countries experiencing transition, where a political pro-labor power shift or militant mobilization of workers preceded the adoption of corporatism into discourse and IR institutions, the process in Myanmar presents a divergence. In neighboring countries, corporatism was institutionalized in tripartism by elected, relatively pro-labor parties that sought to gain the support of the militant labor movements. In Myanmar, the military-backed civilian government built IR institutions as a part of reforms and corporatism was the theoretical framework underpinning these institutions, in the form of tripartite structures in which unions and employers have consultative status on labor policies.

The dominant corporatist approach contrasts with ongoing militant activism, and the emergence of corporatist IR institutions at the early stage of reforms raises an interesting puzzle. What forces have fostered the corporatism prevalent in this new labor movement and the IR system in the short period of time since the emergence of labor unions, and what are the implications for the labor movement's future?

Through archival research and fieldwork in Myanmar, I observed that the dominant corporatist discourse and its institutionalization in Myanmar has been promoted primarily by the International Labour Organization (ILO). In this paper, I first present the recent dynamics of the country's labor movement focusing on the increase of workers' collective actions and the development of labor unions. Second, I argue there is a remarkable convergence across different factions of unions and other IR actors in terms of a corporatist discourse, which is partially due to the role played by the ILO in Myanmar. In my analysis, the ILO's influence on the labor movement is largely due to its legacy, built through its highly visible forced labor project of the early 2000s. In addition, in the absence of an active civil society, international agencies such as the ILO have played a supplemental role in support of the nascent labor unions as part of IR institutional development. Finally, I argue that despite the ILO's considerable influence promoting the corporatism and creating space for labor in policy-making and designing Myanmar's industrial relations system, the corporatist rhetoric may limit the potential of the labor movement to develop and exercise political power by limiting unions' arena in economic concerns.

This paper makes three contributions. First, it captures a foundational moment of institutionalizing the IR system. The transition from the military regime in Myanmar created a need to rebuild the country's institutions including for IR. In this paper, I analyze the process of institutionalizing the IR system, focusing on actors in the labor movement. Second, I provide a case on how the corporatist IR system is institutionalized in relation to the political transition. Notably, the Myanmar differs from some transitional countries in Asia where labor militancy preceded and later stimulated the introduction of the corporatist IR system. In Myanmar, corporatism co-existed with militant industrial actions at the early period of reform. Third, this study

points to the crucial role played in IR systems by non-traditional actors such as international agencies and NGOs, consistent with findings by Anner and Evans (2004) and Ghandnoosh (2010). The case of Myanmar suggests that the IR institutionalization process may be strongly influenced by international actors in the newly industrialized countries when they are more susceptible to pressures through global supply chains.

## CHAPTER 2

### LITERATURE REVIEW

#### *Union Militancy and corporatism in political transition*

Scholars have documented an intensification of union militancy in countries undergoing democratization in Asia, particularly in South Korea and Taiwan in the late 1980s and Cambodia in the 1990s. In addition to the dismantling of oppressive regimes, workers' increased militancy has been attributed either to exclusive labor control that kept unions out of institutions to seek their interests as South Korea (Lee 2011) or to the mobilization of political opposition to get concessions from the government as in Taiwan (Chu 2003). During its recovery in the mid-1990s from decades-long civil war, unions in Cambodia, especially the first union federation, the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC), frequently organized strikes and mass mobilizations to increase wages under the charismatic leadership of Chea Vichea, who was assassinated in 2004. Mass mobilization of workers was a strategy to compensate for weak collective bargaining power within enterprise-level unions, as the overwhelming majority of workers were not covered by collective agreements (Nuon and Serrano 2010: 34-36). In South Korea, Taiwan and Cambodia, newly formed independent trade unions, federations and national centers organized workers and mobilized militant actions.

Social corporatist labor relations discourse, aimed at pacifying labor militancy through social dialogue, emerged in these countries only later and gradually with changes of political power. Distinct from state corporatism which was promoted by authoritarian regimes to capture labor support with paternalistic labor policies while maintaining dominance over labor and employers, social corporatism is the institutional involvement of labor unions and employers in labor and social policy-making (Schmitter 1979). This approach started only when pro-labor parties gained political power in South Korea and Taiwan, and labor militancy gained concessions from the government in Cambodia to negotiate a sectoral wage in the garment industry

through a tripartite forum composed of the government, and representatives of workers and employers. In South Korea, the first elected opposition party leader after military rule, Kim Dae Jung, initiated a tripartite committee to advise labor reforms in 1998, while the South Korean economy was in crisis. In Taiwan, the former opposition leader Chen Shui-bian was elected president in 2000 and proceeded to experiment with tripartite consultations. President Chen's administration convened non-partisan advisory meetings, such as the 2001 National Development Advisory Conference which included union and business leaders in making important policy decisions including the minimum wage (Lee 2015; Kamimura 2008). In Cambodia in 2000, the FTUWKC used militant actions, including a series of strikes and public mobilization, to increase the minimum wage from 40 USD to 45 USD. The previous minimum wage had been set up by employers and the government three years earlier and had not increased in the meantime despite rising costs of living. The FTUWKC's pressure made the minimum wage a sectoral wage covering all the garment workers and put it on the agenda of the tripartite committee, the Labour Advisory Committee (LAC) (Chea 2011; US Department of Labor 2003; Clean Cloth Campaign 2000).

However, the development of corporatist IR systems in each of these countries has proceeded on bumpy roads rather than clearly achieving industrial peace. This is partly due to mistrust or imbalanced power relations between social partners, that is, the government, employers, and labor. For instance, the Korean Confederation of Trade Unions (KCTU), the militant faction of the South Korean labor movement, refused to participate in the tripartite committee, regarding it as a government tactic to introduce unfavorable labor reforms for workers and co-opt the unions in the process (Aleman 2010). Thus, the tripartite committee gained only partial participation of the conservative labor faction and failed to produce a meaningful outcome, and the KCTU continued using strikes as its main strategy.

Similarly, Solidarity, the radical wing in the Taiwanese labor movement, relied on militant actions to assert the rights of marginalized workers for better working conditions and stable employment and criticized the mainstream Taiwan Confederation of Trade Unions (TCTU), for its institutional strategies including

tripartite participation for bringing few benefits to non-unionized workers (Ho 2015). Solidarity's aggressive campaigns sometimes resulted in more favorable outcomes for workers than the TCTU's negotiation through institutional channels, for instance, in revising the labor insurance in 2009. In addition, the political change from the pro-labor to the conservative party created challenges for the TCTU in exercising influence through institutional channels. This encouraged the TCTU to take more assertive action since 2009, including the revival of annual protests and co-sponsoring of strikes together with the Solidarity (Ho 2015).

In Cambodia, labor's demand to increase the minimum wage has motivated massive demonstrations almost every year, even though not always successfully. The critical moment was the election period from 2013 to 2014, when hundreds of thousands of workers protested the government and demanded a wage increase. The protests ended with a bloody crackdown and the loss of five lives, and the government agreed to increase the wage from 80 USD to 100 USD in 2014 in order to secure support from workers. Since then, the minimum wage has increased annually with the pressure of the labor movement, and reached 153 USD in 2017.

The development of the labor movement and IR systems in post-military Myanmar presents some similarities with other Asian countries. For example, in Myanmar workers' militant actions increased from less than ten cases annually before the transition to more than a hundred per year recently. Yet the processes in Myanmar are characterized by three intriguing differences. First, the social corporatist discourse appeared in the early stage of reform led by the military regime, prior to a political power shift. Second, the discourse has been actively adopted by unionists and labor activists regardless of the factions in the labor movement. Third, corporatism and its institutionalization through the tripartite forum and social dialogue was initiated and promoted primarily by international agencies, especially the ILO, rather than the government.

***Myanmar: Socio-political history of labor relations and its current situation***



The history of Myanmar has few, if any, traces of social corporatism, conceptualized as institutional participation of social partners in labor policies, especially during the two consecutive military regimes from 1962 to 2010. The first military regime, led by General Ne Win until 1988, introduced several paternalistic labor policies in an attempt to capture workers' political support, and the second regime, led by the State Law and Order Restoration Council (SLORC), tightened social control, including labor, after seizing power in a bloody uprising in 1988.

After its successful coup d'état in 1962, the Ne Win military regime re-organized the country based on "the Burmese Way to Socialism" under a one-party system. Presenting itself as a protector of the working class and farmers, the military regime promised "to liberate the...workers from...exploitation" (Tin Maung Maung Than 2007:139). The regime introduced or amended labor laws and regulations in line with its announced objectives, and extended the coverage of a social security scheme inherited from the previous government (Tin Maung Maung Than 2007: 140-142). At the same time, the regime banned trade unions and introduced several institutional mechanisms to mobilize workers' support while controlling them, notably the People's Workers' Council (PWC) - later renamed the Workers' Association (WA), and various grievance settlement systems, including joint management-labor committees at workplaces, and multi-tiered dispute settlement bodies at the national level.

The WA was associated with the Burmese Socialist Programme Party (BSPP) and was the primary means through which the regime organized the labor force. The PWC/WA convened workshops and managed welfare programs aimed at facilitating the indoctrination of workers in support of the state's policies and securing their support. The WA organized workers mainly in state-owned enterprises (SOEs) and some workers in the private sector, reaching approximately 2 million members, roughly 60% of the labor force, in the 1980s (Kyaw Soe Lwin 2013a).

In addition, the regime established various channels for addressing workers' grievances such as the joint co-ordination bodies for workers' participation in management at workplaces. Meanwhile, senior officials held special meetings regularly to assist workers in raising complaints directly to relevant authorities (Tin

Maung Maung Than 2007; Taylor 2009; Kway Yin Hlaing 2007). The WA also formally served as the labor dispute settlement body for workers in SOEs. However, the outcomes the WA produced for disputes in SOEs were rarely satisfactory to workers and were commonly delayed due to uncooperative authorities that were in charge of the factories in dispute (Kyaw Soe Lwin 2013b). The frustration of this dysfunction in solving labor disputes in state-owned factories, combined with a shortage of food, led to massive labor strikes within SOEs in 1974. Ironically, the WA served as a network for workers to communicate about the disputes, because workers freely elected half of the local leaders in the WA who took the workers' side and led the strikes. After violently breaking the strikes, claiming dozens of lives, the Ne Win government tightened its control over the WA by amending the WA's regulations including its election rules to only allow managers to be candidates (Kyaw Soe Lwin 2013a).

The dispute settlement institution only served workers in the private sector. It was because the regime hoped to gain the support of these workers who were supposed to join the WA voluntarily but did not join. This dispute settlement institution had three-tier arbitration with representatives of two parties, the government and workers, which naturally led to settlements in favor of workers. This favorable climate was well illustrated by the Nagar Daw Oo case, which nearly bankrupted one of the wealthiest individuals in Burma at that time through several cases that resulted in significant compensation owed to employees (Kyaw Soe Lwin 2013a).

In 1988, mass public protests ended the Ne Win regime. The regime's legacy was tarnished with mismanagement and corruption, resulting in miserable outcomes that put Myanmar on the United Nations (UN) list of least developed countries. The people's plight under the regime intensified with two instances of sudden demonetization in 1986 and 1987, which combined with resentment against the authoritarian regime to spark a massive popular uprising in 1988. The military brutally crushed the popular resistance, and thousands reportedly died. Many activists escaped

to other countries, including Thailand; some began armed struggle; and others initiated international campaigns against the military junta (Kyaw Yin Hlaing 2004).

The military reasserted power and formed the SLORC [later renamed the State Peace and Development Council (SPDC)] to replace the BSPP as the ruling authority, adopted the economic policies of the “Burmese Way to Capitalism” (Badgley 1990) to re-align the centrally controlled economy with a free-market economy (Mya Maung 1995), and tightened political and social control. Economically the regime undertook several reforms including the enactment of the foreign investment law, privatization of SOEs and legalization of cross-border trade (Tin Maung Maung Than 2007: 355-360; Kyaw Yin Hlaing 2007: 219). These policies strengthened the authorities’ control and monitoring of the business community, and increased high-positioned officers’ discretion. Ex-generals and commanders, who held high-ranking or ministerial positions in the government, approved privatization and business licenses, and decided who would reap the economic benefits of the development of natural resources behind closed doors (Yin Hlaing Kyaw 2001: 262). Corruption pervaded the state bureaucracy, and the mutually shared economic interests of officials and businesspeople moved the government closer to business.

Politically the regime took several measures to intensify its control. It retained the previously established oppressive laws, issued new decrees banning all forms of gathering of more than 5 persons and outlawing any organizations without the permission of the state, and dismantled worker-engagement institutions inherited from the previous regime or forced them into dysfunction. Instead of claiming workers’ support, the new regime claimed its legitimacy with a nationalist narrative of protecting national sovereignty and culture against foreign powers. For instance, it organized cultural, religious and sporting events rather than any gesture towards mobilizing grassroots support. In 1993 the regime incorporated a dimension of its predecessor’s strategy by creating the Union Solidarity and Development Association (USDA), a mass political organization based on geographical regions that emulated the military-backed political party in Indonesia (Mya Maung 1995: 124-5). The USDA

played the role of a political arm of the regime but did not provide any channels for grievance settlement.

It is hard to tell what the industrial relations system looked like during this period due to a lack of relevant data, so we can only make a somewhat superficial assumption about the features of the IR system from pro-business policies and tight political control implemented by the SLORC/SPDC regime. The regime also retracted the previous regime's paternalistic labor policies. The SLORC/SPDC regime complicated the complaint filing procedures and reduced the number of dispute arbitration bodies, making it difficult for workers to seek redress (Kyaw Yin Hlaning 2007; Kyaw Seo Lwin 2013a). Few high-level officers assisted labor to resolve disputes as they did before. In the late 1990s, a local commander responded to workers' request for assistance in resolving a dispute by refusing and saying that the state was no longer socialist and no longer provided such support (Kyaw Yin Hlaning 2007: 245). This shift left workers without either formal or informal grievance methods that served workers. To the contrary, the regime severely punished any workers engaging in disputes, industrial actions, or even any activity deemed a challenge to the regime. The regime frequently imprisoned dissenters for life or long sentences.

It was only after the ILO began to engage in forced labor problems in the 2000s that the regime started to prioritize labor issues (Kway Soe Lwin 2013a). The SLORC/SPDC had exacerbated forced labor practices in Myanmar with its approach to national development projects through building infrastructure, such as roads and bridges. The regime forced ordinary people to work, building infrastructure, constructing military camps, and being porters for the military. Forced laborers frequently starved and officials subjected them to beatings, rape, murder, and abandonment in the jungle if they fell ill (Human Rights Documentation Unit 2006). Activists who fled Myanmar after 1988 documented and publicized concrete evidence of the people's plights, igniting international campaigns against the regime's use of forced labor. Furthermore, unionists in exile filed a complaint against the Myanmar government with the ILO. The ILO conducted an investigation and issued a 600-page

intensive report with recommendations to eliminate forced labor based on its finding that forced labor was a prevailing and systematic practice committed by the military regime. Initially, the military regime reacted undiplomatically to these recommendations and provoked strong criticism to the regime among the member states. Moreover, some countries in the global north were interested in testing a linkage between trade and labor. The confluence of these dynamics resulted in the ILO employing its strongest procedures including sanctions based on Article 33 of the Constitution<sup>1</sup>, which stipulates punishment of member states. Although the ILO sanction had nothing to do with economic concerns, it recommended that member states review their relations with Myanmar and provided legitimacy to economic sanctions imposed by member states such as the EU, the USA, Japan, Australia, and Canada (Maupain 2005).

In this environment, the ILO convinced the regime to allow it to set up a liaison office, even though the regime had persistently resisted any international intervention. More importantly, the ILO Yangon office, in contrast to ILO offices in other countries, negotiated to install a unique mechanism to receive complaints directly from victims of forced labor, to investigate the cases, and to assist victims to seek remedies under the legal procedures as necessary (Horsey 2011). During that project, the ILO achieved notable success in stopping officials' use of citizens as forced labor, rescuing child soldiers, winning remedies for victims of forced labor, punishing offenders, and protecting people from retaliation by the authorities. Through these successes, the ILO justifiably claimed that it contributed to reducing forced labor, a change recognized by Aung San Suu Kyi, the iconic leader of democratic movement, as an important achievement (Horsey 2011).

The SLORC/SPDC initiated the transition to a civilian government with the announcement of its master plan, 'the 7-Step Road Map to Disciplined Democracy,' in

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<sup>1</sup> Article 33 stipulates that "In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith." The ILO has never before, or since, taken this measure against any member state.

2003, and its implementation, beginning in 2008. It included the adoption of a new constitution, a general election, and the formation of a civil government. Led by President Thein Sein, the military-backed civilian government introduced surprisingly significant reforms in 2011, even though both local people and the international community greeted the reforms with skepticism over the sincerity of the government at the beginning. The reforms included releasing Aung San Suu Kyi, the iconic figure in the opposition party, the National League of Democracy (NLD) from house arrest, freeing additional political prisoners, relaxing censorship, and legalizing trade unions. These reforms brought about political, social and legal changes and new political and social dynamics in the country. The media, both public and private outlets, gained sufficient freedom of expression to operate for the first time since 1962. The NLD won 43 seats in the parliament in the April 2012 by-election covering 45 seats, including one for Aung San Suu Kyi. The NLD became the ruling party with a landslide victory in the 2015 general election. The NLD took over power in April 2016 with more than 80% of the elected seats in parliament.<sup>3</sup>

The reforms initiated by the Thein Sein government included major changes to industrial relations introduced through two labor laws: the 2011 Labor Organization Law (LOL) and the 2012 Settlement of Labor Dispute Law (SLDL). The LOL, enacted in 2012, established employers' right to lockout employees and workers' rights to organize, collectively bargain, and strike. More than 30 workers or ten percent of workers in a factory can form a union (referred by the LOL as a basic labor organization) by registering with the local labor department. While supporting the formation of workplace level unions, the LOL limits industrial unions by requiring a hierarchical structure based on the administrative units. For instance, a confederation

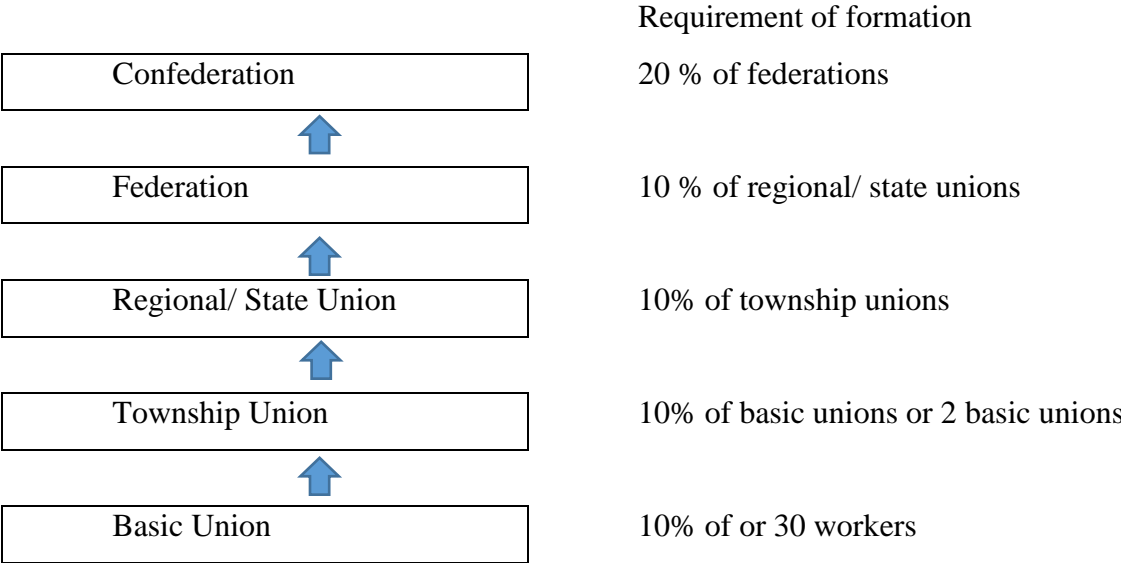
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<sup>2</sup> Few observers have identified clear reasons motivating the regime's plan. Kyaw Yin Hlaing assumed the combined effects including economic sanctions, criticism from international community, and the activities of anti-government groups. He suggested the military junta may introduce this road map because of tightening economic sanctions by the US government due to the Depanyin Incident in 2003 in which Aung San Suu Kyi and her comrades were attacked by unknown thugs, resulting in several deaths (Kyaw Yin Hlaing 2012).

<sup>3</sup> The 2008 constitution stipulates that 25% of parliamentary seats shall be allocated to the military.

must gain at least 20% of federations as its affiliates to be legally recognized. To form a federation, a certain portion of workplace, township and regional/state unions in that particular industry must affiliate as presented in the chart below.

Chart 1. Union Formation by the LOL



In turn, the SLDL regulates the dispute resolution system, including negotiation at the workplace, conciliation at the township level, and three-tiered arbitration, comprised of a state/ regional arbitration body, an arbitration council and a tribunal. The verdicts in these processes are not legally binding and the dissatisfied party could initiate litigation by appealing to the Supreme Court after completing the process (Than Win, 2012).

Both the LOL and the SLDL aim to control strikes. The LOL requires unions to obtain permission from the federation in order to strike, and the SLDL allows parties in a dispute to take direct action only after completing the state/regional arbitration process.

Under the new labor laws, workers have organized workplace-level (or basic) unions quickly, and formed several federations, though often not legally registered. One of the actively operating federations is the Federation of Trade Unions Burma (FTUB, later renamed Federation of Trade Union Myanmar, FTUM), formed by exiled unionists in 1991 in Thailand and returned to Myanmar in 2012. The FTUM

evolved into the Confederation of Trade Unions of Myanmar (CTUM) and legally registered in June 2015 as the first national confederation. The second federation, the Myanmar Trade Union Federation (MTUF, later renamed Myanmar Industries, Crafts and Service Trade Union Federation, MICS), was formed in 2013 with approximately 200 locally-born unions. The third federation is the Agriculture and Farmers' Federation of Myanmar (AFFM),<sup>4</sup> which split from the FTUB and organized agricultural workers and farmers. The fourth is the seafarers' federation, Myanmar Maritime Workers' Federation (MMWF)<sup>5</sup>. These four federations operate in two main factions, with the FTUM/CTUM on one side and the three federations as a coalition on the other. Simultaneously, various labor advocacy NGOs formed around 2012 have supported labor unions and collaborated primarily with the coalition of MTUF/AFFM/MMWF that had a plan to form a national confederation.

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<sup>4</sup> The AFFA secured the legal status as a federation of agricultural workers and farmers in May 2015.

<sup>5</sup> In fact, there are five maritime workers' federations including an association for retired pilots, out of which MMWF was most active.



## CHAPTER 3

### METHODS

In this thesis, I analyze the institutionalization of the corporatist IR system in the phase of the political transition in Myanmar. While in some countries in Asia that transitioned to democratic governance in recent decades, labor militancy preceded institutionalization of the corporatist IR system, the sequence in Myanmar was unique. In Myanmar, corporatism emerged in the early stage of political reform and co-existed with militant industrial action.

To analyze the Myanmar case, I focus on the current actors in the labor movement. They include all the different factions of unions and labor NGOs in the national labor movement and international agencies, especially the ILO. With no historical precedent of social corporatism in Myanmar, the current actors have played crucial roles in shaping the corporatist discourse and militant actions as dual processes in institutionalization of a new IR system.

This study is based on data from archives and 6-month fieldwork in Myanmar, June-July 2014 and September-December 2015. I directly conducted 31 interviews through snowball sampling and documented some observations. In order to collect more comprehensive data, I included all different factions of unions and labor NGOs with diverse backgrounds (18 cases) in my research. I also interviewed 6 ILO staff members, 2 international trade unionists, and the directors of two international agencies, American Solidarity Center and Oxfam. I also interviewed 3 employers/managers who provided additional insights into employment relationships in the country. Unfortunately, I could not get access to the government despite multiple attempts due to its exclusiveness. All interviewees were based in Yangon and Mandalay, two main cities where most major companies are located.

Since the academic literature on Myanmar is scarce and studies on the current situation even rarer, I supplemented field research with news articles, reports, and presentation papers. In fact, scholars studying Myanmar have relied on this sort of data partly due to the restrict access of researchers to this country during the military

regime and partly due to the lack of administration capacity of Myanmar to produce reliable statistics (e.g. Arnold and Campbell 2017). To enhance reliability, I triangulated all the available data, if any, and checked for consistency.

## CHAPTER 4

### FINDINGS

#### *Militant actions of workers*

In Myanmar, the most recent military regime, SLORC/SPDC, thoroughly repressed industrial actions in order to protect its political control. The regime pressured labor and employers to quickly settle the small number of disputes that approached impasse or resulted in strikes (Henry, 2016). If any collective action continued longer than three days, the authorities threatened to close down the factory. The few strikes that occurred often resulted in favorable outcomes to workers such as wage increases (interview, labor activist, Oct 2015). However, information on strikes were seldom publically reported due to strict state control of the media, and workers leading the strikes and similar actions were invariably arrested, fired and blacklisted afterward. According to a labor activist supporting workers' struggles during the period, one of their main tactics was to provide fake identifications to those who led strikes in order to get jobs in other factories (interview, labor activist, Oct 2015). The high risks made workers afraid and likely contributed to the low number of strikes and their containment within workplaces. According to the ILO data, there was an average of 11 strikes annually from 1999 to 2008 with a highest number of 28 cases in 2003, when one third of Myanmar's garment factories closed down due to economic sanctions imposed by the United States. Between 2004 and 2008, there were fewer than ten strikes each year. Table 1 presents the number of strikes during this period.

**Table 1. The Number of strikes before the reform**

<i>Years</i>	<i>No. of Strikes</i>	<i>Years</i>	<i>No. of Strikes</i>
1999	13	2004	9
2000	10	2005	4
2001	18	2006	6
2002	11	2007	7
2003	28	2008	6

Sources: the ILO data base

Since 2009 strikes have become more visible, reported primarily by the media in exile. For instance, Mizzima, one of the news organizations operating outside Myanmar, reported that “minor protests and demonstrations are not uncommon in factories and companies in Rangoon’s industrial zones, (although) workers’ causes and demands rarely come to be known, as the authorities tightly control the flow of information.” Mizzima also reported a strike of 1,000 workers in a garment factory in Yangon that successfully demanded a wage increase in December 2009.<sup>6</sup> The frequency of strikes has increased since 2010 and workers have engaged in solidarity strikes with workers of multiple factories. For instance, 4,000 workers participated in a sit-in in two garment factories owned by a company called SGI, located in an industrial zone outside of Yangon, demanding better wages, an action partly triggered by a wage increase for government officers (Ba Kaung 2010).<sup>7</sup>

Despite tight censorship of local media, information on strikes, demonstrations, and their success spread among workers. “There were lots of rumors about strikers and their success in 2009 and 2010 that encouraged us to do something” (Interview, unionist, Nov 2015). In fact, workers were willing to take action to demand better wages due to spikes in fuel prices raising living costs – the same dynamic that catalyzed the people’s uprising in 2007. Workers organized wildcat strikes in diverse, even simple forms such as leaving notes with the time and venue of the action on restroom walls in the factories, circulating memos among assembly lines, or communicating to workers on pay day when they gathered in one place with the proof of low wage (Interview, unionist, Nov 2015; labor activist, Dec 2015). The most common demands were wage increases, including overtime payment, ending

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<sup>6</sup> “Workers in Rangoon call off demonstration”, 18 December 2009, *Mizzima*. <http://archive-1.mizzima.com/news/myanmar/3174-workers-in-rangoon-call-off-demonstration>

<sup>7</sup> A separate study is needed to analyze the reasons of a sudden increase of strikes during the period. One possible explanation is the political environment at that time, in which the military government had conducted a national referendum for a new constitution in 2008 and announced plans to transfer power to a civilian government, may have signaled to workers that labor activism may not be quashed by the government.

harassment by management, including verbal, physical or sexual abuse, and unsafe working conditions (Interview, employer, Oct 2015; interview, unionist, Nov 2015).

Militant industrial actions spread more widely with new labor laws promulgated in 2011 and enacted in 2012, providing workers the legal right to form unions. It was not uncommon for strikes to occur repeatedly in the same factory mainly due to vicious cycles of strikes and retaliation by employers, including the introduction of strict workplace rules, heightening work intensiveness, and dismissals (interviews, unionists, Oct and Nov 2015). In many cases, wildcat strikes led to the formation of new unions regardless of their success. Workers were encouraged to form unions by activists and unionists who helped them in negotiations. Many of these new unions experienced several strikes in a year. An extreme case was a union in Mandalay, the second-largest industrial city in Myanmar. It was a detergent factory with around 400 members, and the union staged seven strikes in its first year due to the employer's failure to implement the collective agreement and dismissal of union leaders (interview, unionist, Nov 2015). Scholars have identified this period as 'a wave of strikes' (Gillan and Thein 2016; Henry 2016; Arnold and Campbell 2017), even though few provided statistical data due to a lack of a reliable data on labor issues in Myanmar. However, the media frequently reported the tense climate in workplaces; for example, one outlet reported "at least 18 strikes in Yangon in May 2012" (Noe Noe Aung and Myat May Zin 2012). An observer reported the number of strikes decreased after the 2012 peak (interview, labor activist, Nov 2015). Even though the number of strikes may have decreased, the intensity of strikes may have increased with some strikes continuing for more days and being particularly tense. For instance, an NGO, Progressive Voice (2015) characterized 2015 as "a second wave of strikes" with some high-profile cases including the 5-factory strikes with thousands of workers in January and February 2015. In early 2017, workers struck at a Chinese-owned factory producing for a Swedish apparel brand H&M and remained on strike for more than a month over the termination of a union leader, better working conditions and benefits. Frustrated workers beat a manager and destroyed the machines and facilities (Shwe Yee Saw Myint and Yimou Lee 2017).

In addition, workers have made their voices publicly heard outside of factories by holding rallies. With the lifting of tight control of the media, labor leaders quickly adopted demonstrations as a tactic to attract public attention. According to a news article referring to a labor officer, labor protests peaked in 2012 with 241 cases, declined to a still substantial 136 cases in 2013, and to 70 by July 2014 (Chen 2014). In June 2013, over 12,000 workers from 30 factories in the Yangon industrial zones marched, demanding wage increases and better working conditions. Workers also targeted specific authorities with their collective actions. For instance, in 2014 hundreds of workers from Master Sports, a shoe factory owned by a South Korean, marched to the Korean Embassy to demand remediation after their employer fled to Korea without paying unpaid wages and severance compensation (interview, labor activist, Nov 2015). In 2015, hundreds workers struck at Tai Yi, a Chinese-owned shoe factory, conducted a sit-in strike, and traveled to Naipyidaw, the capital city, to pressure the Labor Ministry to intervene and force the employer to negotiate with their union leaders (Interview, unionist, Dec 2015).

In recent years, workers' militant actions have become a prominent part of the labor movement in Myanmar. Even before the reforms in 2011, workers increased strikes and public protests, actions that had been severely suppressed by the military regime. Scholars documented a similar phenomenon in other Asian countries of increased worker' militancy during the transition from authoritarian regimes to democratic ones. However, Myanmar suggests a divergence due to the prevailing corporatist rhetoric among labor leaders that contrasts with workers' militant actions. I will explore this in detail after examining the rapid union growth in the following sections.

### ***Rapid union growth***

Since Myanmar's transition to a civilian regime began, union organizing and the corporatist discourse have increased significantly. The labor laws enacted in 2012, particularly the LOL, stimulated industrial actions and union formation, primarily at the workplace level. Wildcat strikes frequently led to new unions with the help of

labor activists and established unions. By the middle of 2013, only one year after the LOL enactment, registered labor unions grew to 670 with 200,000 members from none recognized by the government prior to 2011 (Wilson 2013). The number of registered unions increased to 1,240 in November 2014 and to 1,660 in May 2015 (Interview, ILO staff, Oct 2015). Even though an estimated two-third of registered unions represent farmers (mostly peasants),<sup>8</sup> the number of unions including those in the manufacturing sectors is growing at an impressive rate, given that there were no official unions in existence before 2011.<sup>9</sup>

Several factors are responsible for the rapid union growth. First, workers actively mobilized through wildcat strikes as detailed in the previous section. Second, the new laws created an enabling legal environment for unions. Prior to the LOL, the military regime severely oppressed union formation under the SLORC Law No. 6/88, which established penalties, including up to five-year prison sentences, for anyone engaged in organizing activity without state permission. For example, in June 2010, a group of workers assisted by a lawyer tried to register a union by using the 1926 Trade Union Act (which was technically still in effect) allowing a minimum of seven persons to form a union. The Ministry of Labor and police threatened to prosecute the workers by trying to form a union and anyone who issued statements or documents about a labor union (Kyaw Thein Kha 2010). Since the enactment of the new labor laws, some officials have even made sympathetic gestures toward workers during strikes and their demands. According to the local media, U Win Shein, the director of the Factories and General Labor Laws Inspection Department, warned both local and foreign supervisors and managers that they needed to create a “warm environment” in their factories by taking care of workers’ health and by not making unnecessarily strict rules (Noe Noe Aung, 2012).

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<sup>8</sup> Farmers’ unions in Myanmar primarily organized peasants rather than agricultural workers.

<sup>9</sup> A lack of reliable statistics makes it difficult to estimate union density. And the fact that two thirds or half of registered unions are supposed to be peasants’ unions may decrease the initial surprise of fast growth of unions. According to current ILO data, around 15% of 22 million labor force is in industrial sector while 54% is engaged in agriculture or related work, 17% in service sector (ILO 2016b).

Third, international agencies, especially, the ILO significantly supported unions, a factor I will explore in the following section. The fourth factor was the sheer number of activists and unionists who supported workers' actions and helped workers form unions. The activists and unionists have diverse backgrounds, including as underground activists, ex-political prisoners, and activists and unionists returning from exile. Many of them have been actively engaged in the labor movement through either newly formed labor advocacy NGOs or union federations. The most prominent labor NGOs include the Committee of Trade Unions (CCTU), the Action Labor Rights (ALR), the 88 Generation, and the Labour Rights Defenders & Promoters (LRDP). Some of them received modest funding from international labor organizations or the ILO for specific projects such as training. For instance, the ALR received funding for training from an Australian labor group. Mostly, however, they depended on local donations or self-support. These groups are comprised primarily of ex-political prisoners, released in early 2012, except for the LRDP, which exiled activists had formed in Thailand. The activists have all played active roles particularly in the first several years of the reform period when workers became engaging in more frequent collective actions and were organizing unions rapidly. The NGOs' main activity during the period has been to provide training on labor rights and laws, to facilitate negotiations between employers and workers in disputes, and to encourage workers to form unions.

Union federations came onto the scene later. The Federation of Trade Unions Burma (FTUB) and other unionists from exile rushed back to Myanmar in late 2012 with the help of the ILO. They started by building a base, recruiting local unions and supporting new union formation, and then formed the CTUM. Several federations were locally formed in 2013, including the Myanmar Trade Union Federation [MTUF, later renamed Myanmar Industry, Craft and Service Union Federation (MICS)], Agriculture and Farmers' Federation of Myanmar (AFFM), and the seafarers' federation, Myanmar Maritime Workers' Federation (MMWF).

Rather quickly these federations formed two factions, the FTUM/CTUM on the one side and a coalition of other federations and labor NGOs on the other. The two



factions have comparable numbers of local union affiliations. However, the FTUM/CTUM has more resources, financial and technical, obtained via the support of international organizations, including international trade unions, reflecting the relationships it developed through its campaigns against the military regime. The coalition of other federations, particularly the MTUF/MICS claims a grassroots base and to be building the organization from the bottom up (interview, unionists, June 2014, Oct 2015). In fact, the coalition has more industry-based union members due to the MICS membership. However, the coalition has fewer relationships and therefore less support from the international unions and other international actors, partly due to a language barrier – a few of its members could communicate in English (interview, a staff member of the international agency, Dec 2015). In addition there are some independent unions at the enterprise level that do not have affiliation but keep relations with the MTUF/MICS to some extent. A strong rivalry<sup>10</sup> between the FTUM/CTUM and the coalition of other federations has developed. For example, the two sides even refused to sit in the same room when the ILO invited both for consultation on labor affairs (interview, the ILO staff, June 2014).

### ***Prevailing corporatism in the labor movement and IR institutions***

Despite their differences all the union federations and NGOs have adopted the rhetoric of corporatism. Even though few use the term, “corporatism,” they have demonstrated their commitment to it in practice. Many unionists and labor activists in Myanmar began to use “tripartism.” The term is popularly used by them not only to

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<sup>10</sup> There may be several explanations for this. First, Jones (2016) attributed it as the personal conflicts between activists from exile seem to influence the tension between groups. Second, some scholars (e.g. Arnold and Campbell in press: Arnold 2013) pointed out the organizational conflicts around internal democracy and transparency that the FTUM leaders were accused of. Third, several observers pointed out that the FTUM in Thailand had been a political organization using the name of union to fight against the regime. It may make it difficult for the FTUM to gain a status as a legitimate labor union among local unions (interview, staff in international organization, June 2014; unionist, Oct 2015; unionist, Nov 2015). In any case, it was obvious the FTUM was not warmly welcomed by all the local labor groups. It was shown very well when the FTUM tried to claim its leading role as a federation, local unions showed a negative response by saying that “there is no place for the FTUM in Myanmar” (Campbell, 2013) and blamed the FTUM for trying to buy local unions off with financial rewards (interviews, several unionists, June 2014; Oct 2015).

refer to a platform for social dialogue at the policy level, but also to refer to a standard (and somewhat idealized) procedure to settle labor disputes and strikes through the involvement of government, employers, and workers.

Tripartism was frequently invoked by unionists and labor activists to push officials in local labor departments to intervene in workplace negotiations. When negotiations reached impasse or frequently due to the refusal of employers to sit at the negotiation table, the union would complain to the local labor department and request their involvement in negotiations. The negotiations then proceeded among the three parties, including the labor officers, which unionists and activists called tripartism.

Strategically, most unionists and activists in Myanmar developed a pattern of separating “negotiations” and industrial actions (especially strikes), rather than considering using both in tandem as labor movements have done in other countries such as South Korea. From factions of Myanmar’s labor movement, several unionists and activists reported their commitment to negotiation, giving statements such as: “I don’t like strikes or demonstration of workers. Those only lead to dismissal of workers. I think negotiation is most important to get what workers want (interview, labor activist, June 2014).” The leader of the FTUM/ CTUM reported to another observer, “The main issue [for healthier industrial relations] is understanding the need for negotiation” (Chen 2014). Thus, “good employment relations” took on the meaning that “employers and workers shall talk to each other to avoid strikes...[to] improve workers’ rights and maintain productivity” (interview, unionist, Sept 2015).

With their commitment to negotiation as the primary strategy, the Myanmar unionists and labor activists have developed their own identity as facilitators between two parties with different interests, even though they support workers. “We play a role as a facilitator for negotiation between workers and employers,” stated an activist (interview, labor activist, June 2014). This was well illustrated by a labor activist who mediated the negotiations during a strike at a shoe factory. She tried to decrease the gap between workers’ demand of 250 Kyat (0.25 USD) per hour and employer’s counter suggestion of 50 Kyat (0.05 USD) while calming down workers’ anger and asking the ILO to support reaching settlement by pressuring the government

authorities to intervene (Campbell 2013). Concerned with smooth negotiations, some unionists have begun to think that they should play a “neutral (role) to hear from both” on any disputes between workers and employers (interview, unionist, Nov 2015). A union federation’s staff has taken this framework further; as one officer reported. “When we get a call from workers in disputes, we see the situation first, like who’s at fault, workers or employers? If workers did wrong, we explain them and correct them” (Interview, unionist, Oct 2015). A union leader in a federation belonging to the other faction also made a similar statement. His federation demanded the government to form a tripartite structure to review dispute cases to examine “who did wrong. And if workers were wrong, it would be ok to take measures accordingly” (Interview, unionist, Oct 2015).

This ‘neutral’ or even ‘judgmental’ attitude of unions may result from the situation in Myanmar where people have suffered from arbitrary punishment of the military regime and now demand “the rule of the law” promoted by Aung San Suu Kyi (Bloom 2012). However, the unionists and activists’ self-perceptions as neutral facilitators and over-emphasis on negotiation created the problem of failing to properly represent workers’ demands. Unionists and activists frequently made themselves negotiators or even mediators rather than workers’ representatives. Sometimes, this attitude has resulted in negotiation outcomes that workers refused to accept and to create non-transparent communications between the negotiators and workers. For example, in some cases, federations staff engaged workplaces with disputes, listened to both workers and employers, made a ‘reasonable agreement’ with employers, and pushed workers to take it (interview, activist, Nov 2015). In a strike of a garment factory that closed down without paying compensation, the federation representing the workers wanted them to accept half of what the workers ended up winning as an independent union (Turner 2016). In another case, striking workers accused a labor activist assisting them in negotiations of taking a pro-employer position. Workers believed that he contacted their employer before listening to workers’ demands, a step they criticized as biasing him in favor of their employer (interview, activist, Nov 2015). Whether the particular negotiator was in fact biased or

not, this case indicates a degree of mistrust related to negotiators' narrow focus on negotiations.

On the other hand, corporatist thinking led the union federations to emphasize legal procedures to bolster their role in institutions. Corporatism has provided legitimacy to union federations as representatives of workers to the IR institutions through their participation in tripartite committees. To strengthen their legitimacy, the federations have stressed the use of rules and regulations, an important part of the IR institutions. As the president of the MICS said, “employers are more likely to violate the law than workers...[and] ‘even though there are problems with the law, we would like both sides [employers and workers should] to obey the law and to negotiate’” (Nyan Lynn Aung and Noe Noe Aung 2015). An organizer from another federation in the rival faction emphasized the approach, stating that “If they do strike without dispute resolution process, we tell them to go back to work first and to follow the procedures” (Interview, unionist, Oct 2015).

In addition, corporatism has influenced activists' and unionists' perception of industrial relations as an approach. In the view of a prominent labor activist who was a political prisoner and involved in a number of labor disputes and strikes, employers and workers are a family. According to him, the trade union is “just a group that will negotiate to solve the problems between the owners and workers, and problems between workers and owners are like fights between family members” (Noe Noe Aung, 2012). Another long-time labor activist who had been sentenced to a life in prison for his work during the military regime said, “my aim is to build a harmonious employment relationship” (Interview, labor activist, June 2014). After being released from prison in 2012, he set up a labor NGO, becoming one of the most influential figures in the union movements.

At the same time, corporatism gained currency at a policy level and became the frame of the IR institutions. For instance, the government praised tripartism as a measure to resolve disagreement between employers and workers through the facilitation of the government. When the government listed in the Presidential Message for May Day in 2015 its achievements, the tripartite structure to set up

minimum wage was explained at length. The government also held the first tripartite consultation in 2012, and it has since evolved into the Tripartite Forum meeting quarterly. The Forum has become a venue for the three parties to discuss and consult on labor-related policies, including the amendment of labor laws (Aye Min Soe 2015). The minimum wage committee also operates with its own tripartite structure to determine the minimum wage rate. Additional nascent tripartite committees are tasked with covering issues such as labor law reform and child labor, and supporting the ILO's decent work program (ILO 2016a).

Labor unionists and activists alike welcomed the tripartite forum and social dialogue convened by the central government. However, they were skeptical of the forum's effectiveness mostly due to the close ties between employers and the government, yet the unions remained enthusiastic and willing to use it as a channel to influence labor policies and legislation (interview, several unionists, Oct 2015). Even though unionists showed some skepticism over the actual efficiency of the tripartite forum, it did not mean that they did not buy the concept of social dialogue. For instance, the MTUF/MICS made an agreement with the Myanmar Garment Manufacturers Association (MGMA) to build "a healthy relationship and strong cooperation...between employers and employees" for economic growth (MGMA and MTUF 2014). Even though it may be a question of implementing the agreement due to the lack of action plans followed, the agreement suggested that the union embraced the notion of corporatism.

In summary, with the new labor laws legalizing unions, rapidly growing unions formed two major factions that have different legacies and resources. The CTUM originated from political exile and commanded resources and support from international organizations; meanwhile, a coalition of local unionists and activists from prison and exile also emerged claiming a local grassroots base. Both factions adopted the same logic of corporatism focusing on tripartism and negotiation, contrasting with workers' militant actions. The corporatist logic influenced the labor movement in several ways including federations' emphasis on legality and

commitment to negotiations, even at the cost of ignoring workers' demands, and a collaborative vision for the future of labor movement.

### *The ILO's role*

The prevalence of the corporatist logic in the Myanmar labor movement is at least partially attributable to the ILO. The prominent role of the ILO in the reform process and building an industrial relations system has spawned a growing volume of literature on Myanmar's labor relations. Several scholars have argued that the external influence caused the country's labor reforms (Gillan and Thein 2016; Henry 2015; Henry 2016). Others incorporate the roles of domestic labor actors in shaping new labor regulations (Arnold and Campbell 2017). However, all observers agree about the ILO's influential role in nurturing the nascent labor movement and its efforts to form social dialogue and tripartism that has characterized Myanmar's industrial relations system.<sup>11</sup>

The ILO is one of the main institutions promoting corporatism as the basis for an industrial relations system based on social dialogue and tripartism. While providing technical assistance for labor laws, the ILO has worked hard to institutionalize tripartite social dialogue, the ILO's version of corporatism in Myanmar. First, the organization convinced the government of the importance of tripartite consultation (Interview, ILO staff, June 2014). In fact, it was one of the most challenging tasks partly due to the lack of interest from the government and employers, and partly due to the lack of unity in the labor movement and the lack of legal status of federations. While the government was reluctant to share power, employers did not have an organization to properly represent their interests, except a garment industry association and did not see any immediate benefits from social dialogue (interview, ILO staff, Nov 2015). While "beating them [the government] around the head a lot that tripartite

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<sup>11</sup> One such rare study is by Henry (2015), who traced international efforts by the ILO and international labor unions since the era of the military regime to support Myanmar labor activists and unionists, including those in exile, by providing training, resources and networks for international campaigns, and by providing capacity building programs and legitimacy for social dialogue. However, he discussed little about the implication of the ILO's involvement on the labor movement.

consultation is critical” (Henry 2015: 81), the ILO assured the government that it would retain the final decision-making power by giving consultative status to the other social partners, and persuaded them to accept the existing federations as social partners regardless of their legal status at that time (Interview, ILO staff, Oct 2015). At the same time, while urging the current employers’ organization, Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), to take a proactive role (Su Phyo Win 2014), the ILO sought to build the capacity of employers’ organizations through training (Kyaw Min 2014), and directly engaged the business community to convince them of the benefits of tripartism and their participation (ILO 2016a).

Second, the ILO made a substantial effort to create the environment for social dialogue. The ILO regarded the legislation as the first step to initiating social dialogue. As the ILO officer explained, the LOL is “about social dialogue, creation of relationships between employees and employers...not purely about strikes...an action of last resort” and expected the LOL would “hopefully prevent strikes and labor disputes” (Allchin 2012), even though the situation did not go as well as expected. ILO staff attributed the rise of industrial actions to a “lack of knowledge and culture of dialogue... the laws are understood as a tool to strikes” (interview, the ILO staff, Oct 2015). Therefore, training became an important part of the ILO’s work and the majority of training has focused on the relations between employers and employees and bolstering social dialogue. The ILO reported that there were 145 programs, mostly training, under the rubrics of freedom of association and social dialogue that were implemented for 5,449 participants targeting mostly unionists,<sup>12</sup> but including other stakeholders in the social dialogue in two years (September 2012 – September 2014). Especially for employers and workers, after separate training, both parties participated in a joint training program to promote mutual understanding and to enhance understanding of the concept of social dialogue (interview, ILO staff, June 2014). A

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<sup>12</sup> It is certain that the biggest participants of the ILO training were worker partly due to the lack of interests of employers on this sort of training which was confirmed by much fewer turnouts than those invited to the training (interview, ILO staff, June 2014; unionist, Nov 2015)

union trainer recalled one of most useful and impressive trainings involved a mock collective bargaining exercise with reversed roles between workers and employers (interview, unionist, Nov 2015). Some workshops were facilitated by ILO trained local facilitators (ILO Liaison Office, 2014; interview, unionists, Oct and Nov 2015). The training seemed to be effective to some extent. For instance, the activist who mentioned building harmonious employment relations as his aim, stated he was influenced by the ILO. “Before I thought employers and workers were enemies...but partly owing to the ILO workshop, I could understand them” (Interview, labor activist, June 2014).

The ILO’s influence on labor relations in Myanmar is not limited to the policy level. The ILO has credibility among civil society, especially the labor movement. The activists view the ILO as the authority to provide guidance for inexperienced labor unions. As one unionist said, “we have to accept the ILO’s suggestions in order to learn international standards” (interview, unionist, Oct 2015; unionist, Nov 2015). In fact, labor activists have begun to invoke the name of the ILO to demonstrate their legitimacy. In some cases, some people showed up at strike sites and misleadingly introduced themselves as coming from the ILO to obtain trust from workers in the hope that workers would ask them to represent them in negotiation. In another case, a group wrongfully claimed a close relationship with the ILO while recruiting farmers, promising to solve their grievances in exchange for paid membership dues (Interview, unionist, Sept 2015; ILO staff, Oct 2015).

In fact, the ILO’s role has evolved. During the first couple of years of the reform, the ILO was involved in labor disputes; it often pressured the government to intervene. Currently the ILO has become less engaged in disputes and strikes at the local level, and advises unions to file complaints through the ILO dispute resolution mechanism. However, few unions have followed this advice.



## CHAPTER 5

### DISCUSSION

#### *The sources of the ILO's influence*

The ILO's influence in Myanmar may not be simply explained by its status as an international body working for international labor standards. The ILO seldom enjoys similar influence in other countries. The forced labor project that the ILO started in the early 2000s helped the organization accumulate social capital that may not have been intentionally sought but became valuable for the organization and its efforts during the current reform phase. First, the ILO built an image of a competent organization for resolving grievances, a process that was known to activists and ordinary people in Myanmar. The ILO Yangon office supported several high profile court cases; a good number of cases were solved through its intervention; and these successes were publicized widely, even in the government-owned media (Horsey 2011). Second, through its efforts to protect complainants of forced labor and others from retaliation by the authorities, the ILO gained a reputation and even came to be known as a hero fighting the military dictatorship (interview, unionist, Oct 2015). One of the well-known cases was a high treason case of two lawyers and a labor activist who received death sentences for allegedly providing information to the international agency that was considered harmful for the state. The only evidence of wrongdoing was photocopied name cards of ILO staff which the accused had been given by a friend. Through the ILO's intervention, the sentences were reduced to two or three years and the accused were released earlier than the sentenced period (Horsey 2011; interview, unionist, Nov 2015). Third, the ILO formed networks with activists working underground and in exile. Activists informed the ILO about workers' issues in local factories, collected evidence on forced labor in remote villages, and participated in ILO training workshops outside of the country. The activists regarded these activities as part of their international campaigns against the government (interview, labor activist, June 2014; July 2014).

In addition to the credibility the ILO developed through the forced labor project, the ILO gained additional influence from global markets and demands from other governments that the Myanmar government comply with labor standards in order to lift economic sanctions (Gillan and Thein 2016). This created an incentive for the Myanmar government to include labor policies in the reform package. To be incorporated into the global supply chain and to be free from international sanctions for economic growth, the Myanmar civilian government “was concerned to keep the ILO happy” (interview, ILO officer, June 2014). While the ILO had played an important role in the imposition of international sanctions in the 2000s, subsequently the ILO gained power to get the sanctions lifted by guaranteeing substantial changes through labor policy reforms. Due to the detrimentally negative impact of international sanctions on economic growth of this country (Kudo 2008), dropping the sanctions was one of the most urgent issues for the new civilian government. Moreover, the ILO enjoyed the legitimacy of being one of the first international human rights organization with a permanent presence in the country during the military regime (Tapiola and Swepston 2010:111). Its Yangon office became a busy place for the international business community interested in Myanmar to visit and to seek information on the local context (Marshall 2014). These circumstances gave good reasons for the Myanmar government “to hear what the ILO says.”<sup>13</sup>

In this context, the ILO has remained influential in the labor movement. First, the ILO has played a role to mediate communication between the government and labor. The organization has intervened in strike cases indirectly by pressing the government to facilitate negotiations between workers and employers, especially in the early stage of the reform. Labor authorities were reluctant to engage in settling cases and to accept activists’ and unionists’ involvement, and labor groups and unions relied heavily on the ILO to communicate with the labor authorities. Therefore, when

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<sup>13</sup> The efforts of the government were rewarded as expected. The ILO made a first move by lifting the sanctions in June 2012. It was followed by the EU that had imposed sanctions in 1997 in relation to the forced labor complain and lifted them in 2013. And also the US withdrew the sanctions, although partially, which had had the most detrimental impact on Myanmar garment sector by preventing access to one of the biggest export market in 2003.

there were strikes, the first thing activists and unionists did was to contact the ILO and ask for their help (interview, labor activists, June 2014). Even though the ILO's intervention decreased later, unionists and activists were aware of the organization's power to influence government to some extent (interview, unionist, Oct 2015; labor activist, Oct 2015).

Second, the ILO has been regarded as a protector of workers' rights. For example, a unionist, given the contact number of ILO staff during an ILO training workshop, stated that she felt protected in an urgent situation (interview, unionist, Nov 2015). Also owing to the high profile of the ILO, association with the ILO seems to increase the confidence of workers and provide them with legitimacy. For instance, a worker in a weaving factory used her association effectively when she and her colleagues engaged in a wildcat strike in 2012 to demand a wage increase and overtime payment. When an official from the local labor department showed up at the strike site, she showed the pamphlet with the ILO logo that she got from an ILO training workshop and claimed "According to the ILO we have a right to do this" which silenced the official and made him even cooperative with workers (Interview, unionist, Nov 2015).

Third, the networks of activists and unionists the ILO developed during its forced labor program became the foundation for the quick expansion of the labor movement. Most of all, the ILO helped those in its network returning from exile in the early stage of the reform, creating a pool of human resources to support the nascent labor movement. The ILO guaranteed security from government retaliation for the returnees, enabling them to approach workers and allay workers' fear that activists from exile were terrorists as portrayed by the military regime for many years (interview, activist, June 2015; unionist, Nov 2015). Moreover, the ILO's network with both those underground and in exile allowed the ILO to reach a wider range of labor activists and unions and influence all union factions and labor organizations.<sup>14</sup>

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<sup>14</sup> This is an important contrast to international labor unions and other international labor NGOs that only have relationships with unions returning from exile. This relationship was built while they supported international campaigns by the FTUM in exile, and did not extend to unions formed locally.

This balanced relationship may be facilitating communications between the two factions of the labor movement and convince them to participate in a tripartite forum as labor representatives, despite their sharp divide (interview, ILO staff, June 2014).

In a sense, these unionists and activists took up the ILO's work by becoming promoters of industrial relations based on social dialogue. The labor activists took their role after receiving training from the ILO and/or learning about labor issues through the ILO's materials, and they became prominent leaders in the labor movement. A well-known case is an FTUM leader whom ILO staff referred to as 'the only person in Myanmar to understand industrial relations' (interview, the ILO staff, June 2014). The ILO made every effort to bring him back to Myanmar from exile promptly after the reforms started, by convincing the reluctant government that he would be helpful to pacify a wave of strikes and form corporatist unions (interview, ILO staff, June 2014; ILO staff, Oct 2015; Henry 2015).

In sum, while a particular international context provided the ILO with leverage to convince the government to introduce labor reforms, the influence of the ILO on the labor movement is also due to social capital the organization gained from its legacy. This includes credibility as an influential organization, a reputation as a protector of people, and a balanced network with those underground and in exile that are fully engaged in leading the current labor movement. This legacy created an environment in which many labor activists and unions accept the corporatist industrial relations system that the ILO has promoted as a dominant model of industrial relations

### ***Implications of 'implanted corporatism'***

In Myanmar, corporatism was implanted by an international agency, the ILO. Previously the country did not have a historical legacy of negotiation and dialogue to support corporatism, as suggested by ILO staff. Due to the external implantation of corporatism, its adoption as the dominant approach has not effectively brought about industrial peace.

Unionists at federations, facing the discrepancy between corporatist notion and militant actions, have tried to control strikes. For example, the federations provide

training for workers, in which they emphasize the legal procedures for strikes as outlined in the LOL and the disputes settlement laws. These legal procedures include the requirement of federations' approval to strike and the particular stage in dispute settlement procedures when strikes are permitted. However, this approach has not been successful in stopping 'illegal' strikes. Several labor activists and unionists humbly accept that almost all the strikes in recent years were technically illegal under current laws (interviews, labor activists and unionists, Oct and Nov 2015). Therefore, as union staff in a federation said: "we always talk to workers 'tell us before you go on a strike' but frequently get phone calls in the morning or at night 'sister, we started a strike, please come to help us'" (interview, unionist, Sept 2015).

Workers' organizing and collective action is a new phenomenon that had not been exercised in Myanmar since the initial period after independence in 1948. Now, in most cases strikes are the first measure not the last resort to force employers to sit at the bargaining table. Difficulties in getting employers to negotiate may partly be related to a strong hierarchical culture in workplaces. As a worker said, "employers do not think that we are equal to have a negotiation with them" (interview, unionist, Nov 2015). At the same time, the tendency to strike is also related to workers' frustration at the lack of effective enforcement of laws. They notice that employers frequently disrespect the decisions of the arbitration council when it rules in favor of workers, and that strikes bring more immediate (and favorable in some cases) outcomes; therefore, they are less concerned with following the legal procedures (interview, unionist, Nov 2015).

Implications of this implanted corporatism emerge at several levels. First, at a practical level regarding negotiation, there is increasing distance between federations and workers in workplaces. As mentioned, the negotiation process often excludes workers and does not reflect workers' demands properly. In addition, without substantial changes in collective bargaining practice at workplaces but just emphasis on obedience to the laws and negotiation, federations may risk their legitimacy with workers.

Second, at an organizational level, corporatism, while giving unions a legitimate space in the institutions, may confine the unions' activities within the legal boundary. Emphasis on legality may create another issue: leaving unions powerless in struggling against 'unfair' but 'legal' practices at workplaces. For instance, some union leaders were fired based on the regulations in the factory. The employer's intent to bust the union was obvious but the workers lost in the arbitration council and did not receive support from other unions.

More consequentially, this implanted corporatism, while setting a standard of industrial relations based on negotiation and cooperation, may eliminate 'uncontrollable workers' militant action' as an undesirable and unacceptable method. A federation leader's remark reflected this well: "wildcat strikes and demonstrations often come from workers who are not part of unions, as they do not have the awareness to resolve issues in a productive manner" (Chen 2014). In doing so, corporatism may limit the potential of the labor movement to explore and to develop other types of labor movement activity. For example, the corporatist discourse leads unions only to focus on economic issues but seldom to raise a question of imbalanced political power. It may develop an apolitical labor movement and let unions lose the opportunities to develop their political muscles.

A strike in January 2015 illustrates this potential problem. Thousands of workers from five garment factories in Shwephytha industrial zone, owned by Chinese and Korean business persons, staged a 5-week strike. The strike was initiated by workers in a garment factory due to frustration over the employer's breach of a collective bargaining agreement made in 2013, and was joined by workers in four other factories (interviews, worker, Nov 2015; unionist, Nov 2015). Workers demanded wage increases and better working conditions. The unions in these factories were independent, but unionists from the MTUF and labor activists from different NGOs, including the ALR, tried to settle the dispute. However, the negotiations were not transparent. Workers were not properly informed of the negotiation; the agreement was not satisfactory to them; and the agreement was not properly implemented. While workers from two factories returned to work, others continued their struggle, and a

hundred marched through downtown Yangon to make their demands heard. However, the marching workers were violently dispersed by police and thugs in plain clothes. The authorities brought legal charges against several union leaders under the peaceful assembly regulation (interview, unionist, Oct 2015; interview, labor activist, Nov 2015).

It was one of the most militant strikes in recent years. Unionists and activists from all the factions commonly regarded this militancy as ‘something wrong’ rather than workers’ voluntary action. All the union federations and labor NGOs from both factions adopted the same position that there were some groups behind instigating “violent actions of workers.” Unionists blamed activists, and activists blamed communists as those responsible (Interviews, unionists from both factions, several labor activists, Sept 2015). However, neither group offered any evidence. In fact, the government created and pushed the narrative that the struggle was stimulated by outsiders, as it warned that “the ministry of labour will cooperate with local authorities to take action ... against people who sow instability by encouraging demonstrations.”<sup>15</sup> This accusation was publically accepted among labor groups,<sup>16</sup> sending the message that workers may not take such militant actions by their own choice. As a result, unionists and activists stopped supporting the strikes, making striking workers even more vulnerable and enabling the government to disperse the strikes violently (interview, international organization, Dec 2015). However, the workers and leaders in the factory unions participating in the strike confirmed that it was their decision rather than the influence of suspicious outsiders (interview, workers, Oct 2015; leaders in the factory unions, Nov 2015).

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<sup>15</sup> Government responds to accusations of mishandling labour protests. *Eleven Myanmar*. Feb 25 2015. Accessed at <http://www.elevenmyanmar.com/local/government-responds-accusations-mishandling-labour-protests>

<sup>16</sup> Only one unionist said “Who said the struggle was created by communists? That was the government’s bulls\*\*t propaganda” (interview, unionist, Nov 2015).

Underlying the divide between workers and labor institutions in this anecdote is the corporatist notion that workers' aggressive militant action would (or should) be abnormal, thus, unacceptable. This position forecloses workers' rights to strike.



## CHAPTER 6

### CONCLUSION

This study has explored the causes and implications of the corporatist discourse prevailing in the burgeoning labor movement in Myanmar. The corporatist approach shared by labor unionists and activists sharply contrasts with workers' militant actions in the country as it transitions from an authoritarian regime to civilian rule. I argue that the ILO has played an influential role in making corporatism a dominant norm while supporting this incipient labor movement and designing industrial relations system. On the one hand, the ILO had leverage over the government owing to the economic development strategy of the civilian government to integrate into the global supply chain. On the other hand, the ILO's influence on the labor movement is based on the symbolic capital it accumulated during the military regime, and its forced labor project.

The ILO's current work in its member states focuses on promoting social dialogue through a tripartite structure. This corporatist model, an ideal model embedded in the ILO, gained currency in Myanmar among the government, unions and broader civil society – albeit not popular among employers. The tripartite structure has its virtues by giving stakeholders a channel to reach policy, an especially significant fact given that labor had no voice in the public space during the military regime. Particularly, the leadership of the labor movement embraced corporatism as a main feature of industrial relations in its discourse.

Therefore, Myanmar's IR system diverges from other Asian countries where political transitions accompanied workers' militant actions because of a lack of institutional channels for workers, or unequal power between labor and other stakeholders. It took some time for these countries to incorporate corporatism in their IR systems in order to pacify industrial unrest.

However, corporatism in Myanmar has not brought about industrial peace, the main objective of corporatism. Strikes are frequently used as the main measure to push employers to negotiate. This is partly due to a lack of historical precedent supporting

corporatism, which has developed over many decades in the developed countries where the idea has its roots.

Moreover, this pre-designed IR system may limit the strategic choices of union federations in Myanmar by excluding militant industrial actions. Considering that corporatism was invented as a concession to workers' militant action in the early industrializing countries, it is questionable whether Myanmar unions would gain meaningful outcomes in a tripartite system without militant actions. Most significantly, this implanted corporatism may hinder the capacity of Myanmar workers to develop and exercise political power by limiting union activities to collaborative and apolitical ones.

It may be too early to predict the overall direction of the industrial relations system in Myanmar. Perhaps the corporatist or the militant approach will prevail and become a main feature of labor movement in Myanmar. Alternatively, militant action and corporatism may continue in parallel, promoted by different factions or kept by workers at workplaces and leadership at federation level respectively.

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