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## Will the resource tide lift all boats? Responsible development in Myanmar

*Political and economic reforms in Myanmar have brought a wide range of companies and state enterprises to its doorstep – all eager to tap the country's abundant natural resources and its growth potential. However, in the absence of strong regulatory frameworks, Myanmar could fall victim to its own resource abundance. What is required therefore are frameworks for responsible resource management founded on the principles of transparency, accountability and community engagement. Such frameworks are essential for ensuring that Myanmar's natural wealth leads to sustainable and widely beneficial development, and will only grow in importance as the country becomes more integrated into regional and global economic systems.*

By J. Jackson Ewing and Pau Khan Khup Hangzo



*Open-cast copper mining near Monywa. While such projects drive a degree of economic growth in Myanmar, they bring a host of attendant social and environmental challenges.*

*Credit: AntwerpenR / flickr.*

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### Introduction

Myanmar's political renaissance has opened up a range of opportunities in the country. Restrictions to doing business there have been relaxed, economic and financial reforms are gradually oiling the wheels of commerce, and the overall opacity of the country has reduced. These shifts, combined with the country's strategic location, hydropower potential, and wealth of minerals, hydrocarbons and arable land, have led many to regard Myanmar as Southeast Asia's newest frontier.<sup>1</sup>

- Consortium of NTS Studies in Asia Website
- RSIS Centre for NTS Studies Website

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However, as has been the case elsewhere, such rapidly burgeoning development brings attendant challenges. Extractive industries and large power generation projects currently enjoy the greatest attention and resources, from foreign investors as well as economic planners in Myanmar.<sup>2</sup> While these industries are a source of large capital injections, they also bring about a range of social and environmental costs that could undermine Myanmar's long-term growth. Environmental declines and social unrest tied to resource extraction have already been seen in the country. Moreover, many key natural resources in Myanmar have high 'lootability' potential, and there are legitimate concerns that both foreign and domestic elites will co-opt a resources boom in Myanmar with little benefit to marginalised groups and peoples throughout the country.

Taking these concerns as a starting point, this NTS Insight explores the likelihood of a 'resource curse' trajectory in Myanmar, giving special attention to community-level interests and viable means for assuaging community-based concerns. The paper begins by providing an overview of the resource foundations of Myanmar's economy, before addressing the attendant problems and possible solutions that relate to these characteristics. The authors also suggest key pathways for responsible development in Myanmar.

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## The resource base of Myanmar's economy

The recent 'opening up' of Myanmar through an ongoing political reform process has been met with great optimism. The country has substantial endowments of arable land, forests, minerals, hydrocarbons, as well as freshwater and marine resources, gems and jade, all of which hold interest for foreign and domestic actors alike. This current lure of resources has strong historical foundations. Under British rule in the 19th and 20th centuries, the area that is now Myanmar became a source of timber, rice and rubber while also becoming one of the world's oldest oil-producing zones (the first barrel being shipped in 1853).<sup>3</sup>

Upon gaining independence in 1948, the Union of Burma was, relative to its neighbours, well-positioned to succeed economically. Real gross domestic product (GDP) growth averaged more than 6 per cent between 1950 and 1960; and the country was the world's second-largest rice producer, possessed immense mineral wealth and enjoyed extensive forest cover.<sup>4</sup> The country additionally boasted a high literacy rate, a free press and an elected parliament.

Yet, the newly formed state also contained more than 40 ethnic groups, and problems of national cohesiveness soon surfaced. Within two months of independence, the Communist Party of Burma rebelled, and shortly thereafter, the Karen, one of the largest ethnic minorities in the country, began their struggle for independence. Elite infighting and military control came to rule the day, and the remainder of the 20th century and first decade of the 21st was marked primarily by ineffective and oppressive governance and unrealised economic goals.<sup>5</sup>

Flashing forward, the economy is growing strongly: 5.1 per cent in financial year 2009 (FY09); 5.3 per cent in FY10; and 5.5–5.8 per cent in FY11.<sup>6</sup> The economic expansion is being driven by interest in hydropower, natural gas and oil, and commodities.<sup>7</sup> Throughout the 2000s, foreign investment in these sectors rose markedly, while investment into other areas such as manufacturing, agriculture and tourism dropped significantly (from already low starting points).<sup>8</sup>

Hydrocarbons in particular have experienced a meteoric 21st century rise. By 2007, oil and gas had come to account for one-third of Myanmar's total exports.<sup>9</sup> Potential remains high: the country has confirmed recoverable gas reserves of around 540 billion cubic metres (equivalent in size to that of major producers such as Australia and Iraq).<sup>10</sup> In a sign of Myanmar's focus on tapping these valuable resources, its gas exports increased by 15 per cent between FY09 and FY11, and the extractive energy sectors remain among the most dynamic growth segments of the country's economy.<sup>11</sup>

Myanmar also has entrenched mineral, metals and precious stone industries. By the end of the 2000s, the country accounted for an estimated 90 per cent of the world's supply of rubies and 70 per cent of the supply of premium jadeite.<sup>12</sup> Myanmar also produces sapphires, spinel, peridot, aquamarine and a variety of other semi-precious stones on substantial scales.

In a case of regenerative resources with extractive potential, half of the remaining forests in mainland Southeast Asia at the end of the 20th century were in Myanmar.<sup>13</sup> By 2004–2005, forest products were the State Peace and Development Council's second most important source of legal foreign exchange, amounting to USD427.81 million (representing 15 per cent of the total).<sup>14</sup> By 2012, the country accounted for 75 per cent of global teak exports.<sup>15</sup> Additionally, and as the following will discuss in greater detail, Myanmar's river systems hold allure for large-scale power generation projects.

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## Investment trends and the seeds of a 'resource curse'

Myanmar's impressive natural-resource endowments predictably gained greater international attention as economies became more connected and desirous of resources in the latter part of the 20th century. However, until 1988, foreign investment was largely unregulated. On 30 November 1988, the State Law and Order Restoration Council (SLORC), as the ruling military regime was then known, passed the Foreign Investment Law. The law called for the promotion of 'all round development of national economy to improve provisions of food, clothing and shelter for the people so as to ameliorate their living standards' and 'induce foreign investment on the basis of equality and mutual benefit'.<sup>16</sup>

Despite lip service to such lofty goals, the 1988 Foreign Investment Law's stated objectives were to exploit the country's abundant resources and export any available surpluses.<sup>17</sup> The amount of foreign investment that flowed into the country following the enactment of the law was indeed substantial – between 1988 and June 2012, a total of 477 foreign companies invested in Myanmar, injecting USD41 billion.<sup>18</sup> Top investors at different stages during this period included Thailand, Singapore, the UK, South Korea, Malaysia, Hong Kong SAR, China, Japan, the US and Australia. In the 2000s, the US and European companies of the 1990s were increasingly replaced by a growing Chinese presence. However, the trickle-down effects espoused in the 1988 agreement largely fell short.

Dependence on extractive resources can generate negative development outcomes, including poor economic performance, growth collapses, high levels of corruption, rent capture by elites, ineffective governance and greater political violence.<sup>19</sup> Many intimations of the resource curse hypothesis provide cautionary tales about resource dependence and the risks of resource wealth as an economic foundation.<sup>20</sup> While thinking varies significantly, resource curse analyses point out that states deriving significant revenue from natural-resource exports are prone to developing narrowly based or quasi-democratic governing institutions, and that the rents gained from resources may be used to maintain patronage networks and elite-level controls.<sup>21</sup> The resultant rentier states may struggle to introduce and implement broad-based political reform over the long term and may thus face protracted societal grievances.

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## Emerging tensions

The Myanmar story fits the resource curse paradigm to a confronting degree. Myanmar's approaches to resource extraction during the last two decades have contributed to serious human rights abuses, forced labour, land confiscation, displacement and environmental degradation.<sup>22</sup> Resource extraction in the absence of transparency and accountability has generated grievances within local communities, and these issues continue to expand in relevance and scale.

### Mines

The Letpadaung copper mine near the town of Monywa in Sagaing Division in north-western Myanmar is a case in point. In June 2010, during Premier Wen Jiabao's visit to the country, a USD1 billion contract to expand the mines was signed between China North Industries Corporation (NORINCO) and the government of Myanmar.<sup>23</sup> Currently, the project is jointly operated by Wanbao Mining Limited, a NORINCO subsidiary, and the Union of Myanmar Economic Holdings Limited (UMEHL), a holding company belonging to the Myanmar military.

The appropriation of land to expand the mines has been controversial, as has the conduct of the mining operation. On 22 August 2012, villagers organised a march to 'challenge the seizure of almost 3,300 hectares of arable land' and the potential contamination of the Chindwin river, the destruction of religious heritage sites, and environmental loss.<sup>24</sup> Villagers contend that mine managers have not responded to questions regarding environmental pollution, forced removals and just compensation. Events came to a head on 29 November 2012, when riot police dispersed protesters, injuring nearly 100 villagers and monks.<sup>25</sup> One media report noted that this was 'the biggest use of force against protesters in Myanmar since Thein Sein's reformist government took office in March 2011'.<sup>26</sup>

A joint investigative report released on 14 February 2013 by Lawyers Network, an association of lawyers in Myanmar, and Justice Trust, a US-based rights group, says local officials intimidated villagers into signing contracts through various means.<sup>27</sup> The report also accuses officials of replacing independent village heads with supporters of the mine, and claims that police fired on demonstrators with military-issue white phosphorous smoke grenades.

## Dams and hydropower

Hydropower projects and dams have also been highly contentious. The Myanmar government has sought to take advantage of the country's hydropower promise through courting foreign investment, but the resulting projects have fuelled a range of local grievances. First, military expansions often accompany large damming projects in ethnic provinces due to real and perceived project security needs. Those projects have thus become targets for rebel groups, for whom the mere presence of the armed forces is ranking.

The Dapein dams in Kachin State provide an apt example. The state-owned China Datang Corporation has agreements to build two dams on the Dapein River near the China border. Construction of the Dapein 1 hydropower station began in December 2007 and it started generating electricity in February 2011.<sup>28</sup> The second dam was under construction when fighting broke out near the site in June 2011 between the Kachin Independence Organization (KIO) and the Myanmar army. An estimated 30,000 people were displaced by the fighting and sections of the first dam were destroyed and electricity flows shut down.



*Myanmar army encampment in Kachin State. Fighting re-erupted between the army and the Kachin Independence Army (KIA) in June 2011 ending a 17-year ceasefire. KIA's opposition to the expansion of hydropower projects in Kachin State was a major cause of the fighting.*

*Credit: :United to End Genocide / flickr.*

The high-profile protests over the Myitsone Dam in northern Myanmar are perhaps even more significant. The dam was proposed by the government in 2006 and a construction contract was signed in 2009 with China Power Investment Corporation and Myanmar's military-backed Asia World Company. Myanmar's ethnic Kachins opposed the dam from the beginning. The dam is sited at the top of the Irrawaddy River, a waterway highly integral to the social, economic and cultural life of the Kachin people.

The Kachin Independence Organization (KIO) warned the Chinese government that conflict may well result if plans went forward.<sup>29</sup> Environmental non-governmental organisations (NGOs) in Yangon and elsewhere took to protesting the project as well, with Aung San Suu Kyi joining the chorus of opposition in August 2011.<sup>30</sup> According to International Rivers, the Myitsone Dam, when completed, would generate some 6,000 megawatts of power while creating a reservoir the size of Singapore with a depth of a 66-storey building. It would also displace 12,000 Kachin people.<sup>31</sup> In all, an estimated 20,000 people would be affected by its construction and operation. As pressure mounted, and as a sign of greater citizen emancipation in the region, President Thein Sein and Myanmar's leadership suspended the project while noting the need to act 'according to the desire of the people'.<sup>32</sup>

## Oil and gas

The oil and gas industry has likewise proven to be a lightning rod. A 793km gas pipeline connecting Myanmar's deep-water port of Kyaukphyu in the Bay of Bengal with Kunming in China's Yunnan province is set to begin operations at the end of May 2013.<sup>33</sup> The pipeline will supply China with up to 12 billion cubic metres of gas a year, most of which will originate in Myanmar's gas fields in the Indian Ocean.

However, the construction of pipelines has led to higher military presence in areas inhabited by the Ta'ang (or Palaung), an ethnic group of about 1 million. This has led to renewed fighting between Myanmar's army and the Ta'ang National Liberation Army (which formed in July 2011 in part to combat encroachments into Ta'ang-dominated areas). A report released by the Ta'ang Students and Youth Organization suggests that the growing number of military personnel in the area is 'directly linked to securing Chinese mega projects' and has resulted in 'killings, beatings, forced labor and extortion'.<sup>34</sup> According to the report, in some locations, soldiers are being paid 5,000 kyat (USD6) per day by Chinese companies to secure construction sites. It appears that some of these soldiers have asked locals to pay for the use of roads in the area.<sup>35</sup> This and the increasing number of checkpoints have prompted people to travel long distances to avoid the soldiers.<sup>36</sup>

The current friction over damming and the extraction and transportation of valuable resources is emblematic of the battles that will shape Myanmar's development prospects. Companies involved in development of natural resources in areas where there are marginalised, disenfranchised and/or aggrieved communities run the risk of becoming entangled in problematic relationships on the ground. Introducing strategies that will help such communities move out of poverty and deprivation is good for companies and makes the business environment safer since it addresses issues of community grievance and violent community responses to corporate activities. The following section explores principles that can underwrite such strategies, as well as recent legislative developments in Myanmar that, if implemented effectively, can help guide the country's future.

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## Way forward: Towards more inclusive natural resource governance



*Many key natural resources in Myanmar have high 'lootability' potential. Inclusive development strategies based on greater community participation, accountability and transparency are critical if Myanmar is to avoid resource curse pitfalls.*

*Credit: Hella Delicious / flickr.*

Responsible natural-resource management can spur economic growth in Myanmar while helping to reduce the propensity to conflict and uneven development. Previous strategies and approaches have left much to be desired on this front. Despite its abundant natural resources, Myanmar's level of development is still very low; with the 2012 Human Development Index (HDI) rating it 149 out of 186 countries and territories.<sup>37</sup> Inclusive development strategies based on greater participation of the people (in decision-making and resource management), accountability, transparency and environmental protection offer pathways for Myanmar to avoid resource curse pitfalls. There are modest signs that Myanmar could be moving in such a direction.

### **Inclusive Foreign Investment Law**

On 1 November 2012, Myanmar's Parliament passed amendments to the Foreign Investment Law. The stated objectives of the new law include natural resource exploitation, infrastructure development, human resource development, job

creation and educational development.<sup>38</sup> While it clearly retains a growth focus, the 2012 law is in many ways a departure from the resource management legislation of 1988. For example, its language has far more provisions related environmental and social concerns, and it lists 'environmental conservation' among its key objectives.<sup>39</sup> The recently passed law also restricts and prohibits any activities that would adversely affect public health or the environment or that would involve bringing hazardous or toxic waste material into Myanmar. The new Foreign Investment Law thus offers the opportunity to mitigate some of the negative outcomes of the country's development drive.

### **Promoting transparency and accountability**

Another sign of Myanmar's commitment to enhancing resource governance in the country is its openness to adopting global standards. Myanmar announced plans in July 2012 to sign onto the Extractive Industries Transparency Initiative (EITI) to improve resource revenue transparency in its rich oil, gas and mining sectors.<sup>40</sup> The EITI is the most widely used global standard for revenue transparency and has been adopted by 36 countries. As applied to states, the EITI Principles encourage the use of revenue wealth for sustainable growth; public understanding and participation; greater financial transparency, management and accountability; and government accountability for extractive industry revenue streams and expenditures. The criteria for meeting these principles include the regular publication of extractive industry revenues received by governments; independent auditing of revenues and budgets; and the active engagement of civil society.<sup>41</sup>

President Thein Sein and then Minister of Industry Soe Thein, who also runs the Myanmar Investment Commission (MIC) that oversees all new foreign investment, were vocal in their support of the EITI. In mid-2012, Thein Sein declared that the country was preparing to sign the EITI to provide for 'maximum transparency' in the oil, gas and mining sectors and also 'to make sure the benefits go to the vast majority of the people and not to a small group'.<sup>42</sup> In December that year, the Myanmar government formed the EITI Leading Authority to monitor and implement the initiative. The body – headed by Soe Thein, now Minister of the President's Office – must report back by the end of 2013 on ways to improve the management and sustainability of Myanmar's natural resources.

### **Institutionalising environmental impact assessment (EIA)**

Environmental impact assessments (EIAs) are a useful tool for recognising and minimising the environmental stresses that might accompany prospective resource development projects. The International Association for Impact Assessment (IAIA) defines EIA as 'the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made'.<sup>43</sup>

The suspension of the Myitsone dam project in September 2011 and the recent protests over the expansion of Letpadaung copper mine in September 2012 highlighted the urgency of incorporating EIA, currently not mandatory, into the legal framework.<sup>44</sup> The country needs to ensure that independent and transparent EIAs are conducted for potentially disruptive projects. Approval for projects should be given only if a project has built in environmental safeguards, such as provisions for the treatment and disposal of tailings and effluents from mines, the protection of aquatic species in the case of dams, and the like. The 2012 Foreign Investment Law appears to be a step in the right direction. In calling for environmental conservation, it shows recognition of the need to mitigate the adverse impacts of large-scale development projects.

Appropriate safety standards and labour laws to protect workers are also vital, as are requirements that projects include provisions for post-mining land reclamation. For example, a project could create an escrow account, and place regular deposits into the account during the project's lifespan to finance post-mining needs. Not allowing any new project to proceed until such safeguards are in place would be a positive step towards responsible resource development.

## Establishing a dispute-handling mechanism

Myanmar's military has been accused of having a culture of impunity and a general lack of accountability for acts of sexual violence, forced labour, and the recruitment and use of child soldiers, among others.<sup>45</sup> This has stymied the development of effective dispute-handling mechanisms to deal with the vast number of abuses taking place. The resulting accumulation of grievances has exploded into mass protests, recriminations and instability, prompting the government to pay greater attention to its people's concerns, and to attempt to resolve disputes that arise out of development projects. For example, following the brutal crackdown on protesters at the Letpadaung copper mine in November 2012, Myanmar's parliament approved a motion to form an independent, national-level commission to investigate allegations of abuse and to better understand the viability of the copper mining project.<sup>46</sup>

The commission, which was chaired by Aung San Suu Kyi, subsequently released its report on 12 March 2013. While the report does not advise against the mining operations as such (mines are considered critical for Myanmar's development), it does acknowledge that 'lack of transparency' may have contributed to the various grievances underlying the protest.<sup>47</sup> It therefore calls for environmental, social and health impact assessments before the project continues. The report also notes that the original compensation arrangements are inadequate, and suggests that residents should be given higher compensation, including the return of 1,900 acres for farming.<sup>48</sup> It also acknowledges the use of white phosphorous smoke grenades against protesters. However, the report has been criticised for its failure to call for the punishment of those police officers responsible for the use of the grenades.<sup>49</sup>

While the commission's ability to address outstanding grievances remains a work in progress, its formation still represents an important step forward. As investments pour into Myanmar, it is imperative that the country institutionalise such dispute-handling mechanisms to serve as a bridge between those involved in resource extraction and communities affected by such undertakings.

## Diversifying beyond extractive resources

While the energy and mining sectors enjoy increasing attention and investment, the mainstay of Myanmar's economy has historically been agriculture. As of 2011, the agricultural sector accounted for 38.2 per cent of its GDP and 70 per cent of its labour force.<sup>50</sup> However, the agricultural potential is under-realised due in large part to the long history of land conflicts in the country. Many of the existing and emerging land conflicts in the country are due to 'land confiscation', or the appropriation of land 'through legal or other means'.<sup>51</sup> Land confiscation in Myanmar has occurred in cases as diverse as state-sponsored agricultural projects, the establishment of plantations by private entities, large industrial development projects, military settlements and large public infrastructure projects.

Myanmar's leadership appears to recognise the importance of land issues and the need to find equitable solutions to land disputes. The Myanmar Parliament enacted the Vacant, Fallow and Virgin Lands Management Law in March 2012, which lays important guidelines and new avenues for farmers to raise credit and expand their agricultural activities.<sup>52</sup> The new law contains several fundamental weaknesses however. Farmers still lack land tenure security as the state remains the ultimate owner of all land. Further, farmers are allowed to cultivate only in accordance with government production quotas. Continued agrarian reform is needed, and should proceed in tandem with efforts to bring new farming methods and inputs to Myanmar's small- and medium-scale farmers.<sup>53</sup>

Agricultural progress is central to any rural development promotion effort. Broad-based and economically efficient rural growth can significantly help to reduce rural poverty by bringing about sustainable increase in productivity and reducing risk and vulnerability for the poorest of the country's population. The current government has a window of opportunity to tap the country's rich agricultural resources and work with farmers to deliver the much-needed dividends of democracy in vast areas of the country. Doing so would directly and positively impact a larger swath of the population than is currently being affected by extractive and power generating activities.

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## Conclusion

There is an urgent need for Myanmar to manage its natural resource revenues with greater transparency and accountability as well as to reform its economy to ensure that the benefits of the country's resources are shared more equitably and sustainably among its people. The tools for doing so are found in both foreign and domestic statutes, and could benefit Myanmar socially, environmentally and, by extension, strategically. If Myanmar prioritises (in its extraction projects) the protection of its people and its environmental endowment, the country's valuable natural resources could become a foundation for the development goals of future generations. Myanmar is rethinking its development agenda, and the country is currently undergoing historic if tenuous changes on natural resource development in tandem with its lauded political reforms. The vocal protests and emerging legislation in the country show that these two tracks of change are closely related, and Myanmar's future will be defined largely by the shape that they ultimately take.

The ongoing economic reforms will do little in themselves to improve the daily lives of the country's population. Internally coherent legal and procedural frameworks that are consistent with good international practice and which facilitate the implementation of reform objectives are essential. Strengthening social, economic and civil rights within the country could also help in implementing reforms and this requires policies and actions that educate people about their rights, and offers practical assistance to those whose rights have been breached.

In short, government plans and principles on managing land and resources need further codification along with fair and effective implementation. This necessitates broad popular consultation and buy-in from citizens, political parties, local authorities and investors. Outside of Myanmar's borders, regional and international organisations can help provide principles for this codification process as well as its future application. Private sector actors, meanwhile, can initiate socially and environmentally attractive projects that may gain support from Myanmar's increasingly wary populace. Taken together, such approaches will go far towards ensuring that Myanmar takes responsible advantage of its natural endowment, rather than fall victim to it.

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