



BOOK REVIEWS

## The Business of Transition: Law Reform, Economics and Development in Myanmar

*Edited by Melissa Crouch, New York: Cambridge University Press, 2017. 308 pp. ISBN: 978-1-108-41683-2*

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The essays collected in *The Business of Transition*, edited by Melissa Crouch, make a unique contribution to understanding the political–economic dynamics of Myanmar’s much-lauded (but poorly understood) ‘transition’ from long-standing military rule. Indeed, the volume covers both specific domains (industrial labour, social entrepreneurship, special economic zones (SEZs), etc.) but also the broader policy and political contexts (local economic administration, the politics of aid, the legacies of sanctions) that impact them. Further, the essays indicate the enduring legacies of military domination of the economy, hence compelling reflection on Myanmar’s future trajectories. But, more broadly, the chapters also identify the ambiguous role of law reform in impacting the various economic changes – in some cases enabling and in other cases constraining equitable outcomes – that will be of interest to students of law and development studies. Taken together, the book stands as a useful resource for both students of Myanmar experts and those interested in the general phenomena animated by the Myanmar cases.

By devoting chapters to labour standards, extractive industry regulation, social enterprises, the microfinance industry, special economic zones (two papers), contextualised by ones dealing with the architecture of local economic administration, long-term legacy of economic sanctions and international development aid, the volume provides significant coverage of the dynamics governing Myanmar’s political economy. While it is unfortunate that the agrarian sector, where 70 percent of the Myanmar population resides, was only addressed tangentially (in particular, the political economy of paddy production – and associated credit schemes – and how that in turn relates to seasonal labour migration, particularly into labour-intensive extractive industries, stands as a significant hole), the breadth of the topics covered here is broad, and one volume can only cover so much.

That notwithstanding, it is in each chapter’s perceptive exploration of its respective topic that a broader sense of Myanmar’s political–economic changes and challenges comes into relief, allowing the reader to stitch together a perspective on the country’s macro dynamics. Here Crouch’s introductory chapter comments are also useful, as she identifies three trends in the contributions: increased demands for equitable distribution of resources and popular participation in policy design (what might be called substantive democratisation); an institutional preoccupation for formal legal reform; and the importance of foreign influence (whether in terms of investment on one side and ‘expertise’ or influence on the other). As alluded to above, we might organise these in turn under the themes of legacies of military rule and ambiguities of law reform – or the ambiguities of law reform given legacies of military rule.

Wood’s fascinating analysis of Myanmar’s three SEZs is a useful point of departure for considering military legacies. He shows that all three of Kyautphyu, Thilawa and Dawei were conceived well before the transition and argues that they were explicitly designed as circumventions of the international

sanctions regime that foreclosed normal economic transactions. Hence the SEZs, funded by specific patron nations (China, Japan, Thailand), did not conform to the typical model, in which SEZs capitalise on differentially lenient labour laws or propinquity to transportation networks; instead they are ‘white elephants’ that, with the *potential* exception of Thilawa, should ‘be abandoned forthwith’ (p. 183). Crenshaw’s piece on sanctions, while a bit obtuse in places (by saying that sanctions ‘were *in fact* counter-productive to Myanmar’s economic development’ (p. 228, emphasis added), she presents an axiomatic observation as novel insight), acts as a useful companion here, arguing that ‘one of the enduring effects of the sanctions regime was to cause Myanmar’s economy to be channelled down a particular development pathway, largely shaped by demands for energy and commodities from neighbouring states such as China’ (p. 234). Further, while Frewer’s chapter on international aid mischaracterises both civil-society activity during the military period (see Heidel, 2006) and the critical literature on it (see Prasse-Freeman, 2012), his analysis that there is *currently* forming ‘a division of labour between donor-driven politics and state-led resource extraction’ (pp. 264–265) is perspicacious. Development programmes operating in Myanmar’s elite-dominated political economy may exacerbate the problems they seek to redress.

Other contributions can be categorised as wrestling with the ambiguities of legal reform. Dale and Kyle, in their chapter on social entrepreneurs, argue that, while the regulatory environment must be improved to support the most vulnerable social entrepreneurs – such as former political prisoners – current legal ‘reforms’ are doing the opposite (p. 111), effectively excluding them. Adam Simpson’s chapter on natural resource regulation through EITI (the global Extractive Industries Transparency Initiative), by contrast, shows how civil society can use law to exceed the latter’s own limitations. To wit, Simpson shows how civil-society organisations have strategically deployed ‘ignorance’ about formal limits of EITI’s restricted mandate (which include only *transparency* of resource transactions) to demand equitable *distribution* of resources. Turnell’s detailed account of Myanmar’s microcredit sector shows how the sector’s proper functioning – in particular, its ability to expand into mobile, micro-savings and micro-insurance – is hampered by the failings of the broader financial regulatory system, which ‘struggles to properly implement the laws and regulations it is supposed to oversee, and has very little capacity to understand and incorporate the many new methodologies and technologies being applied elsewhere in the world’ (p. 138). Call this the *irrelevance* of legal reform when capacity to implement it is absent – a phrase that may characterise the quandary described by Ford, Gillan and Htwe Htwe Thein in their paper on labour regulations, except there the issue is potential *wilful* dismissal of legal reforms – such as minimum-wage regulations – in which ‘an enormous gulf exists between formal standards and their realization’ (p. 49).

Finally, several contributions sit at a nexus such that they interrogate the ambiguities of law reform *given* legacies of military rule. Nishamura shows that, even though civil-society movements against the Dawei SEZ rely on non-legal strategies (to traverse limitations of enduring military governance by prerogative), this ‘has not meant that the law is ignored’ (p. 200) – although every example she adduces in which local Daweians use law results in failure. Finally, Matthew Arnold’s absorbing exploration of urban economic governance, through a description of Myanmar’s byzantine administrative bodies and laws, provides a glimpse inside ‘the primary focal point for the average Myanmar citizen’s engagements with the state’ (p. 158). On the one hand, these local institutions stand as a site of a *de facto* decentralisation that may constitute nascent federalism in action; on the other hand, the uncertain future role for the military in such administration indicates potential reinscription of military legacies into daily economic and social life.

Finally, it warrants mentioning that many chapters read, at least in parts, like textbook-style primers on their respective domains of interest. Dale and Kyle’s chapter on Myanmar’s social entrepreneurs, for instance, devotes extended sections (pp. 89–95, *inter alia*) to social entrepreneurship theory and Southeast Asia’s development industry context, respectively, leaving specific consideration of Myanmar’s social entrepreneurship sector to later. Ford *et al.* describe various theories for understanding how labour-sector policy interventions impact substantive outcomes – whether laws, norms or ‘cognitive changes’ (such as consumer preferences) influence working-condition reform, for example.

Crouch devotes significant sections of her introductory chapter to providing a genealogy of law and development scholarship. While such focus enriches the utility of the volume for teaching purposes, it may leave those more interested in Myanmar's dynamics in search of more depth and detail. That said, the volume provides highly welcome insights into Myanmar's turbid political economy, and should be read with interest by many.

## References

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- Prasse-Freeman E** (2012) Power, civil society, and an inchoate politics of the daily in Burma/Myanmar. *Journal of Asian Studies* 71, 371–397.

## Confronting Apartheid: A Personal History of South Africa, Namibia and Palestine

*By John Dugard, Johannesburg: Jacana Media, 2018. 312 pp. ISBN: 978-1-4314-2735-2 R280*

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Few people are as well positioned to discuss the legal nature of apartheid in the South African, Namibian and Israeli/Palestinian contexts as John Dugard. A highly regarded legal scholar and human rights activist, Dugard played an important role in the struggle against apartheid in South Africa before 1994. For much of the first decade of the twenty-first century, he acted as a UN Special Rapporteur on human rights in the Palestinian territories occupied by Israel since 1967. Frequent field visits and extensive investigations made him a renowned authority about the subject.

His book, *Confronting Apartheid*, tells a story of personal involvement in all three cases, albeit on an uneven basis. Being born and educated in South Africa, with a decades-long career as a teacher, scholar and activist there, has formed the core centre of his professional and personal career. Palestine has been a passion of his for the last two decades so naturally occupies a central place in the book. But Namibia is marginal to his story and he dedicates only fifteen pages of the book to discussing a couple of legal issues that were addressed in the 1960s; very little of more recent developments is mentioned.

Entitled 'a personal history', Dugard starts with his childhood in the rural Eastern Cape before the rise of formal apartheid in 1948, continues with the decision (unusual for White English-speakers) to study law at the University of Stellenbosch, the intellectual centre of Afrikaner nationalism, and his early academic career in the 1960s. He proceeds to discuss his growing involvement in teaching and writing about international law and human rights – topics that were largely excluded from the mainstream legal and scholarly fields at the time, the height of the apartheid period.

In the 1970s and 1980s, he played a crucial role in the rise of a group of human rights lawyers and activists who increasingly challenged the apartheid system on a range of issues. Although the system was fundamentally unjust, enshrining discrimination and oppression politically and legally, human rights activists believed that it could be undermined from within by taking advantage of its adherence to formal legal procedures and its quest for legitimacy.

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