

**TRANSITIONAL POLITICS,  
INSTITUTIONS AND POLICYMAKING**

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## When Heads of the Household become Heads of the Village

### Gender and Institutional Change in Local Governance Settings in Myanmar

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Transitions can be moments of positive transformation for gender equality. Myanmar's democratization process, following decades of military rule, initially resulted in encouraging, though short-lived, changes in political structures, institutions and space for civic engagement. Many new and revised institutions, or sets of rules, emerged during the transition to semi-civilian governance between 2011 and 2020, before the military coup in 2021. These included the earlier Constitution of the Republic of Myanmar (Government of Myanmar 2008) and the Ward or Village Tract Administration Law (Government of Myanmar 2012). The latter saw Ward and Village Tract Administrators (W/VTAs) elected at the local level as opposed to being appointed by the military government. This appeared to offer women a more equal opportunity to become W/VTAs. However, at the latest election, which took place in 2015, only 0.5 per cent of the elected W/VTAs were women (UNDP 2017).

Using a Feminist Institutionalism (FI) lens, we argue that the impact of gendered social norms, such as *hpoun*, *yin kyae hmu*, and *karma*, on formal institutions such as the Constitution and the W/VTA Law, created unequal power dynamics that influenced the extent to which women could take up leadership or decision-making roles within the household and in local governance. Existing gender dynamics emanating from Myanmar's history, British colonialism, and the legacy of decades of military rule were sustained during the transition and continued to define new institutions. While transitions offer the possibility of change, they can also create resistance to change and perpetuate existing gender inequalities. Mackay refers to *nested newness*, where new institutions are 'profoundly shaped by [their] institu-

tional environment no matter how seemingly dramatic the rupture with the past' (Mackay 2014: 552). Democratization processes offer opportunities for change, or for entrenching existing institutions, at a time when political institutions and cultures are created or changed (Waylen 2014). This tension between possibility and resistance makes a FI lens particularly useful in understanding the importance of institutions in relation to the possibilities for improving gender equality during periods of political transition.

This chapter draws on evidence and analysis from existing literature on gender and institutions in Myanmar, and a case study building on data that was collected and analysed as part of a wider research project on women's experiences, roles and influence in community-based dispute resolution and mediation (CBDRM) processes (Khin Khin Mra and Livingstone 2019). CBDRM mechanisms are generally led by W/VTAs, of whom few are women, which makes them a useful process within which to explore gendered rules, the gendered effects of these rules, how actors are gendered, and the gendered outcomes of CBDRM. Through exploring the impact of gendered institutions on women's roles and experiences, this chapter contributes to a better understanding of the gendered dynamics of a period of political transition in Myanmar. Analysis of how pre-existing gendered institutions shaped transitional efforts to create policy change reveals how these rules, norms and power dynamics could also influence what is possible for gender equality in the current political context.

The chapter begins by defining Feminist Institutionalism (FI) and the concepts used to analyse institutions in Myanmar. We then explore the *gendered legacy* of Myanmar's colonial history and decades of military rule. We examine how formal and informal institutions are *gendered rules*, how they are nested within the institutions that precede them, and how this shapes *who holds power*, the *gendered effects of the rules* and how these perpetuate *power dynamics* and *actors' gendered roles*. Finally, a case study explores how these formal and informal gendered institutions shape *gendered outcomes* in terms of women's roles and experiences in Myanmar's community-based dispute resolution and mediation processes.

## **Exploring Gender and Institutional Change using a Feminist Institutionalism Lens**

FI expands on governance theory to provide an approach to analysing institutions. FI suggests that formal institutions – parliaments, laws, policies,

procedures – and informal institutions – social and cultural norms and customary practices – create gendered rules that define and limit the scope of institutional reform and the ways in which actors behave and can operate within a reform process (Gains and Lowndes 2017; Krook and Mackay [eds] 2011; Mackay, Kenny and Chappell 2010; Ní Aoláin 2018; Waylen 2014). Both formal and informal institutions are gendered, meaning that they emerge from ideas around femininity or masculinity in a particular context. Moreover, masculinity tends to be ‘naturalized’ as the norm (Waylen 2014; Mackay, Kenny and Chappell 2010). Critically, FI adds analysis of power dynamics and asymmetries to governance theories around how institutions work, and centres women as actors in political processes (ibid.). FI helps us understand how social norms and customary practices can undermine new institutions even when these include new rules in support of gender equality or are seemingly gender neutral. This is a result of the ‘practice and interplay’ between institutions and actors, which creates gendered dynamics and legacies that can limit the potential of gender equality reforms (Kenny and Mackay 2011: 284).

We use Lowndes’ (2020) model to help understand *how institutions or rules are gendered* in Myanmar’s political transition; the *gendered effects* of these rules; how this affects the behaviour of *gendered actors who work within these rules*; and the *gendered outcomes* of these rules. This framework brings into focus how power asymmetries are created by formal and informal institutions, and how these shape and define the possibilities for change. Our analysis builds on data from 142 semi-structured interviews and 51 focus group discussions, involving a total of 339 women and 245 men (Khin Khin Mra and Livingstone 2019). Respondents included women leaders, mediators and disputants, W/VTAs, community leaders, customary leaders at the community level, and leaders of women’s organizations, civil society organizations and legal aid groups in southern Shan, Mon and Kayin States and in Mandalay Region. The data were collected in September and October 2019 using in-depth semi-structured interviews, snowball sampling and case tracing methodologies.

## **The Legacy of Myanmar’s Colonial History and Decades of Military Rule**

The legacy of pre-colonial Burmese dynasties, British colonial rule and decades of conflict and military rule means that assumptions and myths

about women and men's roles have been normalized in Myanmar's political and administrative systems and institutions. This influences women's roles and experience, for example as heads of households or W/VTAs in local governance settings. The idea that women had traditionally high social and economic status in Myanmar was used by male-dominated political powers to justify exclusion and discrimination against women (Ikeya 2005). At the same time, men's perceived inherent spiritual superiority led to men attaining positions of power and influence in political and religious institutions (Harriden 2012; Tharaphi Than 2013). Since the colonial era, these myths of women's traditional high status and men's innate superiority have created power dynamics that have meant that few women are now in positions of authority (Khin Mar Mar Kyi 2014).

Throughout Myanmar, women continue to face structural gender-based discrimination as a result of the prolonged period of military rule, the impact of conflict and the associated militarization of culture and politics (Khin Mar Mar Kyi 2018). During decades of military rule, successive all-male military regimes (1962–2000) did little to promote women's participation in national, state and regional level politics and instead reinforced domestic and supportive roles for women (Minoletti 2019). Myanmar has been more deeply affected by internal conflict than any other country in Southeast Asia, with some subnational conflicts being active for over 70 years (Burke 2017). Decades of armed conflict in ethnic areas created a 'masculinization' of decision-making (Hedström 2016; MSWRR et al. 2016; Cárdenas 2019). While some ethnic armed organizations have women's branches attached to their armed wings, these have predominantly focused on supportive roles, and women's leadership has also been discouraged in ethnic armed administrations (Hedström 2013).

The legacy of colonial administration and decades of military rule and armed conflict have meant that new rules and power dynamics remained nested within those that preceded them. For example, despite some progress, women remained notably under-represented in all aspects of public and political life in Myanmar's democratizing state. In the 2020 elections, women representatives were elected to all state/region parliaments for the first time, with 18 per cent of elected state/region *hluttaw* representatives being women, compared with 13 per cent in 2015, and 4 per cent in 2010 (Htin Aung Ling and Batchelor 2020). While Aung San Suu Kyi was the de facto leader, the rest of the post-2015 cabinet were all male at the national level

after the second election in 2015 (the cabinet had not yet been announced after the 2020 elections, before the coup took place). Only two women were appointed as chief ministers at the sub-national level, and one woman was appointed as Speaker of the House in a State Parliament, the first in Myanmar's history (Minoletti 2019). Transitional policy priorities continued to be defined by male-dominated actors and institutions, and women's voices remained largely unheard in institutional reform and policymaking processes (Khin Khin Mra and Livingstone 2020).

## **Institutional Change and Political Reform in Myanmar: How the Heads of Households become the Heads of Villages**

### *Gendered Rules and Power Dynamics*

In this context, the 2008 Constitution was the key legal framework and reference point in Myanmar's democratization, providing several important principles and provisions such as general elections and the formation of a semi-civilian government. Democratic reform, initiated by the military government in 2010, offered an opportunity to transform women's participation in public life. Despite these new institutional arrangements, the military was able to maintain its power by carefully orchestrating a transition to 'disciplined democracy' (Bünthe 2014:754). By allowing the military to appoint 25 per cent of seats in both national and sub-national parliaments and ministers to three key ministries – Home Affairs, Defence, and Border Affairs – the Constitution ensured the military's stranglehold on parliament and safeguarded the military's dominance in the context of political power. The Constitution, written by a group of men familiar with an extreme concentration of power resting in very few hands (Williams 2014), effectively embodied the masculine rules designed by male leadership; the old was nested within the new.

The new Constitution was a set of gendered rules, as it entrenched gender stereotypes and allowed the tradition of male dominance to continue in the democratizing state. While the Constitution guarantees all persons equal rights to vote and run for public office (Article 9) and no discrimination on the basis of sex (Article 348), the mandated 25 per cent of seats for appointed military officers (Articles 109 and 141) limited women's opportunities for

participation in parliament and key ministerial positions. Gendered social norms and stereotypes that discriminate against women and restrict women's roles in public and political life were embedded in the Constitution through statements like 'nothing in this section shall prevent the appointment of men to positions that are naturally suitable for men only [...] in appointing or assigning duties to civil service personnel' (Article 352); the use of 'he' in reference to the president and vice-president; the requirement for them to be experienced in military affairs (Article 59-d); and references to women principally as mothers (Article 32-a) (Gender Equality Network 2013; Khin Khin Mra 2015). As the 2008 Constitution was pivotal in shaping and structuring political reforms, traditional norms around men's innate leadership were institutionalized. The gendered outcomes, as informal norms became formal, had explicit impacts on women's representation in public life (Khin Khin Mra and Livingstone 2020) and legalized structural discrimination (Khin Mar Mar Kyi 2018).

The 2008 Constitution provided the basic framework for restructuring local governance during the transition, whereby a highly centralized military regime was transformed through the establishment of elected legislatures and governments at sub-national level. At this level, the lowest official administrative unit is the Village Tract Administration in rural areas, and the Ward Administration in urban areas (Kempel and Myanmar Development Research 2012). A village tract is usually constituted of four to six villages and administrated by a Village Tract Administrator (VTA), a clerk and a number of 100-household leaders/Village Administrators (*ibid.*). W/VTAs are the primary conduit between their communities and the Township Administrators, who are appointed by the General Administration Department (GAD). Given that the Constitution, the foundation of the country's laws, is a gendered set of rules, this influenced the W/VTA Law (Government of Myanmar 2012) that guided the election process and the roles and responsibilities of W/VTAs.

The establishment of the W/VTA Law saw W/VTAs elected at the local level as opposed to being appointed employees of the GAD, as they were during the military regime. While this initially appeared to mark a dramatic change from the past, the W/VTA law remains nested within old practices and rules. The W/VTA selection process, for example, is seemingly gender-neutral; and yet it remains male-dominated. The election process starts with the appointment by the GAD's Township Administrator, who is usually male, of a supervisory board of five elders (customary leaders),



who are again generally (though not always) male, to oversee the process. Secret ballots then elect 10-household leaders, 100-household leaders and, if there is more than one 100-household leader, the W/VTAs (Kyed et al 2016). Only 88 women (0.5 per cent) were elected in the 2015 election (UNDP 2017). Despite constitutional guarantees to gender equality and commitments to women's equal rights to vote and run for public office, the W/VTA law did not transform women's representation in Myanmar's new semi-civilian governance structures.

The W/VTA Law is not applied in the same way throughout Myanmar, and women's experiences of the impact of institutions such as the W/VTA law vary in different states and regions. Complex and varying governance arrangements exist in many areas as a consequence of decades of conflict over territory and authority over populations (Saferworld 2019). Contested or 'hybrid' authority areas see customary leaders, non-state political actors, and non-state armed groups play core roles in local governance (Nixon et al. 2013) often relying on customary laws rather than national legislation (Kempel and Aung Thu Nyein 2014) and with plural rather than either customary or legal systems implemented in practice (Kyed [ed.] 2020). Conflict-affected areas tend to have more women village leaders, though this is likely a result of the absence of men, who may be away fighting, or a way to protect male village leaders from violence, arrest or forced labour (Karen Women's Organization 2010; Kempel and Aung Tun 2016). In these areas, women's leadership does not appear to be sustained post-conflict (Kempel and Aung Thu Nyein 2014).

*Nested Newness: How Existing Gendered Social Norms Influence  
Formal Institutions and Perpetuate Gendered Roles*

These formal institutions, the Constitution and the W/VTA Law, emerged from and are supported by informal institutions in the shape of gendered social norms and traditional practices. The Myanmar notion of *hpoun* emphasizes male superiority and supports a situation in which men are generally considered the natural heads of households, leaders and public figures, while women are perceived to be wives and mothers. Harriden (2012) explores further the complexities involved in *hpoun* and its relation to *awza* (influential power/influence) and *ana* (political power/authority) in Myanmar. Men are seen as spiritually superior, strong, brave and productive while women are

weak, less productive, fickle and impure during menstruation (Harriden 2012; MSWRR et al. 2016). Women are taught early on to ‘respect their sons as masters and their husbands as gods’ (*Thaa goh thakin; liin goh phaya*), which reinforces gendered roles, with women as subservient wives and mothers (Harriden 2012: 34). Other concepts, such as that women are bearers of culture and *yin kyae hmu* (politeness and deference), *arh nah deh* (the feeling that it is impolite to express one’s true feelings as this might embarrass another person) and women’s internalization of discriminatory social norms as their *karma* all impact on the roles that they can take on and their experiences of policy outcomes (Khin Khin Mra and Livingstone 2020). Some of these concepts, such as *hpoun* and *karma*, have more of an impact in Buddhist communities; others are more fluid and have different levels of influence in different parts of the country (Gender Equality Network 2015).

These same gendered rules create and maintain the notion of ‘heads of households’, *ein htaung oo si*, as the decision-makers in families and communities. The majority of *ein htaung oo si* are men, with only 23 per cent of households headed by women (Ministry of Health and Sports and ICF 2017). Women are only considered to be *ein htaung oo si* if they are divorced, separated, or widowed, or their husbands are no longer present (Khin Khin Mra and Livingstone 2019). While social norms determine the status of *ein htaung oo si*, the role is also recognized officially, for example in household registration lists and censuses. The husband or father is usually called *ain oo nat*, which means the ‘spirit’ or ‘lord of the house’. While women from different ethnicities, ages, classes, and religions have different experiences of being heads of households, there are some common social norms that affect how women can engage in decision-making processes at home or in local governance processes (Khin Khin Mra and Livingstone 2020).

Village administration has been male-dominated throughout Myanmar history. During the pre-colonial period each village had a headman or *thugyi*, who was an appointed official under the control of the Burmese king, responsible for civil, criminal and fiscal administration (Daw Kyan 1969). As the *thugyi* position was traditionally hereditary (Badgley 1965), the transfer of the power and leadership position between the generations was typically between men, and the old power structures continued. While there were some female *thugyi* in local administration in pre-colonial Burma, they often administered villages jointly with their husbands. Occasionally a female *thugyi* who was a widow and therefore a household head administered a

village on her own (Harriden 2012). British colonial powers retained the headman system, transforming it into a bureaucratic system of enforcing government regulations and reporting upwards to the Crown (Kempel and Aung Tun 2016). Villages also have village elders, or *yat mi yat pha*, who are respected customary leaders such as ex-village heads, religious leaders, and active and respected members of the community. They play a key role in steering and providing guidance and advice to the village headman and W/VTAs. The term *yat mi yat pha* literally means ‘a village’s elder mothers and fathers’; however, women are generally absent from this structure (Khin Khin Mra and Livingstone 2019).

The absence of women in the roles of *ein htaung oo si*, *thugyi* and *yat mi yat pha* was influenced by entrenched gendered rules around male superiority. The deeply held belief that men hold the natural authority to take on leadership roles continues to influence the rules around how someone is elected or chosen for a role and makes women feel like they do not have the authority to take on these roles (Zin Mar Aung 2015; Htun and Jensenius 2020; Khin Mar Mar Kyi 2012). While the W/VTA law apparently provides women with opportunities to be elected, in reality gendered actors – *ein htaung oo si*, *yat mi yat pha* and GAD officials – dominate W/VTA selection processes, with women having little or no influence over the selection of candidates. The gendered outcome of this was, and continues to be, to make it harder for women outside the structures of power to reach influential positions in local politics. As such, women’s voices, agency and their participation have been constrained within their households and in local governance structures such as ward and village tract administrations. This demonstrates how the reform of an existing formal institutions can be undermined by gendered legacies, the perseverance of informal norms and rules (Mackay 2014; Chappell 2014; Waylen 2014).

The military coup has undermined any limited advances and further entrenched gender norms. Immediately after the military coup on 1st February 2021, the Village Ward and Tract Administration (W/VTA) Law was amended, the General Administration Department was reintegrated into the military apparatus by transferring it to the Ministry of Home Affairs, and democratically elected W/VTAs were replaced by men loyal to the military, who are now directly appointed by the township administrative councils formed by the military regime (Annawitt 2021). However, people in several places have rejected these W/VTAs and others have resigned or avoided taking on the role (Irrawaddy 2021). Gendered rules such as women being

perceived to be unsuitable to perform the duties of W/VTAs (which are overtly expressed in the W/VTA Law) have been reinforced in the context of post-coup security challenges, and again prevent women from becoming W/VTAs. On the other hand, members of women's rights organizations have observed that there has been a break in the culture of relying on W/VTAs in identifying the recipients of development and/or humanitarian support. With many men being arrested or avoiding public engagement due to fear of arrest, forced recruitment and intimidation by the armed groups, the participation of heads of household, who are usually males, is becoming atypical as the model of local governance. While the impact of this is yet to be seen, this could have an impact on prevailing gender rules around men as heads of the household and leaders of communities, as more women are taking on these roles.

### **Case Study: How Gendered Institutions Shape Women's Roles and Experiences in Community-Based Dispute Resolution and Mediation**

We have seen how, in general, gendered formal and informal institutions affect women's leadership and participation in local governance. This case study illustrates the gendered outcomes of formal institutions, such as the W/VTA Law, and informal institutions, such as *hpoun*, *arh nah deh* and *karma*, specifically on women's roles in and experiences of community-based dispute resolution and mediation (CBDRM) processes (Khin Khin Mra and Livingstone 2019). In Myanmar the formal justice system, including courts, police stations, and ethnic administrations, is complemented by a community-based justice system used to mediate a negotiated resolution to intra- or inter-community disputes, which is based partly on legal institutions and partly on tradition or custom. Here we show how, despite reforms, male authority has been retained in key roles and barriers to women's participation in local governance of community justice remain.

Formal institutions such as the W/VTA Law tend to guide who can mediate disputes in CBDRM processes. Most community level disputes are mediated by W/VTAs, as they are perceived to have been given the mandate to do this by the W/VTA Law (Government of Myanmar 2012). As W/VTA elections are organized in a way that prevents women from being elected, women's opportunities to become mediators in community level disputes are restricted. A male community leader in Shan State described this:

Only men attend the village meetings. The village heads, 10- and 100-household leaders, men, make decisions in the community. Women take responsibility for traditional dancing, greeting and treating the people with food, but the rest is managed by the male leaders.<sup>1</sup>

While the majority of village leaders interviewed said that there were no barriers for women to become mediators, male and female community members shared long lists of barriers or of the gendered effects of the formal and informal institutions. In Southern Shan State, for example, respondents told us that women rarely make decisions at family or community level, as only the head of the household, village heads, 10- and 100-household leaders and W/VTAs can make decisions and they are mostly male. A woman leader in Kalaw Township, Shan State told us that:

It seems that people find it very difficult to accept a decision made by a woman. Women are seen as incapable and can get things wrong. So I really have to try hard to influence and make decisions. Traditional leaders are still in powerful positions and there is no woman among the religious leaders whose words are seriously listened to. It is difficult to compete with them and to have the same influence as them.<sup>2</sup>

There are limited exceptions, for example a woman leader from Yay Phyu Kan village in Kalaw Township started getting involved in village activities as leader of a young women's group, which was formed primarily to support religious activities in the village and to cook for village events. She is now seen as an influential leader in the village, and she is involved in resolving local disputes and advising village leaders. However, she had to find a different route to enable her to take on a dispute resolution role. Her involvement in other local committees, her work with a youth group and young women, and her involvement with NGOs and CSOs have provided her with leadership skills and the confidence to take on a leadership role. A woman leader from Taunggyi in Shan State explained that 'if she has a strong background and people who can support her, if she is brave enough, confident, and educated, a woman can influence the decision-making process to some extent'.<sup>3</sup>

The ways in which formal institutions or rules impact on women's leadership vary depending on the context in Myanmar; the W/VTA Law

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1 Male community leader, Shan State, 2 October 2019.

2 Female community leader, Shan State, 3 October 2019.

3 Female community leader, Shan State, 3 October 2019.

influences women's roles in CBDRM in different ways in different parts of the country. In conflict-affected or mixed-control areas, different gendered rules influence the possibilities for women. W/VTAs are less influential in mixed-control areas, where village leaders and community committees take on more of a role in community justice mechanisms. In Mon State, for example, the influence of the W/VTA law on CBDRM processes varies between government and mixed-control areas. In Mawlamyine, one respondent said that '100-household leaders are appointed by GAD, so they have power in disputes',<sup>4</sup> while a woman CSO leader in Mon State told us that: 'In the village, people regard their VTA as their parents'.<sup>5</sup> Unlike the W/VTA Law, the regulations of ethnic armed organizations legitimise women's engagement in CBDRM processes. New Mon State Party and Karen National Union regulations stipulate specific roles for women's representatives in the dispute resolution process. The Karen Women's Organization, for example, plays a role in justice committees at the village, village tract, township and district levels that has been shown to have positive gendered outcomes, improving gender equality and women's access to justice (Saferworld 2019). In Hlaing Bwe Township in Kayin State, respondents told us that if a dispute needs to be taken to the township level, people prefer to resolve their dispute through ethnic armed organizations such as the Karen National Union, the Border Guard Force or the Democratic Karen Benevolent Army, because using their justice mechanisms as a decision-making process is faster than the Myanmar legal system and courts (see also Kyed [ed.] 2020).

Women's legitimacy as leaders can, however, be dependent on their association with ethnic armed groups and male leaders. A woman leader from a women's community group in Khun Be explained that: 'Men usually don't dare to challenge me as my husband is ex-commander of the DKBA; if I were someone else then I'd be told that this role [dispute resolution] is not for women and women can't do it'.<sup>6</sup> Understanding how the formal rules are gendered, the effects of the gendered rules and how actors operating within these rules are gendered *in a specific context* could help design different ways of supporting women to take on public roles that address the specific institutional barriers and opportunities in that area.

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4 Female 10-household head, Mon State, 12 September 2019.

5 Female CSO leader, Mon State, 18 September 2019.

6 Female community leader, Kayin State, 20 September 2019.

Informal institutions such as social norms play as significant a role as formal institutions in the roles women and men can have in CBDRM. The formal rules described in the W/VTA Law contain a long list of duties, including ‘security, prevalence of law and order, community peace and tranquillity, and carrying out the benefit of the public’. Social norms dictate that women are perceived to be unsuitable to perform these types of duties, creating a barrier to their election as W/VTAs. Social norms such as *hpoun, yin kyae hmu* and *arh nah deh* affect who has power and can make decisions and mediate disputes at both household and community level. Starting at the household level, women’s roles and influence are restricted, as decisions are made by the head of the household, the *ein htaung oo si*. As *ein htaung oo si* are rarely women, this affects what issues are considered serious enough to be taken to a mediation process and affects women’s aspirations and their confidence that they can become mediators, due to the perceived moral authority and legitimacy of the decisions of men at the household level (Khin Khin Mra and Livingstone 2019). One woman focus group participant told us that ‘the custom we follow here is that both men and women in the village have to follow the village leaders, not speak up or against them. We’re afraid of the village leaders.’<sup>7</sup>

The ability to make or influence decisions begins at the household level and extends to the community level. In villages in southern Shan State, respondents were of the view that women should not have opinions, as this is rude or their views are irrelevant, and that decision-making is the responsibility of men only (Khin Khin Mra and Livingstone 2019). In Kayin State a male VTA said that ‘while there are some women 100-household or 10- household leaders here, they are just selected for the position in name only; the real work is done by their husbands’.<sup>8</sup> A woman community leader in Kayin suggested that ‘men don’t like women who try to solve problems, as their positions can be threatened’.<sup>9</sup> One of the few women W/VTAs in Kayin State said that ‘when the woman is the final decision-maker in the village, there are so many men who want and try to influence her decision-making’,<sup>10</sup> demonstrating that even when women reach leadership positions, they continue to face challenges to their legitimacy.

7 Female focus group participant, Shan State, 3 October 2019.

8 Male village tract administrator, Kayin State, 25 September 2019.

9 Female community leader, Kayin State, 21 September 2019.

10 Female village tract administrator, Kayin State, 23 September 2019.

Concepts like *hpoun*, *arh nah deh*, *yin kyae hmu* and *karma* influence women's choices about options for obtaining justice, how they engage with village leaders and mediators and how they internalise their situation and accept outcomes as their fate. A male community leader in Mon State said that 'women are taught to be tolerant, especially if they are a wife and a mother, so they don't become involved in disputes. Even if their husband has beaten them, they are afraid he will go to jail, so they keep silent.'<sup>11</sup> In some areas women are not supposed to travel alone, or alone with men, especially at night which limits their ability to find a resolution outside of their community. In Thitahl Thit village in Kalaw township, it was regarded as shameful for a women to have a dispute. 'For a woman and a young girl, it is assumed that it's shameful and harmful to her dignity to have disputes so they are prohibited from going to the village leader and making a case.' (woman focus group participant, Shan State). Women usually do not want to speak up in village meetings or to inform the village leader of a dispute as they are afraid of other people knowing their business.

Customary practices also influence decisions and outcomes, though to a different extent in different parts of Myanmar. While a local MP stated that decisions are made according to Myanmar law, respondents in one village in Southern Shan State told us that people, including village leaders, do not have knowledge of laws and mostly use village customs to resolve disputes (Khin Khin Mra and Livingstone 2019). Punishments assigned after dispute resolution are often according to a village's rules, rather than the law, and include the payment of fines or contributing labour to village development activities (*ibid.*). A woman disputant in Kayin State told us that:

Keeping a family together is the first priority for the village leaders; they usually ask women who want to divorce to reconsider their decision and ask them to wait, sometimes up to six months. So women have to suffer beatings for six months; only then can they get a divorce.<sup>12</sup>

In Mon State, community leaders told us that decisions are influenced by a combination of social norms/customary practices and Myanmar laws. Norms include the norm that it is acceptable to beat your wife and that a

11 Male community leader, Mon State, 7th September 2019. Cited in Khin Khin Mra and Livingstone 2019.

12 Female disputant seeking community-based dispute resolution and mediation, Kayin State, 19 October 2019. Cited in Khin Khin Mra and Livingstone 2019.



woman who is raped should marry her rapist. This influences decisions on domestic violence and rape cases (ibid.). A woman focus group participant in Kayin State explained that:

There is nothing protecting women's interests. Decisions are made mostly by men and they don't understand women. Customs are not fair for women but are followed by both. For men, this is okay to follow as nothing is harmful for them.<sup>13</sup>

In southern Shan State a 100-household leader told us that 'customary practices are barriers for women in CBDRM, as no one wants to go against them because this is believed to be a big crime'.<sup>14</sup> Women also believed that customary practices are not the same for everyone and are unfair for women.<sup>15</sup>

The effect of these gendered formal and informal institutions and of these norms is to create asymmetric power dynamics that make it difficult for women to take on roles as mediators in community-based disputes and that affect the outcomes of dispute resolution processes. Power comes from personal status, such as being *ein htaung oo si* or being a religious leader, or is provided by government and ethnic armed organizations to W/VTAs and village leaders (ibid.). Respondents repeatedly referred to the power W/VTAs have, which has been legitimized by the W/VTA law; 'the VTA makes the final decision because he has administrative power'.<sup>16</sup> Unless women are W/VTAs or 100-household heads, women's involvement in dispute resolution is not mandatory and is upon request by women disputants, their family, or the W/VTAs and the *yat mi yat pha*. A male community leader in Kayin State said that 'the VTA is the most powerful in the village. If he makes a decision, this is final, and everyone has to follow his decision'.<sup>17</sup> In conflict-affected areas, while women have more of an institutionalized role in community affairs, the power lies with village leaders and EAO leaders, both of whom are also mostly male.

Women who do become W/VTAs and mediate disputes are only able to do so when they have access to power. Women W/VTAs have in common

13 Female focus group participant, Kayin State, 19th September 2019. Cited in Khin Khin Mra and Livingstone 2019.

14 Male 100-household leader, Shan State, 4 October 2019.

15 Female CSO leader, Mon State, 5 September 2019. Cited in Khin Khin Mra and Livingstone 2019.

16 Female mediator, Kayin State, 21 September 2019.

17 Male community leader, Kayin State, 25 September 2019.

that they are educated, have exposure to township administration, are well-connected and many have male relatives in power (e.g. ex-ethnic armed organization leaders, ex-village heads and ex-VTAs) (Khin Khin Mra and Livingstone 2019). For example, a woman mediator from Shan State's father was an ex-village leader. She was educated and gained skills and confidence as a result of her training with NGOs and CSOs and from the support of the youth and women she worked with. For many this is not perceived to be attainable: a woman mediator from Kayin State told us, for example, that 'women cannot make any decision even at the family level, forget about the community level'.<sup>18</sup> Women saw power asymmetries as a barrier to accessing justice or taking on roles as mediators, especially for young women, poor women, and women with less education or connections (ibid.).

Women mediators are highly motivated and described a desire to work for their village's needs and wanting their village to be a good example to be followed by others. They spoke of not being afraid and of proving that they could do what men can do.

## Conclusion

In this chapter we have used FI to explore how formal and informal institutions are gendered rules and how this creates power dynamics that have perpetuated gender inequalities during Myanmar's transition from military rule to semi-civilian governance. Male heads of the household have continued to become heads of the village. We have argued that the impact of social norms and customary practices on formal institutions, such as the Constitution and the W/VTA Law, have created unequal power dynamics that have influenced the extent to which women have been able to take up leadership or decision-making roles. While transitions offer opportunities to renegotiate existing institutions or reimagine new ones, gendered rules like the Constitution and W/VTA Law, and social norms such as *hpoun, arh nah deh, yin kya hmu* and *karma* have, in Myanmar, reinforced the power of *ein htaung oo si, thugyi* and *yat mi yat pha* (gendered actors) and have prevented women from taking on leadership roles (the effects of gendered rules). This also affects the outcomes of policies and processes, to the detriment of women (and indeed other marginalized groups) (gendered outcomes).

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18 Female mediator, Kayin State, 22 September, 2019.

The extent to which formal and informal institutions impact on gender inequalities varies between states and regions, between urban and rural areas and according to a woman's age, education, ethnicity, religion and economic status. The case study gives examples of the impact of the combined effects of the W/VTA Law and social norms on women's roles in and experiences of community-based dispute resolution and mediation, demonstrating the institutional barriers to women becoming mediators and the unfair outcomes for women in negotiated disputes. The democratic transition process did not in this case provide an opportunity for reimagining women's roles or challenging gendered institutions that block gender equality; it served, rather, to entrench existing patriarchal formal and informal institutions around community-based justice.

This analysis illustrates what has been described as 'nested newness' – how older gender dynamics and the patriarchal power structures emanating from Myanmar's history, British colonialism and the legacy of decades of military rule were sustained during the transition and have continued to define new institutions. This means that changes in formal institutions, such as the W/VTA law, brought by democratic reform cannot transform structural inequalities on their own. Understanding how institutions are gendered and exploring women's experiences of gendered institutions during the transition can help us to understand how transitions can avoid reinstating patriarchal institutions. Existing gendered rules and power dynamics could also influence what is possible in terms of transforming gender equality in the current political context. Challenging the harmful aspects of *hpoun*, *arh nah deh*, *yin kyae hmu* and *karma* must go alongside building on positive aspects informal rules; and alongside changing formal rules such as laws. Changes for gendered actors operating under gendered rules during the military occupation could be short-lived; or, in any new transition, could lead to new gendered institutions that create spaces in which women can participate – as, for example, community leaders such as *yat mi yat pha* or W/VTA. Creating new rules that are not nested within the old rules, and transforming existing institutions in ways that separate them from existing norms and practices, can contribute to building women's confidence and a sense of legitimacy, and to developing policies, strategies and ways of working that help achieve gender equality in the future.

## References

- Annawitt P. 2021. 'Myanmar's junta failing despite rampant militarization; despite the military's multiple offensives of recent weeks, the opposition National Unity Government is making progress.' *Asia Times*: December 3, 2021. Available at: [asiatimes.com/2021/12/myanmars-junta-failing-despite-rampant-militarization/](https://asiatimes.com/2021/12/myanmars-junta-failing-despite-rampant-militarization/)
- Badgley, J. H. 1965. 'The Theravada polity of Burma.' *Japanese Journal of Southeast Asian Studies* 2 (4): 52–75.
- Bünthe, M. 2014. 'Burma's transition to quasi-military rule: From rulers to guardians?' *Armed Forces and Society* 40 (4): 742–764.
- Burke, A. 2017. *The Contested Areas of Myanmar: Subnational Conflict, Aid and Development*. The Asia Foundation, Yangon.
- Cárdenas, M. L. 2019. 'Women-to-women diplomacy and the Women's League of Burma.' In Kolås, Åshild (ed.), *Women, Peace and Security in Myanmar: Between Feminism and Ethnopolitics*, pp. 44–57. London: Routledge.
- Chappell, L. 2014. 'Conflicting institutions and the search for gender justice at the International Criminal Court.' *Political Research Quarterly* 67 (1): 183–196.
- Daw Kyan. 1969. 'Village administration in Upper Burma during 1886–87.' *Journal of the Burma Research Society* 52 (2): 67.
- Gains, F. and V. Lowndes. 2017. 'Gender, actors, and institutions at the local level: Explaining variation in policies to address violence against women and girls.' *Governance* 31 (4): 683–699.
- Gender Equality Network. 2013. *Myanmar Laws and CEDAW*. Gender Equality Network: Yangon.
- . 2015. *Raising the Curtain Cultural Norms, Social Practices and Gender Equality in Myanmar*. Gender Equality Network: Yangon.
- Government of Myanmar. 2008. *Constitution of the Republic of the Union of Myanmar (2008)*. Printing and Publishing Enterprise, Ministry of Information.
- . 2012. *The Ward or Village Tract Administration Law (2012)*. Printing and Publishing Enterprise, Ministry of Information, Myanmar.
- Harriden, J. 2012. *The Authority of Influence: Women and Power in Burmese History*. Copenhagen: NIAS Press.
- Hedström, J. 2013. *Where are the Women? Negotiation for Peace in Burma*. Stockholm: The Swedish Burma Committee.
- . 2016. 'A feminist political economy analysis of insecurity and violence.' In Nick Cheesman and Nicholas Farrelly (eds), *Conflict in Myanmar: War, Politics, Religion*, 67–90. Singapore: Institute of Southeast Asian Studies.

- Htin Aung Ling and R. Batchelor. 2020. *2020 General Election: State and Region Hluttaws*. Yangon: The Asia Foundation.
- Htun, M. and F. R. Jensenius. 2020. 'Political change, women's rights and public opinion on gender equality in Myanmar.' *The European Journal of Development Research* 32 (2): 457–481.
- Ikeya, C. 2005. 'The "traditional" high status of women in Burma: A historical reconsideration.' *Journal of Burma Studies* 10 (1): 51–81.
- Irrawaddy. 2021. 'Myanmar Regime Returns Public Administration Oversight to Home Affairs Ministry.' 6 May 2021. Available at: [www.irrawaddy.com/news/burma/myanmar-regime-returns-public-administration-oversight-to-home-affairs-ministry.html](http://www.irrawaddy.com/news/burma/myanmar-regime-returns-public-administration-oversight-to-home-affairs-ministry.html)
- Karen Women's Organization. 2010. 'Walking amongst Sharp Knives: The Unsung Courage of Karen Women Village Chiefs in Conflict Areas of Eastern Burma.' Mae Sariang, Thailand: KWO.
- Kempel, S. and Aung Thu Nyein. 2014. *Local Governance Dynamics in South East Myanmar: An Assessment for Swiss Agency for Development and Cooperation (SDC)*. Swiss Agency for Development and Cooperation, Yangon.
- Kempel, S. and Aung Tun. 2016. *Myanmar Ward and Village Tract Administrator Elections 2016: An Overview of the Role, the Laws, and the Procedures*. Norwegian People's Aid, Myanmar. Workshop report dated 31st January.
- Kempel, S. and Myanmar Development Research. 2012. 'Village Institutions and Leadership in Myanmar: A View from Below.' Unpublished report for UNDP.
- Kenny, M. and F. Mackay. 2011. 'Gender and devolution in Spain and the United Kingdom.' *Politics & Gender* 7 (2): 280–286.
- Khin Khin Mra. 2015. 'A masculine Myanmar and the vote.' *New Mandala*. Available at: [www.newmandala.org/a-masculine-myanmar-and-the-vote/](http://www.newmandala.org/a-masculine-myanmar-and-the-vote/) (accessed 20 August 2020).
- Khin Khin Mra and D. Livingstone. 2019. *In their Own Voices: Women's Experiences, Roles and Influence in Community Based Dispute Resolution and Mediation in Myanmar*. Yangon: Mercy Corps Myanmar.
- . 2020. 'The winding path to gender equality in Myanmar.' In J. Chambers, C. Galloway and J. Liljeblad (eds), *Living with Myanmar*, pp. 243–264. Singapore: ISEAS Publishing.
- Khin Mar Mar Kyi. 2012. 'In Pursuit of Power: Politics, Patriarchy, Poverty and Gender Relations in New Order Myanmar/Burma.' PhD thesis. Canberra: The Australian National University.
- . 2014. 'Engendering development in Myanmar: Women's struggle for *san, si, sa*.' In Nick Cheesman, Nicholas Farrelly and Trevor Wilson (eds), *Debating Democratization in Myanmar*, 305–30. Singapore: ISEAS Publishing.

- . 2018. 'Gender.' In A. Simpson, N. Farrelly and I. Holliday (eds), *Routledge Handbook of Contemporary Myanmar*, 380–392. Routledge, New York.
- Krook, M. L. and F. Mackay (eds). 2011. *Gender, Politics, and Institutions: Towards a Feminist Institutionalism*. Basingstoke: Palgrave Macmillan
- Kyed, H. M. (ed.). 2020. *Everyday Justice in Myanmar: Informal Resolutions and State Evasion in a Time of Contested Transition*. Copenhagen: NIAS Press.
- Kyed, H. M., A. Pohl Harrisson and G. McCarthy. 2016. *Local Democracy in Myanmar: Reflections on Ward and Village Tract Elections in 2016*. Copenhagen: Danish Institute for International Studies.
- Lowndes V., 2020. 'How are political institutions gendered?' *Political Studies* 68 (3): 543–564.
- Mackay, F. 2014. 'Nested newness, institutional innovation, and the gendered limits of change.' *Politics & Gender* 10 (4): 549.
- Mackay, F., M. Kenny and L. Chappell. 2010. 'New institutionalism through a gender lens: Towards a feminist institutionalism?' *International Political Science Review* 31 (5): 573–588.
- Ministry of Health and Sports and ICF. 2017. *Myanmar Demographic and Health Survey 2015–16*. Nay Pyi Taw, Myanmar: Ministry of Health and Sports, and Rockville, Maryland: ICF.
- Ministry of Social Welfare, Relief and Resettlement, Asia Development Bank, UNFPA, UNDP and UN Women (2016). *Gender Equality and Women's Rights in Myanmar: A Situation Analysis*. Manila: ADB
- Minoletti, P. 2019 'Myanmar: Women's political life.' In S. Franceschet, M. Krook and N. Tan (eds), *The Palgrave Handbook of Women's Political Rights. Gender and Politics*: 657–672. London: Palgrave Macmillan.
- Ní Aoláin, F., 2018. 'The feminist institutional dimensions of power-sharing and political settlements.' *Nationalism and Ethnic Politics* 24 (1): 116–132.
- Nixon, H., C. Jolene, K. P. C. Saw, T. A. Lynn and M. Arnold. 2013. *State and Region Governments in Myanmar*. Yangon: The Asia Foundation and Centre for Economic and Social Development.
- Saferworld. 2019. *Justice Provision in South East Myanmar: Experiences from Conflict-Affected Areas with Multiple Governing Authorities*. Yangon: Saferworld.
- Tharaphi Than. 2013. *Women in Modern Burma*. London, New York: Routledge.
- Waylen, G. 2014. 'Informal institutions, institutional change and gender equality.' *Political Research Quarterly* 67 (1): 212–223.
- Williams, D. C. 2014. 'What's so bad about Burma's 2008 constitution? A guide for the perplexed.' In M. Crouch., and T. Lindsey (eds), *Law, Society and Transition in Myanmar*: 117–140. London: Hart Publishing.

UNDP. 2017. 'Meet Village Tract Administrator: Daw Naw June Ae Nar.' [www.  
mm.undp.org/content/myanmar/en/home/presscenter/articles/2017/06/  
09/meet-village-tract-administrator-daw-naw-ta-bi-thar.html](http://www.mm.undp.org/content/myanmar/en/home/presscenter/articles/2017/06/09/meet-village-tract-administrator-daw-naw-ta-bi-thar.html)

Zin Mar Aung. 2015. 'From military patriarchy to gender equity: Including women in the democratic transition in Burma'. *Social Research: An International Quarterly* 82 (2): 531–551.