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Constitutive Processes of Contestation

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Labour Regime Transformation in Myanmar: Constitutive Processes of Contestation

Dennis Arnold and Stephen Campbell

ABSTRACT

This article studies the case of a workers' strike in Myanmar's ready-made garment sector to illustrate how differently-situated actors have engaged at multiple scales to influence emerging forms of labour regulation in the country. The analysis is drawn out through the historicization of domestic regulatory transformation. As a hegemonic project targeting industrial peace for purposes of capital accumulation, Myanmar's labour regime has been shaped by various actors outside of government circles, including International Labour Organization (ILO) personnel, Myanmar trade unionists, foreign governments, transnational corporations, domestic capitalists and Myanmar workers. Proposing a multi-scalar reading of labour regime transformation attentive to constitutive processes of contestation, the study analyses ways in which varied, and at times unofficial, relations coalesce to shape labour regulation.

INTRODUCTION

Critical analyses of labour regulation in the global South have called attention to repressive forms of rule, as governments seeking to attract globally mobile capital compete with each other in a 'race to the bottom' by deregulating capital and restricting labour. In this regard, David Harvey's (2000: 284–311) influential concept of the spatial fix highlights how the global relocation of industrial capital follows a logic of attraction toward restrictive labour regimes in the global South — regimes which promote flexible accumulation through the creation of low-waged, precarious workforces. Similarly, in her analysis of neoliberalism and foreign capital investment in East Asia, Aihwa Ong (2006: 97–118) has identified regional export processing zones as 'zones

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of exception', wherein workers are excluded by policy from various rights granted to citizens residing outside these sites of industrial production.

Given the attention paid to restrictive forms of labour regulation in the global South, the contemporary (and seemingly counter-intuitive) labour situation in Myanmar¹ raises some important questions. Since the promulgation in Myanmar of new legislation in 2011 legalizing trade unions, there has been a flurry of labour mobilization in the country's industrial zones, with significant growth in formal union density. How, we therefore need to ask, do *enabling* forms of labour regulation, in both policy and practice, emerge within contexts where governments face countervailing pressures to restrict workers' organizing? How, in addition, do such enabling forms of regulation articulate with more restrictive practices of rule? And how might enabling forms of regulation support, or potentially challenge, goals of industrial peace and capital accumulation? These are questions that motivate the inquiry we pursue below.

The Myanmar case is particularly instructive for analysing this curious admixture of enabling and restricting forms of labour regulation given its present political conjuncture straddling iconically authoritarian and liberal forms of government. When the National League for Democracy, led by Aung San Suu Kyi, took office in Myanmar in February 2016, the transfer of power was taken by many observers, at home and abroad, as the culmination of a historic transition from authoritarian to democratic rule. Given that Suu Kyi had for years advocated 'rule of law' as the centrepiece of democratic governance, her party's electoral victory at the close of 2015 promised a shift away from the arbitrary, and often coercive, practices of state agents, which had marked the preceding era, and toward a more neutral legal regulation of social conflict.

Yet as critical analysts have pointed out, entrenched military and capitalist interests, consolidated during the decades preceding the 2015 elections, have significantly shaped the country's current political transformation and retain significant influence over government policy (Aung and Campbell, 2016; Ford et al., 2016; Jones, 2014). At the same time, in the context of Myanmar's democratic moment, domestic capitalists have sought to improve their image through appeals to corporate social responsibility; the ILO has been active in promoting 'decent work'; domestic trade unionists have successfully registered hundreds of thousands of workers in hundreds of different unions and Myanmar workers have initiated an impressively militant movement of autonomous workplace struggles.

What is needed, then, is an analysis of regulatory transformation that sees its unfolding dynamic as being shaped and limited by a broader range of

1. This article uses the current official name Myanmar when referring to the country at present, and Burma when referring to past situations when this latter term was official. We use 'Myanmar' as an adjective for citizens of the country (irrespective of ethnicity) and 'Burmese' to indicate the official language.

interests embedded in conflictual relations. In the case of Myanmar, our argument is therefore that the country's emerging labour regime has been, and continues to be, shaped by an inter-relation of forces at multiple scales, the dynamics of which a multi-scalar analysis helps elucidate. In particular, this regime has been shaped by past authoritarianism, democratization struggles, efforts to insert key sectors like textiles and garments into the Asia regional division of labour in an orderly manner, and a nascent, but at times quite militant, workers' movement. The result is a protean labour regime exhibiting a mix of coercive practices and non-violent regulatory mechanisms, which aim in their combination to secure worker acquiescence to unequal and exploitative employment relations.

In order to advance the argument laid out above, we sketch in the following section some existing theorizing of spatial scale as the basis for a multi-scalar analysis of labour regime transformation. We then proceed with the historicization of labour regulation and labour organizing in Myanmar and theorize Myanmar's contemporary labour regime as a fraught hegemonic project. Following this, we present the case of a five-week-long strike spread over five factories in the Shwe Pyi Thar industrial zone, on the outskirts of Yangon. The case study illustrates competing, and at times contradictory, practices of labour regulation that have developed within Myanmar in recent years. We then conclude by returning to the main strands of our argument.

This article is a collaborative outcome of our respective research projects on the organization and regulation of industrial labour in Myanmar. The empirical evidence informing this study is based on multiple rounds of multi-sited fieldwork in Myanmar across a span of more than three years. Fieldwork was carried out between September and October 2013, July 2014, February and March 2015 and July 2016. This included three visits to observe and conduct interviews with the striking workers addressed in the case study in 2015, as well as follow-up discussions in 2016. Methods of enquiry included: interviews with key informants, focus group discussions, in-depth interviews, analysis of secondary reports and news articles, author's translation of Burmese language documents and quantitative questionnaires among 250 workers conducted between March and May 2015.

THEORIZING LABOUR REGIME TRANSFORMATION AT MULTIPLE SCALES

Discussion on Myanmar's development and democratization has largely been oriented around transitions. Consequently, the more celebratory accounts of the current political milieu — proposing a shift from arbitrary rule to the rule of law — provide an analytically thin understanding of how policy making and implementation in the realm of labour relations are developing within Myanmar's complex political economy. An analysis is needed that sees regulatory change — and evolving labour regimes — as being shaped

and limited by a broader range of interests at multiple scales to better grasp the country's current regulatory transformation.

The concept of 'labour regime' draws on two major theoretical sources of inspiration: Braverman's studies on control of workers at the point of production and the regulation approach which, primarily through analysis of Fordism, focuses on periods of national-scale stabilization despite inherent crisis tendencies in capitalism (Bergene et al., 2010). More recently, 'labour regime' has been employed within critical labour studies to highlight the interconnected ways in which workers, labour processes and employment are organized and regulated in particular spaces. Bernstein (2007: 7) defines the term as the 'interrelations of (segmented) labour markets and recruitment, conditions of employment and labour processes, and forms of enterprise authority and control, when they coalesce in sociologically well-defined clusters with their own discernible "logic" and effects'. Along these lines, Suresh (2010) employs 'labour regime' as a conceptual frame for assemblages of flexibility, restriction, coercion and spatial enclosure — characteristic, he argues, of urban construction employment in India and China. Mezzadri and Srivastava (2015), building on Bernstein's usage and drawing on Pun and Smith (2007), develop an understanding of labour regime that encompasses both the organization of production and of workers' social reproduction.

In this article, we similarly employ the concept of labour regime to index regulatory formations of work and employment. But we are more specifically concerned with understanding labour regimes as hegemonic projects aimed at securing worker acquiescence to unequal and exploitative employment relations. This is a conceptualization rooted in Antonio Gramsci's (1971: 279–318) analysis of Fordism. Under the Fordist production model, prominent (largely male) segments of the working class were provided stable, secure and often unionized employment with relatively high wages as a means of garnering their consent to a regimented and intensified industrial labour process. Fordism, then, as a consent-seeking labour regime, served to bolster conditions for industrial peace as a precondition for stable capital accumulation. Following in a Gramscian vein, Burawoy (1985) coined the term 'factory regime' to reference the ways that the organization of the labour process at the point of production could generate workers' consent to exploitative employment relations. While our usage of labour regime is in close affinity to Burawoy, we emphasize consent-seeking mechanisms located at sites and at scales beyond the point of production.

Within Southeast Asia, Deyo (2012: 131) has argued (in Burawoyian terms) that factory regimes in light manufacturing have, since the mid-1980s, shifted from hegemonic regimes to market despotism. Whereas under the former, employers depended heavily on worker consent and cooperation to ensure production, under the latter employers have increasingly relied on coercion and the 'whip of the market'. In Myanmar's ready-made garment sector, coercion and market compulsion do indeed serve to regulate workers' behaviour. Yet new consent-seeking mechanisms, practices and discourses

have also emerged — the outcome being a hegemonic regulatory assemblage shaped by forces and actors at multiple scales. While the introduction of scale to labour regime analysis is not in itself a novelty (see Deyo, 2012; Pun and Smith, 2007), what we stress is the role of workers' contestations (i.e. agency) in constituting this emerging, and fraught, labour regime. In so doing, it is necessary to move beyond notions of scale that are pre-given, 'fixed', or designating a form of agency in themselves, such as local–national–global.

Spatial scale has long been utilized as an analytical tool to understand the 'place' of labour in broader development processes. Aihwa Ong (1987) utilized an analytically wide-angled multi-scalar ethnography in which state, transnational corporation, kin group and religious community, and local social actors figure simultaneously in the process of social change within working-class Malaysia. Likewise, studies on labour politics have generated a deeper understanding of the importance of capitalist firms' geographic strategies, of state regulatory institutions, and of labour organizing in the face of challenges posed by capital mobility and/or state labour regimes, illustrating how scales and scalar relations are shaped by processes of contestation (Arnold and Pickles, 2011). Indeed, it has become a consensus among geographers that geographic scales are social constructs, not pre-given dimensions of society (Sheppard and McMaster, 2004). In this respect, the key strengths of the political economic approach lie in its non-fixed conception of scale and concern with relationality through the concept of the politics of scale (MacKinnon, 2011).

Contrary to the claims of some critics (Marston et al., 2005), agency has been a central theme of this research (Castree, 2000; Leitner et al., 2008), reflecting how scholars moved beyond structuralism by investigating how different forces have sought to harness, manipulate and transform social relations (MacKinnon, 2011). Building on attention to intra-institutional agency in the field of labour and development, Arnold and Pickles (2011) discuss scaling development at the Thailand–Myanmar border. They argue that global garment production systems in the border region are underpinned by national and transnational governmental policies and infrastructural investments aimed at economic efficiency and sub-regional integration. Such attention to scalar politics focuses attention on the strategic deployment of scale by various actors, movements and organizations to meet specific purposes (MacKinnon, 2011).

This attention to scaling development and the centrality of labour politics considers power relations and hegemonic imperatives without pre-assigning hierarchical relations, often conceived as 'local–national–global' encounters. In other words, such relations are more usefully viewed as comprising an assemblage of elements, pulled together at a particular conjuncture, in relation to a given ensemble of labour and territory (Li, 2010). As such, scaling 'up' labour struggles from the firm to the national trade union federation to the global union — the unfolding norm in the Myanmar case explored below — is not, a priori, a strategy conducive to workers' interests. In practice,

however, the way scale has been deployed ‘evokes a particular presupposition restricting the openness of horizontal politics by predetermining the political as an arborescent register’ (Springer, 2014: 410). But this is not the ‘natural’ order of things. Burmese workers and labour organizers have long demonstrated the potential of navigating scale in non-hierarchical terms, through relational politics that draws in and on a range of actors operating along a multiplicity of scalar registers, without necessarily compromising autonomous concerns (Campbell, 2015). Such already existing practices speak to Marston et al. (2005) and Springer’s (2014) call for the flattening of the spatial register, entailing a destruction of the assumed hierarchies and a tearing down of the scaffold imaginary, so that another, more autonomous politics becomes possible.

Indeed, moving away from the grounded particularities that are woven through multiple sites of activity and resistance to the imperatives of states and capital problematically ‘delimit[s] entry into politics — and the openness of the political — by pre-assigning it to a cordoned register for resistance’ (Springer, 2014, citing Marston et al., 2005: 427) in the case at hand via arbitration councils, tripartite bodies and hierarchical trade union structures. While affirming these sentiments, it is necessary to understand both grounded particularities alongside a multi-scalar understanding of Myanmar’s emerging labour regime, which is co-determined by workers’ livelihood needs, investors’ demands for ‘transparent’ labour regulation and unfolding hegemonic imperatives of domestic elites. The objective of this approach is to build an understanding of workers’ autonomous actions in relation to formations of the state, labour regulation and efforts to secure Myanmar’s foothold in the Asia regional division of labour.

HISTORICIZING LABOUR REGULATION AND WORKER ORGANIZING IN MYANMAR

Current political and economic relations continue to shape new forms of labour regulation in Myanmar. But the country’s emerging labour regime also follows precedents from 19th and 20th century Myanmar history. The pattern historically has been one of labour unrest met by new efforts at regulatory containment by government actors and private employers. The earliest legislation regulating wage workers in Myanmar was promulgated by British colonial administrators in response to growing industrial unrest after World War I (Lwin, 1968: 296–300). Specifically, the colonial government enacted the 1926 Trade Unions Act, legalizing trade unions, and the 1929 Trade Disputes Act, legalizing strikes, both of which channelled workers’ struggles into restrictive, government-controlled mechanisms. But when the seminal 1938 oil workers’ strike broke out of institutional constraints, police charged the workers with violating articles 124 (criminalizing ‘high treason’) and 144 (pertaining to ‘unlawful assembly’) of the 1860 Burma Penal Code,

assaulted the striking oil workers, and prosecuted key labour leaders (Gyi, 1938/2012: 47).

After Independence in 1948, both the Communist Party of Burma, with its All Burma Trade Union Congress (ABTUC), and the ruling Anti-Fascist Peoples' Freedom League (AFPFL), which backed the competing Trade Unions Congress in Burma (TUC[B]), actively subordinated workers' struggles to party interests. With the military coup of 1962, labour unions were rendered legally obsolete, following the corporatist ideology of the military's Burma Socialist Program Party. The legal framework for this move was laid out in the 1964 Law Defining the Fundamental Rights and Responsibilities of the People's Workers, which granted authority over labour dispute resolution to new state-run Workers' Councils. Under prolonged military rule (1962–88), workers' unions either disintegrated or went underground. Returning to their historically political role, unions re-emerged in Myanmar in 1988, when new unions were formed amid the country's popular uprising against military rule. In September of that year, newly formed unions federated as the All Burma Labour Union and participated with student groups in anti-government demonstrations. Following a coup by a re-established military junta on 18 September 1988, workers' unions were persecuted and labour leaders arrested.

Aligning with the political opposition against military rule, exiled labour and student activists established the Federation of Trade Unions of Burma (FTUB) in 1991, with U Maung Maung as General Secretary. Other Myanmar migrant workers and exiled student activists in Thailand formed the Yaung Chi Oo Workers' Association in 1999, aimed at addressing the concerns of Myanmar migrants in the border area. As military rule continued, Thailand-based Myanmar labour organizations, including FTUB and Yaung Chi Oo, received financial support and training from Euro-American labour unions.

While unions remained effectively prohibited in Myanmar, a wave of wild-cat strikes erupted in the industrial zones around Yangon between November 2009 and March 2010, with one day seeing an estimated 10,000 workers taking part (Macan-Markar, 2010). This strike wave was followed, in the context of Myanmar's post-2010 political transformation, with the widening of legal space for labour organizing in the country. This space was delimited by two new labour laws drafted with guidance from the International Labour Organization (ILO, 2013). The new legislation includes the October 2011 Labour Organization Law, which legalizes 'basic labour organizations' (trade unions) and repeals the 1926 Trade Unions Act. While the ILO provided significant input on these laws, it seems the Myanmar government did not simply rubber-stamp the ILO's legal model. As criticized by the head of the ILO's Promoting Freedom of Association in Myanmar project, which ended in early 2016, certain clauses introduced into the 2011 law — namely, restrictions on cross-sectoral industrial unionism and the requirement that

unions have at least 30 workers in a given workplace — are ‘not in line with international standards’ (Larlee, 2015).

At the start of 2012, in the space opened up by the new Labour Organization Law and the liberalization process more generally, another wave of strikes erupted at the Hlaing Thar Yar and Shwe Pyi Thar industrial zones on the outskirts of Yangon, and a third zone in nearby Hmawbi Township (Campbell, 2013). As the strikes continued, in March 2012 the Myanmar government pushed through a Settlement of Labour Dispute Law, which established a legal framework for the government’s new Dispute Settlement Arbitration Council. Supporting this council, the ILO has provided regular training to government arbitrators, and has brought to Yangon officials from Cambodia’s Arbitration Council to share their experiences of labour dispute settlement with their Myanmar counterparts, despite the highly conflictual industrial relations environment in Cambodia. Tellingly, by mid-2015, many Myanmar workers had lost confidence with their country’s Arbitration Council due to its perceived pro-employer bias (Htwe and Barron, 2015). The ILO has nonetheless maintained that the Council, which aims to ‘ward off strikes’, has been ‘remarkably successful’ (Htwe and Barron, 2015). According to an ILO representative,² the Myanmar government’s priority in the lead-up to the November 2015 elections was to introduce a broad range of policy changes, including a legal framework conducive to foreign investors.

With the introduction of Myanmar’s 2011 Labour Organization Law, trade unions have proliferated, with nearly 2,300 unions registering by late 2016.³ Among the groups involved in the recent unionization push is FTUB, which returned to Myanmar from exile in 2012, renaming itself first as FTUM (M for Myanmar), and then registering itself in July 2015 as the Confederation of Trade Unions of Myanmar (CTUM). Other new union federations in Myanmar include the Myanmar Trade Union Federation (MTUF) and the Agriculture and Farmer Federation of Myanmar (AFFM–IUF).

In the post-2010 period, labour organizations and activists returned to Myanmar from exile, bringing knowledge and experience acquired through years of border- and Bangkok-based activism and struggle in Thailand to bear on contemporary labour organizing in Myanmar. This cross-border movement of knowledge and experience pertains not solely to CTUM, but also labour activists operating outside formal unions. Yaung Chi Oo, for example, has provided training and shared lessons learned from its own experience of workplace struggle in Thailand with labour activists and worker organizers in Myanmar — mostly among factory workers in the Shwe Pyi Thar industrial zone. At the same time, some of these organizations have evoked tensions with activists who remained in Myanmar through the Junta

2. Interview, ILO official, Yangon, 16 February 2015.

3. Total number of employer/employee associations, Myanmar Ministry of Labour. www.mol.gov.mm/mm/departments/departament-of-labour/dol-manpower-statistics-division/emp-asso-lists/ (accessed 17 November 2016).

periods, as well as with many workers seemingly uninterested in liberal organizational structures and norms — a challenge to the ‘transitional’ narrative prevalent in Myanmar.

Despite the multitude of unions and non-union labour organizations currently operating in Myanmar, CTUM has been by far the most strongly supported by international labour organizations like the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), as well as the International Trade Union Confederation (ITUC) and IndustriALL, of which the CTUM or its affiliates are members. Consequently, the ITUC (2012) has singled out U Maung Maung as the ‘leader of the country’s trade union movement’. Yet CTUM, and U Maung Muang in particular, have long been controversial among Myanmar pro-democracy and labour organizations. In 2010, CTUM’s (then FTUB) former Secretary of Finance and Development, U Zaw Tun, issued an open letter charging U Maung Maung with undemocratic appointment of union leaders (starting with U Maung Maung’s self-appointment as FTUB General Secretary in 1991 — a position he has held ever since), arbitrary suspension and termination of members, and misuse of organizational funds. Other ex-CTUM members have argued that the organization ‘does not follow a true democratic system and their strict hierarchy has led to unbalanced internal decision making’ (*Phophtaw News*, 2012). Myanmar labour activists outside CTUM have criticized the organization for having a ‘monopolistic approach and lack of transparency’ (Warda, 2013). And during a 2013 ILO-organized Labour Organization Conference in Yangon, as participants were set to vote on a Myanmar representative for the upcoming International Labour Conference in Geneva, some attendees charged CTUM (then FTUM) with having used its financial clout to bring in people who were not from established workers’ organizations in order to secure the election of an FTUM member to the upcoming Geneva conference (Campbell, 2013).

According to outgoing MTUF President, U Aung Lin, the sudden quantitative boom in enterprise and national-level unions has led to numerous complications and conflicts.⁴ He claimed, for instance, that among the multiple layers of emerging trade unions in Myanmar, there is a stratum of trade unionists defined by their capacity to maintain good relations with international NGOs and trade unions through conference participation, research and report writing and other, largely English language-based activities, which facilitate expansion of organizational budgets, allowing such unions to employ full-time staff. The same handful of people thus tends to be involved in union activities and knowledge is not shared with the wider membership. Many union leaders are also, he points out, government aligned and regularly report labour movement activities to the Ministry of Home Affairs. Finally, there is a rapidly increasing number of corrupt unionists — people who rise

4. Interview, U Aung Lin, Yangon, 21 July 2014.

through the ranks at workplace and national-level unions seeking financial profit, status and power. Current divisions among trade unions relate, U Aung Lin suggested, to differences in approach. Some orient around social dialogue, others privilege institutional and regulatory reform. Some focus on 'chasing' and organizing strikes, while others privilege capacity building to raise workers' skills and knowledge. At the time of the interview, MTUF received no financial support from international or domestic organizations, and all leaders worked full-time jobs. MTUF's strategy, thus far, has focused on grassroots mobilizing, developing relations with reform-minded individuals in the Ministry of Labour and developing working relations with the Myanmar Garment Manufacturers' Association (MGMA) and other business groups in order to help 'solve problems' that emerge between employers and workers.

In sum, MTUF and CTUM converge in adapting the social dialogue model championed by the ILO as part of its Decent Work programme. The notion of social dialogue replaces adversarial bargaining, as Standing (2008) notes, and thus works in the interest of global capital to minimize industrial action and labour unrest. Capitalism becomes invisible and glaring disparities in wealth are discursively omitted with acceptance of the possibility that globalization can be given a 'human face', and that capital can be persuaded that workers are vital to its reproduction (Munck, 2013).

It is against this backdrop of conflictual labour federations, who converge in adopting social dialogue as a (sub) hegemonic organizational norm, that the expansion of trade unions in Myanmar needs to be understood. Aside from expanded unionization, one effect of the 2012 strike wave was to instigate a bill in the Myanmar parliament to set a national minimum wage for private sector employees (*Mizzima*, 2012). The outcome of this bill was the 2013 Minimum Wage Law, which established the legal framework for determining and enforcing the minimum wage. The specific amount of the new minimum wage was set in July 2015 at Myanmar Kyat (Ks) 3,600 per day (about US\$ 3.50). Labour organizations criticized this amount as being insufficient for workers to meet their basic needs, while employers' organizations claimed they could not afford to pay wages at this rate (Aung, 2015). When the new minimum wage came into effect, many Myanmar workers in fact saw their incomes remain static, or even decrease, as employers 'slashed bonuses and stopped allowing overtime hours' (Aung and Phyu, 2015).

At present, then, there persists a mix of formal labour regulation, with workers pursuing both (informal) autonomous workplace struggles and formal procedures as part of registered unions. Workers have complained about the employer bias of the government's Arbitration Council, while MTUF officials have said the Settlement of Labour Dispute Law has not been able to resolve labour-management conflicts (Aung and Aung, 2015). For the government too, it seems that the 2011 Labour Organization Law and 2012 Settlement of Labour Dispute Law have been unable to achieve the goal of preventing strikes. As a result, police have been deployed to use force against

striking workers, justifying this violence under Myanmar Penal Code (1860) Article 505b, which criminalizes the making of statements that might cause ‘fear or alarm to the public’ leading to offences against ‘public tranquillity’. As occurred in the strike described below, police have also deputized plain-clothes civilian vigilantes to violently disperse striking and protesting workers, a move made legal by Myanmar Code of Criminal Procedure (1898) Article 128 (*The Irrawaddy*, 2015). Both Articles — 505b and 128 — are remnants of 19th century colonial legislation.

In these ways, contemporary forms of labour regulation and worker organizing in Myanmar exhibit continuity with elements of 20th century Myanmar history. Myanmar government officials have drawn on colonial era laws criminalizing assembly and dissent in order to contain labour unrest. And contemporary inter-union conflict recalls the post-World War II fracture between the ABTUC and TUC(B) — though present-day splits appear little informed by ideological differences. Insofar as they channel working-class power, capitalists and states generally regard unions as antagonists. However, as examined in the case below, organized labour in Myanmar should not be considered as having autonomy from capitalists, the state, or international civil society. Indeed, traditional relations of representation and hegemony construction have been thrown into disarray and trade unions are no longer the undisputed articulators of mass discontent (Munck, 2013). This points to contentions that unions are of a ‘dual character’ as quasi-statist institutions rooted in a segment of civil society, which helps explain the ways they are incorporated into hegemonic projects (Glassman, 2004: 582) like social dialogue. This is particularly salient in Myanmar, where activists had long scaled up solidarity appeals to the international level to pressure for regime change. Many organizations, particularly in exile, became dependent in this way upon international alliances for their existence, and have folded into dominant liberal norms advanced by the ILO and global unions. The country’s ‘opening’ has subsequently led many domestic union federations to seek cooperative relations with the state and capitalists to weather the current transition and foster legitimacy. Not surprisingly, unions are increasingly positioned in the multi-scalar labour regime as mediating ‘local’ workers’ livelihood demands, national-level regulation and international norms — thus leading to calls to scale up ‘local’ organizing to the national and international levels, a practice that, as mentioned, is not necessarily conducive to workers’ livelihood needs.

This mediating approach reflects the long-running practice of liberal Western trade unions. For Hardt and Negri (1994), through much of the 20th century trade unions constituted a fundamental point of mediation between labour and capital and between society and state. Collective bargaining held a privileged position in the establishment and reproduction of the social contract. And trade unions had the dual purpose of providing an avenue for workers’ interests to influence the state and capital, thus potentially legitimating state rule, and at the same time deploying the discipline and control

of the state and capital through the workforce (ibid.). Here, the trade union is viewed not so much as a vehicle for the expression of worker interests, but rather as a means to mediate and recuperate the antagonisms born of capitalist production and capitalist social relations — thus creating a worker subjectivity that is recuperable within and actually supportive of the (global) capitalist order. This approach is predicated on material gain in exchange for acquiescence to capitalist labour, a ‘bargain’ that capitalist firms in Myanmar are hardly willing, or indeed able, to enter.

THE FRAUGHT HEGEMONY OF MYANMAR’S EMERGING LABOUR REGIME

Labour regulation in contemporary Myanmar illustrates varied, and at times conflicting, efforts by employers, state officials and international agencies to ensure stable capital accumulation under conditions of labour unrest. These efforts have included consent-seeking forms of regulation, like the government’s Dispute Settlement Arbitration Council, as well as coercive forms of regulation, like violent police crackdowns on workers’ strikes.

For the ILO, labour rights and workers’ freedom of association in Myanmar are seen as means of preventing strikes (Htwe and Barron, 2015). This understanding follows from the ILO’s more general approach of encouraging institutions that facilitate social dialogue between employers, workers and governments as means to promote ‘industrial peace’ (ILO, 2016). For the Myanmar government, the establishment of institutions promoting ‘industrial peace’ aligns with an overarching goal of attracting foreign direct investment in a context where foreign corporations remain wary of investing in Myanmar due to concerns over the political, legal and financial security of their investments (*Eleven Media*, 2015) during the ‘transitional’ conjuncture. The previous section suggests that the broad strokes of both government and trade unions’ positions are in accord with the ILO’s approach. Meanwhile, the US Trade Representative to Myanmar initiated a ‘labour law cluster’ project to advise Myanmar’s Ministry of Labour in drafting labour laws covering occupational health and safety, employment contracts and the minimum wage.⁵

Among their effects, newly legislated labour rights have opened avenues for workers in Myanmar to pursue demands that could challenge profitability beyond apparently acceptable limits. In such situations, employers and government agencies have fallen back on more coercive means to contain worker unrest, as elaborated in the case below. It is due to this (unstable) mix of coercive and consent-seeking forms of regulation that we understand Myanmar’s labour regime as integral to a hegemonic project aimed at securing worker acquiescence to unequal and exploitative employment relations.

5. Interview, Solidarity Centre representative, Yangon, 4 March 2015.

For Gramsci, hegemony refers to the exercise of moral-political leadership by dominant over-subordinate classes. Such leadership is pursued, and may be more or less achieved, through ‘non-violent forms of control exercised through the whole range of dominant cultural institutions and social practices’ (Mitchell, 1994: 553). Hence, consent-seeking forms of labour regulation — legislated employment protections, state-regulated trade unions and the government’s Arbitration Council — present the state to workers as a neutral arbiter of employer–employee relations open to supplication, rather than a partisan defender of capitalist interests.

This hegemonic project is *fraught*, however, by virtue of the fact that consent-seeking forms of regulation which aim to prevent strikes also provide avenues for workers to pursue demands that could threaten capital accumulation. Given the persistent overflowing of workers’ struggles in Myanmar, state actors have had to deploy coercive forms of regulation in order to contain the more ambitious instances of workers’ collective action. This deployment of force is consistent with Gramsci’s conception of hegemony, in which ideational and material realities are mutually imbricated and mutually constitutive forms of power. When, however, state actors deploy coercive force to rein in disruptive workers’ struggles, they weaken, and may effectively undermine, their own new-found claims of neutrality and moral leadership, claims hard-won after a half-century of repressive military rule.

No hegemony can ever fully overcome its own contradictions. Labour regimes, as hegemonic projects, thus remain perennially contested arrangements (Anner, 2015; Jonas, 1996). In Myanmar, the recent escalation of labour unrest has an important historical specificity. As a Myanmar-based ILO official explained, one effect of legal labour rights being suddenly ‘granted’ to Myanmar workers in recent years has been that, coming after 50 years of repression, wildcat strikes are now widely pursued *in advance* of negotiating with employers, rather than, as the Settlement of Labour Disputes Law would have it, only once government-regulated negotiations have failed to produce a settlement.⁶

While Myanmar’s emerging labour regime is a fraught hegemonic project, it is nonetheless an assemblage whose specificities have been shaped and limited by a broad range of interests, at multiple scales. These interests include those of the ILO, international labour unions, domestic trade unions, Myanmar workers, foreign investors, foreign governments and domestic capitalists. Properly grasping the development of Myanmar’s emerging labour regime thus requires recognition of how differentially situated actors have influenced the making and implementation of regulatory policies that strategically couple the scale of the workplace with that of the national development project. The ‘citizen worker’ in this formation is framed as morally

6. Interview, ILO official, Yangon, 5 March 2015.

invested in the ‘transition’ to liberal national development. Yet Myanmar workers, as illustrated in the case below, have often rejected the terms of their insertion into national development and industrial capitalism. This has important implications in Myanmar because the labour regime is rapidly evolving and fluid, as illustrated in the following case study.

SCALING THE LABOUR REGIME IN SHWE PYI THAR

Myanmar’s emerging labour regime, we have demonstrated, shows many traces of a half-century of military rule, a period in which trade unions were banned or tightly restricted, international organizations had no room to operate and workers’ demands were readily suppressed. An ensemble of coercive and consent-seeking forms of regulation is imbricated with this history, at an historic juncture in the nation’s political economic transformation that workers’ actions play a role in shaping. To illustrate, we present here a brief garment sector overview, followed by the case of a five-week-long strike that took place at five factories in Shwe Pyi Thar, one of Yangon’s key industrial zones, from late January to early March 2015. At the time, Myanmar’s Ministry of Labour, Employment and Social Welfare (2015) urged the workers to accept ‘short-term sacrifices’ in the form of low pay and excessive working hours in the interests of bolstering international investor confidence (manufacturers from China, Korea and Japan in this particular case), deemed necessary for the national economic development project. This appeal for industrial peace to placate skittish international investors by the ‘left hand of the state’, here represented by the Ministry of Labour, went unmet. The workers were then confronted with the violent and disciplinary right hand of the state — initially the police, and eventually hired thugs/vigilantes and the courts. Between the state’s consent-building left hand and coercive right, workers’ autonomist efforts became embroiled in other dimensions of the multi-scalar labour regime, including the hierarchizing tendencies of trade unions, and globally-extended textile and garment production logics.

By early 2015, approximately 195,000 workers were employed in some 210 active export-oriented garment factories in Myanmar, 95 per cent of which are concentrated in Yangon. Roughly 100,000 others were employed in smaller workshops or home-based subcontracting firms not linked to the international garment value chain.⁷ The export garment industry consists primarily of assembly contracts for foreign buyers, known as ‘cut-make-pack’ (CMP). A study carried out in 2013 (cited in ILO, 2015) divides Myanmar’s garment factories into three main categories. The first are larger factories, usually with more than 1,000 workers, either 100 per cent foreign-owned or operating through joint ventures. Estimated at around 20 factories

7. Interview, Myanmar Garment Manufacturers Association (MGMA) representative, Yangon, 27 February 2015.

at the time, they have the capacity to operate on a ‘free-on-board’ basis — a step ‘up’ the value chain from CMP, under which buyers provide Myanmar firms with the inputs for a garment, which is then cut, sewn, assembled and packed for export by the manufacturer. The second group, consisting of 30 factories, is also small. These factories are locally owned or joint ventures and typically employ between 500 and 1,000 workers. While these CMP firms show limited quality and innovation in their machinery capital, lower labour conditions and management skills, they exhibit growth potential. The third and largest group (160 factories) is characterized by fewer than 500 employees, local ownership, inadequate machinery, the poorest labour standards among firms in the three categories and low management skills.

Foreign direct investment (FDI), either in the form of wholly foreign-owned enterprises or joint ventures, has driven much of Myanmar’s recent garment sector growth. In 2015, around 50 per cent were locally owned or joint ventures; the others were wholly foreign invested, a near doubling in the proportion of foreign-owned factories from the 2006–11 period (ILO, 2015). However, one estimate notes that a further 20–30 per cent of locally owned factories are ‘shadow companies’ registered under a Myanmar citizen with a silent foreign partner (SMART Myanmar, 2015b: 7), due to past regulations restricting foreign investment. FDI comes predominantly from Korea, followed by China, Taiwan and Japan (SMART Myanmar, 2015a). There was a doubling of export value from US\$ 0.7 billion in 2011 to US\$ 1.6 billion in 2014, with exports to Japan and Korea comprising roughly 70 per cent of the market in 2014. The sizable East Asian export market is due primarily to its continued sourcing in Myanmar during the US and EU sanction periods (2003–16 and 2006–13, respectively). As a result, many manufacturers specialized in servicing Japan’s smaller-order quantities and high quality-control demands. Furthermore, the industry specialized in woven products, as Japan granted a tariff exemption for woven products from Myanmar (SMART Myanmar, 2015a). Thus, to date there are few factories specializing in cheap T-shirts, jeans and other ready-made garments that characterize production in Bangladesh and Cambodia. But this is changing with rapid expansion of exports to the European Union, fuelled by orders from Swedish clothing chain Hennes & Mauritz (H&M) and other buyers of ‘fast fashion’.

In sum, the sector is changing rapidly and local industry may not be able to adapt.⁸ Many domestic garment companies are now facing stiff competitive pressure and are seeking international partners as a survival strategy. Already, many have been forced to close down over wage, quality and other issues; some may survive and stay small and sell to local markets, or work as subcontractors for bigger, foreign-owned factories. These dynamics illustrate the fact that capital is not internally homogeneous. The state is

8. Interview, ILO official, Yangon, 5 March 2015.

thus positioned between manufacturers inclined to resist emerging labour and social rights practices and discourses, and international buyers keen on promoting a 'clean' image for their sourcing in Myanmar.

Women comprise 93 per cent of Myanmar's garment workforce (SMART Myanmar, 2015b), with the majority being young, 'unskilled' rural–urban migrants (ILO, 2015). In 2015, wages in the (export) industry averaged US\$ 95–125 per month, inclusive of overtime pay and bonuses (SMART Myanmar, 2015b).⁹ A survey conducted by one of the authors found that base pay at the three striking factories was Ks 30,000–45,000 per month. Take-home pay, including bonuses and overtime, averaged Ks 95,130 per month. From the 26 workers surveyed from the three factories, only six reported being able to meet their needs while also saving money. Another worker reported¹⁰ that she breaks even most months, while 19 others reported debts ranging from Ks 30,000 to 500,000. One of these indebted workers was paying 10 per cent monthly interest, while 17 others were paying 20 per cent, and the last was paying 30 per cent. High-interest debt is a problem for anyone, but more pronounced for young women who are expected to remit to support household social reproduction, according to numerous workers interviewed. None of the workers interviewed had a work contract, nor any form of health or social insurance. Working hours averaged from 10.5 to 11 hours per day.

On 28 January 2015, workers from five garment factories began a sit-in strike. Three of the factories are Korean owned: Costec International Company Ltd., E-Land Myanmar Co. Ltd. and Hanjen Manufacturing Company Ltd.; one is Chinese owned: Ford Glory; and one is Japanese: Red Stone Garments. Of the five factories, Red Stone settled first in early February, Hanjen workers returned to work after the first confrontation with police on 20 February and the Costec, E-Land and Ford Glory strikes lasted until 5 March. Ford Glory produced for export to China, and E-Land and Costec produced for the Korean market.¹¹ A core demand was a base-salary increase to Ks 60,000 for every worker. Notably, several other demands (such as for union recognition and for sick and holiday leave without deductions) were for rights already legally due to workers, indicating lack of implementation of existing labour law.

There were four rounds of government-mediated negotiations in February. On 12 February, the Deputy Minister of Labour, Employment and Social Security, along with employer representatives, met with labour leaders regarding salary increases, but failed to reach an agreement. Then, on 17

9. US\$ 1=Ks 1,031 as of 20 February 2015. Source: xe.com (accessed 24 February 2016).

10. Survey of 250 workers, Yangon and vicinity, March to May 2015.

11. The Seoul-based Korean TNC Watch attempted to pressure E-Land and Costec to accede to workers' demands; however, given the relatively weak position of these organizations vis-à-vis transnational Korean capital, efforts to 'scale-up' were not fruitful in this case. See: <http://penseur21.com/2015/03/06/open-letter-strike-in-the-south-korean-owned-garment-factory-in-myanmar/> (last accessed 25 February 2016).

February, E-Land employees met the Rangoon Division Chief but declined his offer to have the company implement a Ks 12,000 per month raise. At a further round of negotiations, when workers again refused an offer from the employer, a government mediator declared, 'Since the workers are not satisfied with the employer's ability to increase wages, [the workers] can spend [their] whole lives at the strike camp'.¹²

After another round of negotiations, on 20 February, the government gave a one-hour warning to striking workers who were blocking factory entrances. The divisional government also issued a public statement declaring that legal action would be taken against employees or employers who 'harm peace and rule of law', specifying that violence and protests that countered the law would be punished, and noting that striking workers were obstructing gates near the factories, preventing those who wanted to work from doing so, and blocking deliveries. According to an MGMA representative, the Korean, Chinese and Japanese embassies had all lobbied the Myanmar government to stop the strike and enable resumption of operations.¹³

On 20 February, baton-wielding police moved in to disperse protesting E-Land workers. Dozens of protesters were injured in the clashes, with some requiring hospitalization after they claimed police stampeded over them (Barron and Kyaw, 2015). Police also moved in to disperse and arrest striking workers who were staging sit-ins in front of other factories in the zone. Local residents joined in at this time to help the workers push back the police. After the three dispersed protests merged at E-Land, strike leaders said that they came to rely on the local community for support not only with food, but also for warnings of when police were mobilizing in the area.

Subsequent to this attempt to end the strike, the Ministry of Labour, Employment and Social Welfare, and the Yangon Regional Government issued notifications to the striking workers on 23 February. Essentially, the statements argued that 'worker-citizens' should (temporarily) make livelihood sacrifices so as to not scare off investors deemed necessary for the FDI-led national development project. As the notification from the Ministry of Labour, Employment and Social Welfare (2015: 2) stated:

Although the wages of Burmese workers are currently not the same as the wages of others in other ASEAN countries that have well-developed labour markets, their incomes will increase and more opportunities and choices will occur when their skills improve and the labour market becomes strong. For the economic development of Myanmar and more job opportunities for the people, the government is inviting foreign investment and encouraging them to do businesses in the country. If factories have to close due to illegal and violent strikes and demands, the ones who will become unemployed and face hardships are the workers. The foreign investors' confidence in the government will also decline. Therefore, it is essential to take serious measures to prevent unnecessary illegal activities again.

12. Quoted in a leaflet issued by the striking workers, author's translation.

13. Interview, MGMA representative, Yangon, 27 February 2015.

Workers' rejected these sacrificial appeals. After the first crackdown on protesting workers, the case generated much attention from the media, as well as from the MGMA, the ILO, foreign embassies, international trade unions and NGOs. The relationship between the striking workers and the trade unions, typically the first institutional actor to come to striking workers' assistance in such situations, was tense and elicits hierarchical (*vis-à-vis* 'flat ontological') notions of social and political agency embroiled in labour regime constitution. One strike leader noted that generally speaking there have been many problems between union federations and workers.¹⁴ The first is trust. There are multiple federations operating in the industrial zones, he said, but it is only during strikes that they show up, distribute some food and water, and register the workers as members of their union. They are only interested in gaining members, he added, and 'they just want to go to the ILO conferences'. This was a pattern he said he had witnessed on several occasions. He thus did not trust these federations because they did not provide continuous support. Confirming this report, another strike leader stated that CTUM had shown up during the first days of the strike, offering money and food, and seeking to eventually register the workers as members of their union.¹⁵ The workers refused, claiming lack of trust, and the CTUM representatives did not come back. Another activist claimed that the union federations were afraid to get involved due to the crackdown.¹⁶ Notably, in follow-up interviews conducted in July 2016 workers involved in this strike described enterprise-level unions positively, as coterminous with the workers themselves, whereas existing union federations were seen as outside entities. This perspective stemmed from the absence of paid, non-worker staff in enterprise unions (unlike federations) and the *de facto* direct democracy of their own enterprise unions.

In the case of the Red Stone settlement, MTUF assisted the workers involved. MTUF is also the national federation with the highest proportion of manufacturing sector affiliates, demonstrating a more solid connection with grassroots union members and rank-and-file workers prior to this strike. The union did, however, sign a Memorandum of Understanding with the MGMA in the months preceding the strike, and urged the workers to 'respect the rules' in Myanmar's emerging industrial relations (Aung and Aung, 2015). In no small part, such efforts by MTUF are necessary to create an orderly, consent-based mediation of capital-labour relations. Yet they also serve to bolster the unions' legitimacy in tripartite institutions both domestically (as committed to 'national development') and internationally (as committed to international industrial relations norms).

The MGMA also expressed a clear interest in the strike. As the lead employers' organization promoting investment in the garment sector, they

14. Interview, strike leader, Yangon, 21 February 2015.

15. Interview, strike leader, Yangon, 21 February 2015.

16. Interview, labour rights activist, Yangon, 7 March 2015.

are keen to see an expansion of high profile, particularly Western, buyers. An MGMA representative noted that H&M is sourcing from a dozen factories in Myanmar, has a liaison office in Yangon and is part of a supply chain shift inducing factories in China to relocate.¹⁷ Furthermore, as of early 2015, Adidas officially began sourcing from Myanmar, as had companies such as Marks and Spencer, Tesco, Primark and Decathlon. According to the MGMA representative, most of these companies were taking a similar approach — they wanted to diversify sourcing locations in Asia and were testing the waters by sourcing from one or two factories and potentially expanding from there. This is the first time in roughly 20 years that internationally recognized Western apparel brands have sourced in Myanmar, and current developments are deemed critical to the industry's expansion. Yet according to an ILO official in Yangon,¹⁸ many brands remain wary — even scared — about sourcing in Myanmar. They are fearful that if anything 'bad happens' they will be 'strongly hit on the head due to Myanmar's history'. If this were to happen, she noted, it is quite possible these brands would close operations and leave. In 2015, with EU funding and technical support, the MGMA issued guidelines for a voluntary Code of Conduct, designed to facilitate reputation-conscious buyers' orders and bring manufacturers into the (discursive) CSR fold — a 'challenge' in any context but pronounced in this case as it is of marginal concern for buyers from Korean and Japanese markets. For these reasons, the strike in Shwe Pyi Thar taking over the headlines caused much consternation among stakeholders keen to promote investment.

In sum, the striking workers experienced pressure from numerous fronts to end the strike after the first crackdown on 20 February. In the last week of February, 1,000 workers from E-Land remained on strike, with 150 having returned to work; 226 Costec workers remained on strike with 900 having returned to work; and 247 Ford Glory workers continued to strike, with 70 having returned to work.¹⁹ Workers came and went from the protest site and the numbers were fluid on any given day. The striking workers endured many hardships in addition to the police crackdowns and harassment, including pressure from families whom many came to rely upon for reverse remittances, and a lack of means to earn a living, thus relying upon donations for food and other basic necessities from labour support organizations and the Shwe Pyi Thar community.

On the final day of the strike, 4 March, only some 100 workers from the factories remained at the protest site. An estimated 1,800 of nearly 3,000 employees at the three factories had returned to work. The majority of those remaining were from Costec and Ford Glory factories. E-Land signed an agreement to resume work on the same day, mediated by the Shwe Pyi Thar

17. Interview, MGMA representative, Yangon, 27 February 2015.

18. Interview, ILO official, Yangon, 5 March 2015.

19. Interview, labour rights activist, Yangon, 7 March 2015.

Township Conciliation Body. Among other provisions, the agreement stated there would be no discrimination against striking workers who returned to work and base pay would increase by a daily rate of Ks 550.

Those who remained on strike were met with a second police crackdown on 4 March. In the process, police apprehended 14 striking workers and activists and two journalists after a clash between workers, police and deputized civilian vigilantes — identifiable by their red armbands emblazoned with the word ‘duty’ in Burmese. The apprehended workers were initially charged with Article 146, which states that if force or violence is used by any member of an unlawful assembly, ‘every member of such assembly is guilty of the offence’, punishable by up to two years in prison, a fine, or both. While a majority were released, five were sentenced to two years imprisonment under Article 505(b), which provides imprisonment for anyone making, publishing or circulating information which may cause public fear or alarm, and which may incite people to commit offences ‘against the State or against public tranquillity’. The five are labour activists Ko Sai, Thuzaw Kyi Win and Naing Zaw Kyi Win, and E-Land and Ford Glory worker-activists Myo Min Min and Naing Htay Lwin.²⁰ On 6 March, Costec and Ford Glory workers returned to work, reportedly for fear of 505(b) charges, and pressure from their families. None of their demands had been met.

There are numerous ongoing issues arising from the strike. In the ensuing months, E-Land changed their name to New KMC Apparel Company Ltd. and made new contracts with workers, thus nullifying any gains resulting from the collective agreement of 4 March. Management has said the change is in accordance with a new law to make standard contracts. Furthermore, the company has eliminated seniority (pay) privileges. So, every worker is now considered in the first year of employment. Fifteen labour leaders resisted and have refused to sign the new contract. At Costec, more than 150 workers were dismissed during the strike process and aftermath. They are still calling for reinstatement and a lawsuit is ongoing.

CONCLUSION

We have argued that the emerging labour regime in Myanmar’s export garment sector constitutes a nascent hegemonic regulatory assemblage shaped by forces and actors at multiple scales. This assemblage involves a mix of consent-seeking discourses and labour-relations practices, including social dialogue, labour law reform, and the legalization of workers’ institutional representatives, alongside coercive measures like the violent implementation of repressive colonial-era laws. Discursive norms centred on building a ‘clean’ image for garment manufacturing have been introduced, contributing

20. All five activists were released in April 2016 on a Presidential pardon.

to a changing capital accumulation strategy in the sector. These relations are varyingly scaled, perhaps most prominently in the Myanmar context through ‘opening’ to Western markets and investors and with them the discursive introduction of CSR and other norms and development practices. These engagements are predicated on transforming state–labour and state–society relations, namely the realization of citizen-based rights after a half-century of authoritarianism.

This pursuit of workers’ consent at the scale of the nation — through national trade union federations and discourses of national development — elicits the renewed centrality of the worker-citizen formation in developing world contexts. Yet through a case study at the Shwe Pyi Thar industrial zone, we have asserted that the hegemonic project is fraught, as workers’ may, in word or deed, contest the terms of their insertion into industrial capitalism, as well as union and other actors’ efforts to scale-up the workplace into national social dialogue that contributes to notions of ‘globalization with a human face’. This rejection challenges the normative assertion that workers should make ‘short term’ livelihood sacrifices for long-term national economic development planning — thus ‘flattening’ the scalar register of social and political action. While the strike ended in few-to-no demands being met, and several activists were sentenced to prison, the process sheds light on both the multi-scalar labour regime emerging in Yangon’s industrial zones and the forms of agency practised by workers employed therein.

Authoritarian tendencies are alive and well in and around Myanmar’s industrial zones. In this context, workers do not expect the state to act as a neutral arbiter of capital–labour relations, and the interests of trade union federations are perceived as removed from workers’ urgent livelihood concerns. This points to the necessity to rethink and reaffirm the significance of labour and class in understanding Myanmar’s transformation, particularly the implications of superimposing liberal-democratic labour politics and development hierarchies over deeply rooted authoritarian-coercive tendencies. This unanswered question has wide-ranging implications for possibilities and challenges for emancipatory struggles and social transformation in late-developing, authoritarian contexts.

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