

Asymmetric Bargaining between Myanmar and China in the Myitsone Dam Controversy: Social Opposition as David's Stone against Goliath

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In May 2011, the Sino-Myanmar relations was elevated to a 'comprehensive strategic cooperative partnership'. Soon after that, the unilateral suspension the China-backed Myitsone Dam by President Thein Sein has redefined the bilateral ties. What made Myanmar renege on its commitment which could entail innumerable compensation? This research employs the two-level game theory in analysing the Myitsone Dam controversy. Based on dozens of interviews conducted in Myanmar, I argue that the halt of the project was not entirely a voluntary defection of the Myanmar government. Amid democratisation in the country, the 'Save the Ayeyarwady' campaign against the dam was able to galvanise nationwide support through a series of awareness raising activities in 2011. With the rise of audience cost in Myanmar, China gradually conceded that the quasi-civilian government could no longer ignore societal actors in relation to foreign investment projects. Since 2012, China has been actively engaging with the opposition and civil society organisations in Myanmar. China's new diplomatic approach reflects the importance of social opposition in the international dispute. The Myitsone Dam case may have a wider application of using social opposition as bargaining resources in asymmetric international negotiations outside the China-Myanmar context.

Introduction

In face of the popular 'Save the Ayeyarwady' campaign against the construction of the China-backed Myitsone hydropower dam, then Myanmar's² President Thein Sein suspended the project during his tenure on 30 September 2011. Announcing the ground-breaking policy shift of the project, Thein Sein proclaimed that the government obliged to respect public expectation because it was elected by citizens. His government had to address the public concerns over the environmental and social impacts on the Kachin people and the downstream community of the Ayeyarwady River. He also regretted that the government was forced into a tight corner by opposition groups (New Light of Myanmar, 2011). The suspension of the hydropower dam project entailed a change in Sino-Myanmar relations and an increase in political accountability in Myanmar. More importantly, the change of the status quo of a committed Chinese project showed that Myanmar could counter-influence China in an asymmetric bargaining.

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² This paper names the country as Myanmar after 1989, and refers the country as Burma before the military government changed the country's name.

Beijing and Naypyidaw invariably refer their bilateral ties as '*paukphaw*' or fraternity. The term is exclusively used to depict Sino-Myanmar relations. It is debatable whether *paukphaw* is a diplomatic rhetoric, whereas there is little doubt about China's overwhelming presence in Myanmar. The first three decades of Sino-Myanmar relations were largely contentious. The intrusion of the defeated Kuomintang troops after the Chinese Communist Party took the regime, the infiltration of China's Cultural Revolution and the subsequent anti-Chinese riots, and Chinese Communist Party's material support to the Burma Communist Party all posed tremendous threats to Burma's sovereignty and governance. Bilateral ties began to normalise in the post-Mao's era (Callahan, 2003, p. 146; Maung Aung Myoe, 2011, Ch. 3). After the violent crackdown of the 1988 Uprising in Burma and the Tiananmen Massacre in China, the two regimes were bombarded by international community for violation of human rights principles. Diplomatic relations have been cemented as both countries found themselves on the same boat (Holliday, 2005, pp. 613-614). Through the 1990s and the 2000s, Myanmar became more dependent on Chinese investment in the wake of the US-led economic sanctions (Clapp, 2010, p. 412; Min Zin, 2010, p. 273; Zhao, 2011, p. 264). Furthermore, despite Myanmar's efforts in strengthening ties with Russia and Association of Southeast Asian Nations (ASEAN), China's diplomatic support remained critical to protect the regime from international pressure (Maung Aung Myoe, 2011, p. 186). The quasi-civilian government took the office in April 2011 and officially ended the five-decade dictatorship in Myanmar. Nonetheless, domestic actors and international observers presumed that the new government led by Thein Sein, who was the prime minister of the previous regime, as an extension of the military rule. Beijing anticipated that the diplomatic relation with Naypyidaw would not have fundamental change. Therefore, Sino-Myanmar relations was even elevated to a 'comprehensive strategic cooperative partnership' when Thein Sein visited China in May (Xinhua, 2011). The halt of the dam project undermined China's interest in the country. This also redefined diplomatic relations of the two countries.

To sustain economic growth at home, Beijing adopts multiple strategies to secure overseas energy agreements. Apart from obtaining contracts through open tender and project acquisition, it also strengthens diplomatic ties with the host countries (Frynas & Paulo, 2007, p. 239; Lai, 2010, p. 35; Andrews-Speed & Dannreuther, 2011, pp. 69-71;). The majority of the investment projects concluded by resource diplomacy are carried out by state-owned enterprises (SOEs) in line with China's 'going-out' strategy.³ The Myitsone Dam was one of them. The investment concern was not motivated by business interests of private companies but of China's national interests. In other words, the Myitsone Dam suspension was a Sino-Myanmar economic dispute that resembled the battle between David and Goliath. Myanmar, a country with much weaker state capabilities, has defied its giant neighbour. Furthermore, the international agreement was concluded in 2009, and the construction of the Myitsone Dam was underway. Myanmar's unilateral suspension of the dam was indeed a breach of contract. How could Naypyidaw unilaterally change the status quo of a committed Chinese investment project? Why did Beijing refrain from taking punitive measures against Naypyidaw for its defection?

³ The 'going-out' strategy was promulgated by the Chinese government in 2001. The policy facilitated Chinese enterprises to expand their business to international markets with the financial and political support of the Chinese government. See Economy and Levi (2014, p. 49).

Drawing on interviews with stakeholders and secondary data, this paper argues that the rise of civil society transformed the Myitsone Dam cooperation into a two-level game negotiation. Social discontent in this case was the stone of David in the fight against Goliath. In his seminal article, Putnam introduces a conceptual framework that explain how domestic politics and international cooperation were interlinked. In any international negotiation, each of the negotiating party acquires a 'win-set' which is determined by the benefit of the agreement or cost of no agreement. An agreement can be concluded only when 'win-sets' of the negotiating parties overlap (Putnam, 1988). Under the military dictatorship, societal actors were irrelevant to Myanmar's diplomacy. The military junta alone dictated the size of Myanmar's 'win-set' (benefit) of any international agreement. Amid democratization in Myanmar, opposition from societal actors reshaped the 'win-set' of the Myitsone Dam project. The size of Myanmar's 'win-set' diminished and no longer overlapped with China's. The mostly free and fair elections in late 2015 proved that Thein Sein and his Union Solidarity and Development Party (USDP) resolved to gain legitimacy through elections. Under the shadow of failure in upcoming elections for acting on the contrary to public opinion, there was a rise in audience cost in unpopular diplomatic decision (see Fearon, 1994; Weiss, 2014). In the two-level game negotiation, negotiators have to address two audiences, domestic actors and the international counterpart. Both have to secure domestic support and minimise international constraint (Smith, 1998, p. 633). The Thein Sein administration was caught in a dilemma of disappointing domestic constituents for fulfilling international obligations or compensating China for breaching the contract.

With the change of political environment in Myanmar, the newly emergence of civil society actors turned into the stone that was powerful enough to change the course of event. Despite Naypyidaw's claim that its hands were tied (see Schelling, 1960, pp. 28-29; Putnam, 1988, p. 440; Moravcsik, 1993, p. 28), the semi-democratic government retained flexibility in responding to social opposition. Only when preference of the societal actors and the government converge, David can pick his stone to hit the opponent. In other words, domestic constraint is a necessary factor to open possibilities to change the status quo of a committed Chinese investment project, but the outcome also depends on the executive's diplomatic intention. By studying Thein Sein administration's reaction towards anti-dam activities and Beijing's diplomatic adjustment, this paper argues that the suspension of the Myitsone dam is not entirely Naypyidaw's voluntary defection.

Controversy of the Myitsone Dam Project

The 152-meter tall Myitsone Dam was dubbed as 'China's Overseas Three Gorges Dam'. It is not only because of the scale of the project, but also 90% of electricity generated will be transmitted to China.⁴ The negotiation of the Myitsone Dam began in 2006. After the completion of feasibility test and the environmental impact assessment (EIA), the agreement was signed during then Chinese Vice-President (current President) Xi Jinping's visit to Naypyidaw in December 2009 (Wai Moe, 2011a). Upstream Ayeyarwady Confluence Basin Hydropower Co.,

⁴ As of December 2015, the Upstream Ayeyarwady Confluence Basin Hydropower Co. Ltd stated on its website that the Myanmar government decided to export the surplus of electricity generated from the dam to China.

Ltd. was formed subsequently. In the joint venture, the state-owned China Power Investment (CPI)⁵ controls 80% of the shares, while Myanmar's MOEP-1 and Asia World Company hold 15% and 5% of the shares respectively. The concession period of the project is set to be 50 years.

The project site is located at the Myitsone confluence in Kachin State where Mali Hka and N'Mai Hka rivers join to form the Ayeyarwady River. The dam would be the largest one among the seven-dam cascade with the capacity to generate 6,000-megawatt of electricity.⁶ The cost of the dam was initially estimated at US\$3.6 billion, and the investment for whole collection of dams was about US\$20 billion. Kachin residents lived in the Myitsone area were deeply worried about the adverse impacts of the project. The size of dam's reservoir would be 766 km², slightly bigger than Singapore's territory. Homeland and livelihood of 18,000 people from 47 villages would be inundated by the project. Moreover, safety of innumerable people living along the Ayeyarwady River would be at risk as the dam would be located 100 km away from the Sagaing fault line (International Rivers, 2011).

Apart from displacement in Kachin State, the Myitsone Dam had drawn nationwide concern. The Ayeyarwady River is the longest river in Myanmar that flows from Northern Kachin State, passes through Mandalay, Magway, Bago and Ayeyarwady divisions before entering into the Andaman Sea. The catchment area is as much as 46,000 km² (Biodiversity and Nature Conservation Association, 2009, p. 1). It is always regarded as the birthplace of civilization of Myanmar. Several kingdoms have had their capital in Bagan, Tharakhittara, Amarapura and Mandalay along the Ayeyarwady River. Over the centuries, the river has been the inspiration for stories, poems and songs. In terms of economy, the river is an important commercial waterway in the country. And it provides livelihoods for farmers and fishermen who live along the river (Hadfield, 2014). Disregarding the actual environmental and social impacts of the dam, people's affection towards the Ayeyarwady was the root cause of opposition. Damming on the Ayeyarwady would seriously damage the history, culture, and even national identity of people in Myanmar.⁷ In a nutshell, the Myitsone Dam is a national issue, with implications far greater than mere sympathy for the Kachin people.

Changing Political Environment in Myanmar

Since 2007, Kachin villagers and activists have been holding underground anti-Myitsone dam activities at great personal risk. They conveyed their disapproval of the dam through petition letters to Naypyidaw, prayer meetings, secret leafleting, makeshift posters, clandestine meetings in churches, and even bomb attack near to project site. This paper recognizes resistance from courageous Kachin people, but the 'Save the Ayeyarwady' campaign in central Myanmar was the main force that swayed the executive's diplomatic decision in 2011. For this reason, this

⁵ China Power Investment merged with State Nuclear Power Technology Corporation and formed State Power Investment Corporation in 2015.

⁶ Apart from the Myitsone hydropower station, Chipwi, Wutsok, Hpizaw, Kanglanhpu, Renam and Laza hydropower dams will be constructed on Mali Hka and N'Mai Hka rivers.

⁷ Interview with Kyaing Sein, a retired official from the Ministry of Mines and the President of the Myanmar Geo-Science Association, Yangon, April 2016.

paper mainly discusses the impact of the 'Save the Ayeyarwady' campaign on the suspension of the Myitsone Dam.

Amid democratization, political leaders make new arrangements for protection of rights and formation of independent institutions. Powerholders gradually accommodate new actors in the political system. Furthermore, division among ruling elites was a plausible indicator of a shift in political resources between the powerholders and the opposition. Discontent citizens are encouraged to use collective actions as bargaining tool to demand political and social changes. Nevertheless, the regime still holds discretion over the scope of rights enjoyed by citizens (O'Donnell & Schmitter, 1986, pp. 6-8; Tarrow, 1996, pp. 55-56; 2011, pp. 165-166).

The military government has ruled Myanmar for almost five decades. People had little confidence in Thein Sein's commitment to political reform. Prior to the inauguration of the quasi-civilian government, the military government has been releasing political prisoners, including the most prominent opposition leader Aung San Suu Kyi. A more credible sign of political reform was the parliamentary by-elections in 2012. Aung San Suu Kyi and her National League for Democracy (NLD) won 43 out of 44 seats in by-elections (Mizzima, 2012). It was evident that the government started to accommodate new political actors in the political system. Media censorship was relaxed in 2011. Pre-publication censorship was formally lifted in the following year (Kyaw Yin Hlaing, 2012, p. 207; Holliday, 2013, p. 95; Fink, 2014, p. 224). Additionally, although the parliament was dominated by the USDP, lawmakers resembled the opposition in scrutinizing executive's performance. In *Pyithu Hlattaw*, the House of Representatives, Speaker Shwe Mann was removed from the USDP chairperson before the 2015 elections (Ei Ei Toe Lwin & Htoo Thant, 2015). It was an undisputable sign of the division among ruling elites. Noting that political opportunities are always a matter of perception rather than a set of objective conditions (Tilly, 1978, p. 133; Tarrow, 2011, pp. 164-165), in the first few months of the quasi-civilian government, societal actors remained dubious about the political reform. Throughout the movement, campaign organizers were careful to avoid directly confronting the government when mobilizing public support. Non-confrontational public events inadvertently galvanized popular support for the movement and increased the audience cost for the government to continue the hydropower dam project.

David Discovered Stones in the Anti-Dam Campaign

The 'Save the Ayeyarwady' campaign was the first major and the most remarkable social movement in Myanmar. The campaign was initiated by a small group of environmentalists who had strong media network, and later joined by elites from different sectors, including political opposition, civil society organizations (CSOs), academics, retired technocrats and mainstream media. A CSO leader in Yangon attributed the success of the movement to its vivid and diverse elements in the campaign. Painters and cartoonists enlightened the public with their hidden message in their artwork. Songs on the Ayeyarwady were sung and shared by ordinary people. Literary talks delivered by historian and writers highlighted the cultural value of the river. Environmentalist backed up the movement with scientific research. More outspoken activists

even attributed the Myitsone dam crisis to an undemocratic political system.⁸ There was no central coordination in the campaign. Different network initiated activities to oppose the dam spontaneously.⁹

The first phase of the ‘Save the Ayeyarwady’ campaign was mainly confined to environmentalist and activist network. Since the Memorandum of Understanding of the Myitsone Dam was signed in 2006, a small group of environmentalists have been concerning the development of the project. In November 2009, Soe Win Nyein, a famous environmental journalist and a member of environmental group Green Hearts, organized a 26-member mission to Kachin State to document the nature as well as people’s livelihoods along the river. The team, comprised of journalists, photographers, documentary producers and writers, traveled from Mandalay to Kachin’s Bamaw along the Ayeyarwady River by boat. In 2010, Soe Win Nyein organized another two boat trips for the same cause. These study tours laid the groundwork for the campaign. To alert the public that the potential adverse impacts of the mega dam project, the boat trip participants organized the first art exhibition in 2010.¹⁰ In 2010, at least five exhibitions on environmental issues were held. Presuming that mentioning the Myitsone Dam or the Ayeyarwady River was too politically sensitive, event organizers delivered their message implicitly. Although the exhibitions have already acquired permissions from the Ministry of Information’s censorship board, Special Branch Police¹¹ and plainclothes informants were regular visitors of the shows.¹² Event organizers were anxious about their personal security, but Green Hearts took risk to name the show as ‘Save the Ayeyarwady’ in the second art exhibition. Moreover, the group invited celebrities to participate in the event. Soe Win Nyein was questioned by Special Branch Police, but he was not arrested. Myint Zaw, a 2015 Goldman Environmental Award recipient for his contribution in the anti-Myitsone Dam movement, also organized art exhibitions since 2010. A series of art exhibitions called ‘The Art of Watershed’ Parts 1-3 ran from February to March 2011. The shows were always accompanied by environmental talks. In the early stage of political transition, exhibition organizers and speakers were testing boundary of their freedom at every turn.¹³ They mainly promoted the events through their friends, but a network of activists for the ‘Save the Ayeyarwady’ campaign has been expanding.

Around July 2011, an environmental baseline report of the Myitsone Dam was leaked to CSOs. Technical information against the dam helped the ‘Save the Ayeyarwady’ campaign enter into a second phase. China’s Changjiang Institute of Survey, Planning, Design and Research (CISPDR) was entrusted by the CPI to conduct an EIA for the Myitsone Dam project in 2009. CISPDR commissioned Myanmar’s Biodiversity and Nature Conservation Association (BANCA) for the environmental baseline survey (International Rivers, 2011). BANCA noted that the cascade of dams in Kachin State would cause severe damage to the biodiversity in the region. Kachin

⁸ Interview with Kyaw Thu, Director of Paung Ku, Yangon, March 2016.

⁹ Interview with Myint Zaw, Organizer of the ‘Save the Ayeyarwady’ Campaign, Yangon, December 2015.

¹⁰ Interview with Soe Win Nyein, Member of Green Hearts, Yangon, January 2016.

¹¹ Special Branch police is one of the special departments of the Myanmar Police Force. They are tasked with monitoring political dissidents who are deemed threats to political stability. See Selth (2012).

¹² Interview with Soe Swe, pseudoname, Curator of an art gallery, Yangon, December 2015.

¹³ Interview with Nwet Kay Khine, Volunteer of ‘Save the Ayeyarwady’ Campaign, Yangon, December 2015.

people's cultural heartland would also be destroyed. As such, it did not recommend the construction of a mega dam at the Myitsone confluence. To reduce the adverse impact to the environment and inhabitants, it suggested to substitute the Myitsone Dam with two smaller dams (Biodiversity and Nature Conservation Association, 2009).¹⁴ Prior to the completion of the EIA, the construction of the Myitsone Dam began in December 2009 (International Rivers, 2011). Furthermore, the final report written by CISPDR contradicted BANCA's findings. The news was disseminated among environmentalists, activists, journalists and concerned citizens on social media. The public relations crisis made citizens doubt the genuineness of the EIA process. The anti-dam campaign was fortified with scientific data in addition to cultural appeal to the public.¹⁵ Tun Lwin, retired Director-General of the Department of Meteorology and Hydrology, was one of the first technocrats who stood up against the dam. He was joined by other retired government officials in the movement. Ohn, former Director of the Forest Department and Cho Cho, retired Deputy Director of the Irrigation Department, frequently challenged the environmental and social impacts of the dam with technical perspective in their public talks and interviews. These senior figures were not in office, yet they were well respected by succeeding decision makers in their respective ministries.¹⁶

Media reports on the Myitsone Dam sprung up due to relaxation of media censorship and persistence from journalists to circumvent authorities' restriction. Than Htut Aung, Chief Executive Officer of Eleven Media, was the first media heavyweight who spoke out on the Myitsone Dam. In June 2011, he criticized the government acted like a client in the Sino-Myanmar relations (The Nation, 2012). At that time, Eleven Media issued two weekly journals in 2011. There was at least one article on the Myitsone Dam every week from June to September.¹⁷ Reports on Eleven encouraged more journals to report on the Myitsone Dam.

On 11 August 2011, Aung San Suu Kyi issued an open letter to Thein Sein to call for a review of the Myitsone Dam project. The controversy of the Myitsone Dam was in put in the spotlight, and the anti-dam movement rose to a new level. In August and September, as opponents of the dam became more outspoken, mobilization against the dam project was more visible. Different sectors initiates signature campaigns and literary talks against the dam. The 88 Generation Peace and Open Society (88 Generation) collected 1,600 signatories, political leaders, film directors and actors, journalists and writers, were among the signatories (The Irrawaddy, 2011). Myanmar Writers and Journalists Association gathered about 3,000 names from members and affiliates across the country.¹⁸ There were also signature campaigns initiated by environmental groups, ethnic activists, youth groups; poets and individual celebrities in different parts of the country.¹⁹ Apart from signature campaigns which mainly targeted people with political consciousness, literary talks appealed to the general public. The turnout of literary talks varied from hundreds up

¹⁴ This author got the leaked report from an environmentalist based in Yangon in July 2015.

¹⁵ Interview with Myint Zaw, December 2015.

¹⁶ Interview with Kyain Sein, April 2016; and interview with Than Nwai, retired Deputy Director-General of the Department of Forestry, Yangon, April 2016.

¹⁷ Interview with Nay Htun Naing, Executive Editor of Eleven Media, Yangon, December 2015.

¹⁸ Interview with Khin Maung Zaw, Member of Myanmar Writers and Journalists Association, Naypyidaw, January 2016.

¹⁹ Interview with Soe Win Nyein, January 2016; and interview with Kyaw Thu, April 2016.

to a thousand people. Traditionally, literary talks were featured with euphemism and satire to avoid direct criticism of the authorities. In the talks related to the Myitsone Dam, however, a speaker opened his speech by plainly saying ‘stop the dam’. The audience responded with long applause. This kind of political expression was phenomenal. Moreover, speeches by famous speakers were recorded and circulated to rural areas. When independent commentary was not popular on mass media, rural residents were eager to access to alternative information.²⁰

The anti-dam movement was snowballing before reaching its climax in the third week of September 2011. Multiple public events mushroomed simultaneously. Green Heart’s ‘The Sketch of a River’ art exhibition attracted about 5,000 visitors on 22-25 September. Aung San Suu Kyi also attended the event. She even urged people to be united for the cause.²¹ On 23 September, two seminars were organized by different groups of environmentalists (Sai Zom Hseng, 2011). On the following day, around 500 CSO members attended a meeting to demand the suspension of the dam project.

Outside Yangon, political freedom was more stringent. Activists recalled that they were always followed and interrogated by the authorities. However, they were able to bypass unwanted attention with contingent plans. For example, in a boat trip in Mandalay Division, that aimed to spread the message to the rural area, the ostensible activity was tree-planting on river bank, participants the boarded on a boat to their destination.²² Similar to events in Yangon, CSOs situated in towns along the Ayeyarwady River also held literary talks and art exhibitions to solicit public support for the dam suspension.²³

This paper does not intend to exhaust the public activities against the Myitsone Dam project, but to outline a variety of stakeholders and collective actions involved in the campaign. Without objective opinion polls, social participation on anti-dam events is an alternative way to gauge public opinion. The emergence of societal actors redefined the size of Myanmar’s ‘win-set’ in the Myitsone Dam agreement. They called for a cancellation or at least a temporary stop of the project. The quasi-civilian government was in a dilemma of renegeing on an international agreement or defying domestic audience’s expectation.

‘Audience Cost Dilemma’ of the Myanmar Executive

Thein Sein invoked domestic constraint to justify the suspension of the Myitsone Dam. Considering that Myanmar was not a democracy, the quasi-civilian government should be able to maintain leeway in responding public concerns. China could take Myanmar’s self-proclaimed domestic constraint as ‘cheap talk’. In order to convince Beijing that its defection was involuntary, Naypyidaw ought to display a high audience cost for continuing the project. Apart

²⁰ Interview with Maung Maung Oo, Member of *Sein Yawl Soe* (Green Activities), Mandalay, July 2015; interview with Nwet Kay Khine, December 2015.

²¹ Interview with Soe Win Nyein, January 2016.

²² Interview with Soe Hein, Member of *Sein Yawl Soe* (Green Activities), Mandalay, July 2015; and interview with Maung Maung Oo, July 2015.

²³ Interview with Myint Zaw, December 2015.

from public opposition that communicated through spontaneous mass mobilization, Nyapyidaw further signalled its resolve by declaring the suspension of the dam construction. Going ahead despite the Myitsone dam controversy would lead to a hike in audience cost.

Fearon pinpoints that leaders will be penalized by domestic audience for making empty threats in an international crisis and then back down. He does not rule out that non-democracies can be subject to punishment from domestic actors for reneging on its threats. Yet, he argues that democracies with stronger domestic audience are less likely to back down lest punishment from constituents (Fearon, 1994; see also Prins, 2003; Kurizaki & Whang, 2015). Weeks distinguishes autocracies into four types. She states that non-personalist autocracies are more likely to address to powerful domestic actors. Furthermore, non-personalist civilian regimes have higher ability to sanction incompetent decision in international crisis (Weeks, 2014). As such, the underlying assumption of the audience cost is domestic actors' ability to sanction the leaders for their incompetence in foreign policy. Audience cost was firstly introduced by Fearon but the scholarship has been evolving. Leventoglu and Tarar (2005) and Chaudoin (2014a, 2014b) expand the audience cost's application to non-crisis international bargaining. Wiess (2014) further relaxes the definition to political costs incurred in disappointing domestic actors in international disputes without prior threats or promises made by political leaders. Drawing on recent audience cost scholarship, this paper contends that the Thein Sein administration was conditioned by domestic audience in its economic cooperation with China. The more popular the collective actions against the Myitsone Dam, the higher audience costs it had to pay. Nyapyidaw could suppress social opposition, whereas citizens would punish the ruling government with their votes.

Protest management helps to signal autocratic leaders' diplomatic intention in an international negotiation. When an autocratic government decides to display willingness to cooperate with the counterpart, it would incline to suppress protests early on because the cost of repression escalates when opposition grows. Conversely, by allowing protests to develop, the government stands firm in an international dispute.²⁴ It demands the opponent to expand the 'win-set', offer concession, in order to reach an agreement. Prior to mid-September, Nyapyidaw sent mixed signals about its preference over the Myitsone Dam. Most of the anti-dam activities were tolerated by the authorities, but the government insisted to continue the project. Organizers were able to acquire permission to hold public events. Moreover, despite media censorship was still in place, reports on the Myitsone Dam crisis were still allowed to be published after they were mellowed by the censorship board. By and large, none of the key organizers of the 'Save the Ayeyarwady' campaign has faced arbitrary detention. While some organizations remained vigilant in supporting in the movement, many others were encouraged to engage in the movement when they perceived more political space in mid-2011.

In the aftermath of the leak of the BANCA report, the government was accused of compromising the EIA process. On 9-10 August, two articles titled 'Perpetual Natural Heritage Relayed with Good Volition' and 'We Also Love River Ayeyarwady' were published on the state-owned

²⁴ Ibid.

newspaper *The New Light of Myanmar*. The first one was written by a staff at the Ministry of Electric Power. Zaw Min, Minister for MOEP-1, later declared that that he was the author of the article (Mizzima, 2011a). In the commentary, he stated that the country could benefit from the Myitsone Dam for its energy supply and job creation. Moreover, he used considerable length of the article to defend the EIA process of the project (A Staff Member of MEPE, 2011). The other article complained that criticism on the Myitsone Dam circulated on internet was fabricated by exiled dissident (Kyaw Min Lu, 2011). Apparently, simmering opposition against the project became a threat to the government. Otherwise, the government did not have to launch its media campaign to back the project.

In a press conference on 10 September in response to public outcry against the Myitsone Dam, Zaw Min reiterated that the government would not give up the project. He also deplored that the growing attention on the project was only because people blindly followed the popular issue (Mizzima, 2011a). Zaw Min's provocative comments triggered more pushback from the public. While Zaw Min stood firm to continue the Myitsone Dam, division among the elites was revealed to the public. The MOEP-1 held a workshop called 'Impact of Hydropower Projects in Ayeyarwady Basin on Ayeyarwady River and Natural Environment' in Naypyidaw on 17 September. Alongside ministers from various ministries and the CPI officers, Members of the Parliament, scholars, CSOs and journalists were invited to share their opinion on the Myitsone dam.²⁵ Soe Thein, then Minister for Industry No. 1 and Industry No. 2, questioned the credibility of the EIA process that was controlled by the CPI. He requested to conduct a comprehensive environmental and social impact assessment for the project. Win Tun, then Minister for Environmental Conservation and Forestry, worried that long-term disadvantages of the dam would outweigh economic benefits (Wai Moe, 2011b). Seeing that the opposition in the Myitsone Dam project had been mounting, Zaw Min softened his position and agreed to discuss about the project in the Parliament. Some political activists and critics considered Zaw Min's proposal as no more than a token move because they perceived the parliament and the executive were a unitary actor (Mizzima, 2011b). Nevertheless, a source closed to Thein Sein explained that the President was indeed under great pressure amid the crisis. Worrying the growing opposition against the dam would turn into a popular uprising, he made the decision to shelve the project before the discussion in the Parliament took place.²⁶

Some argued that the President had no choice but to stop the Myitsone Dam because of the outbreak of civil war in Kachin State in June 2011. The Kachin Independence Organization (KIO) that effectively controls part of the Kachin State denounced the Myitsone Dam construction. In March 2011, the KIO issued a letter to then Chinese President Hu Jintao. In the letter, KIO warned that it would not be responsible for the outbreak of the civil war if the CPI continued the hydropower project in KIO's territory (Lanyaw, 2011). The KIO proved its threat was credible. The 17-year-old ceasefire agreement between the Myanmar army and the KIO-controlled armed group broke down on 9 June. The construction of the dam became paralyzed. However, this

²⁵ Interview with Maung Maung Aye, retired Rector of the Yangon University (Distance Education), Yangon, January 2016. He was a participant in the Naypyidaw workshop.

²⁶ Interview with Zaw Htay, Director of President's Office, Naypyidaw, January 2016.

paper would argue that the civil war in Kachin State is not the main reason for the project suspension. First, Thein Sein did not need to declare a close to 5-year suspension of the dam, unless he had foreseen that the civil war would last for five years. A definite duration for the suspension would leave him with little flexibility in diplomacy. Second, the outbreak of the civil war can be considered as a *force majeure* condition that made the construction unable to proceed. None of the agreement party would need to bear responsibility for the project delay if they agree that the unexpected condition arisen cannot be overcome.²⁷ As such, Thein Sein could negotiate with the CPI for the suspension of the project in line with the contract terms. Third, Thein Sein did not inform the CPI nor Beijing about his decision to suspend the dam in advance.²⁸ It appears that from the outset, Thein Sein was determined to change the status quo of the project unilaterally. Once Thein Sein declared the project suspension, which was widely welcomed by the public, reneging on his promise would push the audience cost up. It may even pose instability to the new government. In this regard, the ‘tying hands’ approach resembles Schelling’s brinkmanship to deter the opponent to escalate the conflict (Schelling, 1960, p. 200).

Opposition party helps to confirm the incumbent’s signal in international disputes. With competing political interest, there is little incentive for the opposition party to collude with the incumbent (Schultz, 1998). Aung San Suu Kyi’s reluctance to give her position on the Myitsone Dam showed that she tried to avoid the ‘audience cost dilemma’. In 2013-2015, Aung San Suu Kyi and her party have been asked for a number of times about their views on the future of the Myitsone Dam. The standard answer they offered was the NLD was not a ruling party and had no responsibility in this issue. As Aung San Suu Kyi expected that the NLD would form the next government, she felt uneasy that the Thein Sein administration left the Myitsone Dam problem to her (Vandenbrink, 2014). It is anticipated that China would take legal action against Myanmar if her government cancelled or continued to shelve the project. On the other hand, Aung San Suu Kyi comprehended that restarting the project would decrease her popularity. Her diplomatic calculation indirectly confirmed that audience cost in Myanmar was not a rhetoric.

China’s Perception of Myanmar’s Domestic Constraint

Demonstrating a high level of audience cost in defying domestic constituents’ expectation was insufficient to yield concession from the negotiating counterpart. The foreign country must perceive the signal sent by the opponent as credible (Weeks, 2008; Weiss, 2014). Without mass collective actions against the project, Beijing was not convinced that Naypyidaw had no choice but to halt the Myitsone Dam in the beginning. Starting from 2012, however, Beijing adopted a new approach to gain support from Myanmar’s non-state actors for the project resumption. This reflected that it indeed gradually recognized a rising audience cost in Myanmar during the political transition period.

²⁷ In the Memorandum of Agreement (MoA) of the Myitsone Dam acquired by this author, *force majeure* is included in article 6 of the MoA. It is assumed that the contract also contains the same clause.

²⁸ Interview with Zaw Htay, January 2016.

Beijing was not uninformed about domestic opposition against the Myitsone Dam. Besides the resistance from local people, extensive media coverage on the Myitsone dam also indicated public disapproval of the project. Nevertheless, the CPI and Beijing have misjudged the changing political environment in Myanmar. As the Myitsone Dam represents China's national interest, and at least sub-national interest in Myanmar (Steinberg & Fan, 2012, pp. 309-310), Chinese investors used to be dependent on Naypyidaw to handle domestic problems to ensure the smooth implementation of those projects. Deviating from its 'government-to-government' approach in handling bilateral relations, Beijing's diplomatic targets in Myanmar began to diversify. From 2012 onwards, Beijing has been inviting CSOs, journalists and opposition parties to China. These trips were under different umbrellas such as the Chinese Communist Party, China-Myanmar Friendship Association, China NGO Network for International Exchanges and Yunnan University. Some of the trips covertly advertised China's economic success to Myanmar visitors and argued energy supply was essential for industrialization in Myanmar. Some other trips explicitly lobbied the restart of the Myitsone Dam in which discussion with the CPI was part of the programme.²⁹ According to the NLD Headquarters, the NLD has sent at least 11 delegations to China in 2013-2015. This has not yet included the visits by other NLD members who traveled on a different capacity. The 88 Generation, Centre for Social and Economic Development, Kachin Peace Network, Myanmar Times have also been invited to China in the wake of the Myitsone dam controversy.

Inside Myanmar, the CPI and the Chinese embassy also reached out to CSOs, journalists and political opposition. For example, Soe Nyunt, an NLD's environmental committee member, has been approached by the CPI for three times after the suspension of the dam.³⁰ Other Kachin activists in Myitkyina have also been approached by the CPI.³¹ CPI staff also attended some of the CSO activities to carry out their public relations work.³² China's diplomatic engagement with track-two players are beyond the author's research capacities. These accounts elucidated that Beijing could no longer only rested on Naypyidaw's political will for the future of the Myitsone Dam. Noting an increase in audience cost in Myanmar to continue the controversial Myitsone Dam project, China attempted to increase Myanmar's 'win-set' by securing endorsement from influential political and social actors in the country. Acknowledging Naypyidaw's hands are tied, the Chinese company refrained from taking legal actions to pressure the Myanmar government to restart the project. An audience cost mechanism in the Myitsone Dam case is illustrated in Table 1.

²⁹ Interview with interview with Min Zarni Lin, Senior Research Fellow of Centre of Economic and Social Development, Yangon, July 2015; interview with Khon Ja, Coordinator of Kachin Peace Network, Yangon December 2015; interview with Kyaw San, pseudoname, a source closed to Centre for Strategic and International Studies, Yangon, December 2015; and interview with Kyaw Thu, April 2016.

³⁰ Interview with Soe Nyunt, Member of NLD's Environmental Conservation Committee, Yangon, April 2016.

³¹ Interview with Dou Nyoi, Co-author of "Voices of Unheard", Myitkyina, June 2015.

³² Interview with Soe Win Nyein, January 2016.

Table 1. Audience Cost Mechanism in the Myitsone Dam Case

Audience Cost	Executive's Preference	China's Perception	Project Outcome
high political cost (mobilization of public opinion against the project)	toleration of protest (most of the activities of the 'Save the Irrawaddy' campaign were authorized by the authorities); declaration of project suspension (self-imposed audience cost for renegeing on promise)	recognition of domestic constraint in Myanmar (adjustment in diplomatic strategy; an increase of engagement with non-state actors in the host country)	project suspension (a close to 5-year suspension; the next government to decide the future of the project); no punitive measures imposed by China (the Chinese investor refrained from taking legal action against Myanmar amid project suspension)

Implications

The change in political environment in the host country accounts for David's victory in combatting Goliath in the two-level game negotiation. In this asymmetrical bargaining in the Myitsone Dam controversy, the rise of social opposition in Myanmar has increased the country's leverage. The overlapping of the win-sets of both negotiating parties is a pre-requisite for concluding an international agreement. If domestic actors reject the tentative agreement, negotiation at international level will break down. Amid democratization in Myanmar, societal actors demand to overturn a signed Myitsone Dam contract, the quasi-civilian government was caught in an 'audience cost dilemma'. Beijing was shocked by the unilateral suspension of the mega project by its ally. Its shift in diplomatic approach towards Myanmar illustrated that it conceded Naypyidaw's hands were tied. As a result, Beijing did not punish its counterpart for its involuntary defection.

The Myitsone Dam controversy between China and Myanmar does not only have theoretical implication to international asymmetric bargaining, but also empirical implication to Chinese overseas investment. When international economic cooperation was concluded through bilateral agreements, changes in political environment in the host countries may inevitably threaten China's national and business interests. In 2015, the Cambodian Prime Minister suspended Sinohydro's Stung Chhay Areng hydropower dam till the end of his term due to social discontent (Parameswaran, 2015). In the same year, the Sri Lankan government temporarily halted the construction of China Communications Construction Company's Colombo port city because of environmental concerns (Aneez & Sirilal, 2016). These examples show that despite an asymmetry in state capabilities, Chinese projects may encounter setbacks when domestic actors in the host country flex their muscles. Nonetheless, social opposition alone cannot guarantee that the project will be overturned. It also depends on executive's preference of the host country. In a protest against China-backed coal power plant in Bangladesh, four protesters were killed and a hundred were injured in April 2016 (Vidal, 2016). Protest repression signals government's

preference to continue the project. By choosing to honour international obligation, the Bangladeshi government should expect to pay domestic audience cost.

Both Beijing and Chinese companies are increasingly exposed to potential business risk of their overseas investment triggered by social opposition in host countries. In response, Chinese companies start to emphasize more on corporate social responsibilities and project transparency (Yeophantong, 2014). In 2013, China's Ministry of Commerce and Ministry of Environmental Protection jointly issued the 'Guideline for Environmental Protection in Foreign Investment and Cooperation'. Even though there is no enforcement mechanism for Chinese companies' non-compliance of the guidelines, it shows that Beijing is compelled to accept international norms and take pre-emptive measures to avoid a renegotiation of contract prompted by social opposition in the host countries. Nonetheless, without domestic endorsement in the host countries, Chinese investment projects that result from international economic cooperation out of bilateral relations will continue to be a risky business.

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