

RIGHT OF SUBROGATION IN INSURANCE

PhD DISSERTATION

PHWAY PHWAY KHAING

**DEPARTMENT OF LAW
UNIVERSITY OF YANGON
MYANMAR**

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Abstract

The right of subrogation in insurance is a fundamental legal concept that plays a crucial role in facilitating the resolution of insurance claims. When an insured has been indemnified by the insurer for an insured loss, the insurer can step into the insured's shoes and take over whatever rights the insured has against a third party responsible for causing the insured's loss. The right of subrogation is one of the derivative rights under the equitable doctrine. The doctrine of subrogation and the doctrine of indemnity are interrelated as the insurer could only recoup or claim the right of subrogation from the third party when he has indemnified the insured. Due to the relationship between indemnity and subrogation, neither the insurer nor the insured could profit from their respective losses. An insurance policy may contain a clause that expressly provides an insurer the right of subrogation. When subrogation rights are not expressly stated in contracts or laws, an insurer may be able to pursue subrogation based on a right established by the courts. According to E.R. Hardy Ivamy's *General Principles of Insurance Law*, subrogation rights primarily stem from four sources: rights deriving from contracts, rights under statutes, rights arising from torts, and rights over subject-matter. This paper will explore the complexities of the right of subrogation, including its legal basis, purpose, and practical applications across various types of insurance policies. Since there is no statutory provision regarding subrogation rights in Myanmar, there are difficulties in suing for this right. For this reason, it intends to seek the development of a legislative framework for the subrogation right in the Myanmar insurance sector. This paper also applies a qualitative approach as its methodology.

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