

# Democratic Governance in Myanmar



Empowered lives.  
Resilient nations.

## Current trends and implications

### 1. Background

The purpose of this document is to take stock of key trends in Myanmar's transition towards democracy from the perspective of a multilateral development agency and, on this basis, to suggest possible implications of those trends for policy and international development cooperation. This analysis updates the findings of UNDP's *Democratic Governance in Myanmar: Situation Analysis (2012)* and presents an integrated and holistic perspective of democratic governance in Myanmar. It aims to contribute to the development of a more coordinated, targeted and strategic approach to reforms in this area. The analysis is based on the findings of interviews and meetings with government counterparts, political parties, non-governmental institutions, UN agencies and other informed individuals.

#### UNDP in Myanmar

*Until 2013, UNDP's operational mandate in Myanmar was restricted by a 1992 Executive Board decision. The mandate restrictions were lifted by the Executive Board in January 2013 and in April UNDP and the Government of Myanmar agreed on a Country Programme Action Plan (2013–2015) which aims, inter alia, to promote democratic governance through partnership in the areas of Development Effectiveness, Rule of Law and Access to Justice, Public Administration and Parliamentary Support.*

### 2. Key Trends

Since the first version of the *Democratic Governance in Myanmar: Situation Analysis* was completed in 2012, the country's transition has progressed considerably along the Government's framework of the Four Waves of Reforms:<sup>1</sup>

1. Political and democratic reforms
2. Socio-economic reforms
3. Governance and administrative reforms
4. Private sector development

While the transition toward participatory democracy and rule of law is building on the strong reform momentum which became apparent in 2012, it also reflects several new trends discussed in this analysis. These trends present both opportunities and challenges for the continued transition, and are likely to shape the reform context and agenda up to 2015 and beyond. The following analysis presents first the most significant societal and governance trends likely to have a considerable influence on the transition, followed by the institutional and operational trends that will affect how reforms can be managed.

**Evolving peace process.** There are signs of progress toward the resolution of long-standing internal conflicts and independence movements. Recent talks between government and ethnic groups indicate genuine commitment to reach a mutually acceptable compromise, although considerable skepticism remains among some ethnic groups. The flare-up of fighting in Kachin State between mid-

<sup>1</sup> President U Thein Sein, Speech to Union ministers, Region/State chief ministers, and deputy ministers (delivered at Naypyitaw, 9 August 2013): <http://www.president-office.gov.mm/en/?q=briefing-room/speeches-and-remarks/2013/08/11/id-2536>.

2011 and early 2013 highlights the fragility of the peace process and the need to move beyond ceasefire agreements to political dialogue and settlement, addressing the issues underlying long-standing ethnic conflicts.

**Intensified communal violence.** Meanwhile, religious tensions have become an increasing threat to national stability and reveal glaring gaps in administration and governance. The festering crisis in Rakhine State and a wave of communal clashes in other parts of the country are feeding fears and prejudice among and between religious groups in Myanmar. This trend represents arguably the biggest challenge to further democratization as the reform process risks being derailed by security threats, societal division and mistrust. Government's will and ability to address this fractious situation will determine how effectively these risks can be mitigated.

**Federalism on the agenda.** Unresolved ethnic conflicts and the demand for greater regional autonomy have become strongly tied to debates about Myanmar's Constitution, pushing the question of federalism to the forefront of the national agenda. The new chapter of a centuries-old power struggle is characterized by greater opportunities for previously disparate groups to meet and discuss their demands, and increased exposure to outside expertise. As a result, parties to the debate are better informed on theories and models of federalism and the constraints of the current constitutional framework. Many questions remain about how a federal system could best distribute power in a way seen as legitimate from both a regional and ethnic perspective.

**Devolution of power.** Decentralization and further devolution of executive powers is on the government agenda,<sup>2</sup> although there is as yet no agreed, detailed strategy to address current uncertainties about the roles of State and Region departments and imbalances in the political, administrative and fiscal dimensions of power sharing. While federalism continues to generate debate between and among government, civil society and ethnic groups, power shifts within government agencies indicate that highly centralized administrative structures are giving way to diffusion of authority. Though still largely sporadic, moves to delegate decision-making to the sub-national level have the potential to speed up responsiveness and to enhance government efficiency. The willingness of Union government officials to cede power to lower authorities bodes well for further decentralization to the level of townships.

**New momentum for constitutional reform.** The legislative and executive branches of Government have acknowledged the limitations of the governance framework established under the 2008 Constitution and have initiated a review process. At the same time, the process might be restrained by a short time frame for public consultation and for reporting by the Parliament's Joint Constitutional Review Committee.<sup>3</sup>

**Objectives of the Constitutional Review Joint Committee**

- a) *Developing the constitution that guarantees perpetuation, stability and development of the Republic of the Union of Myanmar;*
- b) *Pursuing lasting peace by building up national reconciliation among ethnic groups;*
- c) *Maintaining pace of democratic transition drive by the State and its people.*

**Expanded democratic space.** The space for people to engage with each other and with government, and for the press to report more freely on politics, has expanded greatly over a short period of time. This trend was already evident in mid-2012, but has accelerated and consolidated over the past twelve months with several positive developments:

- Shift away from censorship and toward media law reform and development
- More open attitude in many state institutions about sharing information
- Increasing recognition by government of the role of civil society in democracy
- Improved awareness among the public about opportunities to participate in government

<sup>2</sup> *Framework for Economic and Social Reforms* (22 November 2012) Ch 7.

<sup>3</sup> Republic of the Union of Myanmar, Pyidaungsu Hluttaw, *Objectives, term, duties, power, procedures and rights of Republic of the Union of Myanmar Constitutional Review Joint Committee*, Notification No 59/2013 (27 August 2013).

**Guaranteeing fundamental rights.** While the trends toward more personal freedom, more choices, and less fear and uncertainty are clear, in other aspects of life freedoms are failing to advance or are even diminishing. Conflicts around land – the legacy of a long history of land-grabbing allegedly carried out by military authorities and companies – appear to be increasing and many complainants are uncertain of what steps to take to assert their rights. Overall, there remains a significant challenge to translate international human rights law and constitutionally guaranteed fundamental rights into a practice that is predictable and fairly administered to the people across Myanmar. While a National Human Rights Commission has been established, its mandate and capacity to make significant gains toward guaranteeing fundamental rights will require substantial support.

**Strong parliament.** As an understanding of democratic governance takes hold and the overwhelming task of legislative reform has revealed itself,<sup>4</sup> two key trends have emerged. First, pressures to accelerate the law reform process have led to a raft of new legislation being hurriedly pushed through parliament. Second, a new power dynamic vis-à-vis other branches of government is manifesting itself in practices such as summoning Ministers and other government officials before parliament for questioning: evidence of the legislature exercising its function according to the separation of powers. On the other hand, parliament's decision to impeach the entire bench of the Constitutional Tribunal indicates a willingness to cross these same boundaries.

**Changing leadership landscape.** The Union President has taken the lead in promoting reforms, and has remodeled his administration to suit this objective. The President's decisions and position on reform have been challenged various times by the legislature, and reportedly, by the military. The political landscape has started to look increasingly complex, and its diverse actors defy superficial classification as 'reformers' and 'hardliners'. Considering this, the long-term prospects for the reform agenda and how it will be taken forward appear less certain.

**Planning challenges.** The 2012 Framework for Economic and Social Reforms sets out the key policy priorities until 2015 with a view to Myanmar becoming a 'modern, developed and democratic nation by 2030'.<sup>5</sup> This is intended to support the anticipated twenty-year National Comprehensive Development Plan, which the Government is at present working to finalize. While the Government remains focused on achieving a host of reform goals by 2015, translation of the vision into policies has been challenging and the capacity for tracking progress through monitoring and evaluation remains rudimentary. There is also much scope for increased participation of different levels of the Government and civil society in the planning system so that the people of Myanmar have more of a say on national priorities.

**Data and Analysis.** The lack of reliable, up-to-date and sufficiently disaggregated data continues to be a major source of concern for government and development partners, as is the case in many other least developed countries. In addition, there is little experience and few established processes for using the available data to feed into policy-making. The need to make significant advances in data collection and analysis has been underlined by government as one of its broad policy frameworks.

**Increased exposure and accumulated experience.** The last year has seen a considerable increase in access to international expertise both within and outside Myanmar, with fewer restrictions on travel for government officials and greater acceptance of external assistance. Coupled with the experience accumulated through the transition to democracy, this exposure has had a marked effect on the capability and confidence of government officials and could have a lasting impact on the strengthening of public institutions.

---

<sup>4</sup> Of the approximately 800 existing legislative acts in place, more than half were inherited from the period of British colonial rule.

<sup>5</sup> *Framework for Economic and Social Reforms* (22 November 2012) p 7.

**Absorption crunch.** Just as exposure and experience has fuelled the momentum of the reform process, saturated capacity to absorb input is having the opposite effect, especially in the context of weak coordination among development partners. Highly skilled and competent individuals in the upper ranks of government lack institutional support to implement reforms. There is an urgent need to avoid the brightest talent being lost to private companies, non-government organizations and aid agencies.

**Election countdown.** As the current Government steps up the pace of reforms to accomplish its agenda over the next two years, there is increasing reflection on what the 2015 election means for the development of democratic governance in Myanmar. Some are appraising the suitability of the current electoral system and constituency arrangements. Others, seeing the timeframe as inadequate for wholesale changes, are instead focused on how to ensure a transparent and democratic process within the parameters of the current system. Still others are looking beyond form to substance, asking whether a change in government would destabilize the reform process, due to inexperience of the incumbents or to conflict prompted by an upset to the status quo. Whatever the outcome of these elections, there is a growing awareness that they will mark an important milestone in Myanmar’s progress toward democratic governance.

### 3. Implications of the trends for policy and for development cooperation

Besides the abovementioned internal trends, several external drivers put the reform efforts into a two-year perspective. In the lead-up to the much-anticipated 2015 election, Myanmar’s administrative and infrastructural capacity will be tested by its chairmanship of ASEAN in 2014. In addition, the robustness of the nation’s economy will become key to its successful integration into the ASEAN Economic Community from 2015. Finally, Myanmar’s ability to meet the needs of its population and address ongoing human rights concerns will be assessed in 2015 – both the target date for the Millennium Development Goals and the year for Myanmar’s second appraisal at the UN Human Rights Council Universal Periodic Review. These significant events will serve as markers for Myanmar’s path to genuine democratic governance, providing a focus for reform goals and a means of evaluating whether progress has been made.

Timeline to 2015	
2014	➤ Chair of ASEAN
2015	➤ ASEAN Economic Community
	➤ MDG target date
	➤ UN Universal Periodic Review
	➤ Myanmar general election

Against this background, the constitutional review process may be the most fundamental measure of progress. Key components of the reform agenda are embedded in the Constitution – federalism and distribution of power, government structure and the role of the military in governance, elections and eligibility, fundamental rights and rule of law. The scope and nature of constitutional amendments will therefore shape the direction of future reforms. More importantly, the perceived legitimacy of the review process will be a measure of public confidence in the government and democratic governance reforms.

While two years is a manageable period in which to set some achievable objectives, the vision for change is longer-term. Accordingly, the steps taken now should be part of a sustainable plan that sees democratic governance continue to evolve in a way that ensures Myanmar’s steady development over following decades. The analysis that follows is intended to encourage dialogue about building democratic governance in Myanmar through a long-term vision shared between government and civil society that also incorporates attainable short-term goals.

#### i) Conflict and stability

As discussed above under ‘Key Trends’, a continuation of internal conflict is likely to adversely impact the strength and stability of democratic governance in this transitional phase. At the same time, the reform process provides opportunities to advance the peace process through a new

approach to participatory decision making and openings for administrative, legal and policy reform. Government and non-state armed groups will need to move beyond ceasefire agreements toward more sustainable solutions that meet at least some of the demands of each side. The questions of governance and national identity bound up in these conflicts will need to be addressed to achieve a stable society whose democratic institutions are supported equally and effectively serve Myanmar's diverse communities.

**Ethnic conflict, power-sharing and the federalism debate.** Individual solutions to some of the long-standing disputes over ethnicity, governance and power-sharing can be found within the reform agendas focused on the constitutional debate about federalism, devolution and decentralization, human rights and justice sector reform. These components of democratic governance have the potential to ease tensions by growing the space for participation in government that respects and fosters Myanmar's diversity through autonomy, local self-government, resource-sharing and more effective political representation. This complex and sensitive discourse will be a test for the Government's openness and willingness to compromise, and the public's capacity to engage constructively with government in this new political climate. Through the Myanmar Peace Centre, a space is now open for international expertise on peace processes and governance reforms to inform negotiations.

**Communal violence.** Political leadership is also needed to address the security threat posed by communal clashes. In the short term, effective strategies are needed to quell violent conflict as it arises. Over the long term, government will need to guide the development of a more tolerant society and a new national identity through an alternative concept of inclusive citizenship. Without a proactive approach, there is a risk of significant destabilization which could undermine the emergence of democratic governance based on the rule of law and human rights. On the other hand, it is clear the situation must be managed with extreme sensitivity. As the relief effort in Rakhine State demonstrates, perceptions of bias in the delivery of assistance and in media reporting have the effect of exacerbating hatred and resentment.

## ii) Constitution and constitutional reform

The 2008 Constitution provides the legal framework for an at least partially civilian government, a certain degree of devolution, separation of powers between the three branches of government, and some protection of fundamental rights. After two and a half years of operation, some shortcomings of the constitutional framework have been identified by critics and questions have arisen about whether the 2008 Constitution will remain the outer limit of the scope of reforms, or whether it will be possible to fundamentally alter the framework of democratic governance through constitutional reform. Federalism and governance structures feature prominently in the debate, including the criteria for presidential candidacy and the continued dominance of the military. Other important questions include the adequacy of protection of fundamental rights and the stringent requirements for constitutional amendment.

**Support and long-term planning.** Questions of politics, timing and procedure pose significant challenges for making coherent and representative amendments before the end of the current Government's mandate in 2015. The dialogue on constitutional reform will not subside, however, and support will need to be strengthened to allow opportunities for change in the long term. The success of a long-term reform process will depend, inter alia, on effective civic education in the basics of constitutions and constitutional reform, leading to broad scale public participation in the process and, should there be country demand, technical advice to government in constitutional drafting and coordination of effective referenda.

### iii) Executive governance and decentralization

Despite some advances, executive governance in Myanmar remains characterized by centralized decision-making, top-down hierarchies and persistent issues around accountability and participation. Since 2012 the quest for the rule of law and people-focused service delivery in public administration has become a priority in public discourse as well as in political statements. It is expected that in order to change the relevant structures, practices and attitudes, this discourse must be reflected in institutional changes and incorporated into budget and planning processes. Reforming the executive branch will also involve structural and legal reforms, policy change, capacity building, research and data collection, and communication strategies. Several development partners have started to provide technical assistance to support the reform, but due to its complexity and magnitude, and the need for long-term commitment, it will only be effective when government assumes responsibility for policy alignment and coordination.

#### Sub-national governance mapping

*UNDP has proposed to map, in close cooperation with government, the existing governance capacities of service providers and other stakeholders at State/Region and township levels in all 14 States and Regions. The mapping will be initiated in two States in 2013 and will then be rolled out in all other States and Regions in two phases in 2014. The results will provide an overview of the quality of service delivery for select basic services and will reveal the capacity needs of government and non-government stakeholders within the ongoing reform process. In addition to providing a baseline for monitoring in the future, the process of mapping itself will create a platform for dialogue between government and civil society on issues around service delivery and governance.*

**Devolution of executive power.** The General Administration Department (GAD), under the military-led Ministry of Home Affairs, forms the backbone of the administrative structure of government. It administers all government activity, at the State/Region level, District and Township level, down to Wards and Villages. It holds the key to administrative reform and reorganization and, together with the police force, forms the most direct link between the people and the state. The President has been urging State and Regional Governments to take on more powers and responsibilities but for this to take effect, GAD personnel at the State/Region, District and Township level will need to adapt their administrative practices in line with the decentralization process. Decisions about power-sharing between local and national government will be one of the most difficult aspects of the federalism debate. Further research and a clear and proactive communication strategy will be vital to providing clarity on possible models and – to the extent possible – gathering consensus.

**Accountability for administrative decisions.** An important feature of democratic governance in Myanmar will be effective legal recourse against unlawful administrative decisions. The recently reinstated power of the judiciary to issue administrative writs could play an important role in upholding people's rights vis-à-vis government, but this potential has yet to be realized. The numerous formal and informal complaints bodies and mechanisms designed to provide recourse for wrongful administrative decisions are so far providing ad hoc solutions in selected cases. At the Township level the General Administration Department is receiving an increasing number of complaints about complex legal issues, often seeking the advice of the Attorney-General to resolve them. To manage the risks of division and conflict related to service delivery, an accessible, effective and independent body for resolution of disputes is essential.

### iv) Planning and information

Two crucial deficits are currently placing serious limitations on the effectiveness and sustainability of Myanmar's reform process. Government is aware that development planning and data collection are crucial needs affecting all sectors, but these have so far been inadequately addressed.

**Development planning.** The finalization of an overarching, comprehensive and long-term development framework with concrete, achievable objectives and systems for monitoring and evaluation will be vital to ensuring the components necessary for democratic governance are addressed in a systematic way. Strategic plans must also be developed at the lower levels of government so that progress under a unified reform agenda remains on track.

**Data collection and analysis.** Data collection and analysis will be crucial to determining the key needs for Myanmar's development and setting the direction for reforms. All levels of government should be supported to acquire the capacity and develop systems for the collection of data and to use it in a planned and strategic manner. At national level, the information from Myanmar's country-wide census in 2014 will be significant in providing basic details about the size and profile of the population.

#### National Census 2014

*The Ministry of Immigration and Population will administer a nationwide census in March 2014 – the first of its kind since 1983. Preliminary results will be available in July 2014, with the final information to be published in February 2015. Risks relating to participation, accuracy and confidentiality have been managed through thorough preparation, assisted by external development partners, including: dialogue and advocacy with civil society; a pilot census conducted in March 2013; the enactment of the Census Law in July 2013; and planned training of the 120,000 enumerators to conduct the survey.*

#### v) Political representation and the legislative process

The newly elected legislatures at the Union level and in the States and Regions arguably represent the biggest institutional change since the introduction of the new constitutional framework in 2011. In a context where the military still has a significant presence and influence in the legislature, it will be especially important to maintain the political balance between the branches of government. Despite the continued dominance of the Union Solidarity and Development Party, and the military making up at least a quarter of all parliamentary members, the representation of opposition parties in parliament is providing a mechanism for government oversight new to Myanmar. The parliament still needs to become more representative of the population to legitimately exercise its key role in legislative reform. The increasing number of registered political parties<sup>6</sup> offers more choice for voters, but constraints in the system may limit the impact of this at the next general election in 2015.

**Electoral system and representation.** Several features of the current electoral system mean that

#### Preparing for the 2015 election

*The Union Election Commission, the national body responsible for organizing and overseeing the 2015 general election, faces a different challenge from what it did in 2010. The democratic reforms have created expectations that the next elections in 2015 will be free and fair. Although many of the commissioners have a military background, they are seeking to learn from international experience and are developing partnerships with organizations to ensure the elections meet international standards. A key part of the transparency around the election process will be the production of the voter lists, currently compiled from household registration lists held by the Ministry of Home Affairs' General Administration Department and birth registration records at the Ministry of Immigration and Population.*

voter support for candidates may not be proportionately reflected in election results. One concern for the composition of parliament is the considerable irregularity in constituency size, which leads to imbalances between numbers of voters and elected members of parliament. The exact population data necessary for any redesign of electoral boundary lines will be available only in February 2015 after the national census – too late to impact the next general election. In addition, distortions in parliamentary representation resulting from varying constituency sizes may be

<sup>6</sup> By August 2013 there were 58 registered political parties in Myanmar: Altsean-Burma, *Political Parties* (last updated 9 August 2013): [http://www.altsean.org/Research/Parliament\\_Watch/Parties.php](http://www.altsean.org/Research/Parliament_Watch/Parties.php).

exacerbated by the effects of the first-past-the-post system, where the candidate with the highest number of votes can win without necessarily enjoying majority support. Meanwhile, another more controversial reform currently under consideration would exclude registered non-citizens from voting. This presents a further threat to already vulnerable and voiceless populations in certain areas of Myanmar including Rakhine State. Inclusion of women in formal politics is also lagging. Each of these issues will be fundamental considerations for any electoral reforms that seek to improve the representative nature of parliament.

**Party politics.** For parliament to develop as a strong pillar of democratic governance, political parties will need to become vehicles of genuine political representation and communication. Experience in comparable countries in the Asian region will be instructive in avoiding personal and elite group dominance in Myanmar's new multiparty system. There is also a need to explore the emerging political party landscape to understand the political economy of parties, their internal decision-making and accountability mechanisms, their outreach and financing, and the design and development of their programmes and platforms. Given the country's diverse composition, the role of 'ethnic parties' will need to be defined to find a balance between ethnic-identity based mobilization and a civic approach to inclusive democratic governance.

**Constituent engagement.** Interaction with constituencies signifies another new development in Myanmar politics and recent changes in the regulatory framework may change the way this happens. The planned introduction of constituency funds to support local development projects has the potential to bring parliament closer to constituents, but also comes with risks. If implemented, constituency funds will need to be managed in a way that minimizes the possibility of corruption and misuse, learning from lessons in other countries. Advances in access to parliament and parliamentary information will also be crucial to securing fuller participation from citizens in governance.

**Law-making.** Managing the immense legislative reform process will be the central challenge for Myanmar's legislature in coming years. In the rush to amend legislation and pass new laws, quality, coherence, and compliance with the Constitution and applicable international laws will be key considerations. Capacity-building will need to be continued and improved to build on the basic level of skills so far acquired in law making, and better planning is needed to make the process more streamlined and effective. Currently, laws are being drafted by the executive and judiciary as well as the legislature, with no apparent strategy or coordination and no established mechanism to incorporate public consultation into the process. Lessons can be learnt from recent isolated cases of public contribution to law-making<sup>7</sup> to feed into the development of a more consistent and organized system for consultation.

**Staff support.** To remedy current deficiencies in parliamentary support, parliament is now hiring large intakes of new staff.<sup>8</sup> Capacity among existing staff is already limited, and there will be a challenge in preparing these new employees to fulfill their roles. Comprehensive and carefully programmed training in administrative, technical and research skills will be needed, along with support from adequate infrastructure and technology.

#### vi) Legal sector and access to justice

In Myanmar, for law officers, police and the general public, the law is mostly associated with the effort of the state to maintain control over society. This is a deeply entrenched legacy from earlier eras, and development of the rule of law will require a great amount of confidence building and a transformation of the relationships between state and society. This will be a long process requiring

<sup>7</sup> For example, involvement of the media industry during the drafting of new media laws, and civil society lobbying after the drafting of a controversial new Law on Associations.

<sup>8</sup> By March 2014, 1,500 new staff will be employed, more than tripling the existing parliamentary staff.

support for institutions and the professionals within them, as well as awareness-raising in society about the functions of the law and justice sector.

**Union Attorney-General's Office.** The Union Attorney-General's Office (UAGO) plays a key role in legal and justice sector reform and coordinates government-wide efforts as the ex-officio Secretariat of the Legal Reform Advisory Committee. The UAGO is therefore fundamental to implementing practical steps that will enhance rule of law and feed into the framework for democratic governance. Since January 2013, the UAGO has built strong partnerships with UNDP and other development partners who are providing technical support and planning assistance to help it achieve this task. Activities so far undertaken have revealed certain needs:

- Address inadequate staffing and expertise in legislative drafting
- Develop skills in English and Information and Communications Technology
- Ensure adequate research facilities and infrastructure are available to support this work
- Further support the development of strategic plans, policies and programmes

Development partners will need to remain responsive to the needs of the UAGO, providing support in a coordinated manner to ensure assistance can be absorbed.

**Courts and the judiciary.** Heavily burdened by historical legacies, capacity shortfalls and a deficit of trust from other government branches and the general public, the judiciary is now experiencing new opportunities for reform. Legislative changes and increased exposure to concepts of rule of law could enhance the independence and professionalism of the judiciary, although recent incursions into the operation of the Constitutional Tribunal have demonstrated ongoing challenges. In addition, development partners have had difficulty obtaining data on the quantity and nature of cases before the courts, time taken to dispose of matters, costs of running a case, and details about staffing, remuneration and the work environment generally. This information will be vital to designing programmes to support the courts to carry out their mandates and provide genuine access to justice.

**Access to justice.** As formal justice institutions develop and adjust to the new political conditions, it is vital to better understand the bottom-up perspective of how a legal and judicial system serves the general public. More can be done immediately to improve access to justice for the marginalized and poor, such as implementing a formal system of legal aid, supporting pro bono work and training paralegals to provide basic legal services. There remains a significant lack of data on access to justice, however, and mapping activities by UNDP and others will be helpful in informing what the most significant impediments are and how deficiencies can be addressed. Critical considerations include:

- Documentation and legal identity
- Language barriers
- Gender and social factors
- How the informal justice sector operates and interacts with the formal system

**Police.** Improvements in access to justice will be limited without police reform. The police force will need to become more service-oriented and better informed about people's rights in order to keep up with the evolving legal environment. The response of the police force to recent violent uprisings demonstrates the need for training on public order policing in a democratic society. Senior management within the police force appears open to change and dedicated to reform efforts, which is having a positive effect on current reform activities. To ensure the change is sustainable, ongoing support to the police should be delivered through a comprehensive training framework that facilitates cooperation among development partners.<sup>9</sup> Most importantly, reforms should be

---

<sup>9</sup> Such a framework is currently being developed by the police with assistance from UNODC.

implemented in a way that has a direct impact on interactions between people and police at the township/village level.

**Legal awareness.** Legal literacy must also be strengthened if access to justice is to improve. The general public is hardly aware of and has little access to detailed and relevant information about what the law is and how rights can be effectively protected. Several civil society organizations and private law firms have now produced legal handbooks and other resources to improve citizens' awareness about their rights, and the government has begun publishing new laws in the newspaper. Access to laws, for lawyers as well as citizens, could be improved by the development of legal databases, and there are encouraging signs of cooperation toward this between the UAGO and private service providers.

**Legal professionals.** The role played by lawyers is a key ingredient in a well-functioning legal system. Cooperation between legal practitioners and government will be vital to the development of a legal profession that has the support of an official and independent bar association with appropriate functions and powers. The creation of the first independent country-wide lawyers' association is a significant step forward, but will require formal recognition from the legal profession and government to gain legitimacy. Establishing a system of continuing legal education for lawyers will also be crucial to building legal capacity in Myanmar, and therefore to improving the effectiveness of the justice system overall.

**Legal education.** The development of a more competent legal profession and judiciary will be constrained without serious investment in legal education. After decades of neglect, law schools across Myanmar face significant challenges in providing a level of legal education that produces capable and confident lawyers. Key among these are:

- Adapting the curriculum to changing needs
- Adopting modern research facilities including information technology and equipment
- Up-skilling professors in English language and substantive law

Management of universities remains highly centralized, and cooperation by the Ministry of Education will be essential in advancing legal education to a level that will meet Myanmar's needs as a democratic nation integrated in regional and international systems. There is general consensus that in the long-term universities should be given more autonomy, and the current process of drafting new laws on higher education – though complex and intricate – offers opportunities for change in the near future.

## vii) Human rights

During the recent reform process, Myanmar's commitment to protecting the fundamental rights enshrined in its Constitution and recognized at international law has been scrutinized by critics both within and outside the country. The exclusion of citizens from many of the rights guaranteed under the Constitution and allegations of repeated human rights violations signal the importance of continued support in this area.

### 'Rule of Law Centres'

*Parliament convened a meeting in November 2013 to discuss a proposal to establish 'Rule of Law Centres' in States and Regions, to up-skill members of the legal profession and justice sector. Representatives from all branches of government expressed clear interest in the concept. Gaining a common understanding of what it will look like in practice will require more work, and a coordinating committee has been established to manage a feasibility study to be undertaken by UNDP. This study will consider what should be the role of the centres, including whether the central purpose of providing professional skills and values could be complemented by promoting public awareness, providing knowledge resources, and creating a space for dialogue.*

**Implementation of international human rights law.** Myanmar is one of only few countries in the world not yet party to either of the two main human rights covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The government has ratified other core human rights treaties and accession to the ICCPR and ICESCR is not out of the question in coming years. However, the machinery for integrating these rights into domestic law, implementing them and monitoring implementation is lacking. Support here will be crucial both to ensuring fundamental rights are guaranteed and to supporting the administrative requirements to report to treaty bodies on progress.

In addition, those state institutions that remain under military leadership at senior levels, including the police and the border forces, are yet to be made accountable for their role in protecting human rights. In general there is still an enormous demand for capacity building in human rights practice. International human rights organizations can bring expertise in the form of access to simple documents and information, basic training and guidance, and learning about international experiences – offering practical ways to realize human rights in all areas that are key to democratic governance as well as to poverty reduction and inclusive growth.

**Mechanisms for safeguarding human rights.** Efforts will also need to be made to support the National Human Rights Commission to become an independent mechanism for the resolution of human rights issues. Meanwhile particular areas, including land rights, will require a special focus, with a clear government strategy that responds to the needs and demands of the people. Over the long term, the constitutional reform process is likely to prompt further dialogue about fundamental rights, encouraging the people of Myanmar to think increasingly in terms of their rights and which of those should be protected without exception. Civic education will be an essential component of support in this area.

**Universal Periodic Review 2015**  
*Myanmar's next assessment by the Human Rights Council Universal Periodic Review in October/November 2015 will mark a significant moment in Myanmar's development as a democratic nation that respects and protects the human rights of its citizens. Participation by civil society is an important part of this process, and how the Government promotes this will be a key indication of its commitment to a transparent and responsible approach to rights.*

**viii) Civil society participation in governance**

Engagement of civil society in the reform process can be encouraged and promoted in a variety of ways.

**Information sharing.** Access to information is an important component of democratic governance and is critical to ensure transparency, accountability and effective public participation in government. While the regulatory environment has changed significantly over the past 18 months, not all legal changes have trickled down to affect attitudes within government. 'Freedom of information' is still a new concept in Myanmar and in many cases, governance-related data and information is simply not available. In addition, while access to information is an essential prerequisite for democratic governance, alone it will not suffice to change the relationship between the state and the people. Shifts must occur in the power-relations between them, and government must become genuinely perceived as people-centered and enabling.

**Media.** Itself a key source of information, the media in Myanmar has seen dramatic changes in little over a year. Coming from one of the most repressive and closed media environments, Myanmar's media have gone through large-scale transformations with the end of censorship, authorization for many exiled media outlets to operate inside Myanmar, and permission for private daily newspapers to publish. There are still impediments to free reporting, however, including laws out of step with modern forms of media and expectations of media freedom. Reform of media laws is still underway,

and its success will depend largely on the effectiveness of consultation with Myanmar's media industry.

**Civil society.** Non-Governmental Organizations (NGOs) have seen a similar expansion of the space they enjoy in terms of public outreach, participation in policy development and resource mobilization. While NGOs were historically most prominent in humanitarian assistance and service delivery, their role is becoming stronger in advocacy and civic support as those earlier functions are taken over by government. There are signs that government recognizes the useful role NGOs can play in governance and accepts them increasingly as partners in the policy process. The proposal put forward through the recently drafted *Law on Associations* setting out an onerous registration process – in essence restricting who could operate as a civil society organization – indicates that there is still much to be done for civil society to be able to operate freely and openly. A strong lobby movement for the redrafting of those laws appears in the early stages to have been well received by government and parliament, and its ability to impact their redrafting will be a telling indication of how civil society will be accepted as a reform partner.

### ix) Gender equality

Although Myanmar is a signatory to the Convention on the Elimination of Discrimination against Women, there remains much to be done to make gender equality a practical reality. A significant effort is needed to improve women's representation in public life, to enhance understanding of socio-cultural norms and mindsets, to respond to gender-based violence, and to strengthen women's rights through the law and legal empowerment. The development of a *National Strategic Plan for the Advancement of Women* by government and civil society in 2013 has

begun a shift toward gender equality by setting out broad goals for the next ten years. The momentum from this Plan, and the steps it sets out, present an opportunity to harness the reform process to further progress gender equality and to mainstream women's rights in all policy making.

#### **National Strategic Plan for the Advancement of Women**

*The National Strategic Plan for the Advancement of Women (2013-2022) is based on the twelve critical areas concern from the Beijing Platform for Action, and sets out broadly the research, awareness-raising, implementation and budgeting requirements for each of these. The Management Committee for the National Strategic Plan is now to develop a detailed Operational Plan, identifying how the broad aims of the National Strategic Plan will be realized at all levels of government, and how progress can be effectively monitored. Following this a Resource Allocation plan will be developed, providing a budget and identifying the resources sought from donors.*

UNDP Myanmar

PO Box 650, 11211 Myanmar

Tel: (95-1) 542910 to 19, Web: [www.mm.undp.org](http://www.mm.undp.org)

Facebook: [www.facebook.com/UndpMyanmar](http://www.facebook.com/UndpMyanmar)

Twitter: [https://twitter.com/UNDP\\_Myanmar](https://twitter.com/UNDP_Myanmar)

Email: [registry.mm@undp.org](mailto:registry.mm@undp.org)