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I. Introduction

Myanmar is at a transitional moment. After more than a half century of military governments, a democratically elected civilian government, led by the National League for Democracy (NLD), has assumed power. The NLD government has promised to bring about a return to the rule of law in Myanmar, but the rule of law requires able lawyers, and producing those lawyers will require fundamental changes in the way law is currently taught in Myanmar.

Legal education in Myanmar, like the country’s other university programs, has historically been under-resourced. Under military rule, law departments were effectively dismantled and shifted to distance learning. While the basic framework for an internationally-accepted legal education exists, the curriculum is dated. Perhaps more problematic than the quality of the core curriculum, other features of legal education, such as distance learning, professors who themselves lack legal experience, and inadequate legal skills training, most undermine the quality of lawyers produced by Myanmar’s law faculties.

Over the course of two months, the Yangon University Law Faculty provided access to a US law professor associated with USAID’s Promoting the Rule of Law Project (Project), which provided the opportunity to observe courses, examinations, and conduct discussions with students and professors. While important information from the Ministry of Education regarding student populations, means for curriculum development, and/or systems to qualify professors remained unavailable, the access provided the Project with the opportunity to observe legal coursework and education at Myanmar’s premier university.

Given the historical and present closed nature of Myanmar’s university system to outside observers, this report should be considered preliminary. Information in this report is based on observations of course work at Yangon University, those made through daily interactions with students and faculty, and upon a series of unofficial discussions with faculty and students. A formal assessment methodology was not used during the preparation of this report and, as previously noted, the brief does not include in-depth review of curriculum development, professor training, or first-hand observations of distance learning courses or law faculties outside of Yangon, all of which deserve investigation to fully appreciate the current state and needs of legal education in Myanmar. Still, the access provided to the Project allowed for the unique and first-hand observation of a Myanmar law faculty at work. It is hoped that this report will provide a meaningful basis upon which to conduct further investigation and program development to support this crucial aspect of the rule of law in Myanmar.

II. Legal Education in Myanmar: Past and Present

Prior to the 1962 military coup, law was an elite profession. The practice of law required a Bachelor of Laws degree (LLB), which was available only at Rangoon (now Yangon) University; the degree required post-graduate study, and instruction was in English.

After the coup, the military government rapidly seized control of higher education. During the new regime’s early years, the language of instruction shifted to Burmese and the sciences were favored, resulting in lower entry credentials for law students. As a result of repeated student demonstrations against the government, “distance learning” was introduced in 1975, and this remote method of instruction quickly became dominant. In 1975, approximately 6,500 first-year law students were admitted into the new correspondence program, roughly twenty times the number annually admitted to the LLB program at Yangon University.

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1 Interviews conducted for this brief were done so with the understanding that sources would not be named.
2 Myint Zan, Legal Education in Burma Since the 1960s 15 (2008), available at
By the early 1990s, a new government decree shifted the language of instruction back to English, but the pattern of instruction through distance learning, with a minimal entrance standard, continued. One source reports that entrance scores for distance learning in law “were consistently the lowest among all professional schools.” In 1996, Yangon University eliminated classroom-based or residential undergraduate legal education, which replacing it entirely with a distance learning curriculum. The same year, 17 universities opened law departments, which given the small pool of qualified instructors, led to reduced standards in law faculties. Instructional deficits were compounded by a lack of resources; as of 2011, Myanmar’s educational expenditures comprised only 0.79% of GDP, one of the lowest percentages in the world.

Interactions with graduates suggests that distance education in law has produced poor results. One expert, who interviewed graduates of distance learning in 2005, reported that interviewees were unable to answer the most basic questions about law; they could not tell the interviewer what Administrative Law was or describe the elements of a contract.

The results of the above-referenced survey of distance graduates are unsurprising, given that instructional materials often consist of photocopied compilations of unconnected amalgamations of available materials, and distance education students typically meet with teachers only once or twice during the academic year for “cram” courses aimed at exam preparation. Although the survey found students did submit one or two assignments during the year, one reporter “observed that the marker spent roughly two minutes – or less-- on each assignment sent by the distance education law students and most students obtained upwards of 16 marks out of 20 with a significant percentage of the students achieving twenty marks out of twenty!”

Since 2012, residential law study for undergraduates at Yangon University has again become available.

III. Present Framework for Myanmar’s Legal Education Curricula

The structure of legal education in Myanmar reflects the country’s colonial history and does not deviate markedly from international norms. As in the United Kingdom and other former British colonies, legal education commences at the undergraduate level. After finishing four years of undergraduate education in law, the would-be lawyer must complete an additional year of apprenticeship while working under the direction of a practicing lawyer. Graduate education is also available in a range of specialty areas. Graduate students must take examinations in several substantive areas of law as well as producing and defending a thesis. This system of legal education is used throughout most of the industrialized world and has produced countless able lawyers.

Myanmar’s undergraduate law curriculum also aligns reasonably well with international norms. Although there are vastly fewer elective courses available than at law schools in more developed countries, all basic subjects are covered except Professional Responsibility and Legal Writing and Research. A few standard,
upper-level courses are missing (Intellectual Property, for example), but these omissions would be easy to fill in. At the graduate level, once again, the curriculum does not deviate markedly from international norms except in the lack of choice and the failure to include skills training courses, such as legal writing, legal research, trial advocacy, and negotiation. In sum, while neither the structure of legal education in Myanmar nor the curriculum pose major problems, and relevant curriculum gaps can be remedied, important deficits lie elsewhere.

IV. Identified Deficiencies in the Legal Education System

A. Distance Learning Continues to Dominate
While undergraduate law study has again been opened to residential students, distance learning continues to dominate. At Yangon University, for example, there are fewer than 100 residential law undergraduates. Although many law schools have far more residential law students (exact figures were not available for this brief), there are currently roughly 10,000 distance-learner law students in Myanmar. The problems associated with distance learning persist: instructional materials have not been upgraded; students still do not see teachers except for “cram courses” offered to prepare for exams; assignments are few; and there is every reason to believe that both assignments and exams are poorly designed and liberally graded.

B. Instructional Materials and Methods Are Incapable of Teaching Lawyering Skills
Residential law students have face-to-face time with teachers and lecture courses are supplemented with tutorials in which students are given the opportunity to ask questions and discuss issues raised by the materials they have read. However, the materials that residential students receive and the instructional methods used are inadequate to teach lawyering skills.

The norm for instructional materials remains photocopied excerpts instead of complete textbooks. Most of these photocopied compilations come from distance-education programs. These compilations rarely include actual cases or statutes, and they appear to be lacking in hypothetical scenarios aimed at teaching legal analysis and critical thinking.

Compounding the problem of poor materials is the method of instruction, which relies strongly on rote memorization. A standard feature of classroom instruction is group recitation of the assigned text. Classroom visits suggest that students are rarely encouraged to critique their reading, make legal arguments, or solve legal problems.9

Skills training – legal writing, legal research, trial advocacy, negotiation, etc. – is absent from the classrooms and curriculum. Undergraduates currently have few, if any, opportunities to learn any of these vital skills. There are no courses on legal research and writing. Clinical education programs, now the norm for upper level law students elsewhere, exist only in a select number of universities, with a limited number of participating students. Graduate education does offer opportunities to do research and write – in order to receive an advanced degree, successful completion of a thesis is required. However, graduate students are not expected to produce a conclusion/finding for their thesis, topics are broad, and candidates write page after page of background information. Only rarely do they identify a legal problem to be solved, except in the most casual or cursory manner, or undertake any effort to analyze or solve a problem.

Myanmar’s law students also spend far too much time in classrooms. The week schedule at Yangon University, prescribed and unvarying, includes close to 30 hours of class time, more than double what is

typical at law faculties in other countries. With this much time in the classroom, students cannot adequately prepare for class. If skills training were available, they would lack the time to complete assignments or participate in clinical experiences.

The fact that instruction is nominally in English exacerbates other problems, as neither faculty members nor students have the vocabulary to teach or learn in English.\(^{10}\) Indeed, this may be a reason why short compilations are used for instruction instead of the longer texts favored by casebooks; cobbled-together resources permit students to read assignments of no more than three to four pages. Students often do not understand what they have read, and teachers do not require them to look up words they do not know. Instead, classroom lectures quickly shift into Burmese, with an emphasis on explaining the meaning of the English text, rather than its content. Students also describe preparing for examinations through pre-test “intensive courses,” where English-language exam questions and answers are provided for rote memorization.\(^ {11}\)

C. Evaluation Methods Reward Rote Memorization

Law school examinations reflect and reinforce these instructional deficits. A review of actual exams given at Yangon University revealed a consistent format of small numbers of short-answer questions. Undergraduate students must answer six of eight questions; graduate students must answer four of six. At Yangon University (and based on the standardization of the system, likely at other universities), three of the six questions undergraduate students receive are questions that have already been used, graded, and discussed in a tutorial connected to the relevant course. A knowledgeable source reported, unsurprisingly, that students invariably selected the three questions that they had already seen, the answers to which they had likely committed to memory.

Questions that students have not already seen are also poorly calibrated to test lawyering skills. Below is an exam\(^ {12}\) that was recently given to Yangon University graduate students. Students were required to answer only four of the six questions and were allowed two hours to complete the exam.

1. Briefly explain the general exceptions under the provisions of the Penal Code.
2. Discuss the statement that everybody has the right of private defense of the property extend \[sic\] to causing death with relevant statutory provisions and cases.
3. Mg Phyu meets a bullock with a box of treasure. He drives that bullock in a certain direction in order to take the treasure dishonestly. As soon as the bullock begins to move, whether the act of Mg Phyu has committed the theft of treasure or not. Discuss.
4. Explain the provisions provided in the Penal Code relating to kidnapping child without the consent of any lawful guardian.
5. When can a murder become culpable homicide not amounting to murder?
6. Write about the circumstances under which a defamatory statement may not be punishable under the Penal Code with cases.

Grading of exams similarly focuses on the correct recitation of code sections and other material that can be memorized. Such factoids are circled in red and points awarded. In the small sample of graded exams reviewed during the preparation of this brief, no effort to reward analytical ability was observed.

This emphasis on rote memorization continues after law school. Exams given to prosecutorial and judicial candidates are structured in exactly the same way as law school exams, with the exception that half of the questions are in the Burmese language instead of English and candidates are not allowed to skip questions.

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10 Institute of International Education, supra note 7, at 27.
11 Id. at 29.
12 The information and content regarding this exam were provided with the understanding that information regarding the source, date, or location of the exam would not be provided.
Still, the exams similarly consist of a handful of short-answer questions designed to test little more than the capacity to memorize.

D. Resource Constraints Are Severe

High-quality legal education requires resources. In the United States and many other countries, faculty are hired specifically to teach legal writing and research given the amount of time this type of hands-on teaching requires. Clinical education, which today plays a vital role in skills training at most law schools in wealthier countries, is also resource intensive. Library facilities and staff time are needed for all of these forms of instruction. Perhaps most fundamentally, skills education requires faculty members who possess skills themselves. Myanmar’s law departments currently lack all of these resources.

Physical facilities are often of low standard, and many classrooms have not been upgraded in decades. At Yangon University, for example, library facilities are poor, and access to online materials and research mechanisms is extremely limited. At the Yangon University Law Department, there is no librarian to catalog books, to assist with research, or even to keep the library open so that students can use it. As a result, the minimal library is typically locked and unavailable to students. Books donated by Oxford University remain in their original shipping cartons, as Yangon University lacks the shelves necessary to store them. Power outages are frequent and generators are not used; students and teachers alike must resort to flashlights and cellphones in order to look at assigned readings.

Human resources are also severely limited. Many, perhaps the majority, of current law faculty members are inadequately prepared to teach legal analysis, critical thinking, or lawyering skills. A very high proportion are themselves products of distance learning. Few have studied outside Myanmar. Experience with actual law practice is also rare as the standard entrance path to law teaching begins shortly after obtaining an undergraduate degree. With no experience of practicing law, it is not surprising that teachers give it short shrift.

Law faculty members also lack the time to teach. As noted previously, they spend many more hours in the classroom than their counterparts elsewhere. They are typically burdened with a range of administrative responsibilities, and at least some are additionally given tasks by government officials. Yangon University law faculty, for example, are tasked with grading the thousands of qualification exams taken by aspiring prosecutors and judges.

In some systems, practical experience is introduced into law study by bringing practicing lawyers into classrooms, either as adjunct faculty, guest lecturers, or both. Courses taught by adjunct faculty, however, do not appear to exist in Myanmar’s law faculties. Nor do law faculties seem to host public events – symposia, lectures, skills workshops – in which practicing lawyers participate. In sum, the legal academy is largely cut off from the world of legal practice.

E. A Top-Down Administrative System Impedes Experimentation and Innovation

The law curriculum is currently fixed by a Board of Studies tied to the Ministry of Education. This Board (composed predominantly of current Law Department heads) approves all new courses and decides whether a given course is required or elective. Curriculum changes affect all law faculties, leaving no opportunity for an innovative faculty to institute new skills based coursework or to specialize in various legal topics. This top-down approach may also impede programming that brings lawyers into law departments.

Problems in legal education are replicated across Myanmar’s system of higher education. As one group of experts put it,

While higher education structures and systems are in place, the state of higher education in Myanmar is dire. Decades of Military rule and chronic deficiency of investment in higher education have left the country with insufficient human and institutional capacity to provide quality and
relevant higher education services to its citizens and communities. Additionally, the higher education system is burdened by a cumbersome administrative structure, high costs of higher education administration, and inadequate teaching capacity. These are some of the challenges calling for a systematic investment and reform of the higher education system in Myanmar.\footnote{Institute of International Education, supra note 7, at 17, quoting Rebuilding Higher Education in Myanmar (USAID-Myanmar-SOL-486-13-000012) and reporting that the “IIE delegation of U.S. universities saw no inconsistencies from the above perspective with what we experienced on the ground during an intensive, week-long visit to a broad array of Myanmar universities.”}

V. Means to Foster Change in Legal Education

Perhaps the most positive aspect of Myanmar’s current legal education system is the enthusiasm of educators for change.\footnote{id. at 8.} Law faculties, like many civil-society groups, feel that they have been isolated from the larger world community for too long. They want to know about what is happening in legal education elsewhere. They are eager to catch up to their academic peers in other nations and see legal education as a vital component of the rule of law.

As an example of legal educators’ commitment to the rule of law, the Board of Studies has recently changed the national law curriculum by making Human Rights Law a required course; previously, it was one of several electives. This enthusiasm for change, and for change that focuses on rule-of-law issues, is important, but enthusiasm is not enough. Because the deficits in legal education are deeply rooted in decades of poor practices and training deficits, they will not give way easily. Progress will be slow, but there are practical steps that can be taken to assist Myanmar’s legal educators in moving forward.

A. Develop Tools to Measure Law Graduate Competence

In most countries, law graduates must typically establish their ability to practice law by passing one or more examinations. In the United States, for example, a law school graduate must typically pass two or three full-days of exams. These cover basic, generally uniform areas law (the Multistate Bar Exam, required in 49 states), professional responsibility (the Multistate Professional Responsibility Exam, required in 48 states), practice skills (the Multistate Practice Test, required in 45 states), and areas of law where state law varies (the Multistate Essay Exam, given in about 30 states or a comparable essay exam prepared by state examiners in the remaining states).

At one time, Myanmar also had in place “multiple levels of qualifications for lawyers to practice and later appear before courts in Myanmar.”\footnote{Myanmar Rule of Law Assessment, supra note 8, at 37.} These qualifications systems were suspended many years ago, with the result that there is no bar association or government agency that provides quality control. Although law graduates must practice under supervision before they are allowed to practice on their own, interviews with young lawyers suggest that the value of this supervisory period is limited. Interns typically are given little substantive work and, at most, simply follow the mentor and perform menial tasks. Mentors, in turn, decry the lack of skills and substantive knowledge possessed by the graduates of the inferior legal education system.\footnote{ILAC/CEELI Institute Report, supra note 2, at 12.}

Meaningful entrance exams for membership in the practicing bar would pressure law faculties to provide the kind of training needed to pass the exams. Facilitating the development of such exams could also give impetus to needed legal-education reforms. High-quality entrance exams could also provide a model for new assessment methods in law schools.
B. Develop New Instructional Materials and Create Exposure Opportunities

Myanmar’s law faculties also need help in developing new instructional materials. A course syllabus bank, to guide decisions about course coverage, would be useful. Assistance in developing new texts and curricula, with material and lesson plans that teach skills, may be even more important.

One promising development is the Board of Studies’ approval of a new course on legal drafting. This course would provide an opportunity for Myanmar’s law students to learn legal writing and research skills. Materials for this course are being developed with assistance from a nongovernmental organization, Building Across Borders Southeast Asia Clinical Legal Education (BABSEA-CLE)\textsuperscript{17}, and will be used in all of Myanmar’s residential law programs.

BABSEA-CLE is also working with all of Myanmar’s law faculties as they begin to introduce clinical education methods. A second, national Mock Trial Training and Competition took place in early 2016 and a small clinical externship program has been developed for use in Myanmar’s law faculties.

The development of new instructional materials is particularly important given the likelihood that distance learning will, for the foreseeable future, continue to be the dominant education model. Though the enthusiasm of law students for distance learning may diminish somewhat given a new mandate that will add a year to the required law curriculum for distance, but not residential, students. Still, Myanmar simply does not have the resources to admit large numbers of residential students at this point, and many distance students lack the resources to undertake full-time study.

New instructional materials, particularly those with online interactive resources and exercises, would improve the quality of classroom instruction. Such materials could provide the cases, questions, and problems that the classroom now lacks. Such materials could also play a critical role in improving distance education. Because distance learners so seldom see faculty, improving the quality of instructional materials likely is the step that would benefit these learners the most.

Myanmar’s law faculties also lack exposure to legal-education norms in other countries. The most obvious, and fastest, way to rectify this gap is through expanded graduate-education opportunities in advanced countries coupled with faculty and student exchanges, which would serve the dual purpose of exposure to international legal educational practices and the opportunity to improve English skills.

C. Create Online Research Facilities and Build Library Resources

High quality lawyering is impossible without access to legal materials. In most countries today, online research tools have largely replaced physical books and journals. Myanmar does not yet have an online database of case law, statutes, and regulations. Such a database is sorely needed, and should be available both in English and Burmese. Systems that provide Burmese law students and lawyers with reliable access to legal materials from the rest of the world are also crucial.\textsuperscript{18}

The Lexis-Nexis Rule of Law Project is now working with the Myanmar Attorney General’s office to create an online database containing Myanmar’s major laws. It is also working with law departments to provide access to its global, online database and make the database accessible through a mobile application. The latter development, which should be complete within the next year, will be particularly useful to Myanmar’s law students, many of whom lack computers and can access the Internet only through their phones.

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\textsuperscript{17} The Promoting the Rule of Law Project provided funding to BABSEA CLE in support of its clinical legal education program.

\textsuperscript{18} See Myanmar Rule of Law Assessment, supra at 37 (noting “urgent need to build a publicly accessible law database” and urging that “modernization of library facilities is badly needed to encourage students and faculty to view their university libraries as reservoirs of new, relevant information, data, etc.”)
These are promising developments that should be followed up with more resources. A particular need is library staff members, who can assist students in learning research methods and the use of online databases.

D. Improve English-Language Instruction

For the foreseeable future, it seems likely that law will continue to be taught in English. Indeed, there are a number of reasons to continue using English as the language of instruction.

First, given Myanmar’s lack of effective teaching resources, it is hard to imagine that Burmese instructional materials can be developed quickly. At the same time, there is already a wealth of materials in English.

Second, reflecting its colonial history, Myanmar continues to operate under a common law system and many of Myanmar’s basic statutory laws (the Penal Code, for example) have survived, virtually intact, since the British era. Myanmar’s lawyers and law faculties thus have a ready-made international community of other common law jurisdictions. That community, however, speaks English; even in nearby Singapore, English is a national language and is the language used for instruction in government schools. Myanmar’s lawyers will continue to be handicapped if they cannot readily communicate with their peers. Their ability to build a modern legal system by incorporating international practices will also suffer.

Enhancing English skills is thus crucial. Assistance in improving English instruction in Myanmar is vital. Myanmar’s primary and secondary schools need new instructional materials and access to native speakers or web-based materials featuring native speakers.

VI. Conclusion

This report, while limited in its scope, provides a snapshot of the recent history of legal education in Myanmar and explains the dominance and inherent shortfalls of distance learning; it also provides a critique of current practices and broad recommendations for how to move forward. This report intends to serve as a catalyst for future analyses and programmatic interventions. As Myanmar’s transition continue, it is an opportune time to galvanize momentum for reform within the Ministry of Education, Union Attorney General’s Office, Office of the Supreme Court of the Union, and the legal community to improve the quality of legal education and overall efficacy of Myanmar’s future lawyers.