

Human Rights Resource Centre (HRRC)
in collaboration with the
Asian International Justice Initiative (AIJI); and
WSD Handa Center for Human Rights and International Justice (Handa Center)

**Judicial Training in ASEAN:
A Comparative Overview of Systems and Programs**

April 2014



COUNTRY FACTSHEET 6: JUDICIAL TRAINING IN MYANMAR

A. Training Organization and Institutionalization

1. *Relevant Recent Legal and Judicial Reforms*

Myanmar has been undergoing major institutional changes in recent years. The current Constitution was adopted through referendum in 2008. The first elections since 1990 were held on 7 November 2010, bringing a degree of representative government for the first time after more than 20 years.²²⁴ In a speech given by the Supreme Court Chief Justice in 2012, he stated: “Under new political system, we now face challenges which mainly include harmonization of the judiciary with democratic culture, absence of corruption in every courtroom and reinforcement of the judicial system.”²²⁵

In relation to judicial training, the Constitution mandated the establishment of a Union Civil Services Board, which would perform the duties of selecting and training Civil Services personnel, as well as prescribing Civil Service regulations.²²⁶ In 2010, the State Peace and Development Council, which exercised State sovereignty before the 2008 Constitution came into operation, passed the Union Civil Services Board Law pursuant to its duty to lay the preparatory work necessary to implement the Constitution.²²⁷ This law supplanted the Public Service Selection and Training Board Law (Pyi Thu Luttaw Law No. 4 of 1977),²²⁸ which had established the Civil Service Selection and Training Board (CSSTB).²²⁹ The new law outlines the powers, duties, term of office, and discipline of the members of the Union Civil Services Board. The Union Civil Services Board Law applies to all civil service personnel, excluding Defense Services personnel and the Myanmar Police Force.²³⁰

1. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Training Institute , under the Supreme Court of the Union.	Responsible for training judges of higher ranks.	The President nominates justices to the highest court. These justices then appoint officials to positions within the Supreme Court, including the Director of the Judicial Training Institute.

224 Nick Cheesman, Monique Skidmore, Trevor Wilson (eds.). *Myanmar's Transition: Openings, Obstacles and Opportunities*. Singapore: Institute of Southeast Asian Studies, 2012. 3-4.

225 H. E. U Htun Htun Oo. “Current Developments of Judicial System in Myanmar (Speech given at Keio University, Japan, 28 November 2012).” *Judicial Journal* 3, no. 2 (n.d.) (hereafter *H. E. U Htun Htun Oo Current Developments of Judicial System in Myanmar*). Available at: http://www.unionsupremecourt.gov.mm/sites/default/files/supreme/judicial_journal_v3_n2.pdf

226 Constitution of the Republic of the Union of Myanmar in Clauspeter Hill and Jörg Menzel. *Constitutionalism in Southeast Asia, Vol. 1*. 2nd ed. Singapore: Konrad Adenauer Stiftung, 2010. Section 246 (a).

227 The Union Civil Services Board Law (The State Peace and Development Council Law No. 24 / 2010), The Union of Myanmar (hereafter **Union Civil Services Board Law**). Preamble. Available at: http://www.oag.gov.mm/sites/default/files/legislation/2013/12/union_civil.pdf (viewed on 7 April 2014).

228 *Ibid*, Section 28.

229 The UCSB website indicates that the Central Institute of Civil Service was placed under the supervision of the Civil Service Selection and Training Board by the Public Service Selection and Training Board Law (Pyi Thu Luttaw Law No. 4 of 1977). Union Civil Service Board, The Republic of the Union of Myanmar. “Central Institute of Civil Service (Phaunggyi).” nd. Webpage. Accessed 26 February 2014. [http://www.ucsb.gov.mm/about%20ucsb/Central%20Institute%20of%20Civil%20Service%20\(Phaung%20Gyi\)/details.asp?submenuid=33&id=143](http://www.ucsb.gov.mm/about%20ucsb/Central%20Institute%20of%20Civil%20Service%20(Phaung%20Gyi)/details.asp?submenuid=33&id=143) This law, however, was repealed in 2010 by the Union Civil Services Board Law.

230 Union Civil Services Board Law, Section 3.

2. Central Institute of Civil Service , under Union Civil Service Board (UCSB).	Responsible for training entry-level judges (including for the Deputy Township level).	The Constitution vests the President with the power to appoint the UCSB's officers and to oversee its affairs. The UCSB then oversees the organization and programs conducted by the Central Institute of the Civil Service.
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2. *Participants of Judicial Training*

a.) *Judicial Training Institute*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
In-service judges and judge candidates with prior experience in lower-level courts.	<p>The Supreme Court has the authority to appoint judges to the High Courts in the States and Regions and District Courts or Courts in the Self Administered Division/Zones.</p> <p>It is believed that after a period of time serving as Deputy Township judges, individuals are invited to participate in trainings and write exams that allow for appointments to the District Courts. Research did not find sources explaining if all these judges were required to participate in judicial trainings prior to appointment, or how they may be selected for trainings.²³¹</p>	No public information available.

b.) *Central Institute of Civil Service (within the UCSB)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A candidate for judgeship in the subordinate courts must</p> <ul style="list-style-type: none"> - Have Myanmar nationality; - Have a good moral character; - Possess a law degree. <p>A report noted that the minimum age for appointment as Township Court judge is 25.²³²</p>	<p>Research did not find sources explaining the selection process, but it is thought that if an individual fulfils these requirements, they can then attend a Basic Course for Junior Civil Service Training at the UCSB's Central Institute of Civil Service. Upon completion of the course they are eligible for appointment as Deputy Township Judges, as vacancies permit.²³³</p>	<p>Research did not identify how many judges graduate annually. There are currently said to be 1,131 judges throughout Myanmar's judicial system.²³⁴</p>

²³¹ International Bar Association's Human Rights Institute (IBAHRI), *The Rule of Law in Myanmar: Challenges and Prospects* (hereafter IBAHRI *Rule of Law in Myanmar*). London: International Bar Association, 2012. 57.

²³² Ibid., 58.

²³³ "The Supreme Court of the Union." *The Supreme Court of the Union of Myanmar*. Webpage. Accessed 20 February 2014. <http://www.unionsupremecourt.gov.mm/?q=content/supreme-court-union>

²³⁴ IBAHRI *Rule of Law in Myanmar*, 56.

3. *Necessity of Undergoing Pre-Judicature Training*

Although supporting data was not found during research, it is likely that the majority of current judges have undergone some form of judicial training at some point in the past. However, it is also possible for a sitting member of the judiciary to have been appointed a judgeship without having gone through judicial trainings and with only basic legal qualifications. The Union Judiciary Law provides a series of qualifications that members of the Supreme Court and High Courts of the Regions/States must meet, which includes having previously served as a judge, judicial officer, law officer, or advocate; but it also includes a provision that the President can appoint any individual that he/she may consider an “eminent jurist.”²³⁵ While parliament has the ability to nullify a Presidential appointment, it can only do so if the candidate does not meet the qualifications stipulated by law.²³⁶

B. Structure and Content of Training Programme for Judges

1. *Structure of Training Curriculum*

Judicial trainings for higher levels have been occurring somewhat regularly since the Supreme Court established the Judicial Training Institute in Yangon. However, the frequency of trainings is limited by the number of participants and trainers available, as well as by a modest budget to support the trainings.

There has not been a thorough assessment that provides information on the content, length and curriculum of Myanmar’s judicial training programs—whether that conducted by the Supreme Court or the UCSB—and interviews conducted for this report did not yield information on these matters. The limited information available is for trainings that candidates for Deputy Township judgeship receive through the UCSB, which comprises a theoretical and practical “on the job-training course” on criminal and civil laws, “legal English,” court administration and logistics subjects.²³⁷ Information on trainings that the Supreme Court holds for higher-ranking judges was not found during the course of research.

Literature highlights the need to improve judicial and legal education in Myanmar. *Myanmar Rule of Law Assessment* mentions that, while judicial training is given by the Supreme Court through the Judicial Training Institute, additional judicial training programs would be “highly valuable.”²³⁸ Although the publication does not discuss the details of the curriculum for members of the judiciary, it points to a general need for “major reform” in the country’s curriculum for legal education.²³⁹ “Supporting Rule of Law in Myanmar: A Strategy for Funding Legal Change” similarly identified “large-scale, targeted legal education and training” as a key recommendation.²⁴⁰ This need has been recognized by the Supreme Court, with the Chief Justice saying: “We need to build up capacity of judges urgently. The Supreme Court launches different training programs to extend the horizon of our judges; especially in these areas: current developments of the Constitution and laws; changing legal and judicial concepts; information technology and language skill to study them.”²⁴¹

235 Union Judiciary Law, (The State Peace and Development Council Law No. 20/2010), The Union of Myanmar (hereafter **Union Judiciary Law**). Sections 30 and 48. Available at: http://www.unionsupremecourt.gov.mm/sites/default/files/supreme/union_judiciary_law.pdf (viewed on 7 April 2014).

236 Ibid., Sections 26- 27 and 44-45.

237 “The Supreme Court of the Union.” *The Supreme Court of the Union of Myanmar*. Webpage. Accessed 20 February 2014. <http://www.unionsupremecourt.gov.mm/?q=content/supreme-court-union>

238 New Perimeter, Perseus Strategies, and the Jacob Blaustein Institute for the Advancement of Human Rights. *Myanmar Rule of Law Assessment*. March 2013. 31. Available at: <http://www.jbi-humanrights.org/files/burma-rule-of-law-assessment.pdf> (viewed on 7 April 2014).

239 Ibid., 36.

240 Roger Normand. “Supporting Rule of Law in Myanmar: A Strategy for Funding Legal Change.” *Oak Foundation* (March 2013). PDF. Accessed 30 January 2014. <http://www.oakfnd.org/node/4753>

241 H. E. U Htun Htun Oo *Current Developments of Judicial System in Myanmar*.

2. Content of Training Curriculum: Specific Topics

a.) *Judicial Ethics*

The lack of publicly available data on training curriculums and contents makes an assessment of the principles included in Myanmar's judicial training programs incomplete. It is not known to what extent principles like judicial ethics, human rights, and fair trial rights are, or have been, included in judicial trainings.

b.) *Human Rights and/or Fair Trial Rights*

The United Nations Development Programme (UNDP) has conducted trainings with judges that address International Human Rights Law, Access to Justice and Legal Empowerment, and Judicial Integrity. It is, however, not known how these principles have been and continue to be incorporated in national trainings.²⁴²

c.) *ASEAN Instruments*

The research could not identify any information related to the inclusion of ASEAN legal instruments in official judicial training programs.

d.) *International or Comparative Law and Conflicts of Laws*

Research did not identify how these principles are incorporated into trainings.

3. Continuing Judicial Education

Research did not identify if trainings kept pace with institutional and legal reforms.

242 Maya Nyagolova. "UNDP leads Training on Human Rights, Access to Justice and Judicial Reform at the Judicial Training Institute of Myanmar." *United Nations Development Programme: Asia-Pacific Weekly Highlights*. 18 October 2012. Webpage. Accessed 7 April 2014. <http://www.snap-undp.org/WeeklyHighlights/Lists/Posts/Post.aspx?List=b2b1f523-84af-4f7b-9be8-591c30c47aca&ID=192>