

Capacity-Building for Rule of Law Promotion in Myanmar



Report on Public Perceptions of Rule of Law

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Executive Summary

As Myanmar transitions from a country ruled by the military to one ruled by its people, the nation's diverse political, social and cultural systems are swiftly growing more complex, while the underlying legal structure struggles to keep up. Rule of law in Myanmar is in critical need of reform to meet the quality demand of a more informed and active populace, primary among stakeholders relying on the country to sustain an equitable and effective legal institutional apparatus. Policy reform and public political participation simultaneously work to improve the legal experience, and any action taken to this end, by any actor, will be informed through a better understanding of how Myanmar people relate rule of law to their lives.

The country has opened up to the international community, and stakeholders are addressing the variety of rule of law needs both through top-down initiatives and grassroots level actions. Since January 2012, the British Council and Loka Ahlinn have co-administered the Capacity Building and Rule of Law Promotion Project. The project's objective is to develop a network of civil society organizations and legal professionals at the community-level to raise awareness of legal and human rights. The project commissioned a research survey, administered in July 2014, to assess public perceptions of rule of law and institutional effectiveness. Mawlamyaing, Bogalay, and Dawei Townships, three of the six project areas, were selected for survey data collection from a representative sample of the populations in those areas. Quantitative data collected from 601 survey respondents and qualitative data acquired through written comments, interviews and other investigation informs this report.

Research participants were asked questions about their opinions, experience, awareness, and preferences with regard to institutions and governance processes related to the rule of law. Some additional comparative analysis of urban and rural populations and female and male respondents was done to explore any trends in the differences of experience for the groups. Some degree of inaccuracy from high nonresponse rates or false responses can be attributed to the sensitive nature of the survey topic. The scope of this research is limited and is not statistically reflective of the opinions of the general Myanmar public; but the findings are informative and contribute to the body of knowledge of around rule of law in Myanmar, which at this time is very limited.

The research identifies some general trends in public perceptions:

- Confidence in the court system and in the police is low, while attitudes around the political participatory process are positive.
- Democracy is considered not to feature effectively at any level of government, though most people believe their lives have improved in recent years.
- Judicial and official administrative intervention is preferred to non-governmental dispute resolution.
- Women and rural respondents have a higher degree of trust in government institutions than their categorical counterparts.
- Of the significant minority of respondents that reported experience with corruption, the rate was notably higher for male and urban respondents.
- Overall, lack of knowledge about the law is a primary concern for respondents, both because of fear of how the law might be used against them and from curiosity about how the law can protect and promote their interests, interests which are largely clustered around social welfare and livelihood rights.

- Public empowerment in legal matters through education and improved access to information will provide the strongest basis for developing the rule of law structures themselves and for building people's trust and ownership of justice principles.

The body of this report provides an overview of the research approach to assessing the rule of law perceptions and experiences of the public, describes the research methodology in detail, and reports findings from the survey administration and qualitative study. The report concludes with recommendations for how to advance this work in the future and guide tangible reform through advocacy and policy actions.

Acknowledgements

I would like to thank the Capacity Building for Rule of Law Promotion Project Team, comprised of Zaw Myat Lin and Matthew Sheader of the British Council's Society Department and Kyaw Swa Swe and Tun Lin Oo of Loka Ahlinn. My gratitude also extends to Regional Coordinators U Myo Aung from Bogalay, U Aung Myo from Dawei, U Min Tun Myint Kyaw from Mawlamyaing, and the twenty-six data collectors from each region who supported the survey administration. Finally, I am grateful to Loka Ahlinn program assistant U So Thi Ha for his dedicated data entry, translation, and critical input in the analysis stage and Daw Khine Khine Maung from the Yangon School of Political Science who helped design the data recording and analysis program.

Project Background

Myanmar's government is currently positioned to change face and form through democratic elections and structural modifications via constitutional amendment, legislative initiatives, and policy development. Perhaps the most important change to come is the improvement of institutional mechanisms supporting the existing system of law. Rule of law is weak in Myanmar. Built on a firm foundation laid during the British colonial period, Myanmar's legal system is formally comprised of (1) legislative acts passed by colonial, democratic, socialist, and authoritarian governments, (2) administrative regulations developed under those various regimes, (3) jurisprudence from the country's highest courts, (4) a recently-enacted constitution which purports to replace but cannot annul the influence of a series of earlier constitutional frameworks, and (5) treaties with international bodies.¹ While the system meets most international standards for its components, its weakness derives from the same problems that plague all countries to some degree and developing nations in particular: limited resources, corruption, opaqueness, too much institutional interconnectedness, and arbitrariness.

The Capacity Building for Rule of Law Promotion Project was conceived in 2011 and over the past two and half years it has empowered grassroots actors to generate positive change in their communities through actions supported by greater legal awareness. The values of the rule of law are taught and promoted through monthly workshops and regular trainings. Participants in the project are invited to learn about their rights under the legal system and workshop solutions to the rising tide of problems faced by their communities. The project also helps to enhance the culture of legal aid and capacity of local civil society organizations concerned with human rights advocacy and governance.

The Action's original objectives were to enhance the capacity of local CSOs working in the field of good governance, support advocacy efforts for human rights, and strengthen organizations which can support the ownership of a wider citizenry over the legal system through political processes, in true democratic fashion. Policy reform and public demand will simultaneously work towards strengthening rule of law structures in Myanmar, and steps to maximize the impact of any action will be informed through information about how people perceive rule of law principles and institutions as they relate to their lives.

The project was launched in January 2012, and by the end of that year Regional Coordinators for each of the six project areas of Kalay, Sittwe, Taunggyi, Bogalay, Mawlamyaing, and Dawei were several months into programming. A core group of lawyers travels regularly to the different areas to conduct trainings for community lawyers and civil society activists on all areas of law, including but not limited to farming and land registration legislation, children's rights, business fairness, media freedom, due process, the penal code, arms regulation, water use rights, fishing policies and procedures, and torts.²

During the project's lifetime, we would see moves towards fundamental changes in the country's political system, and somewhat retardedly in the legal system, begin open up possibilities for greater public

¹ DLA Piper New Perimeter, Perseus Strategies, and The Jacob Blaustein Institute for the Advancement of Human Rights, "Myanmar Rule of Law Assessment" (March 2013). International Bar Association, "The Rule of Law in Myanmar: Challenges and Prospects," (December 2012).

² Rule of law relates to every aspect of daily life, including private matters. There are few absolute limits on where regulatory and enforcement authority can extend, as long as it does not deviate from the fundamental principles of accountability, transparency, fairness, and adequate administration of justice.

awareness. Nevertheless, while increasing numbers have greater access to more knowledge, opportunities, and public services, staid cultures of corruption and opaque policy are still seen as the norm..

One researcher was engaged in summer 2014 to assess perceptions of rule of law among the project's beneficiary populations. The research involved the development and implementation of a survey for respondents located in three of the project areas, Bogalay, Dawei, and Mawlamyaing. Research focused on public perceptions of government justice institutions and their effectiveness in addressing grievances.



Overview

The research involved a quantitative and qualitative investigation of public perspectives around rule of law in three project areas. The research findings inform recommendations on key areas of concern for future policies and action plans to address, accounting for the opinions and experiences of the Myanmar people. Bogalay, Dawei, and Mawlamyaing Townships were selected for administration of the survey over a three week-long period in July 2014. At each location data collectors were recruited by the Regional Coordinators and trained by the research consultant on the purpose and details of the survey, methods for administering it, and research ethics. The survey questioned respondents on their experiences, opinions, and preferences regarding justice practices and government legal institutions. In each location the research consultant also conducted a series of interviews with individuals from the project area. These interviews focused on the personal experiences of the interviewees and their broader perspectives as community member and leaders. With the data collected from 601 surveys and qualitative context provided by the interviews, this research fulfills its objective and provide insights for policy development and other action strategies for strengthening rule of law in Myanmar.

Quantitative Data

The surveys were designed to elicit a comprehensive understanding of each respondent's experiences, opinions, and preferences regarding rule of law principles and institutions. Closed questions questioned respondents' specific engagements with government institutions and actors, opinions thereof, and self-assessment of their capacity to engage as required in order to meet their perceived present or future needs. Open questions were developed to allow respondents to answer by selecting their preferred response from a non-exhaustive list of options or written completion should their answer be absent from the list.

Participation in the survey was indicative of general interest in the subject, confidence that participation would not yield negative consequences, confidentiality, an understanding that there would be no compensation for participation, the understanding that no identifying information would be collected, and recognition that survey participation was entirely voluntary throughout. Respondents were asked to complete every question on the survey, but few questions received 100% response rates. In order to allow the respondents to feel further empowered as participants in the research, core survey questions were presented first and less essential questions were offered in a supplemental survey. After completion of the main survey, respondents were requested to complete the supplemental survey if they desired. Over 97% of respondents chose to do so.

A systematic sampling was elected for choosing survey respondents. Once the three project areas for survey administration were selected, the respective Regional Coordinator and Project Team members mapped out where the enumerators would go to administer the survey, assigning each to a different neighborhood in a village or ward in the Township. Over the course of two days the enumerators sought participants for the

survey from different households in their assigned area. One member per household was asked to complete the survey.

The enumerators themselves were members of the communities where respondents were solicited, facilitating high participation levels and respondents' confidence in the importance and security of the survey.

Qualitative Data

In the survey qualitative data was collected when a respondent could not identify an answer preference among the options. The respondent could usually select "Other" and follow it with a written answer. In addition to respondents' written comments, the qualitative research involved interviewing data collectors, or enumerators, and community members from each area where the survey was administered. The experience of the enumerators in seeking respondents as well as what they relayed about respondent reaction to the surveys indicates important information about the degree of interest and understanding of the research purpose, process, and product. After completing the data collection enumerators related their assessments of participants' reactions.

Interviews were conducted over the course of three days in each of the three project areas. The interviews allowed for detailed and open discussion of topics covered in the survey as well as providing some of the local context for the project areas.

Interviewees were identified by the project's Regional Coordinators. Among them were members of political parties and civil society organizations concerned with the rule of law and people from the local community who heard about the research and directly approached the team to relate (largely negative) personal experiences with the legal system. Some people who were interviewed were interested in one particular issue affecting the population, including discriminatory criminalization of drug crimes, youth unemployment, abusive lending practices, and environmental damage from industrial activity newly introduced to an area. Others discussed personal grievances or perceived national problems. There were frequent references, for examples, to a series of recent cases implicating freedom of expression where a prison sentence of hard labor was given to journalists for reporting on sensitive and controversial topics.

Limitations

Inaccuracies in the findings may result from the limited sample size of 601 respondents, higher non-response rates for some of the questions, time constraints for the preliminary research findings which only allowed for a single data entry, and conceptual misunderstandings which some respondents may have had regarding the terms and references in the surveys. The margin of error is 4%, with a 95% confidence level. The respondent sample was not completely randomized. A system for assigning enumerators to different areas was executed by the Regional Coordinators to maximize variability of the sample within the three days spent conducting the survey in each of the project areas. The enumerators received one day of training on survey

administration, which was new to most of them. All 601 of the surveys were complete enough to admit their contents into the data pool, though most of the surveys had at least one unanswered question. The number of responses, therefore, varies with each question. Some respondents wrote in the margins of the survey next to a question which had no space designated for comments, usually explanations such as “Don’t know” or “Both Yes and No.” These questions were deemed unanswered and included in the data under as “No response.”

Although the respondents were assured that the survey was secure and that they would experience no repercussions for participating, some were reluctant to answer certain questions.³ There is no way to know whether the answers that were given are entirely honest and accurate. This research can only review evaluate what was shared voluntarily in the surveys and interviews as self-assessed perceptions of experience, opinion, and preference, assuming that they are authentically represented.

The biggest challenge in survey design was choosing which concepts included the wide umbrella of rule of law would be measured in the survey and then condensing them into digestible and relatable questions for respondents. Dozens of indicators have been developed in recent years for assessing the strength of rule of law in a country, and a number of those indicators are directly drawn from measuring public opinion.⁴ Ultimately the questions were designed based on an understanding of some particular rule of law challenges in Myanmar and consideration of the desired outputs.

Additional Considerations

The survey was produced in English and translated into Myanmar language. In Myanmar there are over 135 recognized indigenous ethnic minority groups, many with distinct languages. Of the three areas where the survey was administered, two have significant ethnic minority populations. Enumerators in Mawlamyaing Township and in Dawei Township who spoke an ethnic minority language, either Mon and Kayin, orally surveyed some respondents who did not understand Myanmar language. This was also the case with the Daweirian dialect spoken by many in the Tanintharyi Region.

The survey references government institutions as regulatory and enforcement authorities for the law. In some areas near where the survey was done, a non-government group, usually an ethnic armed group affiliate was in a position of authority to pursue those same activities, due to the dual and overlapping administrative systems in place in many former conflict zones. In Tanintharyi Region and Mon State, for example, the Karen National Union (KNU) governs large swaths of territory near the Thai-Myanmar border. Offices, tax collection, courts, and even police exist from both the Union Government system and the KNU system in these areas. The New Mon State Party is similarly engaged in administrative activities in some

³ Enumerators interviewed about the data collection process reported that many respondents they encountered expressed some fear about the possibility of experiencing negative consequences for commenting on government authorities in a way that might be deemed critical; some respondents were more fearful for the enumerator’s safety.

⁴ The World Justice Project and the Vera Institute have developed over 70 indicators of varying flexibility for measuring a country’s Rule of Law performance based on the operation of legal mechanisms and the experience of the public as beneficiaries. The World Justice Project Rule of Law Index (2014); The Vera Institute, “Developing Indicators to Measure the Rule of Law: A Global Approach,” in A Report to the World Justice Project,” (July 2008).

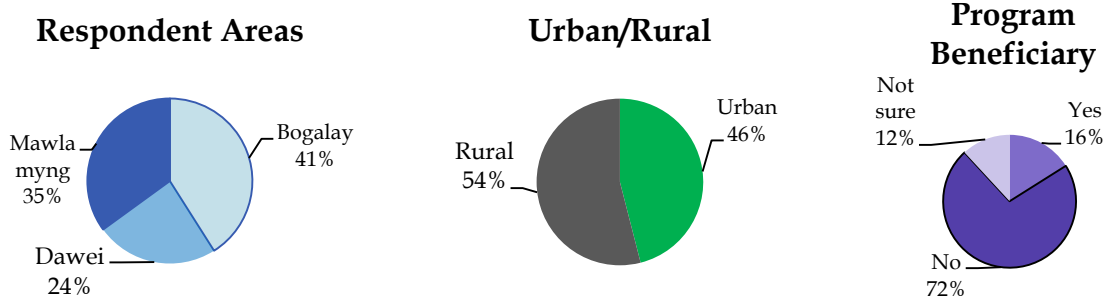
survey areas. In case of confusion the enumerators explained to the respondents that references in the survey to government institutions and official regulations specifically meant the Myanmar Union Government system. The language of the survey is clear, however it is possible that a respondent's experiences with a non-government administrative system influenced his or her answers regarding government institutions.

Respondents

Respondents were approached by enumerators soliciting participants in different neighborhoods in the main town and in nearby villages. Respondent households were identified randomly within assigned neighborhoods with some consideration for enumerator convenience to access the maximum number of respondents in the limited time period. The respondent sample is diverse, with those residing in the main town classified as urban and those from villages as rural.⁵ Respondents were asked to identify any social affiliations with rule of law institutions or work. The majority did not mark any affiliation from the list⁶ and instead chose "Other", with the most common write-in identification was as "naing gaing thah", or ordinary citizen, followed by "jahban alouq", or general laborer earning a bare living.

The number of participants from each project area varied due to access challenges faced by enumerators, some of whom were limited in their mobility due to road closures due to poor weather conditions, and others encountering numerous people unwilling to participate.

Figures 1-3



The majority of participants marked that they had not participated in a rule of law program, such as a workshop run by a civil society organization or government-sponsored meeting on law and legal principles, in the recent past,⁷ suggesting that respondents were more likely to answer questions more directly based on how they perceive their personal experience without the influence of additional knowledge about rule of law.

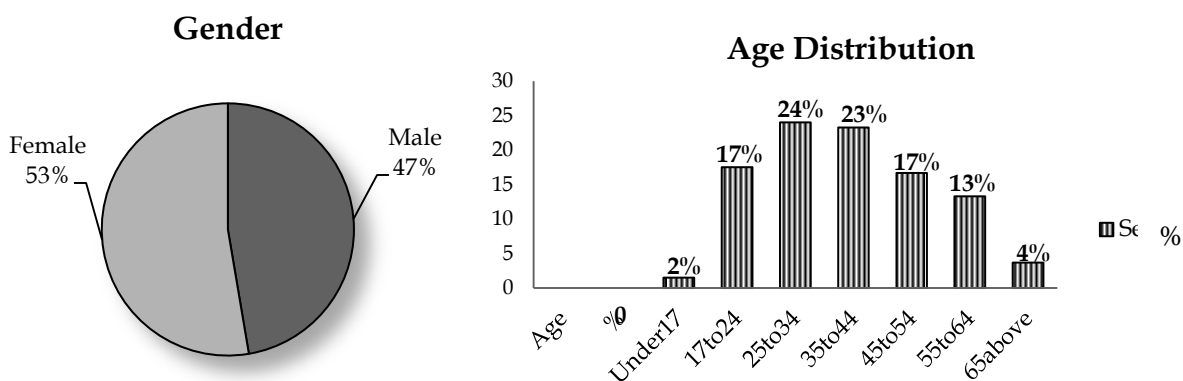
⁵ The rural and urban spread does not reflect the national ratio, where rural residents make up nearly three quarters of the population.

⁶ 1% identified as community lawyers, 10% as government officials, 16% as businessmen, and 20% as civil society.

⁷ It is possible that some respondents who said they have not benefitted from such a program may have participated in a program that was focused on a narrower or indirectly related topic, such as constitutionalism or voting rights.

Certain demographic characteristics of the survey sample help track the representativeness of the sample for the population of Myanmar. Demographic data also provides contextual background information for the respondent pool. Respondents of all ages participated, with the spread generally reflecting the age distribution across the entire country over the age of 17. The gender distribution is slightly skewed in favor of female participants compared to the national gender distribution.⁸

Figures 4-5



The most represented ethnic group was Bamar at 49% of respondents, followed by 21% Mon, 15% Kayin, 13% Daweirian, and fewer than 1% Rakhine and Shan. A handful of respondents identified as being of mixed ethnicity and another handful as “Other,” several writing in that they were Bamar-Chinese or Muslim. The ethnic make-up of respondents in the survey veers significantly from that of the general Myanmar population, but it corresponds with the ethnic make-up of the regions where the surveys were administered.

The majority of respondents had completed secondary school, suggesting that they were more likely to be literate and familiar with the more complex terms and concepts in survey. Enumerators indicated that at least ten of the 23 respondents who did not mark any answer for their education level orally responded that they had completed monastic or religious education, which had not been a survey option. Most respondents were employed at least as seasonal, part-time or full-time workers, and most indicated that they worked in the agriculture or business sectors.

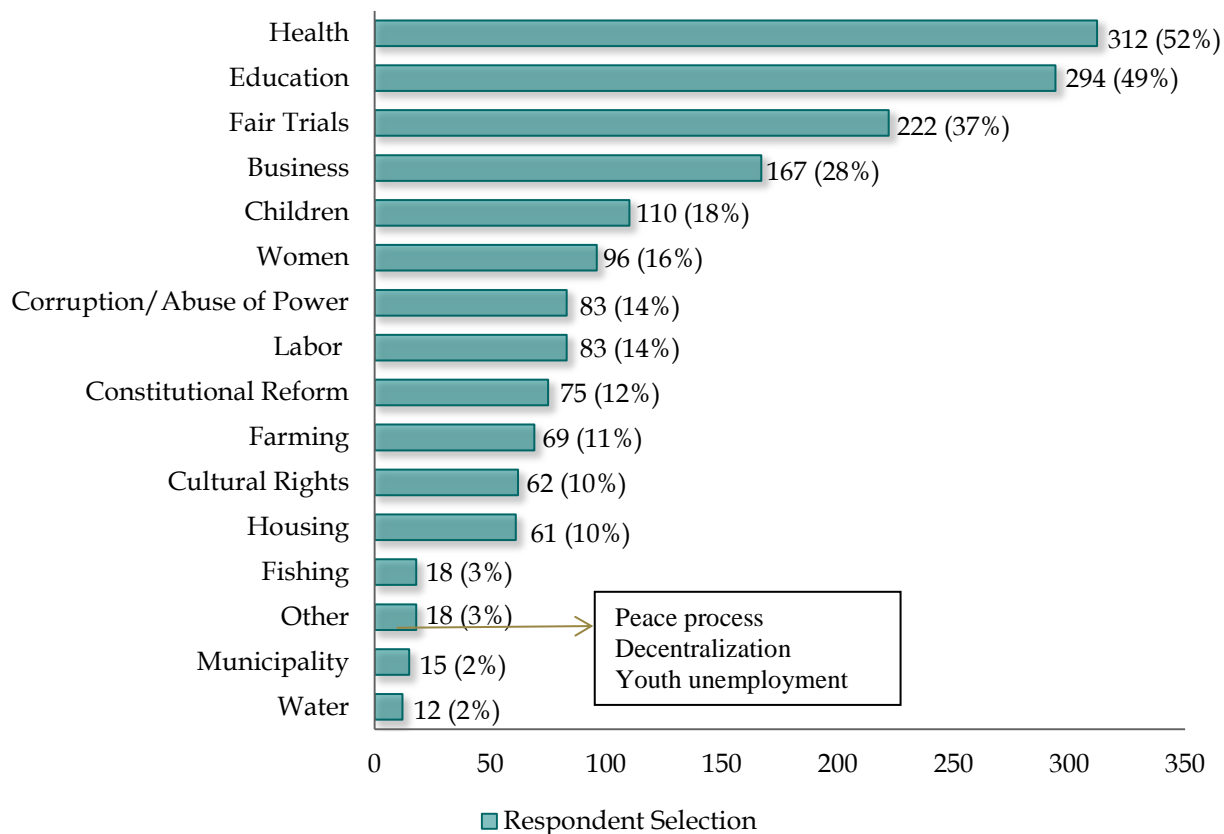
⁸ 51.8% Female and 48.2% Male according to the 2014 Census.

Interests in Rights and Rule of Law

Respondents were asked to consider their engagement with rule of law and to select a maximum of three priority interests from a non-exhaustive list and add it if their preference was not listed. Many respondents prioritized social welfare issues, selecting “Health” and “Education” as top priorities. It is notable that “Fair Trials”, which ranks third as a top concern for respondents,⁹ is not a subject of social welfare. The issue of procedural fairness in the judicial system only directly affects criminal defendants or parties in a civil action,¹⁰ yet 37% of respondents are interested in it. This finding suggests that in the universe of rule of law issues, many people, including those outside of it, consider the fitness of the judicial system to be a critical part of society’s overall well-being.

Figure 6

Respondent Interests in Issues Related to Rule of Law



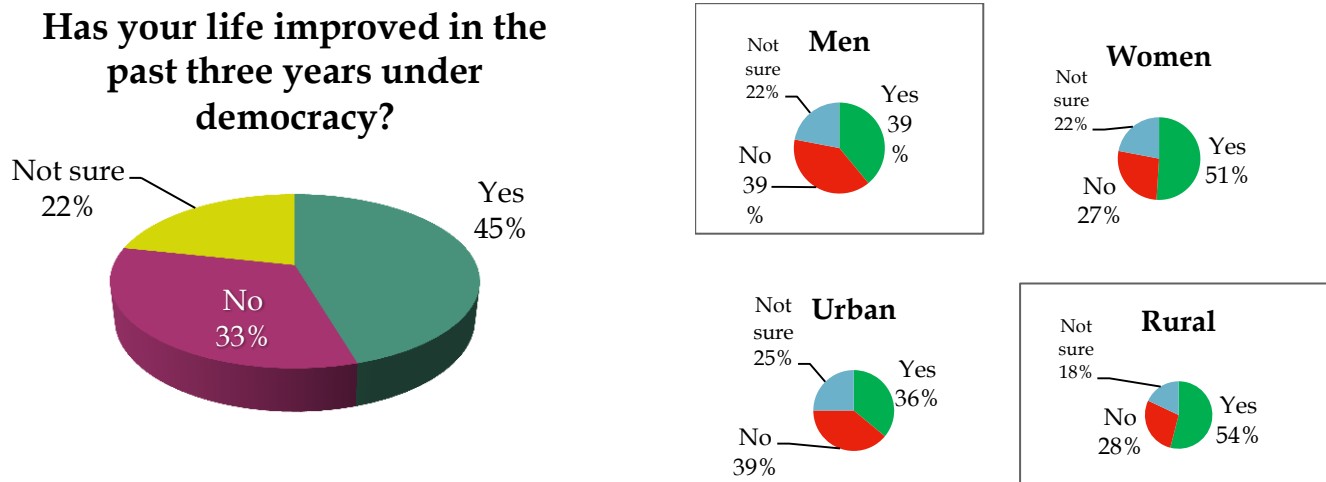
⁹ Over 36% of survey takers (n = 222) selected fair trials as one of their top three concerns.

¹⁰ See Figure 10. In the past three years 4% of respondents had filed a complaint in court and 2% were involved in a trial.

Experience and Engagement

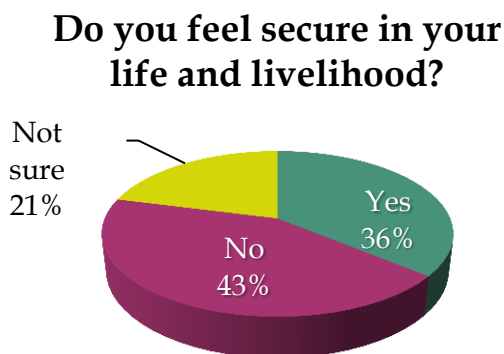
How people perceive the state of rule of law in Myanmar relates directly to how they relate it to their life experience. Survey respondents were asked to consider if their lives had improved in the recent past under democracy and whether they felt secure in their lives and livelihoods. While more respondents claimed that their lives had improved than denied it or were uncertain, more people responded that they did not feel secure in their lives and livelihoods than those who claimed that they did.¹¹

Figures 7-8



Women and people rural areas were more likely to agree that their lives had improved in the recent years under democracy. Men were divided evenly between affirmative and negative answers, while more urban residents' lives had not improved over that time. Rural residents were more confident in their answers by a small margin.

Figure 9



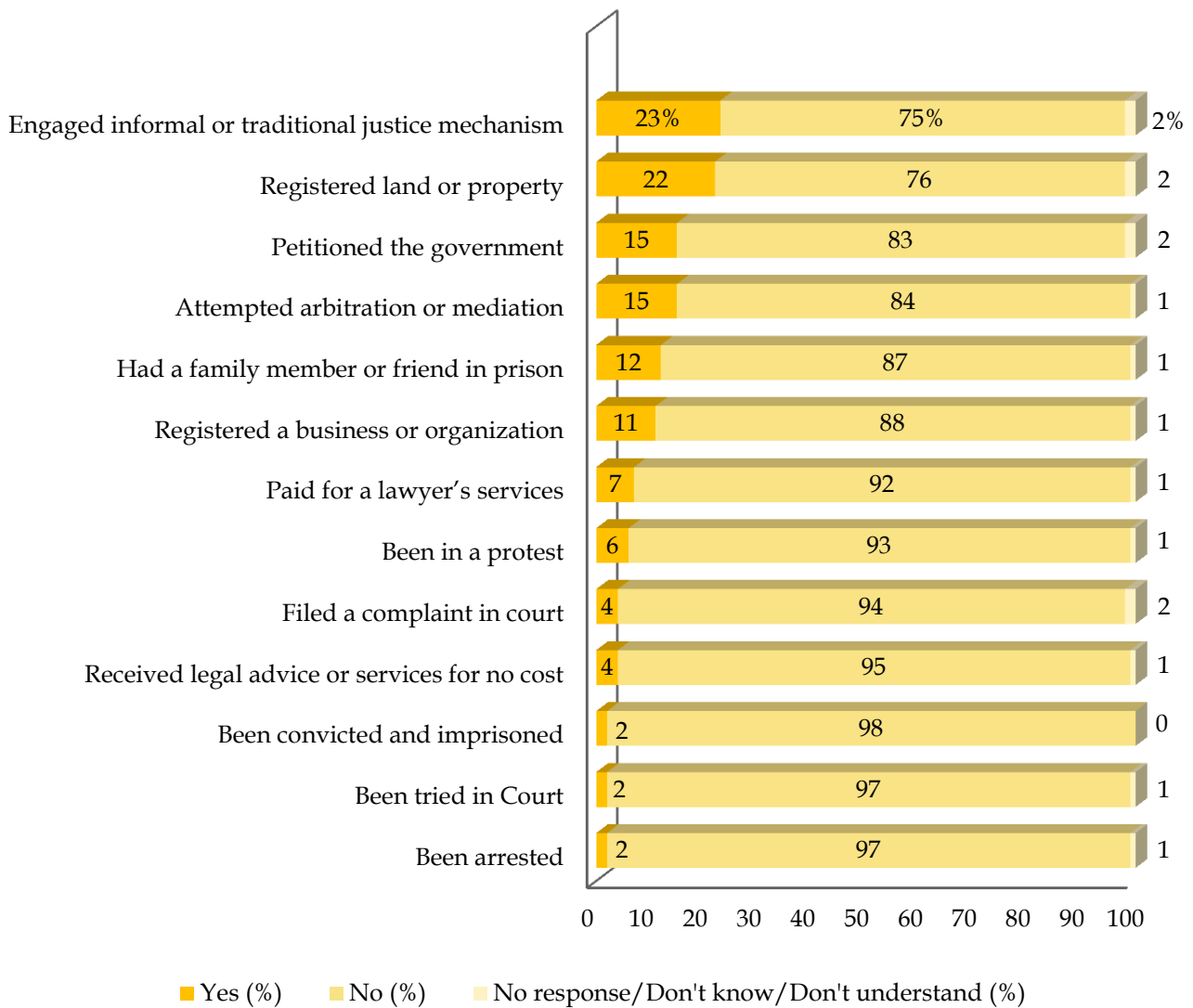
While more people claimed that their lives had improved under democracy than those who claimed it had not, when asked if they felt secure in their lives and livelihoods, more respondents replied in the negative. This result suggests that in spite of some positive change, where many people started was so decidedly difficult that there is still a great deal of room for improvement required just for them to achieve a basic level of security and stability.

¹¹ One consideration is that people may reflect a generally positive idea of democracy from the rhetoric around the concept onto their assessment of changes in their lives. If democracy is better than military rule, than life under democracy is, or should be, better than it was under the preceding regime.

Respondents were asked to identify their experiences with rule of law institutions in the recent past, including with dispute resolution through formal or informal means, direct or indirect participation in criminal process, protest or petition to express an opinion with regard to some form of government action, and administrative procedures for formalizing business or property interests.

Figure 10

Respondent Experience with Legal Institutions in the Past Three Years



Women were on average half as likely as men to have experienced the listed institutional engagements.¹² In light of the fact that women claim a higher degree of confidence in most institutions than men, it would be

¹² In fact, the proportion of male respondents exceeds the proportion of female respondents who have engaged with every one of the political and legal processes listed in Figure 10 as follows: Protest (10% of men, 2% of women), arrested and/or convicted

interesting to learn if women experience comparatively better outcomes from their more limited institutional engagements, but that question is outside of the scope of this research.

Figure 11

Registered business or organization

Registered land or property



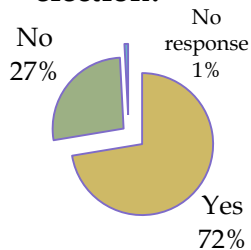
The most significant difference in institutional engagement levels between urban and rural respondents was that rural respondents were more likely to have registered a business/organization or land/property in the past three years than urban respondents. This higher level of engagement in formal registration processes suggests either that people are more law-abiding, that administrative procedures are easier, that benefits are more pronounced, or that for whatever reason registration is more necessary in rural areas. For example, farmers who want to protect their land from confiscation by the government or encroachment from another may have more incentive to register their land use rights in an area where such threats are highly common, which include most rural areas in Myanmar.

(3% of men, 1% of women), been tried in court (3% of men, 2% of women), had a family member or friend in prison (14% of men, 10% of women), paid for a lawyer’s services (7% of men, 6% of women), received legal services at no cost (6% of men, 3% of women), filed a complaint in court (5% of men, 4% of women), registered a business or organization (16% of men, 7% of women), arbitration or mediation (22% of men, 8% of women), traditional justice (29% of men, 17% of women), and petitioned the government (23% of men, 8% of women).

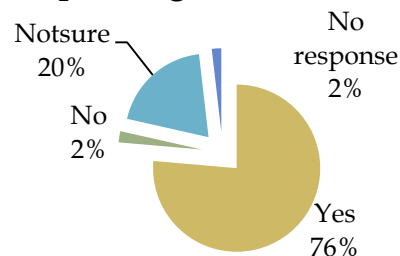
Political Participation

In Myanmar's current democratic era the people directly participate in government formation through elections, a new experience for many of the country's younger voting age citizens. Participation in political processes allows citizens to exert direct influence over the government institutions supporting rule of law.

Recent past vote in any election?

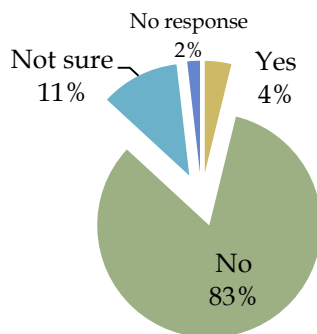


Do you plan on voting in an upcoming election?

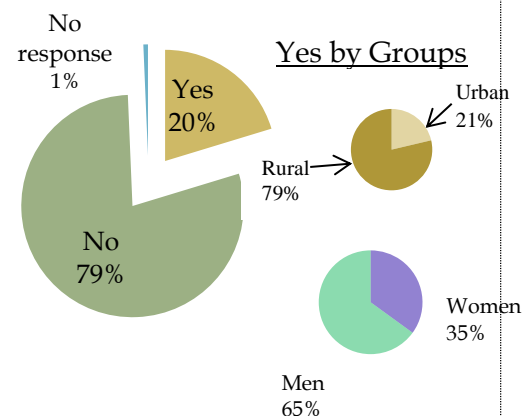


Figures 12-15

Will you run for any office in an upcoming election?



Do you belong to any political parties?



Political participation is generally high in the respondent population, and higher in rural areas than urban. More respondents plan on voting in an upcoming election than voted in a previous one,¹³ though most are not members of any political party.¹⁴ A small percentage of respondents plan on running for office in an upcoming election, and three times more of them indicated that they were not sure, thus open to the possibility.

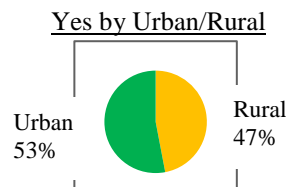
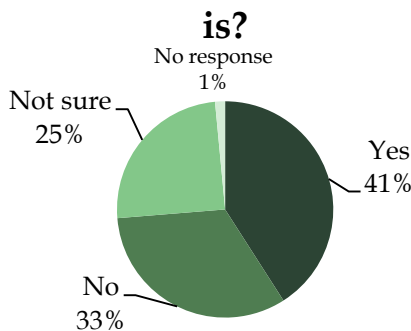
¹³ In a recent public opinion survey conducted by the International Republican Institute, 90% of respondents said that they would definitely vote if parliamentary elections were held today, a number significantly higher than the 76% of respondents in this survey. (International Republican Institute, "Survey of Burma Public Opinion" (December 24 2013 – February 1 2014). Although this survey does not claim statistical significance, some of the disparity may be explained by the fact that IRI respondents were a "national representative sample of voting adults" of at least 18 years of age. Respondents in this sample, on the other hand, included those of under 17 years of age.

¹⁴ Those who are members of a political party are four times more likely to be from rural areas than urban and nearly twice as likely to be men than women.

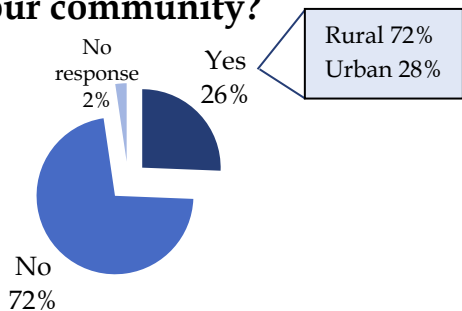
How democracy is understood by the Myanmar people will affect the potency of democratic values in operation as the country continues its transition. The democratic idea is that a government made up of representatives chosen by the people will be more responsive to the public interest, especially the interest of rule of law.

Figures 16-18

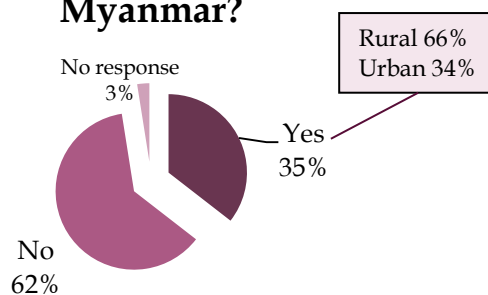
Do you understand what democracy is?



Does democracy function in your community?



Does democracy function in Myanmar?



Enumerators were trained to give a brief explanation of democracy to those who answered that they did not or were not sure if they understood what democracy was so that they could answer the questions that followed. The data suggests that public understanding and appreciation of democracy as a political system built on public in Myanmar is low. When asked about their opinions on democracy, more respondents were confident that they understood its meaning than those who claimed they did not or were uncertain about their own knowledge, but most respondents were not confident that they understood it. A large majority of respondents do not believe that democracy functions in their community, and a smaller majority disagrees that it functions at a national level. Some interviewees mentioned that while they understood democracy, they believed that most others did not.¹⁵¹⁶

¹⁵ One interviewee, a religious leader in Dawei, noted that when people in Myanmar hear the word democracy, most of them immediately think of the National League for Democracy Party and its leader, Daw Aung San Suu Kyi.

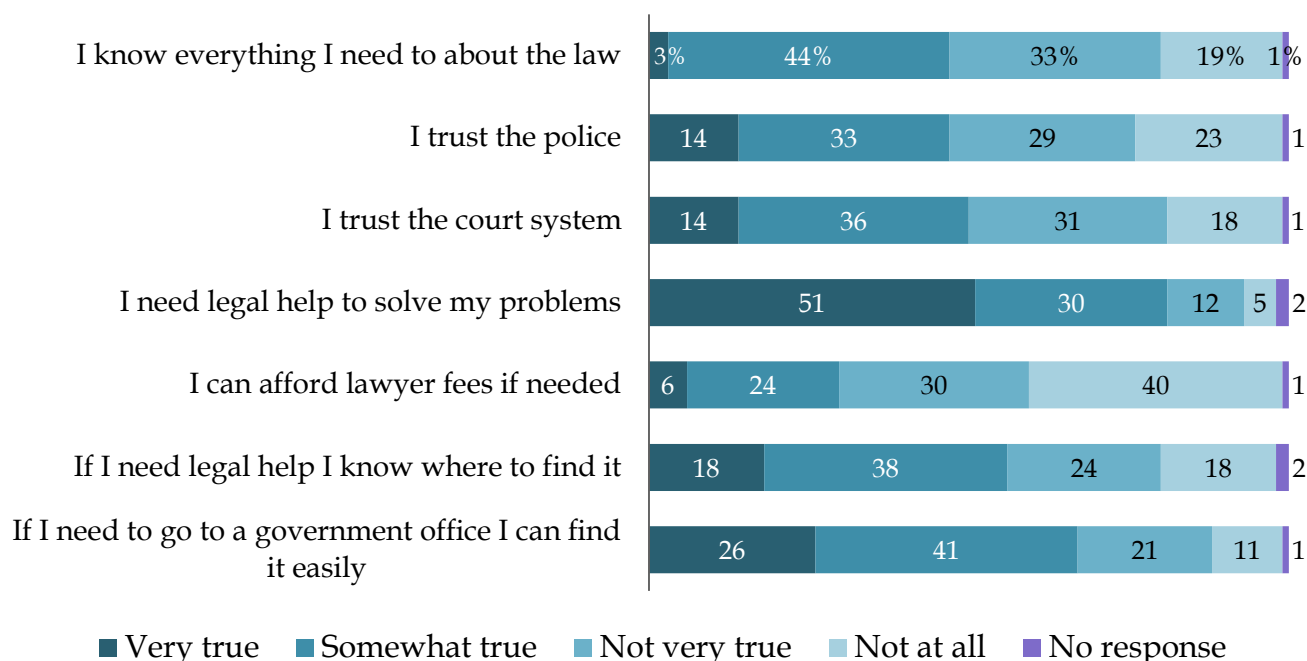
¹⁶ A recent public opinion survey conducted by BBC Media found that citizens in Myanmar had a low level of political understanding and many confused the meaning of democracy with freedom or peace. BBC Media Action Research & Learning, "Citizen Engagement in Burma: Trends, Barriers and the Role for Media," (May 2014) p. 10.

Access to Legal Knowledge and Services

Greater public awareness of laws is a priority concern for many people and can contribute significantly to improving trust levels and effectiveness of rule of law structures. Public access to the professional advocates, enforcers and administrators of the law is an important part of rule of law. Legal knowledge and the skill to use it is essential for asserting legal rights, fighting violations thereof, or knowing how to alter change behavior based on the parameters set in the law.

Figure 19

Perceptions about access to legal knowledge and services (% Respondents)



The research findings do not conclusively speak to the degree of public confidence in accessing legal expertise, though most respondent indicated that it was at least somewhat true that if they need legal help they know where to find it. It is notable that a majority of all respondents concluded that it was “very true” that they needed legal help to solve their problems, and an additional one third of respondents said that it was “somewhat true.” Nearly half of respondents assert that it is at least somewhat true that they know everything they need to about the law, suggesting a high level of confidence on the part of many respondents with regard to their own level of awareness of the law for getting by on a day-to-day basis. For most respondents it was “not very” or “not at all” true that they can afford lawyer fees if needed. Many respondents would solicit direct assistance from someone with a level of legal expertise that most

respondents believe they cannot claim and do not necessarily want for themselves, judging by the large minority who claim some truth to the statement that they know everything they need about the law.¹⁷

The first institutional actors that most of the public will engage with in the event of experiencing a crime or emergency are the police, believed to be ineffective by most respondents expressing an opinion.¹⁸ Three quarters of respondents for whom it was “Very True” that they trust the police were from rural areas. The split for those who indicated that it is “very true” that they trust the courts between rural and urban respondents is nearly the same ratio. It is not known from the research whether interactions with the police or courts for urban residents are more frequent or less satisfactory than interactions with police in rural areas.

The responses by gender were close, but consistently women expressed less confidence about their legal knowledge and access to expertise and were more trusting of enforcement and judicial institutions.¹⁹

Dispute Resolution

Dispute resolution can take many forms. In a strong rule of law environment formal dispute resolution mechanisms will compete with informal ones primarily on the basis of cost and timeliness more so than procedural fairness or quality of justice in the outcome. In Myanmar, public trust in the fairness of formal administrative and judicial dispute resolution mechanisms is generally low. A recurring issue raised in interviews and noted in some survey comments was the discriminatory treatment in favor of wealthier parties in a dispute by authorities.²⁰ The fairness of judicial process may vary at different stages where the judge exercises discretion. There is always opportunity for bias whenever the judge issues an order.²¹

¹⁷ A number of respondents requested legal advice from the enumerators administering the survey regarding a problem they were experiencing; enumerators made it clear that their role was to administer the survey only but invited respondents to share their experience as a survey comment.

¹⁸ See Figure 28: Effective Function of Legal Institutions, pg. 22.

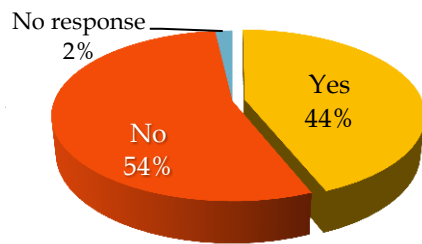
¹⁹ 52% of men versus 42% of women said it was very or somewhat true that they knew everything they needed to about the law; 50% of women said it was very or somewhat true that they trust the police, versus 43% of men; 66% of women said it was very or somewhat true that they trust the court system versus 43.6% of men. Over three quarters of both groups find it very or somewhat true that they need legal help to solve their problems; slightly fewer women than men claimed it was very or somewhat true that they knew where to find legal help if needed or could easily find a government office.

²⁰ One interviewee expressed certainty that she would never have justice in an on-going civil and criminal action against a wealthy opponent who the interviewee alleged was at fault. This woman is an ordinary citizen and low-wage laborer in Bogalay. She spoke about an on-going legal case in which she is accused of fighting a wealthy and well-connected loan shark who had attacked her over a personal matter. The loan shark pleaded guilty and was sentenced to the maximum 1,000 kyats fine which is the minimum penalty for the offense, but the woman believes that if she does the same, she will not only have lied, but she will receive months of jail time, the maximum penalty.

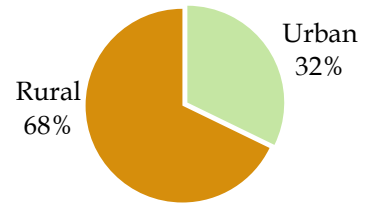
²¹ One respondent considered there to be strong bias in a case he was aware of where a judge ordered a sentence of 3 months imprisonment for a felon convicted of attempted rape and the same judge in another case ordered that a bystander watching rooster fight serve a 6 month sentence.

Figures 20-21

I trust the local judicial and administrative authorities to resolve disputes fairly



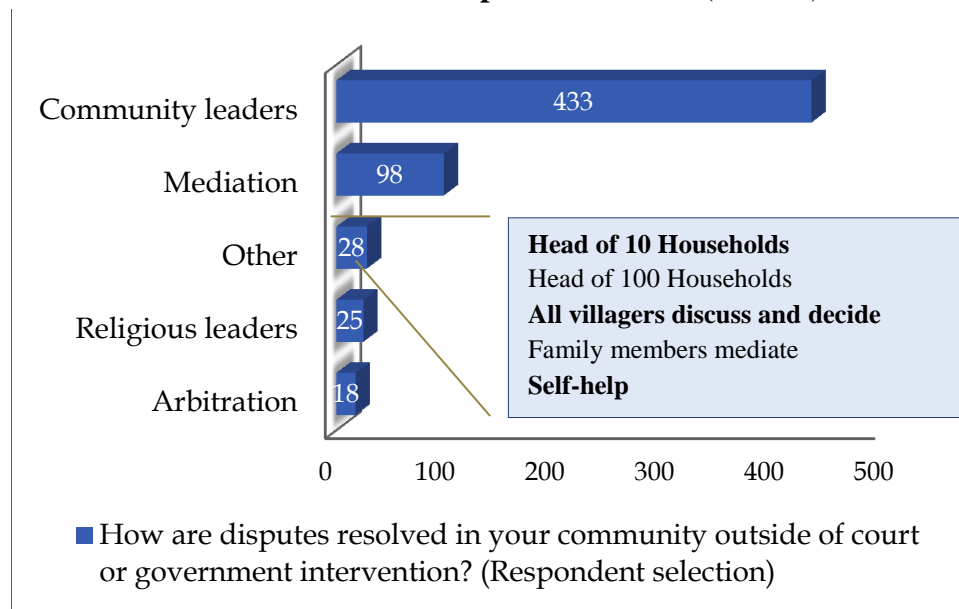
Yes, I trust authorities to resolve disputes fairly



The majority of respondents indicated that they did not trust judicial and administrative authorities to resolve disputes fairly, an opinion dominated by male and urban respondents and shared by many of the people interviewed.²² Although less likely to have experienced judicial and administrative processes,²³ women were more trusting of dispute resolution by judicial and administrative authorities than men, in line with the general trend of women’s greater confidence in institutional fairness.²⁴

Figure 22

Non-Governmental Dispute Resolution (n = 583)



²² One respondent commented that if administrative officials only treated matters fairly no one would mind even longer processing delays than already exist.

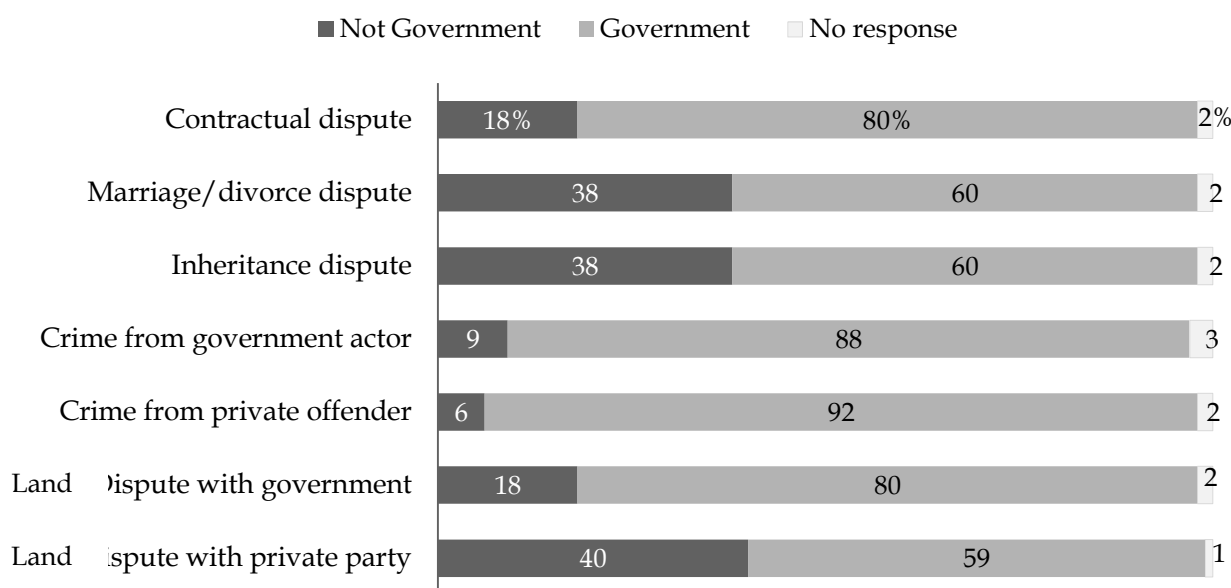
²³ See discussion of Figure 10: Respondent Experience in the Past Three Years.

²⁴ 52% of female respondents trust the local judicial and administrative authorities to resolve disputes, compared to 37% of male respondents.

In Myanmar non-governmental dispute resolution is a part of many people's lives²⁵ and an important alternative to soliciting intervention from bureaucrats, courts, or the police. Customarily every residential community in the country has an ordered system for producing community leaders with legal responsibilities.²⁶ As for personal matters, the survey data indicated that mediation, or facilitated resolution dialogue by a trusted third party, is a preferred method for resolving conflicts, though arbitration, which resembles judicial process but where the parties choose the arbiter, is important for a small number of respondents.

Figure 23

Dispute Resolution Government and Non-Government Mechanisms



Government intervention is preferred in all categories of disputes, particularly for criminal matters. Respondents likely favor government processes for criminal cases because criminal offenders can be punished with imprisonment, often the most appropriate outcome for a crime.²⁷ In reality government intervention in criminal matters may not be an option at all in spite of being decidedly preferred.²⁸

²⁵ See Figure 10: Respondent Experience with Legal Institutions in the Past Three Years. 23% of respondents had engaged informal or traditional justice mechanisms in the recent past.

²⁶ Approximately every ten households selects one representative as the Head of 10 Households, who meets with other Heads of 10 Households to select a Head of 100 Households, and the Heads of 100 Households select the Village Administrator, who is a salaried government staff person. See Ward and Village Tract Administration Law (2012).

²⁷ Crimes are defined in the Penal Code and are technically not conflicts to which a private victim is a party, but are offenses against the public order.

²⁸ Government intervention may be favored by most respondents, but it will not always come to fruition. One community lawyer spoke about several rape cases where she was advocating on a pro bono basis for the victims who were all very poor because the authorities were neglecting the cases. In another interview, a laundress noted that she had little prior experience with or great trust in the police, but when her daughter was sexually assaulted by someone else in the community she repeatedly requested that the police take action to investigate the attempted rape. She admitted that more than any form of compensation for her daughter or

The highest preference for non-government dispute intervention was for disputes with another private party, which include inheritance and marriage or divorce disputes, also listed. Female respondents consistently prefer government intervention for dispute resolution to intervention by a non-government body by a slightly higher margin (2-5 percentage points) than male respondents in every category, except for inheritance dispute where the groups have equal preferences.²⁹ Rural respondents were slightly more favorable to nongovernment intervention for the listed disputes than urban respondents in every category.³⁰

One person who was interviewed noted that although he recognizes that there are severe weaknesses in the court system in Myanmar, as a civil society representative engaged in citizen empowerment, his policy is to recommend that people use judicial process to pursue civil actions for their interests.³¹

penalization of the offender, she sought recognition by the authorities that a crime had occurred. She pleaded with the police to pursue the case against a suspect she strongly believes is guilty and who, after he was released from jail following his uncle's bribe to the authorities, has left town. Her pleas have done nothing to engage the attention of the police in the case, though she thinks a bribe she cannot afford to pay might.

²⁹ For inheritance disputes, 38% of male respondents and 38% of female respondents prefer non-governmental resolution, to 60% of both groups who prefer government intervention.

³⁰ Most significantly in this group of questions, 42% of rural respondents to 39% of urban respondents favored nongovernment intervention for a land dispute with a private party, and 22% of rural respondents favored it for contract disputes, to 13% of urban.

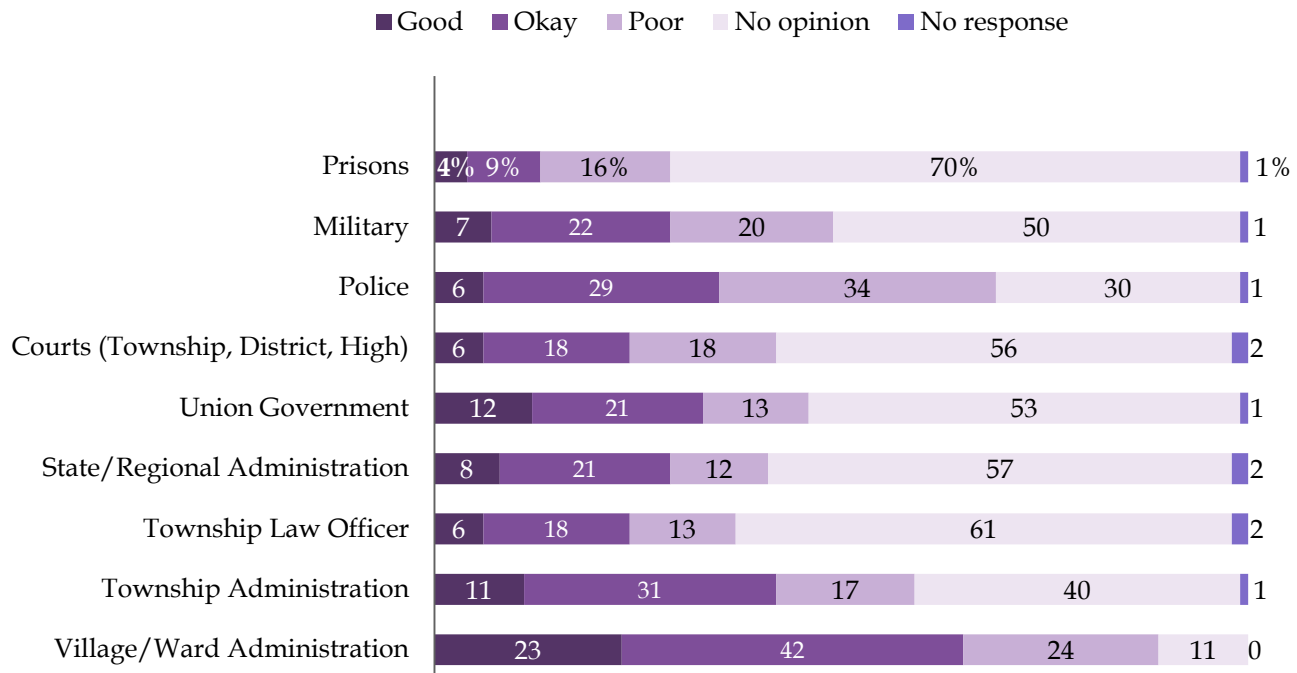
³¹ Civil society representative in Dawei.

Institutional Effectiveness

People engage with government institutions for a variety of reasons, not the least of which is to demand that the institutional actors do their job.³² Based on their experience and any other source of knowledge, respondents were asked to share their opinions on how well some government legal institutions at different levels function, ranking each institution’s effectiveness as “Good”, “Okay” or “Bad”, or “No opinion”.

Figure 24

Effective Function of Legal Institutions (% Respondents)



Largely unwilling to comment on the performance quality of government bodies at higher levels, the respondents ranked the government bodies by whether they had an opinion and what that opinion was. Most of the respondents who express an opinion rank the government and legal institutions as “Okay.” No institutional body has a majority of “Good” responses, although Village/Ward Administration comes closest with nearly a quarter of respondents expressing the most positive opinion. The fewest respondents have an opinion about prisons, while more respondents than not had an opinion about the police and village/ward and township administrations. Police garnered a higher percentage rate of “Bad” rankings than any other. Personal engagement with police likely occurs at a higher rate for respondents than experience with the other institutions, and it is likely that those encounters are not positive. Rural respondents had more positive opinions about the effective functioning of all of the listed government institutions than the urban,³³ and

³² One respondent commented that “government offices are very effective when you pay the right bribe.”

³³ Three quarters of respondents who indicated that the effectiveness of the village/ward administration was “Good” were rural residents, and 65% of respondents who marked it as “Poor” were urban. More rural respondents had an opinion about that institution than about the township or state/regional, or union governments.

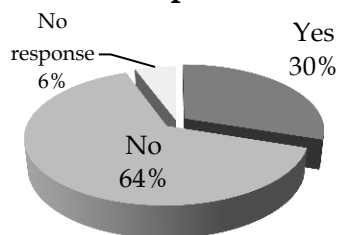
consistently female respondents thought government institutions were “Good” or “Okay” at a slightly higher margin than men.³⁴

Challenges and Building Trust

Rule of law suffers when corrupt government actors, including police, judges, and civil servants, abuse their position in ways that undermine the public interest. 41% of respondents identified corruption as a major problem impeding justice in Myanmar.³⁵ As part of the supplemental survey respondents were asked about their general experience with corruption – whether they had witnessed it taking place or paid a bribe and the frequency of engaging bribery in the recent past.³⁶ The issue was sensitive one, and these questions have a lower response rate than that of other survey questions, though participation remained high at 94%.

Figures 25-26

Have you seen an instance of corruption?



Responses by Group

	Yes	No	No response
Urban	33%	57%	10%
Rural	27%	71%	2%
Women	24%	70%	6%
Men	37%	58%	5%

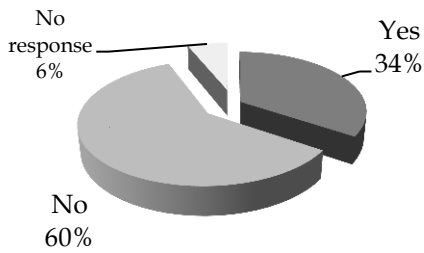
³⁴ 1-3% more female respondents were positive about the institutions than male, and 5-15% more female respondents had no opinion of the institutions than the percentage of male respondents with no opinion. The “No opinion” disparity is greatest regarding institutional effectiveness responses for police (37% of female respondents and 22% of male), courts (63% of female respondents and 49% of male), central government (60% of female respondents and 47% of male), and township administration (47% of female respondents and 32% of male).

³⁵ See Figure 31.

³⁶ One description of a case of corruption detailed the trials of a man’s family who, in the wake of a fatal accident for which he claimed he was not responsible, bribed the investigative officer three times, firstly to write a favorable report of the accident that did not incriminate him, secondly to write that report and commence the case timely when he was prone to delay, and thirdly to get the medical records for the case. The family negotiated a private settlement with the family of the victim for their official statement that they were pleased, would not sue the accused, and would submit that statement to the court. They then bribed the Township Law Officer and the Township Judge to accept the statement and prosecute minimally and rule favorably, respectively. The process took time and money (over USD 6000), and the primary person brokering the deals was a family member who was a retired police officer.

Figure 27-28

Have you ever had to pay a bribe to a public official?

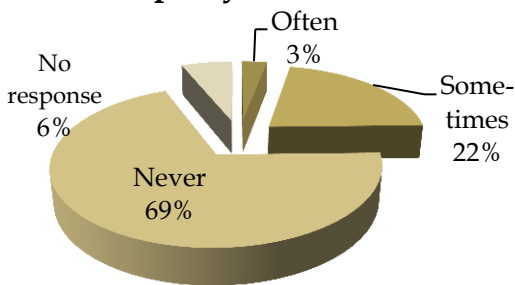


Responses by Urban/Rural

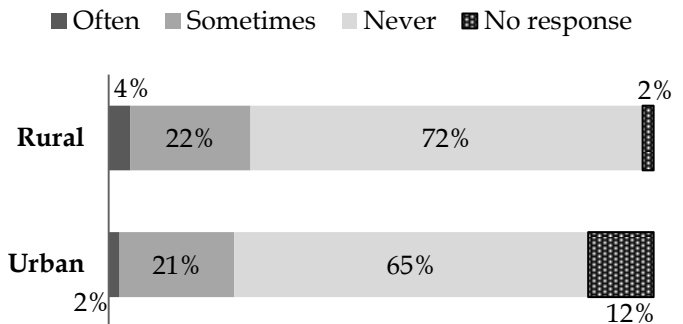
	Yes	No	No response
Urban	42%	47%	11%
Rural	27%	71%	2%
Women	29%	65%	6%
Men	40%	54%	6%

Figures 29-30

How often have you participated in bribery in the past year?



How often in the past year have you participated in bribery?



The majority of respondents did not admit to witnessing corruption or participating in bribery, with a greater percentage of women and rural residents in that majority than men or urban respondents. A quarter of respondents answered that they had participated in bribery in the past year. Other forms of corruption besides bribery remain a concern as well.³⁷

Although corruption is considered pervasive in the country, the fact that the majority of respondents claim they do not experience it in their lives suggests that this group of respondents is perhaps uniquely unaffected by it or may not have answered entirely honestly. While only 14% of survey respondents selected corruption and abuse of power by government officials as a top issue facing rule of law in Myanmar,³⁸ the country is known locally and internationally as having a particularly high degree of corruption.³⁹ Collectively the

³⁷ A farmer noted the problem of collusion that he suspected was taking place between loan sharks and local authorities who enforce abusive contract terms. The interviewee discussed how a growing number of farmers were losing land to lenders who charge high interest rates on credit that farmers must acquire on top of the insufficient government agricultural loan. When the lenders default on repayment authorities will enforce the loan agreement and effectuate a transfer of property ownership to the lender, receiving a kickback.

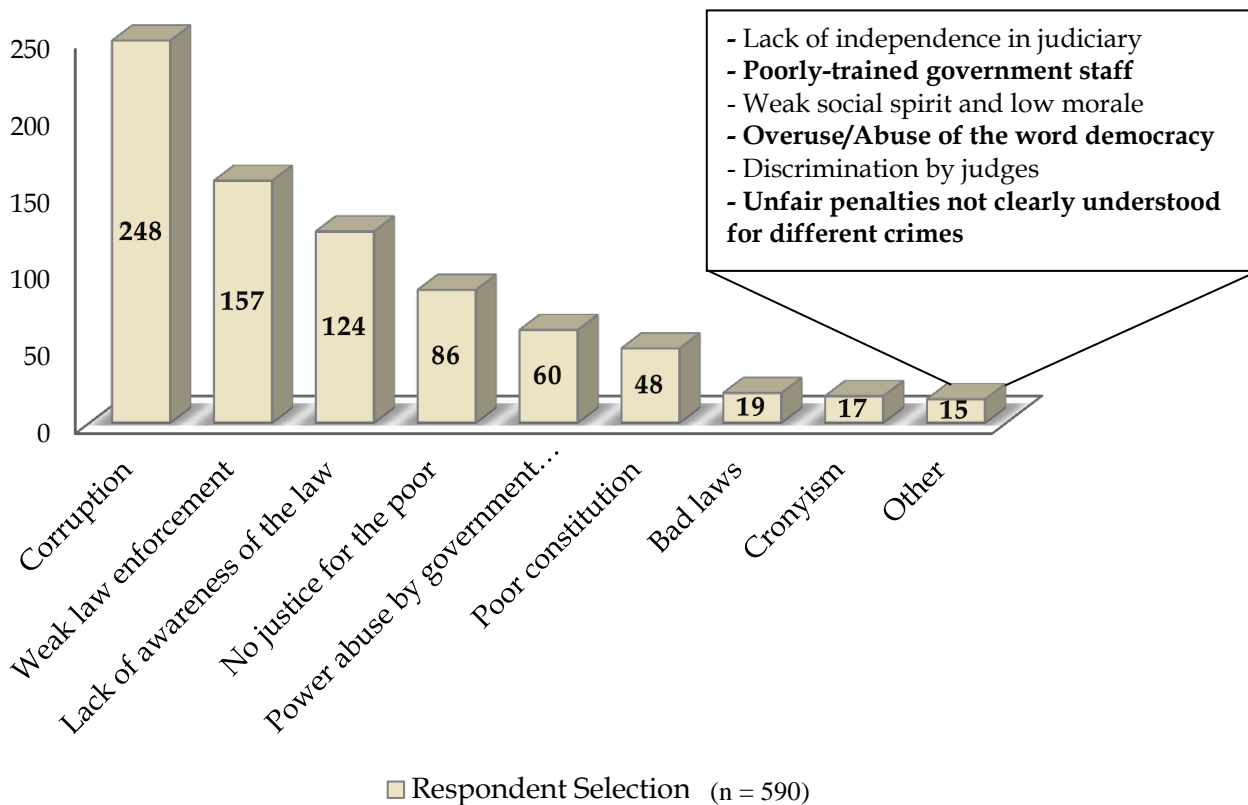
³⁸ See Figure 6: Respondent Interest in Issues Related to Rule of Law.

³⁹ As of September 2014, Transparency International ranks Myanmar as 21st in the world for corruption perceptions.

quantitative and qualitative data identify a number of threats to the realization of strong rule of law besides corruption.

Figure 31

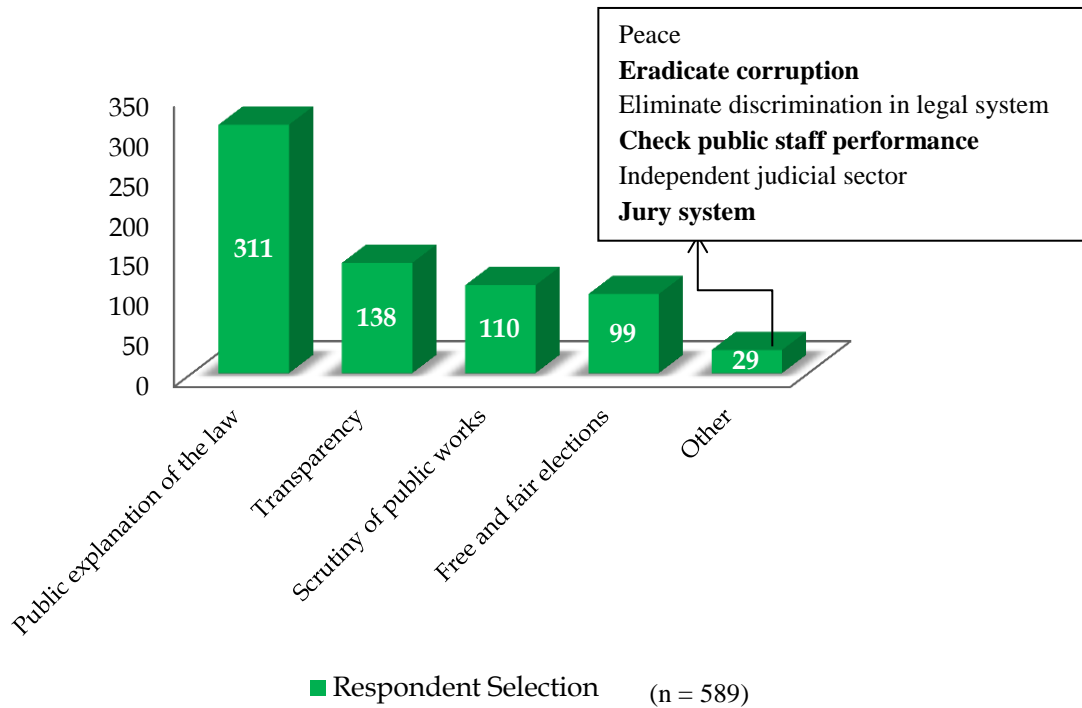
Problems Facing Justice in Myanmar



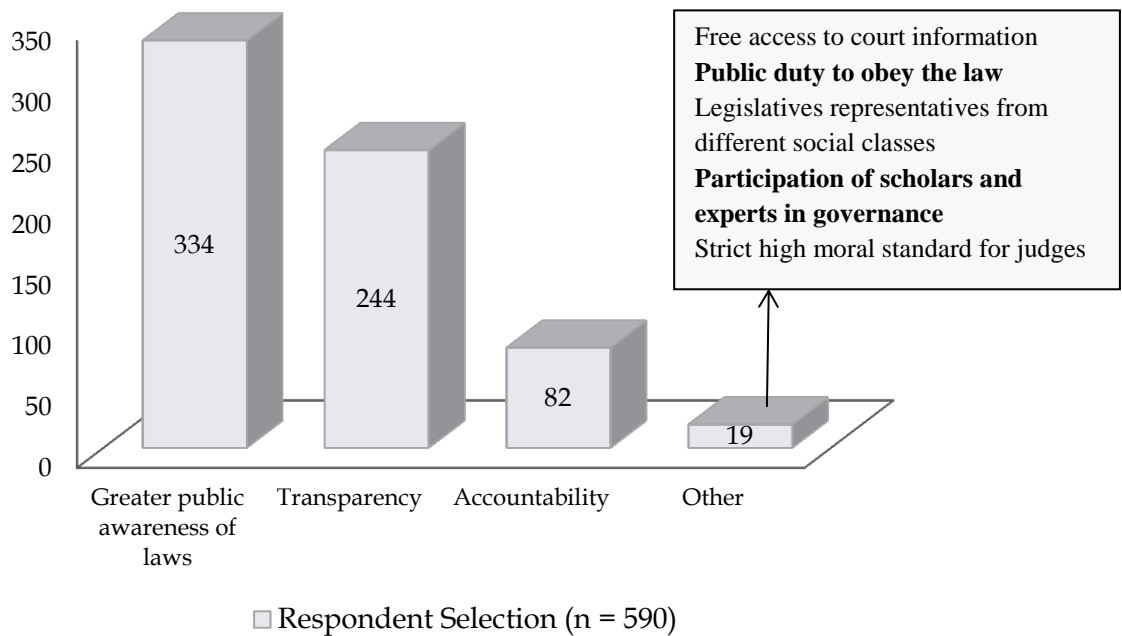
All of these problems are interconnected and undermine the proper functioning of the legal system. The issue of public awareness is particularly important because as long as the people are under-informed about their rights, those rights may not exist. Public explanation of the law would contribute to increasing people's trust in the legal system, and greater trust may correlate with greater effectiveness, as seen below. Trust requires greater visibility of the institutions that support rule of law. A well-informed public in a democratic country is in a better position to demand that the legal institutional actors in that country meet its heightened performance expectations. As those institutional actors make a genuine effort to do so, the system is already more effective.

Figures 32 - 33

What could happen that would increase your trust in the legal system?



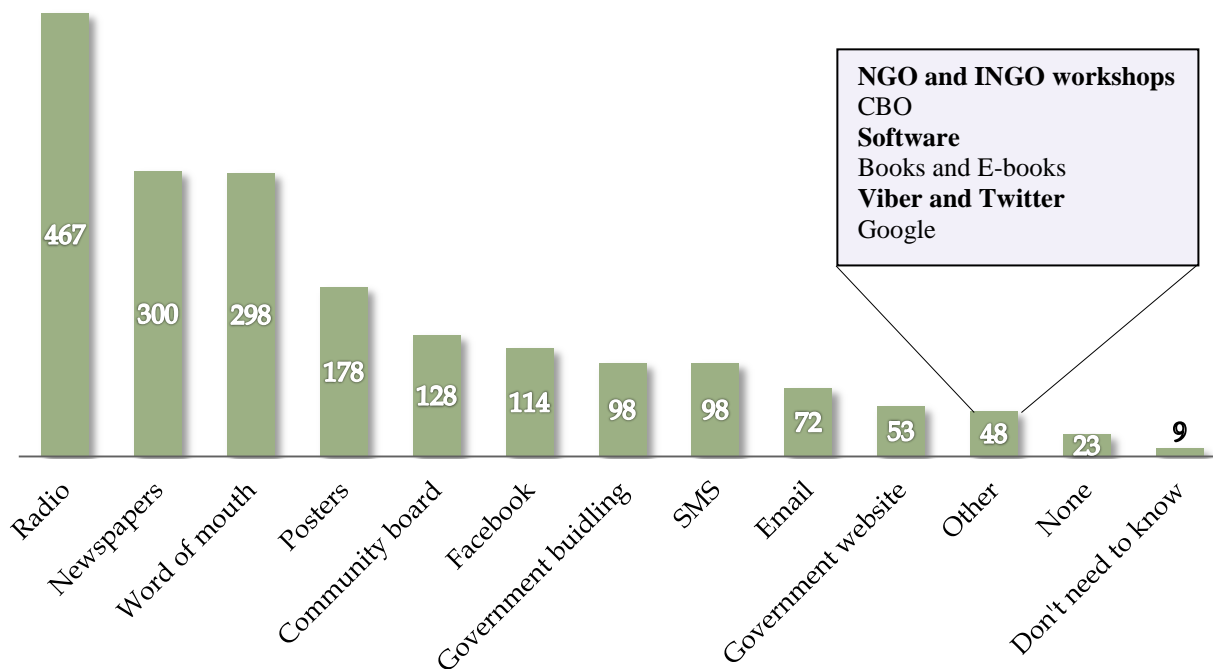
What would make the legal system more effective in your community?



People rely on media to provide information relevant to their lives, particularly about the political and legal systems.⁴⁰ The supplemental survey questioned respondents on what they considered the best ways to access legal information.

Figure 34

Best sources of information about relevant laws



Radio is the most popular form of media by which people prefer to access information about laws relevant to their lives, followed by print news, and then word of mouth.⁴¹ News radio and newspapers are bundles of information that, with the purchase of relatively inexpensive papers or access to radio broadcasts, can convey general information about the legal and governance regimes and developments in those sectors relevant to personal experience. Public postings rank highly as well, and the sixth preferred information poster is Facebook. Some respondents cited a number of additional sources, including books, public lectures, NGO trainings, and other social media. A few respondents noted that there were no good sources of information for them and that they did not need to know about developments in law relevant to their lives.

⁴⁰ BBC Media Report, “Citizen Engagement in Burma” (May 2014).

⁴¹ “Word of mouth” is intended to describe transfer of information through informal interpersonal channels. For respondents who selected SMS, Email, or added the popular message application Viber as among their preferred means to access information, those shared messages may also be classified as “word of mouth” transfers.

Policy and Action Recommendations

Several recommendations for policy and actions to reform institutions supporting rule of law in Myanmar follow. The recommendations were devised in light of the research findings, with many derived directly from suggestions offered by research participants. While not necessarily feasible for large-scale reform, these suggestions can guide future strategies for public engagement in rule of law development. These recommendations do not represent the opinions of the British Council or Loka Ahlinn.

Raising the legal knowledge of the public through education

In light of the research findings, the key recommendation of this report is to raise the public's level of legal knowledge. Greater public awareness of legal regimes will go a long way toward building confidence and trust in the system because it will first allow people to hold institutions accountable for their performance in generating, enforcing, and applying just laws. It is the responsibility of policy-makers to devise a system for building public understanding of the law itself and the principles that underlie it. Basic summaries of the active laws should be circulated in every community, particularly with clear statements about the penalties for unlawful acts. Definitive information should be timely offered to the public to reduce arbitrary and discriminatory enforcement. Education campaigns using traditional and newer media would reach the widest audience. The public education system curriculum can include lessons on legal rights and duties. The government also has a key role in supporting community education and empowerment programs led by civil society.

Open scrutiny of quality controls for judicial and administrative institutions

Open evaluations of the workforce upholding legal institutions would significantly improve public trust and likely prevent or minimize misuse and abuse of power. The executors of the law are largely comprised of unelected administrative officials and civil servants who, in light of the above research findings, do not hold a high degree of trust from the public and are not perceived as ineffective. To hold institutional actors more accountable in the eyes of the general public, recruitment and performance evaluations standards should be published, and some part of the assessments can be held in open sessions for public observation or even participation. One respondent suggested that civil servants be appraised for competence and integrity via an 'Honesty Contest' judged by an independent panel. Performance indicators may involve public opinion, such as feedback from people who engaged with a public office for certain services. The measurements could be shared openly or set against a minimum standard. The idea of a Township anti-corruption committee was also offered by a respondent, which would be charged with investigating corrupt practices of officials.⁴²

⁴² According to the suggestion, the anti-corruption committee should be formed by people with thila [good character] and thamadi [integrity]. While this may be achieved through a selection process with input from everyone in a community, an alternative system may be a committee assembled of community members who are selected at random and held to basic reputational standards, as in the selection of a jury for a trial.

Explore alternatives to existing trial practice

The judicial system is perceived as closed and inaccessible, but its importance is undeniable. Part of reform is experimentation with different approaches to court order that deviate from existing practices. A jury system for some types of cases would invite a group of civilians to make factual determinations of criminal guilt or civil liability. This system provides an opportunity for public participation in the justice sector and promotes legal understanding. Another idea would be for a panel of judges to oversee trial court proceedings, rather than a single judge for greater scrutiny of case matters as well as each other's performance. Rather than one judge serving in one place for a long period, judges can be rotated between jurisdictions regularly. A built-in accountability system from would go a ways toward building public trust in the institution.

Recommendations for Further Research

A study of public perceptions of rule of law should be done at the national level. With a larger and more representative sample, a similar survey would produce meaningful data for understanding the attitudes and behaviors that the Myanmar people have towards rule of law as it is and should be.

While the findings herein set up some preliminary understandings of how people's experiences with rule of law and its supporting legal institutions, learning about the context of those experience was generally beyond the scope of this research. There is a significant gap for every rule of law indicator, including for public opinion and experience data, and future research can take a more targeted approach to help fill those gaps. *Why are women and rural people more trusting of government institutions?* A study which explored not only what kind of engagement a respondent had with a government institution but also the experience itself and the outcome might shed some light on that question. *Why do more people claim to have paid a bribe than admit to having witnessed corruption taking place?* A more targeted approach to understanding that, and the experience of corruption generally, considers context and outcomes not available in this data set.