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USAID PROMOTING THE RULE OF LAW PROJECT

QUARTERLY REPORT NO. 12: JULY THROUGH SEPTEMBER 2016



USAID

PROMOTING THE RULE OF LAW PROJECT

QUARTERLY REPORT: July – September 2016

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CONTRACTOR: TETRA TECH DPK

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Attachment:

1. Union Attorney General’s Office Law Office Case Management Assessment
2. Office of the Supreme Court of the Union Legal Aid Law Implementation Plan (Draft)
3. Access to Justice Initiative Report Summary (English)

I. List of Acronyms

A2JI	Access to Justice Initiative
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSO	Civil Society Organization
DSW	Department of Social Welfare
GEN	Gender Action Network
IT	Information Technology
LGBT	Lesbian, Gay, Bisexual, and Transgender
MP	Member of Parliament
NLD	National League for Democracy
OSCU	Office of the Supreme Court of the Union
PIO	Public Information Officer
RFA	Request for Applications
SGBV	Sexual and Gender-Based Violence
UAGO	Union Attorney General's Office
USAID	United State Agency for International Development
UNDP	United Nations Development Program
USG	United States Government

II. Executive Summary

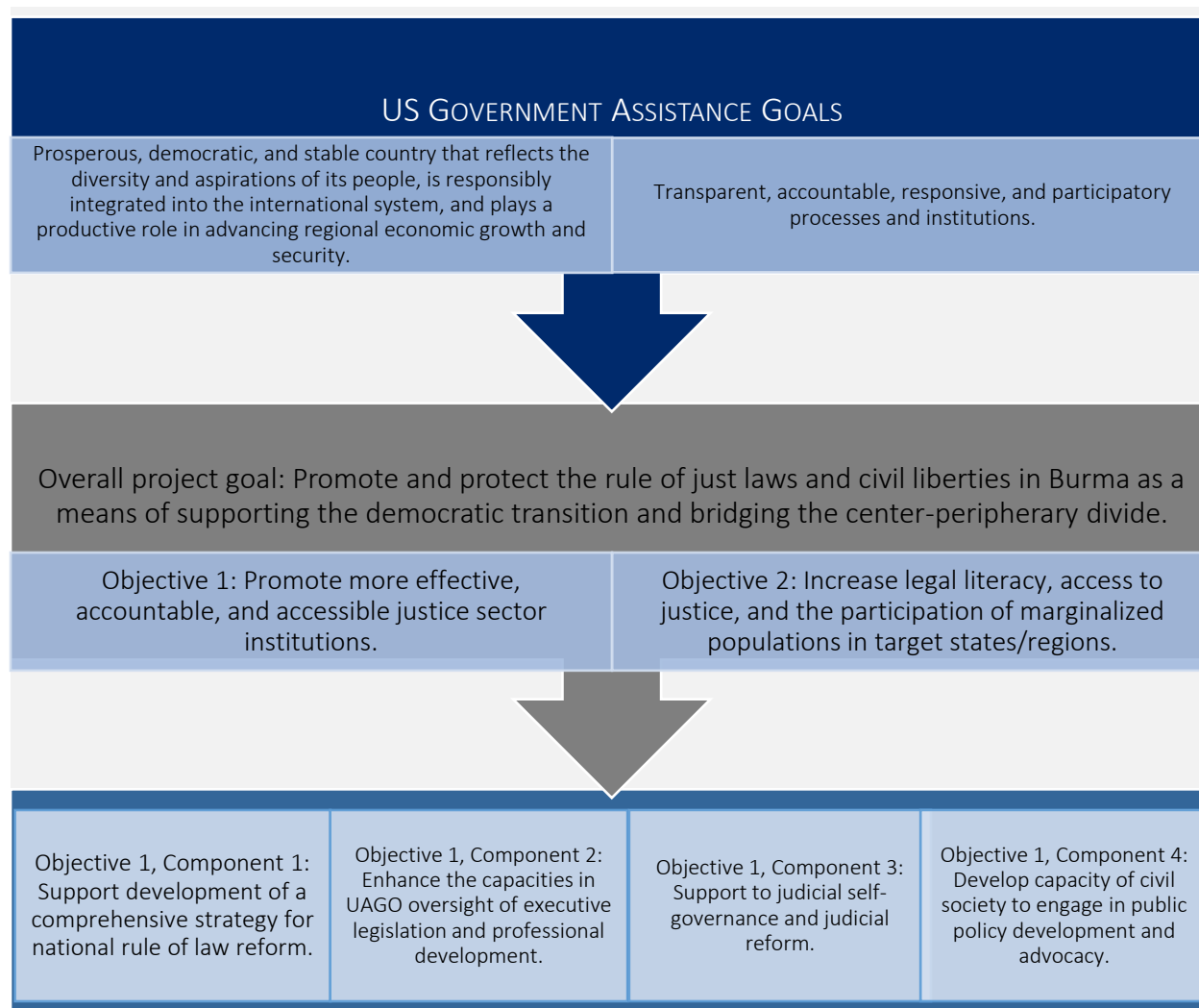
Despite approaching the end of the base period, the United State Agency for International Development (USAID) Promoting the Rule of Law Project (the “Project”) maintained momentum on implementation, ending strongly with significant activities taking place over the last three months that involved the Project’s core objectives and key counterparts. Support to the first national legal aid scheme, first-of-its-kind research into the work of the law offices of the Union Attorney General’s Office (UAGO), and launch of the Access to Justice Initiative’s (A2JI) first year of research were just some of the highlights this quarter.

Consultation on the Law on Legal Aid. The 2016 Law on Legal Aid created the first comprehensive legal aid scheme for Myanmar and placed oversight responsibility under the Office of the Supreme Court of the Union (OSCU). Passage of the law was not preceded by a legislative policy analysis, fiscal impact analysis, or consultation with the legal aid community, and the resulting law thus lacked guidance on how the new system should be implemented. This quarter, the Project supported the OSCU to begin the process of answering these implementation questions through a Consultation on the legislation, a two-day meeting of Supreme Court Justices and representatives from the OSCU, Hluttaw (Parliament), key ministries, and leaders from Myanmar’s legal aid community. The willingness of the judiciary to engage with the Hluttaw and the government to engage with civil society leaders has been limited, so the Consultation was a unique opportunity for the full range of legal aid stakeholders – judicial, parliamentary, executive, and civil society – to jointly address critical human rights issues, such as early access to counsel and the rights of the detained to be brought before a qualified tribunal in a timely manner.

UAGO Law Office Assessment. The Project, working jointly with the UAGO’s prosecution department, completed its survey of UAGO operations to identify insufficiencies and bottlenecks in the system. Based on data collected through a criminal procedure mapping and closed case surveys, the results show a system that inhibits adequate trial preparation by prosecutors and is burdened by unnecessary administrative processes. These results were presented to the UAGO, along with a series of recommendations which, if implemented correctly, could significantly reduce criminal case prosecution times, reduce the duration the accused spends in custody awaiting trial, improve investigation procedures to increase the quality of prosecutions and identify cases for which there is insufficient evidence to prosecute.

A2JI Report Launch. With significant technical and material support from the Project, A2JI’s three clusters carried out separate, but interconnected research projects to establish baselines on which further research, advocacy, and monitoring efforts could be developed. The clusters finalized their reports this quarter and presented them at a launch event in Yangon in September. More than 200 people attended, including civil society organization (CSO) leaders and members of Yangon’s government, including the Yangon Minister for Social Affairs and representatives from Yangon Hluttaw and Yangon Attorney General’s Office. A2JI’s findings demonstrate the breadth of work to be done in the justice sector. Research concluded the access to justice provisions provided in key laws, are barely understood and utilized even less. The advocacy cluster’s work revealed CSO advocacy efforts hampered by failures in strategy and messaging, and disorganized engagement with decision makers. The monitoring and oversight cluster, which produced the first published results from a trial monitoring program, illustrated a court system marred by inefficiencies and postponements.

III. Results Framework



The information provided in this report is organized according to the Promoting the Rule of Law Project’s Year 3 Work Plan and pursuant to defined Result Areas in both Objective 1 and Objective 2. These result areas were developed based on the following criteria: United States Government (USG) reform objectives; the implementing environment in Burma, including counterpart engagement and capacity constraints; the Expected Results, as set forth in the Project’s statement of work; and, the potential for near and long term outcomes/impact.

Consistent with the Year 3 Work Plan, Objective 1, Component 2 has been amended to reflect consideration of the criteria listed above. Moreover, given the interconnectivity demanded between Objective 1, Component 4 and Objective 2, the Result Areas for Objective 1, Component 4 and Objective 2 have been combined for purposes of Year 3 implementation and reporting.

IV. Program Activities by Objective/Component

Objective 1: Promote More Effective, Accountable, and Accessible Justice Sector Institutions

COMPONENT 1: SUPPORT THE DEVELOPMENT OF A COMPREHENSIVE STRATEGY FOR NATIONAL RULE OF LAW REFORM

This quarter continued to be a period of transition for the National League for Democracy (NLD), as it continued to navigate ministerial functions and identify priorities and reform efforts. The UAGO, as well as other ministries, submitted its 100-day plan to the President. While the Project was not provided a copy of this plan, the understanding is that it relied on broad objectives from its strategic plan and did not chart an ambitious course. The judiciary was not required to make any submission to the government and continued to focus on implementing its own activities and reform efforts. Meanwhile, civil society, notably through the Project-supported A2JI, took significant steps as it finalized its initial research and reporting and presented those findings in front of a substantial gathering in Yangon.

Result Area: Build the capacity of justice sector institutions and other government stakeholders to participate in a national rule of law strategy

As noted in prior reports, the former government had established a justice sector reform body, the stated purpose of which was to advise the government on priorities and initiatives to guide reform on the sector. Whether this body ever met is still in question, but, regardless, it is known that nothing substantial ever resulted from its creation. At the close of the quarter, USAID and the Project were told that the NLD government was seeking to establish a similar body to oversee rule of law reform. Initial reports indicate that the body would not include representatives from the judiciary, as originally proposed, which the Project views as a glaring omission that would severely undermine the body's ability to effectively engage and implement real justice sector reform. The United Nations Development Program (UNDP) has been asked to draft terms of reference for this body for NLD review, and the

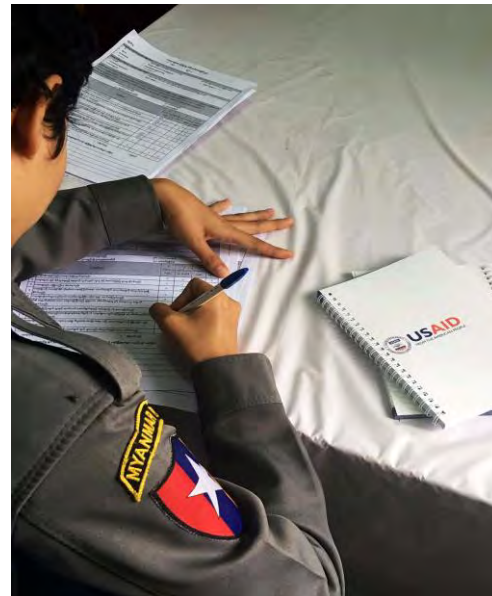
Project will continue to communicate with UNDP and monitor development.

Support to OSCU on Data Collection and Analysis. Data collection and analysis is a critical need for any institution to meaningfully participate in strategic policy and planning, so the Project has made this work a cornerstone of its support to the OSCU. This is especially notable at the Project-supported pilot courts, which expanded from five to eight courts this quarter. These courts are spearheading efforts to collect and analyze data that will track court performance, identify trends in criminal and civil cases, and monitor perceptions of justice and the judiciary.

This quarter the Project continued to support data collection and analysis, which included a variety of surveys across the eight separate locations. In the first pilot court locations – Hpa an, Taungoo, and Hlaing Tharyar – closed case, pending case, and court user surveys were completed in order to evaluate the year-end results of the pilot court program. The Project then worked with the OSCU and

the three initial pilot courts to ascertain program successes and areas for improvement based on actual results. Similarly, in the five new pilot courts launched this quarter, the same surveys were completed to establish baselines for each court, which will then be used to develop new management processes and gauge performance as new policies and procedures are implemented.

This work represents a significant step for the judiciary because in prior years, the OSCU had focused simply on overall case disposition rates, without looking at more granular data such as postponement rates or conviction rates by case type. It is this type of information that will be needed to inform broader justice sector reform, so the Project continues to work directly with the OSCU's Case Management Committee and Research Department to ensure they better understand and utilize this type of data for their policy and planning purposes.



Quality justice sector data collection requires input from all stakeholders, including law enforcement, seen here completing a survey in Hpa an.

Information Technology Support for the OSCU. Manual reporting systems continue to dominate the justice sector, both at the OSCU and UAGO. These systems not only impact productivity, they also limit the organizations' capacity to sufficiently collect needed information and thus organize and understand the data collected. Moreover, the serious backlog and delay in the Myanmar courts is, in part, due to the lack of basic performance management information and reliance on outdated manual case processing procedures. In the first pilot court initiative, the project introduced an Excel-based system to track and monitor cases. While useful, the inherent limits of an Excel-based system and a lack of familiarity with Excel constrained the courts' abilities to fully gather and manage information collected. Ultimately, the judiciary will require a robust case management system, and while such work exceeds current resources, the Project felt it important to start the OSCU down this path.

During this quarter, the Project worked with the OSCU's Case Management Committee and Information Technology (IT) Department to finalize an automated case management database system prototype. This system will not just serve to support the new case management processes, it will also build capacity for the OSCU to have electronic access to management reports and statistics on which broader policy decisions can be considered. The prototype will be installed next quarter in the Taungoo District Court for its first testing, which is expected to last three months, during which refinements will be made before further rollout in 2017. The OSCU has already committed to hosting this web-based system, and to ensure sustainability, low-cost Wi-Fi access is being tested to confirm the system can be applied nationally.

Data Collection and Analysis at the UAGO. According to UAGO records and discussions with the UAGO Permanent Secretary, the UAGO has never conducted an analysis of its prosecutions beyond rudimentary collection of statistics on case type, filing and hearing dates, and information for

Case Processing Times

Yangon Western District Law Office

Criminal Case Processing Phases		Specific Crimes			Average All District Cases
		Drug	Rape	Theft	
1	Time from FIR to Sending Request for Pre-Trial Advice	45 days	25 days	28 days	39 days
2	Time from Receiving Request to Issuing Final Advice Letter	6 days	3 days	4 days	6 days
3	Time from Receiving Advice Letter to Filing Complaint	23 days	1 day	3 days	22 days
4	Time from Filing Complaint to Final Disposition	310 days	364 days	278 days	323 days
Cumulative Time: FIR to Final Disposition		384 days	393 days	313 days	390 days

Sample data collection from Yangon Western District Law Office.

assignment of counsel in cases in which the death penalty may be imposed. At present, the UAGO's law officers (prosecutors) use 15 separate manual registers to collect information, and these are neither cross-referenced nor analyzed beyond providing basic reporting needs. This quarter the Project completed the first ever law office case assessment, which included closed and pending case surveys of law office records and interviews with law officers in order to assess the current procedures and identify deficiencies in the system. Representatives from the UAGO in Nay Pyi Taw accompanied the Project team in order to build capacity at the UAGO on how to collect and analyze data for purposes of identifying problems and solutions. The results were presented to the UAGO Permanent Secretary this quarter, and that work is detailed below under Component 2.

[Expected Results: Increased understanding by justice sector institutions and CSOs of comparative legal frameworks and best practices; Capacity of key government justice sector institutions to effectively participate in the development of a comprehensive rule of law strategy is enhanced; In-depth analysis of justice sector issues and needs is supported and the results made broadly available to stakeholders.]

Result Area: Promote and support civil society participation in development of a national rule of law strategy

Access to Justice Initiative – Research and Report Launch. The A2JI is a national coalition of CSOs dedicated to promoting access to justice in Myanmar. The concept was started with the idea that CSOs working across a variety of sectors encounter access to justice issues, should convene to help civil society organize around their common goals, and conduct research to support common evidence-based advocacy efforts.

Cooperation of this type can be sensitive, especially regarding the previous election cycle; for the past year, the Project worked closely with A2JI's leadership to help inform their priorities and research efforts in a way that did not compromise their independence or overly influence their agenda.

**ACCESS TO JUSTICE INITIATIVE
LAUNCH ACTIVITIES**

Cluster	Programming
Research	<i>Legal Framework Analysis:</i> Examination of key legislation (land, labor, impacting access to justice to identify existing gaps and proposed solutions which can be best supported through future civil society advocacy efforts.
Advocacy	<i>CSO Advocacy Evaluation:</i> Evaluation of recent CSO advocacy efforts to identify what worked, what didn't, and what lessons can be applied to future advocacy initiatives.
Monitoring & Oversight	<i>Trial Monitoring Program:</i> Includes introductory trial monitoring training for Cluster members, development of model monitoring questionnaires and monitor code of conduct, recruitment of junior lawyer monitors, and a two-month pilot trial monitoring program.

At its inception, A2JI organized itself into three clusters – Research, Advocacy, and Monitoring and Oversight – and each cluster designed an initial research effort, with Project support, in order to better its understanding of key access to justice issues in Myanmar and prepare to engage with the next government. During the next several months and with significant technical and material support from the Project, the three clusters carried out three separate but interconnected research projects (see table below) to establish baselines on which further research could be developed and advocacy efforts identified. The reports were finalized this quarter and presented at a launch event in Yangon in September, an event attended by more than 200 people. (See Component 4 below for information on CSO participation.)

A2JI’s findings demonstrate the breadth of work to be done in the justice sector. Work by the Research Cluster confirmed that the access to justice provisions provided in laws that directly affect the public, such as the Labor Organization Law and Farmland Law, are barely understood and utilized even less. The Advocacy Cluster’s work revealed that CSO’s advocacy efforts are often hampered by a failure to develop an overarching strategy and message, disorganized engagement with decision makers, and inadequate media campaigns. The Monitoring and Oversight Cluster, which produced the first published results from a trial monitoring program, reported on a court system marred by inefficiencies and postponements (an issue which is a key part of the OSCU pilot court program), unprofessionalism among judges, and first hand observations of corruption by justice sector officials.

Interest in A2JI and their work is gaining momentum. The launch event was attended not only by CSOs but by key representatives from Yangon government as well, including the Yangon Minister for Social Affairs, leadership from the Yangon Hluttaw, and representatives from the Yangon Attorney General’s Office. The donor community was also well represented, and included the participation of the USAID Mission Director. Given the high level of interest, A2JI’s immediate next step will be further outreach on their findings, starting with a presentation in Nay Pyi Taw for MPs upon their return to the next session of the Hluttaw.



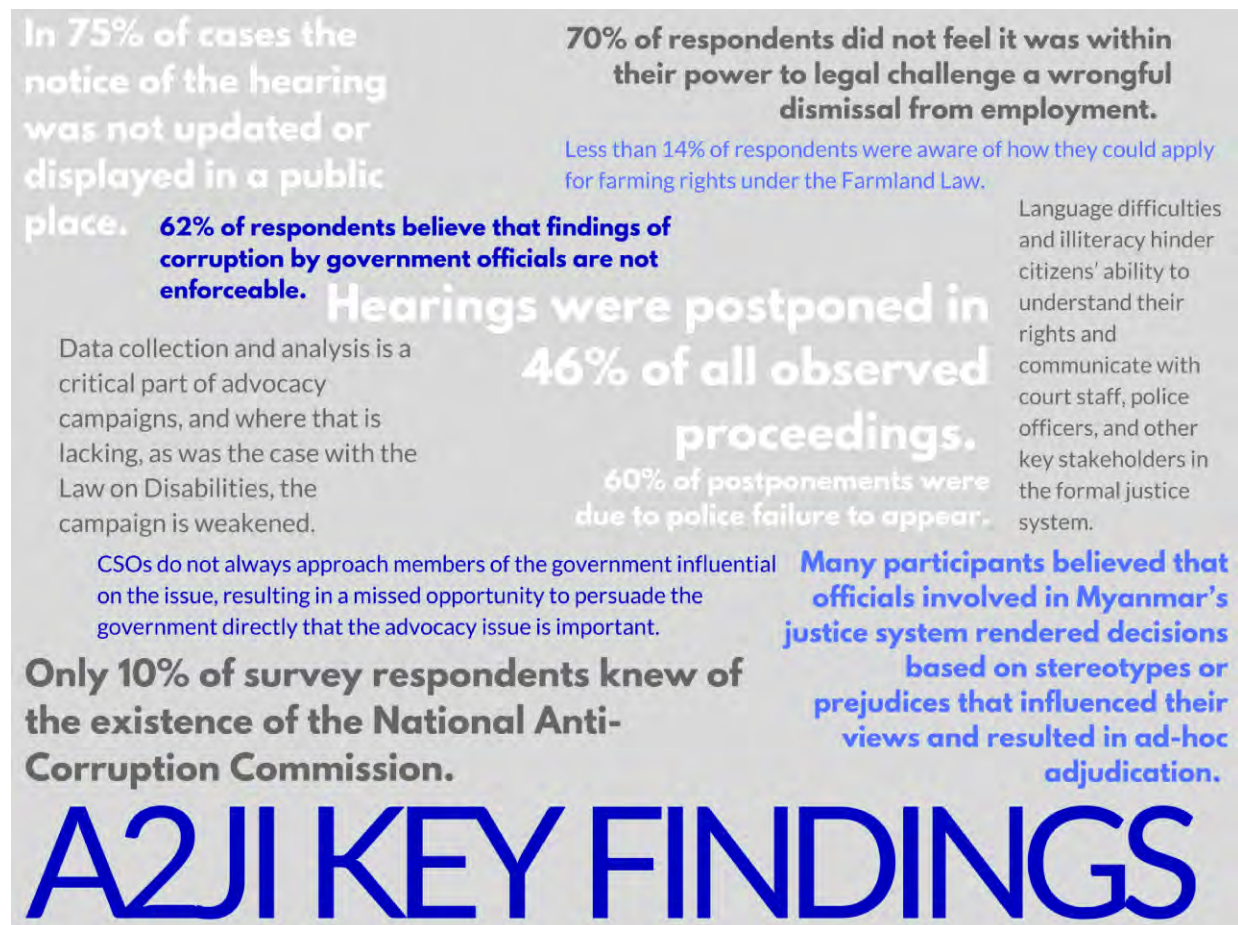
USAID Mission Director addresses attendees at A2JI report launch, Yangon.

Access to Justice Initiative – Year 2 Planning. A2JI’s first year of work confirmed that corruption is a major obstacle for Myanmar, something that A2JI’s leadership has regularly discussed with

counterparts, namely MPs at the national and region/state level. The work of the Research Cluster found little public knowledge about the Anti-Corruption Law or how to access the Anti-Corruption Commission, and the Monitoring & Oversight Cluster’s trial monitoring activity observed specific instances of corruption in the justice sector. Following the A2JI launch event, 68 CSO representatives including A2JI’s leadership convened to discuss these findings, and their disappointment that the 2013 Anti-Corruption Law was passed without consultation with civil society. Based on these factors, A2JI decided to devote its second year specifically to looking at corruption in Myanmar, with a focus on the Anti-Corruption Law, how it is being applied, and what work has been undertaken by the Anti-Corruption Commission.

Specific Cluster activities on these issues will be developed in the next several months and launched at the beginning of 2017. To guide and support this work, separate steering and advisory committees were elected. One of the steering committee’s first orders of business will be development of an organizational development plan that will allow A2JI to formally organize, to include official registration, and be eligible for more widespread external funding. Project support is expected to continue throughout these processes.

[Expected Results: Public participation, primarily through CSOs, in the development of a national rule of law strategy is promoted and supported; Capacity of CSOs to effectively participate in the process is enhanced.]



COMPONENT 2:
IMPLEMENTATION
OF A LEGAL
FRAMEWORK
SUPPORTIVE OF
RULE OF LAW
PROMOTED

Result Area:
Professional and
management
development among
law officers and UAGO
officials improved

In Component 2, the Project enjoyed an active pace of activities this quarter, working with both the UAGO's new Permanent Secretary's Office and the UAGO Prosecution Department, as well as continuing to support the national consultation process on the Prevention of Violence Against Women Law.

UAGO Law Office Assessment. Over the past two quarters, the Project worked with the UAGO's Prosecution Department to undertake an assessment of work flow and analyze cases in the criminal justice system. Criminal prosecutions in Myanmar face a number of hurdles, but, to date, a systematic analysis of the steps from arrest to trial has not been undertaken.

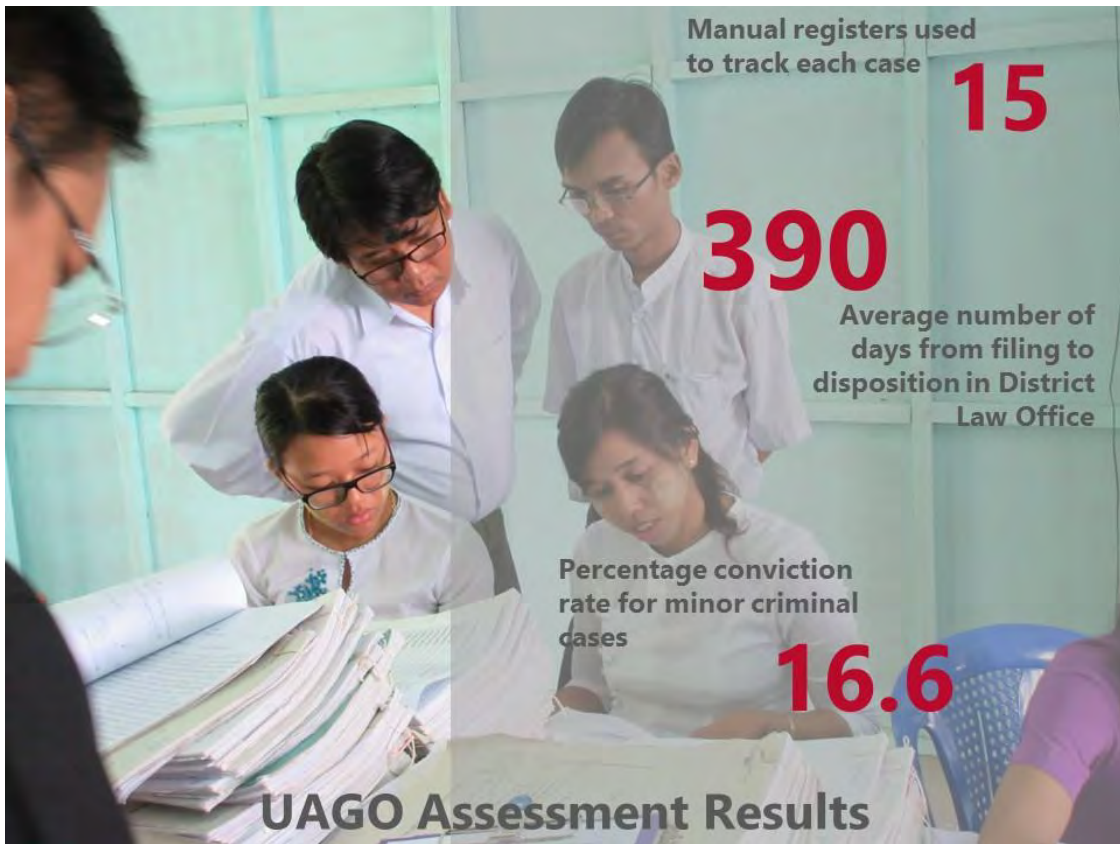
The Project used a two-prong methodology. First, the Project reviewed case processes and conducted interviews with law officers at township and district law offices to map the business flow in each office. This included review of the law office register system, a manual system of recording case information in each office. Second, the Project randomly sampled closed cases in the law offices to assess processing times from filing of the first instance report to case disposition.

In this quarter, the Project completed its analysis (UAGO Law Office Case Management Assessment, attached to this report) and, with USAID, presented findings to the UAGO Permanent Secretary. The results show a system that inhibits adequate trial preparation by prosecutors and is burdened by unnecessary administrative processes (see graphic below). Based on this analysis, the Project made a

series of recommendations, which if implemented correctly, could significantly reduce criminal case prosecution times, reduce the period the accused spends in custody awaiting trial, and improve investigation procedures to increase the quality of prosecutions and better identify cases for which there is insufficient evidence to prosecute. Key findings and recommendations include:

1. *Consolidating the Case Management System:* The case information currently consists of multiple registries and law officer case diaries that cannot be cross-referenced and are of limited value as a case tracking and reporting system. The Project recommended designing a more efficient case information system that will consolidate information and facilitate recording, monitoring, retrieving, and analyzing case information.
2. *Automating Case Information Case:* Information is currently entered and analyzed without the use of technology. The Project recommended that, once the consolidated case management system is designed, the UAGO identify a cost-effective means to automate the system for efficiency and accuracy.
3. *Improving Pre-trial Coordination and Cooperation:* There is limited coordination between police and law officers before a criminal action is filed. The Project believes this is the most

problematic area for the UAGO and recommended that legal officers participate early in a case to shorten the pre-trial process, identify non-meritorious cases, and improve the quality of the evidence in cases that should proceed to trial. This is also the area that will likely be difficult to correct as the systems in place rely on a strongly entrenched mindset of police control of investigations and the use of a historic police court model.



4. *Assigning Law Officer to Both Pre-trial and Trial Phase in Major Cases:* In some serious cases, such as rape, the law officer who handles the case in the pre-trial phase may not be assigned to handle it once the complaint is filed. Assigning multiple lawyers to a single case is inefficient and may also have a negative impact on the ability of the lawyer to prepare and present it at trial. The Project recommended the same law officer be assigned to both pre-trial and trial phases in serious crimes, whenever possible.
5. *Expediting Petty Cases:* The Project recommended the UAGO explores ways to receive notice that a suspect has been arrested and detained so that law officers can expedite review of petty cases and investigate them more efficiently.
6. *Conducting Specialized Training:* Specific crimes such as “Hurt” and “Cheating” have low conviction rates. The Project recommended the law officers receive legal training on substantive and procedural laws and participate in mock trials, in order to improve the success rate of these times of cases.

7. *Establishing Pilot Law Offices:* The Project recommended the UAGO consider establishing a pilot program in selected law offices to implement the recommendations made in this report. This approach will enable it test and modify the recommendations as needed and do in consideration of the limited human and financial resources available to the UAGO.

The Permanent Secretary is currently discussing the recommendations with the Attorney General, but early indications are that the Attorney General will want to implement a pilot law office program and seek USAID support. This work would require a good deal of coordination as engagement with the police is required, and, given USG-mandated limitations, any support in this area would require partnering with another USG agency able to provide technical assistance to law enforcement agencies. Other donors/projects working on ROL reform, such as UNDP, have also expressed interest in a pilot law office program.

[Expected Result: Professional development in the UAGO and among public defenders or legal aid providers supported.]

Result Area: Systems and procedures to make UAGO information publicly available developed and supported

Support to the UAGO’s Public Information Unit. In the latter part of 2015, the government instituted a program in which all ministries were required to establish a permanent secretary’s office, which would oversee its respective ministry, and establish new offices reporting directly to the permanent secretary, including offices of finance/budget, policy and planning, and human resources. Each ministry is also required to establish a public information unit.

Public information and effective media engagement are widely viewed as critical functions in a government ministry. It is through public information offices that a government institution can efficiently respond to media enquiries, provide regular updates on its work, and create a meaningful media-government relationship.

The UAGO’s strategic plan, issued in 2016, set forth public information as a priority area for the UAGO’s development, and in July, the Project proposed support to develop a central, national-level public information unit. The UAGO responded positively with the creation of a new public information unit in August, and in September the Project began support to this unit. First, the Project conducted an assessment with the UAGO of needed media and public information functions, available resources, and reviewed the UAGO’s website. Based on this, the Project developed an action plan for the unit, proposed an organizational chart to support the work, and provided templates and other resources to facilitate media engagement through press releases and scripts for answering media



Senior officials learn new media skills to build the UAGO’s

enquiries. As a second layer of support, the Project conducted a two-day media skills training for UAGO officials in Nay Pyi Taw; participants included newly designated public information officers (PIOs) from each state and region in the country. As media freedom increases, it is expected that demands for information from the government, including the UAGO, will increase and trained PIOs will be needed to professionally and comprehensively respond to public requests for information. Training, therefore, included instruction on how to conduct a press conference and best practices in being interviewed on television.

Following completion of these initial activities, the UAGO requested further support, and the Project will start work to develop public information guidelines for the UAGO and explore further public outreach and media skills training at the subnational level. Regardless, it should be noted that relations between government and media have historically been weak and in many cases hostile; thus, UAGO progress is expected to be slow and require ongoing Project support and monitoring.

[Expected Result: Efforts to make information about legal procedures available to the public is promoted and supported.]

Result Area: Gaps in gender-related laws and policies are identified and plans to address gaps are developed

The Project’s work on gender-related policies continued with an assortment of CSOs this quarter, primarily through the support to Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) shadow reporting and drafting of the law on violence against women. As the base period came to a close, the Project took the opportunity to review its ability to reach women (see graphic on page 15), and in the next quarter, will be updating its gender action plan based on data collected and lessons learned.

CEDAW Shadow Reporting. The project’s work to support CEDAW shadow reports was completed in the last quarter. However, it was over this quarter that four organizations earlier supported by the Project – Women’s League of Burma, CEDAW Action Myanmar, the Gender Equality Network (GEN), and Women’s Organization Network – submitted their reports to the CEDAW Committee in Geneva, and were separately sponsored to present their findings to the Committee in July. The CEDAW Committee’s responses to the government and shadow reports are pending.

Draft Law on Violence Against Women. The Project's recent support in this area has been focused on reaching target beneficiaries of the law and, through a broad consultation process, ensuring the draft addresses their needs. On the government side, this process is being led by the Ministry of Relief and Resettlement's Department of Social Welfare (DSW).

As reported earlier, the Project works with the GEN, the United Nations Gender Theme Group, and the Ministry of Relief and Resettlement, which lead the working group spearheading the consultation and drafting processes. The consultations are designed to engage target beneficiaries to ensure the draft addresses their concerns and needs. During these sessions, participants and speakers from ministries and state/regional governments review the draft law, discuss its potential impact, and consider means of improving the final draft before it is submitted for government and parliamentary consideration. After a pause in this work due to other commitments at the DSW, the final consultations resumed this quarter, first in Thatone, Mon State in July (62 participants), followed by a second Yangon consultation (39 participants) and a consultation in Nay Pyi Taw (40 participants), both in August.

The draft is now under review at the OSCU. As the quarter drew to a close, a further meeting hosted by GEN revealed that there remain substantial concerns with the current draft, including those related to the availability of protections for GBV survivors in conflict areas, recommended mediation and the use of medical boards, as well as issues the Project has raised regarding the establishment of women's issue tribunals. The Project will continue to engage with GEN and others in the next quarter to monitor the law's progress and provide technical assistance where warranted.



Representative of the Township Health Department discusses the impact of violence against women in her community at a consultation on the draft law to combat gender-based violence, Thatone, Mon State.

[Expected Result: Gaps in gender-related laws and policies are identified and addressed.]

Gender Programming: By the Numbers

1,245

women beneficiaries
of legal aid cases

296

women in civil society
provided legal skills
training

2,411

women trained by the
Project since 2014

154

women involved in
consultations on the
Prevention of Violence
Against Women Law

**COMPONENT 3:
SUPPORT TO
JUDICIAL SELF-
GOVERNANCE AND
JUDICIAL REFORM**

This quarter the Project’s work with the judiciary focused on two substantial activities – the completion of year 1 of the OSCU pilot court program and launch of the program’s second phase, and support to implementation of the Law on Legal Aid. Work this quarter supported multiple result areas, and thus are reported by activity undertaken and not by result area.

Pilot Court Program. In July 2015, the Project began a pilot court program with the OSCU. This program was designed to introduce modern judicial management practices into courts, where even the most routine cases were grossly delayed, resulting in a severe deprivation of due process. After just six months of programming, the program was already showing strong results, including an overall improvement in judicial productivity and a 31% reduction in the backlog of criminal and civil cases pending for more than two years. With these results, the OSCU decided to expand the program and identified five new pilot courts.

In the previous two quarters, the Project worked closely with the OSCU on data collection and analysis from existing pilot courts and introductory training for expansion courts. During this quarter, the work with second phase courts was scaled up substantially to prepare for the September 1 launch at the District Courts in Mawlamyaing (Mon) and Monywa (Sagaing), and Township Courts in Chan Aye Tharzan (Mandalay), Magwe (Magwe), and Pathein (Ayeyarwaddy).



Court user data extends to those in detention and awaiting trial.

Pilot Courts, Phase 2 - Groundwork. The preparatory work to launch a new pilot court is substantial and requires investment in data collection, document preparation, automation, renovations, and training throughout. Most of this groundwork took place this quarter in order to prepare the five expansion courts for the September 1 start date. Preparations included:

1) Expansion Court Baseline Data Collection. The pilot court program involves a rigorous performance measurement system, which tracks indicators such as overall disposition rates, number of postponements, and changes in perceptions of court users, which includes lawyers, litigants, and litigant family members. Baselines for this data depends on three types of surveys: a closed case survey, a pending case survey, and a court case survey. A closed case survey is used to collect information to show overall courts trends, including tracking cases by case type, disposition type, and identifying key events in the life of cases, such as number and reason for postponements. Pending case surveys are used primarily to track the age of pending cases by case type. Court user surveys are

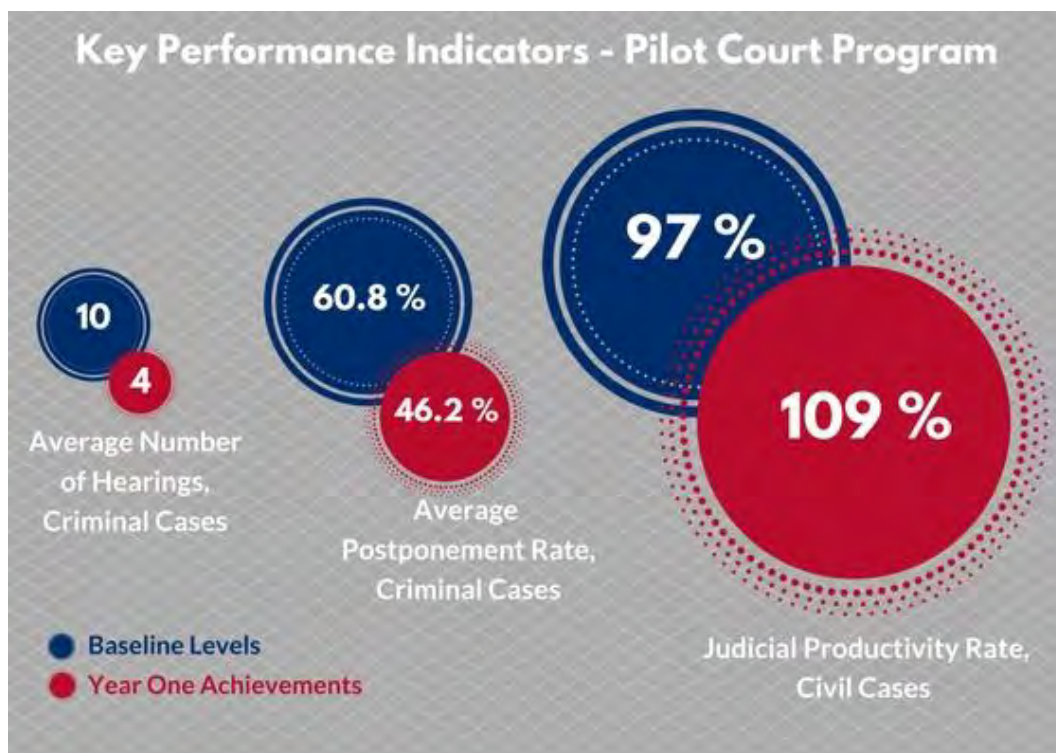
used to measure court user perceptions of a court at a given point in time, and seeks perceptions to general questions such as “Were you treated fairly during the case?” and “Was the case processed timely and efficiently?” These three surveys were conducted in July in all five expansion courts, and the findings were presented at the pilot court expansion workshop in August (see graphic below).

Result Area: National Judiciary Strategic Plan to enhance access, independence, public awareness, integrity, and efficiency developed and implemented at the national and local court levels

2) Court Automation. The computers, printers, and copiers needed to support the pilot court procedures were installed in the expansion courts this quarter. Associated training on computer skills and use of the Excel-based case tracking system was also conducted for 106 judges and court staff.

3) Court Renovations. Modest renovations to current court structures started this quarter to erect both central intake and public information counters. New signage was also placed to help lawyers, litigants, and interested parties better navigate court facilities. These renovations are part of the OSCU’s new model court design standards, which were developed with USAID support earlier in the Project.

4) Court Libraries. The availability of legal resources to judges and court staff are extremely limited in Myanmar’s current courts, and in most courts, judges often lack basic codes and laws critical to their decision making process. As part of the standard pilot court model, small libraries are established at each court, and these guarantee availability of the penal code, criminal procedure code, civil procedure code, and laws routinely at issue in court cases. The full catalog of books provided is based on consultations between the Project and pilot court judges. This quarter, the selected books and shelving needed to store the library materials were purchased and provided.



Phase 2 Pilot Court Orientation and Launch. With the groundwork steps finalized earlier in the quarter, the Project conducted the final step before the new pilot courts went live, a two-day orientation for 126 judges and staff from the phase 2 courts. These workshops, which were overseen by the OSCU’s Case Management Committee, Supreme Court Justice U Htar Htay, and the OSCU’s Director General, included intensive training for judges and staff on advanced case management skills, pretrial conferencing and case review procedures, and development of court-specific backlog reduction and program implementation plans. For the first time, these courts saw the results from their respective court user surveys, to which each court will be responsible for demonstrating improvements. Of note, 80% of respondents from all courts identified corruption as a major problem in the judiciary.

Result Area:
Professionalism of the
judiciary is supported

Pilot Court Program – Region/State Coordinating Committees. As reported last quarter, feedback from the first three pilot courts highlighted the need for greater involvement by the High Courts regarding court management at the township and district levels, and greater consultation and education of other justice stakeholders, such as the UAGO, bar association, and the police prior to initiating pilot court programs. With that feedback in mind, the Project pursued discussions with the OSCU about the need to decentralize management of the pilot court program. It will be impossible for the OSCU to oversee specific court activities as new pilot courts are brought online, and a decentralized management system overseen by the respective High Courts will likely be more attuned to the region/state context in program development and more responsive as issues arise.

This quarter, Coordinating Committees composed of representatives from the OSCU, High Courts, and other justice stakeholders, were established at each pilot court site and most have already conducted their first region/state meeting. Notably, each of these activities were organized and overseen entirely by the respective High Courts and without Project support, a firm indication of the judiciary’s commitment to the program and its likelihood for sustainability. This leadership and engagement will help facilitate the development of multiple pilot courts operating under the oversight of a single High Court judge, a model for future program expansion. Involving the High Courts could also help support a holistic justice-sector pilot program, in which pilot law offices (as discussed earlier) would operate in the same jurisdictions as pilot courts. This approach will involve ongoing conversations with USAID, as well as other potential USG and international donors. The OSCU has already indicated that it supports the development of policy-level High Court Stakeholder Coordinating Committees to help with multi-donor and multi-stakeholder coordination in the future.



The first Stakeholder Coordinating Committee meeting, introducing the pilot court program in Mawlamyaing, Mon State.

training on the system for judges and court staff, the system will be tested and refined for the next three months. The system will be expanded to additional pilot courts in 2017.

Implementing the Law on Legal Aid. The Law on Legal Aid, enacted in January 2016, created the first comprehensive legal aid scheme for Myanmar and placed oversight responsibility for this new system under the OSCU. While the objectives outlined in the law were admirable, passage of the law was not preceded by a legislative policy or fiscal impact analysis or consultation with the legal aid community, and the resulting law provided insufficient guidance on how the new system should be implemented. In the previous quarter, the Project started discussions with the OSCU about their plans for implementation and what support they might need. The OSCU lacks experience in this area, and the limited guidance the law provides has made development of implementation schemes especially difficult.

Following initial talks between the OSCU and the Project, the OSCU concluded that the most effective approach at this initial phase would be conducting an inclusive consultation on the Law on Legal Aid and how to begin implementation. When the law was in its initial drafting stages, a similar consultation was conducted in Spring 2015. Organized by the UAGO, participation was limited to primarily government attendees, with limited participation by MPs or the OSCU. Only one legal aid lawyer was invited to join the event, and the overall response to the activity was muted.



A member of the Amyotha Hluttaw discusses implementation of the Law on Legal Aid, Nay Pyi Taw.

For the next consultation, the Project proposed a different approach and strongly encouraged the OSCU to engage more broadly. The Project advocated the OSCU include greater participation by civil society and the legal aid community, as these providers would be among the most directly affected by the law and were most knowledgeable regarding the current state of legal aid in the country. The Project also pushed for greater inclusion of MPs because the final law was far from perfect; the Project advocated that having MPs at the sessions would give opportunities for discussion about the legislative deliberative process and to raise concerns regarding the law in its current format.

Bringing together representatives from different branches of government has long been difficult in Myanmar. In particular, the willingness of the judiciary to engage with the Hluttaw, or the government to engage with civil society leaders, has been limited. Nevertheless, the Project worked with the OSCU leadership throughout the process, most notably with the Director General, who now serves as chair of the OSCU Working Group, to convince the Chief Justice of the value of this approach, one to which he ultimately agreed. (The process was not without politicization; the Chief Justice insisted on approving all participants personally. In the end, however, all recommendations were accepted, including an invitation to a legal advisor to the State Counselor.)

The consultation was conducted in late July and included the Amyotha Hluttaw's Bills Committee Chair and other MPs, representatives from the UAGO, and Ministries of Home Affairs, Relief and Resettlement, and Finance and National Planning, and the rector of Yangon University's Law Faculty. Most encouraging, was the fact that about one-quarter of the participants represented lawyers and

legal aid providers, including the paralegal community. Three well-known legal aid experts supported the design and facilitation of the consultation.

During the two day consultation, the group covered a wide range of issues, including a mapping of Myanmar’s legal aid stakeholders, approaches to establishing the various bodies required by the law, prioritization of the various beneficiaries the law identifies as appropriate for state-funded legal aid services, and means to provide legal aid to persons already in custody.

The day following the consultation, the Project reconvened with the OSCU Legal Aid Working Group to discuss next steps for implementation. Since then, the OSCU and Project have finalized a draft six-month implementation plan, which includes data collection needs, and a further consultation to discuss specific legal aid mechanisms appropriate for the Myanmar context (an assigned counsel system, for example, versus a public defender’s office).

Since the consultation, the environment has become a bit more political. Confirmation of the Union Legal Aid Board, whose nominees were presented to the Cabinet in May 2016, remains in limbo. In September, the Pyithu Hluttaw started to revisit the Law on Legal Aid, and according to those with knowledge of the situation, one proposed amendment would have moved legal aid oversight to the UAGO. There was, by some accounts, very political posturing on the issue, but the most recent proposed amendment, issued for comment in October, recommends only minor amendments. The OSCU’s further ability to implement the law awaits these amendments and, at that time, the Project will provide technical assistance to make changes necessary to the implementation plan.



Participants confer to prioritize beneficiaries of legal aid given limited resources, Nay Pyi Taw.

[Expected Results: Capacity of the judiciary to adjudicate cases in a manner that is timely, effective, impartial, and free from outside influence is enhanced; Administration of justice improved through increased ability to monitor and analyze caseload, and implement performance standards; Integrity enhancing measures promoted and supported; Efforts to make information about judicial procedures available to the public promoted and supported.]

Objective 2: Increase Legal Literacy, Access to Justice and the Participation of Marginalized Populations in Target Regions/States

COMPONENT 4:
DEVELOP THE
CAPACITY OF CIVIL
SOCIETY TO ENGAGE
IN PUBLIC POLICY
DEVELOPMENT AND
ADVOCACY

Result Area: Support to CSOs implementing legal literacy, access to justice, public participation and advocacy programs

The conclusion of the base period this quarter required the closeout of the first grants program, which provided the opportunity to review achievements to date and design the option period grants program, based on lessons learned. During the base period grants program, legal and rights awareness-building and skills training were major concentrations, with literally thousands of people in the Project’s target areas trained on a variety of issues such as gender rights and citizen journalism (see table beginning on page 25). In review, however, the Project determined the grants program had the most meaningful impact in direct legal services, which thus formed the basis for the development and publication of a new call for grants from Myanmar CSOs.

While the grants program was in a period of review and design, this did not lessen the Project’s direct work with civil society, where support to CSO networking was the focus. The Project continued to support the development of the country’s first paralegal network and, at the A2JI report launch discussed above, created a rare opportunity for engagement among CSOs working on access to justice issues to focus on current access to justice challenges, and provided a further opportunity for discussion and planning next priorities at the annual A2JI planning meeting.

Grants Program Overview. During this quarter, the closeout process continued for the Project’s base period grant activities to complete technical evaluations, administrative and financial file reviews, and issue final payments. To date, the Project has committed USD 1,530,490 across 22 awards, implemented by 18 partner organizations. Of these, three activities valued at USD 271,365 will continue into the Project’s option period, with an additional award with the International Bar Association’s Human Rights Institute expected to commence in the early part of next quarter.

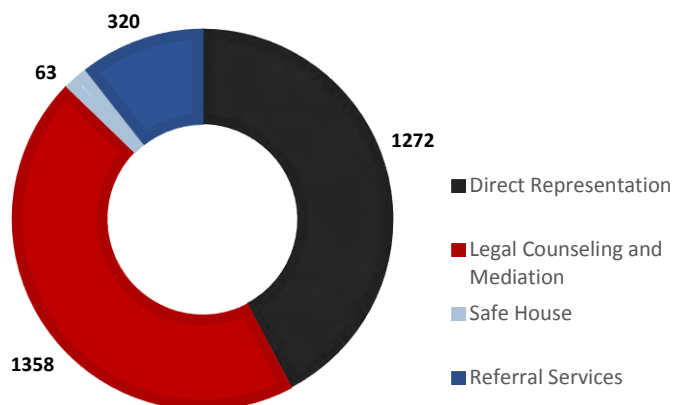
While many of the Project’s grantee partners have increased their management and organizational capacity during the life of their grant agreements, others continued to struggle through the final reporting process, particularly in completing cost share reporting and any research or activity evaluation requirements. Project grants staff worked diligently with these partners to elicit adequate

reporting and deliverables, coaching partner staff through requirements to ensure USAID regulations and Project policies were satisfied. Compliance with regulations and reporting requirements, along with sustainability and continuing momentum of activities after the end of Project-funded grants, continues to challenge the majority of the Project’s CSO partners. These issues will inform capacity development trainings with future partners under upcoming grants initiatives.

Activity Highlights. In the first quarter of the Project’s option years, two long-standing partners will complete activities initiated in late 2014. Equality

Myanmar/Colors Rainbow will complete phase II of the *LGBT Pilot Rule of Law Initiative* in Hlaing Tharyar and Pyay, having trained and developed strong groups of paralegals to provide legal aid services to lesbian, gay, bisexual, and transgender (LGBT) individuals. On 26 August 2016, Equality Myanmar/Colors Rainbow launched their ground-breaking report *From Victims to Agents of Change: Lives and Voices of LGBT Individuals*, detailing the findings of the external monitoring and evaluation of the *LGBT Pilot Rule of Law Initiative*. The findings of this report, and the implementation of the activity, highlighted several important themes relevant to policy-making that will inform the organization’s continued programming and advocacy to reform laws that discriminate against LGBT individuals, to more effectively promote human rights for all through evidence-based research. The U Kyaw Myint Law Firm will culminate two years of free legal services, serving over 1,200 clients, at the Yangon Justice Center Hlaing Tharyar Branch, before transitioning to another donor for extended support.

During the base period, the Promoting the Rule of Law Project provided no cost legal aid services to **3,013** beneficiaries. Here is where the services went:



Key Themes to Inform Advocacy Against Discrimination of LGBT Communities:

- The provision of human rights and legal rights training to LGBT individuals had a powerful impact upon victims’ feelings of self-worth.
- The training of LGBT individuals as paralegals has manifested a positive impact upon the value they can contribute to society, and thus helps to break negative stereotypes with which they are associated.
- Confronting the discrimination that is entrenched within the rule of law remains a significant challenge.
- Abuse and neglect at the hands of the police force is a serious issue.

New Call for Grants from Legal Aid Providers. This quarter, the Project published its fifth request for applications (RFA) from Myanmar CSOs. This RFA specifically addresses the availability of legal aid to marginalized populations, a program effort that has been especially successful to date (see graphic above). Programs will be supported that promote legal aid and/or assistance, including to victim/survivors, to improve the overall access to justice in Myanmar. For purposes of the RFA, legal aid includes free legal services including representation at court, legal advice, paralegal services, counseling, preparation of legal documents, or mediation for which no fees are collected from the client(s). The RFA will extend the Project’s geographic portfolio; CSOs are being targeted in areas where new pilot

courts were launched this quarter and also in areas where program expansion is expected, including Mandalay Region, Kachin State, Northern Shan State, Patheingyi and neighboring townships in Ayeyarwaddy Division, Monywa and neighboring townships in Sagaing Region, Magway and neighboring townships in Magway Region, Hlaing Tharyar Township in Yangon Region, Mon State, and Kayah State.

To generate interest and understanding of the grant objectives and application process, the Project repeated its approach of conducting orientation sessions in targeted locations, and at the end of the year three and continuing into year four, the Project conducted orientations in Yangon, Patheingyi, Monywa, Mandalay, Lashio, and Myittha. Applications are due October 31, and the Project is now working on an additional RFA specifically on trafficking in persons issues, to be published next quarter.

Result Area: Networks or associations of legal professionals or CSOs working on rule of law issues are supported

Support to a Paralegal Network. Establishment of a “National Paralegal Network” by Namati began with a “Network Design Workshop” hosted in Yangon on August 10-12. Attended by 42 paralegals from across Myanmar, each a specialist in various issues (e.g., land rights, sexual and gender-based violence (SGBV), labor, children’s rights, and LGBT issues). The workshop identified five working groups – Sustainable Funding, Professional Development, Networking & Communications, Paralegal Recognition, and Management – and set organizational and technical priorities for the Network. In follow up to this Design Workshop, the five working groups met in Mandalay on September 29-30 to hold a “100 Day Plans Workshop.” Working Group leads and members developed initial activities to be completed in the first 100 days following the Network formation, in preparation for the Network’s launch slated for February 2017. Key activities include: development of the Network’s organizational structure, including an election process for officers that is legitimate in the eyes of members; increased membership and formulating substantive interactions with members; professional skills training-of-trainers, and subsequent local skills trainings; national and regional advocacy efforts to solidify the legal recognition of paralegals by government counterparts; and preparation for legal registration to support fundraising.

Access to Justice Initiative. The focus of the September’s A2JI report launch was presenting findings to civil society and Yangon’s leadership on issues such as the availability of counsel at early stages in a criminal trial and awareness of access to justice provisions in various land laws. An ancillary outcome of the event was the chance for CSOs from across a wide spectrum to meet and discuss these issues in a large forum. One hundred and thirty CSOs were represented at the event (see graphic on next page); their ability to discuss access to justice issues with, for example, the Yangon Attorney General’s Office or senior members of the Yangon Hluttaw is otherwise limited. On the second day of this event, nearly 70 CSO leaders met to plan for A2JI’s second year of work, which included CSOs working in such diverse areas as land tenure and property rights, support to the LGBT community, those advocating for the protection of women against SGBV, and political prisoners. A2JI’s ability to bring together such disparate organizations in these consultative processes will continue to be a focus for activity development in the option period.

Independent Lawyers' Association of Myanmar. The Project continued to work with the International Bar Association to finalize and submit for USAID approval a grant application that would serve to provide support to ILAM to develop its institutional structure, increase its organizational development in areas needed to stand as an independent organization, and start development of a continuing legal education program. The proposed grant is a substantial one, and thus time has been needed to ensure the activities are appropriate and any agreement reasonably accounts for necessary features, such as cost share. During this time, the Project was eager to see ILAM continue to move forward and has provided some support to stand alone activities, such as a Central Executive Committee meeting in September, to ensure that momentum was not lost during the grant development process. The grant is expected to be submitted early in the next quarter, with activities launched immediately upon approval. ILAM has already developed terms of reference for key positions, and will be ready to recruit for those upon grant award.

[Expected Results: Selected advocacy initiatives of CSOs in the ROL sector are supported; Coalition-building for CSOs with shared interests in ROL issues is supported; Networking among CSOs and between CSOs and different levels of local government (e.g., region/state, district, and township) is supported; Public participation, especially by marginalized and vulnerable groups, in local policymaking is increased; Dialogue and trust building activities between local communities and police and other security actors are supported.]

130
civil society organizations attended the Access to Justice Initiative A2JI Report Launch

88 Generation	Kings & Queens
88 Pwint/Nyañ	LADDER
AAPP	Land Core Group
ACETOP Law Firm	Land In Our Hand
ACIAK	Landless
ACIAR	Laru Law Firm
Action Labors Right	Legal Clinic Myanmar
AFFM-IUP	Local Resource Centre - Northern Shan
Ajar	Local Resource Centre - Mandalay
ALD	Local Resource Centre - Mon
American Center Law Study Club	Local Resource Centre - Yangon
Aye Yar May - Irrawaddy	LOERWA
Better Life Organization	Magway Community Based Organization
Blessing Law Firm	Maubin Community Based Organization
BNT-News	MCC Woman
British Council	MEDIA
Charity Lawyer Group	MFPD
Charity Oriented Myanmar	Ministry of Social Affairs
Chindwin Institute	MLAW Myanmar Legal Aid Network
Comerg	Mon State Women Upgrade Conduct Organization
Community Observer Association	MRTV-4
Danish Church Aid	MWCUC
DGGC	My Justice
Dikoniar	Myanmar Institute of Gender Study
Doe Myanmar Organization - Myeik	Myanmar Institute of Peace Study
Ear Thit Young Chi	Myanmar Post
Eastern Attorney Office	Myitmakha Media Group
Eleven News Media Group	Myitta Lan
Enumerators - A2JI Advocacy Cluster	News Watch Journal
EQUAL	NINU (Chin Women Group)
Equality Myanmar	NNER
Ethnic People Development Partnership	Northern Attorney Office
Farmer GROUP	Northern Shan / Naung Cho
FED	Oxfam
FPPS	Pa Ah Ma Pha - SRDN (Pa-O)
Free Justice Woman Network - Kayin	Partners Asia
Friendly Child	Peace and Justice Legal Aid Center
Gender Equality Network	Peace Study Center (MIT)
Genuine People Service	People for People - Rakhine
HELETAUS	Phan Tee Eain
(KBZ Insurance Kan Baw Za	Phoenix Association
Independent Lawyers' Association of Myanmar	Private Lawyers
Info Digest Journal	Public Accounts Committee - Yangon Region
Internews	Hluttaw
Judiciary, Rule of Law, Complaints & Petitions Committee - Yangon Region Hluttaw	Public Legal Aid Network
Justice Base	Rainfall Group
Justice For All	Region Government's Pledges, Guarantees & Hluttaw Rights Committee - Yangon Region Hluttaw
Kachin Lawyer Group	Research Consultant Own Institution
Kachin Lawyer Network	Rule of Law Centre - Yangon
Kachin Women Peace Network	Sex Workers Network
Kamayut Media	Shwal Laung Community Based Organization
Karen Women's Empowerment Group	Sky Legal Aid Network
Khaymanwadi Law Firm	
Kindness Women - Kachin	

SkyNet
Social Affairs & Management Committee - Yangon Region Hluttaw
Speaker's Office - Yangon Region Hluttaw
Sustainable Development Initiative Myanmar
Thadde Law Firm
Than Mian Hnin Si
Tharawaddy Community Based Organization
The Crown Capacity Building School
Trial Monitors - A2JI Monitoring & Oversight Cluster
Triangle Women
U Kyaw Myint Law Firm
U Myint Thwin Law Firm
UNDP
Union Attorney General's Office
Union Daily
WCDI - Women Can Do It
Western Attorney Office
White Heart
Witmutti Volunteer Group
Women Federation For Peace
Women League of Burma
Women's Organization Network
Working for Land Rights - Minn Hla
Yaung Chi Thit

V. Grantee Trainings and Workshops

GRANTEE TRAININGS AND WORKSHOPS (THROUGH SEPTEMBER 2016)

Topic / Event	Achievement this Quarter				Cumulative Achievement			
	Trainings/ Workshops	Number of Participants			Trainings/ Workshops	Number of Participants		
		M	F	Total		M	F	Total
Human rights and LGBT rights trainings				0	13	193	138	331
Basic Legal Research Skills Training				0	1	8	10	18
Capacity Building training for Junior lawyers & Paralegals				0	7	26	34	60
Community based Paralegal trainings	1	10	7	17	17	163	257	420
LGBT Rights and Paralegals Trainings				0	1	18	5	23
Paralegal Advance Training	1	8	7	15	8	24	58	82
Referral Strengthening System Training				0	1	5	25	30
Community based legal awareness training/workshops	1	8	14	22	325	3806	5783	9589
National Mock Trial workshop				0	4	37	119	156
National Myanmar CLE Summer School training workshop				0	1	4	56	60
Campaign on Domestic/ gender based violence				0	35	1017	1664	2681
Training on SGBV, CEDAW, women rights and human rights issues				0	30	148	337	485
Communication/ presentation/ facilitation skills training				0	5	28	57	85
Skills trainings (case management, interviewing, counseling)	1	12	7	19	12	110	164	274

GRANTEE TRAININGS AND WORKSHOPS
(THROUGH SEPTEMBER 2016)

Topic / Event	Achievement this Quarter			Cumulative Achievement				
	Trainings/ Workshops	Number of Participants			Trainings/ Workshops	Number of Participants		
		M	F	Total		M	F	Total
Human rights / advocacy trainings				0	3	14	47	61
Investigative journalism trainings				0	2	8	5	13
Citizen journalism trainings				0	2	14	8	22
Law review workshops	2	43	15	58	16	439	238	677
Total	6	81	50	131	483	6062	9005	15067

VI. Obstacles to Implementation

Printing of the *Legal Aid Toolkit* was delayed due to unforeseen procurement issues. Given anticipated interest in the *Toolkit*, the project elected to initially print 500 copies of the Myanmar language. A request for quotes was issued and only one bid was received. The quote submitted was reasonable but required additional review to comply with Project policies. The Myanmar versions of the *Toolkit* are expected during the first week of November.

Development of the legal aid database has similarly proven problematic. The IT developer, hired to design the database, has struggled and is behind schedule. According to international IT experts who have seen the requirements and the database, the database itself is not complicated. At the end of the quarter, the Project invited a well-qualified Myanmar programmer to review the database. This external programmer advised that a more thorough analysis would be required in a line-by-line code review in order to determine if the required coding relationships were in place. The database currently under development is in English only. The external programmer noted that, in using Unicode fonts, it is very possible to have the database in both English and the Myanmar language, and searches can be conducted in either language... Ultimately, the external programmer advised that building the database from scratch would be less time consuming than trying to correct the current version.

The Project is now working to develop a new request for quotes for this work. While the time consumed in the process to date has been substantial, the actual cost was less significant. USAID has suggested that the Project consider purchasing off-the-shelf software, which is used by law firms. This has the advantage of purchase of licenses for which updates are supported. The downside is

that any off-the-shelf system would be in English only, and a new system, according to the external programmer, can be developed in both the English and Myanmar languages.

The Project is investigating both options, and plans to have the database developed and testing started in the next quarter.

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov