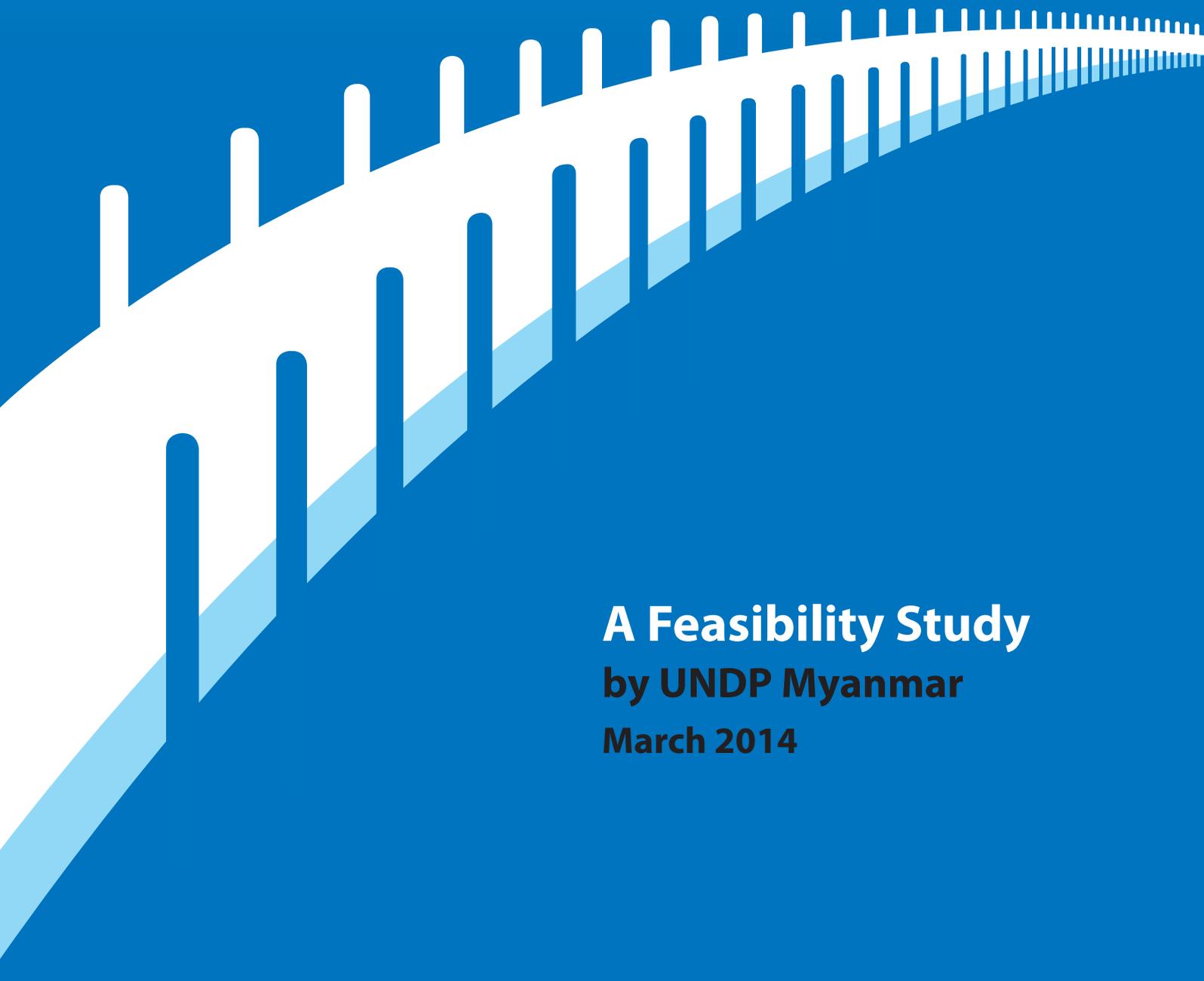




*Empowered lives.  
Resilient nations.*

# **BRIDGES TO JUSTICE:**

## **Rule of Law Centres for Myanmar**

A large, stylized graphic of a bridge with many white pillars, receding into the distance on a blue background.

**A Feasibility Study**  
**by UNDP Myanmar**  
**March 2014**



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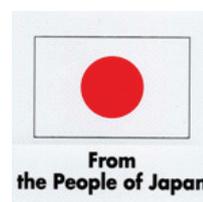
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UNDP's Feasibility Study Team was led by Mr. Larry Taman, Senior Justice Consultant in close collaboration with Caitlin Reiger, Chief Technical Advisor on Rule of Law in Myanmar. The other team members were Emma Morley, Team Leader for Democratic Governance, Mascha Matthews, Rule of Law Programme Specialist, the UNDP Rule of Law Officers in Shan State, Colin Hermann, and in Mandalay region, Christina Beninger, Paul Doila, UNDP Rule of Law Programme Analyst, and Swati Mehta and Alison Moore, Consultants, and Diana Nielsen (Rule of Law intern). Additional support to the study was provided by UNDP colleagues Thet Mon Soe and Sandar Win (Programme Associates), U Aung Linn in Mandalay, U Nay La Moe in Lashio, and Daw Hnin Marlar Htun in Taunggyi.

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## List of Abbreviations

GAD	General Administration Department
MLAW	Myanmar Legal Aid Network
MPF	Myanmar Police Force
MNPED	Ministry of National Planning and Economic Development
NGO	Non-governmental organization
OSCU	Office of the Supreme Court of the Union
RLC	Rule of Law Centres
UAGO	Union Attorney General's Office
UNDP	United Nations Development Programme

## Executive Summary

UNDP prepared this feasibility study of Rule of Law Centres at the request of a Coordinating Committee representing all three branches of Myanmar's government. It examines three different versions of Rule of Law Centres and assesses the strengths and weaknesses of each in contributing to rule of law reform in Myanmar.

The feasibility study team developed a programme of desk research, consultation with the concerned institutions and consultations with government and civil society stakeholders in Lashio and Mandalay. From its research and consultations, the study team identified three different models of Rule of Law Centres:

- **Model A – Rule of Law Professional Training Centres** would seek to improve the rule of law by strengthening the capacity of justice sector professionals. They would act primarily as training centres for judges, law officers and the private bar. They would aim for a substantial upgrading of knowledge, skills and values. They could also address the legal training needs of other government officials such as the police and those in the General Administration Department.
- **Model B – Rule of Law Training and Awareness Centres** broaden the Model A approach by adding community representatives as a target audience for training. The training content would narrow, focusing more on local legal issues. In addition to knowledge and skills training, it would seek to enable legal professionals and communities to interact more constructively with a view to build public trust in the justice sector.

### Evaluative Criteria

#### *Conceptual Feasibility*

- Is the objective of the Rule of Law Centres relevant to priority justice sector needs?
- Are they consistent with justice sector reform?
- Will they support legal empowerment and public awareness?
- Will they encourage the development of national and local leadership in both the institutions and the community?

#### *Operational Feasibility*

- Who are the training providers?
- What would be the content of training?
- Who are the target beneficiaries?
- What form of governance would be possible?
- Where might they be located?
- What considerations are there for pilot centres?

#### *Financial Feasibility*

- What will the pilots cost?
- What will the rollout cost?
- Are sufficient funds available?

- **Model C – Rule of Law Resource Centres** take some features from the other two models. They add the important element of direct legal services to the public – this could include criminal and civil legal aid, paralegal assistance and other programmes. The model aims for a coordinated top down/bottom up approach – improving at the same time the justice sector's capacity to deliver justice and the public's capacity to seek it.

The feasibility study confirms that a dedicated effort at comprehensive upgrading of the knowledge, skills and values of legal professionals is needed and would be welcomed by the key stakeholders. The study also reveals that there is an opportunity to enhance professional training by adding in training elements to improve awareness and readiness to use the legal system. Better qualified judges, law officers, lawyers and officials will have growing impact as public trust and confidence in the legal system grows. The study concludes that rule of law centers should be seen as an important bridging step as other justice reform initiatives take hold.

The study makes the following recommendations :

1. Two pilot Rule of Law Centres should be established in Lashio and Mandalay for a period of 6 months (3 months design and set up, followed by 3 months of pilot activities);
2. Pilot centres should be based on Model B as described in this study;
3. The Coordinating Committee should remain engaged in overseeing both the pilot projects and reviewing the results of a subsequent independent evaluation of their success;
4. This feasibility study report, and any initial decisions of the Coordinating Committee, be made available publicly to stimulate further discussion among a broader range of stakeholders than has been possible during the course of the study;
5. If and when the pilots unfold, interested civil society organizations should be invited to give input to the Coordinating Committee, either through a special hearing of the Committee, providing written submissions on the recommendations referred to above, or both;
6. The design of pilot programmes should include clear indicators against which data can be collected and progress measured toward the stated objective of the pilot, to be assessed by an independent evaluation at the end of the pilots. Any further decision regarding a broader expansion of a rule of law center programme should take into account the results of such an evaluation. A baseline should be established at the outset, using these indicators;
7. The funding for the entire pilot phase, including design, evaluation and review by the Committee, should be assured before a pilot programme would commence;
8. The Committee should request the support of the Legal Advisory Board already established in order to facilitate more comprehensive planning for a justice sector reform strategy and to ensure greater coordination between government and development partners. This could be achieved through requesting the Ministry of National Planning and Economic Development to establish a Justice Sector Working Group, in line with the other Sector Working Groups established under the Nay Pyi Taw Accord.

# I. The Origins of the Feasibility Study on the Rule of Law Centres

This study assesses the feasibility of Rule of Law Centres in Myanmar.

The Rule of Law Centre concept was put forward in October 2013 in a paper on rebuilding the rule of law in Myanmar prepared by the Pyidaungsu Hluttaw Committee on the Rule of Law and Tranquility. The paper proposed both 'a high level concept/ framework for addressing the scale of legal skill upgrading required for existing legal practitioners,' through professional training and education. It proposed that the training and education could be delivered through 4 or 5 Regional Rule of Law Centres.<sup>1</sup>

In October 2013, Daw Aung San Suu Kyi, the Chair of the Rule of Law and Tranquility Committee convened a meeting with the United Nations Development Programme (UNDP) to discuss the Rule of Law Centres and requested that UNDP consider conducting a feasibility study of the concept. In a follow up meeting on November 6, 2013, chaired by the Speaker of the Pyidaungsu Hluttaw, U Shwe Mann and attended by Daw Aung San Suu Kyi and other senior political and justice sector officials, UNDP agreed to provide technical assistance to conduct the feasibility study and to cover the study's costs.

In early December, UNDP carried out a series of preliminary consultations with key national stakeholders, namely, the Office of the Attorney General of the Union (UAGO), the Office of the Supreme Court of the Union (OSCU), the General Administration Department (GAD) of the Ministry of Home Affairs and the Chair of the Pyidaungsu Hluttaw Committee on Rule of Law and Tranquility. In December 2013, UNDP wrote to U Shwe Mann proposing a list of issues that the feasibility study could consider.<sup>2</sup> These issues included the name, functions, management, costing and sustainability of the Rule of Law Centres. UNDP also proposed issues that would need to be considered as part of the implementation plan.

A subsequent meeting in early January 2014, convened by Daw Aung San Suu Kyi, agreed that a feasibility study should be concluded by the end of March 2014. Members of Parliament, the Parliamentary Commission for Assessment of Legal Affairs and Special Issues, and representatives of various government ministries and the judiciary came together as a “Coordinating Committee”, chaired by Daw Aung San Suu Kyi and gave their opinions on the issues that UNDP had recommended for inclusion in the study:

- i. *Name*: the centres should be named “Rule of Law Centres” in English and “Ta Yar U Pa Day Soe Moe Yae Centres” in Myanmar language.
- ii. *Function*: the immediate priority should be to provide training on core rule of law principles.
- iii. *Training Beneficiaries*: initially training should be provided to judges, law officers, practicing private lawyers, police and administration of officials. Beneficiaries should have sufficient professional experience and should have sufficient career time left to benefit from the training. There was also a discussion on the need for training for media, civil society and ‘informal justice actors.’
- iv. *Access to Justice*: as the centres evolve, they should play a role in raising public awareness of legal rights and responsibilities and facilitating the provision of legal aid, paralegal or mediation services.
- v. *Accessibility of the Training Centre*: consideration should be given to accessibility by public transport and availability of accommodation for participants outside the vicinity.
- vi. *Management*: the centres should be independent of government with structures for local management and governance.
- vii. *Funding Sources*: the government through

the GAD should provide in kind contributions to the centres in the form of buildings, leases, electricity, water and other utilities.

International donors should be asked to support the pilot centres, including training materials, teaching aids, furniture, computers and staff salaries. Other funding could come in the form of pooled funding arrangements, private sector contributions and Myanmar donors. The Government of Myanmar should increase its contribution over time.

- viii. *Evaluation*: information should be collected to evaluate the performance of the centres.
- ix. *Roll out*: subject to the findings, consideration should be given to a broader roll out after the evaluation of the pilot centres.

#### Box 1: Feasibility Study Assumptions

1. UNDP will carry out a technical and impartial analysis of the Rule of Law Centre Concept.
2. The Coordinating Committee will review the findings of the feasibility study and decide the way forward.
3. Rule of Law Centres should be independent from government.
4. The government will provide the premises or funding for the lease for the Rule of Law Centres.
5. The Rule of Law centres need to be financially sustainable.
6. The model for the Rule of Law Centre should be able to be replicated and rolled out after the implementation of any pilots and independent evaluation thereof.

The Coordinating Committee agreed to act in an oversight role until the completion of the feasibility study and possibly until the completion of any subsequent pilot projects.<sup>3</sup>

<sup>1</sup>Attached as Annex I: *Rebuilding Rule of Law in Myanmar: professional training and education for existing legal practitioners, A Consultation Paper issued on behalf of the Parliamentary Committee on Rule of Law, 17 October 2013.*

<sup>2</sup>Attached as Annex II.

<sup>3</sup>The members of the Coordinating Committee, as represented at the meeting on 2 January 2014, are listed in Annex III.

## II. Objective and Methodology for the Feasibility Study

### A. Objectives of a Feasibility Study

A feasibility study focuses the question “will this concept succeed in practice?” Where the study team considers it useful, a feasibility study considers relevant variations in the concept that are suggested by its research. In this feasibility study, we assess the relative strengths of three different models of Rule of Law Centres. We use evaluative criteria that we developed based on our analysis of the Myanmar context, the original concept paper, the guidance received from the Coordinating Committee and issues raised during our consultations. It is worth noting at the outset, that these criteria and models are employed as analytical devices and are not intended to limit the design of future programming that may result from decisions made at the conclusion of this study.

### B. Methodology

The first phase of the feasibility study involved desk research on the current state of the justice sector in Myanmar and international best practice on both justice sector reform and regional rule of centers. The research drew on UNDP’s global knowledge and expertise, as well as our understanding of the country context gained through UNDP Myanmar’s analysis of democratic governance in Myanmar and mapping exercises on access to justice and local governance.<sup>4</sup> In addition, our analysis draws on our experience of providing ongoing technical assistance to justice sector and legal education institutions in Myanmar.

The second phase of the feasibility study consisted of consultations with government stakeholders in Nay Pyi Taw and with both government stakeholders and civil society groups in Lashio in Shan State and Mandalay City in Mandalay Region. Lashio was chosen as an example of a small city, with ethnic diversity and proximity to cross-border and conflict dynamics. Mandalay is a large city, with larger populations of government officials and possibly more big city legal issues. During the field visits the team

explored the priority needs of all stakeholders in the justice sector, including private lawyers, public officials and representatives of civil society.

During the third phase of the feasibility study, the team analyzed the information gained so far, developed two additional variations of the original concept and the evaluative criteria against which all three models could be assessed. The three models were then evaluated against the criteria.

This report presents our analysis of the context upon which the evaluation is based. We first examine each model for its conceptual and technical feasibility. The report then examines the financial feasibility of all three models. Although not listed separately in the evaluative criteria, we have also considered how it might be possible to monitor and evaluate the success of pilot centres. Finally, the report presents the three models side by side in summary form, before offering recommendations on the way forward.

The final phase of the study consisted of consultations with representatives of civil society, development partners and institutional focal points in connection with the preliminary findings.

### C. Rule of Law Centre Models and Evaluative Criteria for the Feasibility Study

The three models developed for this feasibility study are:

- a) Rule of Law Professional Training Centres
- b) Rule of Law Training and Awareness Centres
- c) Rule of Law Resource Centres

Detailed descriptions of each of the models are contained in Section IV. Our assessment of the models

is based on the following three categories of evaluative criteria, which we developed after consideration of the analysis contained in Section III below.

#### Box 2: Evaluative Criteria

##### *Conceptual Feasibility*

- Is the objective of the Rule of Law Centre relevant to priority justice sector needs?
- Does it advance justice sector reform?
- Will it support legal empowerment and public awareness?
- Will it encourage the development of national and local leadership in both the institutions and the community?

##### *Operational Feasibility*

- Who will provide the training?
- What will be its content?
- Who are the target beneficiaries?
- What form of governance will be possible?
- Where might they be located?
- What are the considerations to be taken into account for pilot centres?

##### *Financial Feasibility*

- What will the pilots cost?
- What will the rollout cost?
- What funding considerations are there?

<sup>4</sup> Further details of the findings of these mapping exercises are forthcoming and available from UNDP upon request.

## III. Rule of Law in Myanmar

### A. Transitioning from 'Rule by Law' to 'Rule of Law' in Myanmar

As the democratic transition takes hold, Myanmar is moving from rule *by* law to rule *of* law. Under previous governments, the legal system was mostly used as an instrument of social control. Due to this history, there is a widespread lack of understanding of the rule of law in Myanmar. Research by UNDP and others, as well as our consultations in Lashio and Mandalay, have repeatedly confirmed that people lack trust in the state legal system.<sup>5</sup>

For nearly three generations there was a continuous deterioration of the justice sector.<sup>6</sup> The legislative framework, judicial independence, the adversary system in the court room, legal education, the regulation of the

#### **Box 3:** **How large is Myanmar's Legal Profession in 2014?**

**Judges:** 1200 and growing. Judges must have a university law degree and must complete a recruitment programme as well as periodic in service training primarily connected to promotion.

**Law Officers:** 1200 and growing. Law officers must have a university law degree and must complete a recruitment programme as well as periodic in service training.

**High Grade Pleaders:** 40,000 licensed/15,000 in active practice. Law graduates can become high grade pleaders after one year in chambers. No course or examination is required.

**Advocates:** 9,000 licensed/2,000 in active practice. Advocates are the highest classification for private sector lawyers, entitled to appear in all courts. High grade pleaders become eligible to become Advocates after 3 years of practice. No course or examination is required.

legal profession, and public administration in accordance with law were all weakened. Little was done to keep pace with modern developments in legislation, to build the justice sector institutions or to develop the skills of legal professionals.

Most of Myanmar's laws have not been substantially revised since before independence. Efforts are now underway to update and introduce legislation in line with modern international standards. Due to the huge backlog of laws to be reformed and the limited availability of human resources to do the work it will take decades to complete.

There is a severe shortage of legally trained professionals in Myanmar. There are training challenges for both new lawyers and those already practicing. For new legal professionals, their foundational legal education has been limited. A visit to any law faculty in Myanmar will show only the most rudimentary conditions – no modern text books in any basic legal subject and almost no library acquisitions after 1962. There are almost no computers or internet access – all making legal research or self-teaching next to impossible. Some students obtain their degrees by correspondence.

Until recently, senior legal professionals had almost no contact with the outside world, with very limited or no continuing professional development. Law professors, some of whom have foreign doctorates, struggle to keep their knowledge up to date. Lawyers should receive continuing education to upgrade their knowledge and to upgrade the skills and values they will need to do their jobs. In Myanmar, there is only very limited continuing education within the justice sector institutions – mostly connected with

recruitment and promotion. There is no formal continuing education for private lawyers.

#### **Box 4: 2014 World Justice Project Rule of Law Index**

Using a series of quantitative indicators, Myanmar was ranked 89th out of 99 countries surveyed, and 14th out of 15 in the region, citing the following factors:

- a lack of government accountability and an observed absence of checks on the executive branch
- administrative agencies ineffective at enforcing regulations
- widespread public perceptions that the justice system is affected by corruption and political interference
- ongoing restrictions on fundamental rights and freedoms

## **B. Justice Sector Reform Strategy**

Because of the inter-connectedness of the elements on the justice chain, international best practice emphasizes the importance of comprehensive justice sector reform. Building a comprehensive strategy should remain a priority for both national institutions and international partners, although it could take significant time to evolve.

We know, for example, that training alone will not bring reform. To add value, training needs to result in improvements in job performance, which in turn needs to produce better justice for people.

<sup>5</sup>UNDP's own research on access to justice perceptions in this regard are consistent with the findings of similar research conducted by the United States Institute of Peace. See USIP Burma/ Myanmar Rule of Law Trip Report, June 2013.

<sup>6</sup>According to the International Bar Association, "Although a professional judiciary was restored by the SLORC after 1988, judges were accustomed by then to act as administrators rather than arbiters, basing decisions on state policy, instead of legal reasoning and the application of precedent. That did not change over the next two decades." IBAHRI Rule of Law Assessment Report, December 2012, page 56.

This requires meaningful incentives for professionals to participate in training. On the job, they need the tools to implement the skills they have learned so that improved professional performance is valued, monitored and rewarded.<sup>7</sup> This in turn points to the need for reform in the institutions themselves.

Over the past 15 months Myanmar's leaders have publicly stated their commitment to the rule of law.<sup>8</sup> However, they have not yet arrived at a justice sector reform plan and there is no sector-wide platform for coordination with development partners. The Government has twice launched the 'legal advisory board' with a mandate to develop a justice sector plan but this body has yet to report.<sup>9</sup>

Myanmar is nonetheless making progress on justice sector reform with some important initiatives already underway. For example, strategic planning has started at both the UAGO and the OSCU. Progress may eventually be quite rapid. However, until the training gap is closed, it will pose a significant hurdle to justice sector reform.<sup>10</sup>

When it comes, comprehensive justice sector reform in Myanmar should include institutional modernization and strengthening of judicial independence, a thorough overhaul of outdated legislation, and a greater investment of human and material resources into the system. Justice institutions must be helped to improve their ability to deliver justice to the people, and people must be helped to understand their rights and remedies and be provided with the necessary resources to access justice.

<sup>7</sup>See for example, UNDP, *Monitoring and Reporting on Capacity Development in the UNDP Strategic Plan 2008-2011*, 2007.

<sup>8</sup>The government has noted that it will, in collaboration with the parliament, "improve citizens' access to law, and to increase public confidence in and abide by the existing laws, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence... [it] will also undertake legal and judicial reforms to improve the independence and effectiveness of the judiciary to improve the rule of law as well as independent prosecution, enforcement, and legislative oversight." See *Framework for Economic and Social*

Some of this will need to happen at union level – through improvements in legislation and administration, through continuing education for public officials at the state or regional level, through improved justice technology, through ambitious public outreach and much more. There are also important steps best taken locally – through raising awareness of locally important justice issues, translation of justice materials in local languages, and provision of advice and assistance - where people live and justice officials work. Here, local leaders will play a role.

However, what does exist is a valuable starting point – the state structures and administration across the country, the justice institutions themselves, some emerging ideas about how they should function and some leaders and individuals within the justice sector institutions who have shown in the recent past a deep commitment to move rapidly to make the necessary changes. In addition, a highly positive development has been the discussions to date around Rule of Law Centres, including the assembling of a group of senior leaders from all three branches of government who have come together around an idea that they believe could be an important step in reaching the rule of law in Myanmar.

### C. International Lessons Learned on Rule of Law Centres

There is now substantial experience with justice sector reform around the world. UNDP alone has provided assistance in more than 100 countries. Experience

*Reforms: Policy Priorities for 2012-15 towards the Long-Term Goals of the National Comprehensive Development Plan*, Paragraph 116

<sup>9</sup>The body was first established in April 2011 but met only once. It was re-established in April 2013.

<sup>10</sup>The challenge may therefore be different from other post-authoritarian regimes where a well educated and disciplined profession already existed. Here in Myanmar, the challenge is to find a way for a top to bottom upgrading of knowledge, skills and values – for judges, law officers, lawyers and public officials.

with Rule of Law Centres can take many forms, and specific country examples are provided in Annex V. The conclusions to be drawn from the international experience include the following:

- Rule of Law Centres are well grounded in the international practice of justice reform.
- There is no single model for Rule of Law Centres. Reform programmes in different countries have used different models of Rule of Law Centres, focusing sometimes on institutional reform including training, sometimes on public awareness raising, sometimes on access to justice services and, sometimes, on all of these.
- International experience shows that pilots are important. Lessons learned from them should be taken into account before scaling up begins. In Liberia, for example, five 'Justice and Security Hubs,' have been designed to decentralize justice and security services for greater accessibility and outreach to an increased number of people.
- For training to have impact, it needs to be translated into improvements in performance.<sup>11</sup>
- International experience in strengthening the rule of law also reveals the importance of working with the people to ensure that they can access justice.
- Designing solid structures for oversight and management is an important ingredient of success.

#### **D. Exploring Local Justice Dynamics**

The Coordinating Committee suggested that UNDP explore potential Rule of Law Centre pilot locations in Mandalay Region and Shan State. As UNDP already has a presence in both Mandalay City and Lashio,

these were selected for the study field visits. The following offers very brief profiles.

##### **Mandalay**

As the main hub of regional justice actors, with an active private bar and a highly engaged civil society, Mandalay is a logical location for a pilot Rule of Law Centre. The regional offices of the Advocate General, Chief Justice and High Court, GAD and MPF, and the officers of 7 townships, are all based in Mandalay District. The private bar, represented by the Mandalay Bar Association, includes an estimated 800 to 1000 lawyers. With an estimated 180 CSOs, Mandalay is also noted for its very active and growing civil society, and increasing engagement with justice issues. Against a backdrop as the major commercial and transit point in Upper Myanmar, the range of priority local justice issues identified in Mandalay during consultations include: land grabbing and redistribution, squatters and illegal housing, human trafficking, the drug trade, gambling, corruption, traffic violations and violence against women and children.

##### **Lashio**

Lashio would also serve well as a location for a pilot Rule of Law Centre as a diverse range of legal rights-related issues currently affect its surrounding communities. Northern Shan continues to experience the long term effects of internal armed conflicts that have troubled the region for decades. Conflict has affected not only the social and economic welfare of the population, but has also given rise to rights violations, lack of redress and access to justice concerns. The fair adjudication of land claims has emerged as a key concern amongst civil society actors, while organised crime and human trafficking in Shan's northern border region have raised serious issues, including issues with regard to women's rights and child protection.

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<sup>11</sup>*Reforming Public Institutions and Strengthening Governance: A World Bank Strategy (2000), page13*

## IV. Feasibility Findings: Three Models Considered

The original vision of Rule of Law Centres, first advanced by the Rule of Law and Tranquility Committee, had at its core the goal of improving the professional qualifications of current legal professionals in Myanmar through training comprehensive upgrading programme. Our consultations and analysis of the national and local context have identified this and two other models of Rule of Law Centres as meriting the Coordinating Committee's consideration. There are common features among them, including greater or lesser measures of training of legal professionals. However, they each have their own objectives and they pose their own operational and financial implications.

### **A. Model A: Rule of Law Professional Training Centres**

Model A is consistent with the vision described in the original concept paper. Rule of Law Centres could be established in various locations in Myanmar, with the primary objective of providing basic legal knowledge and training in skills and values to existing legal professionals - judges, law officers/prosecutors, private sector lawyers and law professors. There could also be training for other officials, such as in those in the General Administration Department, whose work has an important legal dimension.

#### **i. Feasibility of the Concept**

The objective of Model A Centres, to provide shared basic training that upgrades legal capacity, would meet important priority justice sector needs that the study has identified. They could provide an interim solution until there are improvements in the quality of training provided by law schools, by the legal profession and by justice sector institutions. Model A could potentially meet important local needs by demonstrating to a distrustful public that their local justice officials are participating in training. The longer term impact of the training may be difficult to assess in short pilots. What could be measured is the knowledge, skills and values of the trainees who have completed the programme. Whether or not the trainees in fact use their

improved skills, such as through better performance in the courtroom, would be a topic for evaluators to address.

Experiences from countries such as Cambodia and Indonesia suggest that the positive benefits of training can be undermined if it is not accompanied by systemic structural reforms of the institutions. Merit based recruitment, better performance management, salary raises, concerted action to combat corruption and many other initiatives will be required. Model A Centres would provide some impetus for broader reform by encouraging local officials to understand the required reforms.

Because they would not have neither a particular specific community focus nor meaningful community involvement, Model A would be less effective in identifying and developing independent local community leadership. Indeed, the argument for a community role in the management of the centers is less compelling if the target group is primarily composed of state officials.<sup>12</sup> While there is some risk that Model A Centers could duplicate the training within the institutions, this training is currently quite limited. The centres could be designed in such a way as to complement current or planned legal training.

Nonetheless, both the OSCU and the UAGO have alerted us to the risk that such an initiative may overlap considerably with their own present and planned efforts to upgrade the basic and advanced qualifications of their officials.<sup>13</sup> In order to minimize such a risk, it would be important to ensure that training materials developed for the centers are also done in consultation and coordination with official training bodies, and that materials would be shared.

This could be particularly valuable in upgrading law school curricula or the recruitment training courses offered by the justice sector institutions. Trained trainers could also envisage a future role where they might be recruited to institutional training settings in future. Ultimately, there is both a risk and an opportunity that Model A centers would ultimately fragment into programmes owned and managed by individual, independent justice institutions.

## ii. Operational Feasibility

The technical requirements for Model A centers would be relatively straightforward. Officials interviewed during the consultations noted that they would be happy to participate in joint training together with other officials. The primary need would be to design and prepare a curriculum, develop training materials, and identify suitable trainers. It will be important to ensure sustainability and multiply the impact beyond that which a small number of centers could achieve. International expert assistance in these initial tasks should be engaged in a way that includes implementation plans for a phased handover to Myanmar trainers. For example, 5 trainees could be selected from the first part of pilot training programmes to undergo subsequent additional “train the trainer” instruction, in which they could receive training in active learning methodology and other strategies for effective adult learning.<sup>14</sup>

*Training providers:* During the early cycles after the pilot phase, the international trainers could serve as lead trainers. Later, they could serve as mentors to the Myanmar trainers who would be in the lead. International trainers could be sourced from a combination of private sector or non-profit legal

<sup>12</sup> See the discussion on the legal basis for the centers under “operational feasibility” below.

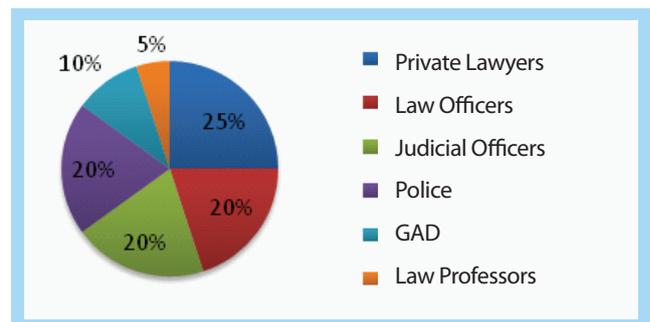
<sup>13</sup> The UAGO is already building a new training center for law offices at its headquarters in Naypyitaw. Also, UAGO and OSCU have each identified capacity-building and strengthening of their own training programmes as strategic priority areas for internal institutional development.

<sup>14</sup> The sustainability of such an approach has already been tested within the UAGO, where law officers trained as trainers during a 3 week pilot training delivered by UNDP and the International Development Law Organization in November 2013, applied the materials and methodology they had learned, to proactively run a repeat of one portion of the training (on fair trials) to their colleagues in Bago Region in January 2014. Further replications of the programme are now taking place in other states and regions.

training organizations. It is possible that some programmes could ultimately be delivered by organizations that charged fees to individuals or institutions. Trainers should have demonstrated experience in practical legal skills development in post-conflict settings, as well as preferably an understanding of and experience in Myanmar's specific context. It would likely make sense for this to be done through a single service provider focused on programme management and logistics that could make its own contractual or joint venture arrangements with content providers.

*Training content:* The content of the training would be largely structured around generally applicable practical knowledge and skills such as legal reasoning and research, professional ethics, criminal law and procedure, contracts, torts and constitutional/administrative law. Where possible the training could also draw upon materials that have already been developed for use in rule of law trainings in Myanmar.<sup>15</sup> If the programme relies on international expertise, there should be a commitment to producing materials in Myanmar language.

*Target beneficiaries:* As envisaged in the initial concept note, Model A Centers could aim to train a combination of 1000 professionals over the course of a year. This could be done through 5 centres each training 200 participants annually.<sup>16</sup> For illustration purposes only, each year a single Model A Rule of Law Center could conduct 4 training programmes lasting 8-12 weeks, covering 50 individuals divided as follows between the various target beneficiary groups.



Dedicated programme design would need to determine curriculum length and form, and the composition of participants may also be determined by interest and availability to participate. For indicative purposes only, however, such a programme would take a minimum of 5 years to complete. The centers could issue a form of accreditation to those who successfully completed the programme, although this should be developed in consultation with justice sector institutions (including the Bar Council) to ensure that the certification is both recognized and taken into account for promotion or other purposes.

The study found that it is likely not feasible to pull busy professionals out of their work commitments for weeks of training at a time. The limited number of officials in most cases means that the township courts or law offices would either come to a stop or that other colleagues would have to do double the work to cover for trainee absences.<sup>17</sup> Law and judicial officers emphasized to the study team that at township level there is often only one or two staff posted there.

Rather, during consultations the study team heard that it could be possible for trainees to come for a week at a time, perhaps 1 week per month for 4 months. Alternatively, several officials consulted suggested that training could be provided outside of work hours such as 7-9 am, which they reported is

<sup>15</sup>For example, UNDP already has materials in Myanmar language on fair trials and statutory interpretation, among others.

<sup>16</sup>These projections are derived from the original concept paper vision of aiming to upgrade the skills of around 1000 legal professionals per year, through annual training programs run in approximately 5 centres.

<sup>17</sup>The Myanmar Police Force is an exception, and the size of the force means that it is better able to arrange for temporary coverage of workload, unlike UAGO or the judiciary.

already a system used for certain training such as legal English. The ultimate design of any such programme could possibly combine full time intensive study with other courses offered on a part time basis.<sup>18</sup>

*Governance:* In terms of legal basis and the source of authority of Model A centers, functional and managerial independence could perhaps be maintained while still endowing the centers with sufficient official status through creating the centres through an act of parliament, as with other autonomous statutory bodies.<sup>19</sup> Likewise, an executive decree may be sufficient, in coordination with the relevant Chief Ministers at state and regional level. However, the strong focus on an array of state officials as beneficiaries means that it would not be feasible to exclude government representatives entirely from the management structures of the centers. Indeed, institutional representation in a governance structure and a clear statutory source of authority could be important guarantees to ensure the feasibility of institutional trainee participation throughout the programme. Such a decision would realistically be required at the end of the pilot phase if a broader national roll out is to proceed. For pilot training programmes, an ad hoc or interim arrangement could suffice.

*Location:* Based on the research conducted for the study, it would be feasible to implement pilot Rule of Law Centres in Mandalay City and Lashio. A pilot training programme in either place could include township-level officials from within the district. During the consultations, it was noted that focusing on a single district would minimize operational obstacles such as travel time and logistics compared to if participants were coming from further afield. In Lashio, that would be only four townships, and in Mandalay seven townships. Further specific research would be needed to identify potential venues

for the pilots than was possible during the limited scope of the study. The idea of using out-of-service government buildings may be feasible for this model, although no specific examples were identified during the field visits despite multiple requests.

*Pilot considerations:* The study finds that the minimum period needed to conduct a pilot programme would be 6 months (that is, 3 months of preparation and 3 months of training programming), in order to allow sufficient time for detailed design and set up, engagement of a provider, preparation of materials, selection of participants, and other related initial steps. Furthermore, any pilot would need to be followed by a thorough review process in order to inform subsequent planning.

## **B. Model B: Rule of Law Training and Awareness Centres**

Under Model B, Rule of Law Centers would broaden their target audience to include both community members and legal professionals while narrowing their offering to focus on priority legal issues of importance to communities.

### **i. Feasibility of the Concept**

The objective of Model B Rule of Law Centres would be more ambitious than Model A. It would seek to respond more directly to a priority rule of law need, namely building public trust in the justice system. During the consultations for this study, the team repeatedly heard statements from both state officials and civil society representatives, that this lack of trust inhibits the effectiveness of the justice system and access to it. Both groups also emphasized the critical need for better public awareness of the law: for state officials this was largely expressed in terms of responsibilities to comply with the law; for civil society

<sup>18</sup>For example, this could be designed as a Thursday, Friday, Saturday program the remaining weeks, or more limited class room hours but with preparatory reading and exercises assigned.

<sup>19</sup>The judiciary, the UAGO and the bar all have a claim to independence from government in matters of training.

this focused more on awareness of rights and remedies available under the law.<sup>20</sup>

This approach would be quite consistent with one of the important lessons learned in the international ‘legal empowerment’ experience. People who lack awareness and trust are more likely to develop it through programming organized around important local issues. They will likely develop awareness and confidence in the justice system if rule of law programming is seen to bring some benefit to targeted local grievances that are immediate and apparent than if it is addressed to a much broader service offering. To the extent that such a centre gives rule of law training to local people already concerned with an issue, it capitalizes on the opportunity of supporting existing civil society leadership. Judges, law officers and police officers all told us that they are often unprepared in specialized areas of local concern and would value the offer of continuing professional development in local issues.

In addition to the advantages noted under Model A of demonstrating cooperative approaches between justice-chain institutions, a Model B centre would bring institutions into closer contact with their communities, a valuable bridge to the future. There are few if any other initiatives underway that provide this link between state institutions and communities. To this end, Model B would make a valuable and unique contribution to the rule of law landscape in Myanmar. In terms of the training function, the advantages described above under Model A would still exist. By involving community representatives in practical legal awareness activities conducted as part of the training, there would be a greater opportunity to measure the impact of the training than under Model A. Given the leading role that Parliament has played in convening the Coordinating Committee and commissioning the feasibility study, there is also a clearer rationale for

seeing Rule of Law Centres as a means to gauge public concerns that can feed useful information back to union-level discussions around a comprehensive approach to justice-sector reform planning.

## ii. Operational Feasibility

As the target beneficiaries include both professionals and non-professionals, Model B would require some modification to the technical aspects of implementation. To this end, Model B may require some flexibility during the pilot phases to test and adjust the training methods as needed.<sup>21</sup>

*Training providers:* Providers would need to have demonstrated experience in assessing local needs and raising public awareness. Many of the international assistance providers in this area are familiar with the challenges of operating in settings where public trust is lacking, although success may require a greater focus on rights-based development experience than on legal skills training.

*Training content:* Training for legal professionals would still be a core function of the Rule of Law Centres, but this training would be conducted in such a way that officials and lawyers would be supported to develop knowledge and skills that have a more visible and immediately applicable impact for those whom the justice system is supposed to serve. Community members too could be offered training to raise their awareness about local issues and about the rule of law more generally. People we spoke to emphasized the desirability of Rule of Law Centres focused on local legal issues including land redistribution, drug trafficking, human trafficking, youth justice and violence against women and children.

*Target beneficiaries:* Model B would cover the same groups as in Model A, but adding a civil society segment to the overall composition of target

<sup>20</sup>This finding is consistent with the results of UNDP’s recently conducted Access to Justice Mapping, referred to above.

<sup>21</sup>Note that for budget purposes, we have estimated a standard 3 month design phase for all models but this may need to be adjusted according to the specific programme demands.

beneficiaries. This could be as high as 20% of the overall group, which would either increase the total number of people trained, or would reduce the numbers proportionally between the judiciary, police, law officers, private lawyers and administrative officials.<sup>22</sup> Regarding the form and structure of the training, the consultations revealed some differences of opinion as to whether civil society representatives could be trained together with public officials. Many state officials were willing to be trained in a mixed group with members of the public, although some community groups indicated they would prefer to have some separate training first on basic legal awareness. Different approaches could be piloted to test these concerns.

One key dimension that Model B Centres could offer, is the possibility of a practical skills development component where state officials could work with community representatives to design a public information strategy on a relevant local topic. This would allow officials the opportunity to demonstrate the new knowledge they have gained during the training, and model receptiveness to public engagement. This could involve real community consultation during the design of the strategy (such as through those representatives who were also participating in training at the center), as well as a live demonstration in conducting a public outreach forum, for example.

A mixed composition of beneficiaries would also allow greater flexibility in the design of the timetable to allow for the limited availability of working legal professionals. If a similar model to that proposed under A is followed (in which officials attend full time for the first week of each month for three months), during the weeks where officials are only attending part-time, the centers could still be fully utilized with the training of community representatives, bringing both together at

the end of each week. This would ensure maximum use of the centers' resources, broadening their reach, while minimizing disruption to existing institutions.

*Governance:* The considerations described under Model A would still apply regarding the necessary legal personality and authority accorded to the centers, but there would be a clearer rationale for ensuring that some measure of community representation is included in the governance structure. Clear criteria for the selection of community representatives, as part of a statutory authority or a local management board, should be included a well-established commitment to public service, demonstrated integrity and independence.

*Location:* No change from as described under Model A.

*Pilot considerations:* As noted already, a pilot of Model B may require some additional time both for initial design and greater flexibility to adjust during the course of the pilot. However, it would also offer potentially greater impact than Model A. Evaluation of practical public outreach sessions could be built into the design of such activities.

It seems likely that evaluations of Model B centres would be able to address both the impact of training on job performance and the impact of enhanced community awareness. They also seem a more natural choice for a joint governance model. It also seems likely to be more durable than Model A, as legal training on local issues for professionals, and public awareness raising on basic legal rights and responsibilities, are long term needs that do not overlap the basic education aspirations of the bar and other branches of the legal profession.

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<sup>22</sup>If the Committee were to recommend that Model B should be piloted, a clear decision on these options is needed.

### C. Model C: Rule of Law Resource Centres

A third possible model of Rule of Law Centres that the Committee could consider would be even more ambitious. It envisages a community space in which there can be training and dialogue between local officials and the public on justice issues, as well as a place where people can come for basic legal services and information. Model C centres could offer a broad range of training, advice, assistance and justice services to those interested in the rule of law, those willing to offer assistance and those in need of assistance. The professional training would be more limited and focused on local justice issues and services.

Training could be extended to community leaders in paralegal skills and legal awareness. They could then be deployed in the centres and elsewhere as community legal advisors, who could assist in connecting people in need with trained lawyers as needed. Their public awareness programmes could utilize print, radio and television.

#### i. Feasibility of the Concept

The objective of Model C is more clearly linked to improving access to justice in Myanmar. It would focus less on the quality of the skills of the institutions and individuals formally tasked with administering the law, or on building public trust alone. Public trust in justice institutions can ultimately only be tested by people using the system, which requires access to information, expert legal assistance, and receptive officials within the institutions. Model C would seek to contribute to bringing access to justice services to people, a key goal of justice sector reform. It would certainly help to support community engagement in justice-sector reform, including through identifying areas in which

legislative or other structural reforms are needed and making public submissions to this effect.

It could galvanize local leadership and could capitalize better than Models A or B on the opportunity presented by the Coordinating Committee's initiative. However, it does represent a departure from the original concept. The access to justice component of this model is not unlike a programme currently being piloted by Pyoe Pin so the teachings of a pilot for this model might already be available from the Pyoe Pin work.<sup>23</sup>

#### ii. Operational Feasibility

This programme targets communities more than either Model A or B. Trainers and experts are available and can be trained as required. As this model offers services to the public, there is no room for error in training and supervising project staff. It is questionable whether pilots could be operational by the end of 2014 and it seems more problematic for them to show impact after a 3 month pilot. The Pyoe Pin justice centre project in Yangon, for example, has handled less than 200 criminal cases after several months of operation. There is probably not enough experience yet to test the impact of access to justice programming. However, rule of law centres focused on access to justice for individuals and communities are a key part of international practice. They are plainly desirable as part of justice sector reform.

*Training providers:* No change from Model B.

*Training content:* As described above.

*Target beneficiaries:* In addition to those described in Model B, Model C would reach a larger group of public beneficiaries who could come to use the services provided by the Centre.

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<sup>23</sup>See further details of a range of initiatives in Annex IV.

*Governance:* Even more than Model B, the governance structure would need to clearly be managed by community representatives. It may not be appropriate to include government representation at all, although this raises the challenge of how to imbue the centers with sufficient authority if state officials are still to participate in some training and public outreach activities. The centres could potentially be established as a network of local non-governmental organizations, through which they could receive some governmental financial assistance as well as conclude memoranda of understandings with the relevant institutions for the cooperation functions. They could also become statutory bodies as part of or in addition to independent legal aid programmes.

*Location:* As above. Greater attention would be needed for the potential venue of the centers. Competing considerations such as the need for independence may need to be balanced with maximizing public access, such as co-location with a public health center or any other place in which people in need of assistance may access easily.

*Pilot considerations:* Pilots for Model C could not realistically be conducted in less than 1-2 years. Whilst building the capacity to scale up this model, it would be particularly important to ensure the political independence of such centres as an important part of their work may involve challenging government service provision. To the extent that it leaves largely untouched the large scale upgrading of legal professionals and public officials contemplated in different ways by Models A and B, that work will remain to be done.

## D. Financial Feasibility

The original concept note made reference to a “pay-as-you-go” system in which trainees would pay a specified deposit that would be refunded on successful completion of the programme. The amount of such a deposit or feasibility of requiring any similar form of payment was not explored during the study in any depth, as initial reactions during consultations were that this would not work.

For the purposes of the feasibility study we have developed some high level expenditure forecasts for pilots and possible rollouts for a single Centre. The figures for these are annexed as Budget Summary Sheet I (attached as Annex VI). This sheet details costs for pilots and 5 year roll-outs for a single Centre when comparing all Models A to C. In addition, figures for a “scale up” to five Centres over a 10 year period appear in the table at Annex VII. In sum, the comparative costs of establishing a single Rule of Law Centre could be in the vicinity of the following estimates:

Model	3 month pilot (USD)	1 year of operations (USD)
A	329,469	796,835
B	453,673	800,957
C	545,561	969,658

We emphasize, however, that these figures are broad estimates only. It may be possible to achieve further cost reductions once proper project design is completed.

These estimates are based on several broad assumptions:

- A single pilot could potentially train at least 60 people per month
- Trainee salary costs and living/travel costs are excluded. We assumed that during the period of study each participant would continue to receive their normal salary as usual.<sup>24</sup> The consultations in Lashio and Mandalay suggested that per diems would not be necessary if a centre was based in a centrally accessible district with a catchment area focusing on surrounding townships.
- The costs of 3 international trainers (plus 2 interpreters and 3 national trainers) are included in the pilot regardless of which model is selected, with the aim that the pilot would produce local trainers (not fully capacitated but able to replicate training with support) and training materials for a possible subsequent roll out.
- For Model A, the important cost drivers include the duration of the programme, the ratio of teachers to learners, the number of international staff and the numbers trained.
- Model B is based on the same costing estimates as Model A, although with slightly higher overall costs to allow for an additional group of trainees (civil society in addition to legal professionals and officials), as well as a library. Model A also assumes that a pilot could be in temporary premises, deferring setup costs for premises to the first stage of a roll out. Because Models B and C are doing more than just training, these set up costs are already included in pilot costings.

- A Model C pilot would cost more than the others, although the budget would largely depend on the scope of additional services provided, which could change over time. The attached projections for example, are premised on providing legal assistance and advisory services through 4 lawyers and 15 paralegals. Other mixes of service are possible – either more or less expensive.<sup>25</sup>

As can be seen from these figures, Model A would be roughly the same costs as Model B to pilot over 12 months. In turn, Model C, the most ambitious pilot, would be roughly 170,000 USD more than pilot B, including additional design and preparation time. Due to the wide variety of approaches that might be adopted, we have not developed full expenditure forecasts for any of the models, however. It is clear from the projections that the more centres that are opened, and the longer they are in operation, produces considerable benefits in terms of economies of scale. The costs of opening each Centre will diminish each time a new one is opened – particularly in respect of set up, preparation and curriculum development costs. As the figures show, the first Centre will be the most expensive. Subsequent Centres – and indeed, subsequent programming cycles of pilot centres - will be less expensive, through anticipated increases in efficiency and the sharing of resources between Centres. After around five years of operations, the annual costs of each centre would level off, reducing the average annual cost to almost half the initial annual pilot cost (see Annex VII).

In terms of financial sustainability, the Committee has discussed the hope that in time, the cost of Rule of Law Centres would be funded in the national budget. This will be an important demonstration of commitment

<sup>24</sup>In the case of private lawyers the lack of a regular salaried income could prove to be an impediment to their participation, particularly if the duration of training extended beyond a week at a time. For this reason, the proposal of a mixed arrangement combining full-time intensive periods with part-time weeks, may also be more financially viable for private lawyers' participation.

<sup>25</sup>These cost estimates for Model C are based on a combination of Models A+B plus an extended para-legal advisory service (some 15 para-legals) as well as a Legal Aid service delivered by 4 full time lawyers working out of the premises in individual consultation rooms (one senior lawyer supervising 3 juniors).

to the initiative and provide a reliable funding stream for the Centres and deserves more thorough exploration, including with the Ministry of Finance, than has been possible during the scope of this study.

It is clear that in the interim, however, financial assistance from international development partners will be needed, particularly during the pilot phase. Several donors have already expressed interest in potential contributions to Rule of Law Centres, although the specific modalities vary according to their own programming rules. For example, funding cycles may mean that some donors would be in a position to fund a roll out in 2015 but not earlier, others would need to ensure alignment with existing programming commitments or country agreements, and others would only be able to offer funding through a government or recipient that is able to meet compliance requirements.

## **E. Monitoring and Evaluation**

As the purpose of the pilots is to test the feasibility of a national roll out of Rule of Law Centres, the early development of monitoring and evaluation is important.

It is usually easy to measure what a programme has done, such as the number of trainings, learners, modules taught, public awareness campaigns conducted or people reached. It is much harder, however, to evaluate impacts particularly in short pilots. Are there measurable signs that justice is improving for people? The pilots are too short to measure whether the justice in a community has improved or not. However, the pilot projects could provide initial indications of whether there is movement in this direction, to determine the value of a further roll out.

This will require shared decisions about indicators, measures, baselines and methodology. In addition, in order to perform a meaningful evaluation after any pilot (model A, B or C) a baseline should be established before the start of any pilots, in order to measure the change. Measuring these improvements will be at the heart of what is needed to decide on whether or not to roll out after the pilots.

Pilots could also start collecting data early on so that the impact of a later roll out could be measured. Such information could measure improvements of trust and confidence in the justice system; changes in whether people understand rules and obey them, changes in patterns of handling specific legal disputes such as sexual or gender-based violence; increases in the numbers seeking legal advice or information who report improved capacity to respond to their personal and/or community justice needs; increases in the number of cases reported as satisfactorily resolved; improved rates of representation (of defendants and women and children victims/witnesses) in criminal justice processes; evaluative information on system effectiveness by legal services providers; information from officials on changes in their decisions and behavior and whether institutional obstacles are being removed, information on efforts to expand access to remedies through institutional reforms such as mobile programs, mediation/ADR, ombudsmen processes; information about improvements in procedural fairness through increased transparency, open access, etc. Each of these conceptual areas could be made specific for each relevant institution.

## V. Comparing the Models: the Feasibility Matrix

The three models are presented side by side in the following matrix:

Feasibility Criteria	Model A: Professional Legal Training Centres	Model B: Community Legal Training and Awareness Centres	Model C: Community Legal Resource Centres
1. Conceptual Soundness			
a. Will Rule of Law Centres meet important justice sector needs?	Yes, but limited – a focus on professional training addresses a vital concern; it leaves out other goals that could be served.	Yes, although still limited – training for a broader audience focused on local issues gives less attention to the need for upgrading and continuing professional development but is more likely to engage local leaders.	Yes – community legal resource centres that address training and provide justice services will likely get the broadest local engagement but without fully meeting the need for professional development
b. Can Rule of Law Centres help to drive broader justice sector reform?	Limited – a focus on professional training will be less likely to engage local communities and leaders and will not give experience of access to justice	Yes – by engaging a broader number of interests and issues	Yes
c. Will they raise public awareness about the rule of law?	Limited	Yes	Yes, even more than in option B
d. Will they encourage the development of national and local leadership in both the institutions and the community?	Limited	Yes	Yes
e. Avoids duplication of existing programmes?	Not entirely, requires coordination with institutional training and university upgrades	There is some civil society training already on land issues, for example.	There is some civil society training already on land issues, for example.

f. Do they present unacceptable or unmanageable risks?	No – there is a risk that programming may fail to grow into areas apart from professional training. Additional later programming could address this.	No – there is a risk that the needs for professional training are not fully met – this could be addressed by developing alternative plans and partners.	No – there is a risk that more extensive public engagement and justice services that give rise to meaningful challenges to the state may reduce the state’s willingness to support the programme
2. Technical Feasibility			
a. Who are the immediate target beneficiaries?	Legal professionals – government officials	Legal professionals – government officials – community members	Legal professionals – government officials – community members – persons in need of legal services
b. Focus of programme	Basic legal education upgraded – continuing professional development	Specialized training in local issues	Specialized training in local issues – legal service needs
c. Can operational needs be met in practice?	Yes	Yes	Yes, with greater time for design and pilot.
d. Can pilot Rule of Law Centres be operational by the end of 2014 with a view to incremental roll out starting in 2015?	Yes	Yes	With difficulty
e. Independent governance structure while retaining government budget support?	Yes – with agreement among the institutions	Yes – requires a broader agreement – perhaps with a statutory base	Yes – requires a broader agreement – perhaps with a statutory base – in particular the legal services elements should operate at arm’s length from government
f. Can measurable indicators of success be established in order to judge the success of the pilots?	Yes, but a baseline is required to meaningfully measure change.	Yes, but a baseline is required to meaningfully measure change.	Yes, but a baseline is required to meaningfully measure change.
3. Financial Feasibility			
a. What might the pilots cost? (USD estimate per centre)	329,469	453,673	545,561
b. What might the rollout cost? (USD estimate per centre)	796, 835 for the first year for one center, reducing considerably after 5 years.	800,957 for the first year for one center, reducing considerably after 5 years.	969,658 for the first year for one center, reducing considerably after 5 years.

## VI. Conclusions and Recommendations

This study assesses variations of Rule of Law Centers proposed by the Coordinating Committee. The study has aimed to ground its analysis in an understanding of the context. Respect for the rule of law - in which all people and institutions are accountable, and in which fair treatment and equal access to effective legal remedies is assured – is never easy to achieve.

Important steps have already been made, but it is clear that rebuilding the legal education system, fostering a truly independent judiciary, a thorough review of outdated laws, embedding professional integrity into institutional recruitment and promotion systems, and empowering ordinary people to use the law to protect their rights, are all needed in order to reach the rule of law. These changes will take time and substantial financial and human resource investments.

Myanmar's leadership within all branches of government will need to decide on some core policy directions for rule of law as the political reform process continues to unfold. Any significant initiative that involves a commitment of limited financial and human resources should rightly be judged against the clarity and relevance of its vision and strategy to effect change. Rule of Law Centers should be no exception.

This study has confirmed the Coordinating Committee's initial proposition, that a dedicated effort to upgrade the skills of legal professionals in both the private bar and key state institutions is both needed and would be welcomed by many of the main stakeholders. Yet the study has also revealed that there will be more impact if such training is combined with the broader goal of improving public trust and readiness to use the legal system.

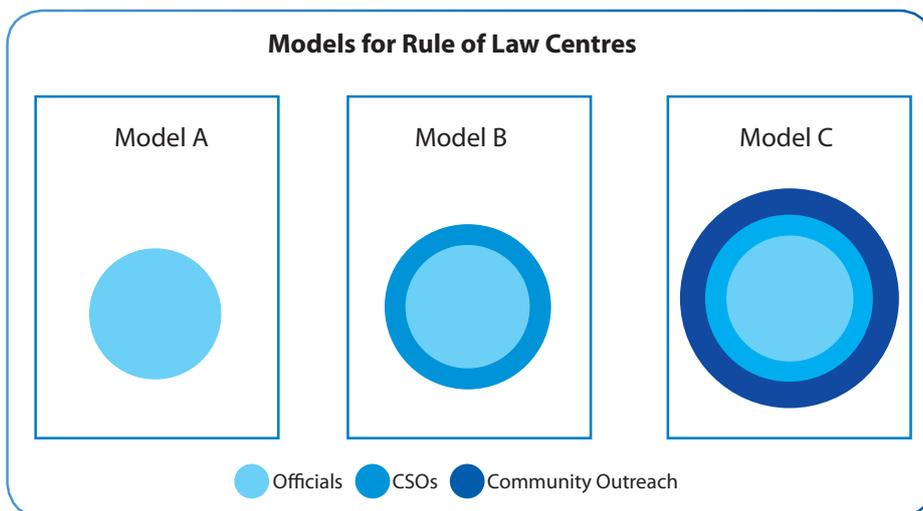
Rule of Law Centers should be seen as an important interim step while many other areas of justice reform continue to grow. They can serve as

drivers of change, however it is unlikely that Rule of Law Centres will have the desired long-term impact except as part of a comprehensive justice sector plan. Furthermore, international partners will likely find it much easier to justify substantial support to the sector if such a plan exists.

**A. Key Findings:**

1. As Myanmar’s early justice reform efforts move towards a national justice sector reform plan, pilot Rule of Law Centres could help test some fundamental elements of improving justice in Myanmar and be seen as bridges to more comprehensive reform.
2. Each of the models explored could offer valuable input into the design of such a plan.
3. Model A and B would be relatively straight forward to design and implement. They would both target government institutions and private sector professionals who are currently engaged in administering the law, and who are receptive to such an initiative.
4. Model A seems less likely to build public trust in legal professionals because it will not engage communities in the same way as Models B and C.
5. The imperative for community based management structure is less evident for Model A as the majority of those participating

6. Model B, while ensuring that the basic need of improving professional legal competence is met, offers an opportunity to maximize the impact of this change through connecting it to other core needs.
7. Model B could more readily incorporate training on important local issues; demonstrate new ways of engaging public officials and the community together to resolve justice concerns; and model community-driven governance and accountability.
8. Model C is both the most ambitious, and likely the most expensive and complex option. A pilot could test out a method of meeting a broader range of community justice needs that go well beyond the officials and lawyers who are the primary justice actors, and would focus more squarely on legal empowerment. Yet it is doubtful that it could be properly tested through a short-term pilot project. In addition, there is at least one pilot underway that covers some of the same ground. The comparative reach of the three models is illustrated in the figure below:



## **B. Recommendations:**

1. Two Pilot Rule of Law Centres should be established in Lashio and Mandalay for a period of 6 months (3 months design and set up, followed by 3 months of pilot activities);
2. Pilot centres should be based on Model B as described in this study;
3. The Coordinating Committee should remain engaged in overseeing both the pilot projects and reviewing the results of a subsequent independent evaluation of their success;
4. This feasibility study report, and any initial decisions of the Coordinating Committee, be made available publicly to stimulate further discussion among a broader range of stakeholders than has been possible during the course of the study;
5. If and when the pilots unfold, interested civil society organizations should be invited to give input to the Coordinating Committee, either through a special hearing of the Committee, providing written submissions on the recommendations referred to above, or both;
6. The design of pilot programmes should include clear indicators against which data can be collected and progress measured toward the stated objective of the pilot, to be assessed by an independent evaluation at the end of the pilots. Any further decision regarding a broader expansion of a Rule of Law Centre programme should take into account the results of such an evaluation. A baseline should be established at the outset, using these indicators;
7. The funding for the entire pilot phase, including design, evaluation and review by the Committee, should be assured before a pilot programme would commence;
8. The Committee should request the support of the Legal Advisory Board already established in order to facilitate more comprehensive planning for a justice sector reform strategy and to ensure greater coordination between government and development partners. This could be achieved through requesting the Ministry of National Planning and Economic Development to establish a Justice Sector Working Group, in line with the other Sector Working Groups established under the Naw Pyi Taw Accord.

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# Annex I.

## Initial Concept Paper

**Rebuilding Rule of Law in Myanmar:  
professional training and education for  
existing legal practitioners**

**A Consultation Paper issued on behalf of  
the Parliamentary Committee on  
Rule of Law**

### Introduction

This Consultation Paper is being circulated to a wide range of stakeholders, both local and international, interested in rebuilding rule of law in Myanmar. The purpose of the document is as follows:

1. Propose a high level concept/framework for addressing the scale of “upgrading” required to existing legal practitioners in Myanmar;
2. Invite comments, amendments and suggestions from interested parties;
3. Identify potential funding sources; and
4. Identify individuals and organizations able to contribute in kind by providing training in relevant areas.

### Background

Rebuilding legal education will be a vital cornerstone of legal reform in Myanmar. University legal education must be improved so that it is able systematically to turn out new graduates with an acceptable level of knowledge, skills and values. However, even if comprehensive efforts to improve legal education at Myanmar universities were to begin tomorrow, they would not take hold for many years. Those who graduate from university in, say, 2020 will not be in

positions of influence in the legal profession for another 10-15 years after that.

For at least the next 20 years, the formal legal system throughout the country, and in all branches of the legal profession, will be largely in the hands of those who graduated and practised during the previous military regimes. These individuals were denied high quality education and in many cases their university education was terribly abbreviated. Likewise, they were denied training, work experience and exposure to international legal practice. The end result is that many legal practitioners in Myanmar are not well equipped to carry out their roles. Filling the gaps in the professional formation of those already practising - whether as judges, prosecutors, private practice lawyers or law professors - should be an absolute priority.

In a country of around 65 million people, this will be a big job. Judges and prosecutors together number in the thousands, and their number could easily be doubled or trebled over the next few years to meet the needs of a developing, market-oriented legal system. Including lawyers at the private bar and in the teaching profession will add significantly to that number.

### Analysis

Retooling the universities will not remedy the gaps in the professional formation of existing legal practitioners. Donor sponsored workshops, rule of law conferences, some strengthening of professional institutes and a trickle of graduate study abroad will not help much either. It is crucial to address the scale of the problem.

There have been numerous conferences on rebuilding rule of law in Myanmar and various bodies are planning further such conferences. At the moment there are more than 30 separate Myanmar related rule of law projects. Often donors fail to co-ordinate and sometimes they compete with each other. It is not surprising that the record of training as a tool for strengthening the rule of law in developing and transitioning countries is mixed at best, with little evidence that it translates into improved performance in the justice workplace. There are many reasons for this, including the frequent failure to train comprehensively, to scale, with quality methods and with revised workplace standards and practices.

### **Vision**

The aim should be to provide comprehensive professional training for the entire legal profession – judges, prosecutors, private practice lawyers, paralegals and law professors. This could be done by private sector providers, who could be required and incentivized to co-ordinate with and, where feasible, involve the numerous multinationals, law firms, international legal organisations, bar associations, universities and NGOs who are seeking opportunities to assist Myanmar rebuild rule of law. There should be a heavy emphasis on training trainers. Sooner rather than later, the international component among the trainers should be reduced and the national component increased.

Training could be organized through a series of 4 or 5 regional rule of law centres (RLCs) in Myanmar. Their mission should be to support all those who are willing to improve their legal qualifications. The RLCs could be open to all legal professionals who wish to attend. The RLCs would run intensive one year programmes and

would aim to “upgrade” around 1,000 legal professionals per year. Each participant would have to pay a specified deposit but this would be refunded on successful completion of the programme. During the year of study each participant would receive a stipend equivalent to the salary of a specified rank of Myanmar civil servant. The RLCs would be located in renovated and converted Government buildings of which there is a ready supply in Myanmar.

The RLCs should place emphasis on active learning and on improving practical skills such as legal analysis, writing, research, advocacy and counseling. They should broaden understanding of legal professional values such as professional ethics, government service, *pro bono* service and protection of human rights. The trainers should include not only full-time employees of the RLCs but also temporary *pro bono* trainers from multinationals, law firms, international legal organisations, bar associations, universities and NGOs.

The RLCs should provide recognition/certification so that participants can demonstrate to employers, clients, universities, civil society organizations and others that they have completed the RLC programme. Certification should be linked to public recognition initiatives, so that successful completion of the RLC programme becomes a valuable professional asset.

### **Implementation**

To build a fully functioning programme will take several years. The work could be divided into phases, along the following lines. At each stage there should be independent monitoring and evaluation to ensure that performance targets are being met before funding is released for the next phase.

Phase One (2013-14): **Feasibility Study and Preliminary Funding:** design the initial programme; identify the local and international partners that will be required to implement the programme; seek funding commitments; invite tenders from private sector providers to run the first RLC; launch a governance structure for the RLCs.

Phase Two (2014): **Pilot:** develop and deliver core learning modules in basic subjects such as criminal law and procedure, contracts, torts, family law and company law. Develop other RLC programmes as required. Establish the first RLC and commence the programme.

Phase Three (2015): **Roll-out/ Certification/ Recognition:** establish the remaining 3 or 4 RLCs. Expand the RLC offerings to provide comprehensive coverage in basic and advanced disciplines; develop certification and recognition aimed at target audiences: government lawyers and judges, private sector lawyers, university professors and community workers.

## **Development Assistance**

It seems doubtful that the initial work in building the RLCs could be done through existing institutions in Myanmar, all of which face their own challenges and

none of which have the comprehensive mandate or regional presence required. Private sector providers, national and international, could be assembled with donor support to bring in the best ideas, methods and technology. There should be a clear timetable for transition to national resources, both human and financial.

**Providing input** Please submit comments, amendments and suggestions by Friday, 1 November 2013 to:

**Robert San Pe**, Special Adviser on Legal Affairs to Daw Aung San Suu Kyi, Chair of the Parliamentary Committee on Rule of Law, at the following e-mail addresses: rpe@orrick.com; and izhou@orrick.com.

If you would like to have a call with Mr. Pe, please contact Ms. Windy Leung (wleung@orrick.com / +(852) 2218 9257).  
17 October 2013

## Annex II.

### Letter from UNDP to U Shwe Mann with proposed list of issues

United Nations Development Programme



*Empowered lives.  
Resilient nations.*

Date: 18 December 2013

Your Excellency,

**Re: UNDP Support to the Feasibility Study for the Rule of Law Centres**

Thank you very much for inviting UNDP to participate in the meeting held on 6 November on "Rebuilding Rule of Law in Myanmar: Professional Training and education for existing legal practitioners" organized by the Union Hluttaw. As Your Excellency might recall that at the meeting UNDP advised national counterparts that it was ready to provide financial and technical assistance for a feasibility study for the Rule of Law Centres in line with the country's priorities.

To this end, subsequent to above mentioned meeting UNDP consulted with key national stakeholders namely the Office of the Attorney General of the Union, the Office of the Supreme Court of the Union, General Administration Department of the Ministry of Home Affairs and the Chair of the Parliamentary Committee on Rule of Law and Tranquillity. During these meetings, UNDP sought views from the stakeholders on the issues that they would like the feasibility study to cover. We have summarised these issues for Your Excellency's information and consideration in the document attached.

We understand that first meeting of the Coordination Committee for the feasibility study of the Rule of Law Centres might be convened in near future.

We hope that in the lead up to that meeting Your Excellency might find informative this summary of UNDP's follow up actions. UNDP will continue to support the Union Hluttaw and the Justice Sector Institutions in assessing the feasibility of the Rule of Law Centres.

Please accept our deep appreciation of your support and assurances of our highest consideration.

Toily Kurbanov  
Country Director

Thura U Shwe Mann  
Speaker  
Pyidaungsu Hluttaw, Republic the Union of Myanmar  
Fax 067-591086

Enclosure: Inputs for possible consideration for the Feasibility Study

### Issues and topics to be covered by the Feasibility Study

1. **Name:** What should be appropriate name for the centres?
2. **Functions:** What should be the main role and most relevant functions of the centres?
  - a. Training of and enhancing the knowledge, skills and professional values:
    - i. Justice sector officials, including local judges and prosecutors. Should this training include basic and continuing training or should this focus on special issues, particularly those with local importance, whereas basic and continuing education of justice officials would be conducted in the institutions' training centres and departments.
    - ii. Other government officials whose functions involve application of law, including police, prisons and local government officials
    - iii. Private bar
    - iv. Media
  - b. Assisting vulnerable people in overcoming barriers to justice: Should the centres provide themselves, or provide facilities or referrals to other agencies, for services that assist vulnerable people in overcoming barriers to justice, including through
    - i. Public awareness raising aimed at ordinary people to increase their knowledge of their legal rights and remedies and how they can pursue them as well as to increase their understanding of their duties under the law
    - ii. Legal aid
    - iii. Paralegal assistance
    - iv. Mediation services
  - c. Dialogue on justice issues, including
    - I. workshops and meetings
    - II. brochures
    - III. print media
    - IV. television and radio
3. **Management:** How should the centres be managed? Will they be run by the State (if so, which Ministry/justice sector agency will lead it), by local communities or in some other way? Will they have local management boards?

4. **Implementation plan:** Consideration could be given to:
  - a. **Local Options:** Should all regional law centres have the same structure and function or should the programme encourage or permit “localization” to meet the needs and preferences of local communities?
  - b. **Location:** Where could centres be established? What are the criteria that will determine the eligibility of a community to have a centre? Consideration should be given to establishing centres at the state and region levels, but also to establishing centres of appropriate size at the local level.
  - c. **Human Resources:** What is the availability of expert and other staff the centres? What training will be required for the staff?
  - d. **Physical Infrastructure:** Should the centres be accommodated in existing government buildings, in leased facilities or should new buildings be constructed.
  - e. **Sequencing:** While the centres may not be established all across the country at once, what might be the best way of sequencing rollout in order to ensure effective use of scarce resources?
  - f. **Private Sector:** What should be the role of the private sector in the implementation of the centres?
  - g. **Role of other participants:** What technical, budgetary, infrastructure and other support should be contributed by
    - i. State, regional and local government
    - ii. International development partners
    - iii. Myanmar donors
5. **Costing and Sustainability:** Based on the draft recommendations put forward, the feasibility study should provide a comprehensive three-year estimate of expenditures.

## Annex III.

### Members of Coordinating Committee

Name	Position
Daw Aung San Suu Kyi	Chair of Rule of Law and Peace and Tranquility Committee
U Win Myint	Secretary of Rule of Law and Peace and Tranquility Committee
U Aung Nyein,	MP, Amyotha Hluttaw (Upper House)
U Myint Thein	MP, Amyotha Hluttaw (Upper House)
U Kyaw Sein	MP, Amyotha Hluttaw (Upper House)
Daw Myat Myat So	Member of Pyithu Hluttaw Commission for Assessment of Legal Affairs and Special Issues
U Kyaw San	Member of Pyithu Hluttaw Commission for Assessment of Legal Affairs and Special Issues
U Aung Myint	Member of Pyithu Hluttaw Commission for Assessment of Legal Affairs and Special Issues
U Sein Than,	Director General, Office of Supreme Court of the Union
U Kyaw San	Director General, Union Attorney General Office
U Tin Myint	Deputy Director General, General Administration Department, Ministry of Home Affairs
Dr. Daw Wah Wah Maung	Deputy Director General, Foreign Economic Relation Department, Ministry of National Planning and Economic Development
Dr. Zaw Min Aung	Deputy Director, Ministry of Foreign Affairs
Daw Nant Aye Aye Kyi	Deputy Director General, Pyithu Hluttaw office

## Annex IV.

### Profiles of Current Legal Awareness Projects/Providers

*Please note that this list is only indicative of some examples of activity that UNDP is aware of, and is not an exhaustive list.*

#### **Pyoe Pin and Myanmar Legal Aid Network (MLAW)**

Pyoe Pin, in partnership with the British Council, oversees a number of programs focused on legal awareness and advocacy and legal aid. It organized a series of workshops and study tours to explore legal aid options for Myanmar throughout 2012 and 2013, and established the national Myanmar Legal Aid (MLAW) network. It has also established Justice Centres, offering free public legal aid assistance for criminal matters, on a pilot basis in Yangon and in Mon State. It is also currently carrying out research on justice mapping in these areas. It is producing public legal education materials and resources, including legal handbooks, and is in the process of developing an educational television series.

#### **Loka Ahlinn**

Loka Ahlinn, a social development program based in Yangon, is currently implementing a Rule of Law project focused on capacity building through community engagement, basic rights training and paralegal programs in six locations around the country. It has also developed public education materials, including a handbook on rights in relation to the police. It operates a Centre for Capacity Development based in Mandalay and pilot projects in Shan State.

#### **Youth Legal Clinic**

The Youth Legal Clinic provides legal awareness training and paralegal training on human rights and legal issues around the country. It focuses on supporting women's access to justice, and has published and distributed a legal handbook outlining laws for the protection of women (in both Burmese

and English). Based in Yangon, it has recently expanded field offices to the states and regions, including in Mandalay and Taunggyi.

#### **Equality Myanmar**

Equality Myanmar carries out human rights education, with a training of trainers approach, around the country, and promotes public awareness and advocacy on human rights issues. Since 2000, it has trained over 1,000 people, with an emphasis on community leaders and members of civil society organizations. It has Human Rights Education Training Centres in Yangon and Mandalay.

#### **Upper Myanmar Lawyers Network**

The Upper Myanmar Lawyers Network is based in Mandalay. It is involved in various legal awareness and advocacy activities, and currently hosts a regular legal training program for junior lawyers every weekend. The training program is hosted by volunteer senior lawyers of the Mandalay Bar and draws 75 to 100 lawyers each week.

#### **Namati**

Namati provides practical resources and technical support to legal aid efforts, with a particular emphasis on community-based paralegal programs. It uses paralegal and other legal empowerment strategies to work on various thematic areas, including land registration issues in Shan State.

#### **Mitta Foundation**

Mitta Foundation runs para-legal programs, promoting awareness of land law and facilitating land registration in Shan State.

## Annex V.

# Rule of Law Development Lessons

Many countries are currently engaged in trying to strengthen the Rule of Law. They are often supported by development agencies. UNDP provides rule of law support to over 100 countries, including approximately 37 affected by crisis or fragility. The World Bank's Justice for the Poor (J4P) programme supports the emergence of equitable justice systems in East Asia, Pacific and Africa (Indonesia, Papua New Guinea, Solomon Islands, Timor-Leste, Vanuatu, Nigeria and Sierra Leone).

### 1. Areas of Rule of Law Development

Some internationally supported rule of law programmes focus on institutional strengthening, others on access to justice and legal empowerment and still others on both. Key activities may focus on:

#### a. The Strengthening of Institutions and Systems Including:

- state legal aid systems - In countries like India with an existing comprehensive legal aid system, the focus of the rule of law/access to justice (RoL/A2J) programmes is to support the strengthening of the system through improved monitoring or increased outreach through the use of trained paralegals. In countries like Mongolia, where there was no state sponsored legal aid, the RoL/A2J programmes supported the creation of

Legal Aid Centres, which were later adopted and owned by the State.

- training institutions for judges and others- While in some countries, the development agencies have supported the establishment of judicial training centres (National Judicial Academy in Nepal and the National Judicial Training Centre in Guinea Bissau<sup>1</sup>), in other countries with existing judicial academies, RoL/A2J programmes have supported improved training through providing trainers (Myanmar) or through the development of curriculum, or training manuals (India).
- coordination systems between justice sector agencies - in Mozambique, for example, the newly created Palaces of Justice conjugate solutions for the need of modern infrastructure for Courts, Prosecutor's Office, Criminal Investigation Police and the State Free-Legal-Aid institution (IPAJ), with a new concept of simplified and integrated justice services at district level. All 4 institutions work under one roof in the selected pilot districts.

#### b. Training for a Range of Actors Including:

- justice sector actors (prosecutors, police, and public defenders) - RoL/A2J programmes across the world support training of justice sector actors. See for example, Guinea Bissau and also Timor-Leste, where the UNDP supported Legal Training Centre provided training for the first judges, prosecutors and public defenders to be sworn in in the new country.
- lawyers - Skill building of lawyers is a key focus of many RoL/A2J programmes. In India and Guinea Bissau, for example, UNDP has supported training of legal aid lawyers.

<sup>1</sup>The Centre provides a one and a half year professional training for judges and prosecutors, which was incorporated into the mandatory curriculum for judges and prosecutors, in addition to trainings for legal aid lawyers.

- paralegals - Training people from within the communities as paralegals to assist the people in accessing justice has proved very useful, especially in contexts where there are few trained lawyers. A network of community-based paralegals – which now has formal recognition in the new legal aid law – operating across Sierra Leone, covers eight out of twelve districts and the capital city Freetown.<sup>2</sup> In addition, there are several other examples of supporting the use of paralegals to reach out to the communities including in Nepal (UNDP), Indonesia (NGOs), and Malawi (Paralegal Advisory Service Institute (PASI)).
- mediators - Mediation as an alternate (less expensive and quicker) form of dispute resolution has been supported by various RoL/A2J programmes including in Nepal where, since 2009, over 600 community mediators have been trained and seven mediation centres have been established. In Sierra Leone, Timap and in Malawi, PASI support a village-based diversion and mediation scheme. In Ghana, UNDP supported the establishment of a national network of 29 community mediation committees (CMCs), managed by an ADR Secretariat as part of Ghana's Legal Aid Scheme.
- community leaders - The RoL/A2J Programmes target and train community leaders with a view to ensure that they dispense justice in line with international norms and are able to divert serious cases to the formal justice system. In Timor-Leste, for example, UNDP introduced pilot

consultations for community leaders and traditional justice providers to enhance interface with formal justice systems in 4 districts. In Guinea-Bissau, sensitization on civil/political rights, child rights, and gender equality was carried out with UNDP support, and targeted community leaders, women and youth. In total, this sensitization reached more than 12,680 people of which 49 percent are women. In Aceh in Indonesia, traditional adat leader were trained in dispute resolution and referral services in serious cases, which fall outside their purview.

### c. Legal Empowerment of the People Through:

- creating legal awareness in the community - RoL/A2J programmes in many countries focus on creating legal awareness, not just regarding the rights people have but also covering the processes to access those rights. In India, for example, 1.5 million people were reached out by UNDP alone through its access to justice programme. In Afghanistan also, UNDP engaged in wide outreach programmes on rights across 12 provinces in the country.
- providing basic legal aid services<sup>3</sup>– this support is provided with the aim of supporting vulnerable people in accessing their rights guaranteed under the law. In Chad, in 2012, over 100 persons belonging to vulnerable groups benefitted from legal aid services. In Guinea-Bissau,

<sup>2</sup>Sourced from <http://www.opensocietyfoundations.org/voices/new-legal-aid-law-sierra-leone-embraces-role-paralegals>: The network comprises 76 paralegals (in 33 locations), who are housed within a range of civil society organisations. The Open Society Justice Initiative, together with the government of Sierra Leone, Timap for Justice, the World Bank, the UK's DFID and four other civil society organizations worked together to support the government in developing a national approach to justice services on the Timap model.

<sup>3</sup> In Chad, UNDP supported the establishment of 4 pilot legal aid offices in collaboration with civil society organizations. UNDP also provided support in the drafting of a legal aid legislation. In 2012, in Guinea-Bissau, UNDP supported the functioning of the three Access to Justice centres (CAJ) and mobile posts that opened in September 2011, which provide legal aid, counseling and legal information to the most vulnerable in 3 regions. The mobile legal aid clinics in 27 Village District Committees in Dhanusha, Mahottari and Sarlahi districts of Nepal provided free legal counselling to 2204 persons (50 percent Dalit women from poor economic background) including 471 males and 1733 females.

a total of 1,395 individuals (of which 22 percent are females) benefited from legal aid services supported by UNDP in 2012. Hundreds of cases related to land issues were addressed by the legal aid centres, mainly through mediation and conciliation. A total of eight legal aid centers are providing support to citizens in Kosovo. In 2012, these legal aid centers benefited approximately 5000 people (35 percent women and 24 percent ethnic minorities). In Nepal, UNDP supported 7 Sexual and Gender Based Violence (SGBV)-oriented legal aid desks operating in police stations provided information and legal assistance to 1195 claimants, 501 of which related to domestic violence.

- developing victim support services or accompaniment programmes - Such services are supported by RoL/A2J programmes to assist vulnerable victims of crime access medico-legal help. In Somalia, for example, UNDP provided support to a total of 787 women and children survivors of sexual and gender-based violence (SGBV) between September 2012 and January 2013. 545 women, female adolescents and children survivors of SGBV living in IDPs camps were provided with psychosocial and legal counseling and/or referred to Mogadishu hospitals. In Sierra Leone, from September 2011 to December 2012, a total of 309 victims of SGBV received medical attention, counseling, shelter and legal assistance with UNDP support. Global Rights, an international NGO supported an accompaniment programme in 2006 in the Maghreb region to deal with the negative experiences that women faced while engaging with public actors. This ranged from abuse and intimidation; corruption and bribery; difficult paperwork; lack of knowledge amongst public actors; language barriers and insufficient infrastructure. Young women from local NGOs were trained to be 'accompagnatrices' in grassroots NGOs, on primarily family law, violence against women and civil status. They provided legal information and advice, and accompanied women to diverse public offices such as judicial, police, medical, administrative, education and employment offices.

- supporting dialogue between the state and non-state justice systems – RoL/A2J programme support such dialogues with the aim of allowing people to access a range of justice services while promoting compliance with basic international human rights standards. In Aceh, Indonesia, UNDP has supported an interface between the formal and the informal adat system with the result that a legislation has been passed that formally recognizes the role of adat in dispute resolution.

Some programmes have created specialized centres/hubs with a view to strengthen the rule of law and ensure improved access to justice. These centres play a variety of roles in different parts of the world. They may focus on decentralizing justice, creating platforms for justice sector coordination, linking the formal and informal sectors (see for example, the UNDP supported palaces of justice in Mozambique), creating specialized training centres (examples include UNDP supported training centres in Guinea-Bissau and Timor-Leste) or providing legal aid (see for example, UNDP supported legal aid centres in Mongolia, which are now owned by the government).

## 2. Lessons Learned

### a. The Value of Pilots

*International experience shows that pilots are important so that lessons learned from them are taken into account before scaling up begin.*

In Liberia, for example, UNDP supported the development of the five 'Justice and Security Hubs,' which are designed to decentralize justice and security services for greater accessibility and outreach to an increased number of people. An important lesson was that although a great deal of time, money and effort was spent on construction of the hubs, the service delivery part (of actually ensuring greater accessibility and outreach) did not make as much progress as expected. Based on this experience, it is highly recommended to do a

cost-benefit analysis first. Is it worth investing money in new hubs? Or are the necessary justice and security institutions already in place and the need is to strengthen their capacities and increase coordination among them? It is equally important to consider and plan awareness-raising of the population. In Liberia, for example, when the construction of the hubs started, people thought that a prison was being built.

### **b. Linking Training and Performance**

*For training to have impact, it needs to be translated into improvements in performance.*

Institutional development must be “broadly defined to include reforms of incentives and institutions as well as strengthening skills and resources”.<sup>4</sup>

Training alone is not enough to bring about institutional development let alone broader rule of law reforms. It can, however, be an important initial step in the right direction.

Managers need to be supportive of the new trainees and must ensure that they use their newly acquired skills in their job. In Cambodia, for example, the first fiftyfive graduates from the Royal School of Judges and Prosecutors appointed to work at provincial and municipal courts across the country (in 2006) “faced numerous challenges when working with other practicing judges and prosecutors.... These senior colleagues do not often welcome the initiative of the younger graduates, and often they cannot change their established practices”.<sup>5</sup>

Experience from Timor-Leste and Guinea-Bissau highlights the value a developing Training Policy Document to resolve design and implantation issues in advance in a coordinated manner with the key top authorities of each institution as well as professionals from each sector (AGO, Prosecution, Courts, private lawyers). It was also important to ensure that the policy was translated into a bill/decreed (approved by government not parliament so as to expedite the process) that regulated key aspects of the centers, performance, pedagogical requirements, human resources, and evaluation at different stages. It is vital to develop capacity needs assessments and to define a human resource development plan for the legal sector and to ensure that needs form the basis for the training design.

Bringing different justice sector actors “under one institutional framework for continuing education” not only “saves scarce resources” but also “orients the actors to work together in a coordinated manner to fulfill the duties imposed on them”. However, it equally important to remember that bringing “diverse communities under one education platform can also create problems. If educational interests and priorities are too diverse, the focus and impact of judicial education initiatives may be diluted. Sectoral interests may also work at cross purposes”.<sup>6</sup>

It was also crucial to constantly improve the course curricula and including training on ethical-professional matters, critical thinking, simulations etc. as well as improving the effectiveness of capacity building strategies and language challenges (Timor Leste).

<sup>4</sup> *Reforming Public Institutions and Strengthening Governance: A World Bank Strategy (2000)*, p.13

<sup>5</sup> Kim, S. and Tayseng, L., “Judicial Education and Skills Development for Judges and Court Staff: The Cambodian Experience” in *Searching for Success in Judicial Reform: Voices from the Asia-Pacific Experience*, Oxford University Press (2009), New Delhi, © UNDP, 2009, p. 257

<sup>6</sup> Bhattarai, A.M., “Judicial Education and Skills Development for Judges and Court Staff: The Nepal Experience” in *Searching for Success in Judicial Reform: Voices from the Asia-Pacific Experience*, Oxford University Press (2009), New Delhi, © UNDP, 2009, p. 288

### c. Governance Matters

*Designing solid structures for oversight and management is important.*

In terms of running the training centres, it has been shown to be vital to set up the administration and management boards of the centres with actual managers (and not legal/judicial staff). Equally important was identifying good trainers (in Timor-Leste, it had to be international advisors as there was limited national capacity but in Guinea-Bissau, all trainers were senior national professionals of recognized experience and reputation) and standardizing curriculums, methodological approaches, and educational materials.

A key to ascertaining fairness and avoiding perceptions of nepotism (as often there were much lesser number of vacancies than the number of applicants) was ensuring that all vacancies for trainings were publicly advertised, requirements clearly defined with competitive processes in place and independent jury members to select the trainees.

### d. Addressing the Access to Justice Dimensions

*International experience in strengthening the rule of law also reveals the importance of working with the people to ensure that they can access justice.*

Stephen Golub, a well-known critic of the “top-down” approach notes that the international aid field “focuses too much on law, lawyers, and state institutions, and too little on development, the poor, and civil society. He argues that the “dominant paradigm” or what he terms as “rule of law orthodoxy” approach, which “takes a “top-down,” state-centered approach through

which development agency personnel design and implement law-oriented projects in cooperation with high government officials” is based on “questionable assumptions, unproven impact, and insufficient attention to the legal needs of the disadvantaged.”<sup>7</sup> He further contends that

“Today’s heavy emphasis on judges, lawyers, and courts is analogous to what the public health field would look like if it mainly focused on urban hospitals and the doctors staffing them, and largely ignored nurses, other health workers, maternal and public education, other preventive approaches, rural and community health issues, building community capacities, and nonmedical strategies (such as improving sanitation and water supply).”<sup>8</sup>

Most people find it very difficult to understand and navigate the formal legal system. In many places across Asia and Africa, traditional dispute resolution mechanisms including village and/or religious elders play an important role in redressing people’s grievances. In these contexts, it is important that rule of law programmes address the needs of the people by enhancing legal awareness, providing legal aid and creating interface between formal and informal justice systems.

In his 2004 report to the Security Council, the UN Secretary General observes:

“without public awareness and education campaigns, and public consultation initiatives, public understanding of and support for national reform efforts will not be secured. Civil society organizations, national legal associations, human rights groups and advocates of victims and the vulnerable must all be given a voice in these processes.”<sup>9</sup>

<sup>7</sup>Golub, S. (2003), “Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative”, *Rule of Law Series, Carnegie Endowment For International Peace, Number 41, October 2003*, p. 3

<sup>8</sup>*Ibid*, p. 6

<sup>9</sup>Report of the Secretary General to the Security Council (2004) “The rule of law and transitional justice in conflict and post-conflict societies”, S/2004/616, p. 7, para 17

# Annex VI. Budget Summary Sheet I

Summary of Draft Budgets for One Rule of Law Centre (Comparing Models A, B and C)

		PILOTS			PROGRAM					AVERAGE COST	
		3 MONTHS	6 MONTHS	12 MONTHS	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5		
Model A	1	Building	8,580	17,160	34,320	23,100	13,200	13,830	14,492	15,186	
	2	Transportation	4,175	7,400	14,300	36,700	6,700	6,700	6,700	6,700	
	3	IT Equipment	8,450	8,450	8,450	3,800	1,200	1,200	1,200	1,200	
	4	Office Equipment	90	90	90	-	-	-	-	-	
	5	Furniture	300	300	300	10,940	-	-	-	-	
	6	Security & Safety Equipment	-	-	-	1,260	400	400	400	400	
	7	Human Resources	171,600	343,200	686,400	528,920	426,420	323,920	221,420	118,920	
	8	Stationary/Consumables	2,000	3,500	6,500	6,800	6,600	6,600	6,600	6,600	
	9	Environment Equipment	-	-	-	8,450	-	-	-	-	
	10	Others	91,300	97,600	110,200	27,600	27,000	27,000	27,000	27,000	
	11	Admin Cost 7%	-	-	-	45,330	33,706	26,576	19,447	12,320	
	12	Inflation 5%	-	-	-	-	24,076	18,983	13,891	8,800	
	13	Contingency 15%	42,974	71,655	129,084	103,935	80,895	63,781	46,672	29,569	
	<b>TOTAL</b>	<b>329,469</b>	<b>549,355</b>	<b>989,644</b>	<b>796,835</b>	<b>620,197</b>	<b>488,990</b>	<b>357,822</b>	<b>226,695</b>	<b>498,108</b>	
Model B	1	Building	22,650	22,800	23,100	12,600	13,200	13,830	14,492	15,186	
	2	Transportation	5,350	9,100	16,600	38,200	6,700	6,700	6,700	6,700	
	3	IT Equipment	11,350	11,650	12,250	1,200	1,200	1,200	1,200	1,200	
	4	Office Equipment	90	90	90	-	-	-	-	-	
	5	Furniture	20,940	20,940	20,940	-	-	-	-	-	
	6	Security & Safety Equipment	1,260	1,260	1,260	400	400	400	400	400	
	7	Human Resources	177,900	355,800	711,600	540,920	438,420	335,920	233,420	130,920	
	8	Stationary/Consumables	2,350	4,000	7,300	6,600	6,600	6,600	6,600	6,600	
	9	Environment Equipment	8,450	8,450	8,450	-	-	-	-	-	
	10	Others	118,350	131,100	156,600	51,000	51,000	51,000	51,000	51,000	
	11	Admin Cost 7%	25,808	39,563	67,073	45,564	36,226	29,096	21,967	14,840	
	12	Inflation 5%	-	-	-	-	25,876	20,783	15,691	10,600	
	13	Contingency 15%	59,175	90,713	153,789	104,473	86,943	69,829	52,720	35,617	
	<b>TOTAL</b>	<b>453,673</b>	<b>695,466</b>	<b>1,179,053</b>	<b>800,957</b>	<b>666,565</b>	<b>535,358</b>	<b>404,190</b>	<b>273,063</b>	<b>536,027</b>	
Model C	1	Building	22,650	22,800	23,100	12,600	13,200	13,830	14,492	15,186	
	2	Transportation	20,625	29,250	46,500	57,700	27,700	27,700	27,700	27,700	
	3	IT Equipment	11,350	11,650	12,250	1,200	1,200	1,200	1,200	1,200	
	4	Office Equipment	90	90	90	-	-	-	-	-	
	5	Furniture	20,940	20,940	20,940	-	-	-	-	-	
	6	Security & Safety Equipment	1,260	1,260	1,260	400	400	400	400	400	
	7	Human Resources	207,300	414,600	829,200	658,520	556,020	453,520	351,020	248,520	
	8	Stationary/Consumables	2,350	4,000	7,300	6,600	6,600	6,600	6,600	6,600	
	9	Environment Equipment	8,450	8,450	8,450	-	-	-	-	-	
	10	Others	148,350	161,100	186,600	51,000	51,000	51,000	51,000	51,000	
	11	Admin Cost 7%	31,036	47,190	79,498	55,161	45,928	38,798	31,669	24,542	
	12	Inflation 5%	-	-	-	-	32,806	27,713	22,621	17,530	
	13	Contingency 15%	71,160	108,199	182,278	126,477	110,228	93,114	76,005	58,902	
	<b>TOTAL</b>	<b>545,561</b>	<b>829,529</b>	<b>1,397,467</b>	<b>969,658</b>	<b>845,082</b>	<b>713,875</b>	<b>582,707</b>	<b>451,580</b>	<b>712,580</b>	

## Budget Notes

### The cost estimates for Models A, B and C set out above assume the following:

- The base level cost calculation for each Model A pilot presumes the pilot takes place in a Lashio Hotel. Pilots for Models B and C do not. The main start-up costs (building renovation/ furniture/ equipment) for the Model A pilot are therefore to be found in the Model A budget for the first year following the pilot. Note that Mandalay hotel accommodation costs are higher than in Lashio to the tune of US\$ 1,800 per month.
- With the exception of the hotel costs referred to above and the rental costs for a building to accommodate the centre, which will be an additional US\$ 400 per month in Mandalay, we should assume that all costs for pilots and roll-outs in Mandalay will be the same as those in Lashio.
- Projections assume that the cost of renting premises will be borne by the government.
- For Models B and C the main start up costs referred to above are to be found in year one of the 5 year roll-out. All roll-out costs for these Models assume that the pilot has been conducted in the same building.
- The building to be rented for roll-out of all 3 Models will be a substantial premise with room for two training areas (one to accommodate 60 people and the other 20 people. It will have a reception area and administration offices as well as a car park area.
- Under all Models a single centre will have a small staffing and transport component.<sup>10</sup>
- Vehicles will be rented during the pilots and only purchased for the roll-outs.
- We have included an allowance for preparation time prior to commencement of the actual pilot time, including curriculum development. This is included in the budget line "Others" in the Budget Summary Sheet.
- The human resources costs for all Models, the most costly item in each, is based on the presence of 3 full time international trainers (+2 interpreters) and

3 national full time trainers over the pilot periods with 2 international and 3 national full time trainers over the roll out periods of 5 years, with a diminishing international trainer/ interpreter presence (-25% per year) over that 5 year program period.

- No monitoring and evaluation costs are included.
- A 15% contingency has been added to the budget for pilots and roll outs for each model and a 7% administration cost has been added to all pilots not accommodated in a hotel as well as all roll outs.

### For Model B cost estimates, it should be noted that:

- In addition to the facilities mentioned above, a library will be added. A budget is also included for the training of community representatives (in addition to the government actors to be trained under Option A)
- Unlike in Model A, the roll-outs assume that pilots have preceded them in the same building and that the necessary start up costs have already been incurred.

### Scale Up

Budget Summary Sheet I details the costs of the various pilots and subsequent roll-outs of a single Centre. Post-pilot costs of rolling out more than one Centre are set out in Budget Summary Sheet II. These figures address the likely scale up costs of opening anything between one and 5 Centres over a 10 year period. In compiling these figures we have applied those already used for our calculations for a single Centre and, in addition, made the following assumptions:

- Two Centres would be opened in the first year following the pilot, two more in the second year and, finally, the fifth in the third year.
- The bar charts in Budget Sheet II demonstrate the aggregate cost of all 5 Centres over the 10 year period. These calculations do not, however, include the costs of the pilot.

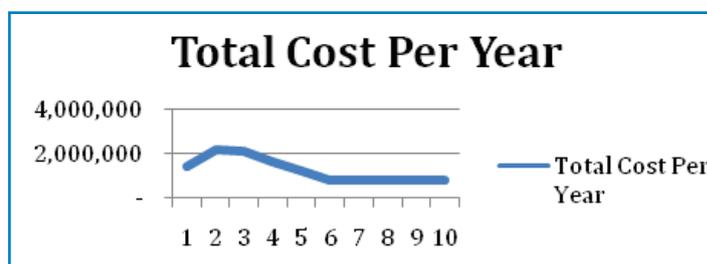
<sup>10</sup>Each Centre is costed as having one vehicle, one office motor bike and will be run by a Manager and an

administrative assistant. Additional motor bikes would be purchased for para-legal transport under Models B and C.

## Annex VII. Budget Summary Sheet II

Summary of Draft Budgets for Scaling Up of Models A, B and C <sup>11 12</sup>

PROGRAM Model A										
Center	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Center 1	796,000	620,000	488,000	357,000	226,000	158,000	158,000	158,000	158,000	158,000
Center 2	636,800	496,000	390,400	285,600	203,400	158,000	158,000	158,000	158,000	158,000
Center 3		557,200	434,000	341,600	285,600	158,000	158,000	158,000	158,000	158,000
Center 4		477,600	372,000	292,800	249,900	158,000	158,000	158,000	158,000	158,000
Center 5		-	398,000	310,000	244,000	158,000	158,000	158,000	158,000	158,000
<b>Total Cost Per Year</b>	<b>1,432,800</b>	<b>2,150,800</b>	<b>2,082,400</b>	<b>1,587,000</b>	<b>1,208,900</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>
<b>Total Cost for 5 Years</b>					<b>8,461,900</b>	<b>Total Cost for 10 Years</b>				<b>12,411,900</b>

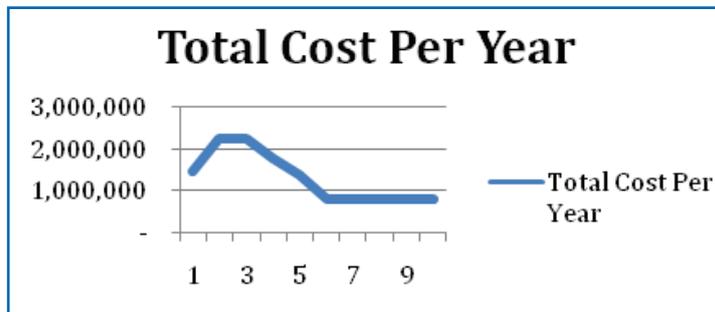


<sup>11</sup>Each budget reflects a gradual rolling out of the program for options A, B and C. In year 1, two centers are opened. In year 2, centers 1 and 2 continue their operations and center 3 and 4 are opened. In year 3, centers 1, 2, 3, and 4 continue operations and center 5 opens. In years 4 and 5, all five centers continue operations. The total set up costs for each option range from USD 8 million (option A) to USD 12 million (option C). The budgets included assume that the start up costs for centers 2,3,4, and 5 will be lower than that of center 1; this is assuming shared resources between the centers and that the cost per unit of output for the program overall will reduce as the scale of the overall program increases. In addition, over the roll-out period of the program, we expect efficiency will increase and operational costs will decrease. The budget for years 6-10

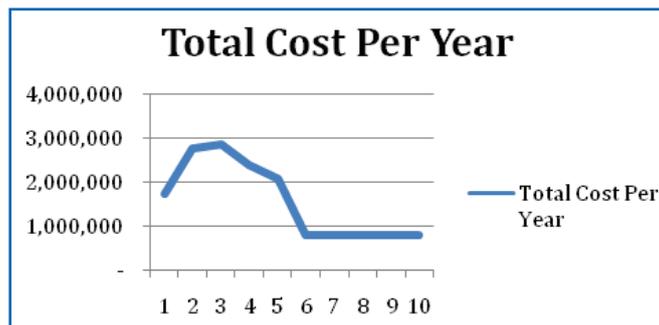
for each option accounts for stable operational costs; it assumes that operational costs will be stable over this period and that no further capital expenditures will be needed after year 5. These costs are calculated as a percentage of operational costs calculated for years 1-5 (see Annex V). We also assume that these operational costs will be constant for all centers though centers 1 and 2 will have been in operation for two years longer than center 5 and one year longer than centers 3 and 4.

<sup>12</sup>All budgets exclude costs associated with any pilot project undertaken. The cost of center 1, in all options, however assumes initial investments and capital expenditures will have been made in center 1 during a 3-12 month pilot phase.

PROGRAM Model B										
Center	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Center 1	800,000	666,000	535,000	404,000	273,000	158,000	158,000	158,000	158,000	158,000
Center 2	640,000	532,800	428,000	323,200	245,700	158,000	158,000	158,000	158,000	158,000
Center 3		560,000	466,200	374,500	323,200	158,000	158,000	158,000	158,000	158,000
Center 4		480,000	399,600	321,000	282,800	158,000	158,000	158,000	158,000	158,000
Center 5		-	400,000	333,000	267,500	158,000	158,000	158,000	158,000	158,000
<b>Total Cost Per Year</b>	<b>1,440,000</b>	<b>2,238,800</b>	<b>2,228,800</b>	<b>1,755,700</b>	<b>1,392,200</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>
<b>Total Cost for 5 Years</b>					<b>9,055,500</b>	<b>Total Cost for 10 Years</b>				<b>13,005,500</b>



PROGRAM Model C										
Center	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Center 1	969,000	846,000	713,000	582,000	451,000	158,000	158,000	158,000	158,000	158,000
Center 2	775,200	676,800	570,400	465,600	405,900	158,000	158,000	158,000	158,000	158,000
Center 3		678,300	592,200	499,100	465,600	158,000	158,000	158,000	158,000	158,000
Center 4		581,400	507,600	427,800	407,400	158,000	158,000	158,000	158,000	158,000
Center 5		-	484,500	423,000	356,500	158,000	158,000	158,000	158,000	158,000
<b>Total Cost Per Year</b>	<b>1,744,200</b>	<b>2,782,500</b>	<b>2,867,700</b>	<b>2,397,500</b>	<b>2,086,400</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>	<b>790,000</b>
<b>Total Cost for 5 Years</b>					<b>11,878,300</b>	<b>Total Cost for 10 Years</b>				<b>15,828,300</b>







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