



**The Republic of the Union of Myanmar**

**High Court of Magwe Region**

**Presented by**

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**“National Best Practice on Transparency in the Judicial  
Process in Myanmar”**

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### **I. Current Judicial System in Myanmar**

The recent judicial system was started on 30.3.2011 in accordance with the Union Judiciary Law 2010 and the Constitution of the Republic of the Union of Myanmar 2008. Under the Constitution, legislative power, executive power and judicial power as the three main powers of the state are separated and they have to control, check and balance themselves. Then, judicial power is vested by the Constitution in the Supreme Court of the Union, High Courts and in such lower courts as may be established by Law.

A transparent and an independent judiciary is one of the crucial requirements in the time of striving towards a modern and developed the democratic country by the Government. In the meantime, the rule of law is important for peace and tranquility all over the country. Regarding the rule of law, it is important that all people are equal before the law and judiciary is independent. Thus, we are exercising judicial functions without influence from others. Therefore, the judicial system in Myanmar is absolutely independent.

The primary function of the judicial branch is to fairly and impartially settle disputes according to the law. To do this, a number of courts have been established in the country by the Constitution and by the Union Judiciary Law. There are several types of courts in Myanmar. They are the Supreme Court of the Union, the High Courts of the Region and High Courts of the State, the District Courts, Courts of the Self-Administered Division, Courts of the Self-Administered Zone, District Courts, Township Courts, Other Courts constituted by law, Courts-martial, Constitutional Tribunal of the Union.

The Supreme Court of the Union is the highest organ of the State Judiciary in Myanmar without affecting the powers of the Constitutional Tribunal and the Courts-martial. The Supreme Court of the Union exists as an independent entity alongside the legislative and executive branches. It is the highest and final court that handles appeals filed against judgments rendered by the High Courts of the State and Region. Under the Constitution, Judges of the Supreme Court of the Union including the Chief Justice of the Union may be appointed in the Supreme Court from a minimum of seven and a maximum of 11 in number. At present, it is composed of the Chief Justice and 8 Judges, who are appointed by the President with the approval of the Pyidaungsu Hluttaw (Parliament). The Supreme Court of the Union sits in Nay Pyi Taw. If it is necessary, it may also sit at any other suitable place within the country.

According to Section 305 of the 2008 Constitution, the High Court of the Region or State is the second highest level of Courts and is located in each Region or State of the Union. There are 7 High Courts of the Region and 7 High Courts of the State. Each High Court has one Chief Judge and the number of judges varies from a minimum of 3 to a maximum of 7 depending on the respective workload.

The President shall, in coordination with the Chief Justice of the Union, relevant Chief Minister of the Region or State, appoint a person who fulfils the qualifications under section 310 of the 2008 Constitution and section 48 of the Union Judiciary Law 2010 as the Chief Justice and Judge of the relevant Region or State, with the approval of the Region or State Hluttaw. (Principle 13: There should be transparency in the appointment process of judges.) (Principle 15: There should be transparency in the disciplinary process of judges.)

The High Courts have the original jurisdiction to hear both civil and criminal cases and have appellate and revisionary jurisdiction over the judgments, decrees, and orders passed by the Subordinate Courts. All cases in the High Courts are adjudicated by the single judge or by a bench consisting of more than one judge when necessary. High Courts have the responsibility to administer and supervise all Subordinate Courts regarding their judicial functions and administrative duties. The High Courts of the Region or State shall have the following jurisdictions in accordance with the law: (a) adjudicating on the original case; (b) adjudicating on appeal case; (c) adjudicating on the revisional case; (d) adjudicating on matters prescribed by any law.

## **II. Judicial Strategic Plan (2018-2022)**

Nowadays, the Supreme Court of the Union of Myanmar has published a Judicial Strategic Plan (2018-2022) on 11 January 2018. The plan will guide the works and activities of the Myanmar Judiciary over the course of next five years and it will set forth a framework to enhance the public trust and confidence in the Judiciary by improving services, accessibility, and accountability.

In this Strategic Plan, the core strategic areas; Area 1: Facilitate and Expand Public Access to Court Services, Area 2: Promote Public Awareness, Area 3: Enhance Judicial Independence and Administrative Capacity, Area 4: Promote and Ensure the Professionalism, Accountability and Integrity of Judiciary and

Area 5: Promote Efficient Case Management and Court Specializations are organized and integrated with their related objectives and initiatives prioritized to realize our goal of moving steadily “**Towards Improving Justice for All.**”

Here, our national best practices regarding the transparency in the Judicial Process implemented under the Judicial Strategic Plan. We believe that the principles of the Istanbul Declaration on Transparency in the Judicial Process will also be included accordingly by pointing out the specific implementations in Myanmar.

### **III. Facilitate and Expand Public Access to Court Services**

Nowadays, the Judiciary of Myanmar is committed to providing equal access, ensuring fairness, and upholding the rule of law for everyone. Judges and court staff take pride in providing all people with the help and information they need to resolve their cases in the best way possible. Myanmar courts strive to provide a safe and user-friendly environment in which all persons are able to have equal access to judicial services and to obtain the information from the courts that they require. Judiciary welcomes inquiries from the public and will provide timely and appropriate responses.

In Myanmar, all cases must be heard in an **open court** before the public which is in accordance with section 19 (b) of the Constitution 2008, section 3 (b) of the Union Judiciary Law 2010 and section 352 of the Criminal Procedure Code. Regarding the open court system, there are some **exceptions**. Under the Child Law, any juvenile cases are not tried in the usual courtroom but in the chamber of the presiding judge in the presence only of the parents, relatives and lawyers engaged for the case.

Recently, Myanmar courts are endeavoring to improve **court user accessibility** by establishing modern public information counters and intake centres, waiting areas for lawyers and witnesses; setting up the signage system,

child-friendly interviewing rooms; distributing the brochures of court information and brief explanation of criminal and civil proceedings to the public; providing facilities for ensuring the safety and security of the court, legal aid services, and disabled persons; developing automated case information system for the public; improving public information services at courts; and providing court information to community in local languages.

To disseminate the **information** of the court operation, Supreme Court of the Union has launched the website of the Supreme Court of the Union, ([www.unionsupremecourt.gov.mm](http://www.unionsupremecourt.gov.mm)) which provides rulings, judgments, laws and directives, criminal/civil cause lists, warning lists for the bench at the Supreme Court and High Courts of States and Regions. Furthermore, cause list, warning list and order dates of the Supreme Court and High Court have been announcing via the Facebook page of the Public Relations Department of the Supreme Court. Hence, people can easily access and understand the court's work on their cases.

In addition, the Union Supreme Court issue a **judicial journal** once a year which includes legal articles and court procedures as a useful tool not only for legal professionals but also for the public who do not have the legal background. Furthermore, the Supreme Court of the Union regularly publishes the selected judgment of the Supreme Court of the Union once a year and even ordinary people can access easily.

Besides, with the objectives of to be transparent and accountable the process of the judiciary, to have a realistic assessment on the activities of the courts, to have a better performance of the court, and to raise public awareness about judicial reform process, the **Annual Report** of the Supreme Court has been published in 2016, 2017.

We affirm that the facilitation of public access to court services and judicial proceedings which are concerned with the principles 1, 2 and 3 of the

Istanbul declaration. The Myanmar Judiciary is implementing those performances mainly under Area 1 and 2 of the Strategic Plan.

#### **IV. Promote Public Awareness**

Educating the people to understand and abide by the law and cultivating in the people the habit of abiding by the law is one of the judicial principles under Judiciary Law 2010. In order to implement the principle, conducting **public awareness program and outreach programs** become crucial. The following activities are some practices for ensuring transparency in our judiciary regarding the public awareness.

The Supreme Court of the Union made necessary arrangements to provide court information so as to improve the access to justice and public awareness. News about the courts, cases lists, decided-cases lists of the Supreme Court of the Union including the cause lists, warning lists and decided-cases lists have been posted in a timely manner through the website [www.unionsupremecourt.gov.mm](http://www.unionsupremecourt.gov.mm) and judicial information has been distributed through the social network page. Name and address of the registered domestic and international law firms and lawyers' associations are also posted on the website.

The book of Judicial Strategic Plan, Annual Reports, Code of Judicial Ethics for Myanmar Judges, Handbook for Media Access to the Court, Case Flow Management Program and the different kinds of leaflets-explaining about criminal cases, civil cases, writs and Courts for you were posted on the website. Press Conference on the performances of the Supreme Court of the Union has been held yearly at the Ministry of Information.

Under the **legal awareness** program, judges of township-level participate in seminars organized by township law enforcement bodies to talk about legal matters in order to educate the people.

To promote programs to orientate students on the judicial process, the Public Relations Department has been arranging study excursions to the Supreme Court from different universities around the country. At present, the judiciary has been endeavoring to support appropriate **outreach programs** under the Judicial Strategic Plan such as developing guidelines for outreach programs and public outreach materials; conducting a campaign for the court system and the role of the Judiciary and complaint procedure; performing various outreach programs at all courts.

In Myanmar, when the witness is unable to speak Myanmar language the evidence can be taken down through the interpreter. Where there are no interpreters paid by Government, interpreter's fees shall be paid.<sup>1</sup> In this context, we have court manual to engage translator and interpreter to ensure the accused's right to inform. At present, Myanmar judiciary is initiating the action plan to provide court information to the community in local languages according to the Strategic Plan.

## **V. Access and assistance to the media**

Myanmar courts are engaging with the **public and the media**, providing important and essential information on court services. It is convinced that media is the ears and eyes of the public. The media should also be welcomed as an aid to the judiciary in its endeavors to let the public know that here in court they can get equal justice under the law. It is firmly believed that the judiciary relies on the media for the smooth flowing of the administration of justice.

In Myanmar, Handbook for Media Access to the Courts was published in 2015 and Public Information Officers and Court Information Officers were

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<sup>1</sup> Para 35 and 37 of BCM, High Court General Letter No. 6 of 1952, dated tile 28th April 1952, and General Letters referred therein as Nos. (1), (2) and (4).

assigned at different levels of courts for improving access to court information in accordance with the Media Law. The officers have met with the media and the reporter occasionally. For those who want to obtain the information from courts have to contact with them and easily accessible by following the concerned guidelines. However, media must pay attention that the publication should not be contrary to the provisions of any enactment for the time being in force and it should not be the one which is expressly prohibited by the court in virtue of public policy. Moreover, any issue in the proceedings relating to a secret process, discovery or invention should not be published.

## **VI. Promote and Ensure the Integrity of Judiciary and Promote Efficient Case Management**

The Myanmar Judiciary is committed to delivering the highest level of judicial quality and integrity to all who appear in court. The Supreme Court of the Union is implementing the newly adopted **Code of Judicial Ethics** and appropriate enforcement mechanism to assure that the decisions and actions of the court adhere to the appropriate law. With a professional and accountable judiciary that follows the law and render decisions fairly and free of undue influences, the Judiciary will deservedly earn the trust and respect of all people in Myanmar. Administering the business of the courts with fairness, efficiency and transparency are important factors to develop our Judiciary into a trusted and independent pillar of the Government. Judges and court staff will continue to be trained to attain the highest standards of ethics and professionalism.

To promote the ethical and professional advancement of judges and court staff, the Supreme Court is scrutinizing and taking action upon the **complaints** against them. The Complaint Reviewing Committee makes inquiry for the complaints which have correct descriptions and which should no go under proper judicial route and take action when it finds improper demeanour. The number of the

complaints received, complaints under inquiry, complaints closed for judicial recourse, complaints closed for false accusation and taking action are stated transparently in the Annual Report. Complaint Reviewing Committee is undertaking to conduct the investigative methods of the judicial complaint and complaint manual for complaint process under the Strategic Plan.

In addition, courts will manage the cases brought before them using the most effective and modern technique of data collection, organization and efficient case management. At present, the courts throughout Myanmar are adopting new tested methods of **case management system**. Efficient case flow management techniques aided by a modern automated case management system minimize the burden on victims, witnesses, attorneys, and the court staff. With these modern case management processes, wasted time caused by postponements will be significantly reduced. To deal with disputes caused by a rapidly growing and modernizing economy, the Judiciary in Myanmar will also identify and develop specialized divisions and chambers in the courts as well as adopting new case resolution procedures utilizing modern and effective international standards of adjudication.

## **VII. Conclusion**

In Myanmar, the Supreme Court and its subordinate courts have been working the best for achieving the trust and confidence of the public by means of the independent judiciary, absence of corruption, dispensing the criminal and civil cases fairly and speedily. Judges and court staffs at different levels are performing all functions of judicial mechanism in accordance with the Judicial Principles laid down in the Constitution, the Union Judiciary Law, and the Strategic Plan.

All Courts dispense justice in open court unless otherwise prohibited by law and administer justice independently according to law. And these principles guarantee fair and justice and are the basic requirements for transparency. As

we firmly believe that the transparency is a fundamental element of the judicial process that upholds constitutionalism and the rule of law, we endeavor to fulfill the basic requirements for ensuring transparency in the judicial process as mentioned in the Istanbul Declaration.