

BRIEFING | NOVEMBER 2019

## Placing security in the hands of the people

### Public oversight and civic engagement in Myanmar's security and justice sectors

**Since 2010, some moderate steps have been taken towards democratic control of Myanmar's security and justice sectors. At the same time, space has opened for public oversight and political participation in these affairs, allowing civil society, the media, educational institutions and policy institutes to engage. Continuation of both of these trends will be crucial to building a peaceful, democratic and prosperous Myanmar, in which people can live in safety and without fear.**

During nearly 50 years of military rule, all of Myanmar's government and economic institutions were under the tight grip of the armed forces. A coercive security apparatus, originally established by British colonialists to protect commercial interests from local resistance, was subsequently placed in the hands of a male-dominated military elite. Heavy public surveillance and restrictions on media, education, civil society and independent policy institutions made public engagement and direct criticism of the state impossible. Meanwhile, the armed forces were untethered from civilian oversight and waged continuous warfare against a vast array of ethnic armed organisations (EAOs), often targeting entire populations as if they were potential combatants.

This policy briefing is based on a section of a report produced by Saferworld, 'Democratising Myanmar's security sector: enduring legacies and a long road ahead'. It focuses on the growing role of education institutions, civil society, policy institutes and the media in widening participation in the governance of security and justice in Myanmar. The full report looks in depth at two other dimensions of democratising the security and justice sectors, namely the division of powers between civilians and the military and the government's existing institutional practices and cultures.

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### Definitions

**The security and justice sectors** refer to all the state institutions mandated to provide justice and security for the government and the public. This briefing looked primarily at the armed forces, the police, the prisons, the courts and the intelligence services.

**The military/Defence Services/armed forces/Tatmadaw** – these are all common terms for Myanmar’s military and are used relatively interchangeably in official publications.

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A soldier at a Martyrs' Day ceremony to mark the anniversary of the 1947 assassination of independence heroes, Yangon, Myanmar, 16 July 2016.

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Today, the country is governed by a civilian-military hybrid regime in which powers are constitutionally divided between publicly elected civilians and the staunchly nationalistic and secretive military. National democracy icon Aung San Suu Kyi, who for decades has been calling to remove the military from politics, is now in a leading government role. However, the military controls much of the security and justice sectors, through powers to nominate serving military officers to lead the Ministries of Home Affairs, Defence and Border Affairs, and by retaining near autonomy in the strategy, operations, finance and justice affairs of the armed forces.

Authoritarian tendencies run deep, and changes have only been allowed as part of a highly orchestrated, slow and steady transition run by the military – which retains significant autonomy and political powers. While the military has explicitly committed to handing further powers over to elected civilians, it is only willing to do this at its own pace and is deeply resistant to any change that might threaten its ideological or private interests. The entire governance apparatus is also stacked with former military officers, whose institutional conditioning has led them to distrust civilian leaders, foreigners and much of society and to obsess over hierarchical order. In some cases, incoming civilians have simply adopted existing approaches and perspectives, or have willingly allowed the military to lead on security affairs, believing that the soldiers are the only ones with the necessary expertise.

# The case for public oversight and engagement

Just as elections alone do not establish a consolidated democracy, the placing of security powers in the hands of elected officials does not necessarily transform security practices and norms. Constitutional changes or administrative tweaks that give popular politicians more control over security institutions do not automatically make those institutions work in the interests of the people. Even civilian leaders regularly adopt overly aggressive approaches to conflicts, highly punitive approaches to crime, and authoritarian approaches to corrections and intelligence gathering.

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Truly democratising the security sector will depend on a lively civic space, in which a wide range of individuals and institutions can engage on security issues without fear of undue retribution from the state. The whole of the security sector could benefit greatly from opening up to increased input and criticism from civil society and the public.

Public oversight of the security sector can make it more effective, legitimate and accountable. For any area of governance, if the objective is to serve the people, then the government institutions involved need to be responsive and accountable to the people. The security sector is no different. If its objective is to keep people safe and to protect their rights and property, it needs to allow for their involvement and oversight.<sup>1</sup> It is simply not possible for security to be provided in the interests of the public in a top-down and paternalistic fashion, without the public's involvement. Doing so only makes sense if the objective is to keep the state, or the interests of particular elites, safe from the people.<sup>2</sup>

As argued by Aung San Suu Kyi, ‘Democracy acknowledges the right to differ as well as the duty to settle differences peacefully. Authoritarian governments see criticism of their actions and doctrines as a challenge to combat . . . Regimented minds cannot grasp the concept of confrontation as an open exchange of major differences with a view to settlement through genuine dialogue. The insecurity of power based on coercion translates into a need to crush all dissent.’<sup>3</sup> Even Commander-in-Chief Min Aung Hlaing has noted that “Democracy is a negotiation of different views from multiple directions and it is the way to live cohesively with the same attitudes”, before emphasising the rules-based nature of Myanmar's “disciplined democracy”.<sup>4</sup>

People have a right to be involved in the security sector. They pay taxes that are used for security purposes, including the wages of security personnel. They also live in the areas where security forces operate and they are affected by their actions. Ensuring that the public know how and why security is being provided can also help to ensure that the public is willing to cooperate with the responsible institutions, for example to report incidents to the police and to provide information that will help in ongoing cases.

People interviewed for this study emphasised the particular need to engage people in security sector issues during the early stages of democratisation. For decades, much of the public and much of civil society pinned all their political hopes on the National League for Democracy (NLD). Now that the NLD is in government, it is important that the public gains the political awareness to develop priorities and demands according to their needs. This is essential to growing a mature democracy.

Public oversight and engagement depend on civic space. Media, civil society, political opposition, educators, lawyers, scholars and activists must be able to operate openly and freely. Such actors are crucial to increasing the transparency, accountability and responsiveness of government institutions. They ensure that the public has access to information and that the public is being listened to by government.

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It should be noted that the public might sometimes back authoritarian or violent approaches to security, as has been seen at times with the rise of hate speech on social media in Myanmar.<sup>5</sup> Also, it is important that public influence does not simply reinforce power imbalances in society, for example with minorities or women being marginalised by the most dominant voices. In particular, majoritarianism needs to be moderated through legal and political protections for under-represented groups. Politicians and authorities have a responsibility to serve the public and represent their interests broadly, not to follow the demands of particularly vocal groups.



A woman holds a sign that says 'Judicial reform is our cause' at a protest on the rule of law in Yangon, Myanmar, 12 October 2018.

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## The fragile opening of Myanmar's civic space

Since 2011, the civic space in Myanmar has opened up dramatically. Prior to that, the media was under pre-censorship and no meaningful information about the military or other security affairs was published unless it came from official military sources. There was no public debate about security issues. Public events on politics, let alone demonstrations, were completely banned and small gatherings of up to five people were often officially prohibited. Intelligence agencies harassed and courts regularly jailed NLD supporters and other political activists. By 2011, there were over 2,000 political prisoners in jail.<sup>6</sup>

Today, people can collectively organise and speak in public far more freely. Public events and media broadcasts on political subjects including conflict and human rights issues take place regularly. Newspapers are no longer subject to pre-censorship and privately owned daily newspapers are permitted. People can speak openly on the majority of topics. Civil society organisations (CSOs) can hold workshops and report launches far more freely than before. Parliament sessions are broadcast on television, as are numerous sessions of the country's peace process, where even the state's armed opponents have been able to speak directly to the public about their concerns and political visions.<sup>7</sup>

However, the military (and some civilian leaders) have increasingly turned to the civilian courts to shut down free speech and to maintain a sense of fear and risk around discussing certain subjects. While far fewer political prisoners are in jail,<sup>8</sup> activists and journalists are regularly forced to go through lengthy court proceedings and face harassment for doing their jobs.

There have been at least 200 cases of so-called 'defamation' filed since 2013, many put forward by the military or its supporters responding to public criticism of the authorities by civilians.<sup>9</sup> These include a number of cases against people in conflict areas who have tried to raise awareness of human rights abuses by the military.<sup>10</sup> The law fails to define exactly what constitutes defamation and it does not take into account whether statements are true or if they are voiced as the opinions of an individual.<sup>11</sup>

Although the public enjoys far greater freedom to hold public events and rallies, these rights have also been increasingly curtailed again in recent years. Peaceful protesters have to go through lengthy proceedings to get permission to protest and can be arrested and imprisoned for not following protocol.<sup>12</sup> The organiser of a movement criticising the police's handling of a child rape case and calling for improved justice for abused minors has had defamation charges brought against him by the police, and had a bank account closed down on the advice of the Criminal Investigation Department.<sup>13</sup> In May 2019, riot police with batons and plain-clothed 'vigilantes' were alleged to have violently broken up a peace rally in Yangon.<sup>14</sup>

Individuals and organisations respond differently to the restrictions imposed by government. Some have sought to work slowly and pragmatically, keeping safe and gradually breaking down barriers. Others have sought to demand their rights and have not shied away from confronting the powers that be. Both approaches will continue to play complementary roles in creating pressure and providing solutions for progress towards a more democratic and just security sector.

# Education

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**Intellectuals are very important in any society. Because they are the ones who ... are provoking people, opening them to new ideas, pushing them along new heights ... There will always be clashes between the authoritarian mind and the questioning mind. They just cannot go together.**

Aung San Suu Kyi, 1991<sup>15</sup>

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Democratisation of the security sector depends on improved access to education about security issues and security sector governance. As one independent educator explained, “The priority [for study] has to be on the concept of security. The military has monopolised the concept. It should represent all the people in the country. It cannot be used just as a tool by the military to control.”<sup>16</sup>

Education is firstly needed to raise the basic awareness of all people to encourage new norms and a new relationship with the government, in which people know their rights and know the government’s basic responsibilities. The country also needs capable civilian leaders of all kinds who are able to engage in technically informed discussions on security sector issues. This is crucial to ensuring proper leadership, policy-making, budgeting and political oversight of the security sector. A former political prisoner-turned-scholar explained, “The capacity and capability among civilian parliamentarians is very limited ... We need security experts in all sectors. Not just for the military and police. Not just for those with arms.”<sup>17</sup>

Myanmar is not the only country where men from military backgrounds are given an inordinate amount of control over security affairs, simply because it is assumed that they are the only ones with the right knowledge and experience. This attitude is particularly prevalent in Myanmar however, across the government, parliament, judiciary and the wider public. It is crucial that the next generation of leaders includes women and people of more varied backgrounds who are able to engage confidently and authoritatively in the world of security.

There is also the need for a diverse cohort of civilian security scholars who can study defence, policing, correction, justice and other security concepts and practices both in this country and around the world. Such scholars can then produce a body of literature and take part in public discourse on these topics with a sufficient amount of depth to affect policy and attitudes. As one politician emphasised, “While you can easily count the number of civilian scholars of security, the military MPs are very highly trained and educated, mostly in Russia. There is a huge gap [in capacity on security] and this is a big problem.”<sup>18</sup> Numerous politicians and CSO leaders noted that Myanmar scholars have been a key resource to members of political parties and various stakeholders in the peace process, showing how important their practical contributions can be.

Civil society leaders, aid workers, activists, journalists, lawyers and other active members of society can also benefit greatly from increased education on security concepts, either through short courses or by undertaking relevant degrees. To be able to make technically informed recommendations and arguments,

CSOs working on human rights, justice, gender, protection, local governance, budget oversight and a wide range of other common topics could vastly benefit from improved knowledge of security sector governance.

One former political prisoner who now runs a CSO that provides political education explained that he was inspired by reading about political science and civil-military relations for the first time while in prison. “I realised we don’t know anything about this”, he said. “We just had grievances regarding the government but didn’t know about the systems and structures. So I decided it would be very good to teach activists about this because activists don’t naturally have that knowledge.”

Finally, the classroom can be a highly fertile space for growing understanding between civilians and the military. Cross-pollination between civilian and military education institutions and joint study is crucial to fostering common understanding and values. Without this, civilian and military leaders will continue to hold divergent perspectives on the country’s priorities and approaches to solving problems.

## Public universities

Professors at the University of Yangon are trying to initiate a Master of Arts in Security and Strategic Studies, which they hope will begin in 2020. This would represent a huge leap forward in a country where nobody could openly study political subjects at university between 1962 and 2013. Since then, the universities of Yangon and Mandalay have both been providing master’s degrees in political science, and they have included modules on civil-military relations and strategic affairs.

The master’s in Security and Strategic Studies will have eight modules, tentatively including Myanmar’s security outlook and defence policy, civil-military relations and human security, in addition to numerous other modules on regional security and defence challenges. The curriculum is still awaiting approval, in what has reportedly been an arduous process, and the department is taking time to make other preparations. The course will be available to people with professional experience, and the hope is to include civilian and military officials, alongside those from civil society and young students coming from undergraduate programmes. It will be open to men and women, providing a rare opportunity for women to undertake an education in security after so many years of this only being possible through the military – a path that has been predominantly open to men.<sup>19</sup>

Senior professors at the department have given lectures at the Defence Services Academy and lecturers from the military universities give lectures in return.

There are five education institutions under the military that offer academic degrees – including Bachelor of Arts, Bachelor of Sciences, Master of Arts and medical doctorates – in addition to dozens of pre- and post-commission training institutions. The most advanced of these, the National Defence College, has slowly started opening up to police colonels and officers from the General Administration Department. Some may eventually open to civilian government officials. At the same time, officers or former officers are increasingly studying in civilian institutions both in Myanmar and abroad. In 2019, Aung San Suu Kyi gave a lecture at the National Defence College on behalf of the Ministry of Foreign

Affairs.<sup>20</sup> Some foreign officials have also given guest lectures. Hosting these lectures apparently reflects a realisation among some senior officers that “the world is changing and that we need to open up”.<sup>21</sup>

However, there are many challenges to building stronger relations. A leading professor explained, “We are taking responsibility for [building civil-military relations]. We are civil servants and it is difficult. I invited a retired military officer but the students don’t like him so they asked very difficult questions . . . so he is reluctant to return. We have to build understanding. This course will be very important for that.”<sup>22</sup>

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A senior scholar of military affairs emphasised how hard it is to build trust with the military and said that new civilians studying the topic would struggle to persuade military officials to listen to them as this requires significant relationship and trust building. A related challenge is the paucity of publicly available data and the closed nature of the military in allowing access to even the most basic information about its structure, doctrine or priorities.

In another positive development, the government has made it compulsory for all law and international relations students in public universities to study human rights law.<sup>23</sup> Democracies rely on independent lawyers with strong knowledge of warfare, rules of engagement, policing and other aspects of security to develop legal analyses, to write public commentaries and to potentially open cases with the courts where it appears that laws may have been broken.

## Non-formal and private education

There is also a vast number of non-formal and private academic institutions that have emerged across the country. These are highly diverse. Some are private liberal arts colleges, which include foreign-owned private entities only recently permitted by law. Many others have been set up by CSOs, including some by foundations or organisations that have long provided education in exile, particularly in Thailand. Before 2011 there was a large number of higher education institutions on the Thailand-Myanmar border that attracted hundreds of students to undertake diplomas and to study development, politics and other topics in a freer environment.

Many independent institutions teach human rights and gender rights and other topics that overlap significantly with human security issues. Some could be well placed to initiate the teaching of more technical subjects related to security sector governance and justice delivery. The Yangon School of Political Sciences and the Peace Leadership and Research Institute are impressive examples. The latter provides a graduate diploma in Peace Leadership, which includes a number of modules that touch on security issues, particularly relating to conflict settings.<sup>24</sup>

## Civil society

CSOs in Myanmar include a diverse range of actors – from the traditional to the progressive, from small community organisations to vast national ones. Some receive foreign aid and many raise money from their own communities. During military rule, CSOs included those in exile calling for regime change, those working secretly within the country, and those who found space to work on social issues while avoiding explicit political positions.

It is essential that diverse organisations and individuals genuinely interested in the public good engage in security sector governance so that priorities are set according to the public’s core needs, rather than to the security of the state or to the government’s or military’s specific interpretation of the national interest.

CSOs have been crucial in shaping Myanmar’s transition towards democracy so far. Despite such rigid control being enforced by the military, they have regularly opened up spaces to ensure that political changes are guided by the interests of the wider public and that marginalised groups are heard. They are already playing essential roles in the security sector, and there is potential for this role to expand significantly.

Many civil society representatives explained that they can offer valuable expertise to the government, if only the government would ‘use them’ more. They have thematic expertise and well-developed soft skills that most civil servants do not have. Through greater collaboration, the government could benefit from these resources.

Since the Nationwide Ceasefire Agreement was signed in 2015, the most direct and explicit civil society engagement with the security sector has been through the peace process. However, the military and EAOs have not allowed CSOs to join the official Security Sector Working Group, so engagement has only been possible through research, advocacy and technical assistance from the outside. There are a number of policy institutions that have focused directly on topics like security sector reform or civil-military relations, which are covered specifically in the next section.

There are a wide range of CSO activities supporting access to justice at the local level, through raising awareness, legal education and helping individuals to report cases. There are also various CSO initiatives in training judges and lawyers, among other areas of technical assistance. The Myanmar Sustainable Development Plan recognises the ‘important role played by civil society organisations in advancing justice and the rule of law’.<sup>25</sup>

The Gender Equality Network has conducted training for 1,200 officers from the Police Anti-Trafficking in Persons Division, demonstrating a breakthrough example of a CSO directly training the security forces on a crucial area of reform.<sup>26</sup> Numerous women’s organisations in particular have supported survivors of sexual and gender-based violence, often facing huge difficulties in successfully achieving justice. A leader of one such organisation emphasised the need for much greater gender awareness raising among lawyers and judges, the majority of whom are men.

CSOs have found various ways to influence laws and official policies related to the security sector, most notably on violence against women, child rights, prison reform, penal reform, media freedom and peaceful assembly. These organisations have faced continuous pushback from the military, military-led ministries, and some civilian officials, who are resistant to radical changes. Nonetheless, steady progress has been made – elected representatives have slowly been brought on board to

International Women's Day  
march in Yangon,  
25 November 2012.  
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tackle complex and sensitive issues and their attitudes have incrementally shifted.

Perhaps the most prominent examples of CSO-led change have been around the National Strategic Plan for the Advancement of Women. This was a huge and unprecedented achievement resulting from concerted advocacy by women's organisations and networks from the late 2000s until the plan was officiated in 2013. These CSOs undertook widespread consultations across the country, which were used to inform relentless public pressure, closed-door advocacy and technical assistance workshops targeting government committees and parliamentarians. They also used advocacy to solicit significant assistance and additional pressure on the government from the United Nations and international non-governmental organisations.

The Protection and Prevention of Violence Against Women bill was an extension of this process but it has yet to be approved by the Union Government, despite promises that it will be passed in 2019. This contrasts greatly with the swift passing of four deeply sexist laws in 2015, supposedly with the objective of protecting race and religion.<sup>27</sup> Women's organisations continue to push for this law to be passed and for legal reform. The Women's League of Burma in particular is calling for national mechanisms on women, peace and security.<sup>28</sup> The 2019 Child Rights Law has also benefited greatly from CSO engagement and tireless efforts from particularly active (mostly women) members of parliament (MPs). The law signifies an important breakthrough in the protection of children against the security forces, among other crucial elements.

In recent years, the Assistance Association for Political Prisoners (AAPP) has been promoting prison reform through research and policy development and through cooperation with MPs, the Ministry of Home Affairs and the Myanmar National Human Rights Commission. The initiative has included several joint workshops involving government staff, MPs and others to develop policies and raise awareness of the key challenges. The AAPP is calling for integrated and comprehensive reform of the penal system rather than piecemeal changes, which is crucial as so many of the challenges are interrelated. In particular, the organisation is pushing for a shift in culture away from prisons being places of punishment and towards a much greater focus on rehabilitation.

The AAPP is among numerous CSOs that – in addition to the Independent Lawyers Network of Myanmar – are demanding the creation of a Ministry of Justice. The ministry would oversee the prison department so that it is separated institutionally from the police, and it would be responsible for administering and managing the budget of the judiciary. The AAPP is also calling

for legislative and operational reforms to ensure prisoners are not exploited, have access to healthcare and education and are segregated more carefully, along with other measures that prioritise prisoners' rehabilitation and their return to society. It is also seeking to end the use of hard labour, with labour being restricted only to the management of prisons or tasks with direct vocational benefits. Its agenda includes better training and improvements in job satisfaction for prison staff, as well as establishing an independent monitoring body and a reliable complaints mechanism. It is also working to improve the prisoner release process to make the pardon system more systematic and to introduce post-release assistance. In addition, the AAPP is promoting the use of alternatives to detention and imprisonment as much as possible,<sup>29</sup> including the introduction of a parole system, which the government has now begun.<sup>30</sup>

A draft amendment bill for the Prison Law has been passed back and forth many times between MPs and responsible ministries. The AAPP has been advising MPs and the drafters in coordination with the Myanmar National Human Rights Commission. Interviewed AAPP staff explained that the bill has been incrementally brought in line with the organisation's aims but that it remains insufficient with some aspects still shaped by old practices.<sup>31</sup> Amendments to the prison manual have also been made in line with AAPP recommendations, but the document is still not finalised or in use. The AAPP has also been calling for the passing of relevant international treaties, as a way to encourage international recognition and support and to help frame a comprehensive reform agenda.

One of the most essential roles of civil society is conducting research and advocacy. This includes human rights reporting, often focused on military activities, which numerous ethnic-specific and countrywide organisations have been doing for multiple decades, shedding light on practices that would otherwise be overlooked. CSOs have also used this space to raise public awareness of humanitarian blockages and other issues related to government policy. Other CSO-led research and advocacy focuses on specific policies and laws and on providing substantive recommendations to government or international agencies.

CSO cooperation with MPs on budget transparency and scrutiny as well as training for the public on civic engagement have served to strengthen civilian oversight of the military-led ministries. These areas of work could be expanded to more explicitly include security budgeting or monitoring the activities of the police force in the future.

# Policy institutes

Policy institutes can be defined as independent or semi-independent organisations that support the development of policies for government or other actors playing governance functions. They do this particularly by conducting research and written analysis on topics of public concern.<sup>32</sup> Some are essentially CSOs, while others are attached to the government or to specific agencies. Others may work for the interests of a particular market sector.

Independent policy institutes tend to focus on identifying sound, evidence-based policy decisions, rather than emphasising what they believe to be right or voicing the political demands of specific groups.

A researcher from one Yangon-based policy institute explained, “We just find [in government] there are no new ideas. All the old ideas are circulated, it’s like they are swimming in dirty water.”<sup>33</sup> New ideas are especially needed in the context of reforming the security sector, where traditional hard security approaches, developed through years of military rule, often fall short of addressing the security and justice concerns of the population.

It is vital that such work is conducted by organisations with professional and independent researchers who are from Myanmar and understand the Myanmar context. Such researchers can write directly in local languages and help develop the country’s indigenous academic culture. Policy institutes also have a particularly important role to play in contexts where democracy is relatively new and where the expectations on elected civilians are high, but where government officials lack experience and competence. They can be called upon to provide their expertise and knowledge to busy MPs and government staff, who often lack the time to do in-depth research and learning of their own.

There are dozens of policy institutes in Myanmar, most of which emerged after 2011. They include bodies connected to the state, such as the Tatmadaw-linked Thayninga Institute for Strategic Studies and the Ministry of Foreign Affairs-affiliated Myanmar Institute for Strategic and International Studies. There is also the NLD-affiliated Renaissance Institute and Bayda Institute.

Independent policy institutes in Myanmar include the Tagaung Institute for Political Studies, the Institute for Strategy and Policy,

the Salween Institute, the Myanmar Institute for Peace and Security Studies, the (separate) Myanmar Institute for Peace and Security, the Burma Centre for Ethnic Studies, the Yangon School for Political Studies and the Open Myanmar Institute, among others.

A central role of these policy institutes is to provide research to support evidence-based policy-making. This includes collecting evidence on the impacts of existing policies; for example, to examine how samples of the public are affected. They survey public perceptions, opinions or practices in relation to specific issues. They conduct comparative studies, looking at examples from other countries that might be relevant to Myanmar. They can also monitor new initiatives or reform processes to understand what works and what doesn’t.

In addition to research, some policy institutes in Myanmar facilitate dialogues between government and non-governmental organisations and individuals, allowing them to learn from each other outside of formal settings. They also provide training on core governance skills to government staff, political parties or peace process negotiators, either in one-off sessions, through courses on specific topics or through ongoing coaching. Institutes officially linked to government – or independent ones with strong networks – can obtain information not usually openly available in order to inform public discourse.

Some policy institutes also engage in public awareness raising; for example, the Institute for Strategy and Policy organises television talk shows with experts discussing topical issues. As one Myanmar researcher explained, “Democracy without a well-informed public is very dangerous.”<sup>34</sup> Providing reliable information and encouraging more in-depth intellectual engagement with security issues and appropriate responses is particularly important where hate speech is on the rise and specific religious or ethnic minorities are labelled as a security threat.

Interviewees from numerous policy institutes, however, mentioned that they have found it hard to gain significant influence with the current government or military, which remain relatively closed and unreceptive to outside advice. The continued development of a stronger policy culture and the establishment of some of these organisations and well-recognised and professional institutions could change this over time.



People stand outside a polling station in Mandalay, Myanmar, 8 November 2015.

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# Independent media

The media is arguably the most important institution for providing public oversight to the security sector. Independent media coverage of military, police and justice sector activities ensures people know and understand when, why and how conflicts are being fought and crime is being tackled. This is crucial both to ensure public support for actions carried out in their name, and to make it possible for the public to voice opposition when they disagree.

Free and independent media coverage helps to keep abusive and corrupt practices in check, regularly informing the government and the general public of wrongdoing or questionable actions. Media reports also help inform the public of large expenditures of taxpayers' money on vehicles, weapons and equipment. This type of reportage helps to inform voter decisions and, over time, ensures that elected politicians are acting in the public interest.

Security authorities can also benefit from cooperation with the media. Public announcements on serious criminal cases are often used to encourage witnesses to come forward and provide helpful information. The media is also used to shape the public image of the security forces, to build trust and attract recruits.<sup>35</sup>

According to editors of two prominent Myanmar newspapers, there is a lot of public interest in the military and in security, and so the media is particularly engaged in trying to report on these issues. Another Myanmar journalist explained that this is especially important during the transition away from authoritarianism, as public information has been used for so long as psychological warfare to control the population rather than serve them.<sup>36</sup> Prior to 2011, state publications contained regular disinformation and blanket labelling of all underground and foreign media sources as 'enemies sowing hatred'. The military still regularly talks in terms of official authorities being the only ones who know 'the truth' on security affairs,<sup>37</sup> but a much greater diversity of accounts and viewpoints is now freely published.

Effective media coverage of security and justice affairs relies on two key elements, which are discussed in the following sections. The first is freedom for the media to publish information about the relevant agencies' activities. The second is journalists having access to reliable and accessible information, facilitated by official accounts, and being assured access to areas and people affected by security operations.

There have been dramatic improvements in both of these areas since 2011, which could have a significant impact in the level of knowledge and awareness among the population and inspire the next generation to engage more directly with security affairs. However, there also remain huge restrictions, as a result of the security culture developed through decades of military rule. The military persists in trying to cover up human rights abuses by targeting journalists and publishers with lawsuits, and, despite much greater interaction with the media, remains highly secretive about much of its activity.

## Media freedom

Myanmar had a strong independent press before 1962, but it was wholly dismantled during the reign of Ne Win and pre-censorship remained until 2012, with the only available information about conflicts or military affairs coming from highly controlled official sources. In August 2012, pre-publishing censorship was abolished and the Press Scrutiny and Registration Division was completely dissolved the following year. Exiled media organisations, such as

the Democratic Voice of Burma, were then able to return in 2012 and set up operations in the country. Key laws were enacted or amended, including the Telecommunications Law in 2013, the Media Law in 2014, and the Printing and Publishing Law in 2014. In particular, following a rapid increase in the availability of mobile phones with data connections around 2014, access to social media also boomed.

The impacts of this shift are hard to measure but are palpable to any adult who lived in the country before and after the change. Private daily newspapers and a number of radio and television news stations are now available. They report on military operations and defence procurements, on the achievements and the misconduct of the police, and on the management of prisons, among other issues. Openly quoted sources include ordinary people directly affected by events, independent analysts, anti-government activists, government spokespeople, leaders of EAOs and Myanmar military commanders. Media consumers are far more informed on such matters today than they were before 2011.

However, the military has remained hyper-sensitive to reporting on some issues and has used a wide range of laws to crack down on free reporting. Particularly since the NLD came to power, this has created a chilling effect, forcing many editors to instruct their staff to back off from certain issues and report with great caution.<sup>38</sup> Sensitive issues include both human rights abuses by the military (especially in what are considered serious national security contexts) as well as reporting on corruption by high-level military officers. Indeed, some new laws have been used or misused against journalists, most notably the defamation clause (66d) of the Telecommunications Law,<sup>39</sup> under which more than 200 cases have reportedly been opened since 2013, with many brought by military officers.<sup>40</sup>

There are five other laws that contain defamation clauses, with defamation poorly defined and not excepting cases where articles clearly express opinions or even taking account of whether the information is true.<sup>41</sup> Other laws used against journalists or their informants when reporting on military issues include the Penal Code, the Official Secrets Act, the Aircraft Act and the Unlawful Associations Act.<sup>42</sup>

Most judges and government prosecutors tend to see themselves as mere functionaries of the state and very rarely reject or even question cases that are put forward by military officers. Some members of the civilian government have also brought defamation cases to court. There has been no explicit agenda from the NLD to stop these kinds of cases. Newspaper editors explained that they also faced additional threats from extreme segments of the public for criticising certain military or government activities.

## Access to information

Access to official information from the military and police, as well as access for journalists to conflict areas, has improved greatly since 2011, despite many continuing limitations. Today, journalists have a directory of phone numbers provided by the military so that they can contact official spokespersons or specific command centres to request information. They can use this channel to get official versions of events or to ask for clarifications on key decisions and actions. The military's main body for publishing communications regarding major national security issues is the True Information News Team, which was established during the



Aung San Suu Kyi at a youth development festival in Mandalay, Myanmar, 11 August 2018.

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violence in Rakhine State in 2017. Journalists explained that the team's spokespersons are relatively open but do not always pick up the phone and are typically only willing to give official accounts on specific events.

While it is certainly an important step to have direct access to official spokespersons on official government positions, there are still significant concerns about the veracity of information provided. In a press pack issued in August 2018 for example, the True Information News Team released photos that weren't from Myanmar, falsely claiming they show Rohingya (referred to as 'Bengalis') committing abuses and immigrating en masse into Myanmar.<sup>43</sup> While the Myanmar public remains poorly informed about military activities in Rakhine State and elsewhere, it is impossible to properly gauge related public opinion and priorities.

Access to conflict areas has also improved, as freedom of movement along main roads – even into conflict areas – has improved in general. Even so, journalists still get stopped and questioned when travelling, and they sometimes have cameras and other equipment examined. In recent years, they have regularly been blocked from entering the most sensitive areas in Rakhine State and have only been able to visit on highly orchestrated junkets where they have little freedom to report.<sup>44</sup> The Unlawful Associations Act in particular is used to limit reporting in conflict areas, as article 17(1) outlaws contacting members of illegal groups, including some EAOs. This law is not uniformly applied and media outlets regularly print comments from EAO leaders. However, it is used at times to crack down on specific individuals or outlets and to maintain a climate of caution.

The most severe case was the 2014 killing of Ko Par Gyi, who was shot dead while in military custody after being arrested in the territory of the Democratic Karen Buddhist Army. The journalist was a long-term activist, freelancer and supporter of Aung San Suu Kyi and was verifiably not a member of the EAO. However, a military court reportedly acquitted the two soldiers who had killed him on this basis and his family is yet to find justice.<sup>45</sup>

There are also huge constraints on getting official information on military spending. The media generally depends on reports from foreign news outlets to find out about the latest Tatmadaw procurements, and such issues are shrouded in great secrecy. As noted earlier, this is compounded by the very limited information available in the official budget.

The rapid liberalisation of online media has also led to the spread of unreliable information published by partisan organisations and individuals from all sides of Myanmar's many conflicts. Memes containing incorrect information, including photos of dead bodies that have been doctored or lifted from other countries, are widely shared.

## The way forward

A democratic security sector is a security sector that is accountable to the public and that aims to keep the public safe as its primary objective. There are no guarantees that Myanmar's security institutions are moving in this direction as a necessary outcome of the ongoing political transition. Nonetheless, political changes have created space for pro-democrats both in and out of government to push in this direction.

From here, the security and justice sectors could evolve in numerous ways. They could remain largely detached from the civilian government and in service of military leaders' ideological or private interests. Alternatively, they could be slowly democratised, coming under increased oversight of elected civilians, becoming focused on keeping people safe, and opening up to wider participation from the public and civil society.

Much depends on whether civilians interested in the public good can successfully claim greater power and influence through a combination of sustained pressure and tactful compromise. Civilians in government, civil society, the media, policy institutes and education providers all have critical roles to play.

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Since 2010, there has been moderate progress towards public oversight and engagement with the security sector. The work ahead is best viewed, somewhat soberingly, as a multi-decade challenge. Sustained action from a wide range of organisations and individuals is needed to bring about generational change. Like all aspects of democratisation, there is no finite end point when the job is done. Building and maintaining the civic space and making authorities accountable to the public is a dynamic and ongoing process.

Progress in this area is hindered by various factors. First, there is resistance from the military, which continues to prioritise its own ideological and private interests over those of a collective and inclusive public vision. Second, the government and society at large face huge capacity and resource constraints, and few civilians have in-depth knowledge of security and justice affairs.

Third, there is limited political will to challenge the military or to experiment with modern (and sometimes foreign-seeming) approaches, and as a result there is a default inertia throughout the apparatus of government. Finally, there remains deep distrust between the state and society, which means that some parts of government continue to treat the public as a risk that needs to be managed or, even worse, as an enemy. In return, the public remains in fear of the state and people tend to view security as none of their business.

Democratising the security sector will depend on a lively civic space, in which a wide range of individuals and institutions can engage on security issues without fear of undue retribution from the state. The whole of the security sector could benefit greatly from opening up to increased input and criticism from civil society and the public.

Indeed, criticism can be entirely constructive and can be used by strong democratic institutions to create a more effective government that is well adapted to the diversity of needs across society. Government resources are thin across all sectors, in terms of human capacity, finance and time. Civil society research and advocacy, for example, can provide important data and can help to guide better policies. Expert opinions can also be called upon more systematically through formal coordination mechanisms.

It is hoped that this briefing will support the many government bodies and independent organisations involved in reforming Myanmar's security sector to sustain progress towards more democratic, accountable and effective security and justice sectors. Future Saferworld research and programming will continue to support these efforts.

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## About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe in a world where everyone can lead peaceful, fulfilling lives, free from fear and insecurity. We are a not-for-profit organisation working in 12 countries and territories across Africa, Asia and the Middle East.

This briefing was written by Kim Jolliffe.

Cover photo – People protesting in downtown Yangon for the release of Reuters journalists Wa Lone and Kyaw Soe Oo, 12 December 2018.

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## SAFERWORLD

### UK OFFICE

Saferworld  
The Grayston Centre, 28 Charles Square  
London N1 6HT, UK

Phone: +44 (0)20 7324 4646

Email: [general@saferworld.org.uk](mailto:general@saferworld.org.uk)

Web: [www.saferworld.org.uk](http://www.saferworld.org.uk)

 [www.facebook.com/Saferworld](https://www.facebook.com/Saferworld)

 [@Saferworld](https://twitter.com/Saferworld)

 [Saferworld](https://www.linkedin.com/company/saferworld)

### MYANMAR OFFICE

Room (3A/B), No. (275/C) Pyay Road  
Myaynigone, Sanchaung Township  
Yangon, Myanmar

Phone: +95 (0)9 264802051

Email: [saferworldmyanmar@saferworld.org.uk](mailto:saferworldmyanmar@saferworld.org.uk)

Registered charity no. 1043843

A company limited by guarantee no. 3015948

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